

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

[LB127 LB206 LB219 LB241]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Thursday, February 7, 2013, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB219, LB127, LB206, and LB241. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Dave Bloomfield; Russ Karpisek; Scott Lautenbaugh; John Murante; Jim Scheer; and Norm Wallman. Senators absent: None.

SENATOR AVERY: Okay. Welcome to the Government, Military and Veterans Affairs Committee. We will be discussing four bills today. The agenda is posted outside the room and we will follow the order as described starting with LB219, followed by LB127, then LB206, followed by the last one, LB241. Before we do that, let me introduce the members of the committee and then talk a little bit about committee procedures. We're pleased to have with us today on the end, down here at the left, Senator John Murante from Gretna. Senator Murante is a new member of the Legislature and new to this committee. Seated next to him is Senator Dave Bloomfield, also new to the committee this year, from Hoskins. I think Senator Scott Lautenbaugh from Omaha will be joining us in a few minutes. Next to him is Senator Scott Price who is Vice Chair of the committee, and he is from Bellevue. Next to me on my right is Christy Abraham who is the legal counsel for this committee. Also joining us in a few minutes will be Senator Russ Karpisek, on my left here, from Wilber. Next to him is Senator Norm Wallman from Cortland, and then next to him is Senator Jim Scheer from Norfolk. On the end is Sherry Shaffer; she is the committee clerk. And if you wish to testify for or against any of these bills that we will be taking up today, we have a green form that we wish you to fill out. This is available at each entrance to the room at those tables. We ask that you provide the information requested. Print it clearly so we can read it. And when you get to the table to testify, we want you to say your name clearly into the microphone so it is recorded, and we can later transcribe this and it's clear who you are. So we ask you also to spell your name; don't assume that we can do that. But it does help us get the record clear. If you wish to record your opposition or support for or against any of these bills but do not wish to testify, there is a white sheet of paper at each entrance to the room. And you can fill that out and you will be recorded as requested. The...if you have material that you want us to see, an exhibit of some kind, you need 12 copies. If you do not have 12 copies, we have pages who will help you. The pages are, from Elwood, Nebraska, Mr. Will Rahjes; and from Lexington, Nebraska, Cicely Batie. If you have a copy...a written copy of your testimony, give that to the clerk and we'll get that distributed as well. If you have a cell phone or any electronic devices that make noise, we ask that you turn them off or silence them so that we don't have disturbances in our proceedings. The procedure will be that we will have first the introducers make initial statements, followed by proponents of the legislation being proposed. That is followed by opponents, and then neutral testimony. Closing remarks are reserved for the introducing senators only. We will be using the light system. By that, I mean we have

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

three lights: green, amber, and red. Green--when that is on you have four minutes from the beginning of your comments until the green light goes off. When the amber light comes on, you have one more minute to wind down. And when the red light is on, we ask you to be finished. We have to do this in order to make sure that everybody gets a fair chance to have their say. So...and by the way, that's how much time we get on the floor to make a speech on a bill, so we're not discriminating against you. Okay. We are ready to start, and the first bill is LB219 and that is mine; so I will turn the chairmanship over to the Vice Chair Senator Scott Price. [LB219]

SENATOR PRICE: Senator Avery. [LB219]

SENATOR AVERY: Thank you, Vice Chair Price. For the record, my name is Bill Avery, B-i-l A-v-e-r-y. I represent District 28 here in Lincoln. I am here to talk to you about LB219. This is an issue that the Government Committee has discussed twice in the last two years. What the bill does is eliminate language in current election law that was added in 2011 as part of LB449. You may remember, those of you who were here, LB449 was a very, very large election bill that amended various sections of current law at that time. It was heard by the committee, and the committee decided to take out a provision that is now part of current law. And this provision relates to petitioning onto the general election ballot. When the bill was first heard, it passed General File when--we're talking about LB449 now, in 2011--it was passed on General File. Then on Select File, a provision was put back into the bill that this committee had specifically taken out during Exec Session. We'd amended that provision out because we thought it was unconstitutional. But the provision was offered as an amendment on Select File, and the bill passed along with that amendment. The argument for putting the amendment back or that provision back into the bill was that it prevented candidates from skipping the primary process and then petitioning onto the ballot in the general election. I argued at the time, as did legal counsel--from the beginning--that prohibiting voters who are registered with political parties from petitioning onto the general election ballot raised constitutional concerns, particularly constitutional concerns about limiting ballot access. Ballot access restrictions can affect many constitutional rights such as equal protection, such as rights of political association, also when restrictions burden the rights of political parties and the rights of voters, limiting their choices on the ballot. When this issue was debated on the floor of the Legislature on Select File, I asked the question a number of times as to why a different set of rules was being established for those who are members of political parties and those who are not members. I did not, at that time, receive a satisfactory answer. The courts--and I want to be clear about this--the courts have been consistent and they have been quite clear that such measures restricting access to the ballot are constitutionally suspect. If such restrictions are to be upheld by the courts, there must be an established compelling state interest. If you can convince the courts that there is a compelling state interest in restricting access to the ballot, then the courts are inclined to uphold it. If you cannot, then the courts are likely to strike it down. I believe that the provision that was put back into law by that amendment to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 07, 2013

LB449 is unconstitutional. Last year, Senator John Wightman from Lexington introduced a bill similar to this. That bill was advanced from this committee on to General File, but it was not debated by the full Legislature; we ran out of time. During the hearing on Senator Wightman's bill last year, the committee heard testimony from a potential candidate for the United States Senate who attempted to file a petition to get onto the general election ballot. This individual was told that he could not get on the ballot because he was a registered Democrat on January 1, even though he registered as a nonpartisan shortly after the beginning of the year. He was barred, under current law, from being able to petition onto the ballot as an Independent. My main purpose for introducing this bill is to provide greater access to the ballot for people who want to petition onto general election ballots for partisan races. Specifically, LB219 eliminates language that a person with a party affiliation on or before March 1 in the calendar year of the general election is ineligible to have his or her name placed on the general election ballot under the petition process or by nomination by a political party. I think this is necessary in order to bring current law into line with constitutional provisions and previous court actions. So with that, I would end my testimony and answer any questions you might have. [LB219]

SENATOR PRICE: Thank you, Senator Avery. Are there any questions from the committee? Senator Scheer. [LB219]

SENATOR SCHEER: Thank you, Senator Price. Senator Avery, just so I'm clear, if a...you had a contested primary for, we'll say Register of Deeds or whatever it might be, you had two Republicans run. One wins the primary, moves on to the general election. Then what you're saying is that another Republican could petition on to be on the candidate listed as a Republican in the general election? Is that the intent that we're trying to do here? [LB219]

SENATOR AVERY: I think that would be permissible. I don't believe, though, if you're a losing candidate in a primary that this... [LB219]

SENATOR SCHEER: No, no. Not...just if you run against another individual and you win the primary election... [LB219]

SENATOR AVERY: You advance to the general. [LB219]

SENATOR SCHEER: ...you advance to the general. I was not a candidate, but I'm also a Republican or a Democrat or whatever... [LB219]

SENATOR AVERY: And you want to petition on. You could do that. [LB219]

SENATOR SCHEER: I petition on so I can run against you... [LB219]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

SENATOR AVERY: I believe so. [LB219]

SENATOR SCHEER: ...and circumvent the primary process then? [LB219]

SENATOR AVERY: You could petition onto the ballot. My guess is it would probably not be a successful campaign. [LB219]

SENATOR SCHEER: Thank you. Thank you, Senator Price. [LB219]

SENATOR PRICE: Thank you, Senator Scheer. Are there any other questions? Senator Bloomfield. [LB219]

SENATOR BLOOMFIELD: Thank you, Senator Price. Senator Avery, is anyone other than you questioning the constitutionality formally of what we passed last year? [LB219]

SENATOR AVERY: Oh, I'm sure Senator Lautenbaugh would question it because he knows the constitution pretty well; the legal counsel does. We had actually a court case and quoted from that court case which had where a case similar to what would be established...or would be disallowed under this amendment that was being considered in 2011. And that court case made it very clear that there had to be a compelling state interest and you had to be able to establish that for it to pass constitutional muster. So this is not a new concept. It is not just some college professor dreaming up things to talk about. [LB219]

SENATOR BLOOMFIELD: Is there anyone formally questioning it now? Is there anybody that says they... [LB219]

SENATOR AVERY: Well, I tried to get the candidate in 2011 to challenge it in court, and he would not have had time for it to affect him, so I think he lost interest. [LB219]

SENATOR BLOOMFIELD: Okay. Thank you. [LB219]

SENATOR AVERY: And probably didn't want to spend the money on it. [LB219]

SENATOR PRICE: Thank you, Senator Bloomfield. Senator Lautenbaugh. [LB219]

SENATOR LAUTENBAUGH: Thank you, Senator Price. And thank you, Senator Avery. So you're putting great stock in my opinion regarding the constitutionality of existing law? [LB219]

SENATOR AVERY: I just said you might have an opinion. [LB219]

SENATOR LAUTENBAUGH: That's always safe to say. I guess what I have to ask is,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

we do allow some races to be partisan and people have party affiliations? Do you worry that what you're proposing diminishes the value of party affiliation? [LB219]

SENATOR AVERY: What I would say is that it actually enhances and expands access to the ballot rather than diminishing the value of parties. [LB219]

SENATOR LAUTENBAUGH: Well, I don't know that those two are mutually exclusive though. Wouldn't you agree that if you're enhancing access...I mean, the current law says that you have to have an affiliation declared by a date certain or you can't go on the ballot otherwise. Is that correct? [LB219]

SENATOR AVERY: I think so. [LB219]

SENATOR LAUTENBAUGH: And you're taking that away by this proposed bill. [LB219]

SENATOR AVERY: What we're trying to do is to make it possible...let's say a candidate wishes to run for an office in the November election, does not wish to run as a partisan candidate in the primary. He can change his affiliation but does so after January 1, and therefore, he's disqualified then from petitioning onto the ballot even if they were able to do it. This would reestablish the previous law that said you have to do...if you are registered with a party by March 1, that you can petition or you can still petition onto the ballot in November, and it does allow one to bypass the primary. But I don't know if that diminishes the value of parties because my guess is that, in most cases, if you bypass the primary you're not going to have broad support. Certainly not from one of the parties because you're not going to be on a party ballot. [LB219]

SENATOR LAUTENBAUGH: Do you know of any constitutional challenge to require a party affiliation or having parties in races? [LB219]

SENATOR AVERY: No, I don't know of any. But I can get you the case where the court said that if you're going to restrict access, you have to have that compelling state interest. [LB219]

SENATOR LAUTENBAUGH: I would appreciate that, and I do recall the debate on LB449. I think this is...what we're trying to reverse here is probably about the only part we had substantive floor debate about, if memory serves. [LB219]

SENATOR AVERY: Yeah. We...you know, you may...you weren't on the committee then, but we had a bill presented to us that, I don't know, may have had about 20 changes in the election law. And we thoroughly vetted those in Executive Session. We consulted with the Secretary of State's Office. One by one, we knew what the Secretary of State thought--and he, of course, is the chief election officer in the state--we knew what he thought about each proposed change. And we drafted a committee amendment

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

that was largely consistent with the recommendations of the Secretary of State. And we decided to eliminate this particular provision because of the constitutional issue that was raised. When we...and it didn't raise a problem at all on Select...on General File. But on Select File someone offered an amendment to reinstate that. And it didn't get a whole lot of debate; it got some. Mostly I was the one raising the questions. There was more involved than just the constitutional issue, and this is trying to undo work that the committee had done. That to me is an unusual, irregular procedure, and one that usually does not succeed. But this one did, and perhaps because I was not persuasive enough or perhaps because people were not paying a whole lot of attention. It was one of those long days and everybody was tired. You've seen those. [LB219]

SENATOR LAUTENBAUGH: Yes. Thank you, Senator Avery. [LB219]

SENATOR AVERY: Uh-huh. [LB219]

SENATOR PRICE: Senator Murante. [LB219]

SENATOR MURANTE: Thank you, Senator Avery, for bringing this. For full disclosure, this bill was introduced by Senator Nelson and I was his legislative aide at the time. [LB219]

SENATOR AVERY: I wasn't going to blow the whistle on you. [LB219]

SENATOR MURANTE: So I am familiar with the background of this legislation; and your recitation of the history of how this went about, I think was a fairly accurate one. The only part that I think was left out was that between the constitutional questions and the committee taking this provision out and when the Legislature--as a whole--put it back in, there was an informal Opinion request to the Attorney General's Office. And the Attorney General had come back and said that this provision was...would likely meet constitutional muster. And that was the compelling reason that the Legislature put it back in. [LB219]

SENATOR AVERY: May I ask you a question? [LB219]

SENATOR MURANTE: Uh-huh. [LB219]

SENATOR AVERY: Is that permissible, Vice Chair? [LB219]

SENATOR PRICE: Somebody's got to ask a question. [LB219]

SENATOR AVERY: As I remember, the Attorney General's Opinion was broader than that. It didn't focus just on that provision but focused more on the whole range of proposed changes that were contained in LB449. [LB219]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

SENATOR MURANTE: Uh-huh. Now really, what we're...it seems like what we're asking here is a full policy change than what the Legislature decided. And I will say this: The way the amendment was offered to the Legislature and Senator Nelson's intent with his amendment was not served by the way that the amendment was actually adopted. The bill didn't do what Senator Nelson intended it to do. He had kind of...instead of being registered previously, he intended it to be registered during an election period. You couldn't just switch your party registration and run by petition. That was his intent. [LB219]

SENATOR AVERY: Intent. [LB219]

SENATOR MURANTE: Now I wouldn't be opposed to altering this bill such that it makes that happen. It achieves the intent of what the Legislature and what Senator Nelson had intended to do in the first place. Is that something that you would be willing to continue? [LB219]

SENATOR AVERY: We can talk about that in Exec Session... [LB219]

SENATOR MURANTE: Okay. [LB219]

SENATOR AVERY: ...and have the legal counsel see what she can do with her wordsmithing. [LB219]

SENATOR PRICE: Senator Bloomfield. [LB219]

SENATOR BLOOMFIELD: Thank you. I want to follow up a little bit on Senator Scheer's question over there, and I'm going to use senators' names here just so it'll make it a little easier to keep it straight. Senator Murante and I both ran as a Republican for this office. He won. Could Senator Karpisek then come in and file as a Republican through this procedure and split that vote, allowing Senator Wallman to then waltz in as the Democrat because we split the Republican vote? [LB219]

SENATOR AVERY: I think Senator Wallman could probably get a lot of votes without that. If you've ever been down to Gage County, he knows everybody in that county. [LB219]

SENATOR BLOOMFIELD: Yeah, but I always try to look ahead and see where mischief could be made and I see that possibility there. [LB219]

SENATOR AVERY: I'm going to say that probably wouldn't be allowed. [LB219]

SENATOR BLOOMFIELD: Okay. [LB219]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

SENATOR PRICE: Thank you very much for that. I have a question for you, Senator Avery. When we think about the citizen at the ballot, you know, at the booth, and they're looking at a partisan race and they see all these partisan races, so one individual printed on the ballot for each party--whatever that party may be, and then by petition we have two of one party on there and then one of the others, are we serving the public in this? Is there an element of confusion interjected into a partisan race? [LB219]

SENATOR AVERY: We're talking about two people petitioning on? [LB219]

SENATOR PRICE: Well, you...yeah. You have two people petitioning on. [LB219]

SENATOR AVERY: Yeah. Actually, I would say that any time you give the voters more choices, you're probably serving the democratic process. [LB219]

SENATOR PRICE: So (inaudible) articulating and I see counsel is writing feverishly to help me keep my foot out of my mouth, but... [LB219]

SENATOR MURANTE: Good luck. [LB219]

SENATOR PRICE: ...I have one of each party. We had a primary and in the primary two Libertarians--we found two, and they ran--and one is going forward and another wants to petition onto the ballot. I'd have...okay, so to clarify, you have "by petition" put in there. But it just seems to me that you'd gone through a winnowing process and then you added another one of the same...another person of the same party on there, and it's disjointed and I just...that's where I was...and I think you answered the question, but I wanted to restate it so you... [LB219]

SENATOR AVERY: Yeah. I think if you can...if you have a compelling state interest for keeping people off the ballot, then state it. Frankly, I have trouble with any law that would restrict access to the ballot. I mean, Senator Chambers would probably say you don't...and he has said you don't have to have an IQ test to serve in this body. Anybody who wants to run ought to be able to run and, you know, let the voters decide--meeting certain minimum requirements like age and residence and things of that sort. But you don't have to...I mean, you shouldn't have to have...be blocked from access to the ballot by some arbitrary rule about previous party affiliation. [LB219]

SENATOR PRICE: Thank you. Senator Lautenbaugh. [LB219]

SENATOR LAUTENBAUGH: Thank you. I'd like the record to point out that Senator Price is getting help from legal counsel whereas I'm having to wing this on my own. So... [LB219]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

SENATOR BLOOMFIELD: He is the Vice Chair. [LB219]

SENATOR LAUTENBAUGH: With that said, are we really...we're not prohibiting access to the ballot. We're just providing some guidelines with existing law, are we not? [LB219]

SENATOR AVERY: We are providing guidelines, but there are guidelines and there are guidelines. There are guidelines that can be too restrictive or so restrictive as to not...to be an arbitrary restriction to the ballot, and then there are guidelines that facilitate access to the ballot. I think this would be a pretty reasonable modification in what we did with LB449. That was a pretty extensive bill and it caused some problems. And I voted for the committee amendment. I did not, of course, vote for the amendment to put this back into law, but I thought that some of the things that we did, like changing the size of precincts, was reasonable. I mean, the first proposal was--Senator Murante can remember this--I think it was to set the size of precincts at 6,000 and we dropped it down to 3,000? [LB219]

SENATOR LAUTENBAUGH: The original was 3,000. I believe the original might have been 3,000. [LB219]

SENATOR AVERY: The original was 3,000, we went down to 2,000. Yeah. [LB219]

SENATOR LAUTENBAUGH: But we put 1,750. But in any event, I mean, you understand there are restrictions to the ballot. I mean, we have a filing date by which you have to file. [LB219]

SENATOR AVERY: Right. [LB219]

SENATOR LAUTENBAUGH: And we do have races that are actually partisan. [LB219]

SENATOR AVERY: Right. [LB219]

SENATOR LAUTENBAUGH: So this just provides that you must be a declared partisan by a certain date--the thing that you're trying to reverse, if you will. [LB219]

SENATOR AVERY: Yes. Right. [LB219]

SENATOR LAUTENBAUGH: Okay. Thank you, Senator. [LB219]

SENATOR PRICE: Senator Murante. [LB219]

SENATOR MURANTE: Two more questions for you, Senator Avery. [LB219]

SENATOR AVERY: Okay. [LB219]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 07, 2013

SENATOR MURANTE: First is the question of ballot access. And I'm not sure I'm following you on...that this law, as it currently is written restricts ballot access. So my question to you would be, would the law as is written today...who is prohibited from seeking a public office that otherwise would be allowed to run for public office if your bill passes? [LB219]

SENATOR AVERY: Jim Jenkins. I mean, we're using names. Jim Jenkins was a registered Democrat, January 1. [LB219]

SENATOR MURANTE: Uh-huh. [LB219]

SENATOR AVERY: He wanted to petition onto the general election ballot for the U.S. Senate, and he was denied the opportunity even though he changed his party shortly after January 1. But the way the law reads, he had to have a party affiliation by March 1 in the calendar year of the general election. [LB219]

SENATOR MURANTE: Yes. And that, I think...first of all, he could run. He just had to run. [LB219]

SENATOR AVERY: It was a new law. [LB219]

SENATOR MURANTE: Uh-huh. [LB219]

SENATOR AVERY: He was not aware of it... [LB219]

SENATOR MURANTE: Uh-huh. [LB219]

SENATOR AVERY: ...and he got caught. [LB219]

SENATOR MURANTE: Uh-huh. So yeah, this goes back to that it was not the intent to prohibit someone who is registered with a party before March 1. It was...the intent was after March 1 that you couldn't switch, skip the primary...but we'll get to that in Executive Session, I'm sure. So the next question I have for you is, as a matter of public policy, this bill would permit someone...let's say the 2014 United States Senate race. Let's say Senator Lautenbaugh wants to be a United States Senator, and he looks at the political landscape and says, he, Scott Lautenbaugh, cannot beat Mike Johanns in a Republican primary. But he might be able to win the general election. Do you believe it is good public policy for him to say, I can't win that primary so I'm just going to skip it and run in the general election by petition? [LB219]

SENATOR AVERY: I think that's not bad public policy. I think it'd be a waste of his time and money to do it. [LB219]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

SENATOR MURANTE: I think we all can agree with that. [LB219]

SENATOR AVERY: But I don't think that's unique to him. I just think that that kind of candidacy is difficult to succeed; it's really difficult. It's hard enough when you start like Johanns did when he first got elected Governor. When you start two years early, it's hard enough to get your name recognition up, talk to enough people and get enough endorsements and meet enough people to succeed in a general election. If you have to petition on then what that does, it provides alternatives for the voters; but it's not a very sound strategy for winning. You know that. [LB219]

SENATOR PRICE: Thank you. Senator Bloomfield. [LB219]

SENATOR BLOOMFIELD: Thank you. And that line of questioning takes me back to where I was. If Senator Lautenbaugh were successful in getting on the ballot, would that not then split the Republican vote and allow the Democrat to more easily defeat Senator Johanns because Senator Lautenbaugh pulled away 30,000 votes? [LB219]

SENATOR AVERY: It depends on, you know, the dynamics of the race. But it could be a Democrat, too, you know. [LB219]

SENATOR BLOOMFIELD: Yeah. Well, it's a...either way, I see a possibility of mischief there, and that bothers me. [LB219]

SENATOR AVERY: Yeah. Yeah, but more than likely what would happen is, is what Jim Jenkins was doing. He changed to an Independent so he would not be in direct competition with another person of the (inaudible) party. [LB219]

SENATOR PRICE: Thank you, Senator Bloomfield. And just...are there any other questions from anybody else? I have one for you...a question for you and we may not have the answer now. But who would be...which voters...would it matter how I register to vote or which registered voter would sign the petition to put him on the ballot? So if I run...if I want to run at whatever party I want to run as, and I'm going to run against someone in that general election, could I have any voter is eligible to sign that petition to put him on the ballot, or only the eligible registered in that party? [LB219]

SENATOR AVERY: No. My understanding is, if you're petitioning, it's any registered voter is eligible to sign the petition. [LB219]

SENATOR PRICE: Okay, great. Thank you very much. No further questions? Thank you, Senator Avery. [LB219]

SENATOR AVERY: Thank you. [LB219]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

SENATOR PRICE: Can we have the first proponent for LB219? Any proponents? Do we have any opponents for LB219? Opponents for LB219? Would anybody like to testify in the neutral? Seeing none, Senator Avery... [LB219]

SENATOR AVERY: I'll waive. [LB219]

SENATOR PRICE: ...waives closing. And that will close the hearing on LB219. And we will proceed to LB127 from Senator McGill, and I will return the helm to Senator Avery. [LB219]

SENATOR AVERY: Welcome, Senator McGill. [LB127]

SENATOR MCGILL: Well, it was long but swift at the same time when you don't have opponents or proponents. All right. [LB127]

SENATOR AVERY: I think you have people here that are interested in your bill. [LB219]

SENATOR MCGILL: I do have some folks here to testify on LB127. I'm State Senator Amanda McGill from northeast Lincoln. I'm here to present the bill which would allow young people, ages 16 and older, to preregister to vote. I've had the pleasure of working with some students out of Omaha South High School on this particular bill, and some of the students are here today. And I would like to thank them for their help and work on this bill. It's been a great process where we actually had Bill Drafters go to their classroom and talk about how bills are drafted. And I went to visit about, you know, how bills get passed. And maybe some of you have heard or will be hearing from them individually in the future too, so it's been a great experience for them to see how this process works firsthand from the beginning all the way to the hearing and forward. I think it's fair to say that we all want our children to take interest in government and be engaged and to get out and vote. And we want them to be informed and that we have a responsibility to help prepare our students, our young people, for adulthood. And part of this preparation includes teaching young people about their rights and how they must exercise those rights responsibly. It's why we have civics classes that are required, you know, for many graduating seniors in our community. We already acknowledge and place a value on youth voting by allowing 17-year-olds to vote in primary elections where they will be 18 by the general election. And we know that young people are currently underrepresented in the registered voting pool and the voting electoral, and the majority of young people are not actively engaged in politics, sadly. I mean, this is a national number, but as of November 2008 fewer than half of 18-year-old citizens were registered to vote, which is a rate 22 points lower than the general population. Now knowing that young people are underrepresented, you know, I feel that we have a duty to help get our young people more engaged to be like the young people that are here behind me. And getting kids...getting our young people registered to vote will help

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

encourage them to actually go out and vote in the end. For instance, again in 2008, of those who were registered to vote that were 18- to 24-year-olds, 83 percent then followed up and went to vote. And so if we're getting kids registered to vote, getting them engaged in that, and taking down some of those barriers of, okay, I'm off to college, I'm doing this, doing that. You know, when do I vote? When do I register to vote? How do I register to vote? Take away some of those questions and, instead, allow for voter registration when they're 16 and 17. They're in high school, they're in their civics classes, this can be a part of the engagement of that teacher in the classroom and of that school to go ahead and get them registered to vote at that point, when they're going in and getting their initial driver's licenses at 16 years old. To be able to check that box then, when it's very convenient, and just make it happen then and there. And there are a variety of states that have already enacted this that are across the political spectrum. So we have Florida and North Carolina as well as Hawaii, Maryland, and Rhode Island. And some studies in Florida and Hawaii that have implemented this a few years ago have seen that those who were preregistered were more likely to turn out to vote than those who registered after they turned 18 years old. And so we are seeing some positive effects in other parts of the country in terms of getting that engagement, going ahead registering them to vote, encouraging them to listen up a little more closely, hey, you're registered to vote, you need to get educated on these issues. And then it takes down that barrier when it comes to election day and they're deciding to vote. So I ask for your consideration of this bill, and I know I have some of the students who would like to come up and talk to you after me. [LB127]

SENATOR AVERY: Thank you. I met those students in my office earlier. [LB127]

SENATOR MCGILL: Oh, wonderful. [LB127]

SENATOR AVERY: So we will have questions. Senator Price. [LB127]

SENATOR PRICE: Thank you, Chairman Avery. Thank you, Senator McGill, for bringing this bill. I agree with you on engaging and participating as fully as possible. I do have one question though, and I'm reading through it and making sure I have my temporal understanding of this. Have you considered the impact on the ability of the people to petition initiatives onto the ballot... [LB127]

SENATOR MCGILL: I hadn't thought about that. [LB127]

SENATOR PRICE: ...because we go on the...go by the...we don't go by electors anymore, those who voted in a previous gubernatorial. We go by number of registered voters. So I often try...how many would be...what would be the pool, I'm asking, that could be potentially available? [LB127]

SENATOR MCGILL: I think that should be registered voters who are over 18. But you're

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 07, 2013

right, that we would then need to go in and adjust some other language in statute to make sure that they weren't included in that. [LB127]

SENATOR PRICE: Because you have to think, if you're doing an initiative, you'd be like, well, I've 200,000 more potential. There goes that...it's already very difficult. So thank you. [LB127]

SENATOR MCGILL: That's a really great point, Senator Price, so thank you for raising that. [LB127]

SENATOR PRICE: Okay. Thank you. [LB127]

SENATOR AVERY: Other questions? Are you going to stay around for closing? [LB127]

SENATOR MCGILL: I will. [LB127]

SENATOR AVERY: Okay, good. All right, we'll now accept proponent testimony. Somebody from South High School, right? All right. Welcome. [LB127]

ROBBIE GILBERT: Hi. It's a little different than talking to the kids in my class. Hello, my name is Robbie Gilbert, I'm a senior at Omaha South High School. That's R-o-b-b-i-e G-i-l-b-e-r-t, and I'll be speaking in support of LB127 today. The total voter turnout for the state in the November 6 general election was 67 percent, well below the Secretary of State's projected 71 percent. LB127 would help this, if passed. It would encourage young people to start following politics and get engaged at a younger age so once their time comes, so they can make an educated decision. This bill just makes sense for the state. Currently, six other states allow 16-year-olds to preregister to vote, including Delaware, Florida, Hawaii, Maryland, Rhode Island, and North Carolina. Preregistration has translated into a higher young voter turnout for those states. In Florida, young voters have gone to the polls 4.7 percent more than since the start of preregistration. It will also ease the registration process because you can just kill two birds with one stone. You can get their driver's license and they can register to vote at the same time. This will also...I mean, it will probably create more work for you guys because the preregistered voters will be able to put into an on-line database of all the registered voters. And then candidates who are running for reelection or government officials can contact them with information on things that they could potentially vote on in the future, and that will just give them a head start, you know. They can get more information from the get-go. Opponents may say that this bill will increase cost to the state. However, the \$16,800 that it will cost the state for the one-time fee will be well worth it. There's also many other things that could branch out from this thing...from this bill. Florida began a civic engagement program in all the high schools for the preregistered teens. I see that could be a very helpful thing for the state. In conclusion, allowing 16-year-olds to preregister in Nebraska just makes sense for the state. There are really no arguments

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

against it. It will increase young voter turnout, educate young Nebraskans on civic responsibilities, and teach them the responsibilities you have once you become an adult. Only good can come from this bill, and I hope you seriously consider advancing it to the floor. Thank you. [LB127]

SENATOR AVERY: Thank you, Mr. Gilbert. Questions from the committee? Senator Lautenbaugh. [LB127]

SENATOR LAUTENBAUGH: Thank you, Senator Avery. And thank you for coming today. [LB127]

ROBBIE GILBERT: Go easy on me. [LB127]

SENATOR LAUTENBAUGH: I'm a South High grad myself, class of '83, a million years ago. Exactly. You'll have to tell me what happened with the two basketball players, but that's a topic for another time. [LB127]

ROBBIE GILBERT: Packer power. [LB127]

SENATOR LAUTENBAUGH: You indicated that in other states that have done this, there has been some sort of an increase in youth voter turnout? [LB127]

ROBBIE GILBERT: Yes. [LB127]

SENATOR LAUTENBAUGH: And the 4 percent was Florida? [LB127]

ROBBIE GILBERT: Yes. [LB127]

SENATOR LAUTENBAUGH: Did the other states experience similar... [LB127]

ROBBIE GILBERT: I did read that Hawaii experienced a similar...not quite as extreme as Florida's. But I really didn't receive information on the other states. I can get that information to you, if you would like. [LB127]

SENATOR LAUTENBAUGH: And do you feel there are other things we could do in conjunction with this that might increase youth voter interest and turnout? [LB127]

ROBBIE GILBERT: I do. I think that the civic engagement project that was in place in Florida could be a great thing. And then also, for government teachers and stuff--like Mr. Curtis and Ms. Peterson behind us--I believe it will give them something to build on and there will be more for them to teach the students. [LB127]

SENATOR LAUTENBAUGH: Now when Senator Avery and I first got to know each

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

other, neither of us was a senator but we were grappling with this same problem, and I suggested we just make young people pay property taxes because that encourages them to come vote. And I got mail saying, well, you're so stupid. You'd have to give them houses then, too, and we can't afford that. But that wasn't the point I was trying to make. So do you feel that something like that would actually...because even in the 20s, youth voting is relatively low as percentages. Do you think this would actually help in that regard? [LB127]

ROBBIE GILBERT: I do because this...young voters, 16-year-olds to 18-year-olds, their voice isn't heard. And I believe that if this was passed, they can start studying up on issues and start formulating their opinions and reading up on candidates who they support or don't support, things like that. [LB127]

SENATOR LAUTENBAUGH: Okay. Thank you. Great presentation. [LB127]

SENATOR AVERY: Senator Price. [LB127]

SENATOR PRICE: Thank you, Chairman Avery. Mr. Gilbert, I'll ask you and if anybody else wants to answer it later on, feel free, that's okay. When we talk about the 4.9 percent increase in... [LB127]

ROBBIE GILBERT: Four point seven percent. [LB127]

SENATOR PRICE: ...four point seven percent increase in youth voter turnout, I had a conversation the other day with the Secretary of State--I'm actually very interested in the subject--and when he looked at the youth voter, he used an age spectrum from 18 to 25. So do you know within that spectrum, was that the same spectrum? And do you know where that 4.7 came? Was that in the college...those...and I'm only asking for some specificity about whether the individuals were in college. You know, 20 to 25, postcollege, or less than? Are you aware of that? [LB127]

ROBBIE GILBERT: The age range was 18 to 30. [LB127]

SENATOR PRICE: Okay. All right. Thank you. [LB127]

ROBBIE GILBERT: Uh-huh. [LB127]

SENATOR AVERY: Any other questions? Thank you, sir, for your testimony. [LB127]

ROBBIE GILBERT: Thank you. [LB127]

SENATOR AVERY: We will entertain additional proponent testimony. Welcome.
[LB127]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

JAKE BRUCKNER: Hi. Okay. My name is Jake Bruckner, I'm also from Omaha South High School, that's J-a-k-e B-r-u-c-k-n-e-r. I'm also here to speak in support of LB127. Thank you for your time. The passing of LB127 is a great opportunity for voter growth in the state of Nebraska. I believe that with this bill, the voter turnout--in the youth, especially--will see a significant increase. Around the time of the 2008 election, I began to pay closer attention to politics and government. Soon after, I realized my liking for it. However, I also began to notice that not too many of my classmates and peers around my age paid too much attention and really knew what was going on. Nobody realized how much this actually mattered or would even affect their lives. I feel that if this bill passes, it will spark interest in the younger generation's minds early on in their lives. This will give them a chance to mold their political minds to start making decisions for themselves for when it comes to beliefs and political parties. Then when it comes time to vote, our young people will be ready to make an educated decision on who they would like to vote for. This also will start the younger generations out on the right foot when it comes to growing up and stepping into the real world. The issues being discussed before us today will impact the young people across Nebraska and change the political culture of our state, even if it may not seem that way to them quite yet. Passing this bill will not only increase voter turnout among the youth but also prepare and mature them, getting them ready for the responsibilities they will have once they are of age. Voter turnout is down from the projected numbers in Nebraska this past election. Other states who have passed this bill have seen an increase in voter registration and turnout in their elections. If passed, I believe that these results will also be the case here in Nebraska. Sure, one can argue that the reprogramming of the system will cost us money in a tight economy, but the investment is worth the gain in the end. In a democracy where the people's opinions and voice are represented by these polls and elections, it is only necessary to make every opportunity for everyone eligible to vote--or soon eligible to vote--available to make the most accurate call in the end. These expenses basically pay for themselves by making us a more representative democracy. Thank you. [LB127]

SENATOR AVERY: Thank you, Mr. Bruckner. Any questions from the committee?
Senator Lautenbaugh. [LB127]

SENATOR LAUTENBAUGH: Thank you for coming today. And, again, great job with your testimony. How did you become interested in this, personally? [LB127]

JAKE BRUCKNER: This bill personally? [LB127]

SENATOR LAUTENBAUGH: Yes. [LB127]

JAKE BRUCKNER: It was brought to us earlier on this year in our service learning class. Senator McGill came in and talked to us and brought it to us, and we kind of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 07, 2013

started researching and checking it out. And everybody that's back here with us, we all kind of took a liking to it and we decided to jump on board with it and go along with helping out and testifying and all that jazz. [LB127]

SENATOR LAUTENBAUGH: So the fact that you're here means we're not going to have to do anything to encourage you to participate. You're ahead of the curve. You're trying to bring your classmates along, is that the deal? [LB127]

JAKE BRUCKNER: Yeah, that too. [LB127]

SENATOR AVERY: Anybody else? I don't see any more. Thank you. [LB127]

JAKE BRUCKNER: Okay. Thank you. [LB127]

SENATOR AVERY: We'll continue with proponent testimony. [LB127]

SHAYN DOW: Hello. [LB127]

SENATOR PRICE: Good afternoon. How are you? [LB127]

SHAYN DOW: Good afternoon. I'm good. Well, my name is Shayn Dow, that's S-h-a-y-n D-o-w, and I'm a senior at Omaha South High School, and I'm here on behalf of LB127 as well. For years, voter turnout amongst teens and young adults has been rather low. Dating back to 2008, like Senator McGill said, just over half of the youth in America voted nationwide, while only 40 percent of that same population in Nebraska voted. In a general overview, the idea and the goal is civic engagement of our youth. These teens and young adults are the future of our democracy and as a nation. Political involvement at a young age can only bring about improvements. Schools, teachers, and programs can take charge of this advantage, enlightening teens on the process and importance of voting. Several other states like Delaware, Florida, Hawaii, Maryland, North Carolina have already passed the bill and see improvements among their younger population. This is obtainable due to the teens now having access to voter material and the government officials' information. Candidates, politicians, and other elected officials can send these teens information to further their engagement through on-line programs and having their information in the databases. I know for me--I'm on a little bit of the opposite side of the spectrum of Jake--is when 2008 I couldn't say I was politically involved or interested at all. And I know for me, a lot of teens that I know have no interest in politics. It's not just something that they do. So I know when I was 16, I wasn't personally interested hardly at all. I was living my teen life and enjoying it. When the time came for me to register to vote, I chose not to. And in my eyes, that was a step toward becoming an adult and losing that youth aspect of life because in my eyes, voting was for those that were involved. Now that I look back on it, my ill choice of not doing so and not registering makes me realize how important it is to vote; I can't represent myself or my

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

age group otherwise. We are a representative democracy, and that can only be obtained by civic engagement of the entire population, including our youth. If I would have been preregistered to vote at the age of 16, I can definitely say that I would have been involved and informed and would have voted in our last election. This bill only makes me realize that many other teens think the same way as I had. And, I mean, I've never really had a say before, so why bother? This bill will bring positive change for our state and nation, will spark the minds of our future and our youth and other population in our society. It can only be a representative democracy if we represent the entire population. I ask that you highly consider passing LB127 to the full Senate floor. Thank you for your time, and I would be pleased to answer any questions. [LB127]

SENATOR PRICE: Thank you very much, Mr. Dow. Are there any questions from the committee? Seeing none, thank you for your testimony today. Do we have further proponents? Welcome. [LB127]

ADAM MORFELD: Good afternoon, Vice Chairman Price, members of the committee. My name is Adam Morfeld, that's A-d-a-m M-o-r-f-e-l-d, and I'm the executive director of the Nebraskans for Civic Reform. Today I'm testifying in support of LB127 which would allow 16-year-olds the right to register to vote. You've already heard from Senator McGill and several high school students who have testified before me so I won't belabor their points for too long. However, I did want to tell you that Nebraskans for Civic Reform is in support of allowing 16-year-olds to register to vote for the following several reasons: first, it allows 16-year-olds who are registering for their license for the first time to also register to vote and get their name in the database at the same time and also get them familiar with the process of registering, in general, but then also when they update their driver's license in the future as well. Second, this provides civics and government teachers an opportunity to make political process and critical thinking about politics and political views come alive in the classroom. Now teachers cannot only promote registration but also provide a reason for students to think critically about policy issues and political views while registering to vote at the same time, giving them more of a real-world reason for doing so. Third, getting our youth into the registration system and engaged in the process at an early age should always be our goal. It's just good public policy. Currently, as has been stated about three or four different times, five other states have this; so it's also tested public policy. Finally, I believe that the fiscal note is incredibly reasonable and worth the investment in getting our youth more informed in the voter registration and electoral process as a whole. This is an excellent opportunity to streamline the registration process for our youth, provide teachers yet another tool and a year to engage their students in the process they currently didn't have. I urge you to support LB127, and I'd be more than happy to answer any questions that you may have. [LB127]

SENATOR PRICE: Thank you, Mr. Morfeld. Are there any questions? I would just ask, have you or your organization had the opportunity to digest the information on the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

increases to delineate the age group where that actually occurred, the 4.7 percent increase? Was it in the 18 to 20, 18 to 30, or what subsegment of that? Or are we just taking the whole segment? [LB127]

ADAM MORFELD: No, I believe the young man before me...when I was looking at the same data he was looking at, it was 18 to 30, as I recall. [LB127]

SENATOR PRICE: But we don't have any further granularity into that? [LB127]

ADAM MORFELD: Not that I'm aware of, but Senator McGill's staff may have some more. But Florida was the one where they really had the study on that. And they studied it right after it had gone into effect. [LB127]

SENATOR PRICE: All right. Thank you very much. Any other questions? Seeing none, thank you for your testimony. [LB127]

ADAM MORFELD: Thank you. [LB127]

SENATOR PRICE: Are there any further proponents? [LB127]

LINDA DUCKWORTH: Good afternoon. I'm Linda Duckworth, president of the League of Women Voters of Nebraska, my name is spelled L-i-n-d-a D-u-c-k-w-o-r-t-h. I thought that the previous testifiers did a wonderful job. It was great to see those young people testifying and taking an interest. I just want to echo a couple of words: civic responsibility. I think that that's definitely worth echoing. And I also want to say...I want to add that I think what I would expect to happen is that as these students get more engaged and more interested, they also--they're still home at that age with their parents, and I would like to think that there would be more discussion about politics and voting and so on with their parents and their older friends--so I would like to think that then that would also increase the likelihood that the older people in their circle would also get out and vote. I know that I've talked to students who have said, you know, my dad hasn't voted in, you know, however many years. And we're going, well, you know, goose him there, would you? So and I would also like to think that education around voting would increase; I would expect that. And there are misconceptions out there. In fact, I think there are still a lot of students...a lot of young people and maybe older people too who have the misconception that I did when I was first a voter. For several years, I thought that every single item on that ballot had to be filled in or the whole thing would be tossed out. And I just talked to a couple of people at this last...young people at this last election who did think that, and that's something that they could learn. There's so much they could learn about the ballot, about voting, that isn't easily accessible once you are out of high school. And that's about all I've got. Any questions? [LB127]

SENATOR PRICE: Thank you, Ms. Duckworth. Are there any questions? Senator

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

Wallman. [LB127]

SENATOR WALLMAN: Thank you, Senator Price. Thank you for coming, Linda. Do you think in our society today it's time to revisit our voting age, make it younger? [LB127]

LINDA DUCKWORTH: Oh, that's a really interesting question. It's nothing that the League of Women Voters has said anything about. I think that I was actually in college when it went to 18, so that was pretty okay with me. The...but as far as going any younger, it's something I hadn't even considered. So I can't answer that and I'm not...it's not anything that I see as something of interest to our League members so I would have to say, probably not, at this time. [LB127]

SENATOR WALLMAN: In our church, we do. And the kids get really involved earlier. [LB127]

LINDA DUCKWORTH: Because in your church they get to vote at what age? Sixteen or younger? [LB127]

SENATOR WALLMAN: Yes, younger. Fourteen I think it is. [LB127]

LINDA DUCKWORTH: Yeah. Hmm. Well, thank you for bringing that up. That's really interesting. [LB127]

SENATOR WALLMAN: Thank you. [LB127]

SENATOR PRICE: Thank you, Senator Wallman. Senator Lautenbaugh. [LB127]

SENATOR LAUTENBAUGH: Thank you, Senator Price. Thank you for coming today. You mentioned a phenomenon that I go on at length probably too often about--the races down the ballot and whether or not you have to vote for all of them. Obviously, you don't, but there's a significant phenomenon that goes on known as undervoting. Don't you agree? [LB127]

LINDA DUCKWORTH: So what you're saying is, people who are aware that their ballot will not be tossed out. Yes, I agree with that. I also...well, you probably know that our...the League of Women Voters put--at least in the Douglas County area--puts out that Voter's Guide. And that is to help people with all those others because it's really, really hard to know every single...to feel confident that you have chosen the right person there. So, yeah, I understand. But at the same time, I know that I have voted in the past for somebody who I later thought, oh, I did not...you know, wrong thing. [LB127]

SENATOR LAUTENBAUGH: None of us, surely, but okay. [LB127]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 07, 2013

LINDA DUCKWORTH: No, this was back in Missouri. By the time I moved here, I knew what the deal was. [LB127]

SENATOR LAUTENBAUGH: Does the local or the Nebraska League, obviously, communicate with Leagues in other states and whatnot? [LB127]

LINDA DUCKWORTH: Yes, uh-huh. [LB127]

SENATOR LAUTENBAUGH: Is there any discussion about the fact that in Nebraska we elect an unusually large number of offices to various political subdivisions? [LB127]

LINDA DUCKWORTH: We have...I have to be honest with you. It is fairly recent, in the last just few years, that I even realized that; that we have that difference. So...but I'll tell you what... [LB127]

SENATOR LAUTENBAUGH: We all, this is where we grew up. [LB127]

LINDA DUCKWORTH: ...when you look at the ballot and you compare other states, what we didn't have--especially this last election in November, we had a fairly long ballot because of those different races--but then we also didn't have so many initiatives and constitutional amendments and so on that other people in other states had to try to wade through. And there again, you know, you're not sure what the language means but if you think that you have to vote one way or the other or it gets thrown out, then you're going to choose something. [LB127]

SENATOR LAUTENBAUGH: I just wondered if anybody at the League had ever given voice to the concern that, you know, you go to the even-year ballot and we have President, Senator, House, MUD, OPPD, NRD, OPS. [LB127]

LINDA DUCKWORTH: It seems endless, I agree, uh-huh. [LB127]

SENATOR LAUTENBAUGH: It goes on and on--state boards, State Board of Regents, State Board of Education. Other states don't experience that phenomenon. And I'm just wondering if the League has ever looked at whether or not, while we have the undervoting--which means people actually give up and say, I have no idea who the rest of these people are--have other states gone the other way, sort of limiting the number of offices they elect? [LB127]

LINDA DUCKWORTH: I can't tell you, but I'm taking notes. Are you saying that perhaps we should look into this? Right. [LB127]

SENATOR LAUTENBAUGH: Yes, which is about as popular as my "let's combine the counties" initiative too, I'll tell you. But if you're willing to sign onto that one too... [LB127]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

LINDA DUCKWORTH: Senator Lautenbaugh says, check this out. [LB127]

SENATOR BLOOMFIELD: You lost that (inaudible). (Laugh) [LB127]

SENATOR LAUTENBAUGH: So far. Thank you. [LB127]

LINDA DUCKWORTH: Thank you. [LB127]

SENATOR PRICE: Are there any other questions? Seeing none, thank you for your testimony today, ma'am. Do we have any further proponents for the bill? [LB127]

LAZARO SPINDOLA: (Exhibit 1) Good afternoon, Senator Price and members of the committee. Thank you for receiving me today. For the record, my name is Lazaro Spindola, L-a-z-a-r-o S-p-i-n-d-o-l-a. I am the director of the Latino American Commission. I'm here today to testify in support of LB127. According to the Census Bureau, between the year 2000 and 2011 the population of white individuals between 15 and 19 years of age in Nebraska has decreased by 12 percent. On the other hand, the same population among Latino individuals has increased by 85 percent. Yesterday I was watching a hearing at the Revenue Committee and the comment was made that young people were leaving Nebraska. Not quite. Many of them want to stay here and become citizens of this great state. The Center for Information and Research on Civic Learning and Engagement at Tufts University has determined that participation of younger individuals in the election process--those individuals between 18 and 24 years of age--in 2012, was 49 percent. The key difference, according to the U.S. Census Bureau, in lower overall turnout was that group's dramatically lower registration rates. There is, then, not so much a participation gap as a registration gap. A significant disparity exists between the percentage of young people registered to vote and the percentage of the general population. Whereas 71 percent of eligible voters are registered, only 59 percent of eligible voters between the ages of 18 and 24 are registered. Now out of those 18...in the bracket between 18 and 24 who are registered, 81 percent vote compared with the 86 percent national rate, which means it's not so much a difference when you are already registered and you go to vote. Young people vote when they are registered but they tend to be registered at much lower rates than the average. Academic studies and electoral analyses show that voting behavior is habit-forming. If you vote, you will likely keep voting. If you don't vote, you probably won't even start doing so. One such study was conducted by Professor Eric Plutzer at Penn State University. As for implementation, a uniform advance-registration age does not require a new registration database system. In other states, advance-registered voters already are inputted into the voter registration database as pending, and pending voters can be transferred to active status when they become eligible to vote. Preregistration could be implemented easily. It will require small changes to the voter registration form and to the central voter registry software. The previous proponents

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 07, 2013

already mentioned the six states that have this in place. I would like to include Puerto Rico, which is a free associated state, but they do so too. So there are seven of the states which are already doing this. Nebraska has now the opportunity to join these national leaders in the effort to engage our young people in the democratic process. I cannot answer your question, Senator Price, about that 4.6 percentage because the Census Bureau splits it in the age bracket between 18 and 24 years of age. They do not make that distinction, so it's their fault. [LB127]

SENATOR PRICE: Thank you for your testimony... [LB127]

LAZARO SPINDOLA: I'll be happy to answer any questions. [LB127]

SENATOR PRICE: ...and your anticipation. Does anybody else have a question (inaudible)? See, how do I know the question? Thank you for your testimony today, sir. [LB127]

LAZARO SPINDOLA: No? Thank you. [LB127]

SENATOR PRICE: Are there any further proponents? Proponents for LB127? Seeing none, do we have any opponents for LB127? [LB127]

SENATOR BLOOMFIELD: A brave soul. [LB127]

SENATOR PRICE: Good afternoon. [LB127]

DIANE OLMER: (Exhibit 2) Good afternoon, senators. My name is Diane Olmer, D-i-a-n-e O-l-m-e-r. I'm the Platte County Election Commissioner and I'm also cochair of the Election Law Committee for Nebraska County Clerks, Election Commissioners, and Register of Deeds. And after listening to testimony here, if this bill would do what it proposes to do, I'd take my opposition out totally. But I'm thinking that there's some parts to the way the bill is written that it's going to be a little deceiving or confusing to a lot of maybe election workers, DMV people, and the young voters themselves. The way the bill is laid out right now--and I'm just looking at the kind of the nuts and bolts of how this actually works--is it's a two-step process. So a young person comes in for their driver's license at 16 or 17, still too young to do it the way we do it now, and they fill out a voter registration and we get the form. And then we enter them into our computer system and they're preregistered. We have to realize, in this bill there's two distinctions of voters now: preregistered voters and voters. Registered voters get to vote, they get to sign petitions, and I don't think the preregistered voters have any rights except they just got their name on a list. And when we get that registration from this young person, this doesn't even say that we have to send them a card or anything. But then it says in the next paragraph or sentence that when it's two weeks before they actually are of age, then we have to send them another form called the confirmation card. And the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

confirmation card, if it's similar to what we use now, is a form that says, do you still live at this address? Did you move? Are you maybe not even in Platte County right now or a different county? And it says, upon return of that confirmation card and getting that card back before registration dates, before that election or whatever is coming up, then they can be registered voters. And then at that point, we send them the ID card that says you're a registered voter and this is where you go to vote. Now if I was a young voter or a 16-year-old coming in and filled out the card--and like my mom and dad did, they filled out the card, they were registered just like that--I think there's going to be some confusion between a lot of voters, their parents, the young people about when they actually can go and show up and vote. And the way the law reads in this bill, if they don't return that card to us in time, they're just like in limbo. And maybe then they turn to be the right age and they didn't fill out another...just a voter registration, they're not a registered voter. So either we need to clean up the bill or something. I think there's a lot of confusion in this bill. And another point is I think they targeted 16-year-olds because they come in to the DMV to get their driver's license at that age. Well, when my kids were getting driver's licenses--and I'm way older than their parents--they came in at 16; again at 20 because four years had passed; and then at 21 because then they were...they got a different color background so they could drink in a bar. Now it's changed. You come in at 16, you get a POP license. That's a provisional operator's permit, and that's a permit to drive only between the...during the daylight--not between the hours of midnight and 6:00. And then at 17, if you've had that for a year and haven't had too many points against you, like violations, then you can come in and get another license which takes that nighttime restriction away. And if you're 18 and you haven't come in to get that new license, you come in then. So what we're trying to hit at--trying to get them when they're 16--they're going to come in when they're 17 and 18 anyway, so why couldn't we wait till that time and use the system we have right now? And we wouldn't create that confusion about am I preregistered? Am I registered? I show up to vote and I didn't fill out the other card and I'm not on the list. I'm just thinking there's going to be some confusion. We do things to try to catch the young kids at...to get them to register to vote. We go to schools, we have county government days. Some do, some don't, you still can't force them. I think the system we have now, where when you register to vote at the right age you get the card from us and you are a voter, is maybe a more clear-cut way to handle the situation. But if you could maybe iron out the quirks, the idea of getting them involved early I agree with totally. But I'm just saying there's...this isn't as pretty a situation as you might think. If you have any questions...
[LB127]

SENATOR PRICE: Thank you, ma'am. Are there any questions from the committee? Seeing none, thank you for your testimony today. Are there any further opponents?
[LB127]

SANDRA STELLING: Good afternoon. I'm Sandra Stelling, Jefferson County Register of Deeds and Election Commissioner and also the cochair of our legislative committee for

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

our association. And I want to reiterate everything that Diane... [LB127]

SENATOR PRICE: Could you spell your name, please? [LB127]

SANDRA STELLING: S-a-n-d-r-a S-t-e-l-l-i-n-g. Sorry about that. I even have a note here to do that. I want to reiterate everything that Diane said. I do feel that there's a lot of confusion. I have had several notes from other elected officials, the clerks of election commissions, that they wanted me to oppose this and so that is what I am doing. While I want to commend the students and their teacher for getting them involved. I think it's wonderful and we try to do that on our local level. We go to the schools, like Diane said...and county government day we...this year I even held a mock election at our county government day, and it was very interesting to the students. It was a little confusing right at first, but I think the next one we do, it will be a lot better taken and the kids, hopefully, will learn a little bit more. But I had actual election officials come in and did this, so it was an experience. But I want to say five, six years ago, I had a bond election for our local school. And I had gone up, registered the students and some teachers and stuff that needed to change their addresses and stuff, and I want to say there was approximately 25 students. And as...I just did it on my own, and I contacted the teacher if I could do it and if he wanted my results. And he said he did, and all of those students voted. When the general election come along, there was one student that voted. So I don't know. I think we probably missed the boat in there somewhere. Somebody missed something to keep those students involved. So I love to see what the students are doing here; I think it's great. I go along with what Diane said on the confirmation letters and everything else, so I'm not going back into that. So if you've got any other questions, I'm willing to answer them. [LB127]

SENATOR PRICE: Well, thank you very much. Are there any questions from the committee? Seeing none, thank you for your testimony and coming in today. [LB127]

SANDRA STELLING: Thank you. [LB127]

SENATOR PRICE: Are there any further opponents? Would anybody like to testify in the neutral? [LB127]

DAVID SHIVELY: Thank you, Senator Price, members of the Government Committee, my name is David Shively, D-a-v-i-d S-h-i-v-e-l-y. I am the Lancaster County Election Commissioner. I'm here today in a neutral capacity on LB127. I want to congratulate the students and appreciate their attempts to try to encourage young people to get out and vote. We always...that's something we always, as election officials, like to see. I do have some...while I'm here in a neutral capacity, there are some issues that I would like to bring up according to this bill and just hope might be addressed if you choose to advance this out of committee. I do see the cost of this as around \$17,000. I know the Secretary of State's Office has had to take some cuts over the years as all other state

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

agencies have. So I certainly would like to understand where those cuts would come from, if this would be a separate appropriations bill or if they would have to come up with this money out of their budget. So that would be a concern of mine. There are a couple items in the language, and I know Commissioner Olmer brought this up. On page 10 of the bill, lines 12 through 18 which outline what we are required to do if we get a preregistration in. It took about three times to read through this to understand...for me to quite understand what exactly was our responsibilities to do. It doesn't appear that we do anything when we first receive the preregistration. We receive it, we put it into the system, we aren't required to acknowledge the applicant that we've received it. But then once that applicant becomes qualified to be a registered voter, then we send out a verification notice to them. And then we turn around once they respond back to us, then they are actually a registered voter. And we make them active and then we send them an acknowledgement card. It can be done, it just seems a little bit awkward here. And I would like to see maybe that process become a little bit easier for us. On the next page, on page 11, lines 14 through 19, the language needs to be consistent in here. If you look in the paragraph right above that, it talks about that the voter must be 18 years of age on or before the first Tuesday following the first Monday in November of this year. And in that language it keeps referring to election day. Election day could be a primary election day, election day could be a special election day, and so that needs to be corrected a little bit in there if this is going to be...I believe it's going to be advanced out of committee. I do like to remind you that, because this does require two mailings for us to send, reading through this, that would be an additional cost to us; and we would for any other voter. Not going to be a large cost, but there would be additional cost to us as county officials. I also like to remind people that we do a lot of activities already with high schools. We are in the process--we do this every year, our county does this every year--we go out to every single high school in our county and we register those voters that will be...if they're 17 or be 18 by general election day or if they're already 18, and we do that every year. And if we get asked to come out a second time maybe for a general election, we do the same thing. We are able to get all of our public and all of our private schools, except for one, will allow us into it. And the one that doesn't allow us into it, they do it on their own. So we do that. When I check with other county officials throughout the state, they do similar programs. Not everyone does it, but a lot of them do something different that's similar or they might also incorporate it into their county government days. I did find an interesting statistic. When I looked back at our 17 that turned 18 last year, 70 percent of those that registered actually voted and our turnout in Lancaster County was 71 percent. So almost...anyone that turned 18 from January 1 to November 6 and registered during that time line, about 70 percent of those actually voted. However, when we got to the statistic from 19 to 25, it went down to 53 percent. So there are some positive things that if we can get younger people involved, we understand that that can happen. So I'd be happy to take any questions. [LB127]

SENATOR PRICE: Thank you, Mr. Shively. Are there any questions from the committee? Senator Scheer. [LB127]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 07, 2013

SENATOR SCHEER: Hopefully you've got the answer. I've been wondering, one of the qualifications for a voter asks if you've been convicted of a felony in, I think, in the last two years. If you have, you're not permitted to vote. Yes? No? [LB127]

DAVID SHIVELY: Yes. Yeah, that's correct. [LB127]

SENATOR SCHEER: Okay. Thank you. [LB127]

SENATOR PRICE: Thank you, Senator Scheer. Are there any other questions? Seeing none, thank you for your testimony. [LB127]

DAVID SHIVELY: Thank you. [LB127]

SENATOR PRICE: Would anybody else like to testify in the neutral on the bill? Seeing none, Senator McGill, you are welcome to close on LB127. [LB127]

SENATOR MCGILL: All right. Thank you, committee, for your time today. And thank you, especially, to the Omaha South students who went ahead and drove down here and took a day off of school for this activity. That must have been rough. Oh man, I'm jealous. Okay. I'm happy, you know, to work with some of the concerns that were brought before you. Senator Price, you had a good concern. What I will do is go back and look at what those other states do because we haven't heard any complaints about how their process has gone into effect. And so we'll double-check the language with those reply cards and see, you know, what exactly has been working there and what has been problematic, and see if we can come to a solution on those that, particularly the Secretary of State's Office, things would work better. Again, there isn't this mass confusion that I think a couple of the testifiers said would happen. That's certainly not what we're hearing from other states. You know, I think the value of this isn't that, you know, a 16-year-old can then register at the DMV. I think it's that process in the classroom with the civics education. And I'll look a little bit more into the program in Florida--Senator Lautenbaugh was talking about that and had some questions--and see if there is a partner piece that could go into effect as well to encourage that interaction in the classroom. I know here in Lincoln there is a pilot program to put us elected officials in classrooms in a variety of high schools here in Lincoln. I was at Lincoln Northeast with a freshman class, a geography class, and helped them with a civics project. And, you know, we could be replicating that and doing that in all of our schools so that our kids can get firsthand experience with us and see that we're real people and it's important to be engaged in government. So maybe something like that would be a good complementary piece. Otherwise, I, you know, ask for your support as we work through maybe a few amendments. [LB127]

SENATOR PRICE: Thank you, Senator McGill. Senator Scheer. [LB127]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 07, 2013

SENATOR SCHEER: And I apologize, I probably should have asked questions earlier. And this isn't to be just construed that I'm not supportive. [LB127]

SENATOR MCGILL: Yeah. [LB127]

SENATOR SCHEER: Just a question. When they preregister, is that at the point that they're affirming that they have not been convicted of a felony for the last two years? [LB127]

SENATOR MCGILL: I mean, that whole question is something I didn't take into account. But, yeah, that's where they fill out that initial paperwork, and so it is where they would be affirming that. [LB127]

SENATOR SCHEER: Okay. I guess my concern would be they could be answering that correctly at age 16 or 16.5, whenever they would register. If, by chance, they were arrested and convicted of a felony at 17 or older, then the automatic postcard comes out at 18 and they're now registered to vote. But they've technically had a felony within the last two years, so how do we... [LB127]

SENATOR MCGILL: What I would say, I will look into, is I don't know what the current process is. If anybody...if I were to get a felony tomorrow, you know, I'm a registered voter. [LB127]

SENATOR SCHEER: You know, that was just a concern. Maybe there's something already in the statute that takes care of that. I don't know. [LB127]

SENATOR MCGILL: Yeah, I don't know who alerts who in terms of when a felony takes place. Like I said, I don't know what would happen to me. [LB127]

SENATOR SCHEER: I mean, I don't know that they're any more susceptible to that than any other age. But the fact that they are preregistering that long in advance that something could happen, where normally if you're an adult... [LB127]

SENATOR MCGILL: Uh-huh. [LB127]

SENATOR SCHEER: ...over 18, you're registering to vote and you are now answering as of that day. Certainly, that could change part of your life. [LB127]

SENATOR MCGILL: Uh-huh. [LB127]

SENATOR SCHEER: But at this point where they're registering in advance then there's a time lag, it has a different potential than the other. [LB127]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 07, 2013

SENATOR MCGILL: I'll look at what the process is right now for registered voters and get back to you on if I think that it wouldn't pick up on that. [LB127]

SENATOR SCHEER: Okay. Thank you. Thank you so much. [LB127]

SENATOR PRICE: Are there any other questions from the committee? Well, I would just add one thing. [LB127]

SENATOR MCGILL: Uh-huh. [LB127]

SENATOR PRICE: In writing a paper on this, I've found where there are cases--this is a statement... [LB127]

SENATOR MCGILL: Uh-huh. [LB127]

SENATOR PRICE: ...where in the primary, someone lost a race by three votes. Three. That's not even the high school volleyball senior team, you know? I just say that because it was truly impactful. But then when you look...we've heard commentary about down ballots in local races. But it's at your down-ballot county where they're impacting most things that affect a young person's life. [LB127]

SENATOR MCGILL: Uh-huh. [LB127]

SENATOR PRICE: So I just... [LB127]

SENATOR MCGILL: Senator Lathrop was only here by 12 votes his first time, so we have several colleagues who are within a few votes. [LB127]

SENATOR PRICE: Right. So I just add that to add weight to it and applaud your bringing this forward. Thank you, Senator McGill. [LB127]

SENATOR MCGILL: Thank you, Senator Price. Thank you, committee. [LB127]

SENATOR PRICE: (Exhibits 3, 4) All right. And with that, I would read into the record two letters that are neutral: one from the County Clerk, Register of Deeds in Richardson County, Mary L. Eickhoff; and another from Nancy Josoff, Cass County Election Commissioner. And with that, we will close the hearing on LB127. And we will move forward to LB206. Senator Schumacher, welcome to the pit. [LB127]

SENATOR SCHUMACHER: Thank you, Senator Price, members of the committee. My name is Paul Schumacher, S-c-h-u-m-a-c-h-e-r, and I represent District 22 in the Legislature. I'm here today to introduce LB206, I believe is the number, to the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

committee. If you were to be asked what is the absolute core of our democracy, the root of the system about which all things evolve, would be--I guess at least in my case, and you might have a different answer but we're probably close to the same--it's the ballot, that expression of the voter's will in a unconfined and undirected environment. They call it the secret ballot. And it's so important that our constitution specifically says in Article VI, Section 6, "All votes shall be by ballot or by other means authorized by the Legislature whereby the vote and the secrecy of the elector's vote will be preserved." It's pretty self-evident why that's important. It's important because in that moment when that ballot is counted, you speak your conscience; and you speak your conscience without fear of retaliation, of ridicule, of the consequences of group think. It's one thing to sit down at the coffee shop or the bar and get going on this group or that group and why they should be sent home or not, and get all riled up about this idea or that and knowing that you really don't go along with it but it's really too hard to resist it, so you sit there. And you don't want those people, or even the fear of those people, looking over your shoulder when you vote for this candidate or that candidate or this issue or that issue. If anything, that is the core of democracy. And that's how we foreclose making really bad mistakes with voting for the leader because that's what everybody else is doing, and there's consequences. It's almost so basic that you wonder why we're even here today. We're here today because I had a constituent over a year ago call in from Stanton County concerned because Stanton County was below a 10,000 population and, under the rules, eligible to use mail-in ballots. A lot of good reasons to use mail-in ballots. Don't have to worry about ADA-compliant polling places. You don't have to worry about a bunch of poll workers having to be paid and showing up for work. You don't have to worry about driving through the snow to get the ballots to the courthouse to count. There's a lot of functionality. Over the last few years, our system has changed to use them quite a bit. Well, this gentleman said, I don't want to have to vote this way. I said, well, you can drive down to the courthouse. He says, why do I have to--in order to use a mail-in ballot--why do I have to put it in an envelope with nothing around it with my name on the envelope? Shouldn't there be some kind of envelope I stick it into and stick that envelope into the envelope? I thought to myself, well, that's the way the Bar Association conducts its elections. That's the way I think I've seen farmers' coop elections conducted. That's...I say, I think you're wrong. I think that that's...I mean, I remember when I was voting absentee when I was going to school, I remember an envelope that stuck inside an envelope and then you sent it in. You're mistaken. And I looked in the red books and there was no mention of a secrecy envelope. And so I called around and I was told we don't do that anymore. In checking in the legislative history over time, it seems that when the bills move back and forth and the arguments move back and forth as they expanded to comply with the ADA and the mail-in ballot federal act and all of that, it somehow got lost in the process. Senator DiAnna Schimek, and in some of the history of it, argued an objection I think on General File on a bill but for some reason it just went silent on Select File. Who knows, maybe she wasn't there that day. But at any rate, the thing is in the books that you don't have to have an inside envelope. And I brought this to the attention of this committee, I think it was a year ago.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

And for whatever reason, the bill did not make it out of committee, perhaps because it was strong opposition from the county folks who said that it's just a lot of expense. And an envelope makes it bulkier, maybe more postage, and certainly really a pain to open. And you know, don't worry about it, folks. None of our people will peek. And that's probably true. Most, maybe all of the their people, would not peek. But when I'm sitting there voting my conscience, I can't be sure of that. And my constitution says that the secrecy of my ballot will be preserved; not will be preserved if it's cheap enough to do so or if it makes it easier on the government to open my envelope. Will be preserved. Our Supreme Court has been rather strict on this thing, and they'll even throw...it said it's proper to throw out a ballot where the voter puts his identification on it. Those ballots are secret and we must kind of believe it because we go through this ritual at the polling place when you vote in person. I mean, you go in this little thing with the thing on the side so nobody can peek over their shoulder and see how you're voting. You take it out and you put it in the little metal container, and you show that just the initial is on the outside, and then you march over to the ballot box and you dump it in; big ritual. Why are we bothering with it? Why not just hand it to the election worker, let him take it from there? Because that's what you do when you mail in a ballot. They open the envelope, pull it out, and there's your ballot. And if your banker, who you just applied for a mortgage for, is running for mayor and his niece who is opening the envelope just happens to note how you voted. Hmm? You're exposed. Well certainly, if she told anybody that would be a crime. If she took out her iPhone and snapped a picture of that ballot alongside of your envelope, it would be criminal. Why, I mean, it just would have to be. It's not. Put it out on the Internet. You didn't vote the way your party wanted you to vote? Put it out on the Internet where at least somebody knows about it. You voted against your uncle who you're on the list to be an heir to? Hey, it's there. Folks, this is very, very basic. And the reason I'm back again this year to reintroduce this bill is there's a little bit of ornery democracy in the spirit of the people in Stanton County. They didn't give up, they contacted some attorneys. Attorneys looked at it, found some law in Kansas where Kansas has a similar thing, but they had safeguards in place. It was illegal to tell, there were certain procedures and a supervisor watching--with spyglasses on--making sure that the election workers weren't peeking. They had some precautions. Most states just do it the simple way. They just put the inside envelope in there and then you open it up, you put the inside envelope in a pile and mix them up with the rest. And that's how they get in the pile. And you know you have a legitimate ballot that comes back in, and the secrecy is preserved. And people don't like the expense of paying lawyers, people don't like the expense of lawsuits. So I was asked if I'd reintroduce the bill again this year for reconsideration by the committee. And we know what happens when we go to court and we lose. We often have to pay attorney fees, plus things are uncertain. If the ballot law or the mail-in ballot law is thrown out, we don't know how much a federal judge would throw out or keep. What will that do? Special session of the Legislature if the decision comes down with the wrong timing? And then one other thing pushed me into bringing this back to you. I received a letter from the Platte County Board saying, golly, it sure would be nice if we could close down some polling places

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

and have people in these little districts or little precincts that are getting fewer and fewer people not have to worry about the ADA-compliant polling places, and we just, you know, we're over 10,000; could you propose a bill that would allow us to start closing these polling places, because we understand people like Stanton County can do it? And I responded to the board: Not until we have this issue resolved because I am not particularly crazy about having Platte County named as a list of defendants in this action that these people--are ornery enough, and I think they are--will bring. So folks, today I bring the bill back again and ask you to consider it. Will there be some cost? Yeah. Little bit more work for the government? Yeah. Will it save maybe a lawsuit? Yes. But most importantly, it will preserve the core of our democracy: the secret ballot. I'd be happy to take any questions. [LB206]

SENATOR PRICE: Thank you, Senator Schumacher. Are there questions from the...Senator Scheer. [LB206]

SENATOR SCHEER: Thank you, Senator Price. Senator Schumacher, what we're really talking about is then exclusively the absentee ballot. It has nothing to do with on-site balloting. This is just the additional envelope for inside the absentee ballot. [LB206]

SENATOR SCHUMACHER: Right, this is the absentee ballot which, as time is going on--and it's not absentee anymore; I think they call it mail-in ballot but whatever--as time is going on, it's becoming more and more popular, particularly with people who may be taking off for the snowbird areas for the winter and they're gone by November. And it's going to be an increasing issue, and which means that the cost of a blank envelope and maybe a piece of postage is going to increase as time goes on. But we're saving the polling places, and this should not be an issue of cost if it costs a fortune to do it. We deal with a budget of four thousand million dollars a year, and this is the core of the process. [LB206]

SENATOR SCHEER: The cost would be equivalent both ways. So I mean, not only would the county have the additional expense or a city or whatever, but you would have the person that was having the absentee--or the early ballot--would be paying some additional because you'd...if indeed it had additional weight--which I don't know that it would, but one of your comments was that perhaps it had extra weight--it would go both ways. I mean, the person that was utilizing the service would have a little extra expense as well. [LB206]

SENATOR SCHUMACHER: You know, Senator, to be honest, I...you raise a good point. I was under the impression it was a postage-paid return envelope. But if it's not, then you're right. It'd be both ways. Okay. [LB206]

SENATOR SCHEER: No. No. No, you pay for your own postage. [LB206]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

SENATOR SCHUMACHER: Okay, then...well, that's an interesting...that might be an issue whether or not it would be functionally a poll tax. But, you know, your point is correct then if you have to return that. [LB206]

SENATOR SCHEER: No, you do. You pay your own. I mean, they mark on it what you owe, but you pay it. [LB206]

SENATOR PRICE: Thank you, Senator Scheer. Senator Bloomfield. [LB206]

SENATOR BLOOMFIELD: Thank you, Senator Price. We have one of the opponents of this would tell us that it would cost a certain county \$45,000 to \$50,000 a year or per general election for extra postage. Does that seem a little bit out of line? [LB206]

SENATOR SCHUMACHER: I guess you'd have to cross-examine them on that. I suppose the number of mail-in ballots times the cost of the postage on the envelope. I would guess that maybe in that figure is a couple of extra people with a letter opener. [LB206]

SENATOR BLOOMFIELD: It just seemed like an awfully high number to me. [LB206]

SENATOR SCHUMACHER: I don't know, but whatever. I would guess that it has to be a pretty big county and, you know, and you'd probably pay many, many times that to scoop the snow off your streets. [LB206]

SENATOR BLOOMFIELD: And in your litany of people that you mentioned might see that ballot, I would like to add the county clerk who is responsible for that voting count and...in our smaller counties. [LB206]

SENATOR SCHUMACHER: I mean, it just...yeah, and particularly in a small...and smaller counties...you're...the things that I mentioned that might sound a little facetious about, well, you know, the banker's cousin might...not so untrue. [LB206]

SENATOR BLOOMFIELD: It wouldn't be real hard for that county clerk to open the ballot and look at the envelope. I think you have some merit here. [LB206]

SENATOR SCHUMACHER: Well, it's...and the fact that your vote...and even if they wouldn't--and I'll give them every benefit of the doubt that they wouldn't--but the fear that they might is enough. [LB206]

SENATOR BLOOMFIELD: Well, even if they don't intentionally, they're bound to catch one once in a while. [LB206]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

SENATOR SCHUMACHER: Right. No, I have to agree with you, Senator. [LB206]

SENATOR PRICE: Thank you. Senator. [LB206]

SENATOR MURANTE: Two questions for you. First, there are counties in this state which have all vote-by-mail. There are no polling places in them. I think Cherry County, either a majority of their precincts or all of their precincts, is an example. Is your intention that this bill applies to that as well? [LB206]

SENATOR SCHUMACHER: Wherever there's a mail-in ballot, that's what this is intended to apply to. [LB206]

SENATOR MURANTE: Okay, so it's not exclusively early voting. [LB206]

SENATOR SCHUMACHER: I was under the impression, and I might be wrong, that you could always vote at the courthouse. And I might be wrong on that but if they mail in the ballot, they have a secrecy envelope that goes with it. The procedure is very simple. They get it back to the courthouse, they open the envelope and, you know, say, yep, we got an inside envelope compares legitimately to the return address information. And the inside envelope goes in the pot. And when the proper time, there are a bunch of them opened just like opening a ballot box. [LB206]

SENATOR MURANTE: And second, we hear all the time complaints about unfunded mandates passed down by the state. If this is so important to us, why don't we pay for it? [LB206]

SENATOR SCHUMACHER: You know, I'd certainly not have any problem if the committee wanted to put such an amendment on, say that's a state responsibility. And very well it may be. It should be a state responsibility. In this state the Governor is elected, the state senator is elected on those ballots. For some reason in our history, the county got stuck with that. I'd have no problem if the committee feels that's appropriate and to spend some of our four thousand million dollars on a few envelopes. [LB206]

SENATOR PRICE: Thank you, Senator Murante. Are there any other questions? Seeing none, thank you, Senator Schumacher. [LB206]

SENATOR SCHUMACHER: Thank you. [LB206]

SENATOR PRICE: And we will move on to the first proponent for LB206. Welcome. [LB206]

AMY MILLER: (Exhibit 1) Good afternoon, Senator Price and members of the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

committee. My name is Amy Miller, it's A-m-y M-i-l-l-e-r. I am staff attorney for ACLU Nebraska and a registered lobbyist for the organization. Senator Schumacher has already outlined the brilliant points; I'll just do a little mop-up. When he mentioned his constituent, I also have had a contact in my office from another county where it was one of the counties that has forced the voter into this dilemma of having to vote in a process where they are not sure whether or not the vote will remain confidential. And when he said that there are attorneys standing by, apparently that is I. The ACLU told both of the constituents we had contacts with that we thought this could be easily remedied by the bill that had already been proposed, and that we would come back and support the bill because Senator Schumacher is right. It is absolutely clear under Nebraska case law and the Nebraska State Constitution that this bill just fulfills the promise of what's already existed in the law. It would be a lot cheaper to resolve things that way than to have the ACLU sue one of these small counties. And on page 2 of my testimony...Senator Murante, you asked the question. In footnote 1, I've got the counties that have moved to mail-in only. Not necessarily the entire county, but they at least have significant precincts. And so Cedar, Stanton, Hamilton, Merrick and Cherry County all have a significant number of precincts that have moved to mail-in only. And Secretary of State's Office, Neal Erickson, was kind enough to talk to me as I was trying to do some investigation about this issue. And he estimated that there's probably about 10,000 voters then represented in those counties where it has moved to mail-in only. And 10,000 voters may not be a lot of people. But when you look at the fact that, according to him, he had at least a dozen other applications from counties that wanted to close more precincts and that Senator Karpisek has a bill, LB292, pending--that has not yet been heard by this committee--that would expand when a precinct is eligible to close down and move to mail-in only. This may be the direction that voting is moving. And if we're moving that way and there's going to be more and more voters impacted by this, then they have the right to have the secret ballot to have the confidence that their vote is absolutely private. I want to point out that there are two states that have moved to mail-in only. I'm not sure if you can go down to the courthouse in those states, but they don't want you to come down and get that sticker that says, "I voted today." They want you to stay home. And those states, despite the cost, are using secrecy envelopes of the sort proposed by this bill. There are 16 states, Nebraska being one of them, that allow mail-in ballots occasionally in some types of elections. And every single one, except Nebraska and Kansas, uses the privacy envelope. So we're an outlier with Kansas. And you think, well, maybe then it's not such a big deal because Kansas is doing this as well. But as quoted on the last page of my testimony, there was a challenge. In 1986, a voter brought a lawsuit saying not getting a secrecy ballot, not getting that private second envelope in Kansas, is violating my right to vote. And the Kansas Supreme Court said, no, you're fine. But Kansas is really different than Nebraska. In those bulleted points, there are at least four distinct points the Kansas Supreme Court said were protections to guarantee privacy. (1) Poll workers received uniform training. Although there is a bill again pending to provide uniform training from the Secretary of State's Office, currently Nebraska's Secretary of State's Office is

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

allowing county election commissioners to come up with their own guidelines. There is no uniform statewide training. (2) All poll workers are under observation at all times. So while Betty and Bob are opening envelopes, Sally is standing there doing nothing but keeping her eye on them to make sure that they do not, in fact, give way to temptation. (3) As Senator Schumacher pointed out, Kansas law had criminal penalties if you violated a voter's privacy. Nebraska has no such penalties. And (4) Kansas was going to the extra expense of printing up ballots that had a specialized coding on the back. So the minute you started to pull that ballot out of the envelope, you'd be able to see, oh, oh, I'm looking at the person's vote or, in fact, I'm looking at the special coded back which I can then slide over here. So they didn't need the second envelope because the minute they started to slide it out, they'd know that they should flip it; they're looking at the wrong side. And Nebraska ballots, as you've all seen, aren't like that. The way I see it, there are, in fact, three ways to resolve the voting problem in Nebraska right now. (1) You can pass Senator Schumacher's bill and everybody will be happy. (2) You can pass four other bills to introduce some of these additional protections so that we are in line with what Kansas has done. I haven't seen any bill proposals like that, and that brings in some cost when you're talking about training, having that third poll worker keeping your eye on everybody else, and having criminal penalties with prosecutions, and having special ballot printing. But you could do that and probably, then, be constitutionally sound. The third possibility is to let me go do my job and sue a very small county that doesn't need to bear that additional expense and drag this issue into the courts. We think that Senator Schumacher's proposal is a good one, and we strongly encourage you to bring it out of committee this year and allow it to have full debate. [LB206]

SENATOR PRICE: Thank you very much for testifying. Are there any questions from the committee? I'll just ask one to follow up on a question that Senator Scheer brought. Do you know that in these other states, particularly even the all mail-in ones, who bears the burden of the mail? [LB206]

AMY MILLER: I don't know but I can look that up. [LB206]

SENATOR PRICE: Thank you. Appreciate your testimony today. [LB206]

AMY MILLER: Thank you. [LB206]

SENATOR PRICE: Oh, wait. We do have a last-minute question. [LB206]

SENATOR SCHEER: I apologize, I thought of something earlier. Do you happen to know, for example, in a general election statewide how many ballots would be on a mail-in basis? [LB206]

AMY MILLER: I don't. We have the figures for those that have closed their precincts. I know that there's a number of election commissioners and possibly the Secretary of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

State's Office is going to have representatives here today, so they may be able to answer. I don't know what number of voters we have that are voluntarily choosing to mail in at this point. [LB206]

SENATOR SCHEER: Okay. I was just trying to figure out what the total number we were talking about. [LB206]

AMY MILLER: Wiser people than I will follow soon after. [LB206]

SENATOR SCHEER: Okay. Thank you. And thank you, Senator Price. [LB206]

SENATOR PRICE: Thank you, Senator Scheer. Senator Bloomfield. [LB206]

SENATOR BLOOMFIELD: Thank you. Would it conceivably be possible just to cover the same issue by suggesting that the voter fold the ballot in a direction that hides all that information? [LB206]

AMY MILLER: You know, that is an interesting question. The last couple of times I voted, and I'm registered here in Lancaster County, I got a double-printed ballot where I've got...I'm voting on both sides. [LB206]

SENATOR BLOOMFIELD: Okay. [LB206]

AMY MILLER: So I don't know if that means that we kick it up a notch where every side has...there's a printed side and a blank side, and so I'm sending back a couple of pages, include additional instructions for voters. [LB206]

SENATOR BLOOMFIELD: I would think you could leave a half a page would be adequate to cover everything. [LB206]

AMY MILLER: It might be. [LB206]

SENATOR BLOOMFIELD: But I haven't run into the double-side printed up in my county, so... [LB206]

SENATOR PRICE: Running it through the machine might be a challenge. [LB206]

AMY MILLER: If Senator Lautenbaugh was here, he would just reiterate that we're voting for a lot of people in some of these counties. [LB206]

SENATOR BLOOMFIELD: Yeah, I'm sure he would. [LB206]

SENATOR PRICE: Thanks, Senator Bloomfield. Seeing no further questions, thank you.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

[LB206]

AMY MILLER: Thank you. [LB206]

SENATOR PRICE: Can we have the next proponent, please. [LB206]

LINDA DUCKWORTH: Hello again. Linda Duckworth, L-i-n-d-a D-u-c-k-w-o-r-t-h, I'm president of the League of Women Voters of Nebraska. Your question, Senator Bloomfield, about...well, maybe I'll...maybe you can ask it again. All right, thanks. First I want to start with an apology, because as the League of Women Voters we should have been aware that voters in many Nebraska counties do not enjoy the same ballot protection as others. I live in Douglas County and have voted early several times, and always in the outer envelope with my name, address, and signature were used along with the inner envelope. If I lived in a county where everyone knows everyone else, I would be concerned about the secrecy of the vote even more so than I might be where I live now. I could easily imagine living in a town where my two best friends are running for the same office. I think I would leave that part of the ballot blank rather than risk the possibility of my vote being known, not that I would think that the poll worker was going to look at my ballot, but because I personally would be a little bit tempted if I were that poll worker. I think I would have a problem with that. And I believe that is where some of this is coming from with some of the discussion in opposition. Nebraska's Constitution is very clear. It's stronger than our U.S. Constitution, in fact. "There shall be no barriers to voting." And I think, as Senator Schumacher said, that includes even if there is an additional cost. Speaking of additional cost, I would like the...I would like it to be considered if we could use...reuse some of those inner envelopes. Envelopes--how do you pronounce that? But...and I believe, as I recall, when I use...when I vote early and send in my envelope when I send in my ballot, first...oh, I know what I was going to say about yours is, it says very clearly, do not fold it, and I think that has to do with the machines. They don't want...so they don't want the ballot folded. They want it kept as straight as possible. But I'm trying to remember how those envelopes work. I'm pretty sure that you do seal the inner one and, of course, the outer one. But anyway, I would like to...for the counties to consider that. And I could be silly, I suppose, and say if this is an unfunded mandate, would you like the League of Women Voters to help you with a bake sale? But actually, I'm a little bit serious about that because I do think that this is...I do understand there's a cost and that has to be considered, and I think that we should figure out a way to help the counties to take care of that. I would also say that I...there was a thought...and I don't know if this is accurate, perhaps Ms. Miller from the ACLU could, but there was just a little thought that I had while I was listening to her. It's a little bit upsetting to hear about that Supreme Court decision, and I maybe didn't hear this quite right. But if an election worker would accidentally see my ballot when he or she is removing it from the envelope, then does that mean my ballot would be determined invalid? And if that's the case, that would be awfully unfair because that would...this is something that would have been completely out of my control that...so just by

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

somebody else happening to see it, does that mean that it's now invalid because it's no longer secret? So I think that's a question that has to be...I would like to see addressed. And other than that, I just want to say we need to also think about the people who are affected by this because now I'm not just talking about just the counties where it's all mail-in, but I'm talking about people who vote early in general. And they are more likely to be the elderly, the disabled, people with day jobs where they cannot easily get away and they have a hard time getting to the polling station on the day of the election. Those are the people we really want to encourage to vote, we want to protect their vote, and so that's why the League of Women Voters is in favor of this bill. Any questions?
[LB206]

SENATOR AVERY: Thank you. Senator Scheer. [LB206]

SENATOR SCHEER: Thank you, Senator Avery. One, I vote early and I am none of the above that you just listed. And I think there are a whole lot of "none of the aboves" now, versus those that were...are necessary to accommodate voting. I think it's just convenience that has put so many people on the earlier mail-in type ballots. But one thing you said, I just wanted to verify. You voted early this last election and you did have a second envelope? You did have the secrecy? [LB206]

LINDA DUCKWORTH: That's in Douglas County, right. So what I'm saying is it's not consistent with...in Nebraska. The counties... [LB206]

SENATOR SCHEER: Okay, so because I'm in Madison County. I did vote early. We're like Stanton, we did not have an interior envelope. You just signed the outside verifying that you are who you are supposed to be to...you throw your ballot inside it and you mail it back. So that's just what I was trying to find out if...evidently there are already counties doing a different process... [LB206]

LINDA DUCKWORTH: Uh-huh. [LB206]

SENATOR SCHEER: ...throughout the state. So that's...I just wanted to clarify that.
[LB206]

LINDA DUCKWORTH: And so you're a little surprised to hear that there is that inner envelope somewhere in another county. And I was very surprised to know that there isn't one in other counties. [LB206]

SENATOR SCHEER: Yeah. Yeah. I... [LB206]

LINDA DUCKWORTH: And I think you are just accustomed to that and maybe had never thought too much about it. [LB206]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 07, 2013

SENATOR SCHEER: Sure. No, I hadn't. [LB206]

LINDA DUCKWORTH: So those of us who were...yeah, pretty surprised. [LB206]

SENATOR SCHEER: Thank you, Senator. [LB206]

SENATOR AVERY: Any other questions? Senator Bloomfield. [LB206]

SENATOR BLOOMFIELD: Senator Avery, thank you. You just stated that you had an envelope inside in Douglas County. And the letter that we have in opposition where I mentioned earlier they were suggesting it would be a \$45,000 to \$50,000 additional cost if they did that, came from Douglas County. I...it just creates a... [LB206]

LINDA DUCKWORTH: Really? And this is not the first year that I voted early, too. [LB206]

SENATOR BLOOMFIELD: Okay. [LB206]

LINDA DUCKWORTH: So I don't know what to tell you about that. [LB206]

SENATOR BLOOMFIELD: Yeah, I don't understand it either but there is a little conflict there. [LB206]

LINDA DUCKWORTH: And I can't say for sure, but I'm very confident that there has always been the two envelopes. [LB206]

SENATOR BLOOMFIELD: And to let...just to clarify in your mind, I think probably the last time I voted absentee, we were still counting the ballots by hand and they were folded. [LB206]

LINDA DUCKWORTH: Oh, okay. [LB206]

SENATOR AVERY: Any other questions? Don't see any. Thank you for your testimony. [LB206]

LINDA DUCKWORTH: Thanks. [LB206]

SENATOR AVERY: Any other proponent testimony? Good afternoon, sir. [LB206]

ADAM MORFELD: Good afternoon, Chairman Avery, members of the committee. My name is Adam Morfeld, that's A-d-a-m M-o-r-f-e-l-d, and I'm the executive director of Nebraskans for Civic Reform. Today we are testifying in support of LB206. I will not belabor what has already been said by Ms. Miller and Ms. Duckworth. We believe that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

LB206 provides the necessary secrecy to ensure the integrity of the process and, quite frankly, lawful compliance with Nebraska's Constitution. Since the Nebraska Secretary of State has not promulgated rules and regulations on how to handle vote-by-mail ballots to ensure secrecy and accountability, the practices may very well vary from county to county--which has already been demonstrated to us to a certain extent here. However, it seems like there are some things that we need to clear up. One county may very well have a secret and transparent practice in place, whereas one other county may not. Recent case law out of the Sixth Circuit Court of Appeals has found that, albeit different but comparable, disparate in treatment of voters to be unconstitutional. Being as though the Secretary of State has declined to promulgate rules and regulations on other important election practices in the past in this committee and continues to oppose legislation that would provide for such uniformity, which is common practice in many other states around us, we have little confidence that he would do so here as well. Thus, to ensure that the constitution is complied with and the voters are treated with similar respect statewide, we believe that LB206 is necessary. The secrecy of the ballot is a fundamental safeguard to ensure trust and anonymity in our electoral process. I would be more than happy to answer any questions. [LB206]

SENATOR AVERY: Thank you, Mr. Morfeld. Questions? Senator Murante. [LB206]

SENATOR MURANTE: Do you know which counties use these privacy envelopes and which do not? [LB206]

ADAM MORFELD: Senator, I actually don't. I wasn't aware that Douglas County did. And I mean, it looks like you guys need to look into that a little bit more. But there certainly is the possibility that another county could do it and another county doesn't. But right now, there's no uniformity in that process so it's up to the discretion of the election official. [LB206]

SENATOR MURANTE: Okay. [LB206]

SENATOR AVERY: Any other questions? Don't see any. Thank you for your testimony. [LB206]

ADAM MORFELD: Thank you. [LB206]

SENATOR AVERY: Any other proponent testimony? Okay, we'll now receive opponent testimony. Welcome, Mr. Shively. [LB206]

DAVID SHIVELY: Good afternoon and happy birthday, Mr. Chairman. I was watching this morning, I'm sorry, when they mentioned it on the floor. My name is David Shively, D-a-v-i-d S-h-i-v-e-l-y. I am the Lancaster County Election Commissioner. I'm here today in opposition to LB206 which would require secrecy envelopes for early voting

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

ballots. As many of you are aware, in 1999, state law was changed to offer no-excuse absentee voting, and the number of voters who have chosen to vote in that manner has grown substantially since that time. In 1996, 5 percent of our total ballots cast here in Lancaster County were cast early. In the 2012 general election that number has risen now to 25 percent. So one in every four ballots that were actually cast for this election here in our county were cast by an early ballot. To accomplish the increase in Lancaster County, we have made a number of changes to make this process more cost efficient, more time efficient, and more labor efficient. This bill would make our process more costly, increase the time to process those ballots, and also increase our labor costs. I have conservatively calculated that had this legislation been in effect for the 2012 Presidential general election, it probably would have cost Lancaster County about \$10,000, maybe a little bit more than that. But I think that might be a little bit of a low estimate. It might depend on if we'd have to...on envelopes, if they'd have to be a specific size and we couldn't use just a general envelope, that we might have to...that might even be higher. We do have very specific instructions for our early vote counting board. They work in teams of two. We never have anyone opening ballots singularly, they are always working in two. And I would bet that that's the way it is in every county in this state. So if someone was going to look at the ballot, they'd have to be working in teams of two to do that. Finally, I would invite members of this committee--we have the city elections coming up in April and May--I'd invite members of this committee to come out and observe our processes, even if it's with...on opening the absentee ballots, the way we do it and also anything else that we do in conjunction with the elections. I know sometimes it's difficult to hear about it here but not actually see it actually happening. And I would encourage you if you'd like to come out, that I'd be happy to make that available to you either for the April 9 primary election or the May 7 general election. I think it would be a valuable experience to you. I'd be happy to answer any other questions and appreciate your time. [LB206]

SENATOR AVERY: What would we have to do to participate in that observation of this? [LB206]

DAVID SHIVELY: Senator, if you just call me or your staff calls me, we'd make it work. We'd make it work on your schedule. We usually...absentee ballots...we are allowed to open absentee ballots the second Monday prior to the election...up to the election. They...usually they work from about 9:00 to 4:30 each day to get that done. As they get them done, if they get them all open and they might take a day or two recess, but we'd make it work for you. [LB206]

SENATOR AVERY: We might do a field trip. Senator Scheer. [LB206]

SENATOR SCHEER: Thank you, Senator Avery. Thank you, Mr. Shively. Just out of curiosity, the 20 percent, how many in numbers is that? The 20 percent of your total or 25 coming in. [LB206]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

DAVID SHIVELY: Twenty-five percent. It was around 32,000 early ballots were cast here in Lancaster County for the 2012 general. [LB206]

SENATOR SCHEER: Okay. Thank you. [LB206]

SENATOR AVERY: Senator Price. [LB206]

SENATOR PRICE: Thank you, Chairman Avery. Thank you, Mr. Shively. Can you articulate for me what statutory language is in place that guarantees the sanctity of a private...of that secret ballot? [LB206]

DAVID SHIVELY: I would have to go back and look at the statute, Senator. I don't have them in front of me but... [LB206]

SENATOR PRICE: I mean, it's so...I mean, when I worked in...I'll build a hypothetical. You do not have to answer but I'm just trying to build this. If I work in a lot of different places, like if I work in USSTRATCOM or I work in other...where there's statutory guidance of what I do, it's normally posted. I'm briefed ahead of time, and, you know, things of that nature happen. Are there things like that? Is there a uniform briefing that's presented to say, you know, this is a statutory...these are consequences if you don't observe whatever we have out there in place? [LB206]

DAVID SHIVELY: We do have our absentee counting board sign an oath saying that they would not release any results or release anything that...any information that they're doing that. We also have very specific instructions on how we have them go through that. And that oath is, I believe, is outlined in state law that we have not only our absentee counting board sign, but we have people that come in and help us count ballots on election day sign that as well, as well as the staff signs that as well. [LB206]

SENATOR PRICE: And finally, if you would indulge me, we heard a question before about or a concern about what would happen to a ballot that for whatever reason falls on the floor, out of an envelope, everybody sees it, is it still a valid one or is it invalid because people saw it? Is it still considered... [LB206]

DAVID SHIVELY: Yeah. My understanding it would still be valid. [LB206]

SENATOR PRICE: Great. All right, thank you so much. [LB206]

SENATOR AVERY: Senator Murante. [LB206]

SENATOR MURANTE: Thanks for coming. A couple questions for you. Now there has been talk today that other counties, some counties in the state, use privacy envelopes. I

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

assume from your testimony that Lancaster County does not. Is that accurate? [LB206]

DAVID SHIVELY: Lancaster County does not, and I do not know of any county that uses a privacy envelope. I would be surprised if Douglas County does from my conversations with that office, and we meet regularly at times. And I would just be really surprised. [LB206]

SENATOR MURANTE: Sure. And I'm reading over the statute. It's pretty explicit as to what needs to take place for an...for you guys to mail an absentee or an early-voting ballot to somebody. Do you think that the way state law is set up right now, that you even have the discretion to send out a privacy envelope even if you wanted to? [LB206]

DAVID SHIVELY: I don't think we do. But I...you know, if someone wanted to take that discretion and do it themselves, I don't know they'd have...there would be anything that would say that they couldn't do that, though, either. [LB206]

SENATOR MURANTE: Okay. Thank you. [LB206]

SENATOR AVERY: Thank you, Senator. Any other questions for Mr. Shively? All right, thank you. [LB206]

DAVID SHIVELY: Thank you. [LB206]

SENATOR AVERY: Thank you for the invitation. [LB206]

DAVID SHIVELY: No problem. [LB206]

SENATOR AVERY: We might take you up on it. Any other opponent testimony to LB206? [LB206]

SANDRA STELLING: Good afternoon. [LB206]

SENATOR AVERY: Good afternoon. [LB206]

SANDRA STELLING: I'm Sandra Stelling, S-a-n-d-r-a S-t-e-l-l-i-n-g, I'm the Jefferson County Clerk, Register of Deeds, and Election Commissioner, and cochair of our legislative committee. I would also reiterate what Dave has said. I would like to go on record as opposing this bill. One concern that I have is on page 19, starting with line 23, where it states: The election commissioner or county clerk shall include a secret-ballot envelope with the ballot a return envelope which upon the face of that return envelope is printed the official title and address of the election commissioner or county clerk. I can see people using this as the outer envelope, which we would have no signature when it came back. We would not know who that ballot belonged to. And I do believe that this

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

inner envelope would be more confusing to our voters out there. And I can't say the elderly, because I think it would confuse anybody on this. I'll also...this does include the provisionals from what I'm understanding on the way I read the bill. And there again, that's one more thing that our poll workers have to keep track of, that they have to make sure that they use both of those envelopes. This will take the counting board longer. And I can say that our counting board doesn't have time to look at everybody's...you know, they have to verify everything. We don't give them that much time to look at anything. They rip the envelope open--or use a letter opener--and dump the ballot out. They don't look at them. They put them all in a pile. I can see this--don't want to be a broken record--it's going to be more expensive to the counties because we're going to have one more envelope and those envelopes are going to have to be larger. If you have any questions, I would like to answer them. [LB206]

SENATOR AVERY: Thank you, Ms. Stelling. Welcome back. [LB206]

SANDRA STELLING: Thank you. [LB206]

SENATOR AVERY: Questions? Senator Scheer. [LB206]

SENATOR SCHEER: Just to clarify in my mind what you were saying. Based on your interpretation of what this bill would be doing, no longer on the outside of the return envelope is there any affidavit that the person signs that they are the individual that had requested that ballot? [LB206]

SANDRA STELLING: No. That is still there. [LB206]

SENATOR SCHEER: Okay. [LB206]

SANDRA STELLING: But then you have the inner ballot...or the inner envelope that the ballot is to be put in. [LB206]

SENATOR SCHEER: Uh-huh. Correct. Uh-huh. [LB206]

SANDRA STELLING: Okay. But on that inner ballot, or that inner envelope, excuse me, it's to be the name of the election official and address. I can see the voter just using that to return it. Put a stamp on it and return it so, therefore, we're not going to know who that voter is or...and we're not going to have the signature that...for the affidavit of that voter--when you signed your envelope to return it--on the back of it. [LB206]

SENATOR SCHEER: So your assumption is that that person wouldn't use both envelopes to return; they would just use one or the other. [LB206]

SANDRA STELLING: Right. Right. They would just use the inner one and not the outer

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

one like they should. [LB206]

SENATOR SCHEER: Okay. Thank you. [LB206]

SANDRA STELLING: I mean, even though we have instructions and everything, we still see them come back without signatures now. [LB206]

SENATOR SCHEER: Okay. Thank you. Thank you, Senator Avery. [LB206]

SENATOR AVERY: Any other questions? I don't see any. Thank you for your testimony. [LB206]

SANDRA STELLING: Thank you. [LB206]

SENATOR AVERY: We're still on opponent testimony on LB206, and we welcome back a familiar face. [LB206]

DIANE OLMER: (Exhibit 2) Good afternoon, senators. My name is Diane Olmer, D-i-a-n-e O-l-m-e-r, and I'm the Platte County Election Commissioner and also cochair for Election Law Committee for Nebraska Association of County Clerks, Register of Deeds, and Election Commissioners. I'm not going to try to repeat. I want to bring up kind of a different angle on it is, the purpose of this secrecy envelope introduced into the return of a ballot is to prevent fraud in my office. Okay. Now I've always said that to prevent fraud...the people that do that don't follow the rules. I mean, you can try to...you were talking about gun rules and everything else. The people that break the rules aren't going to follow the rules. So this...I still say this introduction of this envelope does not prevent fraud. If somebody is going to do something wrong and try to do...see that ballot, you could have three envelopes and there would still be a way to do it. So I'm saying it doesn't prevent fraud; it makes you feel good about the process. And another thing I'd like you to look at is the way this bill is laid out. On page 35...you know, when we send a ballot out, we are required to either put our initials on it or sign it so there is something saying it came from our office. Then we're supposed to also check for that when it comes back. So on page 35, line 10, it says "If the ballot is rejected after opening the return envelope because of the absence of an official signature on the ballot, the ballot shall be reinserted in the secret-ballot envelope, if any, and placed in the return envelope which shall be resealed and marked Rejected." Okay. Now what Paul was mentioning--or Senator Schumacher--was we get the ballots and we slit them open. We've already checked their signature. That's all good. We put them to the side and then we put the secrecy envelopes all over here. And then later on, we open all them up. Well, that is not how this bill is laid out. The way this is, if I have to check for signatures--and I do--I have to take the envelope where they have signed. And our process is, we turn it over so that the signature is down. And then I have the secrecy envelope and I slit that and I take it out far enough so I can--front or back--find that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

signature. Oh, it's not there. Put it back in and put it here. How long did that segregate that ballot from that name? So the way the process is in this bill, it isn't the way Senator Schumacher laid out. We don't get to take those secrecies later on and just open them at will and, you know, do that. And that's right in this bill and on that page. So if you think it's necessary to prevent us...you know, prevent fraud, then I think we should change the bill, for one thing. And I still say this is just a feel-good bill. Make the voter feel good, make you feel good, it does not prevent fraud. If somebody is going to do something wrong, illegal, they're not going to follow the rules. [LB206]

SENATOR AVERY: Thank you, Ms. Olmer. Senator Price. [LB206]

SENATOR PRICE: Thank you, Chairman Avery. Ms. Olmer, do you suspect that there's a value...or that the attempt to put in place barriers for that fraud to take place is what we're trying to get at here? It's not that we're trying to make an absolute, error tight, it could never happen, but that the confidence of the voters there is arguably understood to not exist now and that it's not about making it absolute foolproof, but right now, it doesn't seem--to what we've heard--that there are in place even rudimentary guidelines to prevent it. [LB206]

DIANE OLMER: I agree with the idea. But the way the bill is written doesn't even do that. [LB206]

SENATOR PRICE: Okay. Thank you. [LB206]

DIANE OLMER: I have to keep that envelope with their signature this close so that if the election official's signature isn't on it, I got to put it right back. I don't have them mixed in away from that envelope. So the way this bill is written up, it doesn't accomplish what Senator Schumacher was out to accomplish, I don't think. [LB206]

SENATOR PRICE: Okay, great. Thank you very much for clarifying. [LB206]

SENATOR AVERY: Any other questions? Senator Scheer. [LB206]

SENATOR SCHEER: Thank you, Senator Avery. Quick response: I truly believe this is a feel-good bill; however, not in the sense that you're saying. Because if we go back to the introduction, the feel-good part of it is the electorate knowing that his vote is secret and no one will know how he voted. And it's...to me, that's the person that I'm wanting to make feel good, not you or me or someone else in society. I think we're more concerned with that one individual person in Stanton County that had contacted the senator because he didn't feel he had a secret ballot. And so, I mean, I'm not trying to be flippant here, but I...that really is the concern and the intent of this legislation, from what I'm understanding, is making the electorate feel good about his ballot and it being a secret ballot. So... [LB206]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 07, 2013

DIANE OLMER: I agree it will make them feel better. I truthfully think maybe we're having the wrong discussion. I don't think it's the question of the secret ballot that's such a problem with the voter. I don't think they like all-mail...some of them don't like the all-mail precincts or the all-mail elections. So maybe we're having the wrong discussion. [LB206]

SENATOR SCHEER: Well, ma'am, I can tell you we're having exactly the right discussion because not only has Senator Schumacher had the conversation with the citizen from Stanton County, I was on the phone with that individual for 40 minutes today. So I can guarantee you that the point of this legislation is feeling good about the secrecy of his ballot. I can confirm that right now. So... [LB206]

DIANE OLMER: I've had many conversations with many voters, and they do ask about how we do open up the envelope and we explain it and they walk away and they're fine with that. So this person may be really concerned, but there are...as we say, early voting has gained popularity. There must be a lot of people who it is not a concern for. [LB206]

SENATOR SCHEER: Maybe so, that's true. Thank you, Senator Avery. [LB206]

SENATOR AVERY: Thank you. Senator Wallman. [LB206]

SENATOR WALLMAN: Thank you, Chairman Avery. I guess going back to this paper, you know, these mail-in ballots, provisional ballots, whatever you want to say. Have you had different options to buy, to purchase these paper envelopes, different companies? [LB206]

DIANE OLMER: Yes. It's up to us where we get our supplies from. Sometimes counties go together just to get a bulk mailing to cheapen the prices. [LB206]

SENATOR WALLMAN: So there's not a standard practice across the state? [LB206]

DIANE OLMER: There is no standard, I think, in statute about the kind of envelope we have to use. They just have to be...fit inside each other and that. [LB206]

SENATOR WALLMAN: Okay. Thank you. [LB206]

SENATOR AVERY: Senator Bloomfield. [LB206]

SENATOR BLOOMFIELD: Thank you, Senator Avery. It's more of a statement than a question. I think you'll see a huge difference in people's concern about their privacy between a county that has 1,500 voters, 400 voters, than you will Lancaster County or

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

Douglas County where you have thousands. I think that's where you're going to see the difference, because where you know everybody, you're afraid that somebody might get a peek at that ballot. Down here where you know 1 percent of the people, you're probably not going to be too concerned about it. I think that's where we're seeing the difference. [LB206]

DIANE OLMER: The way this bill is written up, it won't even guarantee that. [LB206]

SENATOR AVERY: I don't see any more questions. Thank you, Ms. Olmer. Next testifier? We're still on LB206 and we are listening to opponents. [LB206]

LARRY DIX: Senator Avery and members of the committee, for the record, my name is Larry Dix. I'm executive director of the Nebraska Association of County Officials, spelled L-a-r-r-y, last name, D-i-x, appearing in opposition to LB206. It's been an interesting hearing thus far, and I've taken some notes and want to throw out really just a couple of ideas and thoughts as we go through the process and maybe answer some of the questions that were brought up. Of course, first and foremost, I'm very interested in the comment that was made that maybe the state should pay for the election, especially when there's a number of candidates and a number of state issues, and I would stand ready, willing, and able to work on that amendment to this bill. So I want to make--up front, make sure everybody is aware of that. And I believe Senator Murante's question on Cherry County was answered that not all of Cherry County is a mail-in election. And Senator Scheer, I believe you had asked of the states that have all-mail elections, can people still go to the courthouse? I don't know where that question...okay. The one that I'm familiar with is Oregon, and I believe in Oregon the person could still take it...if they receive that ballot, they still could take it physically back to the courthouse and drop it off at that location. So when we looked at this bill and I think everybody knew that the county officials were going to come forward and talk about additional costs and were going to talk about the additional work that goes into that. We know that, you know, it's just physical. It's just a matter of what we're going through. One of the ideas that came forth, though, was when we were talking about the reusability of the envelope which made me start thinking that if we go down that path, maybe we don't look at an envelope, but we look at more of a secrecy sleeve of an envelope that's designed as a sleeve, where it just slides in, because you are protecting the poll worker from actually viewing that when they pull it out of the envelope. And that's, I think, what Senator Schumacher is really trying to accomplish, that when it's opened, it's pulled out. That again, when I'm talking about a sleeve, I'm talking about something that's like this, that's somewhat open ended and it...you're not talking about the time of ripping an envelope open and you're laying it off to the side. So I would ask the committee to have some thought along those lines. I think that would be something that we would want to look at. The information also came out about Douglas County and Douglas County having a secrecy envelope inside of it. To the best of my knowledge, they do not. And I believe if they did, it may be contrary to law. But someone who votes as in a mail election, I can

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

see the perception because the person who is voting does get two envelopes. You get the envelope that is mailed on the...that is mailed to you and inside it then, of course, is a return envelope. So the perception would easily be that, yes, I have that secrecy envelope because I am getting two envelopes. Under this bill you would actually be getting three envelopes and so that may clear up a little bit of that. I would certainly encourage the committee to take Mr. Shively up on visiting the election process. I know before when I've testified...many of you know that I previously, in a previous life, have been in the election industry. It's fascinating when you really look and see what happens behind the scenes at an election. You come away with a different appreciation for what goes on in that area. And certainly, there's a couple of Kansas options that I think we would be receptive to talking about looking at. And lastly, I certainly want to make sure that we walk away and understand that we do have good trustworthy election officials that are running these elections. They do a tremendous job for us when we're running state elections, when we're running county elections, school board elections. These folks are trustworthy, they do a very good job, they're very conscientious of what they do. The last thing they want to do is call into question the integrity of any election in the state of Nebraska. So with that, I certainly would be happy to take any comments or questions that you may have. [LB206]

SENATOR AVERY: Thank you, Mr. Dix. Questions from the committee? Don't see any. [LB206]

LARRY DIX: Thank you. [LB206]

SENATOR AVERY: Any more opponent testimony on LB206? Okay. We'll now entertain neutral testimony. Welcome again. [LB206]

NEAL ERICKSON: Chairman Avery, members of the committee, for the record, my name is Neal Erickson. I'm Deputy Secretary of State for Elections here on behalf of Secretary of State John Gale, testifying in a neutral capacity. We testified in a neutral capacity last year, and I think the basic message was that on this secrecy envelope issue, you know, this is a policy choice for the Legislature. Certainly I hope you would consider some of the testimony that's been given. The local election officials I think have pointed out some of the ramifications, and I think Senator Scheer also noted the voters also would be impacted by this. But that is a policy decision for you to make and certainly I think Senator...excuse me, Election Commissioner Shively's offer is a very valuable one for you to go examine the process. I've personally gotten to see, at three different occasions in three different counties, how they handle their absentees during election process. And I think it will be very instructive for you. One other thing that I think--and I debated whether to go into this or not--is a little bit of the history because I think there's been some misconceptions out there, questions about whether Douglas County uses a secrecy envelope or not. When the modern absentee act was adopted in 1984, there was no secrecy envelope then. It has always been a case where the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 07, 2013

instructions said that you place your voted ballot into what was called an identification ballot, and that had your voter's oath on there that basically said, yes, I'm a registered voter, this is the only ballot I'm voting, I'm signing that. That was placed into a return envelope and then mailed back. In the mid-'90s we had two things occur. Number one was the beginning of the usage of...instead of going to a three-envelope system that had been used since '84--you have the envelope that it was mailed in, you had the return envelope that was addressed to the county clerk, and then you had the identification envelope--prior to the mid-'90s, what you did was you voted the ballot, stuck it in the identification envelope, stuck it in the return envelope, and it got mailed to the county clerk. In the mid-'90s what counties started doing--and law by statute--is actually putting that identification on the return envelope. So it went from a three-envelope system to a two-envelope system. You had the envelope that it was mailed to you in, and then you had this return envelope that had the clerk's address on it, but it also had that voter's oath. And the instructions according to law said place it in that identification envelope and return it. The other thing that occurred in the mid-'90s was the adoption of allowing political subdivisions to do special elections entirely by mail. Now when that law was enacted, that specific provision did include a secrecy envelope. And that's where some of this came from, and that became the basis for a bill later on. And in, oh, about 2004, 2005, the Legislature adopted a precinct-by-mail-only system. Under that system, the law said you treat those just like you do with absentee, so there was no...or early voting ballots. There were no secrecy envelopes in there. And then in 2008, Senator Karpisek introduced a bill because we had this difference for the special elections by mail. They had a secrecy envelope. Nobody else...none of the other processes did. And so the bill was introduced to eliminate that secrecy envelope by special elections by mail, and that did pass. And so now, under current law, all three processes are using the same system. And so that's just kind of the history behind it a little bit and, you know, I can answer any questions you might have. Just for your information, Senator Scheer, it's about 200,000 people voted this year. [LB206]

SENATOR SCHEER: Two hundred? Okay. Thank you. [LB206]

SENATOR AVERY: Questions from the committee? Senator Karpisek. [LB206]

SENATOR KARPISEK: Thank you, Senator Avery. And thank you for outing me there, Neal. I was trying to stay quiet. [LB206]

NEAL ERICKSON: Sorry, Senator. [LB206]

SENATOR KARPISEK: That's all right. When Senator Schumacher was blaming Senator Schimek, I was going to let that go. Senator Schumacher talked a little bit about a lawsuit. I don't know if you can or want to even speak of that, but... [LB206]

NEAL ERICKSON: Well, you know, if somebody wants to file a lawsuit on our

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

procedures, they do. I mean, we've lived through a number of them. We can't control a whole lot. Yes, Ms. Miller and I did talk and we tried to find...she wanted to observe the process and we tried to make...find a special election and she'd go view the process. And there was one that didn't quite work out. There was another one, in Douglas County there was a special election but apparently she couldn't make that either. But like I said, I'd encourage you to look at the process. I think it's an interesting one. [LB206]

SENATOR KARPISEK: All right. Thank you. Thank you, Senator Avery. [LB206]

SENATOR AVERY: Any other questions? Thank you for your testimony. Any other neutral testimony on LB206? Welcome, sir. [LB206]

DOUGLAS DODGE: Thanks for hearing my testimony. My name is Douglas Dodge, D-o-u-g-l-a-s D-o-d-g-e, I'm just testifying as a private citizen. I'm testifying neutral. Just...my perception last fall at the general election, I saw several people voting provisional in my precinct. And it just smacked to me--when I saw the envelope and all the detailed information they had put on that provisional ballot with that ballot being stuck into that envelope--it just seemed like there was that lack of that barrier that everybody talks about having for the privacy of your ballot. It just seemed like there was such a thin veil between all that information and that ballot inside there, that it just smacks to me that it seems like having that other envelope seems like that's something that would be useful. The right to the privacy of your ballot makes me think of when in my youth I was in a special election in Colorado where the district...the precinct that was...a lady was leaving the balloting area of the precinct and she was the only person in her precinct that voted. But yet the precinct had to reveal their results. And it seemed like there was no provision for them to...the results were...had to be by precinct. There was no way to be able to show two precincts or something in that results. But that's all I just had to say for my comment. [LB206]

SENATOR AVERY: Thank you, Mr. Dodge. [LB206]

DOUGLAS DODGE: Thanks. Questions? [LB206]

SENATOR AVERY: Any other questions? Don't see any. Thank you. [LB206]

DOUGLAS DODGE: Thank you. [LB206]

SENATOR AVERY: Any other neutral testimony on LB206? Okay. Senator Schumacher. [LB206]

SENATOR SCHUMACHER: Thank you, Senator Avery and members of the committee. Couple of technical points that were raised in the presentation: first, the reference on page 19 going into 20, concerned that on the face of the return envelope there will be

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

printed the address and the official title. The phrase "return envelope" is a defined phrase appearing on page 2. A return envelope is the outside envelope that it's mailed in. The secret ballot envelope is the inside, so there's no return address, nothing to get mixed up on, on the...as to which envelope is which. The secret ballot envelope does not have the name and address printed on the outside. As sometimes is the case and I hate to admit it, Commissioner Olmer is right. On page 35 it doesn't read right at line 14, because at that point the return envelope is gone. It's been disassociated with the secret ballot envelope so that would have to be a fix-it thing if the committee chooses to advance the bill. The comments by the County Officials Association whether it's a sleeve or an envelope with a sticky thing on it, really doesn't make me any difference. I don't think it would probably make a court any difference so long as in the innocent process of opening it, it just doesn't flop open and, gee, he voted for Obama--you know, and those kind of things happen--or he voted against this thing? So that's...that I think it would serve the function of if it'd be a little cheaper, you know, it'd be a little cheaper. An invitation to Lancaster County, probably a good idea. But maybe Stanton County or Cedar County is a better idea because it's a different world, different standards, smaller operation, everybody knows everybody, a lot higher risk in the lower-population counties that would...that we need to be concerned about. If we remember that identifying ballots for a particular thing, I think in redistricting there was a map drawn--and it might have affected your district, Senator Bloomfield--where they said we couldn't do it one way because it was like only 12 people were going to be that piece, and it would be too easily to identify how they voted; and therefore, there was a big constitutional deal or a court case or something that said, you have got to make those districts big enough so that you couldn't figure out how somebody voted or back calculate it. So, I mean, this is a big deal. It's a big deal in the federal courts. It's a big deal in our constitution. I think the Secretary of State's Office when they say this is a policy decision for the Legislature, probably is not correct. I think we've been outranked because the people in the constitution have said...determine the policy. It's up to the Legislature to figure out a way to, in the best possible way, keep things secret. Now, you know, and to the reasonable comfort, feel-good sentiment of the voters, is anything perfect? You know, if somebody wants to break the law, maybe there should be some criminal penalties. But they probably do. You probably could sit in a voting situation where they have the ballot box or something and say, okay, Senator Avery is the fourth last ballot. Let's see how he voted, you know. And I suppose you could work around that, but it's not the kind of thing that one could easily see being done in the normal course of just doing the work of opening the ballots. I don't know what kind of mess would be created if in about September of an election year--and you may not be able to observe this in smaller counties until the next primary election--but in September of an election year a court came down with a decision that called into question the mail-in balloting process, I don't know if they'd write a special rule for that election or how we'd fix it if all of a sudden there was a defect in here, in the way we do this particular procedure. And this procedure is outlined and the bill applies to the provisional ballots, it applies to the ballots where you go to the courthouse, and mail...they put it in an

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 07, 2013

envelope. Anything that's in an envelope that has your identifying stuff on the outside, it would require the inside sleeve or inside ballot. So this is a problem, bring it to committee again, may ask legal counsel what her guesstimate is. I'm sure she'd be happy to research it as to whether or not we're in compliance, and in light of that our court decisions and the Kansas court decision, whether or not the risk is paranoia or the risk is real. But some folks, at least in Stanton County and maybe elsewhere, it's a real impairment of their freedom to vote. I'll take any questions. [LB206]

SENATOR AVERY: Freedom to vote in secret. [LB206]

SENATOR SCHUMACHER: In secrecy. [LB206]

SENATOR AVERY: Any questions? Any more? Thank you, Senator. [LB206]

SENATOR SCHUMACHER: Thank you. [LB206]

SENATOR AVERY: That ends the hearing on LB206, and now we will move to LB241. I hope that you're finished in Revenue. [LB206]

SENATOR SULLIVAN: No. Oh, no. Oh, no. No, no, no, no, no. But it won't be too much longer. Gee... [LB241]

SENATOR AVERY: This is working out okay today, right? [LB241]

SENATOR SULLIVAN: Just fine. Just fine. Deja vu. [LB241]

SENATOR AVERY: (Exhibits 3, 4) Before we start, Senator, let me read into the record two letters of opposition to that previous bill, LB206, one from Cass County Election Commissioner and one from the Douglas County Board of Commissioners' Chair Borgeson. Thank you. Now, proceed. (See also Exhibit 5) [LB206 LB241]

SENATOR SULLIVAN: Gee, it's good to be back. [LB241]

SENATOR AVERY: Yes. Welcome back. [LB241]

SENATOR SULLIVAN: (Exhibit 1) Chairman Avery and members of the Government, Military and Veterans Affairs Committee, I am Senator Kate Sullivan, that's K-a-t-e S-u-l-l-i-v-a-n. I represent the 41st Legislative District, and I'm here today to introduce LB241. LB241 would allow voters to change the election of county offices from partisan to nonpartisan in counties of less than...10,000 or less population. There are two methods by which this vote could take place. The county board may adopt a resolution requiring submission of the question to voters; or two, the registered voters may file a petition with the county clerk requesting submission of the question to voters. The

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 07, 2013

petition must be signed by at least 5 percent of registered voters in the county at the preceding statewide general election as verified by the county clerk. Regardless of which method is used, the question will be on the ballot at the first statewide general election held at least 60 days after the adoption of the resolution or verification of signatures. If voters approve the ballot question, county offices will be elected on a nonpartisan ballot in subsequent elections. The same two methods may be used to submit the question to the voters to change election of county officers from nonpartisan ballot to a partisan ballot. The question may not be submitted to the voters more than once every three years. The 10,000-population threshold is based on the current threshold for elections by mail, and there are actually 67 counties that meet that threshold. And I have a list of those counties, if one of the pages could pass them out. And I should mention too, by way of full disclosure, all nine counties in District 41 fall into that category. The method of placing the question on the ballot is similar to the method used to change the number of county commissioners. Now this bill is a little different than the bill that I introduced two years ago. It allows a county's voters to decide whether to elect their county officials on a nonpartisan basis if the county population is less than 10,000, and that's the difference. I started down this road of nonpartisan county office elections after the 2010 statewide primary elections. In one of my counties, both candidates for the county office were of the same party. The election was decided in the primary. Slightly more than one-third of this county's registered voters decided the outcome of the race, so that left almost two-thirds of this county's registered voters disenfranchised in that particular primary election because they were registered as Independents or members of the other political party. Now I'm quite certain that this same situation occurs in the primary all over the state, particularly in rural counties with lower population. Recruiting quality candidates is a challenge wherever you live, but I will tell you it's particularly harder in our smaller rural counties. Nonpartisan ballots work well for the local and state offices in the state for which they're already in use, so I believe it's time for this nonpartisan body to consider allowing voters to decide their use in local elections. LB241 would better ensure the opportunity for all voters in these small counties to decide whether they want county officials to be elected on a nonpartisan ballot. They can then vote in every election for the county candidates that they choose to support. As I said two years ago, when I introduced a bill that would have simply made all county office elections nonpartisan, I quoted George W. Norris who once said, in the defense of the nonpartisan unicameral, legislators' duties have nothing to do with the federal administration or the success of any political party. Well, I'd like to co-op Senator Norris' comment once again, and say that county officers' duties have nothing to do with the success of any political party. County officials should answer to the voters in their county--all voters. LB241 eases us into this concept by allowing the small counties to decide if they want their county offices to be nonpartisan. I encourage you to advance LB241 to General File. [LB241]

SENATOR AVERY: Thank you, Senator. Questions? Senator Scheer. [LB241]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

SENATOR SCHEER: Thank you, Senator Avery. Senator Sullivan--and I may show my ignorance here--I was under the assumption during a primary that if you were a registered Independent that if there was not Independents on the ballot you could select one of the other party affiliations in the primary. [LB241]

SENATOR SULLIVAN: Well, an election commissioner or the Secretary of State may have to confirm that but it's my understanding that if you're an Independent, you don't have that ability to vote on the partisan ballot. [LB241]

SENATOR SCHEER: Okay. Thank you. [LB241]

SENATOR SULLIVAN: Uh-huh. [LB241]

SENATOR SCHEER: Thank you, Senator Avery. [LB241]

SENATOR AVERY: Senator Bloomfield. [LB241]

SENATOR BLOOMFIELD: Thank you, Senator Avery. Senator Sullivan, this 5 percent, is that just a number you... [LB241]

SENATOR SULLIVAN: Where did I--refresh my memory--where did I refer... [LB241]

SENATOR BLOOMFIELD: Five percent of the people would be required to sign the petition to switch. [LB241]

SENATOR SULLIVAN: Oh, well... [LB241]

SENATOR BLOOMFIELD: Is that a magical number or is that an adjustable number, depending on what we do here? [LB241]

SENATOR SULLIVAN: I think it's adjustable. [LB241]

SENATOR BLOOMFIELD: Okay, so we could make it 10 percent if we wanted or something like that? Okay. [LB241]

SENATOR SULLIVAN: I think so, uh-huh. [LB241]

SENATOR BLOOMFIELD: Thank you. It seems like an awful low threshold, is all. [LB241]

SENATOR AVERY: Any other questions? Are you going to stay around for closing? [LB241]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 07, 2013

SENATOR SULLIVAN: Sure, uh-huh. [LB241]

SENATOR AVERY: Okay. All right. We'll now accept proponent testimony to LB241. Proponent testimony? Is there opponent testimony? [LB241]

NEAL ERICKSON: Opponent? [LB241]

SENATOR AVERY: Opponent. [LB241]

NEAL ERICKSON: (Exhibit 2) Senator Avery and members of the committee, for the record, my name is Neal Erickson, I'm Deputy Secretary of State for Elections. I was actually hoping Secretary Gale would be back in time to make this particular bill but apparently not. So with that, I will kind of just summarize his letter that is being passed out to you now. I think the two major points is the impact on local and state political parties with this bill, and the impact upon voters seeking to distinguish between ballot candidates. Secretary Gale feels that the partisan nature of those county races does add to a stronger political party system, and that does serve a valuable function within our election process. Like I said, I think you have the letter before you, and I think you can take a look at that. I would point out one kind of technical issue, I think, with the bill. It applies to counties under 10,000, as Senator Sullivan pointed out. However, when it goes into the offices such as county clerk, etcetera, it removes a line: The county clerk shall be elected on a partisan basis or the county sheriff shall be elected on a partisan basis. But it doesn't distinguish between those counties...it's removing a line even for those counties that have not adopted this procedure or that aren't even eligible to. So basically, I think the way the law would read is, even for Douglas County, their county clerk...it no longer says they will be elected on a partisan basis. So, you know, I think there could be an amendment to do that, referencing Section 2 in the bill but...and with that, I'd answer any questions you might have. [LB241]

SENATOR AVERY: Thank you, Mr. Erickson. Questions from committee members? Senator Karpisek. [LB241]

SENATOR KARPISEK: Thank you, Senator Avery. And I know that you either did or didn't write this, but... [LB241]

NEAL ERICKSON: Actually, this was not my handiwork but... [LB241]

SENATOR KARPISEK: Okay. Well, then I will just...well... [LB241]

NEAL ERICKSON: I can try to answer questions. [LB241]

SENATOR KARPISEK: You know me. I'd more rather state my opinion anyway, but it talks about this would hurt the party system, I think you said that, which in my opinion is

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

good. County parties actively recruit candidates for county levels. They look for candidates that share their general philosophies and who will...what general philosophies would a sheriff have different if they were a Democrat or a Republican? [LB241]

NEAL ERICKSON: And there on that particular one, I don't know. It could be budget issues, it could be a wide variety of things. You know, I think I understand what you're getting at in terms of enforcing the law in terms of the main function. Yeah, I mean, that's something that's pretty set in statute in terms of how that functions. But whether it be, you know, well, let's just say you had a political party that's sole plank or platform was of fiscal responsibility, and, you know, I'm going to cut the budget on this if I'm elected. I mean, that would be something along the lines of sharing that common philosophy. [LB241]

SENATOR KARPISEK: I guess my thought is since we're a nonpartisan group and it seems to work well, that it's hard to say that it would hurt the parties. [LB241]

NEAL ERICKSON: Well, we do have some offices that...the constitutional offices are, you know, even with something like this, even if you got rid of all the county offices you would still have the state constitutional offices are elected on a partisan ballot, as well as Congress that's organized on a partisan basis. And I think what Secretary Gale is trying to say is, where do the candidates come for these kind of...even these upper-level offices? They come from lower levels, and oftentimes get involved if they're first level, at a local level, and so...and one thing, Senator Scheer, because you asked about it, if you...you asked about a nonpartisan being able to request a ballot. They can do that but it's only for federal races. It is...well, it's not even for completely federal races. It's for U.S. House and U.S. Senate. [LB241]

SENATOR AVERY: You're on a different bill. [LB241]

SENATOR SCHEER: No. [LB241]

NEAL ERICKSON: He asked... [LB241]

SENATOR SCHEER: It's this one. [LB241]

SENATOR AVERY: Is it? [LB241]

NEAL ERICKSON: Yeah. So there is one specific ballot that a nonpartisan can get in the primary. They can make a request for a Republican, a Democrat, or Libertarian. [LB241]

SENATOR SCHEER: Yeah. I thought there was something, but I wasn't sure

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 07, 2013

(inaudible.) [LB241]

NEAL ERICKSON: Yeah, you're right. There is, but it's pretty limited. It's not for most offices. [LB241]

SENATOR SCHEER: Okay. Thank you. [LB241]

SENATOR AVERY: You had your hand up. [LB241]

SENATOR KARPISEK: That was my question. [LB241]

SENATOR AVERY: That was it? [LB241]

SENATOR KARPISEK: That was it. He beat me to it. [LB241]

SENATOR AVERY: Any other questions? Thank you. [LB241]

NEAL ERICKSON: Thank you. [LB241]

SENATOR AVERY: We are still on opposition testimony to LB241. Okay. Any neutral testimony? [LB241]

LARRY DIX: Senator Avery and members of the committee, for the record, my name is Larry Dix. I'm the executive director of Nebraska Association of County Officials, appearing today in a neutral capacity. As we look at LB241, and as you know in years past, NACO, historically I believe, or for many, many years, has opposed legislation like this that would mandate that we would have our county officials elected in a nonpartisan way. But with the changes that have undergone within this bill and when Senator Sullivan looked at this and said maybe 10,000 is a starting point, then within our group we discussed this pretty thoroughly. And they have decided, yeah, we think that is something we certainly could come in neutral on. The discussion was, if you are a county clerk or a county treasurer, does it really make a difference in the ability or how you would do your job based on what political party that you are? And for the most part, the answer came across, no. They don't think it would. To Senator Karpisek's question, there was a little bit of discussion about maybe that plays a role at the county board level because they, in essence, effect policy a little bit more than maybe an elected official that really carries out statutory duties. So there was a little bit of that conversation but nothing that overwhelmingly we would say, well, even in these small counties we think this should be a partisan race. We know...I know from talking to some county board members in some of the small counties, that they have changed parties simply--not because of a philosophical reason--but simply because they believe that's where they'll get the most votes. And we know that goes on because I've had county board members state as such. So when we looked at this, we thought if the Legislature

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 07, 2013

wants to move that forward, it does allow the county board, of course, to have a step in the decision-making process if they want to do that in their county. Of course, if they don't want to, the folks could petition that onto the ballot. So we think that gives an opportunity for even the smallest counties to have some good input, some good discussion of how they want their local government to look and how they want their local government to be elected. Locally, in the small counties, I think they--similar to the Legislature--probably pretty much everybody in the county would know what party somebody is registered as. But in the small counties it doesn't play that role that we see in some of the other areas. So with that, I wanted to explain why NACO was in a neutral capacity. I'd be happy to answer questions that you would have. [LB241]

SENATOR AVERY: It sounded supportive to me. [LB241]

LARRY DIX: Well, the official vote was neutral. [LB241]

SENATOR AVERY: Okay. Okay. Questions from the committee? I don't see any. [LB241]

LARRY DIX: Okay. [LB241]

SENATOR AVERY: Any other neutral testimony? Welcome, sir. [LB241]

DAVID BELL: Hi, Senator Avery. My name is David Bell, D-a-v-i-d B-e-l-l. I live in Columbus, Nebraska, and met you previously, over lunch one day. I worked in the public sector 36 years, 21 years as a city manager. I started in county government many, many years ago. I also teach American Government at Central Community College, one course a year for them. And that's...when you're a 60-year-old teaching 18, 19, 20, it's kind of interesting, to be quite honest. But you learn a lot, and they've changed my views on a few things. I'm in a neutral position but I'm actually certainly I would lean toward supportive. I know in my case, where I've thought about running for county office because I'm in a county where one party is a dominant county, I would have to change parties to run. And I find that, you know philosophically, a little bit troublesome. Secondly, because I teach about political parties, I think I understand how political parties...their original role was to help recruit candidates. I don't see political parties actively recruiting candidates in small communities. They might be doing so in the urban areas of the state, but I don't see that in the rural areas of the state, at least from my observation. The last thing I would mention is, I sense this is a local control issue, too, because it's being presented as a county has the option either through petition or through county board to put this to the voters. So it's a local control issue too, and I would support that as well. So that's all I have to offer. Again, if you have any questions, I'd be happy to try and answer them. If not, I'll sit down. [LB241]

SENATOR AVERY: Thank you, Mr. Bell. Questions from the committee? I used to teach

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 07, 2013

American Government. [LB241]

DAVID BELL: Yeah? [LB241]

SENATOR AVERY: Yeah, a long time ago. Thank you. [LB241]

DAVID BELL: Thank you. [LB241]

SENATOR AVERY: Any other neutral testimony? It looks like we don't have any more testifiers, Senator. [LB241]

SENATOR SULLIVAN: Just...I'll be very brief. Just wanted to clarify a couple of things. The 5 percent, Senator Bloomfield, we actually came up with that because it's the same method used when there's an election for county commissioners. But I don't think there's anything in statute so you know to that extent, it's arbitrary. [LB241]

SENATOR BLOOMFIELD: I'd like to ask you a question when we get done with the closing. [LB241]

SENATOR SULLIVAN: Okay. And then certainly I'd entertain an amendment to clear up that confusion that Neal Erickson mentioned. But at the end of the day, I stand fast with why I thought it was important to introduce this legislation in the first place that, all political parties aside, I think it's important--in particular, our small rural communities or the counties--that all voters have the opportunity to weigh in and vote for their elected officials. And with this change in this legislation applying to counties of 10,000 population or less, it allows us to ease into this situation. So... [LB241]

SENATOR AVERY: Thank you. Questions? Senator Bloomfield. [LB241]

SENATOR BLOOMFIELD: The reason I have a little heartburn on the 5 percent is I see it becoming an every-three-year issue, you know. In a small... [LB241]

SENATOR SULLIVAN: Do you think they'd go...you mean they'd go back and forth? [LB241]

SENATOR BLOOMFIELD: Yeah. [LB241]

SENATOR SULLIVAN: Really? [LB241]

SENATOR BLOOMFIELD: I think with the 5 percent threshold that could very easily happen. You know, in the small...everybody likes to pick on Arthur County so I may as well. If there are 400 residents, it would take...I suppose there's 150 voters. Five percent of that, it would only take four or five people to get this on the ballot. You know, ten

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

people could surely get it on the ballot. If you get ten more people that don't like it, it's on the ballot three years later. I think it maybe would be prudent to increase that number a little bit. [LB241]

SENATOR SULLIVAN: I'll leave that up to you. [LB241]

SENATOR BLOOMFIELD: Okay. Well, are you willing...does that cause you a lot of heartburn if we do that as an amendment? [LB241]

SENATOR SULLIVAN: No. No. No, it doesn't. [LB241]

SENATOR BLOOMFIELD: Okay. Thank you. [LB241]

SENATOR AVERY: Senator Scheer. [LB241]

SENATOR SCHEER: Thank you, Senator Avery. And I apologize, Senator Sullivan. I probably should have asked this earlier and I didn't look that closely. Is this an all-or-none type deal or could a group petition to have, for example, just the sheriff as a nonpartisan position? It's all or none? [LB241]

SENATOR SULLIVAN: Yes. That's how I would expect it to be. And if we need to make that clear, we could probably work on that. But that's...yes, I think otherwise it gets pretty complex. [LB241]

SENATOR SCHEER: Okay. Okay. Thank you. Thank you, Senator Avery. [LB241]

SENATOR AVERY: Okay. Any others? Senator Murante. [LB241]

SENATOR MURANTE: Yeah, I wanted to expand upon that because Senator Scheer is kind of going down a road that I was concerned about, that there are probably county offices that most reasonable...there's no Republican or Democrat way to be a sheriff or there's no Republican or Democrat way to assess a house. These are offices...but as I read your bill, it's an all-or-nothing approach. [LB241]

SENATOR SULLIVAN: Uh-huh. Uh-huh. [LB241]

SENATOR MURANTE: So does it maybe make more sense to allow this to go office by office and say, maybe there is a Republican or Democrat way to be a county commissioner? [LB241]

SENATOR SULLIVAN: Uh-huh. [LB241]

SENATOR MURANTE: There are different philosophies on the operation of government

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 07, 2013

but maybe the sheriff...so give the people a way to go one way or the other. [LB241]

SENATOR SULLIVAN: Well, first of all, it kind of ties in with Senator Bloomfield's concerns in that maybe there would be less movement back and forth if you cherry-picked. [LB241]

SENATOR MURANTE: Uh-huh. Uh-huh. [LB241]

SENATOR SULLIVAN: But then that also leads to the other problem of some potential confusion on the part of voters and a lot more work, probably, on the part of the local election commissioner in terms of putting the ballot together too. So...and then ultimately, the chance for a mistake being made in terms of, okay, now which one are we supposed to, you know, which one is nonpartisan and which one isn't? And the confusion on the part of not only the voters, but the people choosing to run for that office too. I don't know. I think it...I can't argue with the fact that you probably need to discuss that and maybe in the process you can come to some more clear conclusion than I'm able to do at this point. [LB241]

SENATOR AVERY: Any more questions? Thank you, Senator. [LB241]

SENATOR SULLIVAN: Thank you. [LB241]

SENATOR AVERY: (Exhibits 3, 4) That ends the hearing on LB241, and that completes our business for today. Thank you all for coming. I would ask the committee...oh, I'm sorry. I've got to read into the record two letters of support, one from Sally Reinert and one from Nancy Josoff. [LB241]