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Government, Military and Veterans Affairs Committee
February 05, 2015

[LB319 LB514 LB575 LB578]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Thursday, February 5, 2015, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB319, LB514, LB575, and LB578. Senators present: John Murante, Chairperson; Tommy Garrett, Vice Chairperson; Dave Bloomfield; Joni Craighead; Mike Groene; Matt Hansen; Tyson Larson; and Beau McCoy. Senators absent: None.

SENATOR MURANTE: Welcome to the Government, Military and Veterans Affairs Committee. We are here today to hear four legislative bills. We will take the bills up in the order in which they appear on the agenda outside this room. If you intend on testifying on any of these bills, we ask that you fill out one of these green sheets of paper that are located on both sides of the committee hearing room. If you are here and would like to express support, opposition to any of the bills that we are hearing today, we ask that you sign in. And again, those sign-in sheets are also located on the corners on either side of the room. And we can assure you that your opinions will be given equal weight as if you had come and testified on any matter. When you are testifying, we ask that you come and the first thing you do, state and spell your name for the record. That's very important for our transcribing office. The order that we will proceed is that the introducer of a bill will making opening remarks. We'll then proceed to proponent testimony, opponent testimony, neutral testimony, and then the introducer of the bill will be given a closing opportunity. We ask that you listen very carefully to the testimony that precedes yours and not to be repetitive. If someone has already communicated your...what you intend to say, we again encourage you to sign in on either side and your opinions will be recognized. We use the light system here in the Government, Military and Veterans Affairs Committee. Each testifier is granted four minutes to testify. When the yellow light comes on, you will have one minute left and we ask that you begin concluding your remarks. When the red light comes on, it's time to stop speaking and we will recognize the committee members for any questions that they may have of you. At this time we would ask that you turn off or silence any cell phones or any devices that make any noise. You will find that on this committee we are equipped for electronic devices. So several of us are taking notes up here and we advise that we're not ignoring you. We're just taking advice and taking notes and doing research on the matters before us. If you have any prepared statements or exhibits or anything to distribute to the committee, we ask that you bring 12 copies and give them to the page when you come up to testify and they will be distributed to the committee. If you do not have 12 copies, again, just give it to the page and we'll make copies for you. The members of the Government, Military and Veterans Affairs Committee, first, to my immediate left, Senator Matt Hansen from Lincoln, Nebraska; to his left, Senator Beau McCoy of Omaha; to his left, Senator Joni Craighead, also of Omaha; followed by our committee clerk Sherry Shaffer. To my right is Charles Isom, the committee's research analyst; to his right, Senator Tommy Garrett of Bellevue who is the Vice Chair of this committee and will be joining us shortly. To his right is state Senator Dave Bloomfield of Hoskins,

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Nebraska who will also be with us momentarily. Next to him is Senator Tyson Larson of O'Neill, Nebraska, who is always with us in spirit if not in presence. And rounding up the end is Senator Mike Groene from North Platte, Nebraska.

SENATOR GROENE: And I assure you, I did shower. That is not why...(laughter)

SENATOR MURANTE: And we appreciate that, Senator Groene. So with our introductions having...oh, and we also have two pages with us today; first, Seth Thompson from Ogallala, Nebraska, and Tobias Grant of Lincoln, Nebraska. And with that, we will proceed to the first item on the agenda, LB319 and state Senator Jim Smith, also from beautiful Sarpy County. Welcome, Senator Smith.

SENATOR SMITH: Good afternoon, Senator Murante and members of the Government, Military and Veterans Affairs Committee. For the record, my name is Jim Smith, J-i-m S-m-i-t-h, and I represent the 14th Legislative District in Sarpy County. I am here today to introduce LB319. LB319 was brought to me by Secretary of State John Gale and from my local election commissioner, Wayne Bena. And I'm thankful that both will follow me today in testimony. The bill makes two changes with respect to elections by mail. First, LB319 would increase the number of counties that could request a precinct's elections be conducted solely by mail. Under current law, counties with a population of less than 10,000 may apply with the Secretary of State's Office to permit certain precincts to eliminate polling sites and conduction an election via mail. This bill would eliminate the 10,000 population limitation and allow any county in the state to make such an application to the Secretary of State. This does not mean every precinct will become a by-mail precinct. In making the application, the precinct must meet certain criteria which Secretary Gale will be able to explain further in his testimony following mine. This will help counties, regardless of population, that may have precincts with limited ADA-compliant polling sites, remote polling sites, or simply a limited amount of voters in a precinct. The second change made in LB319 is to expand the types of special elections that can be conducted by mail. Currently, only special elections that are issue related such as bond issues may be conducted by mail. Counties are prohibited from conducting special elections by mail if the election is candidate related. For example, counties now have to open and man a poll, a polling place, for a special election that may be recall elections or elections to fill vacancies. LB319 would remove these restrictions thus allowing any special election to be conducted by mail, saving the counties time and also likely money. LB319 is pretty straightforward. It simplifies the election process, makes it more efficient for counties to conduct elections and makes it easier for voters to participate in elections. I thank you for your time today, and I urge you to advance LB319. Senators, my apologies, I do have another bill up in Natural Resources. I will waive my closing today. [LB319]

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SENATOR MURANTE: Thank you, Senator Smith. Are there any questions for Senator Smith? Seeing none, thank you very much for coming down to the Government Committee. [LB319]

SENATOR SMITH: Thank you. [LB319]

SENATOR MURANTE: We'll proceed to proponent testimony on LB319. Welcome back, Mr. Secretary. [LB319]

JOHN GALE: (Exhibit 1) Thank you, Senator Murante. Senator Murante and members of the Government, Military and Veterans Affairs Committee, I am John Gale, J-o-h-n G-a-l-e, Secretary of State and chief election officer for the state of Nebraska. I am here to testify in full support of LB319 sponsored by Senator Jim Smith of Bellevue. We're very supportive, very excited about this piece of legislation. It does have two distinct elements. The one element is to remove the population lid for county election officials to designate rural precincts to be all-mail precincts in their elections. And there is a procedure they need to follow and standards because the Legislature gave us rules and regs authority, and we do have a set of rules and regs for the county election officials. If they're going to designate a rural precinct, they have to follow certain guidelines. And we then--I do--have to approve those. So there are only 60-some precincts that are rural precincts that have been so designated by our county election officials. That's about 4 percent of the total, which is about 1,400 precincts across the state of Nebraska. But it doesn't mean four percent of the electorate because precincts can be anywhere from very, very small. You could have a dozen voters in a rural precinct. And of course they can be as high as, I believe it's 1,750. So when you say 4 percent of the total precincts, it's not 4 percent of the voting population at all because most of these precincts are under 250 voters, and many of them are even smaller than that. So you don't expect maybe more than 30 or 40 people to show up at those particular precincts. By being able to designate them as a rural, all-mail precincts, it saves considerable money on the part of the county election official who does not have to transport equipment out to a facility. You do not have to worry about trying to find an ADA-compliant facility that is centrally located for everyone in that rural precinct. They don't have to worry about the condition of rural roads on election day in terms of whether they can get there or the voters can get there. And it definitely improves the voter turnout because the ranchers and the farmers and the small businessmen in those rural precincts are able to cast their ballot by mailing it back. So it's been very well received by the citizens who are in those precincts. But there's a cap. You can only be a county of 10,000 population or less to do this. It had started at 7,000. The Legislature increased it to 10,000. It's a logical time now to increase it to allow all counties to have the benefit of this legislation. It's not going to create all-mail elections across this state. It's simply going to allow, in my point of view, rural citizens in those rural areas to have an equal opportunity and accessibility to vote as people in urban areas have. People in these precincts, usually their polling site is not located very accessibly because it has to be an ADA-compliant place. It cannot be somebody's barn or warehouse. Secondly, they don't have to worry about bad

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weather. They don't have to worry about leaving their cattle or their crops in order to cast their vote. And it's not going to take them half an hour to drive and vote and come back. The other piece of the legislation is to allow the counties to designate candidate elections just as they can now designate economic issues for special elections in their counties. We have found that the turnout has gone from an average of about 29 percent to over 50 percent when you have a special election by all mail rather than by precinct election. A lot of that is just...it's a simple one-ballot issue and it's not very heavily promoted or understood by the public. And therefore, you have lower turnout. We think that it's important for a vibrant democracy to have a strong turnout, have local ownership of whatever issue they're voting on, whether it's a bond issue, a levy override, or a candidate vacancy or a candidate recall. You need as vibrant of participation of the citizenship as possible to take ownership and proprietorship of that issue. And these special elections have done that, have proven to be true in that regard over the last eight years. And we think it should be true for candidate matters as well. Thank you. We would urge your support of LB319.

[LB319]

SENATOR MURANTE: Thank you, Mr. Secretary. Are there any questions? Senator Hansen.

[LB319]

SENATOR HANSEN: Yes, thank you, Chair. Secretary Gale, you said that counties have the authority to designate what is a rural precinct and what is not considered a rural precinct.

[LB319]

JOHN GALE: Well, they have the authority to follow the rules and regulations that we have established. And those include a low population, a rural area without an ADA-compliant facility that's accessibly located for everyone in that precinct, thirdly, that it will save costs for the county election official in terms of hiring poll workers and transporting equipment, and lastly, that the roads are such that there isn't clear accessibility in poor weather for those people to be able to reach their polling site. [LB319]

SENATOR HANSEN: Okay. I'm just trying to get a better conceptualization of which precincts this would apply to. Are there any...for example, would any of these precincts be within Lancaster County just as that being my frame of reference? [LB319]

JOHN GALE: Well, interesting enough that's why we are asking to have the Legislature address this issue because a number of larger counties of over 10,000 such as Platte County, Lancaster County, every county no matter its size of the metropolitan areas or communities within that county have rural precincts that would fall within these designations. And those county election officials already handle mail-in ballots because of course they regularly have that 20 percent to 25 percent of people who do absentee or what we call early balloting. So it's not imposing any

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new requirements on a county election official, but it does save them money by not having...I think I've heard of precincts as small as five voters in some of the larger counties. So the county election officials would like to have this authority statewide. Now is it going to multiply the number of rural counties so that we're dealing with 20 percent rather than 4 percent? No, I don't expect that. No county election official has told me that they're waiting with a list of 100. But they do all have counties where they can save money. And of course, it's difficult to hire poll workers that have easy access to a rural county...a rural precinct. So if you have a community that's 10 to 15 miles from a rural precinct, you're going to have a hard time getting poll workers to make that trip in order to service a polling site. So it just saves a lot of headache and cost for the election official. And it enhances the convenience and accessibility for the rural voters. And since agriculture is our strength, I think that we need to give those agriculture voters as equal an opportunity as someone in the city who can catch a bus or they can walk or they can take a bike. And they have an ADA-compliant area. They have paved streets and paved parking. Well, you don't have that in these rural precincts. So I think it's enhancing the convenience and accessibility for rural voters. [LB319]

SENATOR HANSEN: Okay. Thank you, Mr. Gale. [LB319]

JOHN GALE: Thank you. [LB319]

SENATOR MURANTE: Thank you, Senator Hansen. Senator Groene. [LB319]

SENATOR GROENE: How many counties have done it so far under present law? [LB319]

JOHN GALE: Well, of those 60 precincts, I really would have to say it's probably somewhere in the range of 12 or 13 counties. Probably the largest number are in kind of north-central Nebraska and northern Nebraska, in the Sandhills. Cherry County probably has the largest number of that 60. I'm going to say, I'm guessing but I think it's about 17 rural precincts in Cherry County. [LB319]

SENATOR GROENE: Out of how many precincts do they have? And what percentage of their county? [LB319]

JOHN GALE: It's a large number. I would say if you looked at...if this table was Cherry County and this was Valentine, I would say virtually the whole county are rural designated precincts except for all of the precincts surrounding the community of Valentine. [LB319]

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SENATOR GROENE: Who designates them rural? What if Cherry County said we're just going to go all mail in? We'll consider Valentine rural too. [LB319]

JOHN GALE: Well... [LB319]

SENATOR GROENE: Can they do that? [LB319]

JOHN GALE: No, not under the current standards we couldn't, Senator, because we're looking at...we're not trying to create an all mail-in county. We're trying to create convenience and accessibility for rural people who don't have an ADA-compliant facility within a convenient distance. But in Valentine, of course, everything is very convenient and those precincts are larger than... [LB319]

SENATOR GROENE: They have to get your approval? I mean if the county clerk says... [LB319]

JOHN GALE: They do. Oh, yes. [LB319]

SENATOR GROENE: County clerk says we could save a lot of money if we just went all mail. [LB319]

JOHN GALE: I'm sorry if I missed your question. You're absolutely right. They have to recommend in writing. They have a form that they fill out and they have to answer various questions in order for us to review it. Then I have to approve it. And we've disapproved a number of requests because they are somewhat rural but partially metropolitan as well. And there are ADA-compliant facilities even though it's a smaller precinct. So you look at a precinct that's maybe more than 500, anything probably more than 500 within that precinct aren't going to get approved because it's usually an area that has paved roads, people can get to where they need to go. There's a church or there's a school where you can...so it's pretty...these are pretty rural areas. [LB319]

SENATOR GROENE: Are you afraid of fraud? And by that I mean you send it to a household with four or five voters but there's one dominant personality in that household that fills out all the ballots. Are you worried about any of that happening? [LB319]

JOHN GALE: Well, Senator, that is one of those larger issues that we have to face in election administration the closer and closer we get to all-mail elections. Whether it's rural precincts or whether it's special elections, as I've talked about, or whether it's following the example of

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Oregon and Washington and Colorado to go all state for all elections, that's always an issue of whether or not someone might tamper with a mailed ballot. Of course, these are registered voters, and they have established residences. But we have had examples. For example, a grandmother received the ballot of her granddaughter, who as I remember was away at college, voted absentee. The grandmother got it, said she knew how her granddaughter would want to vote. She filled it out and mailed it back in. I think she signed it. Somehow she disclosed that she had sent it and not her granddaughter. Well, she wasn't doing it in bad faith. She wasn't trying to commit a criminal act, but it was a criminal act. [LB319]

SENATOR GROENE: But you caught it. [LB319]

JOHN GALE: Yes. And then we have another example where a mother had died and she had requested an absentee ballot. The ballot came. Her daughter was helping clean up her affair. Saw the ballot and filled it out and said this is the way my mother would have wanted to vote. Well, again, these things can happen. But they get caught. They don't maybe always get caught. But usually because of the signature which has to be the signature of the voter which can be confirmed based upon the registration signature. So there are ways that those things can be established. But you're right. There's a...I don't think there's any method of voting that doesn't have some potential for an element of fraud. And that's where election administration comes in because election administrators have very strict rules on processing any of those mail-in ballots. And there is even a barcode on the return envelopes anymore that has a lot of specific information about that individual. So we think that as long as election administration follows very fair, reasonable, accessible, transparent rules to protect fraud, it goes a very, very long way to preventing it. [LB319]

SENATOR GROENE: You don't recommend this in the long run, that we start voting every...this isn't a trial to keep moving towards this type of voting, the old ballot box and the precinct is still the preferred method. [LB319]

JOHN GALE: Well, it certainly is the preferred method today, Senator, and it's certainly our preferred method. We think that the equipment we have, which is both the vote tabulation equipment which counts our paper ballots and also the AutoMARK equipment which is required by federal law to allow people with physical handicaps or visual impairment to be able to go to their election precinct and vote, this equipment that we have for the handicapped and visually impaired would allow someone who's a quadriplegic who has to vote with a straw to do that. And so it's very accommodating equipment. It's also very expensive and hard to transport. But every precinct now has that. If you go to all mail-in elections eventually, it eliminates the need for half of that equipment because at that point then the visually impaired and the physically handicapped would be able to return a ballot because it's a mail-in ballot. Some would still need

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assistance. And so then you get back into the fraud situation. If you have somebody totally blind getting assistance and casting a ballot, then is the person reliable or not who's filling out that ballot? So you run into those issues. But I think that may well be the direction we're going simply because the cost of replacement equipment. There is not equipment that's met the federal standards of testing that will replace what we have. The new types of equipment that are being considered for marketing are extremely expensive. The state could never afford it. So what we're doing I think is incrementally moving toward that, but we're doing it by creating systems that are extremely helpful and convenient and accessible for our voters like the rural precinct program. We're not trying to convince the rural voters that all-mail elections are the way to go. But we're trying to make it more convenient, accessible, and less costly for them. But in addition, we also get that wonderful increment of a higher turnout level because more people can vote. The old special elections on levy overrides and school bonds used to have turnouts like 11 percent. Now is that the voice of the people? Is that the kind of voice you want to have on a tax issue, and economic issue? No. I would like to have the most vibrant cross section of the community as possible. And by having these special elections for economic issues as well as for candidates, we can get that up to 50 percent, 55 percent turnout. [LB319]

SENATOR GROENE: One quick question, I don't want to take a lot time. [LB319]

JOHN GALE: Certainly. [LB319]

SENATOR GROENE: But that person can still go drive into Valentine--I'll just use an example--walk in the county clerk's office and vote, right? [LB319]

JOHN GALE: They can vote early. [LB319]

SENATOR GROENE: They can vote and then that mail-in ballot is just...throw it in the trash. [LB319]

JOHN GALE: It's just...well, if they have a mail-in ballot and they haven't returned it, and you're saying can they still go vote someplace? They can go into the county election office and vote the day before the election. But they can't return that ballot... [LB319]

SENATOR GROENE: I'm just asking. They still have that option. If you believe in the secrecy way of voting and you want to walk into a booth, they can still do it. In North Platte, it's the county clerk's office. [LB319]

JOHN GALE: Correct, you can still do that. [LB319]

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SENATOR GROENE: You can still do it that way. [LB319]

JOHN GALE: Absolutely. [LB319]

SENATOR GROENE: Thank you. [LB319]

SENATOR MURANTE: Thank you, Senator Groene. Senator Garrett. [LB319]

SENATOR GARRETT: Thank you, Chairman Murante. Thank you, Secretary Gale, for being here. All mail-in ballots, do you cross-check those signatures on all of those with the voter registration? [LB319]

JOHN GALE: Well, on the county level when they come back, they are examined by each county election official. Those are examined. And if there's any question about the condition of those ballots, maybe...I mean people mail them back in in the wrong ballot. They'll not use the return ballot. They won't sign some of them. And so there are a number that need to be closely reviewed. But my understanding is that those ballots are examined for the signature, and the barcode is checked. [LB319]

SENATOR GARRETT: So it's just using the Mark I eyeball. There's not some software that's comparing signatures from the original voter registration with the absentee ballot. [LB319]

JOHN GALE: Not that I'm aware of, Senator. I believe the county election commissioner Wayne Bena is going to testify after me. And he may be able to address that as an election administrator. We haven't had any cause for concern at my office for the way they handle the review of those mail-in ballots. [LB319]

SENATOR GARRETT: Okay, thank you. [LB319]

SENATOR MURANTE: Thank you, Senator Garrett. Any additional questions? Seeing none, thank you very much for coming down today. [LB319]

JOHN GALE: Thank you, Senator Murante. Thank you. [LB319]

SENATOR MURANTE: Much appreciated. Additional proponent testimony on LB319. Welcome to the Government Committee. [LB319]

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WAYNE BENA: Hello, Mr. Chairman, members of the committee. My name is Wayne Bena, W-a-y-n-e B-e-n-a, and I serve as election commissioner for Sarpy County, Nebraska, our third-largest but smallest county in the state of Nebraska. I also serve as legislative cochair for the Nebraska Association of Election Commissioners, Register of Deeds, and Clerks. And if you want to know how to get that job, give a presentation about election law at a committee meeting and then they make you cochair afterwards. (Laughter) These same comments I'll make in the next four, so I won't do the roll up like I will the next four because I have to be a little bit more expeditious with my four minutes on those bills as they're a little more lengthy. But I wanted to express the sentiments of our clerks association, that we are supportive of this measure as it allows us an additional tool in the toolbox to successfully conduct elections within our counties. In regards to allowing precincts by mail, Sarpy County would probably not have any precincts that would be eligible. But I'm supportive of adding that to our fellow election commissioners who could use that in situations that there are 10,001 residents but they still have the same issues of a county that's under 10,000. Especially what I like about this bill is it will allow the opportunity for election commissioner to determine any special election, whether or not it should be held by mail. Again, this isn't going to force the election to be held by mail, just allowing us the opportunity to make the determination. What's the best method of conducting that election in our county? The best example that I can give is we had to do a special election by mail in the Springfield Platteview Community Schools District. And it was a school bond issue. And it was much less expensive to conduct that election, that bond issue by mail than opening a polling site. However, if I would have had to fill a vacancy on that school board, I would have had to have had a polling-site election costing the taxpayers of that district a lot more money because I would have had to open 11 precincts, polling sites for that election. Special elections are becoming more and more prevalent. In 2013, when I was supposed to have no elections, I had seven special elections in Sarpy County. So again, this is an additional tool in that toolbox that allows us to determine the best method of how we conduct an election in our counties. And with that, I thank you for this committee's time. [LB319]

SENATOR MURANTE: Thank you, Commissioner Bena. I have a couple questions for you. First of all, on the portion of the bill that pertains to special elections to include candidates, would the local election commissioners and clerks have the authority in those special elections to have a portion of the district go vote by mail and a portion of them be done at polling places? Or is it just one wholesale? It's either done vote by mail, or it's done at a polling place? [LB319]

WAYNE BENA: It'd be one or the other. [LB319]

SENATOR MURANTE: It's one or the other, okay. That would satisfy any concern I have on that portion. But the second, we talked about this a little bit last year. When we talk about Presidential and gubernatorial elections, particularly primary elections, and we have different methods for conducting the elections and one of those methods results in a substantially higher

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turnout than the other. The first question I'll ask you is do you foresee in an election, especially let's say a gubernatorial primary where you have multiple precincts in a county--some of them have all vote by mail, the other of them have polling places--do you anticipate having a substantially higher voter turnout percentage in the vote by mail precincts? [LB319]

WAYNE BENA: I've never had to have...I mean, Sarpy County will never have that issue ever come up. But looking at special elections conducted by mail, we see a significant higher turnout in regards to those elections than those at a polling site. And I would say looking just at...you know, I don't look at the turnout data for every one of the counties, but you do see a higher turnout in those vote by mail precincts. So would you see a higher turnout? Yes, and there's a...but you don't know whether or not these people would have gone to their polling site anyway on election day had it been a polling site. It's hard to say one way or the other. But the data shows that in many cases it is a higher turnout in those vote by mail precincts. [LB319]

SENATOR MURANTE: That gets us back to the--not hypothetical--the real-world example of Senator Davis' primary where, as was accurately stated, Cherry County has a number of rural precincts that had substantially higher turnout than the rest of that district. And those voters happened to support a candidate that was not Senator Davis. And that candidate received a pretty healthy bump in the primary election just by...not by virtue of, you know, the candidates or how they ran their campaign, but because the voting base for one candidate happened to be a district that had vote by mail precincts. And they...he yielded the benefits of that. I'm not sure that's an appropriate public policy for the state of Nebraska to have. I'll let you comment on that, but that's I think the net effect is what happens when we get into those situations. [LB319]

WAYNE BENA: It's a fair comment to make, Senator. And what I would also say to that is that we are seeing early voting, period, increase. So the...regardless if this bill is passed or not passed, the number of people that are choosing to vote early or by mail is increasing with every election. For example, I had 1,000 more people come into my office in May 2014, than came into my office in May 2010. That's a huge substantial difference. And we were almost overwhelmed with the amount of people that came in that primary. And so as more and more people are voting early and voting by mail, they're continuing to do it more. And we're going to see regardless if this bill is passed, with every election you're going to see more and more people vote early and we're going to hit that tipping point that half the people are voting before election day and half the people are voting after election day. And then we have to make the determination which is probably the preferred voting method. So regardless if this bill passes, voting by mail is increasing just by normal elections because people don't want to go to their polling site on election day. They want to get it done. I do understand that. But at the same time, as early voting is increasing, what you think is going to happen on a state senate level is going to happen on a state level because more people are voting before the election than showing up on election day. [LB319]

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SENATOR MURANTE: Thank you very much. Senator Garrett. [LB319]

SENATOR GARRETT: Thank you, Chairman. Thank you, Mr. Bena, for being here. Going back to the question, when you get an absentee ballot, a mail-in ballot, are every one of those mail-in ballots' signatures being compared with the voter registration? [LB319]

WAYNE BENA: Correct. When they are checked in, you know, we scan a barcode. And in another bill, I'm actually going to show you an envelope so you'll be able to kind of see that in another bill. We scan the barcode. Their record comes up. Their signature pops up. And we match the signature with the signature they have on file in the registration. If it doesn't match up, then we have a county board, my deputy and I determine whether or not we believe that signature is correct or not. And if not, then the voter, we contact the voter to either fill out a new registration card because their signature might be changed, or it alerts them that there might be something nefarious going on. And as a comment to the senator made regarding...we had in one special election, we saw a signature and it wasn't right. And we're like maybe the mother did it. And we looked at the mother's. Well, the mother's signature didn't match the daughter's or her own. One up, grandma signed all three. So again, we do catch that. We do catch those and they are...and then we send a letter saying that the signature isn't matching. Surprisingly, we don't hear anything back in certain situations because they don't want to turn grandma in possibly. But that does happen. But the number one, those don't happen very often. Our biggest are they forget to sign them or our biggest issue has to do with power of attorney. Power of attorneys will sign them for them. And again, that's not allowed under the law. But we don't find too many instances when people signing them for somebody else. But we do catch them in the registration and signature process. [LB319]

SENATOR GARRETT: But you're just using the old Mark I eyeball. There's not some kind of software that will compare the two signatures? [LB319]

WAYNE BENA: No. There is out there, and I think if this state were to move to all postal mail elections, that's some technology to look at that will help the process because we're not handwriting experts. [LB319]

SENATOR GARRETT: Right. [LB319]

WAYNE BENA: And we're doing the best that we can. And can one slip? Quite possibly it could, but we do the best that we can to look at every one. [LB319]

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SENATOR GARRETT: And the fact that you've got so many more people voting early now, you know, that's going to require a lot more of you. [LB319]

WAYNE BENA: Yeah, we have more dedicated staff to early voting than we ever had. It's...I'm preparing more for those than I am on election day because I have 30 election days now and not just one. [LB319]

SENATOR GARRETT: Thank you. [LB319]

SENATOR MURANTE: Thank you, Senator Garrett. Senator Groene. [LB319]

SENATOR GROENE: My concern though is the grandma says you're not getting supper unless you vote this way and then you sign it. A secret ballot inside of a ballot booth is really, really a strong... [LB319]

WAYNE BENA: I'd also contend we have a lot of husbands and wives that come to the polling site that start talking to one another at a table that we have to...so it even happens at a polling site. [LB319]

SENATOR GROENE: I'm not so sure my mother would have ever got to vote for John F. Kennedy if Dad was sitting at the table when they voted. I came from a family where Republican and Democrat married. So that's the kind of thing, personal. That bothers me if we take this too far. [LB319]

WAYNE BENA: Yeah, and again, there has to be...you have to have a commissioner that wants to do this. And then they're going to have to apply. And then there's a set of standards that the Secretary of State...when this bill came up last year, I made the joke that I'd probably apply every one of my precincts for this method. And I would get denied for all 51 of them. So you know, I favor looking at methods such as all postal mail balloting due to the fact of, you know, the equipment that we have is aging. And it's one option of many that we take a look at. And I hope over the course of the next few years, I can work with this committee to determine and help give input of how we conduct and pay for elections moving forward as we...towards the end of the life cycle of the equipment that we have. [LB319]

SENATOR MURANTE: Thank you, Senator Groene. Any additional questions? Seeing none, thank you for coming down today. [LB319]

WAYNE BENA: Thank you. [LB319]

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SENATOR MURANTE: Additional proponent testimony for LB319. Mr. Shively, welcome back to the Government Committee. [LB319]

DAVID SHIVELY: A couple days in a row here. Senator Murante and members of the Government Committee, my name is David Shively, S-h-i-v-e-l-y. I'm the Lancaster County Election Commissioner. And I'm here today in support of LB319. I will be real brief. Lancaster does have a handful of precincts, maybe two or three, that are very low in number of registered voters that we may consider doing this if this is passed, if they meet all the other regulations according to the Secretary of State's Office. They're small not because that's the way we wanted to design them, but they were designed that way because of the way legislative lines were drawn and they are outside the city of Lincoln but there are just a very small number of voters that might be in that legislative district. So one that would be one of the reasons. The second part of the bill allowing us to do any type of an election by mail, a special election if it would happen to be a candidate's name on it or a recall election, we would be supportive of that as well. Very seldom do we have a special election where a candidate's name would be on it, probably outside of a recall election. But it would give us an opportunity to do those elections by mail as well. So I'd be supportive of that. I'd be happy to answer any questions. [LB319]

SENATOR MURANTE: Thank you very much. Are there any questions? Seeing none, thank you very much for coming down today. Much appreciated. Additional proponent testimony to LB319. Welcome to the Government Committee. [LB319]

BRI McLARTY: Are you okay? [LB319]

SENATOR MURANTE: I'm just so excited to see you. (Laughter) [LB319]

BRI McLARTY: I've been looking forward to this day as well. All right. My name is Bri McLarty; that's B-r-i M-c-L-a-r-t-y, and I'm representing Nebraskans for Civic Reform in support of LB319. I thought Secretary Gale said it best so I'll be very brief. We at NCR are very...find it very important to engage our members of our community in our civic-minded and democratic ideals. So we appreciate the fact that this could be expanded to all 94 (sic) counties to allow them to increase voter participation. I do have a number. It's 74 counties that have 10,000 or less population. So, glad I could help out. So like I said, we support the bill. We really hope that you'll consider voting for it and getting it to move forward mostly so we can allow the counties and the county clerks the tools they need to increase voter participation in candidate as well as issue elections. [LB319]

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SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down today. Additional proponent testimony to LB319. Mr. Dix, welcome back to the Government Committee. [LB319]

LARRY DIX: I am so glad to be here. Senator Murante, members of the committee, for the record, my name is Larry Dix. I'm executive director of the Nebraska Association of County Officials. And it's great we have a couple of election commissioners in here to answer all the detailed questions that may come up. We always appreciate that. But the way the process is, someone from NACO has to be here to put NACO's official position on record. I'm here letting you know NACO's official position is to support this piece of legislation. So with that, I would be happy to answer any questions that you have. [LB319]

SENATOR MURANTE: (Exhibits 2-5) Thank you very much. Are there any questions? Seeing none, thank you very much for coming down. Additional proponent testimony to LB319. Is there any opposition testimony to LB319? Is there anyone who wishes to testify in the neutral capacity? Seeing none, Senator Smith has waived his closing. And before we close the public hearing on LB319, I have two letters of support: One from Diane Olmer, Platte County Election Commissioner; the other from Dave Phipps, Douglas County Election Commissioner; and one neutral testifier, Amy Miller, ACLU; it looks like we just got another letter of support in from Joann Fischer, Knox County Clerk and Election Commissioner. So with that, we close the hearing on LB319 and proceed to the next item on the agenda, LB514, Senator Craighead. Welcome. [LB319]

SENATOR CRAIGHEAD: Good afternoon, Chairman Murante and members of the Government Affairs Committee. My name is Joni Craighead, J-o-n-i C-r-a-i-g-h-e-a-d. I represent the 6th Legislative District in Douglas County. I appear before you today to introduce LB514. LB514 will offer voters an additional option to verify their eligibility when registering to vote and wishing to cast or take home an early ballot on the same day. Currently, the only option for this scenario under Nebraska state law is for the elections official to separate the early voting ballot into an envelope and wait ten days after a voter has been mailed an acknowledgement and verification of registration card in order to process, open, and ultimately count the early voting ballot. Under LB514, voters may provide an address confirmation document as an alternative to having the early ballot be placed in a separate envelope. The process of providing an address confirmation document already exists in state law. When a voter registers to vote in Nebraska for the first time by mail, they are required to provide a copy of an address confirmation document. This document can be a photographic identification which is current and valid or a copy of a utility bill, bank statement, government check, paycheck, or other government document which is dated within the 60 days immediately prior to the date of presentation and which shows the same name and residence address that the person provided on the registration application. If this document is not provided at the time of registration and after subsequently being contacted by

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the election official, then the voter must provide such an address confirmation document at their polling site on election day or they are required to cast a provisional ballot. This bill establishes a similar process for address confirmation at an early voting site as an alternative to the current procedure of placing the ballot in a separate envelope. The bill also exempts those ballots that are requested to be mailed at the same time that a registration form is also received. By having the early voting ballot mailed to the same address as the acknowledgement and verification of registration card, an address confirmation process already exists. This bill was brought to my attention by the Sarpy County Election Commissioner on behalf of his fellow election officials in Nebraska which have raised concerns about the lack of options in the current process. It is my understanding that we will have testimony from various election officials this afternoon that can speak to the more technical aspects of this bill. I thank you for your time and your consideration of LB514. I would be happy to answer questions that you may have. [LB514]

SENATOR MURANTE: Thank you, Senator Craighead. Are there any questions for the senator? Seeing none, thank you very much. And we will proceed to proponent testimony on LB514. Welcome back, Commissioner Bena. [LB514]

WAYNE BENA: (Exhibit 1) I left my notebook, but I'm not going to need it. Good afternoon, members of the committee. Again, my name is Wayne Bena, W-a-y-n-e B-e-n-a. I serve as election commissioner for Sarpy County. I appreciate the committee's consideration of this bill. I want to talk a little bit about the history of where this bill is coming from, and then talk a little bit about the procedure as you're being passed a packet of information that will help out here in a minute. Two years ago, LB565 was introduced by then-Senator Nelson, now former Lieutenant Governor Nelson, in which the bill stated that you could not register to vote and vote on the same day. And that was the entire bill. While this bill did help solve some issues that we were seeing for people that were registering to vote and voting on the same day, we felt as election commissioners there was a lack of options. So working with various election officials and the Secretary of State's Office, we had a procedure in place that we thought could help in these situations. In my committee testimony, I've provided that as an amendment. As a possible solution to make everybody happy. And the committee decided that the amendment that I brought should be the actual bill and was voted out of committee. It was then placed as a Speaker priority bill two years ago, but never acted upon. Last year, Senator Nelson made this his priority bill and it was placed on the floor for debate. During the debate, a compromise was made at the last second in order to move the bill forward which removed these portions of this bill out of it and moved forward and passed into law and went into effect for the general election last year. The compromise had some unintended consequences in which the only way that we could let an early voter cast a ballot and register to vote at the same time was to place it into a separate envelope, send a card, and then wait ten days for that ballot to be counted. This provided a lack of options. And what we were trying to do and the intention was to mirror the current process of what happens at a polling site to actually what happens at an early voting site, which is 30 days of

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what's happening at a polling site. It just happens before the election, while still registration could go on. So as a little bit of a background to the packet that you see, the first is the voter registration application. As you can see in the highlighted portion, if you do not provide an address confirmation document, if you're registering to vote and vote...registering to vote for the first time by mail then you're required to provide such address confirmation document. If you do not provide such a document, the second page is a letter that we send to the voter letting them know that we need an address confirmation document in this situation. And if you do not provide that before election day, you're going to have to provide that on election day. The next document I give you is a copy of the...what a poll book looks like. And in the situation in which a person has registered for the first time by mail, has not provided the address confirmation document as required by mail, and has not returned our letters asking for such information then you see is the one instance under Nebraska state law that we are allowed to ask for an address confirmation document. This can be a government-issued ID, bank statement, utility bill, anything within the last 60 days that has your name and address. The current bill before you will...the current bill before you provides that same standard at a polling site...in the early voting polling site because right now all that we can do--and the last is the copy of the envelope that we use in our office--is if you register to vote and wish to cast a ballot on the same day or take it home with you on that same day, then we put it in this envelope and wait for the yellow card that you have there to be sent to the voter and hope that doesn't come back. By providing an address confirmation document at the time of registration and providing an early ballot, we provide the same standard as we do at the polling site. We provide an additional option and also we feel is that we're going to have a lot of people registering to vote and voting for the first time in a Presidential election. Many ballots that we can't get an acknowledgement card on that final tenth day may not be able to get back in time and voted and counted on election day, thus there are some ballots that will not be counted on election day. Well, most election officials take pride in counting all of their ballots on election day. And with that, I will take any questions regarding this bill. [LB514]

SENATOR MURANTE: Thank you, Commissioner Bena. Are there any questions? Seeing none, thank...oh, excuse me. Senator Groene. [LB514]

SENATOR GROENE: I'm confused. When I read the language, it's about the military. [LB514]

WAYNE BENA: Under current law, those are the exemptions from having to provide an address confirmation document. So this would say that you have to provide an address confirmation document. The rest of the bill considers the exemptions from having to provide an address confirmation document which are the current exemptions for those folks that register to vote and vote for the first time...register to vote by mail for the first time in Nebraska and don't provide that document. Those are the notable exceptions that can be used. So it mirrors that language. [LB514]

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SENATOR GROENE: But it covers everything? [LB514]

WAYNE BENA: Um-hum. [LB514]

SENATOR GROENE: Thank you. [LB514]

SENATOR MURANTE: Okay. Senator Groene. Seeing no other questions, thank you very much for coming down today. Do we have additional proponent testimony to LB514? [LB514]

LARRY DIX: Senator Murante, members of the committee, my name is Larry Dix; it's spelled D-i-x. I'm the executive director of the Nebraska Association of County Officials and here today in support of LB514. Once again, we want to make sure we get on the record NACO is on record as supporting this legislation. With that, I'd be happy to answer any questions anybody would have. [LB514]

SENATOR MURANTE: (Exhibit 2) Thank you, Mr. Dix. Are there any questions? Seeing none, thank you very much for your testimony. Additional proponents wishing to speak on LB514. Seeing none, is there any opposition testimony to LB514? Is there any neutral testimony to LB514? Senator Craighead, you are recognized to close. Senator Craighead waives closing. And before we close the hearing on LB514, I have a letter of support for LB514 from Dave Phipps, Douglas County Election Commissioner. And with that, the hearing on LB514 is closed. And we have a couple a bills coming up, so I will turn the Chair over to the Vice Chair to handle these. [LB514]

SENATOR GARRETT: Welcome, Senator Murante, to your Government, Military and Veterans Affairs Committee. [LB575]

SENATOR MURANTE: (Laugh) Thank you very much, Vice Chairman Garrett and members of the Government, Military and Veterans Affairs Committee. For the record, my name is John Murante, spelled J-o-h-n M-u-r-a-n-t-e. I represent the 49th Legislative District here in the Nebraska Legislature which includes Sarpy County, Gretna, Chalco, and portions of Papillion and La Vista. I'm here today to introduce LB575 which changes various elements of Nebraska's election law. This is a bill that I'm introducing on behalf of the Secretary of State John Gale whose office is here today to answer any technical questions you might have. And I believe that most of the changes that you'll find with this legislation are rather technical in nature. And we're calling this the Government Committee cleanup bill for the year. So that's what we're here to do. I'll go through some of the notable points and let the Secretary or his office perhaps provide further detail. First of all, the bill clarifies that all vacancies for public offices need to be filled

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within 45 days of the vacancy. It replaces the term "a majority" with the term "one-half or more" for vacancies which trigger a special election. Various places in current statute require a special election to be held when there are vacancies in a majority of the elected board's seats or members. However, there are situations where certain boards may have an even number of seats or members. And should there be vacancies in half of an even-numbered board, it is not a majority so there is no special election. But a quorum does not exist to fill the vacancies under normal procedures. Third, the bill replaces "ten days" prior to election with the "second Friday" as deadline for write-in affidavits. This proposal addresses some confusion that has arisen regarding the counting of days prior to an election for the write-in deadline. The bill would offer provisions that allow early voting requests to be submitted via e-mail. And it's important to note that before a ballot is mailed, that a signature is still required. Finally, the bill removes the primary election information from an early voting return envelope. There have been complaints in the past about disclosing party affiliation on the outside of the early voting return envelope. And with the central registration database, this information is coded on the mailing label and is no longer necessary for the voter to provide. With that having been said, I will ask for your support of the bill and will try to answer any questions that you may have. [LB575]

SENATOR GARRETT: Are there any questions? Seeing no questions, thank you, Senator Murante. Are there any proponents that would like to testify on behalf of the bill? Welcome. [LB575]

NEAL ERICKSON: (Exhibit 1) Thank you, Vice Chairman Garrett, members of the committee. For the record, my name is Neal Erickson; that's N-e-a-l E-r-i-c-k-s-o-n, and I'm Deputy Secretary of State for Elections here to testify in support of LB575. I'd first like to thank Senator Murante for introducing this proposal, which is essentially a cleanup bill containing about nine items. The pages are distributing a summary of these changes. One contained...and I'll kind of give you some reference, and the order that I talk about them is also in the summary. One contained in Section 6 beginning on page 5 of the green copy simply removes outdated language regarding certain county commissioners, elections that applied up until 2010. As we were doing this bill, we found that language and so decided to get that out of there to kind of clean up the statutes. Two others, and I think Senator Murante mentioned one of them, are result of some comments we received from both local election officials and some of the voting public. One, the first is in Section 11 that begins on page 11 and changes the language regarding the deadline for filing for a write-in candidate from "ten days" prior to the election to "the second Friday" before the election. Based on the way the Attorney General's Office who approves the election calendar counts days, the deadline falls on the same date. So it's going to end up with the same effect. But other people don't always count the same way. And so they end up, well, no, I should be able to file on Saturday. Well, no, this is way the calendar is. And so we're changing that language to make it maybe a little bit easier for the public to understand. The second is in Section 13 and removes a line from the early voting envelope that has the voter fill out which political party the

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envelope contains. As this information is already contained in the barcode labels attached to it, it's unnecessary and, you know, we've maybe had maybe a half-dozen comments about that over the past couple years. But not a difficult change to make and so we're suggesting that. Sections 5 and 12 address more technology issues. Section 5, which begins on page 4, has the effect of changing the deadline for local election officials to complete their voter history recording. Current law that has been in effect prior to the creation of our central database allowed them 60 days to do it. Now with the barcode scanners that we provide to the counties and the way the poll books are set up, it's a bar...they scan barcodes and that enters in voter history. We feel they're capable of doing that within 30 days, and there should not be a problem with that. Section 12 allows early voting requests to be e-mailed in addition to the current statutory language "faxing." It should be noted, however, and I think Senator Murante mentioned this, that the signature on the early voting request is still required. Section 14 found on page 16 allows the Secretary of State to designate a location within the State Capitol for the meeting of the state canvass board. Current statute says it has to be the Secretary of State's Office. Unfortunately, our office is not designed to be able to accomplish or accommodate the open meeting aspect if we have public attend or if we have media attend, things like that. We just don't have the space. We'd be able to put the canvass board in there by themselves. But additional space for members of the public, etcetera, isn't available. So this would allow the Secretary of State to still designate a location. It would still have to be in the Capitol, but it could be someplace other than his office. The remaining three proposals are a bit more complex in terms of explanation. And if I run out of time, I'll stop. But on Section 8, on page 9 of the green copy takes the last sentence of a section in current statute. And what this section is, it has a listing of vacancies...oh, I see my time is up, unless you would like me to continue on those. [LB575]

SENATOR GROENE: Yes. [LB575]

SENATOR GARRETT: Yes. [LB575]

SENATOR GROENE: The guy behind you said it's okay. He's still Chairman. [LB575]

NEAL ERICKSON: Yeah, when you have nine items in a bill, it gets a little tough. But the section of law has 15 different subsections in it that list various political subdivisions and say this is how you fill their vacancies. And then below it is a sentence that says: unless good cause is shown, these vacancies must be filled within 45 days. Well, our office has always interpreted that that sentence stands alone and does not apply to those 15 subsections. We have other political subdivision attorneys that have taken the attitude that if it's not listed in those 15, then the 45-day deadline does not apply to us, which we strongly disagree with. So what we're doing in LB575 is taking that last sentence and putting it into its own section. And once it's...you know, once it's not tied to those 15 subsections, then I think it's very clear under the law that this

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applies to all vacancies whether they're listed in those 15 subsections or not. I think Senator Murante explained Section 9 which is "majority" or "one-half or more." We prefer the "one-half or more" because, as he mentioned, when you have an even-numbered board, let's say six members. They have three vacancies. The law doesn't trigger to hold a special election, but in addition, they don't have a quorum to be able to fill them themselves. So they're kind of in a quandary. So just a simple change in language I think helps that. Sections 10 and 11 address what are called antifusion laws. Fusion candidates are candidates that are nominated by two or more parties. Nebraska has had antifusion laws in it since the early 20th century. There are some states that allow fusion candidates. New York, you could be nominated by the Republican Party, the Conservative Party, the Libertarian Party. They can all have the same candidate. In Nebraska, we have a law that prohibits that. But what we noticed after a bill passed last year is there were a couple holes in it in terms of the way the language was written. One is it didn't address write-in candidates. And so there's now going to be a restriction in there under this proposal to say that political parties have the ability to adopt a rule saying you don't have to be a member of my party to be my nominee. But we don't want them being parties...nominees of two or more parties. So we take care of the write-in area on that. There's some language in there to care of that. In addition, there's some language that clearly says you cannot be the nominee for more than one party. Thank you for the opportunity and the extra time. And I'd answer any questions you might have. And I know some of this is kind of getting down in the weeds. So if you have questions, I'll try and answer them. [LB575]

SENATOR GARRETT: Thank you, Deputy Secretary of State. Are there any questions? [LB575]

SENATOR HANSEN: Thank you, Vice Chairman. My question was just on when you say voter registration...vote by mail requests can be e-mailed but still require a signature. [LB575]

NEAL ERICKSON: Right. [LB575]

SENATOR HANSEN: Is that then there say printing off and signing a paper copy, scanning that as a PDF, and then e-mailing that back as...? [LB575]

NEAL ERICKSON: And that is the method we envision. The difficulty with just doing it as just an e-mail request: Please send a ballot to so and so and they may...we don't know where it's coming from. [LB575]

SENATOR HANSEN: I certainly understand why you'd want the signature. I just wanted to make sure the process was clear. [LB575]

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NEAL ERICKSON: Right. Yeah, it wouldn't probably require scanning...or I think there is some things now that allow you to sign, in effect, on the screen, in effect, and be able to e-mail that. And that would be sufficient as well. But we do need that signature. [LB575]

SENATOR HANSEN: Okay. Thank you. [LB575]

SENATOR GARRETT: Thank you. Would a digital signature work? I mean there's software out there that would allow you to... [LB575]

NEAL ERICKSON: And that's what I was talking about. Exactly. Yeah. [LB575]

SENATOR GARRETT: Okay. Great. Okay. [LB575]

NEAL ERICKSON: I mean, I know there's some things you can do. And in fact, with the touchscreen monitors now, there's some you can even write on the screen itself. [LB575]

SENATOR GARRETT: Right. [LB575]

NEAL ERICKSON: Those would be okay. But we do need that signature so we have an idea of where that request is coming from. [LB575]

SENATOR GARRETT: Senator Groene. [LB575]

SENATOR GROENE: It has to be your signature, right? I did some documents recently where they had a whole list of signatures that...my name. And they said pick the closest one to your signature. It has to be your signature, right? [LB575]

NEAL ERICKSON: Yes, it has to be your signature. And it is...well, there isn't a...you can do an early voting request being an agent. And so a mother or a parent could request early voting ballots for those...for say children that might be away at school or something. But by having a signature, at least we know where that is coming from. [LB575]

SENATOR GARRETT: Any other questions? Thank you, Senator (sic) Erickson. [LB575]

NEAL ERICKSON: Thank you. [LB575]

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SENATOR GARRETT: Are there any additional proponents? Welcome, Commissioner.
[LB575]

DAVID SHIVELY: Thank you. Good Senators, my name is David Shively, S-h-i-v-e-l-y. I'm the Lancaster County Election Commissioner. I'm here today in support of LB575. During the course of the year, we do meet with the Secretary of State's Office on occasion. We discuss issues that we feel that are not quite clear in state law. And this bill as well the one that's coming up after this just represents some of those issues that we've come up with. And I'd just encourage your support of this. But I'd like to talk about three of them that are in the bill that are important to me as an election official. The replacing the "ten days prior to the election" with "the second Friday," that does seem to cause some confusion sometimes. And so then we actually have an actual day, so that makes more sense to us instead of trying to count back. We do get requests from people that want and think they should be able to scan us an application for early voting. We can't accept that right now. So this gives that opportunity to do that. It's nothing different than what we get from a fax. They can fax it to us, but you can't scan, sign, and e-mail it to us. So that makes sense to us as well. And also, voters don't like their party affiliation on their absentee ballot sometimes. And we do have complaints because that's on there. And so removing that would also give us an option to alleviate complaints that we sometimes get from voters. And with that, I'd be happy to answer any questions. [LB575]

SENATOR GARRETT: Thank you, Commissioner Shively. Are there any questions? Thank you.
[LB575]

DAVID SHIVELY: Thank you. [LB575]

SENATOR GARRETT: Are there any other proponents? Welcome, Commissioner Bena.
[LB575]

WAYNE BENA: This will be the shortest testimony I ever give in this committee. Wayne Bena, W-a-y-n-e B-e-n-a, I serve as election commissioner for Sarpy County. I'd like to thank the Secretary of State's Office for taking a couple of sections that was going to be in the bill you were going to hear next into theirs. So instead of 13 sections, ours is now 11. So again, we want the ability to be able to...I get requests all the time. Hey, can I e-mail you this form. Again, the most situation, Senator Hansen, that we get is people have a scanner at their house. It's our application. They've signed it. And to me, scanning and e-mailing it is the same as a fax, but there's been differing opinions of whether or not we can take that by e-mail. This just solidifies that we can. You couldn't just send an e-mail from MattHansen@yahoo.com and, you know, what have you. It would have to be the same form or the same information as required with an actual signature that we could match up in the case of if it were to be you. The second portion,

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and what I want to refer to, each one of you has an envelope which is the exact same envelope we use for early balloting. We wanted to remove the portion in which it's asking you...pretty much the entire bottom of that envelope where it's requesting you to say your political party as well as--and we just caught this as we were reading--the next three lines of that section in the law: "Ballots contained in this envelope are for the _____ (primary, general, or special) election to be held on the _____ day of _____ 20__." We would like that removed as well. It was not in the initial portion of the bill. I just spoke with the Deputy Secretary of State, and they're okay with that as well. The number one reason we have people coming into the office saying do we have to fill this out in order for our ballot to count? The only thing that it requires us to have is the actual signature. And so it saves us time if we can just be able to remove that so we don't have to have people coming into the office asking do they have to do this. As you can see on the sticker that's on the middle of that folder, it tells what political party it is as well as what the election is for. So that information is already provided on the sticker that we put on it. So we don't necessarily need it on the envelope. Again, if there's a clerk or commissioner that wants to put this on the envelope, it's fine. It just removes the requirement that we have to put it on the envelope and thus saving our staff some time from having to answer questions of do I have to fill this out? So with that, I thank you for the committee's time. [LB575]

SENATOR GARRETT: Are there any questions? Thank you, Commissioner Bena. Any additional proponents? Welcome, Director Dix. [LB575]

LARRY DIX: Thank you, Senator Garrett. For the record, my name is Larry Dix, D-i-x, executive director of the Nebraska Association of County Officials appearing today in support of LB575. We, too, certainly appreciate the relationship that we have with the Secretary of State's Office and look forward to bringing these types of ideas together and forward that we think makes for the betting running of elections in the state of Nebraska. I think all the county officials are pretty proud of the job that they do. In Nebraska, we do run very, very good elections, and these are some things that makes us just a little bit more efficient. So with that, I would support this and answer any questions anyone would have. [LB575]

SENATOR GARRETT: Thank you, Director Dix. Are there any questions? Seeing no questions, thank you. Additional proponents. Welcome. [LB575]

BRI McLARTY: Thank you. Members of the committee, my name is Bri McLarty, B-r-i M-c-L-a-r-t-y, and I'm the director of voting rights with Nebraskans for Civic Reform. I just wanted to clarify that our support for LB575 is limited specifically to the allowance of the e-mail scanned copy of the VBM application, as that's kind of in the wheelhouse of what NCR advocates for. And the rest we're just not going to take a stance on. We're very supportive of this mostly because the VBM applications can be accepted up to the Friday, I think it's ten days before

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Friday. And we've had some people express some concerns with the fact that when they mail it, they're not quite sure if it's actually received by that Friday. And so this, by being able to scan and e-mail a PDF copy, they can be assured that it was received before 5:00 p.m. by the election commissioner. And we think it will also help by cutting down some of the time for the application to be mailed in than for the ballot to be mailed out and then to be mailed back in. So this kind of just speeds up the process and we think is a great way to utilize technology in making our elections more efficient. [LB575]

SENATOR GARRETT: Thank you, Ms. McLarty. Are there any questions? [LB575]

BRI McLARTY: All right. Thank you. [LB575]

SENATOR GARRETT: (Exhibits 2 and 3) Thank you. Are there any additional proponents that would care to testify? Opponents? Those testifying in a neutral capacity? Okay. I'd like to read...oh, I'm sorry. You waive closing. I'd like to read into the record a couple of letters in support of LB575: Diane Olmer from the Platte County Election Commissioner...she is the Platte County Election Commissioner; and David Phipps, the Douglas County Election Commissioner. And that will close the hearing on LB575. And welcome, Senator Murante, again to open on LB578. [LB575]

SENATOR MURANTE: Thank you, Vice Chair Garrett. Again, my name is John Murante, J-o-h-n M-u-r-a-n-t-e, state senator for District 49. If the bill we just heard was the cleanup bill on behalf of the Secretary of State, this is the cleanup bill on behalf of the election commissioners. So I'm here today to introduce LB578, which is the result of collaboration and work of various election officers and officials across the state of Nebraska over the last year. It does a number of different things, which I will go over very briefly. First, is the bill would change language that provides that school district shall reimburse the county clerk or election commissioner for the expenses of conducting special elections at the minimum rate as described in statute, which is currently set at \$50 and would increase that to \$100 in Section 11 of the bill. The second section of the bill removes the provision that an election commissioner in counties larger than 100,000 residents would have to wait six months after leaving office in order to be eligible to run for a public office. Currently, the provision only applies to three election commissioners or officials in the entire state of Nebraska. And under the new section, the election commissioner, they would still have to resign to run for a public office but would not have to wait six months. Next, the bill would allow election commissioners and members of law enforcements to make and have copies of a voter registration form for voter list maintenance and law enforcement purposes. Next, the bill would remove the requirement that a candidate for an office whose district includes multiple counties but who is not a resident of the county that the candidate is required to file in, that the candidate has to submit a certificate of registration in order to file for office. Next, the next

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provision removes the requirement that a space for political party and precinct be located on early voting ballot. Most voters don't know their precinct, and it's not necessary for an election official to provide the voter that information to give them the correct ballot. Nebraska law does not allow an election official to change a political party in a voter's record if the early voting form lists a party that person is not registered as. So even if they write it down incorrectly, the election commissioner cannot update their voter registration. Section 9 of the bill removes a 50-day notice requirement in the conduction of a special election by mail. While a majority of political subdivision-type of special elections that could be held are already required to provide 50-days' notices to an election commissioner or clerk under state statute, there are instances where the notice requirements are under 50 days. For example, when school boards ask for an election on a budget or levy override, the notice is 30 days. By removing the 50-day notice requirement in this section, election commissioners will be able to determine if a special election should be held by mail or at a polling election for any election they are asked to hold. And finally, Section 11 of the bill involves increasing the minimum rates that an election commissioner or clerk could charge a political subdivision for election costs from \$50 to \$100. Currently, the minimum charge of \$50 to a political subdivision does not even cover the cost of coding the vote tabulation equipment or for programming the machines that count the ballots. So once again, there are numerous election officials here to answer any technical questions that you may have. But I would be open to any questions that you may have as well. [LB578]

SENATOR GARRETT: Thank you, Senator Murante. I have a question on Section 5, "or law enforcement purposes." Law enforcement purposes specifically directed at potentially voter fraud. I saw where it's also jury rolls, that kind of thing. Any other law enforcement purposes that are envisioned? [LB578]

SENATOR MURANTE: Just for the purposes of carrying out the Election Act. There may be specific instances that the election commissioners have gone through that I'm not aware, experiences that they have had that is beyond what we're reading here. But I'll let them educate all of us with that. [LB578]

SENATOR GARRETT: Okay. Are there any other questions? Thank you, Senator Murante. [LB578]

SENATOR MURANTE: Thank you. [LB578]

SENATOR GARRETT: Are there proponents for LB578? Welcome, Commissioner Bena. [LB578]

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WAYNE BENA: Thank you, Senator Garrett. Again, my name is Wayne Bena, W-a-y-n-e B-e-n-a, and I serve as election commissioner for Sarpy County. This bill is a collaboration of the election commissioners in Douglas, Lancaster, and Sarpy Counties in conjunction with the Secretary of State's Office and with approval my fellow election commissioners throughout the state. The big three election commissioners meet on a quarterly basis with the Secretary of State's Office to talk about best practices and what we have seen happen in elections previous and have a running list of legislative cleanup items that we like to provide to the committee each year. And this is a result of those meetings. So in the interest of time, there's 11 sections, and I have four minutes. And so to be "expedious," the Lancaster County Election Commissioner Dave Shively will take Sections 7 through 11, and I'll take Sections 1 through 6. But I will be able to, willing, and wanting to take questions on any section of this bill after my time has concluded. We had some election commissioners in our smaller communities that believe that they couldn't charge a minimum rate for school bond elections as they could for any other type of election. So this is just adding that minimum rate. It wouldn't happen very often. It would really...since most special elections would cost more than \$50 or \$100. There are instances even in my county in which I have one or two voters in the Ashland-Greenwood School District. And so a minimum rate wouldn't even cover sending out the ballots to those people in a special election. But it's again to codify that in the law. Section 2 involves what we believe is possibly a constitutionally suspect provision regarding election commissioners, as we are the only three people in the entire state of Nebraska that have a waiting period upon leaving their job to be able to run for office. Again, none of us have any...wanting to run for office anytime soon. It's just we're the only three people that can bring this up. And so I bring it before the committee as something to take a look at. Section 3 would involve a poll worker being able to waive their poll worker fee. We have a lot of people that just want to volunteer for this duty. And we have no provision to be able to let them waive their poll worker fee. They would have to fill out a form and thus...since we are required even if they don't want to take the money, they don't cash the check and thus our clerk's office calls me. Why do we have all these outstanding poll worker checks? Well, we have no way not to send them. This will allow the poll worker to truly volunteer. It will also allow the election commissioner to contract with a civic organization to recruit poll workers and have the poll workers sign off their poll worker pay to that organization. For example, we could recruit an Optimist Club to be able to recruit their members to be poll workers and those workers could then donate their pay, what they were going to get anyway, to the Optimist organization if they've contracted with the election commissioner to provide such a recruitment of poll workers. And it just helps us, another tool in the toolbox to get poll workers because it's becoming harder and harder. Also, it would allow poll workers to exempt themselves from election service if they're 70 years of age or older. This would come into play in those counties that draft poll workers. Many of you may not know Nebraska is the only state that allows us to draft poll workers as we would jurors. Douglas County I believe is one of the few that actually uses this, and they requested this because they had no way of letting people out of election service, regardless of age. And this is similar to the age in which you can opt out of jury

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duty. Section 5 would allow members of law enforcement to make copies of voter registration for list maintenance in law enforcement purposes. And if you want to ask me that question, I'll move on to next one and let you know exactly what that is. Section 6 would remove the requirement that a candidate for office whose district includes multiple counties but not a resident to file and to submit a certificate of registration. For example, portions of the Gretna School District overlie in Douglas County. And so if a Douglas County Gretna School Board member would want to come to my office, under the current law they would have to show a certificate of registration. This law was put in there at a time where we didn't have a statewide voter registration system. So we're able to check their registration status in our office. So no longer would that person have to provide that in our office anymore because we can look them up in those counties that have multiple counties but one county is the person who determines where they file. With that, I am willing, eager to answer questions on all 11 sections. But Senator (sic) Shively will take care of the rest for me. [LB578]

SENATOR GARRETT: Thank you, Commissioner Bena. I will ask the question on Section 5 about what law enforcement purposes. [LB578]

WAYNE BENA: It would mainly be for the cases of voter irregularities, people that sign a registration form who might be a felon, who are not eligible to vote but they sign an oath saying that they are eligible. Under the interpretation of this statute, we wouldn't be...we would be able to give them all the information on the form, but not the form itself. And the main reason for this is because, you heard from the Kansas Secretary of State earlier. And I watched that testimony on the cameras. He mentioned the cross state match is something that we are involved in in which we match up our voter registration records to see if people are registered to vote in different states. And when we find a match and you are in the other state, we want to send information to that state so they will remove them from their records. But many states require the signature. And because we are not allowed to make a copy of the actual voter registration application, we then have to make a printout of all the information on the system and then a copy of the signature. And then we cut and paste it and put it on that paper and then send it off because the interpretation of the Secretary of State's Office was that form itself was off limits. And I agree based upon the interpretation. But now this will allow us to send that voter registration to the other county in another state so they can remove them for their records, so we don't go through this in every election. So the only other instance that I think that you can have this happen, occasionally I'll get a request from a child support agency from another state wanting to know if a person is registered to vote. And sometimes they might want proof of that. But that would have to come from a law enforcement, that the person lives there if they wanted a copy of that application. That's a very rare thing that could happen. But mainly the law enforcement provision is so we can give the voter registration form in the case of a fraudulent application. [LB578]

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SENATOR GARRETT: If law enforcement, in that second example, wants access to the voter rolls then, do they need to subpoena? [LB578]

WAYNE BENA: If...under current statute, if you want a copy of the voter registration records, you need to fill out a waiver or a disclaimer saying you're using it for political purposes. And so I would not allow the voter registration rolls to be given to law enforcement if it wasn't for a political purpose. If a law enforcement official who was running for office wanted the voter rolls, you know, and of course, and he's running for sheriff, of course, I would do that. But under the statute, you would not give the voter rolls just to law enforcement just for law enforcement purposes outside of the purview of a voter fraud issue. [LB578]

SENATOR GARRETT: Thank you. Questions? Senator Groene. [LB578]

SENATOR GROENE: Nebraska...I was trying to read here. Do you try to keep half Republican, half Democrats, and some Independents as your poll workers? [LB578]

WAYNE BENA: We're required to have what we call mixed boards. And so the clerk, we have two clerks and two judges. And both the clerk...both clerks are of different parties, and both judges are of different parties. In an emergency situation if someone gets sick, we can do same parties. But that's a very rare instance. But, yes, we... [LB578]

SENATOR GROENE: So when you draft, like Douglas County drafts, they make sure they draft... [LB578]

WAYNE BENA: Yeah, I mean, they'll... [LB578]

SENATOR GROENE: They don't pull out of a hat like a jury and say you've got jury duty. [LB578]

WAYNE BENA: Well, you know, you'd have to ask Douglas County of how they do it. But you would draft them for service and then assign them to a polling site based upon what you would need. So I would say you could get as many people as you want. But in order to be at that site in that position, you're going...the poll worker coordinator is going to make sure that they're different. So just because you're drafted and you live in Elkhorn, you could go to south Omaha and be at a polling site as long as you follow the rules of... [LB578]

SENATOR GROENE: Do you try to move them? I guess I've never known that. Do you try to keep people working out of their own precinct? [LB578]

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WAYNE BENA: You know, the one year that I did it, I drafted poll workers in the precincts that I needed them. So I did a random draw by precincts so we could keep...I was inconveniencing them enough by drafting them. I at least wanted to keep them in their same community. But you want to put them as close as you can to where they are in their precinct. That's the goal. But based upon need and necessity, you could put them anywhere in an emergency situation. [LB578]

SENATOR GROENE: Thank you. [LB578]

SENATOR GARRETT: Any other questions? [LB578]

SENATOR HANSEN: I have... [LB578]

SENATOR GARRETT: Senator Hansen. [LB578]

SENATOR HANSEN: Thank you, Vice Chairman. I just wanted to clarify what you said about Section 5. You specifically mentioned sharing records with another, say, election officer in another state to clear duplicate registrations. But I'm not seeing where the language would apply because I'm seeing "election commissioner, county clerk, or law enforcement." I'm not necessarily seeing...unless we're talking about election...Kansas election commissioners. [LB578]

WAYNE BENA: It's the language that says voter "list maintenance," and that's the maintenance of our voter rolls. And one of the portions of that is removing people from the rolls that aren't eligible to vote in ours. So they're maintaining...we're maintaining our list, and we're helping them by giving them an application so they can maintain their lists. [LB578]

SENATOR HANSEN: Okay. Thank you. [LB578]

SENATOR GARRETT: Any additional questions? Thank you, Commissioner Bena. Any additional proponents? Welcome again, Commissioner Shively. [LB578]

DAVID SHIVELY: Again, Senators of the Government Committee, my name is David Shively; last name is spelled S-h-i-v-e-l-y. I'm the Lancaster County Election Commissioner. I'm here in support of LB578. And I'm going to go through the last half of this real quickly with you a little bit on these issues again, as Commissioner Bena indicated, are some issues that we, as the three largest election offices, have come up with and some clarification in state law. Section 7 just basically harmonizes the ballot layout language in statute so it reads the same for both the

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general and the primary elections. It's not that we're changing anything, it's just that the language in the statute will be exactly the same. Section 8, removes the requirement that the political party and precinct, if known, have to be on the absentee ballot request form. This is one thing people will call in and ask for their precinct. It really doesn't matter because we're going to give their ballot to them by their address and by the precinct that we have on file. So as long as we have their address, that's important. The political party is another one of those things that except for the primary election, the party affiliation does not really matter. And what we would do, we'd present them with a ballot that they are currently registered. If they had decided they wanted to change parties, they could then come back into the office, spoil out their ballot and then reregister. As long as they made it by the certain deadlines, they could spoil out their ballot and get a new ballot. So it still gives them that option. But our problem that we have as election officials sometimes is that they'll put a different political party on there. And then we call them up and ask them which ballot they want, is that what they meant to do, if they want the one that they're currently registered. And it just as well alleviates some time there. Section 9 restates the...removes the 50-day notification requirement that political subdivisions must certify to give the election officials in order to conduct an election by mail. There are some elections like the levy overrides that they don't have to notify...that the deadline to actually have that is earlier than...is shorter than 50 days. But we couldn't do that by mail because of the 50-days' notice under this section. So this would allow an election official to do those elections by mail as well. Section 10 includes that ballots and provisional ballots and envelopes from the items that may not be inspected unless there is a contested election. This happens, especially with provisional ballot envelopes, if there might be a recount. People are wanting to come in and go through those provisional ballot envelopes, and that's really not eliminated in state law right now. That's tricky to let ballots in somebody else's hand without having another staff member watch those, then go through that. So we would ask for that to be removed. And finally, the one thing, and this is one thing I've been talking about for a while, it would increase the minimum charge election officials may charge a political subdivision for conducting elections. It would raise it from \$50 to \$100. When that \$50 minimum was put into statute, I'm not quite sure when that was put in, we were probably not programming the AutoMARK, which we're now required to do. And our costs on other coding and programming costs continue to go up. So we just feel that it doesn't even really cover \$100. I could be anywhere from \$75 to maybe \$150. So you might have some that would be under \$100, but the majority of them would be at \$100 or more just to code and program that ballot on the ballot. It doesn't include poll workers. It doesn't include the sample ballot. It doesn't include any other expenditures. That is exactly...we aren't even meeting that cost at \$50. So we're just asking for that to be raised. Most of the political subdivisions that would be concerned like this would be villages and small school districts. And with that, I'd be more than happy to answer any additional questions. [LB578]

SENATOR GARRETT: Thank you, Commissioner Shively. Are there any questions? Thank you for your testimony. [LB578]

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DAVID SHIVELY: Thank you very much. [LB578]

SENATOR GARRETT: Additional proponents. Welcome, Director. [LB578]

NEAL ERICKSON: Thank you, Senator Garrett, members of the committee. For the record, my name is Neal Erickson, N-e-a-l E-r-i-c-k-s-o-n. I'm Deputy Secretary of State for Elections here on behalf of Secretary of State Gale to testify in support of LB578. And I appreciate Senator Murante once again for carrying this. And, yeah, I'm sorry this bill kind of...these two bills kind of got split into two. But 20 sections in one bill was probably going to get a little long. We testify in support of this bill. And I think Commissioners Shively and Bena have laid out these materials pretty good...or fairly well. One thing I did want to mention to a question. On the voter registration forms, right now they're a special kind of public record. And I think that, as you can read the language in the bill, they're considered a public record. They're allowed to be viewed. They're allowed notes to be taken from them. But under the current state statute, you're not allowed to have copies. And so this opens that up for law enforcement and then for list maintenance purposes as well. And we have had a situation before where law enforcement wanted to get an actual copy of the application and this happened to be in Douglas County. And they talked to us about it. We said, well, probably the safer way is to get a subpoena, and that's what they did. It wasn't difficult for them. But that was the way they decided to handle that and get the subpoena to get that record instead. So with that, I'd close testimony and answer any questions you might have. [LB578]

SENATOR GARRETT: Thank you, Deputy Secretary of State. Are there questions from the committee? Thank you. [LB578]

NEAL ERICKSON: Thank you. [LB578]

SENATOR GARRETT: Welcome, Director Dix. [LB578]

LARRY DIX: Good afternoon. For the record, my name is Larry Dix, D-i-x. I'm the executive director of Nebraska Association of County Officials appearing today in support of LB578. I think everything has been said really on this bill and a number of bills. And again, we want to make sure we're on record. Now as we move forward, if the committee would so kindly look on these bills based on some of the questions here today, I think these are pretty positive changes that we're asking for, looking for. And all of you know the political process much better than I. But it may look like we could, since we split these bills apart to not have so many sections, it may make sense to put them together so we can advance more or less a package of these bills if the committee would so desire to assist us in moving them through the political process. So with that, I'd be happy to answer questions anybody would have. [LB578]

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SENATOR GARRETT: (Exhibits 1 and 2) Thank you, Director. Any questions from the committee? Thank you. Are there any additional proponents? Seeing none, are there any opponents? Anyone testifying in a neutral capacity? Senator Murante, you're welcome to close. Senator Murante waives closing. A couple letters to be read into the record for LB578 in support of: Dave Phipps, the Douglas County Election Commissioner; and Diane Olmer, the Platte County Election Commissioner. This concludes the hearing for LB578 and concludes the Government, Military and Veterans Affairs Committee. [LB578]