

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 5, 2025  
Rough Draft

**SANDERS:** Good afternoon, and welcome to the Government, Military, Veterans Affairs Committee. I am Rita Sanders from Bellevue, representing the 45th District, and I serve as chair for this committee. The committee will take up the bills in order posted. This public hearing is your opportunity to be part of the legislative process, and to express your position on the proposed legislation before us. If you are planning to testify today, please fill out one of the green sheets that are on the table in the back of the room. Be sure to print clearly and fill it out completely. When it is your turn to come forward to testify, give the testifier sheet to the page or the committee clerk. If you do not wish to testify, but like to indicate your position on a bill, there are also yellow sign-in sheets on the back of the table. These sheets will be included as an exhibit in the official hearing record for today. When you come up to testify, please speak clearly into the microphone. Tell us your name, spell your first and last name to ensure we get an accurate record. We will begin each hearing today with the introducer's opening statement, followed by proponents of the bill, then opponents, and finally by anyone speaking in the neutral capacity. We will finish with a closing statement by the introducer, if they wish to give one. We will be using a three-minute light system for all testifiers. When you begin your testimony, the light on the table will be green. When the yellow light comes on, you have one minute remaining, and the red light indicates your time has ended. Questions from the committee may follow. Also, committee members may come up and go during-- committee members may come and go during the hearing. This has nothing to do with the importance of your testimony or the bill; it is a process of the other senators that have bills to introduce in other committees. A final item to facilitate today's hearing. If you have any handouts or copies of your testimony, bring at least 12 copies and give them to the page. If you do not have enough copies, the page will make sufficient copies for you. Please silence your cell phone. You may see committee members using their electronic devices to access more information. Verbal outbursts or applause are not permitted in the hearing room; such behavior may be cause to be asked to leave the hearing. Finally, committee procedures for all committees state that written position comments on the bill to be included in the record must be submitted by 8 a.m. the day of the hearing. The only acceptable method of submission is via the legislator's [SIC] website at [nebraskalegislature.gov](http://nebraskalegislature.gov). Written position letters will be included in the official hearing record, but only those testifying in person before the committee will be included on the committee statement. I

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will now have the committee members with us today introduce themselves, starting on my far right.

**GUERECA:** Good afternoon. Dunixi Guereca, Legislative District 7, downtown and south Omaha.

**J. CAVANAUGH:** John Cavanaugh, District 9, midtown Omaha.

**ANDERSEN:** Bob Andersen, District 49, northwest Sarpy County in Omaha.

**LONOWSKI:** Dan Lonowski, District 33, which is Adams County, Kearney County, and rural Phelps County.

**WORDEKEMPER:** Dave Wordekemper, District 15, Dodge County, western Douglas County.

**McKEON:** Dan McKeon, District 41, eight counties in Central Nebraska.

**SANDERS:** Senator Bob Andersen is the vice chair of the committee. Also assisting the committee today, to my right, our legal counsel Dick Clark, and to my far left, committee clerk Julie Condon. We have two pages with us today. If the pages would please-- or, do we have one? Or two?

**ARNAV RISHI:** The other one is gone to make copies.

**SANDERS:** Thank you. We have one at this moment, but we'll have two. Go ahead and introduce yourself, please.

**ARNAV RISHI:** My name is Arnav. I'm a junior in political science studies at UNL.

**SANDERS:** Thank you. With that, we will begin today's hearing.

**ANDERSEN:** Thank you. We'll be starting with LB345. Senator Sanders, welcome.

**SANDERS:** Thank you, Vice Chair Andersen, members of the committee. My name is Rita Sanders. R-i-t-a S-a-n-d-e-r-s, and I'm here to introduce LB345, a bill that this committee introduced to consider changes to the salaries that we pay to our state constitutional officers. While our legislative salaries are set by the Nebraska Constitution, the salary levels for the constitutional officers are in the statute. Currently, this is what we pay them: Lieutenant Governor, \$75,000;

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Attorney General, \$95,000; Secretary of State, \$85,000; State Treasurer, \$85,000; Auditor of the Public Accounts, \$85,000; Public Service Commissioner, \$75,000. The Legislature adjusts these salaries most recent-- the most recently was in 2007. As we know, a 2025 dollar is not worth what a 20-- 2007 dollar was worth. These are full-time positions. These officials oversee essential functions in our state. If you want to enable Nebraska with families to serve in these roles, we should consider what appropriate salary levels should be. The green copy of the bill does not include updated amounts. We drafted the bill that, that way so we can commit the-- this committee could receive information about what other states pay their public servants and determine an appropriate level for Nebraska. I have distributed handouts-- or, I will-- thank you. We are distributing handouts with the salary array of these positions in our neighboring states. Nebraska pays every one of our constitutional officer a lower amount than their colleagues in neighboring states. In some ways, we pay less than 50% of the prevailing wage. No one should get rich from a career in public service. I'm not even advocating for salaries that are equivalent to similar responsibility levels in private industry. It is an honor to serve, and it is appropriate for elected officials to make some personal sacrifices as part of their service. At some point, however, we do have an obligation to adjust the salary levels to make sure the best candidates can afford to serve. Following me, State Auditor Mike Foley will testify about his decades-long tenure as a constitutional officer, serving our state as auditor and as lieutenant governor. Thank you, and I'd be happy to take any questions you may have.

**ANDERSEN:** Thank you, Senator Sanders. Are there any questions for the good senator? Seeing none. All right. Proponents for the bill.

**SANDERS:** Well, we have invited guests.

**ANDERSEN:** Yep. Invited guests.

**MIKE FOLEY:** Thank you, Senator. Yes, Thank you. Thank you, Senator Andersen, and members of the Committee. For the record, my name is Mike Foley, M-i-k-e F-o-l-e-y. I'm the auditor of public accounts. As Senator Sanders indicated, every so many years it's appropriate for the Legislature to review and then, perhaps, update the compensation paid to the constitutional officers of the state of Nebraska. I think you're all well aware the state constitution provides that it's not permissible for the Legislature to raise the "competation"-- compensation to those office holders during their current terms. But

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the Legislature, and the Legislature alone, has the sole prerogative to revise the compensation for those who happen to hold these offices during the succeeding terms. When the next term of office begins for those officeholders in January '27, it will have been a full 20 years since the compensation was last revised. It's probably good practice for the Legislature to review the level of compensation at intervals that you deem appropriate. The Legislature must enact revision to compensation during this biennium in order to make the revision take effect in 2027. Otherwise, the window will be closed, and it will be another four years before a revision can take effect. In other words, it will be 2031 at the earliest if an adjustment is not made during this biennium by this Legislature. The Legislature routinely revises this level of compensation for all of the judges, and it does so every couple of years. I provided you with my best review of what the current compensation is for our constitutional officers as contrasted with Nebraska from our neighboring states. To the best of my knowledge, these numbers are accurate. But bear in mind that most other states revise salaries more frequently than we typically do. Some of these states have cost of living adjustments; I think that's all reflected here to the best of my ability. I've also provided data that shows the level of compensation for state auditors around the country, contrasting that with my own. I wish to make clear I do not have any particular number in mind. That's your call, not mine. Whatever compensation figures you determine to be correct, that's the right number; you'll hear no quibbling from me. I simply ask the re-- the Legislature review these numbers and make an appropriate adjustment if you see so fit. You and I have all worked exceedingly hard to win our offices, and we're all here to do what we believe to be the right thing. I think it's the right thing to do, every 20 years or so, to revise the salaries for the constitutional officers of the state of Nebraska, and that's why we're here: to simply do the right thing. So, I thank you for your time, and thank you for consideration of the bill, and I ask for favorable consideration of the bill.

**ANDERSEN:** Thank you, Auditor Foley, for your time and for being here. Are questioners-- questions for Auditor Foley? Senator Line-- Lonowski.

**LONOWSKI:** Thank you, Vice Chair. So, Auditor Foley, has ours not even increased with the cost of living? It's been this static rate--

**MIKE FOLEY:** Right. It was--

**LONOWSKI:** --this entire time?

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**MIKE FOLEY:** --set in-- it's-- we set in 2006, 2007. Well, it took effect in 2007, and has not been adjusted. Only the Legislature can adjust it.

**LONOWSKI:** OK.

**MIKE FOLEY:** It has not-- they have not done so over all these years.

**LONOWSKI:** OK. Thank you. Thank you.

**ANDERSEN:** Any other questions? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Vice Chair. Thanks for being here, Mr. Auditor. I just-- thank you for your long period of public service, and I was just wondering, were you here when we raised it before?

**MIKE FOLEY:** I was actually in the Legislature.

**J. CAVANAUGH:** You were in the Legislature?

**MIKE FOLEY:** And Senator Chambers carried the bill. And I, I remember-- I don't know if I've-- can quote him directly, I'm sure I can't, but I remember him making the comment, you know, I don't really like these people, but you've got to raise the salary every once in a while. It's a typical Senator Chambers [INAUDIBLE].

**J. CAVANAUGH:** Well, there are a number of people that I might not like, but I've always liked you, so.

**MIKE FOLEY:** Well, thank you.

**J. CAVANAUGH:** But thanks for being here.

**MIKE FOLEY:** Thank you.

**ANDERSEN:** Any other questions? Yes. Senator Wordekemper.

**WORDEKEMPER:** Thank you for being here. Do you know, when they set these salaries, do, do they typically go off of median, mid-point with our surrounding states? Or how did they set the amounts back then?

**MIKE FOLEY:** You know, I don't know how Senator Chambers did it. It was, it was \$60,000. He brought it to \$85,000 for most of the officers. I don't know how he arrived at that number. Probably a midpoint of what the neighboring states were doing, something along those lines.

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**WORDEKEMPER:** OK.

**MIKE FOLEY:** But I don't-- I honestly don't know.

**WORDEKEMPER:** Thank you.

**ANDERSEN:** Any other questions? I have a question for you. I, I did the, the math with the surrounding states of Iowa, Missouri, Kansas and South Dakota, and I came up, for the auditor position is \$121,800, is what the average of those are. But even if you look at the, the handout that you gave us, if you go to \$121,800, that still only raises it, you know, eight states. So, it's still on the bottom, what, bottom 20% of the country. I know you don't have a number in mind. Do you have any idea, or can you give us any reference on what kind of, you know, computation we could use, or equation that the other states use in, in determining their salaries?

**MIKE FOLEY:** Well, one thought would be to do an average of some, maybe the, the most contiguous states to Nebraska. That might come up with an interesting number. I don't know what that number would be. I haven't calculated. That's one approach. But again, whatever number you come up with-- as long as your don't lower it. Whatever your number, number you come up with, I'm good with it. And I say, there'd be no quibbling. Just-- I think it's time to raise it.

**ANDERSEN:** [INAUDIBLE]

**GUERECA:** Mr. Auditor, thank you for being here. Did you say that the salary before was at \$60,000, and then it got raised to \$85,000?

**MIKE FOLEY:** That's correct.

**GUERECA:** OK. OK, thank you.

**ANDERSEN:** Any other questions? Auditor Foley, thank you very much for your time.

**MIKE FOLEY:** Thanks. And-- appreciate it.

**ANDERSEN:** Are there any other proponents of this bill? Seeing none. Are there any opponents to this bill? Seeing none. Are there anybody in the neutral capacity? The online comments, there are 0 proponents, 2 opponents, and 0 neutral. Senator Rita, ready to close?

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**SANDERS:** I'll go ahead and waive closing. It's going to be up to the Legislature, if we can get this out of committee.

**ANDERSEN:** Very well.

**SANDERS:** Thank you.

**ANDERSEN:** Thank you very much. So that close LB345. We'll move on to LB529.

**SANDERS:** Welcome to Government Committee.

**JACOBSON:** Thank you, Chairwoman Sanders, and members of the Government, Military, Veterans Affairs Committee. My name is Mike Jacobson, M-i-k-e J-a-c-o-b-s-o-n, and I represent District 42. I'm here to introduce LB529, a bill that provides the necessary exemptions to the State Procurement Act and that-- the Taxpayer transparency-- Transparency Act to allow the Nebraska Investment Council to efficiently manage Nebraska's investment assets. The NIC manages over \$43.5 billion in state assets across 32 investment programs. Its efficiency depends on its ability to negotiate favorable investment agreements that maximize the state's returns. However, in 2024, the amendment that-- to the State Procurement Act created some restrictions that inadvertently hinder the NIC's ability to enter into specific investment contracts. These restrictions create unnecessary barriers to Nebraska's ability to efficiently-- to effectively and efficiently participate in competitive investment opportunities. Under current law, the NIC is limited by contract duration, indemnification clauses, and jurisdictional agreements. Investment contracts often require flexibility in these areas. LB529 allows Nebraska to make sound investment decisions by exempting the NIC from procurement rules incompatible with industry standards. These changes are necessary to align Nebraska with the best investment management. This, this ensures that our state remains competitive in a-- in securing high-quality investment opportunities. Let me now be clear that LB529 does not remove oversight; it simply gives the NIC the flexibility to serve the best interests of Nebraska taxpayers. I would also mention that I do have an amendment to this, which is AM27, and I've got copies that can be distributed, if a page wants to take this. And the amendment just further clarifies some of the changes a little bit of language-- changes that, that are made in the agreement as it relates to the Nebraska Investment Council. The university, the state colleges, there are others that are exempt from those regulations, and if you really dig into the Nebraska Investment Council, you'll see that, that there

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are certain agreements that they have to make that are unique to the investment council, and that's why I brought the bill. The director of the council, head of the council is, is Ellen Hung, and she's here, and she'll be following me to further explain the specifics that she's looking at in terms of why this bill is necessary. With that, I would close, and ask for any questions.

**SANDERS:** Thank you, Senator Jacobson. We'll check to see if there are any questions from the committee. See none. Will you be here to close?

**JACOBSON:** Given the number of testifiers in Revenue, yes, I'll probably just hang around here. Thank you.

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

**ELLEN HUNG:** Thank you, Chairwoman Sanders, and members of the Government, Military and Veterans Affairs Committee. My name is Ellen Hung, spelled E-l-l-e-n H-u-n-g. Thank you, Senator Jacobson, for introducing this bill, and supporting the NIC's efforts to maximize returns by maintaining an acceptable level of risk. The NIC's success comes from being able to identify the best investments to be in, and the negotiating skills and powers to know what to ask for everyone to push. The best investments are also the most competitive to get into. In order for us to be competitive, we need the flexibility in three specific areas. Contracts are specific, and they are not possible in private markets, as subscription documents don't have specific terms. They just don't. Also, our negotiating powers are at our best when--well, before I give a manager money. So, we don't want an arbitrary end date, which would require me to renegotiate fees, which, obviously, will then be higher, resulting in higher costs for the state. Second, indemnification restrictions. We always push back on, on indemnification requests. The only exception we allow are for mistakes made by managers, made in good faith. So, if they're doing their job, it's the-- a mistake happens in good faith, you know, we don't want to penalize them for it. There are also contracts where services are performed based on information or directions they receive directly from us. And in those cases, the third party would not agree to perform the services unless it is indemnified for all acts, except for intentional misconduct or gross negligence. Lastly, jurisdiction and venue restriction. Typical agreements require venue and jurisdiction in Delaware, or the company's home state. To get around that, we require claims against Nebraska to be done here in Nebraska, in accordance with applicable state law. As Senator Jacobson stated, this does not remove oversight; it simply gives us the flexibility to



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negotiate for favorable terms while still allowing us to get into competitive investment opportunities. The amendment that was presented came about as we negotiated with the Department of Administrative Services. When I originally put the bill forward, we listed the stuff that we needed to work, but then, on talking with DAS, they suggested a cleaner alternative, which would be just exempt us from the whole procurement act in total. So that is the-- DAS has agreed to this exemption, and that's-- concludes my comments.

**SANDERS:** Thank you very much. We'll check to see if there are any questions from the committee. Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairwoman, and thanks for being here, Miss Hung. I-- so, you and I talked about this, and this was a change we made basically last year that sort of inadvertently wrapped you guys up as a result of some of our other procurement problems. And the bill, as drafted without the amendment, exempts you from those new changes. Does taking you out of the entire procurement act change anything that you guys are currently subjected to that wasn't added in '24?

**ELLEN HUNG:** Yes. So, there was an existing clause in the procurement act that had contract end dates. And that was prior to the 2024 amendment. But, prior to the amendment, we've-- our contracts have never had end dates, and that's never been an issue with the Attorney General, and we've never had issues with it. But it was brought to our attention this year that we should be following that guideline. But again, that's not been an issue, so.

**J. CAVANAUGH:** So, the only thing you are additionally being removed from having sub-- subject to is something that you need to be removed anyway?

**ELLEN HUNG:** Correct.

**J. CAVANAUGH:** OK. That's what I was wondering. Thank you.

**SANDERS:** Are there any other questions from the committee? Senator, Senator Andersen.

**ANDERSEN:** Thank you, Chairwoman. Thank you for your testimony. Thank you for being here today, Miss Hung. On page 2, it talks about the section applies to courts, the Legislature, and any officer or state agency established by the Constitution of Nebraska except the University of Nebraska, the Nebraska State Colleges and the Nebraska

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Investment Council. It just-- it seems kind of interesting to me that everything that's generated and covered by the Constitution of Nebraska is required to adhere to these, except for the three functions of the universities and the Nebraska Investment Council. I, I guess I, I, I don't necessarily understand why. Maybe because I'm not a specialist in your field.

**ELLEN HUNG:** I can only speak to the investment council. It's because our investments-- our contracts are different from everyone else. We don't-- I don't buy papers and pens. If we were to have regular agreements, we were still comply with all the procurement acts. It's just because our investment contracts are specific in nature. We hire a manager to invest on our behalf, and again, when-- for example, for private equity, there are a lot of private equity funds that we can't get into if we start saying, you can't-- we can't do this, we can't do that. They'll just tell us to go somewhere else.

**ANDERSEN:** And your oversight's conducted by the Attorney General, is that right? I think that's what you told me.

**ELLEN HUNG:** I'm sorry?

**ANDERSEN:** The Attorney General approves your contracts and all that?

**ELLEN HUNG:** We hire an external counsel that negotiates our contract, and the Attorney General does an annual approval of who we hire for external counsel.

**ANDERSEN:** OK. Thank you.

**SANDERS:** Other questions from the committee. See none. Thank you for being here, Miss Hung.

**ELLEN HUNG:** Thank you.

**SANDERS:** Are there any other proponents? Any opponents? Anyone in the neutral? See none. Senator Jacobson, would you like to come and-- come up and close?

**JACOBSON:** Usually when there's only one proponent, no opponents and no neutrals, you just consider this a win and walk away, so-- and quit selling. So, I'm on thin ice here by coming back for a close. But I do want to reiterate one thing, and that is that I spent a fair amount of time with Ms. Hung over the last couple of years here now, both from the Banking Committee, and now Revenue. And I've really dug in to a

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lot of what they do, and understanding what they do, and how they carry out their process. First of all, I might just add that she is a tremendous manager and knows her job inside and out, and has been very impressive to work with. And I would also tell you that, having been involved in investing other people's money, I've always found that if on-- for example, on the hospital board, I've encouraged them to go into an index fund, which-- index funds, total stock market index funds seem to be outperforming what most private managers, fee-based managers can do. And so far, I've been correct on that. But when you look at the investment council and the, and the \$53 billion [SIC] that they're investing, they're investing with managers that are very much on the leading edge and have the ability to get into so many other investments that normal, smaller investors could not even touch. OK? And so, I empathize with the concerns that they have, because if you're dealing with a private equity fund that's going to get you higher returns and still be safe investments, and you go to them and say, by the way, we want to have this indemnification clause in it, they're going to say, we have of people who'll take-- that we can manage their money for them; we don't need that. So, if that's going to be what you have to do, we're out, and you're out. So, this gives them the flexibility to be able to make investments where they see fit. I would also ask you to go look at the board members that make up the investment council. These are very bright people that have been involved in money management over the years. We're in great hands, I believe, with the Nebraska Investment Council. And so, I would encourage you to give them the ability to work within a little wider restraints than are on them today. So, at the end, thank you. And I'd entertain any questions.

**SANDERS:** Thank you. Check to see if there are any question-- questions from the committee? See none. Thank you for all your hard work, and [INAUDIBLE].

**JACOBSON:** Thank you. I suppose I've got to go back to Revenue, now.

**GUERECA:** Good luck. No excuses.

**JACOBSON:** Thank you.

**SANDERS:** You can hang out in the back. It'll be entertaining.

**JACOBSON:** Thank you. I appreciate that.

**ANDERSEN:** You can testify for other people.

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**SANDERS:** Well, now start our committee hearing on LB183. Welcome, Senator DeKay, to the Government, Military, Veterans Affairs Committee.

**DeKAY:** Thank you, Senator Sanders. Good afternoon, Chairman Sanders, and members of the Government, Military and Veterans Affairs Committee. For the record, my name is Senator Barry DeKay. B-a-r-r-y D-e-K-a-y. I represent District 40 in northeast Nebraska, and I'm here today to introduce LB183. LB183 is an update bill being brought on behalf of the Unclaimed Property Division of the State Treasurer's office. The bill would amend two sections. First, LB183 would update and modernize the number of provisions related to the annual unclaimed property newspaper publication required under Section 69-113-- (69)-1311. Here's a quick overview of what changes in this section. First, the bill removes the requirement that the public notice be published between March 1 and March 10 of each year. Second, the bill also removes a current requirement that public notice does not-- does list out the names of the owners of unclaimed property. Instead of including each of the owners named individually, the bill directs that the unclaimed property newspaper ads provide a description of how to search for unclaimed property. Finally, the bill would also provide that the State Treasurer publish once in an English language legal newspaper of general circulation in each county in the state once annually. LB183 would amend a second section, 69-1317, which would prohibit the unclaimed property records from being subject to prompt public inspection or reproduction by commercial finders or property locators. Finally, I want to make the committee aware that I have an amendment, AM109, which was drafted using input received from the Nebraska Press Association in consultation with the State Treasurer's office. It is my understanding that both the State Treasurer's office and the NPA will be testifying and sharing their thoughts on both the bill and amendment. With that, I would be happy to try to answer any questions. However, Meaghan Aguirre, the division head of the Unclaimed Properties Division, will be testifying next, and she is an expert in this field. Thank you.

**SANDERS:** Thank you, Senator DeKay. We'll check to see if there's-- are there any questions from the committee? See none. Will you be here to close?

**DeKAY:** Yes.

**SANDERS:** Thank you.

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**DeKAY:** Thank you.

**SANDERS:** Welcome.

**MEAGHAN AGUIRRE:** Thank you. So, my name is Meaghan Aguirre. That's M-e-a-g-h-a-n A-g-u-i-r-r-e. I'm the director of the Unclaimed Property Division of the Nebraska State Treasurer's office. First, I would like to thank Senator DeKay for introducing this bill. He did a great job outlining what it will do. However, I will take some time to provide further context of why the changes in LB183 are needed by the Unclaimed Property Division. Returning funds that belong to Nebraska constituents is the mission of the Unclaimed Property Division. In 2024, we returned a record \$23 million to owners and their heirs. There are various outreach efforts and advertising efforts that our office makes to notify owners that we may be holding funds for them. The unclaimed property newspaper publication is one of those efforts, but there are a number of challenges to complying with the unclaimed property newspaper publication statute. Statute requires the list of names of owners be published in the newspaper of having statewide circulation; there's not a single paper that covers the entire state in order to fulfill this requirement. Statute currently requires that the names of the owners be published in the county of the last known address of the owner, but there are 93 counties in the state of Nebraska, and it's logistically impossible to create this many unique ads and have them prepared, proofed and published within a ten-day period as required by statute, especially not if these ads are to be remotely up-to-date. By removing the date requirement for the ads to be published, this would allow the unclaimed property division the time necessary to create unique ads for the county-level papers. Removing the requirement to publish the names in the newspaper will allow the ads to direct owners to our website where the properties are added-- new properties are added, and claimed properties are dropped off the list daily. The changes in LB183 will allow more ads to be placed directly where owners live and work, as-- and they will allow us to direct people to our website, which allows for greater efficiency. In short, we're looking to go from publishing the ad in-- and-- with the names in 16 daily papers to publishing the names in roughly 86 county-level publications, as I understand that maybe not every county has a paper. LB183 also prohibits the ability to copy or reproduce the unclaimed property records for the purposes of providing information to commercial locators. Unclaimed property consists of abandoned bank and stock accounts, and uncashed checks, and other privately-held funds. So, limiting the reproduction of this data will allow for greater privacy for the owners, and also help with the

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mitigation of fraud if we're not providing out specific amounts and details related to owners' funds. As was mentioned, there is an amendment that was presented to this committee representing some concerns in the nurse-- newspaper community. My preference would be to see LB183 passed as introduced, as I believe the changes in this bill will modernize statute without limiting our reach to owners. Publishing the ad in newspaper does drive interest to unclaimed property, but-- and we do see an increase in claims, however, when drilling down to the specific property level-- meaning the individual owners listed-- only 7% of those specific properties that are published are claimed in the four-week period around when the ad is running. So, with such a low number of those exact properties that are being advertised being claimed as a result of the ad directly, we feel that placing ads without the names would provide greater efficiency and modernize the statute, and more effectively use state dollars. And-- thank you for your time. I know I pushed it a little bit there.

**SANDERS:** Thank you. Thank you. Let's check to see if there are any questions from the committee. Senator Guereca.

**GUERECA:** Thank you for your testimony and for coming in today. Do you know how much was claimed last year during that period of time, to those newspaper ads?

**MEAGHAN AGUIRRE:** So I have-- the number of claims-- OK. The number of claims that were filed in that time period was 6,309 claims. I don't have the specific dollar amount that that represents, and that also indicates the number of claims that were filed, not necessarily the amount that was paid as a result of that specific ad. So, I apologize for that. I can quote you a number, but I'm not completely confident. I want to say it was close to a little over \$1 million in that time frame, but--

**GUERECA:** 6,309?

**MEAGHAN AGUIRRE:** Yes. This was the claims initiated.

**GUERECA:** Initiated, right. And that was just during that period of time, not--

**MEAGHAN AGUIRRE:** Correct. Yes.

**GUERECA:** And what about the rest of the year?

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**MEAGHAN AGUIRRE:** So, for the full year, we paid a little over, over \$23 million in 2024, which was a record amount for our office in a single year.

**GUERECA:** OK. Thank you.

**SANDERS:** Are there any questions? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chair. Thanks for being here. For-- if something goes unclaimed for a certain period of time, what happens to it?

**MEAGHAN AGUIRRE:** So, funds held in unclaimed property will be held in perpetuity, meaning-- so, the owner will always have the ability to claim their funds. There is a provision in statute that requires that anything above \$1 million be transferred over from the Unclaimed Property Trust Fund to the permanent school fund. So, the state does utilize those dollars. However, that doesn't limit a person's ability to be able to claim. They will always be able to claim. If they're deceased, then their heirs would be able to claim once they're gone.

**J. CAVANAUGH:** OK. And so, once-- if it's over \$1 million and it goes-- I mean, how many of these-- how, how many over \$1 million are there?

**MEAGHAN AGUIRRE:** I'm sorry. Let me clarify. That would be the Unclaimed Property Trust Fund. All the funds held in that trust fund are transferred out, so it's not like a specific person's fund over \$1 million, or-- regardless of the amount, it's held in perpetuity.

**J. CAVANAUGH:** OK. So when the fund gets over a million--

**MEAGHAN AGUIRRE:** Correct.

**J. CAVANAUGH:** --then that's used for education.

**MEAGHAN AGUIRRE:** Well, it's annually, so it's just-- it, it will be over that, obviously, with the amount of unclaimed property received and paid out. It's on or before October 1, I believe it is, so then we will just annually make a transfer of everything above that threshold. Obviously, we have to limit-- you know, keep a certain amount of funds in there, because we're still paying claims, but anything in excess of \$1 million will be transferred over to the permanent school fund.

**J. CAVANAUGH:** Do the persons whose funds that are-- do they claim interest on the fund?

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**MEAGHAN AGUIRRE:** They do not. Not in Nebraska.

**J. CAVANAUGH:** OK. Thanks.

**SANDERS:** Thank you. Any other questions from the committee? Senator Wordekemper?

**WORDEKEMPER:** Thank you for being here. We had a tax credit for people to claim on the real estate taxes. And so, if they were due some of that money back, does that fall into this unclaimed property?

**MEAGHAN AGUIRRE:** I don't believe I've ever seen those types of funds remitted into our office. There are certain like-- like, Revenue does not report to our office. So, if there's something related to-- if it was a, like, a tax refund, then that would be an issue that would be taken up with Revenue.

**WORDEKEMPER:** OK. Thank you.

**SANDERS:** Any other questions? Thank you, Meaghan. Say your last name again.

**MEAGHAN AGUIRRE:** Aguirre.

**SANDERS:** Aguirre. Thank you very much.

**MEAGHAN AGUIRRE:** Thank you.

**SANDERS:** Any proponents? Any opponents? Welcome.

**JERRY RAEHAL:** Thank you. Good afternoon, Chairperson Sanders, members of the committee. My name is Jerry Raehal, spelled J-e-r-r-y R-a-e-h-a-l. I'm the chief growth officer for the Nebraska Press Association, and I'm here today on behalf of the association and its 140-plus newspaper members. I sincerely appreciate the time and consideration that Senator DeKay's office and Treasurer Tom Briese's office-- particularly Meaghan-- have given us to implement a meeting prior to this hearing to discuss legislation and the amendment. By the way of background, I have served as the CEO of the Colorado Press Association from 2014-2018, and the executive director of Louisiana Press Association from 2020-2024. In both those roles, I was proud to partner with the various stakeholders to draft mutually beneficial plans and legislation. I'm here today to express opposition on behalf of the NPA to the legislation as currently drafted, however, we are in favor of the amendment, and if adopted, our position would be in



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support. What we agree with in, in the amendment includes the timeline. We understand the points and goals associated with altering the current process. We presented several solutions that could address the timeline challenges while still adhering to the statutory of March 10-- 1 to 10 deadline, as well as increasing our reach. Though we agree that the amendment's proposed time frame adjustments would further alleviate current pain points as well as improve overall efficiency in the process. We have a couple of concerns with the legislation as drafted. One of the fundamental purposes of public notices is to safeguard a verifiable, tangible record that ensures transparency, protects residents, and safeguards government entities. These records serve a crucial function not only by informing the public, but also at protecting governmental actions through an immutable third-party record. Based on my experience working with other unclaimed property divisions, we have concrete evidence that public notices work. Those divisions have to "staff up" during public notice periods due to influx of claims. In Louisiana, where we were granted access to the treasurer's Google analytics, we observed a direct correlation between the timing of newspaper notices and increased traffic to that state's unclaimed property website, both during the publication window and in the weeks that followed. A 40-- plus-40% increase. Public notices in newspapers provide additional security in a digital age where websites can be hacked, servers can crash, and disinformation now increasingly sophisticated due to AI can spread rapidly. A printed, verifiable record ensures that the integrity of government information and mitigates risk. We want to be clear, we are not opposed to addressing the concerns with the name publication issue. In discussions with Meaghan and the-- and Senator DeKay, we have expressed that our-- that our goal has been to be collaborative with stakeholders over the summer to draft mutually agreeable language. This [INAUDIBLE] approach is what we successfully implemented in Louisiana, where our solution passed unanimously in all legislative committees, as well as the House and Senate. However, this outcome was only possible after extensive stakeholder meetings to resolve disagreements beforehand. In summary, passing this amendment as proposed would have-- would effectively resolve the Treasurer's office's primary pain points, while allowing time to develop a more comprehensive, amenable solutions regarding the name publication issue. The amendment's necessary to ensure that stakeholders have the time to evaluate potential solutions that will uphold a verifiable and tangible protections of public notices, and ensure no [INAUDIBLE] result. Thank you for time and consideration. I'm happy to answer any questions.

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**SANDERS:** That was fast.

**JERRY RAEHAL:** [INAUDIBLE] under three minutes.

**GUERECA:** Auctioneer.

**SANDERS:** Thanks for your testimony, and thank you for working this out with the amendment. And let me check to see if there are any questions from the committee. Senator Guereca.

**GUERECA:** Thank you for coming in, and for your testimony. So, would the Press Association be in support, neutral of this bill if this amendment were not passed?

**JERRY RAEHAL:** I think, as it currently stands, we'd be opposed. With the amendment, we are in support.

**GUERECA:** Oh, with the amendment, you are in support?

**JERRY RAEHAL:** [INAUDIBLE] amendment, we are in support.

**GUERECA:** OK. Thanks.

**SANDERS:** Any questions. See none. Good job.

**JERRY RAEHAL:** Thank you very much.

**SANDERS:** We've got it in writing as well, I appreciate it. Thank you. Are there any other opponents? Any in the neutral? None? Senator DeKay, would you like to close? For a summary report, online, we have proponents, 1; opponents, 0; and neutral, 0.

**DeKAY:** Thank you again. This bill is advocating for modernizing unclaimed property statutes to ensure notices get out to more people. This bill would allow more ads to be distributed across more papers, especially out in rural Nebraska. Instead of the 16 daily publishing papers, I will tell you that a lot of people in my district might read the weekly Knox County News or the Holt County Independent, but they don't necessarily get the Norfolk Daily News or the Omaha World-Herald. This bill would offer a way to make better use of the State Treasurer's office time and resources. It might make sense to publish names in rural Nebraska, but not necessarily in the metro areas. This bill would provide some flexibility for that, but regardless of, everyone would get information on how to search for unclaimed property. With regard to the amendment, I did bring it as a

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courtesy to the Nebraska Press Association in consultation with the State Treasurer's office. I do think we need to take a serious look at modernizing our public notice statutes and LB183 is a good way we can go about this. I think Meaghan laid it out nicely, how the original bill and the amendment would end up working. If the committee decides to attach AM109 that I have offered, then it has been indicated to me by both the Treasurer's office and the Nebraska Press Association that they can live with it, and I would be OK with that as well, if that is what is needed to get something across the finish line this year. However, that arrangement comes with the understanding that more discussions will need to happen over the summer to allow for some more "compers"-- comprehensive bill to come forward, potentially as soon as next year, to modernize our state's public notice statutes. I've told both sides I would be happy to help facilitate those conversations during the interim, if that would be a benefit to them. The question for this committee is whether LB183 is sufficient, or whether more conversations need to happen. With that being said, I would appreciate a favorable consideration for LB183 in whatever form, and would be happy to try to answer any questions for you. Thank you.

**SANDERS:** Thank you, Senator DeKay. Check with the committee if-- to see if there are any questions. See none. Thank you very much. This closes the hearing on LB183.

**DeKAY:** Thank you.

**SANDERS:** Thank you. We'll now open for the hearing on LB445. Welcome to the Government Committee.

**von GILLERN:** Thank you. You guys are way ahead of schedule today. I'm jealous.

**GUERECA:** Yeah.

**ANDERSEN:** Knock on wood.

**GUERECA:** Dangit, Brad.

**ANDERSEN:** Thanks.

**GUERECA:** Thanks, Brad.

**von GILLERN:** I'll try not to slow you down.

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**von GILLERN:** You go ahead? All right. Good afternoon, Senator Sanders, and members of the Government, Military and Veterans Affairs Committee. I'm Senator Brad von Gillern, B-r-a-d v-o-n G-i-l-l-e-r-n, and I represent Legislative District 4. I bring today for your consideration LB445, the State Building Alternatives Acts-- Act. LB445 seeks to provide options to agencies for the manner in which a contract for building construction services. This is very similar to Senator Clouse's LB180, which came out of this committee, 8-0, and we advanced this morning on the floor, for DNR projects. Traditionally, buildings have been contracted under a design-bid-build scenario, where agencies work with a design firm to develop plans and specifications, put it out for bid, and hire the lowest responsible bidder. That system still works well for many projects and should not be abandoned. There are other options in the construction world, however, and LB445 would seek to allow several of them to be considered where and when appropriate. First, design-build is a system where, where the agency would contract with a builder who would also provide design services under their contract. This works very well for less complicated projects, such as pre-engineered buildings, post-and-beam buildings, and industrial projects; it's not as appropriate for complex projects. Secondly, construction management services may be contracted by an agency for projects that are multi-phase, very large in size, or, for multiple reasons, highly complex. Example of complex projects might be that they're in an occupied environment, or the finished project is highly unique. The construction manager is brought into a project in the early stages to consult alongside the designers, and provide pre-construction services such as budgeting, scheduling, value engineering, long-term acquisition of materials, and lifecycle cost management. The Act specifically calls out examples of where, where each procurement means may be used. Note I said "may," not "shall." The whole purpose of the bill is to give options for the most efficient and cost-effective solutions to be used. In my 40 years of contracting experience, I've worked under each of these three contracting scenarios, and feel strongly that each one has a place in the procurement process. I ran the bill past the AGC, which is the Associated General Contractors, both the heavy highway division and the building division, and also the ABC, the Associated Builders and Contractors. These are the three most substantial industry organizations that would be interested and/or concerned about this topic. All of the organizations are on board, and I'm told simply are monitoring the bill. Note that the act does not apply to public water and natural resources projects, nor the state parks system, the Transportation Innovation Act, nor to the

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University of Nebraska or state colleges; they have their own procurement statutes. Lastly, an amendment is coming that will clear up a few matters of confusion and, unfortunately, some strife. First, we'll have a section that ensures that all contractors are eligible to propose and contract, ensuring that the greatest level of competition possible exists. Secondly, it will clarify that construction management may only be utilized for projects over \$30 million. Lastly, there was some confusion around the requirement for a portion of a project's budget that's to be put towards artwork. Most of the confusion is on me. I'll, I'll own that. Sections 82-318 and 82-319 say that a new public building-- that new public building projects over \$500,000 or renovation projects over \$250,000 are to spend at least 1% of the appropriation towards artwork. It does not apply to repair shops, garages, et cetera, that the general public does not have access to. I'm working with various parties to ensure that the amount and the project size and type requirements are all appropriate, and will include that in an upcoming amendment for your consideration to ensure that we're spending tax dollars in the most fiscally manner-- fiscally responsible manner possible. I respectfully ask that you advance LB445 out of committee, and happy to take any questions you may have.

**SANDERS:** Thank you, Senator von Gillern. We'll check with the committee, if there are any questions. Senator Cavanaugh.

**J. CAVANAUGH:** Thank you. Thanks, Senator von Gillern, for being here. I think it might be the first time you've ever been in front of me.

**von GILLERN:** I think it-- I-- it, it may be.

**J. CAVANAUGH:** I-- I've been in front of [INAUDIBLE]--

**von GILLERN:** Congratulations to both of us.

**J. CAVANAUGH:** --more times than I would like. Well, thanks for being here.

**von GILLERN:** Yeah.

**J. CAVANAUGH:** This-- an interesting bill. Yeah, you were right. We had a design-build bill a day or-- well, it's up today, but we had it in this committee a week or so ago. This bill is a lot longer than that, though.

**von GILLERN:** Yeah.

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**J. CAVANAUGH:** And has a lot more in it. And so, I was-- I guess some of the things that jumped out at me. The first one was, I-- the part about paying the stipend for the plans?

**von GILLERN:** Yes. Yeah.

**J. CAVANAUGH:** Can you just kind of walk me through that? Why is that a thing?

**von GILLERN:** Yeah. That's pretty common in the industry, because in a-- in-- if you solicit a design-build proposal, they-- typically, there are consultants that are brought on board to do a lot of homework involved with the project that the customer actually benefits from. So, if you for-- in fact brought on a, a civil engineer to do a study on the site as part of your proposal, or a soils engineer, all of that is work that, that represents a value to the customer, in this case the Department of Administrative Services. So, they gain a value from that. So, the stipend-- and they can set the stipend to be whatever it is, whatever they want it to be. And they put-- typically, that's stated in the request for quotations, RF-- RFP-- or RFQ, and, and it says what the stipend will be, so it's not a function of whatever the contractor or the designer spent. It basically says for you providing us a value in putting this proposal together and all the design that goes along with it, we will compensate you a modest amount for the value that we receive for that.

**J. CAVANAUGH:** And so then, the state owns the intellectual property?

**von GILLERN:** Exactly, exactly.

**J. CAVANAUGH:** OK. And so-- I guess I'm not sure. So currently, we use-- what is it called? Design-bid-build?

**von GILLERN:** Yes. Yeah.

**J. CAVANAUGH:** Is that what you call it?

**von GILLERN:** Yeah.

**J. CAVANAUGH:** So-- and, and the-- my understanding would be you'd do, maybe, an RFP for design, and then you pick one of those designs,--

**von GILLERN:** Right.

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**J. CAVANAUGH:** --and then you would do an RFP for build-- bid-- bid for the build?

**von GILLERN:** You would do an RFP for design services, and though-- those under the statutes are a professional service, and there's a whole different procurement process for that, because those are qualification-based services. So, once you have the designer on board and they've, they've performed the design functions, then it's put out for, for a hard bid. And this is what I probably have the most experience in, like it or not. And that is where, physically, there's a date set; on Tuesday at 2 p.m., you turn your bid in and the low bidder wins. And again, that works for, for a large majority of projects, but occasionally, there are projects where having the latitude to, to use one of these other processes would be a better way to go.

**J. CAVANAUGH:** OK. And so, in that bid process-- this is the part I'm trying to understand. And so the-- you get bids, and-- do we not currently own the intellectual property of those original bids, like, when you--

**von GILLERN:** There is-- there really is no intellectual property in a bid scenario. In a bid, all you're-- all I'm-- if I was the contractor and you were bidding a project, all I'm going to give you is a number.

**J. CAVANAUGH:** Oh, I mean I guess the design-- the first phase. The design phase. Don't-- I mean, I, I--

**von GILLERN:** Well, they're just-- the design. Yes, the state would own that intellectual property, but the state would be contracted with an architect or a design firm separate from whoever would be turning in the bid from-- for the construction work.

**J. CAVANAUGH:** OK.

**von GILLERN:** So, yeah, they would own that, that intellectual property, but, but it's two different parties.

**J. CAVANAUGH:** And [INAUDIBLE] my, my next question [INAUDIBLE] is about the lowest bid. You have a part in here that was-- part of it is 50% is the lowest cost, or something along those lines. I had it highlighted in here. Where-- for determining which bid to take, 50% of it.

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**von GILLERN:** Yes. Yeah. And what it-- I think that was more of an example, because there's the-- in a, in a-- either a design-build or construction management, you can set the scoring criteria, and I think it's set a maximum-- or, a minimum of 50%, if I remember right. But I'm-- I may-- I'm going off of memory.

**J. CAVANAUGH:** I'm trying to find it still.

**von GILLERN:** So, you can set the scoring criteria. And again, that's part of the RFP or the RFQ, when you, when you put it out, the-- those, those contractors that, that are going to bid on it, they know, hey, it-- a, a large, you know, X portion of this 50% in, in this case, that would be awarded based on the price.

**J. CAVANAUGH:** There we go. So on page 7, it set-- except that, yeah. The cost of the work shall be given a relative weight of at least 50%.

**von GILLERN:** Yeah, yeah. So, you could make it higher than that. You, you could say we've got a scoring criteria where-- I'm just making this up-- 50% of the criteria is price and 50% is qualification-based, based on your work history, whatever, your financial stability, whatever, whatever it happens to be. But you could make that 50% higher.

**J. CAVANAUGH:** Well, I-- and I guess I'm coming at it from the angle of where we've had this problem in the past where we've gone to the lowest bidder under, you know, the Saint Francis example,--

**von GILLERN:** Mmhmm.

**J. CAVANAUGH:** --and we just went to the lowest bidder.

**von GILLERN:** Yeah.

**J. CAVANAUGH:** I guess I'm concerned if you set it at 50% as the floor, doesn't that mean the lowest bidder is going to have-- be disproportionately, I guess, favored, regardless of the quality?

**von GILLERN:** Well, it, it-- if it's-- it'd be at least 50/50. But that's-- and that only applies to the design-build section of the bill, which, which frankly is, is-- and I'm just going off of my own history and what I understand that what will be done here-- that's probably going to be the, the lesser-utilized of all three of the, of the means. Design-build is a really good project. Let's say you want to build a main-- vehicle maintenance garage, or an ag building, or



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something like that. That's probably-- it's going to be a lower-budget type project, that works really well under a design-build scenario. You would, you would not use design-build to, to, you know, build a building like we're in here, or the State Office Building, or something along those lines where it's more complex.

**J. CAVANAUGH:** OK.

**von GILLERN:** So, so price-- under the design-build format, price can be-- because-- again, because of, of the nature of the projects that it would mostly encounter, it can be a greater portion of the price-- of the award criteria. That's my opinion. Others might feel otherwise.

**J. CAVANAUGH:** Gotcha. Thank you.

**von GILLERN:** Yeah.

**SANDERS:** Are there any other questions? Senator Wordekemper.

**WORDEKEMPER:** Thank you for being here, Senator von Gillern. I had a question. I think it's page 5, you're talking about short-listing. So, if the department comes up with a list of qualified design-builders, can other people outside of those still bid? Or, if you're on a short list, are these companies getting on the list and, and coming off the list, or? I'm, I'm not familiar with that, so.

**von GILLERN:** They will-- and again, this-- some of this goes back to the question about stipend. In that you would not want to-- and you would not want 100 proposals. So, what, what they will do is they'll, they'll do the public notification on the project, and just ask for qualifications; they won't ask for a full design-build proposal, but asks for qualifications. And then, from those-- let's say they get 20, 20 firms that submit qualifications. From that, they'll pare it down to two, three, five firms that they feel are the most qualified, and then they'll move on to the next phase. So, that would be the short list, and then they move on to the next phase, which is the, the actual design-build scenario. So, it-- to put together a design-build proposal is, is-- can be costly and cumbersome. So, it's a way to, to-- no. It's a way to not torture the whole marketplace and have everybody turn in a, a 100-page proposal that they put tons and tons of time and money into.

**WORDEKEMPER:** OK. Thank you.

**von GILLERN:** Sure.

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**SANDERS:** Senator von Gillern, I have a question. And maybe it doesn't apply in this situation, but how do you protect the project if you're getting-- taking the lowest bid, that there might be a history of expensive change orders?

**von GILLERN:** Yeah. Well, I'm going to answer that in two parts. One is the, the state always requires a performance and payment bond. So, if the, if the, if the contractor were to fail, if they were to go out of business, if they were to just walk off the job or choose not to finish the project for whatever reason, the bonding-- the surety company would step in and cover the expenses to finish the project. The second part of the answer, it goes back to what Senator Wordekemper asked, and that is, by pre-qualifying, you've hopefully weeded out-- that's, that's one of the biggest questions in the pre-qualification process is what is your history of providing accurate estimates, and what's your change order history on other projects. And, and, and there are-- and the state would do this, that-- if you provide-- and you can't just say whatever you want in those proposals, they will go back and check with, with the references that you provide to, to double-check those and basically, kind of informally audit those answers to make sure that you're accurate.

**SANDERS:** Thank you.

**von GILLERN:** Mmhmm.

**SANDERS:** Are there any other questions from the committee? See none. Will you stay for closing?

**von GILLERN:** I will. Thank you.

**SANDERS:** Thank you. Welcome.

**LEE WILL:** Thank you. Good afternoon, Chairwoman Sanders, and members of the Government, Military and Veterans Affairs Committee. My name is Lee Will, L-e-e- W-i-l-l, and I'm pleased to support LB445. And thank you, Senator von Gillern, for sponsoring this proposal on behalf of DAS. LB445 has three key changes to improve construction in both cost efficiency and project completion. First, the bill establishes the State Building Construction Alternatives Act to allow for the use of alternative construction methods. These methods are construction manager/general contractor and design-build versus the traditional design-bid-build model. The second key change increases the minimum construction project amount that would require an agency to hire an

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architect or engineer. The final significant polish-- policy change is to eliminate the requirement to dedicate 1% of the total proper-- appropriation towards art for public buildings. This is not a position in opposition to artwork in state buildings, but a determination that tax dollars should not be required to, to be utilized for art. It is particularly the mandate of these funds that is problematic and why we support eliminating the funding requirement. As we acknowledge, we are working with Senator von Gillern on an amendment to LB445 to address some of his recommendations, including shoring up the criteria for an agency to use a construction alternative method to include documentation of the project's unique complexities that will justify an alternative project delivery model and require agencies to obtain approval by DAS. The amendment includes other changes, such as explicitly identifying agencies that may use the design-build or construction manager/general contractor methods. It also recommends terminology, terminology changes that requires an architect or engineer for either project as a means of accountability, and raising that threshold from \$75,000 to \$100,000. Further elaborating on this proposal, the design-build and construction manager/general contractor are well-established methods already available to political subdivisions, road construction under the Transportation Innovation Act, the University of Nebraska, state colleges, and the Game and Parks Commission, whose legislation was adopted in 2018 and served as a model for DAS's proposal. Processes for bidding and contracting for each method is outlined in LB445, and the handout you received illustrates how State Building Division or authorized agencies would execute these alternative delivery methods during a project. For instance, suppose an agency requires a construction of a small- or large-scale time-sensitive project. Design-build could be a logical tool to meet tight, tight time schedules and stay within budget, because construction cost data is known either in the process with designer and contractor involved in the beginning. Cost savings can vary from project to project, estimated at 6% to 20%, typically because of the partnership in integrated design construction work at the very start of the project. Construction manager/general contractor may be a useful means of project delivery to a owner of a complex-- oh.

**SANDERS:** Continue, please.

**LEE WILL:** I'm out of-- OK, thank you very much. Long design projects where flexibility and cost controls are essential. Current construction methods realize project costs only after building, which for longer-term design projects could be six months to a year. Raising

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the project costs at which an architect or engineer must be hired on a project was last done in 2007, which was 18 years ago. Agencies have building maintenance projects, such as flooring or window replacement, that now must hire a professional consultant because of the \$50,000 threshold. Thank you for your time and consideration of LB445. I'll be happy to take questions.

**SANDERS:** Thank you very much. We'll see if-- Senator Guereca.

**GUERECA:** So, under the design-build, looking at the fiscal note, you guys are estimating that we could have savings in the cost of 6% to 20%.

**LEE WILL:** Yes, sir.

**GUERECA:** That's a pretty big chunk of change.

**LEE WILL:** It is.

**GUERECA:** What, what services are being cut out to, to get to that number, I guess?

**LEE WILL:** Yeah. I don't know if it's necessarily services being cut out, but I'll use the Bellevue Readiness Center as an example. So, we had a designer come in and design the project; that went out to bid, and we got bid bust big-time, which means that the bids outsee-- outstripped what the designer said that the project costs would be. Upwards of \$8.7 million. So, if you don't have the designer and the contractor actually coming up with some of these methods, you may have bid busts like we had in the Bellevue Readiness Center, \$8.7 million. So, having the contractor involved in the design, you can really scope what you actually truly believe the cost, the cost of the project is going to be. And then, you also expedite about 6 to 12 months as well. Thank you for the question, sir.

**GUERECA:** Yeah, thanks.

**SANDERS:** Thank you. Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chair. Thanks for being here, Mr. Will. On-- kind of on that vein, what projects, as you're pursuing this-- obviously you have something in mind.

**LEE WILL:** Yeah.

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**J. CAVANAUGH:** So, what are we talking about? What, what would be an example of a project that would use construction management?

**LEE WILL:** Yeah. So, the construction management is really going to be for those large projects over \$30 million that you would have a consultant, or-- yeah, you would have a consultant working along-- alongside the contractor to make sure that we're getting close to the-- that value. I don't have a particular instance in mind on a project that we have in the hopper right now, but it would provide a substantial flexibility for some of these larger projects over \$30 million.

**J. CAVANAUGH:** And-- so I'm clear, we're just talking about buildings, right?

**LEE WILL:** Yes, sir.

**J. CAVANAUGH:** Because we've already done this for the Department of Transportation. We've done it for--

**LEE WILL:** Yes.

**J. CAVANAUGH:** --Natural Resources today, or--

**LEE WILL:** Will, yes.

**J. CAVANAUGH:** Yeah. So, this is just for-- if you guys tear down that downtown Omaha office building and build another one?

**LEE WILL:** That would be a good example. Yes, sir.

**J. CAVANAUGH:** OK.

**LEE WILL:** But we're-- I, I don't believe that we're going to build another one. But, yeah, that would be an example.

**J. CAVANAUGH:** Well, just humor me. We're going to--

**LEE WILL:** Sorry, sir. Yes. Fair enough.

**J. CAVANAUGH:** We'll, we'll build it at 42nd and Leavenworth.

**LEE WILL:** You could say there's a little competition right there.

**ANDERSEN:** [INAUDIBLE].

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**J. CAVANAUGH:** [INAUDIBLE] But anyway. So, hypothetically, you're going to-- we'll build it on some cheaper land out in Gretna.

**LEE WILL:** Yes. Yes, sir.

**J. CAVANAUGH:** So, which one of these methods would you use?

**LEE WILL:** I mean, on the larger scale projects, I do think the construction manager/general contractor would probably be the way to go. The design-build, although it can be used for larger projects-- really, you're going to look for those projects that are under, say, \$50,000, where you have an HVAC that goes out, where you have a water main break, where you need to bring somebody in emergently.

**J. CAVANAUGH:** So, we're not talking about just building new buildings. We're talking about some of the retrofitting that needs to be done.

**LEE WILL:** There could be some of the maintenance inside the facilities, as well. Yes.

**J. CAVANAUGH:** What about the new penitentiary?

**LEE WILL:** You could utilize design-build or general contracting methods, but through any event, they both-- both of these pattern-- or, both of these vehicles would have to use an RFP process where folks would have to bid on the project. So--

**J. CAVANAUGH:** OK. But so, the, the construction general manager-- construction manager/general contractor might be-- the state penitentiary would be an option.

**LEE WILL:** It could be an option. Yes, sir.

**J. CAVANAUGH:** OK. And then what would you continue using the current method of design-bid-build for?

**LEE WILL:** I mean, really, you're going to use that for about 90% to 95% of the projects, the ones that you're not fear a bid bust, and you believe that the designer is going to get close to what the contractor ultimately comes forward with in RFP. But, like we saw with the Bellevue Readiness Center, you're probably going to fit into the general contractor and design-build one. So, we--

**J. CAVANAUGH:** What'd that structure cost?

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**LEE WILL:** What, what structure, sir?

**J. CAVANAUGH:** The Bellevue Readiness Center.

**LEE WILL:** I'd have to look at the full cost. I, I don't know. I know we went over \$8.7 (million), so I'll have to get back with you on how much the total cost was.

**J. CAVANAUGH:** OK. I'm just trying to get orders of magnitude.

**LEE WILL:** I, I understand that question. I want to say it was at least double. But I'll get you that answer.

**J. CAVANAUGH:** Gotcha. And then, of course, you hit on the art. I'm staring at a piece of public art right here.

**LEE WILL:** Yes.

**J. CAVANAUGH:** I, I, I am-- I mean-- and we can have a convers-- separate conversation about the value of this, but I'm just trying to understand how much art are we talking about losing if we do this?

**LEE WILL:** I mean, really-- I mean, this is a semantics argument, but we're-- it's possible you wouldn't lose any art, because it's a requirement, and we're lifting the requirement. Those agencies that are constructing those facilities still could spend 1%, 2%, 3%, 4% if they'd like to. So, I don't want to say that we're taking away that art. We're taking away the mandate in statute that they have to use 1% of the total appropriation for art purchase.

**J. CAVANAUGH:** And-- I mean, where-- does the buck stop with you in terms of that determination? If, if HHS wants to put in, in a new facility, art, do you have to sign off on that, or do they get to decide themselves?

**LEE WILL:** I believe that we would sign off on that. To be honest with you, if an agency made a determination that they had to essentially have art, we probably would have a conversation. But, you know, I don't think that I would, I would veto the project on that basis. Now, if they were spending 10% of the overall project, we probably would have a conversation.

**J. CAVANAUGH:** OK. Thank you.

**LEE WILL:** No problem.

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**ANDERSEN:** Any other questions?

**GUERECA:** Yeah.

**ANDERSEN:** Senator Guereca?

**GUERECA:** So, under the stipend, under design-build. So that's-- if I'm looking at the flowchart,--

**LEE WILL:** Yes.

**GUERECA:** --that, that'll go off to the stipend given to everyone that sub-- will submit a, an RFP? Right?

**LEE WILL:** No, it's really to the consultant that is providing the design material.

**GUERECA:** So, it's-- we're just one stipend to the consultant?

**LEE WILL:** Yes. The design-- designer? Yes. They're submitting RFPs to become that designer, essentially. And then, they get chosen, then a stipend would be provided for their services.

**GUERECA:** And now everyone that submits an RFP to be that consultant gets a stipend?

**LEE WILL:** No, just the one that rec-- just the one that wins. Am I right on that, Brent? OK. OK. I, I may have to have Brent talk to that provision.

**GUERECA:** Is-- he's going to be coming up next?

**LEE WILL:** He, he, he can, yeah. He's with the building division. Brent Flachsbart.

**GUERECA:** OK.

**LEE WILL:** He can answer that question.

**GUERECA:** All right. Be looking forward to having Brent up here to answer my question.

**LEE WILL:** Sounds good. I don't want to be wrong for you, sir. So.

**ANDERSEN:** Any other questions for the testifier? Mr. Will, thank you very much--



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**LEE WILL:** Thank you.

**ANDERSEN:** --for your time. Any other proponents for LB445? Welcome to Government and Military Veteran Affairs [SIC].

**BRENT FLACHSBART:** Thank you very much. The name is Brent Flachsbart, B-r-e-n-t F-l-a-c-h-s-b-a-r-t. I'm the State Building Division administrator. I'm just here to answer any of these questions that Director Will was unable to, or if you had any additional questions. If I could start with your question.

**GUERECA:** Yeah.

**BRENT FLACHSBART:** So, when we first put the RFQ out, the request for qualifications, any design consultants are able to put together a packet that spells out their qualifications. We've done this many other designs like this in the past, here are some of our previous designs we've done, here's what we think we can do. But there's no actual design work or intellectual property involved at that point. All of those RFQs come in, the agency evaluates and ranks those, comes up with the short list to, to however many they want. It-- typically, it's at least two. Those two, then, are asked to provide a request for proposals. The proposals are more in-depth, and this is where we get into the stipend and the additional details, where they're actually putting some thought into what they think the final product might look like and some of the specifications and details. Since you're receiving that art-- or, that intellectual property, the expectation is that there is some payment for that, and that, that keeps-- that pays them for that. From those RFPs, you select the one that you would like to negotiate with, you conduct that negotiation, and determine the final one that you're going to work with.

**GUERECA:** OK. And at, at what step along that process is the stipend amount known, or, or made, made public?

**BRENT FLACHSBART:** The stipend-- the stipend amount is typically included in the request for qualifications,--

**GUERECA:** In the RFQ.

**BRENT FLACHSBART:** --that those that are selected for RFP would receive X amount.

**GUERECA:** OK. And in a standard-- [INAUDIBLE] that, that would be a big question. But generally, what amount of drop-off do we see from the

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RFQ stage to the RFP? [INAUDIBLE] everyone that submit-- submits an RFQ, at least two are submitted for an RFP, correct?

**BRENT FLACHSBART:** Yes. Yes. And I can tell you from Game and Parks, I worked with Tiffani Gerber extensively there, and talking with her about their utilization of, of these alternative methods. They have a hard time getting any more than three companies to supply RFQs. Now, that may be because of the specific nature of what they're doing, but that's kind of indicative, I think, of what others may see now. I think we may see ten, fifteen. I mean, typically for any project, we usually will have about eight architects, engineers that will apply. And then, they're-- right now, they're evaluated as part of that process, and then one is selected that will then do the design, and you enter the negotiation. From his-- you know, experience from what I'm picking up from Game and Parks, typically, they're getting about three that are interested in the RFQ, then they provide then a short list of that down to two; they interview those two, and then select the final one and negotiate a contract.

**GUERECA:** Thank you.

**BRENT FLACHSBART:** Yes, sir.

**ANDERSEN:** Any other questions? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Vice Chair. Thanks for being here, Mr. "Flashbart?"

**BRENT FLACHSBART:** Yes, sir.

**J. CAVANAUGH:** Did I get it right? OK. So, I just wanted to put a point on the, the intellectual property part. So, we pay that stipend, and then we own whatever intellectual property that they have produced for us?

**BRENT FLACHSBART:** Correct.

**J. CAVANAUGH:** And we could integrate that into the-- ultimately, the winning project, even though it's made by somebody who wasn't the winning--

**BRENT FLACHSBART:** This-- that is correct.

**J. CAVANAUGH:** OK.

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**BRENT FLACHSBART:** An example, sir, is-- are you familiar with the readiness center? I, I came from the military department two years ago, over to the building division. The Readiness Center that's over at 17th-- 10th and Military. They're building a audit-- or, it-- yeah, an auditorium in between the, the two buildings. Some of the design that was incorporated in one of the architects' proposal was really impressive, and they wanted to include that. There was a stipend, that architect was paid for that property, and then it was incorporated into the other architect's final design.

**J. CAVANAUGH:** And do you know what that architect was paid for that intellectual property?

**BRENT FLACHSBART:** I do not. No, sir.

**J. CAVANAUGH:** OK. And just like a general question. Like, what-- how much-- how many buildings are we talking about? Like, what's our total valuation of all of the buildings that this-- that you're overseeing? Any idea? I know they're not actually valued, but.

**BRENT FLACHSBART:** Well, we pay insurance on all of them.

**J. CAVANAUGH:** Yeah.

**BRENT FLACHSBART:** It's, it's in the billions.

**J. CAVANAUGH:** In the billions?

**BRENT FLACHSBART:** Because State Building Division compiles the entire list of all properties across-- that includes the university and the--

**J. CAVANAUGH:** OK.

**BRENT FLACHSBART:** --state colleges.

**J. CAVANAUGH:** And for-- but, for this particular bill, we're not talking about the university and the--

**BRENT FLACHSBART:** Correct.

**J. CAVANAUGH:** --state colleges, and things like that.

**BRENT FLACHSBART:** Correct.

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**J. CAVANAUGH:** So, in, in-- do you have any idea of, like, how much we'll be building in the next year, ten years, something like that? How much we would be utilizing this.

**BRENT FLACHSBART:** I think it's going to be-- as Director Will had mentioned, I think 95% are going to be your traditional design-bid-build. What this does is it provides that option. We don't have anything currently-- Building Division doesn't have anything currently that we're going to be funding to build that was appropriated or requested for appropriation for capital construction. I know that in the future, the Military Department will have another readiness center. It may be an option for them, where they would want to use construction manager/general contractor. I know there are some other smaller buildings that Department of Transportation-- the building portion of that-- may be doing, that they may want to use design-build for. And so, this is-- this provides those options. There's-- this isn't targeted at anything for the future right now that's-- you know, we want to do something here, we want to have this so we can do that. We don't, we don't have anything currently programmed.

**J. CAVANAUGH:** OK. And final question. Do you have a favorite piece of public art in any of the buildings you oversee?

**BRENT FLACHSBART:** I do not. No, sir.

**J. CAVANAUGH:** All right. Well, if you think of one, let me know.

**BRENT FLACHSBART:** Yes, sir.

**ANDERSEN:** Senator Guereca.

**GUERECA:** You might be able to answer this question for me. In, in the fiscal note, it says that the past five years, \$100,000 were spent on projects over \$50,000, but under \$75,000 requiring a professional consultant. What kind of buildings are we looking at in that price range?

**BRENT FLACHSBART:** Not buildings so much as projects.

**GUERECA:** Projects.

**BRENT FLACHSBART:** Yes. Military Department had a air conditionings project that they had. It bid at, I want to say, \$62,000. And this was a project where we-- they would purchase the mini split systems,

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replace the current window unit with a mini split system, and turn it on. But because it went over that \$50,000 threshold, you had to have formal plans and specifications drawn. For Building Division, over in the OCIO Building where we constructed a, a small room for the lottery servers. That project was expected to be about \$51,000, \$52,000, so-- and it was a simple room. It was something-- you know, there really wasn't a requirement. There weren't any special, unique qualifications to it. We had to stop, go back and hire an architect/engineer to do the design for that, for that room. Typically, an architect/engineer is going to cost somewhere between-- or, charge 8% to 12% of whatever the construction cost is. So, if you're looking at \$50,000, it could be up to \$5,000 for some of these smaller projects. But that's typically the, the cost for, for design and construction to support.

**GUERECA:** Thank you.

**ANDERSEN:** Thank you. Any other questions? Mr. Flachsbart, thank you very much for your time.

**BRENT FLACHSBART:** Thank you.

**ANDERSEN:** Any other testifiers that are proponents? Any testifiers that are opponents? Welcome to Government, Military and Veteran Affairs Committee.

**MIKE MARKEY:** Thank you. Good afternoon, Vice Chairman Andersen, and members of the committee. My name is Mike Markey. I am the executive director of the Nebraska Arts Council. I'm speaking today in opposition of LB445. More specifically,--

**ANDERSEN:** Sir? Excuse me. Could you spell your name, please?

**MIKE MARKEY:** Oh, I'm sorry. M-a-r-k-e-y. Thank you.

**ANDERSEN:** Thank you.

**MIKE MARKEY:** I'm speaking today in opposition of LB445. More specifically, the language in Section 25 that would eliminate the 1% for art program. I'm glad to hear Senator von Gillern say that he was putting together a amendment that would clarify the language about that, and I look forward to working him in-- with him any way that I can help. With that in mind, I'd like to give you some information about the program. Since 1979, the 1% program has been providing enriching public art for the state's new construction and renovation projects. 1% projects connect art and the community. Art that

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celebrates service to country in our veterans homes; art that heals in medical facilities; and art that generates civic pride on our campuses and in our communities. Exports [SIC] far more qualified than me will speak to those issues; I'd like to focus on the practical financial reasons to oppose the bill. You should have a handout in front of you that will have some of the basic facts about the program. First, 1% for Art affects very small percentage of appropriated projects, only those that involve public access. That is-- amounts to about 3 or 4 projects a year, representing 0.15% of the annual capital construction broad-- budget. 1% for Art program requires no additional cost to the state or client agencies; all costs come from that original construction appropriation, and 1% for Art program helps protect over \$7 million in state assets. Let me explain. The Arts Council receives a small fee for facilitating the artist selection process for each 1% for Art project. That fee is used to administer the program, maintain the art inventory, and to repair any pieces of art that need attention to maintain their value. There are now over 800 works of art across the state in the 1% inventory. More than \$7 million worth. The average age of the inventory is 22 years. As that art ages, it will become necessary to repair some. Recent repairs have cost \$20,000, and we anticipate two more repair jobs that will require another \$36,000 in the next couple of years. Also, the Arts Council is responsible for taking care of the I-80 Bicentennial Sculpture Garden, a historic program that brought the state national acclaim in 1976. Those eight historic sculptures in the Garden will be receiving \$33,000 worth of conservation in time for Nebraska's celebration of the nation's semiquincentennial in 2026. Those are the important fiscal reasons to oppose the bill. As I said, others will follow me who can discuss the value of the program to the state, to veterans, to health care patients, to students, communities, and to the business, everyone looking to make our state a better place to live and work. Please oppose Section 25 of the bill, and support public art in the state. If art says what-- if art-- if the art of a society says who we are, then support the 1% for Art program that says we are a great state. I thank you for your time, and I'm happy to answer any questions that I can.

**ANDERSEN:** Thank you, Mr. Markey. Questions? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Vice Chair. And thanks for being here, Mr. Markey. I mean, out of 800, do you have a favorite?

**MIKE MARKEY:** Out of the 800?

**J. CAVANAUGH:** Yeah.

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**MIKE MARKEY:** This one right here.

**LONOWSKI:** The one your--

**MIKE MARKEY:** Says a lot about our state, and it's in a nice location.

**J. CAVANAUGH:** It is. We look at it a lot. Or, I get to look at it a lot. So you heard Mr. Will say that, you know, it just would remove the mandate, so it would still be a potential that new construction would invest in art. Do you-- would that affect the amount that goes to the administration and the overhead and things like that, if it's not statutorily mandated? Or how does that affect-- would that affect the, the other parts of the money you talked about?

**MIKE MARKEY:** Well, I imagine all that would have to be re-looked-at in the statute, if, if that was removed as a mandate. If the rule-- if the rules and regulations remained the same, then that could certainly be part of it. Right now, we only receive that fee from those ones that are mandated. That's the only money that we get for it. Approximately \$7,000 per project, and that has to, again, as I say, take care of that inventory.

**J. CAVANAUGH:** Thank you.

**ANDERSEN:** Any other questions? Thank you, Mr. Markey.

**MIKE MARKEY:** Thank you.

**ANDERSEN:** Appreciate your time. Anybody else testifying in opposition to LB445? Welcome to Government and Military Veteran Affairs [SIC] Committee.

**SUZANNE WISE:** Thank you. It's been a couple of years, so I just have to get comfortable here. Good afternoon, Vice Chair Andersen, and the rest of the committee. My name is Suzanne Wise, S-u-z-a-n-n-e W-i-s-e, and I'm the former director of the Nebraska Arts Council. I'm testifying on the section of LB1440-- excuse me, of LB445, the legislative bill that pertains to this elimination of 1%. I was originally hired to manage 1%, so my history with the program goes back a long way. As you've heard from Director Markey, I hope you can conclude that the problem with the 1% program is not the cost, but rather the fact that it's misnamed. In retrospect, the onus is on me that I did not pursue altering the name of the program, which-- I'll admit when you hear 1% for Art, you would naturally think that that's a huge chunk of change from the construction budget, when indeed, when

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you look at the handout that Director Markey gave you, you can see that there are all sorts of deductions that client agencies take. It's rarely, rarely 1%. So, that-- the amount of money that is generated for the art itself, for setting aside at administration is much smaller than one would think. Over my 20 years as director, occasionally, state senators would express the same concerns as Senator von Gillern and the governor. When informed of the problem-- program's activities, were dependent on legislative decision-making and the strict criteria for eligibility, they were satisfied that appropriate controls were in place. Many years, there have been no projects at all. So, it's not a government program that lacks guardrails or keeps perpetuating spending under the radar in any way. There are several other factors about the program that I'd like to point out. There is no contingency amount in a 1% project. The artists sign a contract with the understanding that the amount of money they're given is ironclad. They are responsible for all costs, including materials, transportation, subcontractors and manufacturing, if needed. In many cases, they barely break even. But for them, the risks bring high reward. Being selected to do a 1% for Art project is a very prestigious thing, and it helps them parlay this achievement into other commissions. So, as a matter of fact, Ogallala Memories, which is a reference to the Ogallala Aquifer by the artist Evelyn Rosenberg and that was installed in 1991, really represents a snapshot, a vertical snapshot of Nebraska. You're all familiar with a landscape that's always horizontal because Nebraska's horizontal. This goes from paleontologists and archeologists, that you're starting at the bottom of the ancient sea that was Nebraska, and then you're going all the way up to present time. The committee that selected this artist and the work were state senators. Senator Sandy Scofield, originally from Chadron, LaVon Crosby from Lincoln, and Ernie Chambers from Omaha. I could tell you a bit more, but I'm mindful my time is short, so I will come to conclusion. You will soon be shown a sample of 1% projects. If an amendment is under consideration that reduces 1% to a fractional percentage, for example, I can tell you that "appolute"-- absolute certainty that the quality of the product would be substantially reduced. Since the budget is ironclad, margins for producing art are very thin. The last thing you want is lower-quality materials or a concept that must be reduced to the point it loses effectiveness. I think the responsibility of balancing the state budget is yours. If a capital construction must be reduced and qualifies for one-- that doesn't qualify for 1%, or it only qualifies when there's a brighter day in the budget, then 1% is always on the shelf.



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**SANDERS:** Thank you for your testimony. Let's see if there are any questions from the committee. Senator Guereca.

**GUERECA:** So, you said-- well, first off, thank you for being here. Thank you for your testimony. So, you'd mentioned you were here at the inception of the, the 1% for Art program?

**SUZANNE WISE:** Not quite, but pretty close.

**GUERECA:** OK. So, you know, and you had also mentioned that, during your tenure as, as the director, you-- the --several state senators and-- throughout the years felt a little queasy about that 1% for Art.

**SUZANNE WISE:** Right.

**GUERECA:** Do you think if the name of the, the project was 0.15% for Art, that there'd be less pushback and less heartache?

**SUZANNE WISE:** And as I said, the onus is on me. I mean, every time I would have those kinds of conversations, I should have gone back to the office and said, we need to introduce a bill to kind of take care of that problem. But frankly, I could never quite come up with the right kind of a title that represents what it did. And also, as you know, as a director of a state agency, we're understaffed, we have other priorities, and it just never came to happen. So, me bad.

**GUERECA:** Thank you.

**SANDERS:** See no other questions. Thank you very much for your testimony. I'm going to ask real quick, how many more are going to be testifying in-- opponents? And in the neutral? Thank you. I know there's like 50 people waiting to come in for the overflow room. So would you let, let folks know? Thank you. Good afternoon.

**MEAGAN DION:** Afternoon.

**SANDERS:** Go ahead.

**MEAGAN DION:** OK, great. Good afternoon, committee members. My name is Meagan Dion, M-e-a-g-a-n D-i-o-n. I am the public art and artist program specialist for the Nebraska Arts Council. I manage the Nebraska 1% for Art program, and I oppose LB445. I just handed out a lookbook about some projects funded through the 1% for Art program. I've included images from different parts of the state: Chadron, Ithaca, Peru, Grand Island, Kearney, as well as a full list of where

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the 1% for Art pieces are located throughout the state. All qualified for 1% because they met the threshold for the renovation or new construction, and are facilities for public use. The 1% for Art program is twofold. We place relevant artwork in public spaces where veterans live, students and faculty study, health care professionals care for patients, and more. The selection committees are made up of those people to advise what artwork would be most impactful for their spaces. On page 3, there are samples of work at the Central Nebraska Veterans Home, where residents were part of the selection committee and had power over what artwork was added to their home. The muralist who did the work heard residents say they appreciated the calm of the scenery and feel a sense that their service is something that is valued. These artworks create a sense of pride for people who have them in their buildings. Flip to page 2 for quotes. The retired director of activities at the Central Nebraska Veterans Home witnessed residents open up about their related memories with their families. You can also see a 1% for Art piece is on-- is the Facebook profile picture for the Nebraska Law Enforcement Training Center in Grand Island. During the selection process, the director of that facility stated during the final vote, "Mr. Bass's sculpture embodies human dignity. An officer who is not sensitive to human dignity is incompletely educated." In the selection process, we also take special care to analyze the proposed materials and installation process to ensure that the artwork has a long-time effect in their public location. I inventory all of the works in the 1% for Art collection, and note changes and the condition of these artworks, which is tracked on the back end on our online database on page four of the handout, and you can see a screenshot of the front end of the database on that same page. To fund any repairs or maintenance, we rely on the admin fee that we earn from each project. That can range from reframing a two-dimensional piece, repairing structural issues, or provide cleaning on outdoor sculptures. Some upcoming 1% for Art maintenance projects include cleaning of a major bronze sculpture at UNK, repairs to a large installation at UNO, and we are also responsible for maintaining the I-80 sculpture collection from the US bicentennial. We will be issuing conservation treatments on those prior to the U.S. 250. Please let me know if you have any questions.

**SANDERS:** Thank you, Meagan Dion. We'll check to see if there's any questions from the committee. Senator Cavanaugh.

**J. CAVANAUGH:** Thank you. Thank you, Chair. Thanks for being here. So I'm just-- my question is, is the art in the-- put in the facility

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that is the source of its funding? Or is it put in just any public place?

**MEAGAN DION:** That's a good question. The artwork that is intended for the building is what funds the artwork for that building.

**J. CAVANAUGH:** OK. So, the law enforcement training center, the cost of that, 1% went to pay for that statue.

**MEAGAN DION:** Correct.

**J. CAVANAUGH:** OK. That's [INAUDIBLE]. Thank you.

**MEAGAN DION:** Yeah.

**SANDERS:** Senator Guereca.

**GUERECA:** And I might have misheard it. So, during the selection process for the artwork, the folks that are going to be enjoying it are the ones that are on that selection committee?

**MEAGAN DION:** That's correct.

**GUERECA:** On a daily basis?

**MEAGAN DION:** Yeah. The selection committees, under our rules and regulations, have to be at least seven individuals. We split that between-- the agency gets to select some, and, and the Nebraska Arts Council gets to select some. So often, we have a project manager who is working on the architecture of the building and has a strong understanding of the building itself; I will sit on the committee, and usually there are other people who are art professionals who can speak to the materials that would be used in 1%-- or, in, in artwork and in public spaces. And then, the majority of it would be the people who are using those spaces on a regular basis. So, yes, the veterans home, we, we get to enjoy the company of, of those veterans and the residents that are using those spaces on that committee, and hearing directly from them what their thoughts are.

**GUERECA:** Excellent. Thank you for your testimony.

**MEAGAN DION:** You're welcome. Thank you.

**SANDERS:** Senator Andersen.

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**ANDERSEN:** Thank you, Chairwoman. Thank you for being here, and for your testimony. And pardon my ignorance. So, when you have a project and you have a, a 1, 1% for the Art, do you then put an RFP, and artists then respond back? Or do you go from existing collections? Or?

**MEAGAN DION:** That's a great question. Thank you. Yes, similar to what was mentioned before, we have an RFQ process, and we do that so that we can pay artists for their proposal. Sometimes, in the RFQ process we get 100 submissions plus. And so, instead of asking for artists to put in all of that effort upfront without payment, we can narrow it down, and then pay three finalists in order for them to create the full proposal that we're expecting.

**ANDERSEN:** Thank you.

**MEAGAN DION:** Mmhmm. Thank you.

**SANDERS:** Thank you. Any other questions? See none. Thank you for your testimony,--

**MEAGAN DION:** Thank you.

**SANDERS:** --Meagan Dion. Dion?

**MEAGAN DION:** Dion.

**SANDERS:** Thank you very much. Any other opponents? Welcome.

**LEE RUNNING:** Thank you so much. Good afternoon. My name is Lee Running, L-e-e, last name, R-u-n-n-i-n-g, just like down the street. And I'm an artist who was part of the 1% program. And I'm here to talk with you about the development of the project Nebraska Dark Sky, that was completed just last year at the University of Nebraska at Omaha. This piece was created for the STEM TRAIL, which was a new facility that was opening up and the first floor of Roskens Hall. And I was one of this-- the artists who was accepted through an RFQ process. I have been an artist in the middle of the country for the last 25 years. Prior to moving to Omaha in 2021, I was the sculpture professor at Grinnell College for 16 years, and I left a secure position in academia to move to Nebraska specifically to make art. And part of the drive for me to move here was the support for public art. I want to live in a state where art is created and supported by the public. It was important to me, moving from academia, that I move into a place where I could make art in public, in dialogue with the people who live and work and gather in the places where this art is made. For this

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project, I collaborated with seven small businesses to create this. All of this money went directly back into the Omaha economy. I also worked extensively with amateur astronomers. The basis for this installation is a little-known resource in Nebraska, which is darkness. We have some of the darkest skies in the country in the state, and it brings amateur astronomers to Merritt Reservoir-- which is near Valentine, Nebraska-- every summer. And that event changed how I physically saw, as an artist. And I wanted to use the awe and the wonder and the technology that I found in that observing field at Merritt Reservoir every summer. The beauty that I found there, I wanted to translate that into an installation for the STEM TRAIL. This installation consists of two large murals that are taken from photographs by amateur astronomers and a large series of 15 illuminated panels that are connected to sensors that, that light up when students or educators walk through the hallway to enter the space. This is a transformative piece. It's incredible for people to feel implicated in the art that they're viewing. And this, I think, was the piece that the technology faculty that will be working at the STEM TRAIL were most excited about. This is a direct representation of the technology they teach, and it allows students ways to see how this work can be physically implemented in, in the real world. I want to leave time for questions because, I know people are often curious how these processes work. Lots of people know working dentists, but not many people know working artists. So, go ahead and ask.

**SANDERS:** Thank you very much,--

**LEE RUNNING:** Thank you.

**SANDERS:** --Miss Running, for your testimony, and sharing your artwork with us. Let's check with the committee if there are any questions.  
Senator Cavanaugh.

**LEE RUNNING:** Yeah.

**J. CAVANAUGH:** Thank you. I actually just recently heard about this building. Is it on the Dodge Street campus, or?

**LEE RUNNING:** It is. Yep.

**J. CAVANAUGH:** OK. I pulled up the website here. 130--some of the public art projects are basically, on either the Dodge Street or the Aksarben campus. But this is really cool. So, I'm just reading it, and you have this picture of this little person--

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**LEE RUNNING:** Yes.

**J. CAVANAUGH:** --walking by. So, it lights up just when you stand in front of it?

**LEE RUNNING:** Yes.

**J. CAVANAUGH:** OK. And there are etchings of plants?

**LEE RUNNING:** Correct. Yeah. So, I take botanical specimens from the same observing field, put them under a microscope, a digital microscope, and make drawings from the vein networks and the systems inside these plants. These are plants that are specific to Nebraska. So, the images of the sky are specific to here, and the ground. Yeah.

**J. CAVANAUGH:** So those plants are from the Merritt Reservoir?

**LEE RUNNING:** Correct.

**J. CAVANAUGH:** Oh. Cool. Well, thanks for being here. This is really cool. I can't wait to go visit this.

**LEE RUNNING:** Please do. Yeah.

**SANDERS:** Are there any other questions? Senator Lonowski.

**LONOWSKI:** Thank you, Chair. And thank you for being here. You're obviously very passionate about what you've done. So, was this project that we're talking about with the 15 panels, did that, like, stay under the 1%, I take it?

**LEE RUNNING:** Yes.

**LONOWSKI:** OK. So-- and I'm like Senator Andersen, I'm a little bit ignorant. So--

**LEE RUNNING:** Please.

**LONOWSKI:** How do you come up with that price? You know, I know you've talked to the, to the vendors that you have to buy materials from, and you probably figure in your hours put in, but is there a-- I don't know, for a better lack of term, is there a wiggle room in there, where you look at them and say, we can do it for that? Or does--

**LEE RUNNING:** I negotiated with vendors for this.

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**LONOWSKI:** OK.

**LEE RUNNING:** Install Nation, the people that did the, the LEDs around the edge of the, of the frames of glass, this was the first project they had ever taken on like this. They make signs for I-80, like large highway signs, for the, for the majority of what they do. So, it was the first time they'd worked with an artist. But my studio happens to be in their building, so they were willing to talk with me. And we, we started this dialogue, and the initial price they quoted I couldn't afford under the budget that I had from the State Arts Council. And so, they took it on as research. They were willing to work with me for a lower price, thinking that this may be-- it was interesting research for them, it was interesting research for me. And a ton of this work I did myself. You can see me in the lift, hand-painting stars for a couple of months. So, there, there's a ton of hand work that goes in that, that I, that I completed myself. But Susan [SIC] stated earlier that often, artists rarely break even on these projects. But my goal in moving here was, in the first five years, I wanted to have a piece of art in a public building, and I achieved that in the first two years, here. So, it was ahead of schedule. And this has led to incredible projects in other cities. I'm working on a commission right now in Louisville, Kentucky, and the images from this project helped facilitate that work. So, I really see it as a way to build public art in, in the world. And having a response to an RFQ is a really big deal for working artists.

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

**LEE RUNNING:** Thank you.

**SANDERS:** Thank you for your testimony. Senator Guereca.

**GUERECA:** Thank you for coming, for your testimony, and for this beautiful piece of art that the Omaha community gets to enjoy. Actually, the Nebraska community. They come through Omaha. And you said for the, for the most part, the majority of the vendors you used were local?

**LEE RUNNING:** Yes.

**GUERECA:** So that's-- so that money stayed in the local economy.

**LEE RUNNING:** All of the vendors that I used for this work.

**GUERECA:** All of the vendors?

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**LEE RUNNING:** All of the vendors, yes. The one thing that didn't happen locally was the circuit boards were printed overseas and brought back. But all of the technology and everything else that happened, this is all technology that the students can recreate in those classrooms. All of the paint was purchased, every paint brush was purchased locally.

**GUERECA:** That's excellent.

**LEE RUNNING:** Yeah.

**GUERECA:** Thank you so much.

**LEE RUNNING:** You're welcome.

**SANDERS:** Thank you, Miss Running, for your testimony.

**LEE RUNNING:** Thank you so much.

**SANDERS:** Any other opponents? Please come forward. Thank you.

**ANDERSEN:** Von Gillern jinxed us.

**SANDERS:** Welcome.

**RICHARD HARRISON:** Thank you. My name is Richard Harrison, and I have had a business in Omaha called A Midsummer's Mural for 25 years. And before that, I worked in Chicago doing murals, and some other places, and taught college, and have an MFA in scene design, scene painting from North Carolina School for the Arts. And thank you for letting me come and talk to my opposition to the portion of this bill that talks about eliminating the, the 1% for Art, or the 0.15% for Art. And I wanted to let you know I did the, the veterans home, Central Nebraska Veterans Home, which you have pictures there, and my daughter and, and, and a friend of mine, and-- mostly, for months spent time in my workshop painting huge canvases. And the, and the overall ceiling of this mural was 35 by 20-- 25 feet, and it goes up and in, and up and in, and around at multiple planes, and we did all these canvases, and we put them up with wallpaper paste. The canvases were expensive materials that were totally flameproofed and everything, and we paid ourselves \$15 an hour, and we were happy for the income. And we built huge walls in our shop that we still work on today. So, sometimes I employ up to 15 artists at a time, and pay them a little bit more of a living wage to keep up with today's times, but that experience of working on that really helped me build a building that-- a business that helps me help college-age students that like to paint, they work



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with me a lot. And, and older people. And we felt so good about the work we did for the veterans. They had the opening for the veterans home, and the residents, and from-- people all over the state came, and senators, and walked through the space, and they got to the room with all the paintings up above, and they stood there for a long time and took pictures, and sat in their wheelchairs, and just, you know, breathed easy and felt good about it. And now, just found out last week we get to do something similar for the Eastern Nebraska Veterans Home in Bellevue. So I'm-- we're real excited about that. And we're going to sit down and have meetings with the residents, and hear their stories about their military experiences, and paint those experiences into the mural. And we've done that for a, a private pay kind of nursing home too, near Offutt. But, you know, that was a home that really cost a lot of money for people to stay in there. People who've earned a lot over their life. So, it feels good to put art where common, everyday people, maybe, who don't make so much money, can enjoy it. And also, to tell people that we, we valued their service. So, that's my testimony.

**SANDERS:** Thank you, Mr.--

**RICHARD HARRISON:** Any questions?

**SANDERS:** Let me check with the committee. Are there any question for Mr. Harrison? Senator Megan Hunt.

**HUNT:** Thank you, Senator Rita Sanders. I'll just thank you for your work and congratulate you on the new project. Thank you--

**RICHARD HARRISON:** Thank you.

**HUNT:** --very much. Your, your work is very beautiful and I hope that, you know, the veterans that pass through the veterans home and the family members that visit them feel honored by your work,--

**RICHARD HARRISON:** Great.

**HUNT:** --because I think it's gorgeous. Thank you.

**RICHARD HARRISON:** Thank you.

**SANDERS:** Thank you, Mr. Harrison. I hope to see you in Bellevue.

**RICHARD HARRISON:** Thank you.

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**SANDERS:** Are there any other opponents? Welcome.

**LAUREN SIMPSON:** Thank you for having me. Good afternoon, esteemed committee, Senator Andersen, Senator Sanders. My name is Lauren Simpson, L-a-u-r-e-n S-i-m-p-s-o-n. I am from Omaha. I live in District 9. I'm here on behalf of Amplify Arts. We are an Omaha-based nonprofit organization, and we provide resources for local artists, and we promote a healthy arts community in general in Omaha and across the state. Our programs have supported countless artists over two decades of our history, and it's really given us a front row seat into how this program, the-- impacts artists in our community. And we ask that you reconsider the elimination of the provisions for rel-- relating to the procurement of art for, for state buildings. As a result of our organization's work, a member of our staff was able to participate in a 1% for Art review process for the RFP, for this project in Bellevue. And through this process, she has spoken to us many times about how she was able to interact with the veterans who were living there and get a deeper understanding of what it means to have art in your home. And, as this facility undergoes updates, she really began to understand that we are on the artists' side, but how she got to really understand what the impact was from the art viewer's side, and how this changed their lives. Let's see. The-- another piece of this program that is important is that it is only-- is one of the few nonpartisan statewide policies that promotes art with an upside for economic impact in communities across the state. This is not just localized or skewed, geographically. As we've heard, these projects reach far and wide, to Ogallala, Scottsbluff. And then, I want to say just, sort of-- lots of things have been said, so I'm trying not to repeat what others have mentioned as well, but just sort of responding a little bit to what I've heard already. You know, I, I can't claim to understand the full aspects of this bill and some of the cost-saving measures that are for development and construction, but this can be, for the arts industry, pretty crippling, something like this. It would be very damaging for, for artist community, which is small, but growing all the time. And, as you heard from-- an example from an artist, how much they work to really stay under budget and, in many cases, working at minimum wage to do the work. And then, another piece is a question about whether this is a mandate, and if we don't mandate something like this, I, I just ask you what you think the chances are of something like this happening and people prioritizing it in their budgets. And then I'll just-- and on a personal note, I'm an artist as well. I work for this organization that helps other artists. But I moved here five years ago from San Francisco, California to here,

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because-- in part, because of the arts community and just how strong it is. The affordability is very attractive. But there are many other pieces like this program that make-- that are really unique to Nebraska. I think I looked it up, there's maybe eight other states that have something like this. And so, I think it just puts Nebraska on a map in a way that is unique. With all due respect to Nebraska and its natural landscape, I would say that we don't have the dramatic mountains and the beaches and things that maybe draw people to move elsewhere, but we do have creative, hardworking people here. And I know artists who are moving here to be a part of this community. Programs like this enliven this particular arts community. And so, if we don't want brain drain, or we're working on brain grain [SIC], I think the investment in our arts community is one place to, to continue to do that. Thank you for considering my perspective. I'll take your questions.

**SANDERS:** Thank you, Miss Simpson, for your testimony. Hold on. Let's see if there are any questions. Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chair. Thanks for being here, Ms. Simpson. District 9 is the best, right?

**LAUREN SIMPSON:** Yeah.

**J. CAVANAUGH:** And I appreciate-- I, I-- you know, I appreciate the economic impact arguments that folks have been making, but I thought you did touch a little bit on just sort of the personal impact that art has on people, right? And I was thinking about this one here, which I spare a lot of-- I spend a lot of time staring at, and I didn't know the name of it. And I appreciate Ms. Wise telling us the name, and a little bit about the history of it. And I do feel like that accessibility makes it-- I enjoy it more now, already, since I've been sitting here. Like, looking at it, kind of staring through the different parts, and understanding what its name is, at first, just, like, was-- immediately hit me. And, like, just-- so the, the public aspect of it is the sort of commitment to accessibility of art,--

**LAUREN SIMPSON:** Yeah.

**J. CAVANAUGH:** --and then, sort of reaching people in that sort of way, I guess. And I-- so I've-- I just-- I appreciate you coming, and I like that you said some of that sort of stuff. So, if you wanted to comment on that. And if you like this one.

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**LAUREN SIMPSON:** I do like this one. I have a favorite, though, and it is--

**J. CAVANAUGH:** Oh, what is it?

**LAUREN SIMPSON:** It is Lee's work in the University of Omaha [SIC]. And I recommend going to see that, if you want to feel both giant and small at the same time, this work will give you all the feelings that you're talking about as far as the emotional state that happens when you're around art. Yeah.

**J. CAVANAUGH:** I'll get there. Thanks for being here.

**LAUREN SIMPSON:** Yeah, sure. Thank you.

**SANDERS:** I don't see any other questions? Thank you so much for your testimony. Other opponents? Welcome.

**MICHAEL GIRON:** Thank you, committee, and Chairperson. My name is Michael Giron, M-i-c-h-a-e-l G-i-r-o-n, and I'm an artist. I've been an artist all my life. I'm 54 years old. I've worked on many public art projects. I've worked on the veterans home. I've benefited from the 1% for the arts, done artwork for communities, giving them voice and, and, and enabling them to, to express themselves. And on that point, which is a philosophical one, I'd like you to consider that the arts are an expression of humanity. OK? It's an expression that people make art, and people make art for people. All right? I know robots are taking over everything and stuff like that, but the thing is, that's why art is important, is because it presents possibility; it presents a vision; it presents understanding. I've heard a lot about this artwork. I have not heard a thing about that wall right there. OK? That's what I'm getting at. If you rob spaces-- you know, I say "rob"-- not ensure that these spaces have the hand of humanity in them, that's what you will get. OK? So, I implore you to not eliminate the 1% for the arts [SIC] program on just that: money. All that kind of stuff. Budgets. I get it. We're human beings, all of us. I'm talking to human beings, right? I am a human being. We're here for a short period of time. And we think about these things, and we project what that's worth. And, to whatever effect it affects the other person, right, that's part of them. It taps into humanity. Without it, where are we going to be? OK? So, I'll leave you with that. That's all I really want to say. OK. I'll take any questions if you'd like.

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**SANDERS:** Thank you, Mr. Giron, for your testimony. Let's see if we have any questions from the committee. See none. You get off all right.

**MICHAEL GIRON:** Great. Thank you.

**SANDERS:** Thank you for coming in. Appreciate it. Any other opponents? Welcome.

**LANCE NIELSEN:** Good afternoon. My name is Dr. Lance Nielsen, L-a-n-c-e N-i-e-l-s-e-n. I'm the executive director for Nebraskans for the Arts. We're an, an arts advocacy organization that supports all of these artists and arts organizations across the state, and I'm here again opposing LB445, the repeal of the 1% for Art program. You have received other testimonies today about the data and the history of this program. I want to share with you a little bit about the social impact. When I was very young, I remember accompanying my parents as we visited my grandfather. He was a World War I veteran, and we came down here to the Veterans Hospital here in Lincoln on 70th Street. That visit alone was a profound-- gave me a profound image in my little five-year-old mind. It was very dark, drab, very "instintualized" feel to the whole place. Now, if you walk into some of these veterans health clinics, especially the ones that it would benefit-- and you saw some of the pictures here-- it feels welcoming. Because art consoles us, calms us, brings us peace, which, for many of our veterans, is very valuable in their time of need and healing. Also, currently the UNL Glenn Korff School of Music is completing their new music building on the corner of 10th and Q, and I'm an alumni of the School of Music, and I'm excited to see the innovative and rel-- revolutionary building focus on the state of the art sound design that has come to be, and the impact it is going to have not only on our community here, but across the state. They are going through this process, just like the artists for their 1% for Art program, which really amplify this new space. It's bringing the community together. We're seeing current students, alumni, faculty going through the process that Meagan had mentioned earlier. It's a building that will bridge the, the southwest corner of that corner from the Haymarket to the City Campus, and we are very excited about how the arts are really helping bridge to that reality. The 1% for Art program also maintains and continues the, the upkeep, as, as you have mentioned here, of the 800 pieces of art housed across the state. By repealing or simply reducing the scope of this program, it will jeopardize keeping for future generations very important art pieces and artifacts that resemble our state's history and individual stories

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that we must, must tell. So, thank you. And again, I just-- I'm looking forward to an amendment that will either remove then repeal this part of this bill.

**SANDERS:** Thank you, Dr. Nielsen, for your testimony. Let's see if there's any questions from the committee. See none.

**LANCE NIELSEN:** All right. Thank you.

**SANDERS:** Thank you again. Are there any other opponents? Welcome.

**MATT MASON:** Thank you, Senators. My name is Matt Mason, M-a-t-t M-a-s-o-n. I was appointed by Governor Ricketts to serve as Nebraska's State Poet from 2019 until the end of last year. I'm here to speak against LB445 in its current form, and to ask for the bill to be amended so that it removes this repeal of the laws for the 1% art program. Art matters. Art has been part of human culture everywhere on this planet since the start of human culture. It wasn't just a passing fad after some hunters made a couple cave drawings. It's been part of us through every part of all of our histories. And why? Because it matters. We're drawn to beauty and shared expression. Art is part of who Nebraskans are, and what Nebraska is. You want to keep kids here? Give them something that's harder to leave, which reflects their belief that beauty and creativity matter. Because a gray concrete building can be a person's home, but it's one that's easy to leave for something else; for Chicago, for Kansas City, for Denver. Public art is made by us to reflect who we are, what our history is, and how we have so much goodness to value. The bonus here is that what we're talking about, with its tremendous benefits, comes at such a small price: 0.15% of all appropriations. That's a bargain. And that tiny investment pays back. I recently worked with the artist Leslie Iwai as part of a 1% for Art project called "cumulate," which was installed at UNK's Calvin T. Ryan Library last fall. Cumulate built itself around Nebraska's literary tradition, honoring the poetry of Willa Cather, Ted Kooser, John G. Neihardt, Don Welch, and more. And cumulate has brought in money to the Nebraska economy already. Leslie worked with independent Nebraska contractors, a muralist, graphic designer, web developer, a poet; paid stipends to other Nebraska poets and Nebraska voice actors, and listed a moving company, lift rentals, installation contractors, rigging specialists, copying, office materials, gas, hotels and meals for trips by Leslie and others to Nebraska to plan this. And then, at the ribbon-cutting itself, there were over 50 out-of-town and out-of-state visitors staying in Kearney hotels and eating at Kearney restaurants. Leslie added that up to over \$70,000,

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just in that installation and opening, brought into Nebraska and into Kearney. Omaha artist Eddith Buis passed away this week. She was instrumental in local public art exhibits like J.Doe, and Benchmarks, and others. These are art exhibits which spread through all parts of Omaha. You still see some of the J.Does around town, because it's now part of Omaha. When we have a culture of art, then we get not just art on public buildings, we get people like Eddith who see this art and how it benefits us all, and then they work to add more. 1% for Art doesn't just decorate public buildings. It influences and broadens public art, and has in this state since 1978. We can lose sight of art's importance and value because it surrounds us in subtle ways: natural, familial, manmade. But the beauty and truth it brings us, as the poet John Keats said, is all we know, and all we need to know. We need to work to preserve 1% for Art, because Nebraska and Nebraskans need this and deserve this.

**SANDERS:** Thank you, Mr. Mason, for your testimony. See if there are any questions. Senator Hunt.

**HUNT:** Thank you, Chairwoman Sanders. Hi, Matt. Good to see you.

**MATT MASON:** Hey. Good to see you.

**HUNT:** Thanks for coming here today.

**MATT MASON:** My pleasure.

**HUNT:** I, I just wanted to say I will miss Eddith and her legacy-- and many others, but, like, specifically her and the influence she had on me as a young person in Omaha is a big reason that I ended up staying here. And just, you know, the strength of the arts community that we have in Omaha. And all over the state, but growing up in Omaha, that's kind of what I can speak to. And having patrons and organizers and artists like Eddith is a big reason why I stayed in Nebraska as a younger woman, and I'm still here today. So, I know that other people feel the same way, and just wanted to put that out there.

**MATT MASON:** Thank you. And it's, it's-- art is part of our environment in this-- in our cities and communities. Here, we have the Pershing mural just down the street, which wasn't a 1% for the art because it was decades before that, but it still is so inspiring that when the building was torn down and the-- people paid to preserve the art. They went through-- I-- I've talked to some of them. They went through so much effort because they loved this art, and they preserved it, and

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it's going to go back up in Wyuka park. But we can't count on individuals to put forth this tremendous effort that they may or may not-- you know, as you-- we're one car payment away from that not-- that mural not being preserved. Whereas 1% for the art takes-- puts up art and preserves it. And we need that.

**HUNT:** Thank you.

**SANDERS:** Thank you for your testimony. Any other opponents? Welcome.

**JON NEBEL:** Thank you for having me. My name is Jon Nebel, J-o-n N-e-b-e-l. I represent the State Council of Electrical Workers and the Nebraska State Building Trades. We are opposed to the bill. You got a-- getting a handout explaining the reasons why. Oh, first, I want to say I like art, and I will miss it when it's gone, if it is ever gone, so. But also, the other mechanics of the bill. The first issue we have is the-- Section 2, the qualified-based selection process is kind of laid out. I believe that leads us to where we go to how that process is laid out in Section 6, and it's basically whatever the division wants. I think [INAUDIBLE] there should be some transparency in that, so we understand what we're asking of the industry when we tell them that they're-- need to prepare to bid on certain things. One of the concerns in that section is Subsection (7), the "procedures for the evaluation of construction under a design build contract to determine adherence to the project performance criteria." I'm not sure what that is. The only other time it comes up is in Section 9, where it discusses that it needs to exist in the proposal. I'd like to know a little bit more about that. Section 8, Subsection (4) is where we talk about developing the short list. I guess we narrow it down for certain reasons that I'll get into, but-- to at least two bidders, unless there's only one bidder, and then they can just accept that bid. So, we kind of circumvent the lowest-bid process; we just go with the only bid. So that's a little bit concerning, if there's only one bidder. And then, Section 9(8) is the weighted evaluation process. We got into this a little bit earlier. It's looking like 50% minimum is going to be the cost of the project. But the major concerns here come from the other weights that are considered, which is the construction experience, the design experience, the financial, personal and equipment resources available for the project. I think that can be whatever we want it to be, and we should be careful when we ask about that, what, what we wanted, if we're not clear about it on-- when we make it into state law. Subsection (10) of Section 9 also combines the design team with the general contractor for the proposal. I think there were-- I was confused when Senator von Gillern talked about it.



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He was saying that the design team is something separate than the construction management. It almost sounded like the, the general contractor would be picked separate. My understanding on Subsection (10) there, it's all going to be under the same proposal. So, the construction management part, it would just be, like, the managing firm to manage the general as part of the design team. So, I think that's all in one shot, and we're building the team there. And I think the other gentleman testified to that, to why we think it'll be a cost savings to do it this way, because the designers and the builders work together and implement this plan. But of course, that does cost money. That's why we get into Subsection-- or to Section 10, which is the stipend. I think he testified that the design of a project is 8 to 12% of the project, and if we're required to pay a stipend-- I'm sorry, I, I know I'm out of time, but I would love to keep going if--

**SANDERS:** Please do.

**JON NEBEL:** Oh, thank you. If we're required to pay at least two contractors, the design portion, I think we're going to be increasing the cost 8 to 12%. Unless, of course, we declare that the stipend is under that, and then I think we would be discouraging bidders to participate and get back down to that one-bidder process. And, at that point, I think we've leveraged ourself into a situation where we're just kind of handpicking who we want based on what the division has in mind for that project. All of this said-- also, can change per-project. So, at the end of the day, I think we're taking away what I believe to be the fairness of the bidding process. It's not the best design, but it is something that the industry understands. It's the lowest price gets the job. We're working around that, and creating loopholes and certain situations where we can kind of do whatever we want. And the back of my handout kind of provides some examples of what that might look like, when you think about what you want and, and how we can get into corner-- sort of discrimination practices going forward. So, those are our major concerns about the bill, and why we oppose it.

**SANDERS:** Thank you for your testimony, Mr. Nebel. I'm going to check if there are any questions for you. Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Madam Chair. Thanks for being here, Mr. Nebel. And-- so I-- I'm kind of-- I think you went-- you went a little fast, and-- appreciate that. But so, Section 2 qualified-based selection process. So, can you tell me, kind of a little bit slower--

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**JON NEBEL:** Sure.

**J. CAVANAUGH:** --what your issue was, there?

**JON NEBEL:** Section 2, in the definitions there, it talks a lot about everything's happening under the qualified-based selection process for the construction general manager contract, the best value-based selection process. It's all kind of laid out that everything that's happening is going to happen based on how it's-- how the request proposal is designed through Subsection (6)-- or, from Section 6, and that is at the discretion of the division. I'd like some more transparency on what that would-- what that would be going forward, not on a project-per-project basis, but, like, what are we really looking for when we say, what is the qualifications?

**J. CAVANAUGH:** OK. So, so enumerating in statute what qualifications would be part of the qualified bidders? Is that what you're saying?

**JON NEBEL:** Yeah. Yes. Yeah. What are we looking for? Are we looking for a certain amount of skilled people on the job? Are we looking for a, a tenure of how long you've been in construction? Like, what are the qualifications that we're going to say that gets you to the shortlist?

**J. CAVANAUGH:** OK. And then, I didn't ask this question, but maybe Senator von Gillern could address it on his close. But I, I was wondering about the possibility of the qual-- the RFQ, which is the request for qualifications. Is there-- in your read of this, is there a publicly-facing aspect where I would get to know-- not as a person who's bidding-- but I could, as the public, see-- have-- that potentially, a bidder that I thought was qualified didn't get deemed qualified, or?

**JON NEBEL:** I don't know that that would be-- that it would become apparent. I don't think-- I don't think you would get to know, the way it's laid out here. If you were qualify-- I-- because you're saying if, if we laid out for the request for qualifications there, that these are the qualifications, and we got down to the shortlist,--

**J. CAVANAUGH:** Yeah.

**JON NEBEL:** --who was disqualified? How did that happen?

**J. CAVANAUGH:** Right.

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**JON NEBEL:** I don't see that mechanism.

**J. CAVANAUGH:** OK. Is that-- I guess, not being a person who works in the industry, is there a potential for a problem where people are going to bid, and then not make it past the bid for other reasons and besides their qualifications?

**JON NEBEL:** It, it could be. If you get to a point where-- I guess at this point, it would only be to qualify to, to do the bidding, to, to get on the shortlist. I would-- I'm not sure. I think it's pretty vague, so I'm not sure if you could enter that in there. I'm sure the division could come up with something that would make that possible.

**J. CAVANAUGH:** OK. And just for all-- you know, you've got some very specific oppositions. Are you opposed to the idea as a whole? Or is it-- if-- are these addressable concerns that we could amend?

**JON NEBEL:** I'm, I'm opposed to it as a whole. I, I can see the-- I-- it's enticing to say, hey, we want to do it this way. But the way it's laid out, it can change at the drop of a hat, and we could, and we could create an unfair position based on, like, for the last-- I don't know how many years we've been doing it with the low bidder, but industry has recognized that that's the process. And so, we've built companies around that, that our main concern is how to get to the lowest price. If we change that on a per-project basis, I don't think industry can keep up.

**J. CAVANAUGH:** OK.

**JON NEBEL:** So that's why I'm-- that's why I'm opposed to just the concept.

**J. CAVANAUGH:** OK. Thank you.

**JON NEBEL:** Mmhmm.

**SANDERS:** Are there any other questions from the committee? Thank you, Mr. Nebel. Are there any other opposition? Any in the neutral? See none. We'll go ahead and-- Senator von Gillern can closing. Oh. Sorry, I'm-- in the neutral?

**TURNER McGEHEE:** Opposition.

**SANDERS:** Opposition.

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**TURNER McGEHEE:** Yes. Thank you. I am Turner McGehee, T-u-r-n-e-r M-c-G-e-h-e-e. Please forgive me if I use less than my green time. I have something very quick that I'd like to say to you. Senator Cavanaugh, your question, which is my favorite artwork? Well, this one has grown on me today, out of the periphery of my vision. Today, I, I might say that this is my favorite one, and I've had that experience all over Nebraska, at least 20 times. It's an ongoing conversation. There is no one piece that is the best, but it's what happens in interaction. And honestly, I believe that the work of your committee is more humane, more considered because of the presence of this artwork that's here. Now, finally, I'm going to conclude by saying that I'm, I'm speaking to something that I didn't come prepared to speak to today, but it's what happened in this meeting. I think that you can see the elevated conversation that goes on in the selection of these artworks, just by the testimonies of the people who came here today. You know, we talk about science and art, and the virtue in society when we're selecting those things. And I have worked on a number of the selection processes. And an hour ago, perhaps my favorite artwork in the 1% collection is the one in Grand Island, at the police academy. And because of the fact that Meagan Dion quoted me there, it was such a memorable thing when the head of the state troopers stood up and said something about human dignity. Now, I have had some conversations with state troopers over the years, but I didn't expect to talk about art with a, with a state trooper. But that really stood with me for a long time. In fact, I think that comment really educated me for the rest of my life. So, thank you very much for your attention today.

**SANDERS:** Thank you, Mr. McGehee. Let's check to see if there are any questions from the committee. I see none. Thank you.

**TURNER McGEHEE:** Thank you.

**SANDERS:** Any other opponents? Neutral? Senator von Gillern, for closing. And while you're coming up, the position comments are proponents, 1; opponents, 2; neutral, 1.

**von GILLERN:** Thank you, Senator Sanders--

**SANDERS:** Opponents, 32. What did I say? 2? 32.

**von GILLERN:** 32. OK. That's, that's, that's a-- there's a swing. Yeah.

**SANDERS:** [INAUDIBLE].

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**von GILLERN:** So, I was, I was told something early on in this session that has really stuck with me. And that is, when you go to a hearing, the point of a hearing is to listen. And there's been some good, some good information shared today, and I've been listening very closely. 20/20 hindsight, I wish I'd worked a little bit harder to have a better understanding of the, the arts component of this. It was-- I saw it as a very small part of the bill, but I knew that it was-- that it was important, and I should have done-- I should have done more homework on that. So, my apologies to everyone in the room for that. I do appreciate the passion of the testifiers, to the-- and forgive me if I don't get all the names correctly, but Merritt Reservoir is one of my favorite places on the planet. I've been out there when there was no moon, but there was a thunderstorm in the distance, and watched light-- we sat and watched lightning for, for an hour and a half and just, just absolutely loved it. Senator Cavanaugh, my favorite artwork is the Chihuly Sanctuary at the med center. Hands down, the--

**J. CAVANAUGH:** In District 9. [LAUGHTER]

**von GILLERN:** I, I-- what's that? What was that? I missed it.

**J. CAVANAUGH:** It's in District 9.

**von GILLERN:** Yeah. District 9. Yeah. Yeah. All the good-- all the good stuff is, except for the-- well, nevermind. We won't get into that competition here. Stations of the Cross at the Cloisters on the Platte are absolutely moving, if you haven't been there. So, please don't read anything into my position or what has been presented today as a lack of appreciation for, for artwork, because that certainly isn't the case. Moving on to the technical components, maybe I'll just turn it over to questions. I, I tried to take notes as fast as I could about Mr. Nebel's obvious distaste for, for the, the whole process. And we can parse the bill out in the sections and everything else if, if we would like to here, or in subsequent conversations. But I would push back very hard on, on one comment that he made, and that is that the industry rec-- he said the industry recognizes that this is the best process. That clearly is not the case. Probably 75% of work in the private sector is done under the formats that I shared with you today. It's not always the case that public sector should do what private sector is going to do, and, and I do want to go back and emphasize what I said early on my opening, in that these present some options that may be used, not shall be used. I still believe-- and Senator-- or, not senator-- Mr. Will shared that he believes that probably 90% of projects will still be hard bids, so. Interestingly, I

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was thinking about it today. I sat in one of these rooms-- I don't remember which one-- about 20 years ago and argued against this, because the school districts were starting to utilize construction management and design-build. And at that point, it really wasn't-- the industry really wasn't ready for it. But in the past 20 years, the industry has learned so much about how to do this well, that a lot of the safeguards are now built in that weren't here at that time, so. Not-- I have, I have no stake in the, the construction company that I used to be a part of. I have no financial stake in that industry at all. So, not coming from any point of view other than the fact that I think it's the right thing to do for, for the DAS. So, with that, I'd be happy to take any questions.

**SANDERS:** Thank you, Senator von Gillern. Senator Hunt.

**HUNT:** Thank you, Chairwoman Sanders. Thanks. Would you be open to an amendment removing that 1% for the arts piece?

**von GILLERN:** I want, I want-- again, I said that what I did today was I listened a whole lot more. I, I believed it was a full 1% of the projects, and the information about it being 0.15% was shared with me about an hour before the hearing.

**HUNT:** Sure.

**von GILLERN:** So, until I have a clear understanding of that, I'm not prepared to, to, to respond. But I am, I am very open to listening to that, and to-- and really learning exactly what it is that's-- the, the dollar amount that actually is being spent, and where it's going. So,--

**HUNT:** OK.

**von GILLERN:** Yeah, absolutely open to, to talk about that.

**HUNT:** I do have that amendment drafted.

**von GILLERN:** You do? Well, thank you.

**HUNT:** If you'd like to drop it, that would be my preference. But if not,--

**von GILLERN:** That'd be awesome.

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**HUNT:** --I will be dropping it. And you probably noticed I did put kill motions on the bill--

**von GILLERN:** I, I did notice that.

**HUNT:** --because of this piece of it, so.

**von GILLERN:** So, yeah. So, thank you.

**HUNT:** Just--

**von GILLERN:** We'll--

**HUNT:** --a foreshadowing.

**von GILLERN:** I think we can figure something out.

**HUNT:** Thank you.

**von GILLERN:** Thank you.

**SANDERS:** Any other questions? Senator Cavanaugh?

**J. CAVANAUGH:** Thank you, Chair. Thanks, Senator von Gillern. Very interesting hearing. Obviously, I enjoyed it.

**von GILLERN:** And long.

**J. CAVANAUGH:** And longer than--

**von GILLERN:** Yeah.

**J. CAVANAUGH:** --than expected. So-- but one of the things you just said, though, made-- struck me that you were here testifying against it because the industry wasn't ready 20 years ago. Is there a potential that these processes favor larger companies, or more-- I mean, obviously, maybe more established because they have more experience, but it--

**von GILLERN:** Yeah.

**J. CAVANAUGH:** I guess, are we going to create a process that's going to prevent the next, you know, company from getting to where the--

**von GILLERN:** Right, right.

**J. CAVANAUGH:** --company you left is?

**von GILLERN:** Right. That's a great question. I think a lot of companies build their, build their companies based on hard bid work, and then, when they have the experience and, and the qualifications and, and everything that goes along with that, then they-- many of them start to shift towards, towards these types of projects, or these, these more form-- these formats of contracts. But it'd be really hard to just start from scratch and, and meet the qualifications that, that are required to make the short lists. Does that make sense?

**J. CAVANAUGH:** Yeah.

**von GILLERN:** Did I-- yeah.

**J. CAVANAUGH:** It does. And I guess my second part of that question is, is there work in the design-- the current process design-bid-build, right? That's what it's called? Is there work in there that the smaller companies would be able to do if you did it that way, that they aren't going to be able to bid on and get a smaller portion of a job because it's done through these other processes?

**von GILLERN:** Yeah. The, the, the most restrictive thing to a company project size-wise is their, is their ability to bond the project. And that's totally a function of your financial statement; it's a function of your working capital, and a function of the equity in the company. All that works into a calculation, and then the surety company says, "Hey, we're willing to take a risk on you of a project size of X." and it's usually a multiple somewhere between 10x or 20x of what your working capital and your equity are. So, that's, that's the more restrictive criteria. So, if somebody started a company tomorrow, but somebody gave them \$100 million to, to fund it, yeah, you can go get a big project. One, one other thing I wanted to share in, in relation to that question-- just-- I don't know if this is an industry secret or not. When I was in the industry, we made more money on hard bid work than we did on negotiated work, because the change order opportunity was, was so prevalent. It was an opportunity-- because on a hard bid project, you bid what you see, and if you don't see it on the plans, you don't build it. And if the owner or the architect, forgot to draw it, then that's on them. In a construction management or design-build scenario, it's a team approach. And if you, as the construction manager or the design builder didn't catch it, now it's on you. So



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the, the, the old system, the design-bid-build system was, was actually an opportunity to make more money.

**J. CAVANAUGH:** Thanks.

**von GILLERN:** And it still is.

**SANDERS:** Any other questions? Senator Andersen.

**ANDERSEN:** Thank you, Chairwoman. Thank you, Senator von Gillern. And thank you to all the testifiers that took your time and came out today. Certainly appreciate your perspective. As the chairman of the Revenue Committee, you're painfully aware of the financial-- fiscally-constrained--

**von GILLERN:** Right.

**ANDERSEN:** --environment we're operating in now. As was provided, it shows that \$2.5 million was spent on our-- that's the 0.15%.

**von GILLERN:** I don't have the sheet that you're looking at. What was that figure again?

**ANDERSEN:** \$2.479 million.

**von GILLERN:** OK. Thank you.

**ANDERSEN:** Yeah, I'll make you-- I can make you a copy. With the fiscal constraints that we have right now, is it putting any consideration to actually engaging with the philanthropic world and look at donations of art as opposed to using tax dollars to buy art?

**von GILLERN:** Yeah and that would be-- that would-- I wasn't going to go there, but you're going to drag me there.

**ANDERSEN:** Just a question.

**von GILLERN:** The-- many of the major-- in fact that Chihuly exhibit was, was donated to the med center. The Cloisters exhibits were donated by private money. Much of artwork is donated by private money. Does that mean that, that we, as state government, or the federal government shouldn't have a stake in it, and shouldn't make our buildings as beautiful and as pleasant to occupy as we should? No. I mean, I, I love the fact-- I mean, one of the things I love about working in this building is the beauty of the building. And, and for

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me, that comes from both an architecture perspective-- I'm not a licensed architect, but from a, from a building and architecture perspective. But the artwork in here and, and-- I, I often ask myself, would we ever build this building again? And unfortunately, the answer is no, because we would never, ever spend the money to do the things that they spent the money to do in this building. And that would be a sad decision. I've seen-- I don't remember what state it was in, but I, I saw a capital building that was built within the last ten years, and it looked like an office building.

**HUNT:** Mmhmm.

**von GILLERN:** And that's not what we want to be. I, I wholeheartedly feel that way.

**ANDERSEN:** Thank you.

**SANDERS:** Any other questions? Seeing none. Thank you very much, Senator von Gillern.

**von GILLERN:** Thank you for your time. Appreciate it.

**SANDERS:** This closes the hearing on LB445. Thank you to everyone for your patience and for waiting. Appreciate your testimony.