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Government, Military and Veterans Affairs Committee  
February 18, 2015

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[LB214 LB367 LB368 LB577]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, February 18, 2015, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB214, LB367, LB368, and LB577. Senators present: John Murante, Chairperson; Tommy Garrett, Vice Chairperson; Dave Bloomfield; Joni Craighead; Mike Groene; and Matt Hansen. Senators absent: Tyson Larson and Beau McCoy.

SENATOR MURANTE: (Recorder malfunction)...Government Affairs Committee. My name is John Murante. I am the Chairman of this committee and state senator for District 49, which includes Gretna, Chalco, and portions of northwest Sarpy County. We are here today to have public hearings on four bills. Those bills will be taken up in the order on which they appear on the agendas outside of this room. If you intend to testify on any of these bills, we ask that you sign one of these green sign-in sheets, and when you come up to testify submit it into the bin in front of the committee clerk. On here, you will state your support or opposition or neutrality on any of the bills with which we are dealing with today. If you are here but do not wish to testify, we would ask that you sign in at the sign-in sheet also located at the sides of the room. When you come up to testify, we ask that you state and spell your name for the record. That's very important for our transcribers. The order of business will be that on any given bill, the introducer will make initial statements. We'll then take testimony from proponents, followed by opponents, and then neutral testimony, and then we will reserve some time for the introducer to close. We ask that you listen very carefully and try not to be repetitive, and if someone has already articulated a point which you wish to convey, again we'd ask you to fill out the sign-in sheet and your opinions will be taken into consideration just as if you had testified. In this committee, we do use the light system. Each testifier is permitted four minutes to speak. When the yellow light comes on, you have one minute remaining and we'd ask that you begin wrapping up your testimony. When the red light comes on, we'd ask that you conclude your remarks and then we will open the floor up to any questions. At this time, I'd ask everyone to turn off or silence any cell phones or other electronic devices. Anything that makes noise, we ask that you put it on silent. And this is a committee which is equipped for technology, so you'll see some members taking notes. That's what we're doing with our computers. So with that, I will introduce Seth Thompson from Ogallala as our page. If you have anything to distribute to the committee, any statements, exhibits, anything like that, please give it to the page and he will distribute it to the committee. We need 12 copies. If you do not have 12 copies, again, just submit it to us and the page will make copies for you. And with that, I think that concludes our formalities and I will proceed to the introduction of the committee members. Again, my name is John Murante, the Chairman of the committee. To my immediate left is State Senator Matt Hansen from Lincoln; to his left, State Senator Beau McCoy of Omaha who is travelling and will not be with us today; to his left, State Senator Joni Craighead from Omaha; followed by Sherry Shaffer, our committee clerk. To my immediate right is Charles Isom, the committee's research analyst; to his right,

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State Senator Tommy Garrett of Bellevue who is the Vice Chairman of this committee; to his right, State Senator Dave Bloomfield from Hoskins, Nebraska; followed by State Senator Tyson Larson who may or may not be joining us, only time will tell; and to his right, State Senator Mike Groene from North Platte, Nebraska. And with that, we once again welcome back Senator Schumacher to open up on LB214. [LB214]

SENATOR SCHUMACHER: Thank you, Senator Murante, members of the Government Committee. My name is Paul Schumacher, S-c-h-u-m-a-c-h-e-r, representing District 22 in the Legislature and here today to introduce LB214 regarding our initiative petition process. Just a tad bit of background. Prior to being elected to the Legislature, I was very active in several petition drives both for and against dating back to the mid-1990s, one in 2002 on the for side where we gathered 178,000 signatures, and one in 2004 where we gathered 640,000 signatures for four separate, single-subject initiative petitions. And as such, I've kind of been in a position to see our petition process badly deteriorate. The constitution says that the initiative petition process is the first right of the people reserved. Must be pretty important to be first. And it is designed, it even predates the Unicameral, so the folks that say it's the second house aren't actually accurate. It goes way before the Unicameral came around. But it is the right of the people to initiate legislation and to make changes in what the Supreme Court has referred to as their document, which is the constitution of the state. And back about the early 1990s, our constitution said that it took, for a constitutional amendment I think it was 10 percent for a statute, 7 percent of the electors to sign the petition in order to get it on the ballot. And petition signing was done by somebody walking around with a tablet with a sign-up sheet and that had slots for identifying information such as your address, date of birth, your signature, and so that they could nail down if you were you when they graded the petition at the Secretary of State's Office. And electors had a specific meaning. That was the number of people who voted for Governor in the prior election. And we all know about half the people vote for Governor, half of the registered voters. And so in those days, the number was about 50,000-60,000 in order to get a constitutional amendment on the ballot. And there was an amendment proposed by the Legislature, and I remember voting on the amendment and I was dumb because I just thought it was an updating of language. And it said we're going to change the word "elector" to "registered voter." Not being that much up on it at that particular time, it sounded to me like we were just updating the language, that they were the same. The Supreme Court said, no, sir. They're not the same. Registered voters means registered voters. Now mathematically what ended up happening is the number of signatures necessary just doubled. Since only half of the registered voters are electors, on average, when you have to do all the registered voters it just doubled. So you now had to have over a hundred thousand signatures to get a constitutional amendment on the ballot, somewhere around 70,000-80,000 in order to get a statute on the ballot. Well, that was just the beginning of the issues. Then the Legislature did another thing that sounded pretty logical. To the voter, it sounded pretty logical. It turned out to be a disaster as far as the initiative petition process was concerned. There was a constitutional amendment placed before the voters, and it passed, placed

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by the Legislature that says an initiative petition can only have one subject. Well, duh, that seems pretty reasonable. We...it would not be proper to logroll and to say, oh, gee, we're going to put helmets on the...in the same petition as we're going to put property tax changes. We voted for it. Sounded logical. We saw recently how the Supreme Court begins to interpret single-subjects and very dramatically in something even the Legislature put on the ballot with the historic horse racing. Everything dealt with horse racing. Horsing racing and the revenues from horse racing, and the Supreme Court said, I don't think so. That looks like two subjects to us. Should we have historic horse racing and what do you do with the money from racing in general? No good. Off the ballot it went. And in that opinion said basically to read through the lines, we'll even be harsher with the initiative petition process. That's why, for example, in 2004 in order to attempt to get a gaming amendment passed that would allow the Legislature or the initiative process to introduce gaming, it had to be subdivided into four different initiative petitions requiring the 640,000 signatures and generating a great deal of confusion at the ballot box. The weakest petition got 47 percent, but that's close but no cigar. It also was in competition with the gaming petition placed on the ballot by the Legislature which got, like, 37 percent in that case. A majority of the folks voted for it, gaming in one form or the other, but it didn't go anywhere because neither one crossed in entirety the 50 percent mark even though some of the initiatives, two of the four initiatives actually passed. So that began the two-subject rule. Very difficult if you've got to fine-tune everything into very narrow categories. But we aren't through yet. Additional ambiguities come up in the petition process in that the sponsors of a petition are supposed to file at the time they file the petition and they're supposed to identify themselves to the Secretary of State. Except nowhere is it specified exactly what is a sponsor of a petition. Is it the guy who files the papers? Is it the guy who met and gals in the committee meetings that decided what the petition was going to say? Is it the lawyer for them? Who is the sponsor? And that has not been resolved by our courts, yet it's been hinted at that it will be a topic of litigation. And then we have more issues. Even in the most controversial of the gambling petitions, it was pretty clear that one thing you could do and was allowed is you could pay a circulator to garner signatures for your idea by the signature. And what became the practice is you pay a dollar a signature. They go out and they get the signatures. They bring them in. Somebody on the staff of the petition drive would examine them, run them through a computer that mimic the Secretary of State's computer to verify the birthday and those kind of things so that you were pretty sure you had the right...there was no fraud involved. And you...when they brought in the petition, you paid them by the number of signatures that could be verified on this computer system. Worked very well. Highly efficient. They didn't bring any signatures that were good in, they didn't get paid anything. Worked just well. But then in 2006, the people who were uncomfortable with some of the tax increases circulated a petition and they were paying by the signature. Well, certain local government organizations, representatives of local government, decided that they were going to oppose the petition. And they did something that had not been done before. They hired people called blockers, and the blockers when they saw a petition circulator out there interfered with them. Don't sign that petition. That guy is a crook. Whatever. Interfered. The circulator was

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under some tight rules. The blockers were under no rules really, but they were claiming freedom of speech to interfere with the petition circulating process and deny the people access to the petition. Then the same people who were opposing the tax restrictions came to the Legislature and said naughty, naughty, we think this dirty petition process needs to be cleaned up. And what it needs to be cleaned up with is no more pay by the signatures. Got to pay some other way. Well, what the other way really boils down to is you got to hire one of these outstate petition circulating firms who charge to bring in a bunch of out-of-state folks to organize and to circulate a petition and your costs just go through the roof. It successfully shut down the petition process. Since then, only one petition has been successfully circulated and that's only because there was a well-endowed donor who floated it. The petition process has been removed from access by the people for all practical purposes. This...there's several ways to solve the problem. And one way would say, okay, let's go in and address with a constitutional amendment each of these things that I just mentioned and a few others. Let's go in and do that. Well, we now know from the historic horse racing case we have to do that in itty-bitty pieces at a time or the courts won't allow us to do it. So that means a number of very confusing things trying to explain what we're trying to do to the people. The other one is I think fitting to this time, and it is what LB214 represents. It says, okay, we can take the idea that you may have to have two or three petitions in order to get the job done. We'll buy that. We'll buy having to identify who every sponsor is and what role they're playing. We'll define what a sponsor is. We'll take doubling the petition signatures that are necessary. We can eat that. We'll take that if you're on the street, somebody can run in and interfere with you and call themselves a blocker under the guise of free speech. But here's what we're asking as a people. We're asking that we be able to sign these things electronically so that we don't need to put people on the streets that are brought here by out-of-state circulating companies, so we can run an ad that says here's our cause, go to this Web page, go through the procedures there to guarantee that you are you and it's not fraudulent, and sign the petition. Sign three of them if it takes three of them to get the job done. But here's the issue. And when you go there, you can find out information about what you're signing rather than have to try to get it out of a petition circulator from maybe out of state who maybe doesn't know what he or she is doing on the street. You can in the calmness of your office, of your home, read the petition and decide whether you like it or don't like it and then sign it or don't sign it. And one thing to keep in mind, a petition just puts something on the ballot. It's still got to go through the whole election process, still got to be voted on, still got to go through all those rules. But this mechanism that's proposed in LB214 addresses all the issues that I just mentioned and it provides for a mechanism for being able to circulate petitions. Does have a bit of an up-front price tag. Democracy always does, but not terribly high one considering that just look at the most recent petition, what it cost somebody in Nebraska, and that was well over \$500,000 to circulate a statutory petition which only takes 70 percent of the signatures as a constitutional petition does. So the petition process is expensive, very expensive the old way of doing it. This is a small basically up-front investment that will make it far more efficient and far more accessible for the

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people of Nebraska to exercise their first right of the people reserved. I'll be happy to take any questions. [LB214]

SENATOR MURANTE: Thank you, Senator Schumacher. Are there any questions? Seeing none, thank you very much for your opening. [LB214]

SENATOR SCHUMACHER: Thank you. [LB214]

SENATOR MURANTE: We'll proceed to proponent testimony on LB214. Are there any proponents wishing to speak in favor of LB214? Mr. Nabity, welcome to the Government, Military and Veterans Affairs Committee. [LB214]

DAVID NABITY: Thank you very much. My name is Dave Nabity. I have been involved in two pretty significant... [LB214]

SENATOR MURANTE: Could you spell your name for us for the record, please? Thank you. [LB214]

DAVID NABITY: I'm sorry. N-a-b-i-t-y. All good? [LB214]

SENATOR MURANTE: You're good. [LB214]

DAVID NABITY: Okay. I've been involved in two significant petitions in the state of Nebraska. One was the stop overspending initiative that took place back in 2006, and the Mayor Suttle recall effort that took place in the city of Omaha. And I'm not going to say a whole lot because I'm going to save my comments for the others. But I would say that anything we can do to make it easier, if we can do it electronically, I'm all for it and I think anything that we can do to make it easier for the citizens to be able to sign a petition on something that they feel is important for government, we ought to go for it. So that's all I have to say. [LB214]

SENATOR MURANTE: Thank you very much. [LB214]

DAVID NABITY: Thank you. [LB214]

SENATOR MURANTE: Hold on one second, let's see if there are any questions. There are none. Thank you very much. Sorry for the head fake. Are there additional proponent testimony to

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LB214? Mr. Bernbeck, welcome to the Government, Military and Veterans Affairs Committee.  
[LB214]

KENT BERNBECK: (Exhibit 1) Senator Murante, Chairman Murante, nice to see you, and then the members of the committee. My name is Kent Bernbeck, B-e-r-n-b-e-c-k, and I guess I'll just start the testimony. I will be brief because I do want to give quite a bit of testimony on one of the other bills that are coming up this afternoon. And I should hand these out to the committee members. I've been involved in a number of petition drives in Nebraska and this idea of being able to go home or to your office or wherever and read an issue, maybe even look up a little bit of things on Google to find out a little more of what the facts are, and then sign them without the pressure of having a well-qualified petition circulator putting that clipboard in front of you. Now there's nothing wrong with that clipboard because it gives a lot of people like myself an easy opportunity to speak out, whereas if I was able to go to the...to a private place where I could spend a little more time reading the issue, I think that would be advantageous to the system. I'll talk just briefly about that there's a cost to not doing anything. As Senator Schumacher put it so well that the petition process has been taken out of the hands of the people. Now if you have a lot of money, you're a philanthropist, term limits, casinos, whatever, you're able to make the ballot fairly easily. And then you've got to defend it against all the criticism, etcetera. But regular people can't make it on the ballot anymore. Senator Schumacher did say something and I think there was a little bit of error with that. There's only been one petition that has made the ballot in the last 20 years that has used volunteers, and it was the pro-marriage act or whatever and they used the churches to be able to do that. No other grass-roots petition has been able to make the ballot without a large amount of money to pay circulators to go do it. So in Nebraska for 20 years, the people have not engaged in the petition process. There's been a couple of people that have, but the people have been shut out. And until we do allow the people in, there's going to be more stuff like what's listed on this page here. There is a cost to the Legislature's inaction. It's been 20 years since a guy like myself, low budget, can go out there and rally a bunch of people and go put something on the ballot. So I, myself, am going to continue this list. And next year will be three pages. And the next year after that it'll be four pages. But I'm determined to make the process to where I can participate in that, and I think the electronic signatures would be a good place to start. That's all I had today on this bill. [LB214]

SENATOR MURANTE: Okay. Thank you very much. Are there any questions? Seeing none, thank you very much for coming in today. [LB214]

KENT BERNBECK: Thank you. [LB214]

SENATOR MURANTE: Additional proponent testimony for LB214. Any other proponent testimony? Opposition testimony to LB214. Race to the front--Secretary of State or Farm

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Bureau. Who wins? Mr. Erickson, welcome back to the Government, Military and Veterans Affairs Committee. [LB214]

NEAL ERICKSON: (Exhibit 2) Chairman Murante, thank you very much, members of the committee. For the record, my name is Neal Erickson, N-e-a-l E-r-i-c-k-s-o-n, and I'm Deputy Secretary of State for Elections here on behalf of Secretary of State John Gale to testify in opposition to LB214. LB214 seeks to establish a Web-based petition process for statewide initiative referendum petitions. Our office has concerns about the proposal both from technical concerns and also the scope and timing. I'm distributing a listing of the technical concerns for you to examine. On the scope and timing issues, as technology and the use of Web services marches forward, there's certainly a possibility that on-line petitioning will develop into a robust tool. There are numerous on-line tools that are designed solely to express a user's opinion on various subject or various issues. We're also starting to see on-line tools used in the more formal petitions that have a legal effect, such as candidates and issues to be placed on a ballot. However, this process for formal petitions is in its infancy. There have been some efforts internationally and some smaller projects across the country in various formats. As an example, city of Austin, Texas, uses some on-line tools to petition for some issues. If there is a future for on-line petitioning, as we suspect there will be, perhaps it is best to start in a smaller arena rather than the initiative and referendum process. Should such a system have the usual growing pains as it is discovered what works and what doesn't work as well, it would be preferable to begin on a smaller scale where adjustments or fixes on a particular petition can be more easily achieved. We would also suggest that the proposal of this scale at this time may be premature. As the use of on-line petitioning currently is limited to smaller subdivisions or pilot projects, we would suggest observing these projects and possibly learning from any difficulties that may arise. In addition, our office is currently engaged in developing on-line voter registration at this point in time. We would suggest that completing that system before undertaking a project like this where we have had difficulties gauging the potential cost due to the complexity of a proposal. This is not to say that nothing could be done now. Should this committee believe that on-line petitioning is the proper public policy course, our office would suggest a more in-depth examination of the advantages and pitfalls whether through an interim study process or some other format. Our office is unaware of an in-depth study in other jurisdictions of those advantages and pitfalls. Our office would be willing to provide any information or experience with petition process that would be helpful. For these reasons, the technical concerns and the timing and the scope of the proposal, the Secretary of State's Office opposes LB214 as proposed. And with that, I'd answer any questions you might have. [LB214]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for your testimony today. Additional opposition testimony. Ms. Kolterman, welcome to your Committee on Government, Military and Veterans Affairs. [LB214]

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JESSICA KOLTERMAN: Hello. Thank you. For the record, my name is Jessica Kolterman, J-e-s-s-i-c-a K-o-l-t-e-r-m-a-n. I serve as the director of state governmental relations for Nebraska Farm Bureau and I come before you today on their behalf. I'm coming in front of you today in opposition to this legislation. We certainly recognize what Senator Schumacher is trying to accomplish, but our members have a very clear policy on this and raised a variety of concerns. Our policy actually reads, we support tightening the signature collection requirements of Nebraska's initiative process and we oppose the use of the Internet or electronic media to collect signatures. So our policy is directly in opposition to this bill. We believe that there's a variety of integrity questions about when you collect electronic signatures, the validity of those signatures, and we're afraid that there would be an increased opportunity for fraud and questions about that. We also feel that the collection of signatures via the Internet favors those who have readily available access to the Internet and it has been shown in rural areas of the state that there is a clear broadband gap. Also, a similar pattern holds true for the demographic groups defined by race, ethnicity, and education. Anecdotally, we hear from our members, especially those in an older demographic that in addition to the actual lack of rural broadband access, many lack the skills, knowledge, or confidence to utilize the Internet for such activities. While our members greatly value the Internet as a tool in doing business, we also recognize that it's not for everyone in our sector and there are some people who still do not utilize it. Our fear would be that if we shift to the Internet, we would move away from the traditional collection of signatures resulting in an under-representation of both an older demographic and a rural demographic. Finally, rural Nebraska is already at a disadvantage in the state-based population. Those who live in rural areas are already part of a minority population and many Nebraskans are generations removed from the farm. Less than 2 percent of the state's population is actively engaged in agriculture, and this disconnect with modern farming practices among nonfarming population has the potential to make agriculture a relatively easy target for groups aggressively trying to influence our industry. If there was a ballot initiative that would negatively impact our interests, we are clearly at a disadvantage. We fear the electronic signature collection can make it even easier for those who wish to target agriculture through the initiative process to do so. So we would urge the committee to keep these things in consideration as you look at this legislation. Thank you. [LB214]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions?  
Senator Garrett. [LB214]

SENATOR GARRETT: Thank you, Mr. Chairman. I can't resist. Would a photo ID requirement help? (Laughter) [LB214]

JESSICA KOLTERMAN: I don't have an opinion on that, Senator. Thank you. [LB214]

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SENATOR MURANTE: I think you've stumbled on a great compromise here, Senator Garrett. (Laughter) Any additional questions? We could throw the Learning Community in somehow. Just throw it all together. Thank you very much. [LB214]

JESSICA KOLTERMAN: Or swine, we could talk about that, too, so. [LB214]

SENATOR MURANTE: That's way over my head. All right. Thank you very much... [LB214]

JESSICA KOLTERMAN: Thank you, Senator. Thank you, committee members. [LB214]

SENATOR MURANTE: ...for your testimony. Welcome, Ms. Rex, back to the Government Committee. [LB214]

LYNN REX: Thank you. Senator Murante, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We're here today opposing this measure for one primary reason but also the other reasons that have already been evidenced and brought forward to you by the Secretary of State's Office and by the Nebraska Farm Bureau. I'd like to focus mainly just on the security issue. The concern of our members comes down to the fact that when you look at major retailer organizations whether it's Target, whether it is something, for example, even the Pentagon, all the other major entities that have already had major compromises, our concern is how would you protect this base. And electronically we just don't know that the technology is there at this point to do so. Not to say that at some point it may not be, but we certainly don't think that the security measures were in place in order to make sure that there is no fraud or abuse. With that, I'd be happy to respond to any questions that you might have. [LB214]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down today. [LB214]

LYNN REX: Thank you. [LB214]

SENATOR MURANTE: Additional opposition testimony to LB214? Is there any neutral testimony on LB214? Seeing none, Senator Schumacher waived closing, so that ends the hearing on LB214. And we will proceed to the next item on the agenda, LB367. Senator Groene. Welcome. [LB214]

SENATOR GROENE: (Exhibit 1) Hello, Senator Murante. Senator Mike Groene, District 42, Lincoln County, M-i-k-e G-r-o-e-n-e. Senator Schumacher did a good job of doing a narrative of

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the history lately of petitions, but I'll be more blunt. The attack on the petition rights of the citizens all started with term limits on this body. Revenge, let's call it, by some senators who did not like the fact that terms limits were put on them by the people. That's just fact. But hopefully we got a whole new bunch of folks here at the Legislature that come because you're term limited or closer to being a citizen and not a career politician. So some of these, my bills, both of them, will try to address some of the things that have happened lately attacking the citizens' right to petition their government. I've been involved in petition in 2006, the 423, I was the sponsor. I was a plaintiff in a lawsuit against the municipalities of Omaha and Lincoln when our petitioners were harassed by their police departments on public property. Our petitioners were harassed and told to leave libraries, DMVs. In the federal court, we won. And the municipalities had to pay a couple hundred thousand or \$100,000 in legal fees. Again, this body put...in the past put regulations on the petitioners that we could not...took our freedom of association away with people in other states. Again, I sued. Again, we won. This body had to appropriate \$300,000 I think to pay the legal fees. Mr. Bernbeck just did a court case, and again this body is going to have to appropriate some money to pay the legal fees. Our state constitution states in Article III: Legislative authority; how vested; power of the initiative; power of referendum. The legislative authority of the state shall be vested in the Legislature consisting of one Chamber. The people reserve for themselves the power to propose laws and amendments to the Constitution and to enact or reject the same at the polls, independent of the Legislature--I underline independent of the Legislature--which shall be called the power of the initiative. Section 2. First power reserved; initiative. The first power reserved by the people is the initiative whereby laws may be enacted and constitutional amendments adopted by the people independent of the Legislature. This power may be invoked by petition wherein the proposed measure shall be set forth at length. If the petition be for the enactment of a law, it shall be signed by 7 percent. That's been changed by...Senator Schumacher outlined. The second power reserved by the people, referendum, which you can change state laws. So, anyway, I say that because this is important. This is our constitution. These are the rights of our citizens that have been infringed by this body. A little history on the term limits. It took us four times. I was out of state when they did that. But the third time after the Supreme Court overturned it, the citizens got together and voted a Supreme Court judge off the bench. And guess what happened the fourth time? Justice was done. The Supreme Court did not overturn it. So there's some history there, big history. So, anyway, my bill, LB367, addresses one of those grievances against the people's right to petition their government that was established by this body. And I'm one of the body, so I'm talking about myself. I'm a team player now. (Laugh) Anyway, as I said, this bill will reestablish free market principles about how petition circulators are paid. No obstacle should be allowed that limits a citizens' access to a petition to sign. Current law restricts how our petition drive can hire circulators by prohibiting certain commission-based payment arrangement. This bill allows any person or group commencing a petition drive to choose how to pay the petition circulator, be it hourly or commission-based. It's pretty simple. Back in 2008 when false claims were made against petitioners, my petitioners, about being too aggressive, Senator Schimek and a few others

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urged on by powerful special interests. And the whole game here is there's some pretty powerful special interests that it's easier to control 25 senators with donations and free lunches than it is 1.8 million people citizens. So those are the ones that pushed this--teachers union, farmers union because they're afraid of PETA, League of Municipalities because they don't want citizens petitioning the government. They would rather do it themselves, enact laws. So all I'm doing is line 30 in the law to strike "Pay a circulator based on the number of signatures collected" will no longer be...will be prohibited. I've made my living on commissions. When you buy a car, when you buy insurance, when you buy furniture, you are dealing with somebody who is paid by commission. Are they all corrupt? Are they lying to you because they're going to get that extra commission? That's what the sponsors of this bill said back then, that for some reason a person if you pay them by the signature is going to be corrupt, they're going to lie to you. And I'd like to remind this committee also it's the right of the people to petition the government. People who oppose a petition always attack the circulator. The circulator, I don't care if he's a wino, somebody, a drug addict, or what he is. All he is, is a conduit so that the people have access to that petition to sign. This is about that piece of paper that you get to sign. It isn't about the person holding that tablet. And what the opposition does to petition rights is try to limit your access in any way they can, and if they can get less petitioners on the streets you have less access to sign that petition. That's what this is all about. So, anyway, I would urge this committee to look at this and all we're simply doing is...by the way, eight states that have this restriction it's been overturned by federal courts. Now do you want to pay another \$300,000 when somebody brings this case and Eighth Circuit Court of Appeals takes this on and says, well, the Tenth Circuit Court of Appeals already overturned this rule in Idaho and I have the list here. In North Dakota and Oregon, provisions have been upheld by the U.S. Ninth and Eighth Circuit Courts respectively. However, similar provisions in Idaho, Maine, Mississippi, Washington were held unconstitutional by federal district courts. It's attack on our free speech to limit somebody's ability to access the petition. So, anyway, that is my introduction and I will allow people to take their shot. Any questions? [LB367]

SENATOR MURANTE: Senator Garrett. [LB367]

SENATOR GARRETT: Thank you, Mr. Chairman. Senator Groene, who asked you...did someone ask you to bring this bill or did you bring it on your own? [LB367]

SENATOR GROENE: It's me, myself, and I because I've been involved in the petition process up-front and personal. [LB367]

SENATOR GARRETT: Okay. Educate me on this then. I can't help but think, I see the validity of your argument there, but let's say, you know, a special interest or very wealthy individual who has a lot of money to spend and wants to get a law passed or a constitutional amendment can

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afford to spend a lot of money and get a lot of folks out there to work petitions across the state. I mean, how do we defend against somebody that can... [LB367]

SENATOR GROENE: They don't care about this because they have the money. They can hire a petition company with a management above it that can manage employees. George Norris when he created this body paid a nickel commission to college kids to get signatures, per signature. What this hurts is the grass roots. It's what Senator Schumacher said. The grass-roots organization can't afford a management team, but they can raise some money and they can tell some college kids: You go out and get signatures. You bring them back. We validate them. They got to be validated signatures. We'll give you a buck a signature. Who it hurts is the grass roots. Doesn't hurt the casino interests that want to come in here and they've tried it a couple of times. And I'm not saying I was for it or against it, but I agree with their right to do it. They can afford to bring a management team in. The grass-roots folks can't. But they can pay somebody a buck a signature. So it hurts grass roots. It doesn't hurt the big operators. [LB367]

SENATOR GARRETT: Okay. All right. Thank you. [LB367]

SENATOR MURANTE: Senator Bloomfield. [LB367]

SENATOR BLOOMFIELD: Thank you. Senator Groene, do you see anyplace where you maybe ought to put a limit as to how much they can pay? [LB367]

SENATOR GROENE: When you sold your livestock, did you want a limit on it? I shouldn't ask a senator a question, (laughter) but I can as a senator. But, no, no, no they shouldn't. You want the best people in free...we're a free-market system. You want the best people who bring back the most quality signatures to be paid what they...they're worth. [LB367]

SENATOR BLOOMFIELD: So then to follow up on Senator Garrett's question, I'm going to throw a name out here just because I can. [LB367]

SENATOR GROENE: All right. [LB367]

SENATOR BLOOMFIELD: George Soros came in, wanted to pay somebody a hundred dollars a signature you wouldn't have a problem with that? [LB367]

SENATOR GROENE: You know, that's why this issue was so important. I was talking to some of the ACLU people. Ten years ago it was the conservatives pushing petition rights and were mad. Minimum wage got passed and now they're talking about Medicaid reform. Now the

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conservatives want to restrict it and the liberals want to push more rights. The rights should always be there. The swing of time or issues should not vary our right. That right should be set in stone. And part of that right is to allow...it's always about the citizen. Who cares if it's a hundred bucks. If you had a signature, a petition in front of you because somebody was paying him a hundred bucks and you could walk across the street and sign it because you said I wanted to sign that petition and I see somebody over there has that petition in their hand, you got to access this. The more access, the more rights you have to your constitutional right to petition your government. It's about the petition. It's about the person signing the petition. It is not about the circulator or the petitioner. Forget that. Do you care what color the curtain is on the voting booth you go into? Do you? Do you care I voted on tables with wooden chairs and metal chairs? Do you care or do you care about the ballot that's in front of you? That's what this is about. Access to that petition. Petitioner is meaningless. [LB367]

SENATOR BLOOMFIELD: Thank you. [LB367]

SENATOR MURANTE: Along those lines, Senator Groene, as you clearly articulated, we've been operating with a system that does not allow paper signatures for quite a few years now. Most recent petition initiative to get on the ballot was the minimum wage petition. Do you have a concept of how much money they spent to get that on the ballot? [LB367]

SENATOR GROENE: I have no idea. [LB367]

SENATOR MURANTE: Would it surprise you if it exceeded \$1 million? [LB367]

SENATOR GROENE: No. [LB367]

SENATOR MURANTE: Good because it did. Before that, the casino interests that put casinos on the ballot, would it surprise you that they exceeded \$1 million to get that on the ballot? [LB367]

SENATOR GROENE: No. [LB367]

SENATOR MURANTE: So it would appear to me that the evidence would suggest that doing away with payment by the signatures is not limiting the amount of money that gets spent on the petition process because they're just paying their people by the hour and they have an unlimited amount of money to spend anyway. [LB367]

SENATOR GROENE: Yes. [LB367]

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SENATOR MURANTE: Okay. [LB367]

SENATOR GROENE: But the point is this, which we just got burned on is there was a petition out there by grass-roots organizations to put voter ID on the ballot. All volunteers. They came up 10,000 or 20,000 votes short. 108,000. They had 108,000 signatures. If they would have been able to get some college kids and somebody said I'll give you a buck a signature and you go out and help us get a couple thousand signatures, they could have done that for \$20,000 to \$30,000. They couldn't have done it by setting up a whole management team to pay people and do paychecks by the hour and having people checking in because that's how you have to pay them if you can't pay them for...the grass-roots organizations have disappeared. You know, it takes a certain character, Senator Schumacher, it takes a politician, me, that's not afraid to go knock on a door and get a signature, that's not afraid to stand on a city street and get signatures because you're passionate against something. But try to get 130,000 of them by volunteers. That's hard to do. Remember, George Norris paid a nickel. That's more than I get to do now because this body has outlawed it. [LB367]

SENATOR MURANTE: Are there any additional questions? Senator Hansen. [LB367]

SENATOR HANSEN: Thank you, Chair. Senator Groene, going off the last thing you said, I'm trying to envision how paying...let's say I have a \$20,000 canvassing budget, signature budget. You know, it pales in comparison to some of the ones you just referenced. How does the management side, the bureaucracy side, the logistical side matter if I'm paying per hour or per signature? [LB367]

SENATOR GROENE: So we pay somebody an hour, how do you...do you know of anybody that works by the hour don't have a boss over them? I don't. I know a lot of people working on commission who don't have a boss sitting over top of them. Because now you can...what we did when we paid per...we'd say, bring your petitions in to this address. We had an office, and bring it in. We'd sit there and we would go through it and verify that they were registered voters and then we'd pay them. We kept records and all we had to do at the end of it was send them a 1099. Now you have to have a management team. You've got to have somebody evaluating that employee and firing him or giving him a raise. With the pay per signature, if he worked five weeks and brought in ten signatures, you got 10 bucks. If he worked five weeks and brought in ten signatures, you pay him 10 bucks an hour, now you understand why George Soros can do it and the grass-roots people cannot. That's just...it's simplicity. [LB367]

SENATOR HANSEN: So under the way you're referencing it, you wouldn't necessarily...you would pay based on the signature of who came in but you wouldn't necessarily say recruit those

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people, train those people, send them out, and bring them in the same way you would if you were paying them by hour? [LB367]

SENATOR GROENE: No. They just send them out on the street. They go stand on the street and if somebody comes in with 20 signatures and you paid him, what is it, 9 bucks an hour now, you paid him 45 bucks and he only brought in five signatures, you start doing the division. And then you have to fire him because he's not doing his job. Then you got to find more people. Pay per signature, you can have a whole bunch of people out there. And they can come in, one can do it and not aggressively and just get their family to do it and neighbors and friends you pay them 50 bucks. Remember, they are just a conduit. How they got paid, how that conduit got paid, what does it matter to I when I sign that petition? It doesn't really mean anything to me. If I walk into the courthouse and I wish it were on the county clerk's office desk and I could sign it, but I can't. We get caught up in this human part of it of who the petitioner is and that isn't what the...read that constitution. It's about that petition. It's about that initiative. It's not the human part of it. [LB367]

SENATOR HANSEN: Okay. Thank you, Senator. [LB367]

SENATOR MURANTE: Thank you, Senator Hansen. Senator Bloomfield. [LB367]

SENATOR BLOOMFIELD: Thank you. If under the pay-by-signature rule you go out, you hire me to go out and collect petitions. You also hire Senator Garrett and we both come in with the same name on it, which one of us gets paid? [LB367]

SENATOR GROENE: The first one. I'd get up early. (Laughter) [LB367]

SENATOR BLOOMFIELD: Thank you. [LB367]

SENATOR GROENE: Get to work. But now you're...now you got a problem with that. Actually, that person who signed it twice has a problem. It's just as relevant as voting. You're not supposed to sign a petition twice. But people do. [LB367]

SENATOR BLOOMFIELD: But you may not be aware that you're signing the same petition when you get a bunch of people out there circulating a bunch of petitions. I would hate to be in California and swear that I only ever signed the one petition. You know, every petition I signed was different because they've got a boatload of them every time. [LB367]

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SENATOR GROENE: Well, you've got to rely on the wisdom and intellect of the voter that he knows what he's signing. [LB367]

SENATOR BLOOMFIELD: Okay. Thank you. [LB367]

SENATOR MURANTE: Thank you, Senator Bloomfield. Any final questions? Seeing none, thank you very much, Senator Groene. And we will proceed to proponent testimony to LB367. Mr. Aspen, welcome to the Government Committee. [LB367]

JEREMY ASPEN: (Exhibit 2) Thank you, Senator Murante. Mr. Chair and good senators, my name is Jeremy Aspen, J-e-r-e-m-y A-s-p-e-n. I'm here as a citizen of Nebraska as well as a board member for Citizen's in Charge. We're a 501(c)(4) citizen-powered advocacy organization that serves to protect and advance the initiative and referendum process. We're based out of Virginia but, again, I'm from Nebraska. It's also worth mentioning that I was a part of the Mayor Suttle recall committee. So I have at least an intimate engagement with the petition process. Nebraska is one of the more difficult states to run a petition drive. One of the reasons is because of the ban on pay-per-signature. The headline after the recall said, you know, "Both Sides Cheated". They were referring to Mayor Suttle, the bus fiasco. If you don't know about that, I'd be happy to answer the question later. And also that one of our petitioners had taken down some fictitious names and some fictitious signatures. So, you know, clearly we weren't interested in having the artificial signatures. It did our cause no good and it was, to my point, it was fraudulent. It was an act of fraud. And in states...according to nationwide surveys that we have done as Citizen's in Charge, the states that ban pay-per-signature have a higher conviction rate for fraudulent activity than do states that allow it. There is something on our Web site and it's entitled "Is the "F-word" overused?" And, of course, they're referring to fraud not the colloquial "F-word". I also would show a list of...which I've given to you, a list, of some quotes from the Colorado Supreme Court that would back that up. And Senator Jeremy Nordquist had introduced legislation a few years back that didn't make it through the Legislature despite really widespread popular support. The inability to get something through a committee or the floor is not necessarily representative of a lack of popular will or support as he later proved in his petition drive to get a minimum wage on the ballot the last cycle. But their feat was more difficult than it had to be. If we look at the out...if we're going to look at the outcome of the vote, I think it was clear that it was popular. It still didn't make it through the Legislature. They had that opportunity to promote their will outside of these Chambers. And many would say that, you know, we're better off because of it. For the sake of comparison, let's just imagine that today, let's say some other committee, let's say it's the Education Committee just to pull one off of the piece of paper that I've prepared. Let's just...you know, the accusation is that it's loaded with senators who are beholden to a certain special interest, whatever special interest, and let's just say that this is of course...of course it's hypothetically. At least, you know, this might be what this group thinks. So let's say only for the sake of argument that reason, logic, and all evidence to the contrary will not

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sway most of the senators on this committee to allow, for instance, charter schools. What if enough of a north Omaha community decides they are fed up with not having the quality schools accessible to them and what if they know the right people to help make the petition possible? I think you'd all probably agree that they should have that right to get past seven people...I'm sorry, eight committee members and bring their voice, bring their idea to their community. We do, obviously, have the right to the petition process which is great, but this requirement does make it very difficult. It makes it more difficult than it has to be. It at least is...it promotes or at least is exposed to fraudulent activity and adds an unnecessary financial burden on citizens who only want to engage and effect change. That said, I would not argue for it to become too easy. There is a delicate line. But last time I was here testifying after the Mayor Suttle recall, we were fighting against bills to make it even more difficult in response to our activities. That was in response to our activities. Now with minimum wage promoted mostly by the left having been a benefactor of this tool, I hope you can see it is not a partisan issue. It is actually a citizens' issue. We should respect the voice and the resources of Nebraskans willing to take a stand by permitting their money to be used as efficiently as possible to promote their ideas. And after all, there is nothing more legitimate than an airing of grievances via a petition drive and a popular vote. It is exactly the will of the people. Promoting this bill to the floor will prove that you believe Nebraskans can be trusted as our second Chamber. And I am here if you guys want to ask any questions. Let me just say, by the way, I think you guys all need to get paid more. (Laughter) [LB367]

SENATOR MURANTE: We need to start collecting signatures. [LB367]

JEREMY ASPEN: Let's do a petition for that. [LB367]

SENATOR MURANTE: Senator Bloomfield. [LB367]

SENATOR BLOOMFIELD: Thank you. One of my concerns, as one of those who like to call ourselves greater Nebraska, is that we would see a petition that benefited Omaha at our expense. And Omaha has the votes to pass them at our expense. So we're not wild about making this any easier than it needs to be. You know, I don't want to see a petition out there that says property tax will be used to pay all the expenses in Omaha. (Laughter) [LB367]

JEREMY ASPEN: Right. [LB367]

SENATOR BLOOMFIELD: And if we make this too easy, Omaha could pass that and there's not much we can do about it. Would you care to comment on that possibility? [LB367]

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JEREMY ASPEN: Yeah. It isn't impossible. And I wanted to make sure I put it in my testimony that I'm not for making it extremely easy. I mean, we have this body. This body does a very good job in almost all instances. This is just an opportunity for the people to enact laws, the purpose of initiatives and referendum petition drives. In that case, of course, there are...it is formulaic. There are things that petition drives have to do. They have to get a certain percentage and whatnot throughout the state in order to get their way. I would not be opposed...I would be opposed to making it strictly based on the number of people in a state specifically to protect, you know, my background, my family's background is agricultural also and I would not want them to succumb to Omaha's urban differences just because you're outnumbered substantially. [LB367]

SENATOR MURANTE: Thank you, Senator Bloomfield. Any additional questions? Seeing none, thank you very much, Mr. Aspen. [LB367]

JEREMY ASPEN: Thank you. [LB367]

SENATOR MURANTE: Additional proponent testimony to LB367. [LB367]

KENT BERNBECK: (Exhibit 3) Committee, my name is Kent Bernbeck, B-e-r-n-b-e-c-k. And before I go on to some of the details about the payment per signature, I've had a couple of federal lawsuits I've been involved in with that, I'd like to answer a question that Mr....Senator Hansen had if I can. The difference between paying someone by the hour, by the signature is...was very clear in the Suttle campaign. I was hired to consult basically because the laws were enacted to where we couldn't pay people by the hour...or by the signature. And then we also couldn't have nonresidents circulating petitions. So what we did when there was maybe 16 or 17 days left, a great group of volunteers wasn't able to make those numbers. So the decision by the campaign was made to bring people in that could get the job done and basically pay people to put it on the ballot. And so because we could not pay people by the signature, we had to pay people by the hour. And we literally had people coming in at the end of an eight-hour day with nine signatures, with eight signatures. I mean, it was crazy. We could not fire anybody. We had 16 days in a state with a low unemployment. So, I mean, it put us in a position where even if they brought in ten signatures everyday, we were still going to pay them for eight hours or ten hours they worked because people had the money on that campaign and that's the only reason. If it was just a traditional grass-roots campaign, that would have been the death nail because we could not have paid people like that, kind of like the management team you have to have to be able to manage an hourly campaign. So that's kind of...I just wanted to address that. Like I said, I've been involved in a couple of different federal lawsuits. This bill all started back in 2007. Senator Schimek introduced the bill. The bill included a prohibition against nonresident circulators and prohibited paying people by the signature. And it was in response to a number of petitions in 2006, the spending lid petition and I think there was affirmative action that year, I forget. But the

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Legislature wasn't happy with what they saw, so they were going to make sure that they changed it and made it more difficult for people to put issues on the ballot. So they kept pointing to North Dakota. Well, North Dakota has had this and North Dakota has had a ban on payment per signature for quite a while. But they also don't pay anybody up there, I mean, literally. I've been up there. I've talked to the secretary of state. They rarely have a campaign where they pay anybody. I mean, they still use volunteers. And why? Because they didn't have their signature thresholds doubled. They can still use volunteers. It's amazing in 2015, a state is still using volunteers. It's because they can. So the payment per signature...what I want to point out, in the handout I gave out, I see I'm being clocked here, this was on the second lawsuit. The first lawsuit I simply didn't provide enough evidence to the federal court showing that there was a severe burden on the petition process by the payment-per-signature law. So fast forward a couple years, I sued the state again and it was dismissed because I failed to make the proper appeal. But in the meantime, the collateral damage was the first one. I got rid of the ban on out-of-state circulators. I was able to get rid of the ban on saying that in some small town you had to live in that small town in order to do a petition, which still that sounds like a good idea but what if you live on the other side of the road from where the city limits are, so...which was my case. I literally lived across the barbed wire fence. And then this last time around I got rid of the distribution requirement for statewide petitions. That's all collateral damage. I did that to pay for my lawyer. So what I'm saying about this payment-per-signature issue is that it's going to get challenged again and it's going to cost the state more money because if I don't do it, someone is going to do it. And the League of Municipalities, Senator Groene really hit it on the head. He called a spade a spade. They are the ones that brought us this. They are the ones that probably should bear the cost of all this, but they're not of course. There's one, two, Idaho, Maine, Mississippi, Washington, Colorado, and Ohio have found this unconstitutional. And there's three states that have had a challenge but found it constitutional, and there's three states that have not found...it has not been challenged. So it's an open game out there. The research was done for the appeal or for the lawsuit I had. It's on page 4 and 5 where the Senator (sic) Boehmke finally gets around to saying that it was harmed, so. With that, I appreciate your time. [LB367]

SENATOR MURANTE: Okay. Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much. Additional proponent testimony to LB367. Welcome back, Mr. Nabity. [LB367]

DAVID NABITY: Good afternoon again. Chairman Murante and senators, thank you for allowing me to testify again. I'm David Nabity. I live in Elkhorn, Nebraska, which I guess is Omaha, Nebraska, now too. And I have a lot of experience at working on these petition drives. [LB367]

SENATOR MURANTE: I'm sorry, one more time, can you spell your name for the record?  
[LB367]

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DAVID NABITY: N-a-b-i-t-y. [LB367]

SENATOR MURANTE: I only do that because the tapes start over with every new bill, so the transcribers need to hear it again. Apologies. [LB367]

DAVID NABITY: Okay. No problem. So when you get involved in a petition drive, you know, in some cases you kind of feel like the dog that caught the car because you...I mean, you step into this...typically the reason that you step up is because you feel like there's something going wrong inside government for whatever reason, whether it's what Jeremy was saying, Mr. Aspen was saying about how a committee can be elected by a bunch of special-interest groups so they don't want to take on the special-interest group. And in situations like that the only option the people have is to do a ballot initiative. That's all they can do. There's absolutely nothing else they can do. And so what this whole thing comes down to is political power and who has it. Is it the citizens of the state of Nebraska or is it the special-interest groups that can amass huge sums of money and big manpower to try to stop the citizens from trying to make change in public policy? And you have to remember, we're not changing the public policy with a petition drive. We're just giving the citizens a choice, a vote. That's all we're doing. So by making it really difficult on the citizens to be able to circulate a petition and have success, what we're saying is we don't want you to vote on this and we're going to do everything we can to stop you from voting on this. And the opposition to the petition drives in the past have done a masterful job of doing that. Now...so I have a couple of things I want to bring up here. First of all, Massachusetts is one-seventh the size of Nebraska. They have four times the population. Do you know what their requirement is for signatures? It's 3 percent of those that voted in the Governor election. Now let's talk, Senator Bloomfield, about your district for a minute. Let's say first there's something going on in western Nebraska that is really harming people in agriculture and you want to be able to get a petition drive circulated across the state of Nebraska. How hard is it going to be for people in western Nebraska to get a petition drive successfully moved through a state the size that is seven times the size of Massachusetts with only 1.7 million people. It's going to be impossible for any of your constituents to be able to do it the way it sits today. We require 10 percent of the registered voters and, you know, that is just a massive number. Well, they were talking about North Dakota. I think I had that on here. And North Dakota requires 4 percent of the population in the last census. South Dakota is 10 percent of those in the governors election. If we were just 10 percent of those who voted in the Governor election, we'd be down to half. So you have to put together a huge army of people if you have any hope of getting enough signatures to satisfy the requirements that are out there. So then you go to efficiency. How efficient is it to hire people by the hour to go out and work? No accountability on the numbers they get. No big deal. We'll just put you on the clock and, by golly, we just hope maybe you'll work a full day and bring in signatures. It's almost impossible. And when we got involved in doing the petition drive in Omaha, the volunteer groups had about 60 days to get enough signatures and they were counting the momentum to determine whether or not they were on track and whether by the time the date

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came they would have the numbers that they needed. And after 60 days of trying to get volunteers to pull the signatures together, they were way behind. There was no way they were going to catch up. And so a group of people in Omaha had a decision to make. Do we raise the money necessary to bring in out-of-state circulators and bring in manpower from wherever we can get it to get in here and get enough signatures so that we can make it. And there was about 15 of us around the table, and I'm telling you, we labored over whether or not we should just let this thing go. Is that red light telling me I'm over? [LB367]

SENATOR MURANTE: Yep. [LB367]

DAVID NABITY: Okay. So maybe you...if you want to ask me some questions, there's a lot of information that I can give you on this. But the fact of the matter, the per-hour signature costs double what it would have been if we would have been able to pay per signature and we had to get double the strangers into our state to circulate petitions. And, you know, people don't like the idea of all these out-of-town people come in and circulating petitions. Well, you have to do that with this hourly requirement where you can't pay per signature. So...and then you've got to understand the political, powerful groups, you were talking about money and raising money and you get George Soros to come in here, well, do you know in the stop overspending initiative, 423, the NEA, AARP, the NSEA, and a number of other large employee union groups raised \$2.3 million in 120 days to stomp out that initiative. Now how can the citizens possibly compete with that? In Omaha, we had blockers everywhere trying to stop people from getting to our...those that were trying to circulate petitions. As soon as we got enough signatures, we were all drug into court and the opposition did everything they can to throw us out and throw everything out and accused all of our circulators of doing bad stuff. They had people signing false names on petitions. It was a mess. The citizens have no chance of really having a voice if you keep things the way they are today. [LB367]

SENATOR MURANTE: Okay. Let's see if we've got any questions on the committee. Do we have any questions, members? Senator Hansen. [LB367]

SENATOR HANSEN: Just for frame of reference, you said it would cost twice as much to pay someone by hour than by signature. How much were you paying people by hour and how much would you envision paying by signature? [LB367]

DAVID NABITY: I don't remember the numbers. [LB367]

SENATOR HANSEN: Okay. [LB367]

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DAVID NABITY: You know, sometimes you...you know, once that stuff is over and you lose, you want to forget about it as fast as you can. The fact of the matter is, is it took us, we were just doing a mayoral recall. That's it. Wasn't even a statewide election. I think it took \$550,000 because of that hourly requirement. Should have cost \$250,000. [LB367]

SENATOR MURANTE: Okay. Any additional questions? Senator Craighead. [LB367]

SENATOR CRAIGHEAD: So, Mr. Nabity, if I'm hearing you correctly you're saying to be more effective and efficient if we use a capitalistic versus a socialistic approach we're going to be better off? [LB367]

DAVID NABITY: Absolutely. (Laughter) Well, and, you know, everybody complains about out-of-state people. We don't want all these out-of-state people coming in here. Well, there aren't enough professional petition circulators in the state of Nebraska to get the job done fast enough. You have to bring in out-of-state people. If you are paying by the hour, you have to bring in double the people. It's just ridiculous. And, you know, how come Massachusetts, one of the oldest states in America, four times the people we have, one-seventh the size, how can they manage to get along just fine with a 3 percent requirement on the Governor's election and we, proud Nebraskans, have to have it incredibly more difficult with a state the size of 1.7 million? [LB367]

SENATOR MURANTE: Senator Bloomfield. [LB367]

SENATOR BLOOMFIELD: I would just like to answer that question. Massachusetts doesn't have the diversity across the state that Nebraska has. [LB367]

DAVID NABITY: Well, I heard your comment about how you think maybe the fear is Omaha people are going to gang up against the rural people in the state and... [LB367]

SENATOR BLOOMFIELD: They don't have to gang up. They got us outnumbered two to one. [LB367]

DAVID NABITY: Well, I'm just telling you, listen, I've been involved in the political process my whole life, whether that's good or bad, I don't know. But the fact of the matter is I had lived in Omaha my whole life. I've never, ever heard anyone ever in any position of any authority or leadership suggest that we're going to sock rural Nebraska with all the taxes so we get a break. That's like worrying about Nazi frogmen jumping from the sewer. I mean, it isn't going to happen. This is about worrying about the citizens having a voice to be able to stand up when they

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think big government and the powerful special interest groups are doing things in public policy that are harming the citizens, whether it's in education or the way governments work or whether you have a corrupt elected official that you've got to get out of office because he's poisoning the whole environment. [LB367]

SENATOR BLOOMFIELD: Now I know why they make those sewer lids so heavy. Thank you. (Laughter) [LB367]

SENATOR MURANTE: And we do have to correct the record. Omaha does not comprise over two times the rest of the state of Nebraska. The state of Nebraska has 1.8 million people. Omaha has about 350,000. [LB367]

DAVID NABITY: Right. No question... [LB367]

SENATOR MURANTE: So Omaha is substantially outnumbered when it comes to the rest of the state of Nebraska. [LB367]

DAVID NABITY: No question. [LB367]

SENATOR MURANTE: There are plenty of elections where one candidate wins Douglas County and loses the statewide election. [LB367]

DAVID NABITY: Well, there's a whole lot of businesses in Omaha that live off of agriculture. The last thing that those businesspeople would want to do is harm agriculture and hurt their own companies. Makes no sense. It's all about the people having a voice to stand up when politics goes bad. And if Massachusetts can get away with it I think we probably can too. [LB367]

SENATOR MURANTE: Thank you very much, Mr. Nabity. [LB367]

DAVID NABITY: Thank you. [LB367]

SENATOR MURANTE: Much appreciate it. Additional proponent testimony to LB367. Seeing none, opposition testimony to LB367. (Laugh) Welcome. [LB367]

LYNN REX: (Exhibits 4 and 5) Senator Murante, members of the committee, thank you. My name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. And we're opposing this bill mainly for one reason, because we're concerned about making sure that

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there is a balance and a balance in terms of basically what is best for everyone in the state of Nebraska and especially when you're dealing with representative government. I don't think that it should be impossible for someone to do an initiative drive. It certainly is not impossible now. I don't think it should be easy either. The system of government we have is a representative government. And what I'm passing out to you is some information from the Oregon secretary of state's Web site to give you some idea of what has happened in other states because I think it's important to look at this. And I also want to emphasize and I'm going to talk just briefly, too, about what's happened with respect to initiative measure 423 because I think there are two sides to it. I think Senator Groene for whom I have great respect is bringing some legitimate issues, but I think there's some legitimate issues on the other side as well. Information from the Oregon secretary of state's Web site, as an example, there were...and I'm going to look at one in particular. But just for those that are in the audience, 166 initiatives filed in the year 2000; 183 filed in 2002. And I'm just skipping around here with some of the higher ones. In 2006, 165 initiatives filed; in 2008, 146 filed. And the Legislature then decided that what they would do is they would in fact say that they would have to have at least a thousand signatures before it would go to the attorney general's office for the purpose of determining what the ballot questions would look like, thank you, and what the pros and cons of that would be. So what was happening according to the secretary of state in Oregon is that people would be filing, let's say that they wanted issue X on the ballot, they would file four or five different initiatives with different variances with the idea that then the attorney general which was the condition precedent for them would then put together the ballot question that would be there. So what I did this morning is I just went through and pulled these. What you have in your second handout, and I'm just going to look at the year 2000. In the year 2000, there were 166 filed; of those, 21 qualified, 3 did not. So...and that means that they had enough signatures to qualify for the ballot, 21 of those. What I would suggest to you is that one of the things that happened with initiative measure 423 is that there were concerns by both sides. And, for example, I can tell you that, and this is in the testimony and I want to incorporate by reference my testimony to LB39 and LB40 from 2008 and 2007, what you will find is that at Wright Park here in Lincoln, Nebraska, there's...folks set up a card table and they were telling people please sign this petition because it's going to stop child molestation. That happens to be in Wright Park where there's lots of ball games and other stuff going on. I happened to be there for one of my nephew's ball games and I was walking up and somebody said, oh my gosh, you know, you want to sign this, it's going to stop child molestation. I walked up to it. It was initiative measure 423. And so, yes, I did contact the folks, the teachers, the retired teachers, the librarians, and college students that our side had hired to educate folks on the other side and said please bring somebody out here with flyers and please make sure that they hand them out so people understand what they're voting on. Pam Brown, who's a former state senator, testified at the interim study hearing, actually she was a member of this committee, and part of her testimony was that she changed her shopping patterns in Omaha, Nebraska, because she couldn't go to the Hy-Vee store at her regular times because she would be literally accosted by people with clipboards, stacks of clipboards. Channel 7 at this time ran

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news clips indicating...and one of them which really stuck out to me was a mother with two kids trying to get into her car at a parking lot and a guy chasing her with a stack of clipboards and he put his hand over her hand as she was trying to open her door to get in. So those are some of the reasons why this committee in 2007 advanced the bill out 7 to 0. This is the reason why the Nebraska Legislature overrode a veto by the Governor to put in place protections. I'm going to suggest to you that I'm not saying this bill in and of itself is one that should not be considered. I think there are enough concerns on both sides that it needs careful study and analysis. But I think the Oregon example, and there are others too, would require this committee to take it slow and careful and understand the consequences. We all think about the things that we want or we don't want. If it's for the recall of state senators, against the recall of state senators. And, by the way, in Oregon they can do that just like you can here with local officials with no rhyme or reason for doing it. If you're pro-abortion, against abortion, pro-life, pro-choice, pro-death penalty, against death penalty. You can go through the list, whether you're pro-gambling, against gambling. Pro-voter ID, against voter ID. Pick your issue. I'm suggesting to you that you never know which side of the coin you're going to be on. This committee has a responsibility to be make sure that what you advance to the floor for consideration is balanced. And I'll have other testimony that I'll indicate on the other bill. But I appreciate Senator Groene bringing the issue forward. I think it's an important one for consideration. There are huge ramifications of all of these measures. And I'd be...and I also want to just emphasize that I think it would be very important for this committee at some point to have a working session with Neal Erickson and some other folks. Neal Erickson is an expert that's used by NCSL. He's our deputy Secretary of State. He has been used. You have other people who have great experience in this. Obviously, your research analyst and others who have experience to really talk about what can be done. NCSL did a comprehensive study on all of this. So, again, these are complicated issues and there are other issues I'll talk about on the other bill. Be happy to respond to any questions you might have. [LB367]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions?  
Senator Craighead. [LB367]

SENATOR CRAIGHEAD: Thank you, Mr. Chair. Ms. Rex, hi. How did you pick out Oregon of all the states that you could have used in comparison? How was Oregon selected? [LB367]

LYNN REX: The reason I picked out Oregon frankly is because part of my job is to communicate with my colleagues across the country, and so at the National League of Cities directors workshop a couple of years ago we're talking about statewide initiative drives, those that worked, those that didn't, how to deal with big money because organizations like mine really have no money. I mean, you talk about million dollar campaigns, that would...my whole budget isn't even much more than that. So in any event, Oregon was picked out because that's one of the examples that everyone uses as a profound example. And the legislature, by the way, because of

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what they perceived as alleged abuse, as I said, kind of went back and tried to moderate it. And you'll see that that's why the numbers dropped dramatically. So in the next few years you end up with only, for example, after they made that modification, 45 filed in 2012, 59 in 2014, and they already have 29 filed in 2016. So as opposed to 166, 184, whatever it may be. So I would just suggest to you that I picked out Oregon because it was one of the biggest and I think the most profound example of what can happen when you don't consider all the consequences. [LB367]

SENATOR CRAIGHEAD: I just wondered if it was, for lack of a better word, if that was the comparative market analysis for the state of Nebraska. [LB367]

LYNN REX: Oh, I don't think that there is any...I'm just saying that this what can happen on one side of the spectrum for sure. This is...I don't...most states don't operate like this. I mean, frankly you have to look at what is representative government. Why are you here? And again I just want to close by stating this, it is extremely important to look at the fact that their initiative drives should be possible as Senator Groene and others have said. The people do reserve the right to that whether it's initiative, referendum. Absolutely. By the same token it should not be so easy that you undermine representative government. [LB367]

SENATOR CRAIGHEAD: So this could be like worst-case scenario. [LB367]

LYNN REX: I don't want to ever say that Oregon is a worst-case scenario for anything. I really appreciated the Oregon secretary of state's office providing me information and working with me to get his information to you today. I just think that it's an example of how the legislature had to step in to make sure that certain things happen in the same way that this Legislature stepped forward with LB39 and LB40 to address with the Secretary of State's Office and many, many others over interim study hearings and lots of time and effort by many people to try to make sure that our laws were tightened up to have integrity in the process. [LB367]

SENATOR MURANTE: When we're talking about the specific bill before us I don't think we have to go very far to see what impact Senator Groene's proposal will have because we operated under the law as Senator Groene is proposing for a number of years. And wouldn't you agree that based on the handout that you gave, our experience with having paid by signatures didn't come anywhere close to the kind of numbers that we're looking at from the state of Oregon? [LB367]

LYNN REX: No, and in fact this kind of...as you can tell, this is their database I think just goes back to 1998, not that they don't have information prior to that, but there was a point where I think sometimes they told me in the mid-'80s is when all of a sudden this sort of took off. So I do think that...I don't think it's the end of the world to have paid circulators. I will tell you that my guess is that if you're paying people by the hour you simply tell them, you know, we're not going

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to keep paying you tomorrow if you don't bring in signatures, we're not paying you tomorrow. There are ways in which you can make sure that people get the job done. I just think that when you have people being chased down, and again I will just underscore because several of you are...Senator Craighead, Senator Hansen, Senator Murante, in the metro area. Senator Bloomfield, not in the metro area. Let me underscore this, the campaign on initiative measure 423 was fundamentally different in Lincoln and Omaha than it was in any other place in the state. It was different than it was in North Platte, in Scottsbluff. They didn't have folks...to my knowledge and based on what we heard from across the state and also my elected officials who talked to me from all across the state of Nebraska, they didn't have people running them down in parking lots in North Platte, Nebraska, or Scottsbluff. They didn't have that. We had that in Lincoln. You could not get into a Target store or Hy-Vee store in Lincoln, Nebraska, without trying to meander through folks that want to...with stacks of clipboards telling you just sign, just sign. I had three of my family members, Senator, asked to sign at Holmes Lake during one of their Fourth of July celebrations when the city of Lincoln had that at that time and at that point what I can tell you is that they were told that this is going to...one of them was told that it would reduce property taxes, one of them was told that this would do something to increase the salaries of teachers. The initiative measure 423 did neither. [LB367]

SENATOR MURANTE: Thank you, Ms. Rex, for your testimony. Much appreciate it. [LB367]

LYNN REX: Thank you. [LB367]

SENATOR MURANTE: Additional...how many more opponents do we have on this? All right. Welcome to the Government...Kathy, have you been here yet this year? [LB367]

KATHY SIEFKEN: No, I'm usually not in here very much. [LB367]

SENATOR MURANTE: All right. Well, welcome to the Government, Military and Veterans Affairs Committee. [LB367]

KATHY SIEFKEN: Actually I was...Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n, representing the Nebraska Grocery Industry Association as both their lobbyist and their executive director. And actually I did not intend to testify on this bill. I was going to oppose the next bill. But as the conversation has gone forward, I felt that I really needed to testify in opposition. The facts that Lynn gave you really speaks to what our issue is. When Senator Schimek introduced this bill and it was passed back in the day, we were strong supporters and it's because of the very reasons that Lynn described. People would set up tables so that when customers would try to get out of the grocery stores they couldn't get out. The tables blocked the entryway. And they would make people...they wouldn't make people, but they were very, very aggressive about collecting

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signatures and then people would back up and they simply couldn't get out. And in some instances they actually had to call the Fire Marshal to get them to remove the tables. And once Senator Schimek introduced the bill and it was passed, that aggressiveness went away. Now this summer when the petition initiative was taken across the state of Nebraska, we still had a little bit of that but it wasn't near as...it wasn't aggressive. But what they would do is they would set up a table outside of our rural grocery stores that are sitting on main street. And again every time someone would come in or go out they would try to convince them that they needed to sign the petitions. So again we're not opposed to the petition process, but when you change the payment method it changes the behavior of the signature gatherer. So it really is about the signature gatherer and how they go about making their money. If they're paid hourly, they're not near as aggressive. And not all of them are aggressive, but there are enough...there were enough out there that made it very uncomfortable. So for that reason we would oppose this bill. If you have any questions, I'd be happy to answer any. [LB367]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you for...oh, I'm sorry. Your hand was hiding behind the chair there. Okay. Senator Craighead. [LB367]

SENATOR CRAIGHEAD: Thank you, Mr. Chairman. Hi, Ms. Siefken. On one of the next two bills and I can't remember which one, I read them, but it's to keep petitioners 200 feet away from an entrance. Do you think something like that would work to cut down some of the aggressiveness? [LB367]

KATHY SIEFKEN: I thought that was to protect the petition gather...the signature gatherers. [LB367]

SENATOR CRAIGHEAD: But I'm saying on the reverse side also. So if someone were coming out of a grocery store and had to be like 200 feet away from or a certain distance, do you think that that would be a benefit in this regard? [LB367]

KATHY SIEFKEN: I think the petition process has to be a balanced process. I think 200 foot for anyone is too far...it's just too far either direction. In rural Nebraska, that's half a block. Our grocery stores are sitting on the middle of main street and they take up maybe 20-30 foot of frontage. So 200 feet, they're down in front of... [LB367]

SENATOR CRAIGHEAD: Or whatever so that people didn't feel like, you know, they were right...like the petitioner wasn't right here, you know, a decent, you know what I'm saying, a respectable distance. [LB367]

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KATHY SIEFKEN: In rural Nebraska...I'm not...let me just gather my thoughts here for a minute. In Lincoln, Omaha, in communities where the grocery stores are big enough where there's a parking lot out front, that is considered not public property so the petition gatherers are supposed to go out to the sidewalk out by the street. So that is really not an issue in our metropolitan or our larger cities. In rural Nebraska, the sidewalk on which they sit is considered a public way, and if you could keep them away from the door so that they didn't interfere with traffic coming and going, that would be...but you can't put them down into the alley. I mean, that would...so I'm not sure what the number would be. If everyone would just use common sense it would be helpful. [LB367]

SENATOR CRAIGHEAD: I think, too, just as a comment, I think we've either all lived or grown up in a small town in Nebraska, so I think we all understand. [LB367]

KATHY SIEFKEN: But if you put a distance on rural Nebraska, you're going to move them almost completely away from the front of the store and that's where the traffic is. [LB367]

SENATOR CRAIGHEAD: Okay. No, I'm just saying a respectable...you know what I'm saying? [LB367]

KATHY SIEFKEN: Yeah. [LB367]

SENATOR CRAIGHEAD: So that somebody's...a petitioner's hand is not on, you know, a shopper's...you know what I mean, a petitioner is not touching a shopper and you're not getting jumped for lack of...that's what I'm saying. You know, what do you consider a respectable distance for both those being petitioned and the petitioner? [LB367]

KATHY SIEFKEN: I think there are already laws in effect that say that you really aren't supposed to touch people like that, so. [LB367]

SENATOR CRAIGHEAD: Thank you. [LB367]

SENATOR MURANTE: Thank you very much. Additional questions? Seeing none, thank you very much for coming down today. [LB367]

KATHY SIEFKEN: Thank you. [LB367]

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SENATOR MURANTE: Any remaining opponent testimony to LB367? Seeing none, is there any neutral testimony? Senator Groene is recognized to close. [LB367]

SENATOR GROENE: I'm almost scared of petitioners now. Lynn Rex doing her job. But she just described the dynamic democracy. Do you know--there is 49 of us, I had 2 opponents--that over 200 people pushed and shoved and ran for the Unicameral and asked people in their face to vote for them, banged on their doors, interrupted their TV? Can you believe that? And 49 of us were so pushy we got here. That's called democracy. That's what the petition process is. And if you don't believe in democracy, that you're willing to put up with a few indiscretions we got a problem in this country. Those petitioners in the Omaha area, that was one group that was hired and fired, and they were set up. There was a thing that happened which my next bill addresses called blockers brought in by the League of Municipalities. That's our government. Those are people that we elect fighting the people's right to petition their government, the League of Municipalities. I had to sue them to get access to public property. In rural Nebraska, nobody blocked anybody's entranceway. It's against the law. A vagrant can't stand in front of a grocery store's door and block an entrance. That didn't happen. I heard all the claims that Ms. Rex repeated. Did you know nobody was charged? Nobody served time. Nobody was convicted. They were well-organized, millions of dollars, the teacher's union, the League of Municipalities, and others. And they set up the best mudslinging campaign that I have ever seen. And you know how politics is; you throw enough mud some of it sticks. Nobody was charged. No claim. Attorney General got involved. Nothing happened, but they won the election. Democracy is not easy, it's not pretty, it gets ugly, and the petition process is part of that. There's countries that have clean election. People win 80-90 percent and nobody complains. That's not here. But, anyway, I...and as far as the grocery store thing, we...I've never seen...western Nebraska I ran that part of that petition and we didn't go on Walmart's parking lots or Target's. We stuck to the public streets and those areas and we always asked permission. I'm sure in every endeavor there's somebody that breaks the rules, bends the rules. But do you ban the whole system because somebody did something wrong? That's foolishness. The petition process is what we are. We are one-house government. We're unique. The people are the second house. And how we operate as the second house is by the petition process and we've lost that. As far as Senator Bloomfield, that kind of thinking scares me and he's a friend of mine. Because you're afraid of an outcome do we...somebody of a certain ethnicity, do we not let them vote? Do we stop a right somewhere or close voting precincts with certain areas might run an election? That kind of thinking isn't good. And Omaha does not dominate the whole area, the whole state, as Senator Murante said. They're one congressional district out of three. They're not all bad people. I got relatives there. They would vote my way. And in fact the fact is we vote more in the west in the rural areas. That's why all the candidates spend all their time in Congressional District 3 because we have high voter turnout. We actually have an advantage over the Omaha when it comes to elections. But to take away your...and I'll give you a good example where...look at TEEOSA, state aid to education. There's no...a petition process might help that. We might actually get some of our

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state aid back if two-thirds of the state start raising Cain that all of it goes to Omaha. Petition process might help. When you talk about power, look at the makeup of the Legislature. Senator Craighead, thank god, isn't some kind of person who just says Omaha, Omaha. Senator Murante isn't. So but to limit your rights because you're afraid of one part of the state against another. The right is the right and that's what we've got to protect here as senators. All of this what happens here, what happens there, time changes, things change in history, but the rights should remain and the right to petition our government we must make sure we keep it and we keep it for the people because we are citizens first, senators second. So, anyway, thank you. And I'll gladly explain, talk to you again, Senator Bloomfield, but that's...when somebody starts talking about taking my right away to take part in my government I get a little offensive. [LB367]

SENATOR MURANTE: (Exhibits 6 and 7) All right. And before we close the hearing on LB367, I have one letter in support from Diann Gentry representing herself and a letter of opposition from Nancy Fulton representing the Nebraska State Education Association. (Laugh) Your old friend, Senator Groene. But you might want to stay put because you are next on the agenda with LB368. And for the record, Senator Groene, I represent Gretna not Omaha. (Laughter) [LB367]

SENATOR GARRETT: There's a difference?

SENATOR MURANTE: There's a material difference (laughter). And those are fighting words, Senator Garrett. Someone is not going to be Vice Chairman very long. Welcome back, Senator Groene.

SENATOR GROENE: (Exhibit 1) Yes. Senator Mike Groene, M-i-k-e G-r-o-e-n-e, and we heard a little bit about the...I'm presenting LB368, we heard a little bit about the blockers that showed up. They were invented in Oregon. Some special-interest group that profit from tax dollars got together, like here, and wanted to stop the taxpayers from organizing, so they created this idea of blockers where they would go out and try to stop individuals from accessing a petition to sign. It would be no different than if they had the ability to stand inside of a voter booth. I think we had that in Pennsylvania, a group of thugs thought they could intimidate voters at a voter's booth in the 2008 election. No different because you have a right to sign a petition and nobody should try to stop you from doing that. But those groups did. They organized them. And so this bill addresses that because I personally experienced it in 2006, and a lot of folks did. Good, honest people out getting signatures by voluntarily. A lot of our signatures are volunteers. Mine was. I got over 2,000 myself. I think it was 2,500 or so. Prepped me for going door to door when I ran for office. But this bill protects the citizens' right to petition by protecting access to a petition to sign. As such, a petition carried by a circulator is given the same status and protection as a polling place. Further, intimidation or harassing a petition circulator or blocking access for a

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citizen to access a petition to sign will be prohibited. For the electorate to fully participate in their government, it is inherent of the Legislature to absolutely protect the citizens' access to a petition and, thus, their voting rights. Persons found to have violated the citizen's right to access a petition as stated in this bill shall be guilty of Class V misdemeanor. And basically it just adds to the petition law: protect the right of a citizen to sign a petition; no person shall harass, intimidate, or impede a circulator of a petition within two hundred feet of the circulator, and any person who does so is guilty of a Class V misdemeanor. And why I chose what I did because I just mirrored what we do at voting booths. It's the same law basically moved the petition law. So if you talk about free speech and free rights, I don't...I can't stand in front of a polling place and electioneer. I can't scream at people. I can't yell at them. I can't swing signs in their face, which happened to me. I can't be called every name in the book, which I'm used to it. I'm married. But, anyway...I'm just kidding. Hope my wife ain't listening. (Laughter) Anyway, that was not true. All right. That was the first mistruth I've said and it'll get back to her. Anyway... [LB368]

SENATOR BLOOMFIELD: My wife is sitting behind you. I'm sure it will. [LB368]

SENATOR GROENE: Yeah. Anyway, but the election law says, states in 32-1524, no person shall do any electioneering, circulate petitions, or perform any action that involves solicitation with any polling place or any buildings designated for voters to cast ballots by the election commissioner or county clerk pursuant to the Election Act while the polling place or building is set up for the voters to cast ballots are within two hundred feet of any such polling place or building. I just copied that because the people have a right to access a petition. Now this only applies to the people harassing the citizen trying to sign a petition, not the petitioner. It sounded like you were...the...but she'll explain herself when she gets back up here. But the point is, we've got to let people sign petitions. I mean, maybe 200 feet is too far. Some other states did 10 or 15. You know, we already have laws in place that you can't harass somebody. You can't assault somebody. And, quite frankly, folks during 2006, there was more petitioners assaulted by those blockers than there were any petitioners chasing people in parking lots. But we didn't complain. We didn't tape it. We didn't film it and try to get it on the news to try to create a crisis. We thought it was part of the process, part of the dynamics of politics. But it's gone too far and it needs to be changed. So would it stand up constitutionally to free speech? This does. Protect the person's right to vote. Why wouldn't it stand up to protect a person's right to sign a petition? So I would be glad to work with the committee to change that, look a little bit into say 10 feet, 20 feet. Let a person sign a petition. And I forgot to say it but Mr. Nabity did, all this does is put it...this process is put it on the ballot so that the citizens can vote on it. That's all it does. It doesn't create law. It just puts it on the ballot and then you start another whole process of debate through the election cycle. You're going to vote for it and then you have a lot of money to spent on advertising. It's the dynamics of a democracy. Also, I just went blank on that part. But, anyway, I would like you to consider it. You know, we talked about Oregon. Oregon, yeah, Oregon does well. They've got a lower tax rate than we do, folks. (Laugh) And so it's on the

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ballot. Some of them pass, some don't. What's wrong with that? People are out walking around, meeting each other, signing petitions up there. A lot of it spent, apparently they aren't sitting around watching television. But it's a good dynamic process and it has really been harmed in Nebraska. The process has really been harmed. The grass-roots effort just can't exist anymore. It just doesn't because mainly...one of the points is this, and there's other issues, the 10 percent of who voted. Imagine this: 10 percent of who vote of electorates. All right. Now some of those people are dead, some of them moved out of state, but they're still on the electorate list, and that's the number on a certain day. You've got to take 10 percent of those voters. And that's what the Secretary of State does. Now last election, what was it, 35 percent of the people voted. So 10 percent of the people is equivalent to 20 percent of 50 percent of the people, and it's almost a third of the people who voted. You got to go out and get as many people to sign that petition as a third of the people actually took the time to vote in the election, because we're talking about registered voters. We're not talking about what it used to be electorate. And it all goes back to term limits. And it's citizens one, Legislature five because they really came on strong and the special interests...and the special interests didn't like term limits either. Once a senator was bought, they were bought. Every eight years, they had to spend a whole bunch of money and buy another one. That upset them. So this is all...this is what this is all about. So, anyway, I would...I'm on this committee, so we'll talk about it in Executive. Any questions? [LB368]

SENATOR MURANTE: With that comment, I'd like to recognize Senator Karpisek as visiting the Government, Military and Veterans Affairs Committee. Any questions? Senator Bloomfield. [LB368]

SENATOR BLOOMFIELD: Thank you. Senator, I think we're infringing on people's rights. If you have a place set up where you can talk, why can't I be five feet away from you doing the same thing in opposition? I have equal access to that public property as you do. I think setting up any kind of barrier other than physical assault is against our... [LB368]

SENATOR GROENE: Should we remove that regulation because we're...that we do on election day at the ballot box? [LB368]

SENATOR BLOOMFIELD: This is not a vote. This is signing a petition. It's not the same thing. [LB368]

SENATOR GROENE: And I read to you earlier about our state Constitution is just as sacrosanct to the rights of the people as...to sign that petition as it is to vote. [LB368]

SENATOR BLOOMFIELD: So is opposition to a petition. [LB368]

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SENATOR GROENE: Then let's do it right in front of the voter's booth. That's... [LB368]

SENATOR BLOOMFIELD: That's fine. Go out in front of the voting booth, but if you're within 200 feet of that space on any day other than election, I have equal right to that space as you do. And that we can debate in Exec when we get there, but I think what you're doing here is infringing on other people's right to oppose what your petition would propose. [LB368]

SENATOR GROENE: Well, that debate can take place after it's on the ballot. I mean, these people are just trying to... [LB368]

SENATOR BLOOMFIELD: It can take place before it gets on the ballot. [LB368]

SENATOR GROENE: The people are just trying to sign a petition and they are being confronted and harassed. [LB368]

SENATOR BLOOMFIELD: Do you not think you would be harassing someone by keeping them away from you 200 feet or whatever distance the committee would come up with? [LB368]

SENATOR GROENE: There's all sorts of laws where I can't do things. I can't yell fire in a... [LB368]

SENATOR BLOOMFIELD: This has nothing to do with yelling fire. [LB368]

SENATOR GROENE: Yes, it does. It has a lot to do with a person's right to sign a petition, and somebody is harassing them from doing so. I said maybe 200 feet is a little too far, but I mirrored the voting booth law just to make the point that there is statutes that protects people's rights to take part in their government. And it supersedes your right to free speech actually. [LB368]

SENATOR BLOOMFIELD: That's a debate we'll have to have. (Laugh) [LB368]

SENATOR GROENE: Well, let's take it to the courts and let them...lets the other side overrule one. Historically, the other side is throwing...they knew where... [LB368]

SENATOR BLOOMFIELD: I don't believe... [LB368]

SENATOR GROENE: ...where unconstitutional laws at us and then they knew it would cost a lot of money and a lot of time to get them off. Let them do it once. [LB368]

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SENATOR BLOOMFIELD: I don't believe you're going to find anything that over...outranks freedom of speech, and that's what you're... [LB368]

SENATOR GROENE: The Second Amendment does. [LB368]

SENATOR BLOOMFIELD: Depends which one gets used first. [LB368]

SENATOR GROENE: (Laugh) Anyway, we won't go there. [LB368]

SENATOR MURANTE: Okay. Senator Garrett, then Senator Hansen. [LB368]

SENATOR GARRETT: Just a quick question. Thank you, Chair. Penalties associated with a Class V misdemeanor, what are they? [LB368]

SENATOR GROENE: A small fine, 100 bucks, something like that, I believe it is. [LB368]

SENATOR GARRETT: Okay. So if we have some goon that's being a blocker, I mean, can he just be repeatedly cited for a Class V misdemeanor? Are we going to prevent him from... [LB368]

SENATOR GROENE: Well, you know, you've got overlapping laws. If he actually, physically abuses somebody, he's going to get assault. [LB368]

SENATOR GARRETT: Right. But... [LB368]

SENATOR GROENE: And...but he's going to be hauled away. I mean, he's going to be arrested and hauled away. And then if he wants to come back and get hauled away again, he can. You know, there's always the exceptions to the rule. [LB368]

SENATOR GARRETT: They won't haul him away for a Class V misdemeanor. I mean, that's going to be a citation, right? So he can turn around ten minutes later and do the same thing again. [LB368]

SENATOR GROENE: I guess you can jump in a car and go speed again, too, if you'd want, but most people learn a lesson and leave. Right now the police, if you call them and you're getting harassed at a petition, the policeman stands there and he understands how powerful the right to petition is because we sued the League of Municipalities and they all back off. So he doesn't

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know how to handle that situation because there's no legal standing for him to say, wait a minute, this statute says you've got to be 200 feet away or 50 feet away. Sir, you have to move. Right now, he don't have to do anything. He can't do anything, the police officer can't unless there's physical harm been done. Meanwhile, a lot of people...it's...what happens is they know...most people avoid conflict. So I've seen them where they're walking towards you and somebody starts yelling, waving a sign in front of you and saying things and the person goes, walks the other way because of that intimidation. Most people avoid conflict and that is what the blocker knows. [LB368]

SENATOR GARRETT: Thank you. [LB368]

SENATOR MURANTE: Thank you, Senator Garrett. Senator Hansen. [LB368]

SENATOR HANSEN: Thank you, Chair. Senator Groene, let me start off by saying I share some of the similar concerns as Senator Bloomfield, and we can address that in Exec. My concern is...separate concern is this would essentially enable special rights to a petition circulator that we don't allow to anybody else and would even allow them to, say, do their own version of blocking or whatever you want. Like in a hypothetical scenario, I'm a candidate. I'm having a rally. There's nothing to stop a petition circulator from walking 100 feet away from my rally and then all of a sudden I have to stop or I'm guilty of a misdemeanor. Is that correct? [LB368]

SENATOR GROENE: Unless you're yelling at the petitioner, trying to block him. [LB368]

SENATOR HANSEN: It just says any electioneering and I interpret electioneering to be anything pertaining to election. [LB368]

SENATOR GROENE: It's a good point. That's a good point. We can always fix that with...that's a good point, sir. That's why we have these hearings. We'll do it in committee. We'll put blocking or whatever. I understand that. I'm not going to debate that. [LB368]

SENATOR HANSEN: Absolutely. I just wanted to make sure that was raised and then on people's minds. [LB368]

SENATOR GROENE: Yeah. Thank you. [LB368]

SENATOR HANSEN: Thank you. [LB368]

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SENATOR MURANTE: All right. Any additional questions? Seeing none, thank you, Senator Groene. And we will proceed to proponent testimony to LB368. Proponents. And welcome to the Government, Military and Veterans Affairs Committee. [LB368]

JUSTIN COOK: Good afternoon, Senators. Senator Murante, my name is Justin Cook, and this particular... [LB368]

SENATOR MURANTE: Could you spell your name out for us, please? [LB368]

JUSTIN COOK: I apologize. J-u-s-t-i-n, Cook, C-o-o-k. And I have firsthand experience with this particular issue. In 2010, I was actually a petition candidate in the Saunders County Attorney's race, and I've never experienced anything like this in my life. I literally had people from Chicago telling me it was like living in Chicago. It was like Chicago politics. The harassment, intimidation was absolutely ridiculous. I've never seen anything like it in my life. I thought, ah, I'm running for a county office, right. Not running for state senate, not running for president, whatever. This...although LB368 may need tweaked in a couple of areas, as a whole I think it has a place. And I think that any threat, intimidation, harassment that doesn't necessarily rise to the level of falling under, you know, Chapter 28 in the criminal code needs to have something because...and I'll address Senator Bloomfield, the Supreme Court of the United States has said over and over, if you can find a legitimate purpose for the benefit of the populous, of the citizens, we could put aside certain, you know, limit it. But you can take certain rights, the freedom of speech in particular, and yelling fire in a theater is the same thing actually because what you're doing by allowing that behavior is infringing upon everyone else's political process in the right to vote essentially is what you're doing because you're limiting choice. The democratic process is about choice. I hear over and over, oh, it's a representative democracy. You know, it's this, it's that. Sure, but that representative democracy has outside influence, special interests, corporations, money. This is a check on that system. Checks and balances, separation of powers, these are all traditional values and elements built into the constitution of this state and the United States. So there's a weighing out here. There's a cost-benefit analysis that you need to look at when you're doing this. Do I think it should be a misdemeanor? No. An infraction, yeah, probably. I'm a criminal defense attorney. I don't like to make a number of rules even though it might lead to more business for me. But I don't...I think there needs to be some teeth. But we need to have a check on the corporate special interests and not limit choice because that's what this process is about. It's been said over and over. The point here is to give the people choice, to get it on the ballot. That's all we're doing. There's a whole nother process after that. And what it is doing essentially, balance. That's the other thing I hear over and over. Well, how is it balanced if you're not allowing pay per signature, if you're not allowing stopping a blocker as a harassment, and these types of behaviors? It's not balanced. And, finally, I think there needs to be something else added to this, and that is, and I'll tie it up... [LB368]

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SENATOR MURANTE: Let me ask you a question. [LB368]

JUSTIN COOK: Yes. [LB368]

SENATOR MURANTE: What do you think needs to be added to this? (Laughter) [LB368]

JUSTIN COOK: Thank you, sir, Senator. There needs to be also added to this that you cannot harass them and intimidate the individuals who signed the petition because in my race, this was just to get on the ballot. Okay. They would go up to individual's houses right after, harass, harass, or see that someone signed it, call them over and over. You know, and it's just wrong and it needs to be stopped. There needs to be some sort of reason that they might think, hmm, should I be doing this. So... [LB368]

SENATOR MURANTE: Okay. Thank you very much for your testimony. Any questions?  
Senator Bloomfield. [LB368]

SENATOR BLOOMFIELD: Thank you. Why does your right to circulate a petition outweigh my right to oppose it? [LB368]

JUSTIN COOK: There is nothing that says you cannot go around and talk to individuals and knock on doors and do that thing. Do you have a right though to walk with a group of people or right in front of me and intimidate and harass? No. I don't think you do. Just like these people shouldn't be able...you know, if the roles are reversed and it's an issue your side is in...you know, it's balanced that way. [LB368]

SENATOR BLOOMFIELD: Let's go back to the grocery store and the sidewalk. If you set up on the right side of the grocery store, why can I not set up on the left side of the grocery store door? [LB368]

JUSTIN COOK: As long as you aren't right in my face... [LB368]

SENATOR BLOOMFIELD: It's not going to be a 200-foot-wide door. [LB368]

JUSTIN COOK: Well, like I said, there are some things that should probably be tweaked. Okay. And it needs to be balanced in a two-way street. But not...you know, one part of this puzzle should not be able to essentially undermine and intimidate and influence the entire political process, and that's what's going on. [LB368]

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SENATOR BLOOMFIELD: I have never seen the blocking or, for that matter, the forcing of a petition on you to sign. I have never witnessed either one of them. But I have seen...I'm trying to figure out how to phrase this, I have seen people prevented from preventing...from opposing things that they shouldn't be prevented from, and that's what I'm concerned with, with my position on this. [LB368]

JUSTIN COOK: Sure. And I'll just submit, I grew up in a county of less than 1,600 people, 70 miles from one side to the other. I grew up on a farm and ranch, period. I practice in Lincoln now, but I live in a rural county. This was in a rural county that this happened, just so you know. It wasn't in Omaha. It wasn't in Lincoln. [LB368]

SENATOR BLOOMFIELD: I know what you had talked about there is somebody found out that somebody signed the signature and called them at home to say why did you do that? [LB368]

JUSTIN COOK: No. It was... [LB368]

SENATOR BLOOMFIELD: That signature is public as soon as you sign it I believe. [LB368]

JUSTIN COOK: This was before, this was before the petitions were turned in. So, no, they weren't public at that point. [LB368]

SENATOR BLOOMFIELD: But the opposition has equal access to that voter as you do. [LB368]

JUSTIN COOK: I agree as long as they're not... [LB368]

SENATOR BLOOMFIELD: Thank you. [LB368]

JUSTIN COOK: ...intimidating. Anyone else? [LB368]

SENATOR MURANTE: It's a great question. Is there any other questions? I don't see any. Thank you very much for coming down. [LB368]

JUSTIN COOK: All right. Thank you. [LB368]

SENATOR MURANTE: Are there any additional proponent testifiers for LB368? Seeing none, let's start with the opponents. Welcome back. [LB368]

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LYNN REX: (Exhibit 2) Thank you, Senator. Senator Murante, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. First, I would like to clarify that the reason why we're opposing this bill is because we do think, again, there needs to be balance. And it raises some of the same issues, Senator, that you're raising, which is that this carves out a unique scenario for those that are circulating petitions, and we do think and I would just underscore for you, I don't believe that there should be harassment of anyone circulating a petition. I've not seen that. Senator Groene says that he has. In the same light, I don't think that you should have people circulating petitions that harass members of the public, and I have seen that. And I have seen misrepresentation as we talked earlier. And I would like to incorporate my testimony from LB367 into my testimony today as well as my testimony from LB39 and LB40 in 2007, because as I said earlier, this committee voted out 7-0 at that time LB39 and LB40 to address the number of issues and problems that occurred from the 2006 petition drive, and that was done with the Secretary of State, with an interim study after a vast amount of effort. And I would encourage this committee to do the same thing, to hold these bills, to really start looking at how do you strike that balance, because I would submit to you that...and, again, the reason I have the handout for you is the McCullen v. Coakley case. This was decided June 26, 2014. This was an issue that I never get involved in fortunately. But this case, I'm just going to read you the holding. The court unanimously held that Massachusetts' 35-foot fixed abortion buffer zone established via amendments to that state's reproductive healthcare facilities act violated the First Amendment act to the U.S. Constitution because it limited free speech too broadly. In the holding, the court also reiterated what the Supreme Court has said before in United States v. Grace which is the following: The government may impose reasonable restrictions on the time, place, or manner of protected speech provided the restrictions are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information. So, again, I think that this bill is unconstitutional on its face as currently drafted. That doesn't mean there isn't a legitimate issue here. I think that no one circulating a petition in the state of Nebraska or anywhere should be harassed, again I wanted to underscore, nor should anyone else opposing that effort. And, Senator Bloomfield, what happened in Lincoln in several locations is exactly what you said. There would be a table set up of those people to sign initiative measure 423, and those of us that were in the coalition on the other side had folks there saying here's what you need to know about 423 and what it does and what it doesn't do. There needs to be transparency. People need to know what they're being signed. As I indicated and alluded to in my other testimony, when you have people out at a public park and I mean hundreds of people going out there to Wright Park, as you know, Senator Hansen, probably thousands that...you know, over a period of a weekend I'm guessing with all those kids coming in and out with all these softball games, baseball games, and someone telling you sign up so you can avoid child molestation and stop that. Those are the kinds of things that happened. And this is the reason why this committee looked seriously at those issues and passed LB39. So, again, I just hope that the committee will take these issues that Senator Groene has

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brought forward seriously and I know that you will. I think he's brought some legitimate issues. If there were blockers that did something inappropriate, they shouldn't be doing that either. I also think that one has to be very careful about what you do with the criminal code. And I do believe that I've got the right, too, to make sure that whatever is done is balanced in a way because who knows down the road whether or not our organization wants to come forth some day. You never know whether or not you represent an interest that you may want to come forth some day in an initiative effort. That's why in regards to which side you're on, you want to make sure it's a balanced approach. And I would just close by saying, again, I appreciate him bringing these issues forward and look forward to working with the committee. I encourage you to work with Neal Erickson and others and look at what NCSL has done, which is extensive work on these kinds of issues. I'd be happy to respond to any questions that you might have. [LB368]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? Seeing none, thank you very much for coming down today. [LB368]

LYNN REX: Okay. Just one closing comment if I may, and that is that I know Senator Groene has stated a couple of times that he's sued the League of Nebraska Municipalities. The League itself was never sued. We had cities that were challenged because law enforcement officers were called by the Hy-Vee stores, the Target stores, the Walmart stores saying what can you do, these people are blocking our entranceway, just as Kathy Siefken indicated earlier on the prior bill. And so police officers were called out and asked them to move, and that's when lawsuits have been filed. So it was not against the League per se. [LB368]

SENATOR MURANTE: Okay. Thank you very much. [LB368]

LYNN REX: Thank you very much. [LB368]

SENATOR MURANTE Opposition testimony. Ms. Siefken, welcome back. [LB368]

KATHY SIEFKEN: Good afternoon, Chairman Murante and members of the committee. My name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n, representing the Nebraska Grocery Industry Association as both their lobbyist and their executive director. We are opposed to LB368. Basically, as I said earlier in the earlier bill, 200 foot in a rural area puts you half a block away. So the 200-foot in my mind just doesn't make any sense. But when you think about our customers leaving the grocery store and the fact that they are being harassed, sometimes, not all the time, but they are on occasion being harassed by the signature gatherers. In all fairness, if you want to reverse roles, the signature gatherer should be 200 foot away from our customers so that they don't get harassed. And as I said earlier, the laws that we are dealing with now seem fair and seem balanced. And this changes the balance of the petition laws. And even though the laws

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are there and they're much better since Senator Schimek's bill was passed, we still have issues. In the city of Lincoln this past summer, we had many instances where petitioners would go out into the parking lots and they would wait for people to come with their carts of groceries, and when they unloaded their groceries into their car, the petition...or the signature gatherers would step up to those customers. And the store owners would come out and chase them off the parking lot, and within 30 minutes they were back. And so it's...even though the laws are there, there's still an imbalance because no one is being arrested. They're very politely and kindly asked to leave, and then they turn around and they come back. So it's an ongoing issue and there are things that are happening probably on both sides. And, again, I come back to if people would just use common sense, it would probably work. But I think that this bill with a 200-foot safety area so that no one can get inside that area, including the store owner because the bill actually says harass, intimidate, or impede a circulator within 200 foot. If the store owner walks out the front door and says more than once, could you please move it over so my customers can get out the front door, would that be considered harassment? So that really is a major concern for our retailers in this state. If you have any questions, I'd be happy to address them. [LB368]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down. [LB368]

KATHY SIEFKEN: Thank you. [LB368]

SENATOR MURANTE: Any final opposition testimony to LB368? Seeing none, is there any neutral testimony? Seeing none, Senator Groene is recognized to close. [LB368]

SENATOR GROENE: I will remind this committee, the first power reserved by the people is the initiative whereby laws may be enacted and constitutional amendments adopted by the people independently of the Legislature. It is our right to petition the government. It is our right to do so and it is a right to sign a petition, and that is what I'm trying to attempt here because I keep hearing balance, as the individual who was running for the Saunders County attorney, where's the balance, folks? We haven't had a petition on the ballot by the grass roots in 20 years. Been a lot of bills passed by the Legislature to restrict petitioners since in that 20 years. Not because of...because of decencies they say or just, my gosh, people are at the park and somebody is asking them to sign a petition. That's democracy. And to correct Ms. Rex, we sued the cities of Omaha and Lincoln. They were defended by the League of Municipalities. And it had nothing to do with grocery stores. If you want to read the complaint, they stopped us, petitioners, from being in front of the library, the courthouses, DMVs, public entities. There was nothing about Hy-Vees or Targets in that lawsuit, and we won that lawsuit. As America gets more corporate, the Main Street doesn't exist like it used to. Places to gather petitions become less and less. In reality, if you want to fix this let's go back to 10 percent of who voted in the last Governor's

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election. That's what it was for years and years and years, 10 percent of who voted in the last Governor's election. And I don't see the fear of putting something on the ballot. You don't trust your fellow Nebraskans to vote aye or nay on something, on an issue? Four twenty-three got defeated once it was on the ballot. We had 70 percent approval rating, but when the millions of dollars were spent against it, we lost. But this is a right to petition your government and it scares me that anybody with wisdom or common sense or deductive reasoning translate this into the conduit, the person carrying the petition. This is about protecting that piece of paper and your access to it. That's what it's all about. It has nothing to do with the person carrying it. Nothing! And any law that restricts your access to that piece of paper is taking your right away from you, is taking this Section 2 right away from you. Can we get a little bit of wisdom here and say let's not talk about the person carrying the petition? Let's worry about the petition. That's what this law is all about. Now I understand this is a lot of...sending a message here a lot, but we're willing to look at some other states and see 10-foot, 20-foot. You know, we've got laws about abortion clinics because people have a right to access to certain things. We've got laws about you can't block any business doorway. Those laws are already there. And I don't know of any petitioner that if a businessperson came out and asked you to leave, I left a couple of businesses because they were supporters of mine and one person, one person who complained had more power than the 150 people that signed a petition. That's scary in front of a business that the owner was so scared of losing one customer that he denied the 150. But that was fine. We still got in on the ballot and I understand that. But, no, it scares me that government entities, cities, would try to actually form up and go up against the citizens and try to take...support taking their rights away from them. I never understood that with the League of Municipalities. I never have. They have issues, but trying to take the rights away from individuals to do one of their constitutional rights really concerns me. And that's...I'm not attacking Lynn Rex. She's just doing her job. She does it well. She's been doing it quite a few years. And I don't envy lobbyists sometimes the positions they have to take. But we can make a few amendments. And, Senator Hansen, I read the law again. There is one line in the statute and I don't even know why it's in there. I'm assuming it ended up in there. You guys have all tried to write bills. The one that says no person shall do any electioneering without...within two hundred feet of a circulator could be struck. It really doesn't need to be in there. The rest of it just pertains to the petition or the conduit of the person carrying it. But let's see what happens and it brings back an issue, we need to get petitions on the ballot again. We need people walking the streets getting petitions. That's the democratic process. It...people need to be involved. And we talk about voter turnout and stuff and then we have an issue where people get fired up and they go out and want to get involved in the government, and what we do is sit around here and try to restrict it. That makes no sense to me. So with that, I'll end it. [LB368]

SENATOR MURANTE: (Exhibits 3 and 4) Thank you, Senator Groene. And before we close the public hearing on LB368, I have two letters. One, a proponent, Diann Gentry, representing herself; the other, Nancy Fulton as...it's an opposition letter from Nancy Fulton from the

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Nebraska State Education Association. And with that, we close the hearing on LB368. And move on to the most important bill of the day, the one that I introduced. [LB368]

SENATOR GROENE: The last one.

SENATOR MURANTE: Yes, and the last one. That was pure sarcasm, for the record.

SENATOR GARRETT: Welcome, Senator Murante. [LB577]

SENATOR MURANTE: Thank you, Vice Chairman Garrett and members of the Government, Military and Veterans Affairs Committee. For the record, my name is John Murante, J-o-h-n M-u-r-a-n-t-e, and I am here today to introduce LB577. LB577 is an attempt to address a problem. And before I get into the solution I want to describe the problem a little bit to you because this is a problem that doesn't impact many districts in the state of Nebraska. It probably impacts mine as much as anybody's, but Senator McCoy is right up there and Senator Garrett's district faces this problem as well. And the problem is that in the metropolitan areas the cities of this state have the authorization to regulate and to monitor people who are door-to-door solicitors. So we know who they are when they're in a municipality. But in districts like mine, Senator Craighead's district is taken care of because it's entirely comprised of the city of Omaha, but my district has 37,000 people in it, just like all of yours does; 5,000 of those citizens live in the city of Gretna; the other 32,000 do not live in an incorporated city. They are unincorporated. There's either rural ag land, I've got farmland, and unincorporated SIDs throughout northwest Sarpy County. Those...at this time, there is no way to regulate or even monitor the people who are going door to door, and the consequence is people who are particularly aggressive and in some instances nefarious will bypass Senator Craighead's district because they know they have to register and let the city of Omaha know who they are. So they just skip District 6 entirely and come out to District 49 and knock on doors in unincorporated Sarpy County in District 39 and unincorporated Douglas County. And there have been numerous instances where I have received calls, my county commissioner has received calls from constituents who have said there are people going door to door who will not let the person who has rejected the sale close their door who threatened them, who make comments, and by the time the police get called and the police come back they're gone and we have no idea who they are. There's no way to find out who they are. So what I am proposing here is to give counties the exact same authority over this business that the cities have so that we're not pushing them, pushing the nefarious actors out into the counties and we just have the harmony of standards and regulations. I have an amendment. I will say I'm not married to the language in the bill. That's why I started talking conceptually rather than specifically about what it is we're trying to do. Now the specific language is mirrored and tailored very closely to the regulations that currently exist on the municipal level, however, this is not...I don't believe that the counties should be allowed to reject, for example, someone who

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wants to go door to door and say that's a legitimate business practice. There are plenty of legitimate businesses who have door-to-door salesmen. There's nothing wrong with that. But it is important that we have some sort of registry, some sort of understanding of who these people are so that if something is done that is in violation of certainly ethical laws but also the state laws, we know who these people are, we can find out. We have their information and we can find them that way. So that's my concern. I have an amendment that I'm working with Sarpy County and others to smooth it over, so I'm not married to the language. But that's the concept, that's the problem, and that's what we're hoping to address with this bill. Thank you. [LB577]

SENATOR GARRETT: Thank you, Senator Murante. Are there questions? Senator Craighead. [LB577]

SENATOR CRAIGHEAD: Thank you, Senator Garrett. So this would be for all 93 counties in the state. [LB577]

SENATOR MURANTE: All 93. [LB577]

SENATOR CRAIGHEAD: Okay. So they could go to Senator Bloomfield's district up in Wayne and do the same thing they could in Sarpy and Gretna, right, same thing? [LB577]

SENATOR MURANTE: They could. If they wanted to take the trip, they are certainly...it's a beautiful countryside up in Wayne and I'm sure... [LB577]

SENATOR CRAIGHEAD: But it's...I can't figure the adjective, but it's for the entire state. [LB577]

SENATOR MURANTE: And it's important to note that it is permissive. It gives the counties the authority to do it but it does not mandate that they do it. So if they want to do it, that's their prerogative. [LB577]

SENATOR GARRETT: Thank you, Senator Craighead. Other questions? Senator Bloomfield. [LB577]

SENATOR BLOOMFIELD: Thank you. In your perception of this bill as it goes along, do you delegate the authority to give that permit to a county clerk or anything or who has that authority? [LB577]

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SENATOR MURANTE: Well, it would be an ordinance written by the county. So it's...this is giving the county the...I guess fundamentally it's the county board who has the authority to approve an ordinance. [LB577]

SENATOR BLOOMFIELD: The county board would have that authority to approve the ordinance, but when Senator Craighead comes to Wayne County who gives her the permit? Would the county clerk do that? [LB577]

SENATOR MURANTE: I suspect that's going to be up to the county. That's...which office within the county they go to get the permit, I suspect that's largely going to be a function of the county. [LB577]

SENATOR BLOOMFIELD: Okay. Our commissioners don't meet every day like they do in your bigger counties. [LB577]

SENATOR MURANTE: They only meet once a week over in Sarpy County. That's not too bad. [LB577]

SENATOR BLOOMFIELD: We may meet once a month in some of the rural counties. (Laugh) And as much as I'd like to see Joni come up and sell something up there, I don't think she'd want to stand in the courthouse for a month hoping that the commissioners would come in. So we can work on that. [LB577]

SENATOR MURANTE: Fair enough, fair enough. [LB577]

SENATOR GARRETT: Senator Hansen. [LB577]

SENATOR HANSEN: Yes, thank you, Vice Chair. Conceptually my question is, are we giving powers to the counties to do it as addition to the cities or are we transitioning the power from the city to the county? [LB577]

SENATOR MURANTE: It's in addition to and part of the...I introduced this two years ago and we just ran out of time before we had an opportunity to really dig too far into it. There have been ideas such as if you have...if you are registered with a city within a county that that's good enough. I mean, I'm not really trying to impose any great burden on anyone. It's just if you are...if there is no record of you anywhere and we can't find you, we need to have some way of finding out who these people are. [LB577]

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SENATOR HANSEN: All right. [LB577]

SENATOR MURANTE: So I'm not trumping the cities. To answer your question, I'm not attempting to trump the cities. This is explicitly a county function. [LB577]

SENATOR HANSEN: All right. I just wanted to clarify. My second clarifying question is, so this means the person who now rings my doorbell at 7:00 a.m. on a Saturday selling me meat out of an unmarked white van is technically registered? (Laughter) [LB577]

SENATOR MURANTE: Within the city of Lincoln I understand they have a permit and a registry and all that stuff, so, yes, they have gotten some sort of permit at some point from the city of Lincoln. [LB577]

SENATOR HANSEN: Great. Good to know. Thank you, Senator. [LB577]

SENATOR MURANTE: Yeah. [LB577]

SENATOR GARRETT: Thank you, Senator Hansen. Senator Groene. [LB577]

SENATOR GROENE: Thank you, Vice Chairman Garrett and Senator Murante. Now you know why I go home every weekend. You got vicious petitioners here and Girl Scouts that stick their foot in the door. (Laughter) We don't have that. [LB577]

SENATOR MURANTE: It's a competitive bunch, those Girl Scouts. [LB577]

SENATOR GROENE: We don't have that back in North Platte. But, anyway, there's a lot of issues here, you know. In the rural counties you've got fertilizer salesmen, seed salesmen go out to farmer's doors. Are you talking that if you don't have an address, a business address within the county, that wouldn't work either because you've got...I've made my living banging on farmer's doors, running fertilizer plants, and selling equipment. So are you saying that I would have to go register? And I covered four states. I never got ran off a place ever. Usually they were glad I showed up. But how do you distinguish between a regular businessman, a Girl Scout, a Boy Scout versus how do you define a peddler, a hawker, or a solicitor? [LB577]

SENATOR MURANTE: And the definition particularly of solicitor is really where the rubber meets the road, that's where the challenges come in. Because in my view, I would like to exempt nonprofits entirely, that I can't...I've yet to hear an example of a not-for-profit that has engaged in

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this sort of behavior, so that's not really a problem that we need to address at this time. But I see your point that there are a number, and there are, like I said, even we don't have to go that far outside of the metropolitan area to find legitimate businesspeople who use door-to-door sales as a legitimate business practice. It is a legitimate business practice and I'm not trying to curtail that. I'm simply trying to when we have bad actors understand...just know who they are. [LB577]

SENATOR GROENE: Then what about petitioners and what about when you and I banged on doors when we were running for office? [LB577]

SENATOR MURANTE: The bill explicitly limits this to commercial speech. [LB577]

SENATOR GROENE: All right. [LB577]

SENATOR MURANTE: And I did that deliberately to exempt political and religious speech because that is certainly sacrosanct. There's nothing we can do about that. So I'm not trying to deal with that and, again, it sort of...that's not fundamentally the problem. I haven't hear...I mean, you hear people complain about political campaigns knocking on doors and making phone calls and things like that. But that's not the problem we're trying to address here. [LB577]

SENATOR GROENE: Yeah. I could see what you're trying to address but I see big problems. [LB577]

SENATOR GARRETT: Thank you, Senator Groene. Senator Bloomfield. [LB577]

SENATOR BLOOMFIELD: This is more of a comment than a question but one of our neighbor ladies had an issue with one of these people that kind of got in the door and wouldn't leave. She found that a loaded .45 was very effective at getting him to leave. [LB577]

SENATOR MURANTE: That's why I supported your concealed carry bill, Senator Bloomfield (laughter). [LB577]

SENATOR GARRETT: Any other questions? Thank you, Senator Murante. [LB577]

SENATOR MURANTE: Thank you. [LB577]

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SENATOR GARRETT: Any proponents? Welcome to the Government, Military and Veterans Affairs Committee. [LB577]

FRED UHE: Senator Garrett, members of the Government Committee, my name is Fred Uhe, the last name is spelled U-h-e, and I'm the director of community and government relations for Sarpy County. And I will...appreciate Senator Murante's introduction of this bill as well as the ongoing discussion of some of the potential problems in the situation. This is truly a constituent-driven bill. It's not attempt by the county to regulate free enterprise or anything of that nature. But it has been very frustrating for some of these folks when people show up on their doorstep, they tend to be a little bit aggressive, very zealous in the sales, and unfortunately from the Sheriff's department it's oftentimes they may leave. They're citizens walking down the sidewalk. They really have no probable cause to engage these citizens such as do you have a permit or anything. And unfortunately most of the legitimate businesspeople are not engaged in those type of confrontational tactics. Conversely, there's the bad actors that usually use the guise of sales as an ability to case a neighborhood. Say, if I went to Senator Garrett's house every Friday afternoon at 3:00 and no one answered I'd have a pretty good idea that no one is going to be home. And we have had some instances where it appears that some of these people have done that. So Sarpy County has about 168,000 people, current estimates. I think approximately 60,000 live outside, so they're not all in Senator Murante's district. Senator Garrett, you have a fair number of SIDs and stuff as well. So what we're attempting to do is mimic what the five cities and Sarpy County and the city of Omaha have. We're very cognizant we're not out to get the Girl Scouts or anything of that nature, but we do feel that when those citizens call us and they're frustrated, there's really nothing that the county can do that we can at least identify those bad actors. So the...Senator Bloomfield, in regards to your question, I think every ordinance could be written differently. Internally in Sarpy County, we...not...since we don't have the authority, we have not proceeded as far to engage the process on whether to meet with the county clerk, perhaps the county sheriff. There might be some background check requirements. You know, it depends on kind of the nature or maybe if it's just the mere fact that registering and if you're, you know, a good actor, no problems. But if there's a complaint then we might step up to another level. And so, I mean, it's conceptually we're kind of open. I mean, again, we're not here to interfere with free enterprise. Senator Murante mentioned that it is permissive, so not every...not all 93 counties likely would adopt such a resolution. I know the Douglas County Board I believe has provided a resolution to this committee in support because they've had similar incidents and, you know, it's also a matter of just effective distribution of law enforcement resources too when, you know, deputies are called into these neighborhoods to attempt to identify these people. And so we're likewise Senator Murante has some concerns and a couple of issues. We're not into it to do, you know, for the county to get rich. This is not a fee increase or something we're going to attempt to balance the budget on the back of these businesspeople. But there are potential costs to the county side of what we're doing. So that's part of the ongoing conversation we're having. So we're willing to work with the committee. Quickly, it took us probably about ten years to get

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any ordinance authority. This particular section wasn't actually carried by Sarpy County. When we do introduce an ordinance, we do have to provide copies to our local municipality so they can weigh in with any concerns or comments they have as well, so. With that, I see I'm on yellow which is unusual for me. I don't usually talk this much. So I would be willing to answer any questions. [LB577]

SENATOR GARRETT: Thank you for your testimony, Mr. Uhe. Are there any questions?  
Senator Bloomfield. [LB577]

SENATOR BLOOMFIELD: You approached the area I was going to ask you a question on and it sounds like we're still studying that, and that would be the proposed fees for the counties to issue these permits. [LB577]

FRED UHE: I know Senator Murante has indicated he has some concerns. We have not totally...except that maybe a no fee, we would probably be willing to look at some reasonable caps. You know, my county board, they're elected officials as well, so they understand that they're not going to go out. And so if it's the mere registry of a name and an address in a book, probably we wouldn't charge. But if we do have to do a criminal background check, there are costs involved in that. And I didn't mention if I'd be able to, definitions of nonprofits can get a little bit interesting and we really want to maybe explore that option because I know where I live in Papillion I've had some pretty aggressive magazine sales people and it seems like they're always trying to raise money for antidrug efforts, sending...you know, antigang efforts and, I mean, so you can claim to be a nonprofit but we probably wanted some mechanism to ensure you truly are a nonprofit and... [LB577]

SENATOR BLOOMFIELD: I farmed a nonprofit for a number of years. (Laughter) It's wasn't intended. It's just the way it was. [LB577]

FRED UHE: As a county employee I can relate to that probably some. [LB577]

SENATOR GARRETT: Thank you, Senator Bloomfield. Senator Groene. [LB577]

SENATOR GROENE: Thank you, Vice Chair Garrett. If you do it for one legally, wouldn't you have to make all the local businesses that do that come in and register too? [LB577]

FRED UHE: Potentially. [LB577]

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SENATOR GROENE: Somebody goes to the county fair and puts a card in the book about windows and drawing and that salesman goes out and bangs on that door and that was kind of a local lumberyard, fertilizer dealer, seed dealer. You can't...how do you differentiate? [LB577]

FRED UHE: See, in our case we probably don't have a whole lot of that. I'm actually the mere leafleting of the vehicle at the fair I don't think would necessarily constitute the door-to-door solicitation. You know, unfortunately probably most of our, you know, Sarpy County is a very urbanizing area, very small ag population anymore and probably a lot of those neighborhoods in Senator Murante's and Senator Garrett's district, you know, two-income families, they work, there's no one home. So I think a lot of the legitimate businesses feel that it's probably not that successful in attempting to do that. [LB577]

SENATOR GROENE: Isn't there something called the Green River law or green something law? [LB577]

SENATOR BLOOMFIELD: Green River ordinance. [LB577]

SENATOR GROENE: River ordinance. Isn't that what we're talking about? [LB577]

FRED UHE: I believe so. Again, the county... [LB577]

SENATOR GROENE: Why can't we just extend that to the county and then the county either enacts it or not? [LB577]

FRED UHE: That's I think what we're asking... [LB577]

SENATOR GROENE: So, yeah, I'm looking for added new legislation completely different than what's... [LB577]

FRED UHE: No, it's...we actually have copies of all five of our ordinances and if the committee wished I'd be willing to provide that as far as the five cities. You know, I'm...our goal would be probably identifying maybe some best practices. The fees within our cities are kind of all over the maps. I think one of the highest is \$500, which frankly as I sit here today we probably perceive a little excessive, so. [LB577]

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SENATOR GROENE: What are they selling? Meat and...I mean, you're talking about the Schwan's man? The Schwan's man comes to my door. I don't mind it once in while. Pretty polite. You going to license him? [LB577]

FRED UHE: Possibly. You know, again, it might be just a registry just saying here's our drivers and I don't know, unfortunately I'm usually not home. I know the Schwan's guys come through our neighborhood. I don't know what kind of ID they have, you know, saying...I mean, you can tell by the truck undoubtedly, but. So, you know, we're willing to work and make this. We're not whether it be maybe someone soliciting for waste disposal or, you know, garbage service or something. [LB577]

SENATOR GROENE: Could you write it to say if you don't have a physical address and you're coming in our county you have to register to... [LB577]

FRED UHE: I believe we could. I mean, it's...there...you know, this particular section requires a fair amount of I think three readings with the county board including a public hearing. We do have to notify our local municipalities of the intent of the ordinance and provide maps of what areas that this will be enforced in. And, you know, the reality is I don't think we've ever had a complaint from the rural resident whether it be someone showing up on a farm trying to sell magazines or fertilizer sales or anything of that nature. [LB577]

SENATOR GROENE: You got it. You can't, you know, you got to treat them all the same. [LB577]

FRED UHE: Right. [LB577]

SENATOR GROENE: They'd all have to follow the same rules even though they had no complaint. [LB577]

FRED UHE: Yeah. They have potential for physical address and the county might be a very good way because that firm is paying taxes and contributing to the commerce of the county. And really just to try to...you know, again, the legitimate business doesn't normally send out the bad actors. I mean, you know, we've all encountered an overzealous salesperson, but most times it's not where citizens feel threatened in their own home. And those are the ones that are really touching, where I had a constituent call, you know, his teenage daughter was home. Individual almost forced his way into the house. She was alone. He felt threatened. Perhaps referring back to Senator Bloomfield's comments on (laugh) the weapon might. But, you know, again, without our deputy's witnessing this situation we really have nothing to do to them, so. So oftentimes, you

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know, any interaction with law enforcement sometimes impacts their willingness to conduct their activities in such a way. The fact that, you know, a deputy could stop and say are you going to door to door, do you have a permit, you know. [LB577]

SENATOR GARRETT: Thank you, Senator Groene. Senator Bloomfield. [LB577]

SENATOR BLOOMFIELD: One more question. What about petition circulators? [LB577]

FRED UHE: Political speech I'm assuming would be exempt, so we're very comfortable with that. [LB577]

SENATOR BLOOMFIELD: Okay. Thank you. [LB577]

FRED UHE: That's...Senator Murante hit the nail on the head. We discussed that internally where any religious, political, any protected speech, that's not our goals. [LB577]

SENATOR BLOOMFIELD: Thank you. [LB577]

SENATOR GARRETT: (Exhibits 1 and 2) Any additional questions? Thank you again, Mr. Uhe. Any additional proponents? Seeing none, any opponents? Seeing none, anyone testifying in a neutral capacity? Okay. I'd like to read into the record, we have a letter as a proponent, Larry Dix from the Nebraska Association of County Officials, and also the Board of Commissioners from the Douglas County, Nebraska, a letter in support of LB577. And that concludes the review of LB577 and I'll hand it back to Senator Murante. [LB577]

SENATOR MURANTE: That concludes our hearings for the day. [LB577]

SENATOR GARRETT: I'm sorry, you had the opportunity to close. [LB577]

SENATOR MURANTE: Waived. [LB577]

SENATOR GARRETT: So waived. Sorry. [LB577]