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Government, Military and Veterans Affairs Committee
February 10, 2016

[LB912 LB1109]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, February 10, 2016, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB912 and LB1109. Senators present: John Murante, Chairperson; Tommy Garrett, Vice Chairperson; Dave Bloomfield; Mike Groene; and Matt Hansen; Senators absent: Joni Craighead; Tyson Larson; and Beau McCoy.

SENATOR MURANTE: (Recording malfunction.) ...will be taken up in the order on which they appear on the agenda at the outside of this room. And for all interested parties, we will not be having an Executive Session or holding a vote on either of these bills today, so plan accordingly. If you wish to testify on any of the matters before us today, we ask that you fill out one of these green sheets. The sheets are located on either side of the room. If you are here and wish to register your support or opposition to either of the bills before us but do not wish to testify, we have a sign-in sheet also located on either side of the room where you can register your opinion. If you do testify, we ask that you begin your testimony by stating and spelling your name for the record which is very important for our Transcribers Office. Our order of business is that the introducer of the bill will give opening remarks; we'll proceed to proponent testimony where we will hear all the people in favor of the bills before us; opponent testimony, followed by neutral testimony, and closing remarks will be offered to the introducer if he is so inclined. We ask that you listen very carefully and try not to be repetitive. If someone has already stated an opinion which you simply wish to second, we, again, ask you to sign in on the sign-in sheet and your opinion will be registered as if you had testified. We do use the light system in the Government, Military and Veterans Affairs Committee. Usually we do four minutes, but given the amount of interest that we have in the bills before us, we'll have five-minute lights today. When the green light comes on, please begin speaking. When the amber light comes on, we ask that you begin wrapping up your remarks, which indicates that we have one minute left. And when the red light comes on, we ask that you conclude your remarks, at which time we'll open up the committee for any questions they may have of you. At this time I'd ask that you turn off or silence any electronic devices or anything that makes any noise. If you have prepared remarks, exhibits, or anything you would like distributed to the committee, we ask that you provide 12 copies to the pages who will distribute it to us. If you don't have 12 copies, again, please give it to the pages and we will make copies for you. So before we begin with the first bill, we will do introduction of members. To my far left is Sherry Shaffer who is the committee clerk. State Senator Joni Craighead represents Omaha, Nebraska. Senator Craighead is ill today and will not be able to make it down. State Senator Beau McCoy, also from Omaha, Nebraska, is traveling today and will not be able to make the public hearing; although I understand he is watching from wherever he is. Senator Matt Hansen from Lincoln, Nebraska. To my immediate right, Andrew La Grone is the committee's research analyst. To his right, State Senator Tommy Garrett, who I anticipate to be here very shortly. Senator Garrett represents Bellevue, Nebraska, and is the Vice Chairman

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of this committee. State Senator Dave Bloomfield from Hoskins, Nebraska; followed by State Senator Tyson Larson, who we do not anticipate to be here today, and State Senator Mike Groene from North Platte, Nebraska. And that is your committee on Government, Military and Veterans Affairs. So with that having been dispensed with, Senator Smith, welcome back to your committee on Government, Military and Veterans Affairs.

SENATOR SMITH: Thank you, Senator Murante. It is always good to visit the Government, Military and Veterans Affairs Committee. My name is Jim Smith, J-i-m S-m-i-t-h, and I represent the 14th Legislative District in Sarpy County. And I'm here today to introduce LB912. Voting is one of our most-valued rights as American citizens. We can freely elect those who best represent our individual beliefs without the fear of retaliation or threat or violence. Ours is a system that is largely free of the rampant corruption that undermines so many other countries' elections. The intent of LB912 is to ensure and preserve the integrity of our election system. I decided to introduce LB912 after visiting with my own election commissioner, Wayne Bena; and with the Deputy Secretary of State for Elections, Neal Erickson. Both have extensive expertise and knowledge of the election process and we are very fortunate to have both of these individuals in our state. After meeting with them, I identified the greatest potential for election fraud in our state is with the inactive voter. And when I use the term "inactive voter" I'm not speaking to those who don't vote frequently. It is as much of a right not to vote as it is to vote. Under current law, when a person's name appears on the U.S. Postal Service's national change of address list indicating that he or she has moved from the address at which they are registered to vote, their local election commissioner sends an address confirmation card to ensure the accuracy of voter registration lists. Probably half the time, the postcard is not returned. At that point the individual is deemed an "inactive voter." And the voter registration list is updated to indicate he or she may have moved. Commissioner Bena identified more than 14,000 voters with inactive status in Sarpy County alone. Today, being labeled an inactive voter does not prevent someone from voting. If a person shows up to the polling place to vote, he or she is required to confirm his or her address verbally. At that point, they are no longer considered an inactive voter. But here is where the fraud potentially exists. If somebody is noted on the voter registration list as an inactive voter and shows up to vote, again, I know that that person is simply required to confirm his or her address verbally. And of course, somebody is going to know his or her previous address. So it's not a matter of committing election fraud by impersonating somebody else, it's more of a matter of somebody knowingly voting in the wrong precinct. Is this really a big deal? Well, it probably doesn't make a difference in larger national elections, I'll give you that. But it certainly can have an impact on smaller local elections. Consider that in 2014 elections, the winner for the board of Metro Community College won by only 33 votes; director for the Omaha Public Power District by 26 votes. The district Lower Elkhorn NRD director race was decided by just 3 votes. And even some higher-profile races have been close. If you recall, former State Senator Steve Lathrop won his legislative race in 2006 against current Mayor Jean Stothert by only 12 votes. LB912 merely requires an individual with inactive voter status to show

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documentation confirming his or her address. Documentation includes a photo ID; a current utility bill; a bank statement; a pay check; government check; or other government document dated 60 days immediately prior to the date of presentation. If the individual does not have the proper documentation, this bill does not prevent them from voting. They may still vote using a provisional ballot. As drafted, the bill requires two forms of documentation. The idea behind this is that it is very possible that a driver's license would not be up for a renewal and could still show the old address if, in fact, somebody was attempting to vote in their former precinct. However, my intent with this legislation is not to create a hardship or a barrier to voting. And if the committee sees fit to amend this to only one document as proof, I would have no problem with that. Requiring documentation for address verification is not a new concept. Nebraska Statute 32-318.01, we've required these same documents for new Nebraska voters who register to vote by mail. In fact, just last session, Senator Adam Morfeld introduced LB491 which would allow for the adoption of an election day voter registration pilot project. That bill would require a person wishing to vote, to both register and vote, on election day to present proof of residence which would include a photo ID or two of the same documents required under my bill, LB912. You may recall LB491 is being held by the committee. Therefore, I suggest to you that opposition to my bill should be consistent with any opposition to LB491 with respect to the documentation requirement. The representative of Nebraskans for Civic Reform did have the courtesy to reach out to my staff and point out their specific concerns with this bill. I'm sure you will hear those concerns in opposition testimony today. However, it is my understanding there was not a denial that the potential for voter fraud with respect to inactive voters exists and that there may be a better solution to address this issue than we have today. I look forward to hearing those suggestions. As I stated before, the right to vote is a very important right and it is necessary to protect it by ensuring our election system is free from any harmful influence and corruption. Thank you, Senator Murante; thank you, Committee. [LB912]

SENATOR MURANTE: Thank you, Senator Smith. Are there any questions for Senator Smith? Senator Hansen. [LB912]

SENATOR HANSEN: Thank you, Chairman Murante; and thank you, Senator Smith, for appearing in front of us. I have a question, just in terms of election fraud, so this was election fraud you were worried about in which people are voting in a precinct in which they previously and probably recently lived in but no longer do? [LB912]

SENATOR SMITH: Yes, the inaccuracy of them still being able to vote in that precinct. [LB912]

SENATOR HANSEN: Okay, because when we...and is there any concern these voters are voting multiple times or is it just that they're voting in the wrong location? [LB912]

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SENATOR SMITH: No, it's typically they could not...if they registered to vote elsewhere in their new location, then those two voter banks are synced up to where...I don't think there's that risk of voting in multiple locations. And perhaps those that follow me in support of the bill can testify to that as well. It's more of a case of them voting outside of where they live; outside of their residence. [LB912]

SENATOR HANSEN: Okay. And you addressed this already, and I...but I had already written down, so if you could explain again, why two forms of identification? [LB912]

SENATOR SMITH: Well, in the event that one of the forms of identification is a driver's license that could have expired and there's a timing period there that you could actually have an ID that reflects a previous address. [LB912]

SENATOR HANSEN: Sure. [LB912]

SENATOR SMITH: But again, I don't think that that in and of itself should hold it up. If we can make any movement towards improving this process, I'm not beholden to two. [LB912]

SENATOR HANSEN: Okay. And I guess this is something that I know was talked about on election day registration, which I believe you referenced, in Nebraska it works out that a lot of our May primaries are right around the time of, say, UNL getting out and there's lots of students moving and lots of going either going back home or moving to Lincoln or what have you. Can you just kind of like walk me through how this time line might work. You say it's within a 60-day window, but if you can...kind of how you would envision a time line working out in an instance in which this would catch somebody, so to speak. [LB912]

SENATOR SMITH: If I might, I'm going to see if those following me would like to address that. If they do not, I would certainly address that in my closing. [LB912]

SENATOR HANSEN: All right. Thank you, Senator Smith. [LB912]

SENATOR SMITH: Thank you. [LB912]

SENATOR MURANTE: Thank you, Senator Hansen. Any additional questions? Seeing none, thank you very much for your opening. And we will proceed to proponent testimony to LB912. Mr. Secretary, welcome back. [LB912]

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JOHN GALE: (Exhibit 1) Thank you, Chairman Murante. Chairman Murante, members of the Government, Military and Veterans Affairs Committee, I'm John Gale, J-o-h-n G-a-l-e, Secretary of State for the State of Nebraska and Chief Election Officer. I'm appearing today in support of Senator Smith's LB912. We have conducted considerable amount of study over the last several years on issues of potential fraud. It comes in a variety of different names, whether you call it voter ID or whether you call it address confirmation, but looking at various other states and what they've done to address issues of potential fraud. And fortunately in Nebraska, we've been very fortunate that there have been very few incidents, intentional or otherwise, and certainly no systemic fraud in Nebraska. But LB912 takes a very sensible approach to targeting a legitimate and very identifiable area of potential voter fraud. And so I'm fully in support of Senator Smith's bill. As he indicated, under current law, if a voter has indicated that they are moving...now this is a case where a registered voter indicates to the post office they are moving to a different address and the county election official gets that notification from...through our office from the post office system. And they are then sent a notice of confirmation. If the voter does not return that notice of confirmation that they've moved, we are hamstrung on anything we can do to remove that person from the voter registration records. Under federal law, the National Voter Registration Act says that if you don't get that confirmation, you then have to wait two successive federal elections or four years before you can remove them from that voter registration list. Now if they vote during that period of time, of course the matter can be addressed and they can re-register or confirm their current registration. But if they don't send the confirmation notice and they don't vote or change their registration over the fourth year, then there's a phantom registration. They've said they're moving; they've asked to confirm the move, and they don't; we have every reason to believe that they did move. And yet, we cannot do anything with that voter registration for four years. There are, believe it or not, 100,000, on a regular basis, names on our voter registration list, or about 7 percent, of the 1.15 million registered voters in Nebraska, about 7 percent who are these phantom voter registrants. Now, we have been deeply concerned that this is the one area of potential fraud in Nebraska that needs to be addressed. And this bill, LB912, is similar, different but similar, to our LB662 which Senator Krist had introduced a couple of years ago kind of addressing the same issue. But the issue is still there despite the many things we do to try to prevent fraud in Nebraska. This is an area we can't close the door because of federal law. But under Senator Smith's bill, those people that do not return that confirmation card, do not re-register, they could be in Texas, they could be in California, they could be in a separate precinct in the same county. But there's 100,000 of them who have said, "We moved." And we take their word for it and, therefore, they're not...they're going to be very suspect if they show up to vote at that same address. Now, mistakes can be made; we understand that, and people can overcome that mistake with the county election official if they have been told that they have confirmation of a move and they haven't moved. So each cycle of four years we may remove a third of those names. Maybe we'll drop 30,000 of them because they haven't re-registered or voted during that four years. So they're gone. But meanwhile another 30,000 have crept into the system. So it's a continuing 100,000 of people

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who potentially may vote at an old address which they by law should not be entitled or allowed to do. Or you may even invite unscrupulous people to send representatives; if they have a close election coming up, they can send representatives who would show up and vote in that person's name. And in many, particularly the bigger counties, no one is going to know whether they're the right person or the wrong person. But if they are attempting to vote in the name of an NVRA inactive voter, they're going to have to show two pieces of address confirmation, which is not difficult to do, it could be a utility bill, a bank statement, a check, something that shows their name and address. It just gives us a chance to prevent that potential fraud that can come through unscrupulous groups who can easily send representatives to vote on behalf of phantom voters or people who are attempting to vote at an old address. So we fully support and urge the committee to advance LB912. Thank you. [LB912]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions?
Senator Hansen. [LB912]

SENATOR HANSEN: Thank you, Chairman Murante. And thank you, Secretary Gale, for coming before us today. Can you highlight a little bit more the federal law you were talking about that dictates this area? Specifically, it said the federal law kind of makes you hold it open and this seems to be...maybe not closing it all the way, but certainly closing that window for that voter to come in and correct. [LB912]

JOHN GALE: Well, the National Voter Registration Act was an act passed by the United States Congress and it accomplished several different things. But one of the things that it was trying to do was to encourage additional registration by people either through the Department of Motor Vehicles or through public assistance offices to provide more places that people could go, more means in which to get registered. At the very same time, they were trying to prevent, apparently, a potential abuse of county election officials arbitrarily taking people off of voter registration lists because of some rumor or some phone call that somebody has moved or for other disparate, but unsubstantiated, reasons. Apparently, there must have been some instances where election officials were removing people improperly from them. So the portion of that bill says that if the post office receives confirmation of a...of the received knowledge of a move, either from...and most of the time it is from the registrant themselves that they tell the post office they want their address...mail forwarded to some new address. So if the post office receives that notice from someone, usually the registrant, that they're moving, that information is captured and sent to the Secretary of State. We pay for that service with the U.S. Post Office to get that information. And we share it with the county election officials--here are people who have indicated they are moving. And so the county election officials then send this confirmation notice out, which is covered by Nebraska law in terms of the contents of that notice, and that's one of the things Senator Smith's bill does address is, including some additional information in the confirmation notice, that if people don't send it back, they're going to have to show up with two pieces of

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address confirmation if they're going to try to vote at that address. But that confirmation notice then goes out. And the majority of the people do return them. They know they're moving. They know they're going to have to re-register in another state or in another part of the state. But there's this percentage that don't. And they just disappear. So that is a percentage that...that 7 percent is kind of the hard core...we don't know where they've gone. And we know that they made up their mind that they were moving. So they become a phantom to us in terms of--are they going to try to show up and vote, or is somebody else going to try to show up and vote on their behalf? So that's where the voter impersonation could come in because in a larger community, I could walk in...somebody hires me to walk in and vote in your name and you've moved to Texas, who is going to say I'm not you, Matt Hansen? So it's an opening we want to close and prevent that potential fraud. But we also want to avoid that illegality of someone failing to re-register at their new address within a county or within the state, failing to re-register and then getting in the car and driving to their old precinct and trying to vote there; simply not appropriate. Those are not the people who are going to represent where they live. Was that adequate? [LB912]

SENATOR HANSEN: Yes, I think that kind of got it. [LB912]

JOHN GALE: Thank you. [LB912]

SENATOR HANSEN: I just wanted a little bit more history on the federal law. So help me walk through some of the dates as how this would apply. So, what...how close is the voter registration deadline to an election? [LB912]

JOHN GALE: It's about ten days. [LB912]

SENATOR HANSEN: About ten days. Okay. Is there...and I brought up this example earlier because...but often the end of the UNL semester is within ten days of our May primary and I'm sure various other colleges are too. What about situations there in which a student has a lease up on...you know, in May and is moving...if they...how does that work? Like, a student...if say the election is on May 10, like it is this year, and a student moves on May 1... [LB912]

JOHN GALE: Which is the decision the student is going to have to make; it's in their hands as a citizen. Are they going to stay put in that location long enough to vote if they're registered in Lincoln? There are many students who are still registered in their home communities. [LB912]

SENATOR HANSEN: Sure. [LB912]

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JOHN GALE: So their home address, for purpose of registration, is back home, even though they're living in an apartment or a dormitory in Lincoln. So I can't distinguish between what percentage does what. But I think it's up to each citizen to be responsible for their vote. And if they have an apartment, then they should remain there until they're able to cast their ballot or they should go talk to their county election official about the possibility of their staying with a friend in the same precinct and being able to still vote and re-register at that new location. If they see that coming, I would certainly call the county election official and say, well, looks like my lease is up on May 10 and the election is on May 15 and so what are my choices here? I don't know that that's...we have not had those kinds of calls in our office. Now maybe Dave Shively has, who is Lancaster County Election Commissioner. But people seem to work it out. [LB912]

SENATOR HANSEN: Okay. Well, I appreciate that people seem to work it out. But just let me ask you this, has any...have you had any evidence of voter impersonation of an inactive voter? [LB912]

JOHN GALE: Well, we have not had that reported to us. [LB912]

SENATOR HANSEN: Sure. [LB912]

JOHN GALE: It's not to say it doesn't happen. As I say, it's very easy to do unless you're in a small town or a small county where people pretty much know each other. But in terms of whether there's active impersonation, we did have one individual in Douglas County who had registered in their own name and then re-registered in their son's name and had attempted to vote in both names. And upon being discovered, then he said, well, it was just his effort to try to determine how secure the voting system was. But in that case it was...he ended up having to disclose that he was trying to vote in both names. So in that sense, I guess, there's voter fraud. We've had instances...we bang our voter registration database against a hundred million other voter registration names in some 30 other states, and we've only discovered maybe a handful...a half a dozen people who have actually voted in two states. So there are instances of fraud that come up, but voter impersonation his not one that has been disclosed to us in any degree that has resulted in prosecution. [LB912]

SENATOR HANSEN: Okay. Thank you. I appreciate...I appreciate your response there because, you know, from us as policymakers, evaluating this we're going to have to look at the risk that this turns away a legitimate voter, even if that's few, even if that's, you know, just a few versus is it going to catch any criminals and it's going to be something we wanted to weigh. So I just wanted to appreciate your sharing of your knowledge of those kind of statistics. We kind of got into this issue and, I'll be honest, it's related to a bill I had last year about county-to-county portability. But I'm trying to figure out how this would fit in there. So it's my understanding that

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under current Nebraska law if you move within your same precinct, you're allowed to vote on election day, is that correct? [LB912]

JOHN GALE: You're given a provisional ballot. If you confirmed your new address with that new registration, then you're allowed to vote a provisional ballot within the same precinct, correct. [LB912]

SENATOR HANSEN: All right. So if we...so that's within the same precinct, I believe, within the same county, right? [LB912]

JOHN GALE: Correct. [LB912]

SENATOR HANSEN: So how does that impact if say someone gets a change of address form? And since Senator Smith is from Sarpy, I will use they are moving from Papillion to Bellevue. They're in the same county. How would this impact that if they, say, wanted to show up in Bellevue and vote provisionally but they're on the inactive voter rolls at an address in Papillion; how would these all work together? [LB912]

JOHN GALE: Well, first of all, when a person has indicated that they are moving within the county or out-state in the state or to another state you would assume that because they're a registered voter they're going to be interested in registering again at their new address and being able to vote for the people that are going to represent them at that new address. [LB912]

SENATOR HANSEN: Sure. [LB912]

JOHN GALE: So if they can get that accomplished within a timely basis, then there's no conflict with the inactive because that is then released. In other words, it's removed because they have re-registered. So if you're saying that they still were on the list as an NVRA inactive and they show up at a new precinct to try to vote at the new precinct within the same county...or you're saying in a different county? [LB912]

SENATOR HANSEN: I'm saying in the same county in this instance. [LB912]

JOHN GALE: Within the same county...well, I think at that point they're not going to be allowed to vote if they have not re-registered in that new precinct. [LB912]

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SENATOR HANSEN: Okay, that's...wasn't the answer I was expecting. So I was...well, I guess...well, I can follow up on that. [LB912]

JOHN GALE: What we're worried about is those who have moved to a new address in that county or another county and go back to the old address and attempt to vote at the old address. And we see them on the NVRA inactive list; we know they've given notice that they've moved. And so Senator Smith says, well, then give me two pieces of address confirmation to know that you are still at that old address, that we misinterpreted your move, that it wasn't real, didn't happen. And if they can then disclose that they actually do live in that same residence, obviously, they will be allowed to vote. [LB912]

SENATOR HANSEN: You used the words "misinterpret." Is it your understanding then that the...there are situations where this...whether it's the election commission or Secretary of State, I'm not sure, misinterpret data from the post office? [LB912]

JOHN GALE: Well, I think it happens because that information can be received from other sources besides the registrant themselves. [LB912]

SENATOR HANSEN: Okay. [LB912]

JOHN GALE: It may be a relative; it may be a neighbor who indicates to the clerk--well, our neighbors next-door moved to Texas and just wanted to let you know. So the post office will then notify the county clerk of that information of the move and they'll send a confirmation note. Well, maybe the people next-door didn't move, maybe they're going to take a long holiday and they took their kids and their dogs and they went to Texas for two weeks and the neighbor didn't understand that. So there are rare instances where the information the post office receives is not direct from the registrant themselves. [LB912]

SENATOR HANSEN: Okay. That's...frankly, kind of surprised me, because that seems like that's placing a burden on a legitimate voter who hasn't filed any forms at the post office, hasn't moved. And now all of a sudden they have to provide two forms of identification of a move because their neighbor made a mistake and the election commissioner believed them? [LB912]

JOHN GALE: I'm saying that's a very rare instance... [LB912]

SENATOR HANSEN: Sure. [LB912]

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JOHN GALE: ...because most people tell the post office they're moving because they want their mail forwarded to the new address. [LB912]

SENATOR HANSEN: Sure. [LB912]

JOHN GALE: So it's not a very common thing. But a third-party source can give information to the post office of a move. [LB912]

SENATOR HANSEN: I guess...I guess...I appreciate that it's probably a rare instance, but I think most of the things we're talking about in this bill seem to be kind of rare by all accounts. I guess...one other thing, just...what's the crime for voter impersonation? Say someone shows up knowing that they're...knowing...giving a truly false name and tries to vote at a polling place? Like what's the crime; what's the penalty for that today? [LB912]

JOHN GALE: I can't give you that clear information. I think it's a felony, but it's a misdemeanor or felony. [LB912]

SENATOR HANSEN: Okay. I guess...and my final question for you is, do you think that if we enact this bill, Senator Smith's bill, without any changes, do you think there's any potential we're going to turn away legitimate voters who either, because it's a provisional ballot or because they don't want to go through the effort, won't have their vote cast? [LB912]

JOHN GALE: I'm anticipating that this bill will do...be of significant help in reminding people to return their confirmation card once they get it either confirming that they've moved or addressing the issue that they haven't moved and getting that resolved. Otherwise, we're going to continue to have 100,000 phantom registrants on a regular basis that we cannot remove, either the county official...they can go out to the house and see the house is abandoned and declared vacant. But if the registrant has not confirmed their move, it's difficult to remove them under the federal law. So what we're trying to do is clean up the voter registration records. We have a number of counties who have been accused of some kind of manipulation of their registration records because they have more citizens...more registered citizens than they have actual census population. A lot of that in many of the smaller counties is due to this federal law that they cannot remove the people who have moved out of their county because those people haven't confirmed their move. So you have a degree of phantom registrants in those counties that are always there. So the records are always unreconcilable between estimated census and voter registration. [LB912]

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SENATOR HANSEN: I appreciate that. And I appreciate the good intentions behind the bill and not impeding those. I guess the question and...I'll...just looking for, basically, a yes/no is, do you think if we pass this it will lead to any situation in which a legitimately eligible voter will not have their vote cast and counted in an election? [LB912]

JOHN GALE: I don't foresee a problem with the bill in creating any kind of a hardship, because the person at that residence is going to get that notice of confirmation from their county clerk. And if they immediately respond either by saying yes we're moving or they respond by saying we haven't moved and don't intend to move, there's no issue, there's no need for address confirmation when they go to vote. It's only those who have disappeared, haven't confirmed their move, and haven't contacted the county election official to say, I'm still here, I haven't moved. So it's the responsibility of that citizen to take care of themselves. Voting is not in the constitution. It's not an absolute right. They have responsibilities of registration; they have responsibilities of meeting the criteria of voting. One of those is being sure that the registration is correct and proper and updated. And this helps assure us that we have clean voter registration records. [LB912]

SENATOR HANSEN: Okay...I appreciate what you're saying. And I guess we can get into a larger debate about how fundamental the right of voting is. But...so was that a "no"? There's no situation in which under this bill an eligible voter could possibly be...have their ballot not counted? [LB912]

JOHN GALE: Well, I think, Senator, what I'm trying to say is there's a need for a rule here, a very significant rule, because there's a huge gap of 100,000 people who have given notice that they've moved and they have the opportunity to go back and vote at that address or for somebody else to commit fraud. That's the rule we're asking for. Are there exceptions? I'm sure there would be. Life is so complex and variable, I'm sure there could be examples of somebody who could be impaired with their voting right because they failed to call the county clerk and say, we still live here, or they failed to show up with two documents of address confirmation and refuse to provide it. Well, the consequences are they're not going to be able to vote. So there could be consequences. But for the most part I'm saying this is really a citizenship responsibility and we're not asking much of them because they're the ones, for the most part, who give notice that they're moving. We're just saying this is a natural consequence of your move is you have to confirm either you moved or you have to be registered someplace or you're going to have to bring in two address confirmation documents if you come back here and try to vote. [LB912]

SENATOR HANSEN: Okay. I think we got that. I thank you for your patience, Secretary Gale. [LB912]

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JOHN GALE: Thank you, Senator. [LB912]

SENATOR MURANTE: Thank you, Senator Hansen. Senator Groene. [LB912]

SENATOR GROENE: Thank you, Chairman. Secretary Gale, if a young person walked into a precinct and tried to vote and they said, well, you're not registered anymore, where do you live, wouldn't the precinct worker say, well, you can go to the precinct that you now live and still vote with a provisional, right? They are probably instructed to tell somebody that, aren't they? [LB912]

JOHN GALE: Correct. [LB912]

SENATOR GROENE: But another thing, isn't there two sides to this coin? Probably doesn't affect the national election, but if you worked hard to run for county...city council and somebody votes fraudulently in that race and you lose by a vote, and also the other people who supported you, their candidate lost, that we owe something to those folks also to be as honest and keep our elections as honest as possible? Would you agree? [LB912]

JOHN GALE: I would...I would agree, yes, Senator. [LB912]

SENATOR GROENE: Thank you. [LB912]

SENATOR MURANTE: Thank you, Senator Groene. Seeing no additional questions, Mr. Secretary, thank you very much for coming down. [LB912]

JOHN GALE: Thank you, Senator. [LB912]

SENATOR MURANTE: Much appreciate it. [LB912]

JOHN GALE: Thank you. [LB912]

SENATOR MURANTE: Is there additional proponent testimony to LB912? Any additional supporters of LB912? Is there any opposition testimony to LB912? Ms. McLarty, welcome back to the Government, Military and Veterans Affairs Committee. [LB912]

BRI McLARTY: Thank you. [LB912]

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SENATOR MURANTE: Can I see a show of hands, how many opponents do we have to LB912? Okay, thank you. I'd ask..there are a couple of chairs up front if the testifiers...if you plan on testifying, I ask that you come up front and be closer to the chair. Welcome. [LB912]

BRI McLARTY: (Exhibits 2-4) Good afternoon, Chairman Murante, and members of the Government, Military and Veterans Affairs Committee. My name is Bri McLarty, that's B-r-i M-c-L-a-r-t-y, and I'm testifying today in my capacity as the director of voting rights with Nebraskans for Civic Reform, a not-for-profit, nonpartisan voting rights advocacy organization dedicated to creating a more modern and robust democracy. Just as a kind of point of office things, I'm passing out a couple of coalition partners that weren't able to be here today, their testimony, one from the League of Women Voters; the other from the sorority Alpha Kappa Alpha. Nebraskans for Civic Reform strongly opposes LB912 as it creates a second class of voters subject to unnecessary and burdensome restrictions with little to no notice. This bill requires presentation of identification documents by those voters that the county election official has designated with a specific notation known as "in NVRA." Those voters will be required to present to a poll worker or include with their returned absentee ballot two forms of identification. Testifiers after me will address the impact of these restrictions that they will have on specific populations, as well as the privacy concerns associated with mailing sensitive personal information with a confidential ballot. I specifically want to address my testimony to how this bill is not a viable solution to the problem identified by proponents. Presumably, LB912 is attempting to address those individuals that have moved as presumed by the county election official after receiving notice the voter has filed a national change of address form but attempt to vote at the polling location of their voting residence, what the county official now presumes to be their former address. Nebraskans for Civic Reform argues that modernization is a better solution for this problem than the restrictions posed in LB912. This bill is requiring more of a voter to cast a ballot than current statute does to register to vote for the first time in Nebraska, and significantly more than it requires to re-register or update a voter's registration. Punishing voters for failing to return a card that is exactly this size is a...that is only sent once with no follow-up is unconscionable. In-person and by-mail registration updates require absolutely no accompanying documentation; on-line requires only a license number or state ID number to retrieve the voter's signature from the Department of Motor Vehicles, and the confirmation requires only a signature. Asking voters for two identification documents at the polls with little to no notice is not a solution and, honestly, begs the question--is this the best we could come up with? Is putting an immense burden on the voter the only solution to this problem? Nebraskans for Civic Reform would argue no. Modernization would go much further in updating and keeping voter rolls clean, encouraging voters to update their registration and dissuading them from returning to their old polling location and voting in the wrong jurisdiction. Just last session, this committee heard LB383, Senator Hansen's county-to-county portability proposal that would directly solve this problem. Under that bill, the voters that this bill concerns would be able to update the registration at their new polling site and cast a ballot knowing that it would be counted. We've

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taken steps to modernize our elections with on-line voter registration. A press release from the Secretary of State's Office reported that 870 registrations were submitted in the first 24 hours. It would be interesting to see how many of those registrations were individuals with the "in NVRA" notation updating their registration. Expanding on-line voter registration is a solution. This week my office received an e-mail from a university student who is having trouble with the on-line voter registration system because it wasn't recognizing the number on her learner's permit. That is what we should be focusing on--expanding the system to recognize learner's permits and incorporating public assistance agencies that also have signatures on file. Furthermore, enacting policies like automatic voter registration would capture those voters that renew their license when they move. The current motor/voter question is an optional check box on the application. Making the voter registration automatic would update those registrations with the new address, decreasing the number of voters with the "in NVRA" notation. Finally, a single postcard is not enough. We should be looking at ways to utilize technology to provide additional notice to voters about the status of their registration. The current Web site for voter registration look-up only lists their party designation, polling site, and political subdivisions that would appear on their ballot. Why not add a notation that their registration may need to be updated and then provide the link to the on-line voter registration site. That way the voter checking to see if they're registered in Nebraska receives notice that they may need to update their registration. The voter registration form includes a place to collect e-mail addresses and phone numbers. Let's explore the possibility of reaching out to voters through alternate mediums besides mail before we ask them to mail their bank statement in with their ballot. At some point we have to ask ourselves, why are we considering placing additional burdens on the voter, but not asking more of our election administration? From transitioning to electronic poll books to implementing election day registration, modernization will go a long way toward addressing those voters with the "in NVRA" notations. Modernization may come with additional duties and expenses for the county election officials, but when the end result is expanding access to our elections and not restricting it to more Nebraskans, it is an investment worth making. Please consider these alternative solutions that have been presented to this committee. And I strongly urge the committee to oppose the burdensome policies proposed in LB912. Thank you. [LB912]

SENATOR GARRETT: Thank you, Ms. McLarty. Are there any questions from the committee? Senator Hansen. [LB912]

SENATOR HANSEN: Thank you, Senator Garrett. And thank you for coming in front of us, Ms. McLarty. In the very beginning of your testimony, you mentioned a second class of voters. [LB912]

BRI McLARTY: Yes. [LB912]

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SENATOR HANSEN: I guess my question is, can you expand on that? [LB912]

BRI McLARTY: Currently how it works with the National Voter Registration Act, that the Secretary of State touched on a little bit before, is the "in NVRA" notation starts a clock. And this was done in the 1994 federal legislation to create a balance between cleaning out bloated election voter rolls, but without unnecessary purges, which is what he alluded to. The "in NVRA" notation starts that four-year clock that he talked about, about when it would be reasonable to remove someone from that list. He did note a little bit about some of the national change of address forms, and that is one of the things where its...it creates a presumption that someone has moved, but it's not a confirmation that that individual has moved. So by attacking someone that...what's supposed to be an internal notation to assist the proper election administration and tools for the voter rolls is now creating a second class where these voters have to have additional voter identification requirements when other voters may not. So that's what we kind of see in a second class is this individual can walk to their polling location, see four people just give their name, be able to sign the registrar and then go on and vote. And then all of a sudden they're asked to produce additional documentation. And that's what we mean when we talk about a second class of voters. [LB912]

SENATOR HANSEN: Okay. Thank you. This is kind of related to a question I was asking Secretary Gale that I was trying to wrap my head around the concept of how the change of address forms have been...are there times when the change in address forms might be wrong or might not actually indicate a move? [LB912]

BRI McLARTY: Yeah. And I actually have a perfect example for that. When I was living...originally I'm from Texas and I moved here for college. My home address, my mother's address, was my permanent address. She had a different last name from mine, it was Hadaway (phonetic). My brother also lived there with the last name McLarty. When he did a national change of address form, he just said the McLarty family because that wouldn't take any of my mother's mail away. Well, he started getting my bank statements, started getting my university bills. Luckily, it was my brother so I was able to get them. But that would be an instance where I could possibly be tagged with such a notation, but it wasn't myself that did the national change of address form. We also need to think about students and snowbirds. Students may have their mail forwarded from one student residence...one school residence to another, or may choose to have their mail forwarded from their parent's address to theirs, yet choose to vote at their permanent address which they're allowed to do under Nebraska law. Snowbirds may do a national change of address form for a specific period, say they're going down to Arizona for six to seven months, that would possibly impact, especially in a November election, some of that issues. So that's kind of what we're looking at with the national change of address. May not be the individual that actually did it, but they're impacted. And once again, they won't have any notice. The size of the card is quite tiny, especially when you compare it to the huge fliers you

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get for sales or groceries, and it is easy to miss. For example, I moved in December of...I think I filled mine out on December 12 specifically to test this. I got mine about 45 days later and honestly only found it because I was looking for it. Being a director of voting rights, I'm pretty...I know it's coming, so I was able to see it. But, I mean, that was 45 days later after I'd moved and it was with a huge pile of mail. So that was some of the issues we have with the...basing it off of that. [LB912]

SENATOR HANSEN: Okay. Thank you. I think that...those were some of the things I was thinking of. This final question I had, it's coming up on eight years since I went through the deputized election registrar training, can you walk me through just when, currently under law, because I know there's been some reference to that, people are required to show confirmation of address or things of that nature. [LB912]

BRI McLARTY: Okay. If you register to vote by mail and it's your first time in Nebraska, so for example if...when I moved from Texas and I decided to re-register here because this is where I go to school, as is my choice, and I did a by-mail application, what I would have to do if I didn't when I...so you have...I think I actually have a copy of the mail application, and what it does...oh, here it is. It's the same one across the state, and it has a list of instructions on the side and I've underlined the "first time registrant in Nebraska statutes require a copy of a current and valid photo ID or other dated personal government document." So when I filled this out and mailed it in, in theory I would take a photocopy of my ID or whatever documentation and mail it in with that. If I were to fail to do so, as the instructions had instructed me to do, it's warning me that the poll worker will ask me to show it when I show up. The difference that we would like to make here is that this is an instruction. The individual received this application; they filled out this application; they chose to turn in this application. This is, by them mailing in, we have confirmation that they read the instructions and saw the instructions. When they get the confirmation card, it's a presumption. It's a presumption that they received it; it's a presumption that they've read it and chose not to return it. It's a little bit different when you're talking about an application that they sought out, filled out, and then mailed back in. So that's one instance in where you would have to show identification currently in the statutes. [LB912]

SENATOR HANSEN: Okay. I think that was helpful. Thank you, Ms. McLarty. [LB912]

SENATOR MURANTE: Thank you, Senator Hansen. Any additional questions? Seeing none, thank you very much for your testimony, much appreciate it. Additional opposition testimony? I like your pin. [LB912]

NICHOLAS DEVINE: Thank you. [LB912]

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SENATOR MURANTE: Welcome. [LB912]

NICHOLAS DEVINE: Thank you. Senator Murante, members of the Government, Military and Veterans Affairs Committee, good afternoon. My name is Nick Devine, for the record, N-i-c-k D-e-v-i-n-e, and I'm a student at the University of Nebraska-Lincoln. I'm here to testify in opposition to LB912 on behalf of the Association of Students at the University of Nebraska, as well as the student body as a whole. Under this bill I lose my right to choose. By asking me to provide documents that I do not have or that do not list my current address, this bill would bar me from exercising a constitutional right. When I was a freshman, I moved to Pound Hall, a dorm where I had no utility bill, pay stub, or government-issued documents sent. The following year I moved into a Greek house and again did not have any of the required documents. I now live in a house with some friends and still face the same problem. The problem is not that I've never had a job, I've just never been given a physical pay stub. And it is not that I do not pay utilities, it is just that for convenience's sake the bill is in my friend's name and I pay him. And it is not that I've never received a bank statement or other government-issued document, it is that these documents are sent to my home in Hickman, the same address that appears on my ID, which is also where I vote for security reasons. Hickman is where I have voted in every election and despite living in Lincoln throughout my college career, I still consider it my home. However, in Nebraska it is still a student's right to establish where they vote, wherever they consider their principal home, whether that be their parent's home, like I do, or their campus address. And many students do take this second option. This bill, if enacted, would take away their right to vote here on campus, as well as their...or the ability of any out-of-state student who still wishes to vote here in Nebraska where many of us hope they return to after graduation. And my struggle and the struggles of those who do choose to vote would not be a unique one at UNL's campus. A recent survey conducted at UNL found that only 41 percent of students polled were sure their government-issued ID had the same address as where they were registered to vote. As for documents with their current address, only 11 percent received a utility bill in their name that was delivered to their school residence. While 57 percent of the students in the survey were employed, only about 17 percent of them received physical pay stubs from their employers. And when it comes to bank statements, only 9 percent of students received a physical bank statement. All of this is trumped by the fact that around 90 percent of these students have moved in the last year. Most of these moves were to some other residence in the same precinct. And all of this adds up to point to one conclusion--LB912 has the potential to disenfranchise a large portion of our student population and take away their right to choose. Please consider the students of this state, both here and in other states, as you discuss the bill before you. Thank you for your time and consideration. [LB912]

SENATOR MURANTE: Thank you very much for your testimony. Senator Bloomfield.
[LB912]

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SENATOR BLOOMFIELD: Thank you. Thank you, Mr. Devine, for coming in today. You said you are registered to vote in Hickman. [LB912]

NICHOLAS DEVINE: I am. [LB912]

SENATOR BLOOMFIELD: What would prevent you from voting in Hickman and then coming over here and saying you want to vote...you'd want all of a sudden to change to a Lincoln residency and voting again? [LB912]

NICHOLAS DEVINE: I'm not sure. I think there's a demonstrated...it has been demonstrated that there are very rare cases of this ever happening, not just in Nebraska, but anywhere in our country. [LB912]

SENATOR BLOOMFIELD: Thank you. [LB912]

SENATOR MURANTE: Senator Groene. [LB912]

SENATOR GROENE: So as a student you can register in Lincoln. [LB912]

NICHOLAS DEVINE: Yes. [LB912]

SENATOR GROENE: Well, then you will automatically be stricken from Hickman's voter...I mean, the election commission will find your name twice. [LB912]

NICHOLAS DEVINE: Yes. Um-hum. Yeah, so... [LB912]

SENATOR GROENE: And if you went home and tried to vote at Hickman, and you were registered at Pound in Lincoln, should you be able to try and vote in Hickman? [LB912]

NICHOLAS DEVINE: I can't vote in both. [LB912]

SENATOR GROENE: What's that? [LB912]

NICHOLAS DEVINE: I can't vote in both. [LB912]

SENATOR GROENE: Well, then why are you worried about... [LB912]

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NICHOLAS DEVINE: If I decide to move...or if I decide to change my voting residence to my Lincoln address, I can no longer vote in Hickman. [LB912]

SENATOR GROENE: Then why are you worried? [LB912]

NICHOLAS DEVINE: Because many students do choose to vote in Lincoln. And they don't have the documentation...they still have all of these documents, including their government-issued ID. [LB912]

SENATOR GROENE: But they're registered in Lincoln, they don't have to show their documents. [LB912]

NICHOLAS DEVINE: I know, but if they...the problem is they don't re-register when they vote the first time in Lincoln. And if they don't know that they have to re-register and this bill would either have them produce documents that they don't have, correct me if I'm wrong, anybody after me or, Senator Smith, when you close, I do not believe the first time that they vote at their Lincoln address they have to re-register to vote. So they... [LB912]

SENATOR GROENE: So if you move off campus... [LB912]

NICHOLAS DEVINE: Yes. [LB912]

SENATOR GROENE: ... in a different precinct, you should re-register. [LB912]

NICHOLAS DEVINE: I'm not sure about that. [LB912]

SENATOR GROENE: You're an 18-year-old just like a 70-year-old, you should know as a citizen...so you're telling me you want to go back to your dorm residency and vote? They should tell you you're not registered here anymore. [LB912]

NICHOLAS DEVINE: The option I have is choosing to...I'm sorry, the option that I have as a student is to vote where I consider my principal residency. So if I move off campus, then...or if I move into a new home, then that would be either my principal residency or my...the place where I grew up. In my case, Hickman would be my principal residency. I don't believe that I would have the right to declare a place where I do not plan on returning. Your principal home by definition is where you plan on returning if you leave. So if I were to go on vacation for six to

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eight months, I might return to my parents' house, but I might return to this new house in Lincoln that you suggest. I would not have the ability to return to Pound Hall. [LB912]

SENATOR GROENE: But if you get a new address in Lincoln, all right? [LB912]

NICHOLAS DEVINE: Um-hum. [LB912]

SENATOR GROENE: They send a card to where your folks are. You sign it and say, no, this is still my residence of voting, because your folks still live there and you go home there. I just don't see the problem. But anyway, thank you. You handled yourself very well. Thank you. [LB912]

SENATOR MURANTE: Thank you, Senator Groene. Thank you very much for your testimony, much appreciate it. Is there additional opposition testimony to LB912? Opponents? Mr. Geis, welcome back to your committee on Government, Military and Veterans Affairs. [LB912]

GAVIN GEIS: Chairman Murante, members of the Government Committee, my name is Gavin Geis, G-a-v-i-n G-e-i-s, and I'm here on behalf of Common Cause Nebraska. My testimony will be quick. Common Cause opposes LB912 because of the odd scenarios and open-ended questions it leaves. First of all, Nebraska law requires one document to register, yet LB912 requires two, making it possible that an individual could find it easier to register to vote than actually cast their ballot on the day of the election. LB912 would also penalize and create a second class, as has been mentioned, set of second class of voters simply overlooking a relatively small piece of mail. Under the original NVRA statute, a voter could correct this error simply by showing up to vote. That doesn't mean they get to cast a ballot, but they at least can correct that error under the NVRA statute. That is not available here. Additionally, it is unclear how individuals will be notified that they need to produce two forms of identification to cast their ballot. At present, it appears that to guarantee their vote is counted, the individual who falls in the class of voter would have to leave the polling place and return with required documentation. It's not a stretch to imagine that someone who overlooks a postcard could also be unaware that they overlooked that same postcard. In a world where voting often has to be done after a day of work and before the kids get put to bed, a likely scenario is that many people won't be able to make it back with the proper paperwork thus forcing someone to vote provisionally for simply missing their registration card and throwing it out with their weekly Hy-Vee sales mailer, which we all receive. Additionally, it's unclear what education efforts will be used to inform Nebraska's electorate about these heightened penalties. And given that a failure to return the NVRA postcard could happen close to an election, it seems vital that Nebraskans understand their new duties. The phrase...additionally, the phrase "two of the following" is overly vague and appears several times in the bill. Can I bring two bank statements? Also, if we're worried about fraud, many of the documents listed in the bill are extremely easy to falsify. And how are poll workers ever

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going to verify that they really aren't? So it strikes me that this bill does very little to stop those who are actually looking to do wrong, instead, burdening those who overlooked a postcard. In short, while Common Cause opposes voter ID because it places an undue hurdle in front of the ballot box, the Government Committee should also reject LB912 because it creates so many open-ended questions that we don't have answers to yet. Thank you. [LB912]

SENATOR MURANTE: Thank you very much for your testimony. Seeing no questions...oh, excuse me, Senator Hansen. [LB912]

SENATOR HANSEN: Thank you, Chairman Murante. Mr. Geis, how...since you brought up the fact that the poll workers are the kind of key determiner of whether or not these various forms of identification are valid, how are...do you know how poll workers are currently trained in the state of Nebraska? [LB912]

GAVIN GEIS: I don't think they're trained to look at bank statements and verify whether or not they are true bank statements or not. If that's involved in training manuals, I haven't seen it. So this would, I would assume, involve an entire new bracket of training. I don't know what the training would look like. [LB912]

SENATOR HANSEN: All right. And that might be a question someone else testifying behind you can answer. But thank you for your time. [LB912]

GAVIN GEIS: Maybe so. Thank you. [LB912]

SENATOR MURANTE: Thank you very much for your testimony, much appreciate it. Additional opposition testimony to LB912. Welcome. [LB912]

DARCY TROMANHAUSER: (Exhibit 5) Good afternoon, Senators. My name is Darcy Tromanhauser. I'm here on behalf of Nebraska Appleseed. It's Darcy, D-a-r-c-y, Tromanhauser, T-r-o-m-a-n-h-a-u-s-e-r. And Nebraska Appleseed is a nonpartisan, nonprofit organization dedicated to justice and opportunity for all Nebraskans. So as you've been hearing, despite no evidence that voter impersonation is a problem in Nebraska, this bill introduces a burdensome, restrictive voter identification requirement into our voting process that creates barriers to voting for Nebraskans, particularly those who are individuals with low incomes. We are concerned with a number of aspects of this bill, particularly the lack of notice, as you've been hearing about, provided to voters and the availability of the acceptable identification documents. LB912's new procedure does not provide sufficient notice to voters of the new identification requirements. While the address confirmation cards will include that language describing the requirements, it is

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the only notice a voter will receive about needing to present additional documentation. Indeed, it's not hard to imagine that a valid registered voter who would be unable to produce identification documents on only a few hours' notice, after attempting to vote, could lose their vote only because they did not return a small postcard. Furthermore, the bill's list of...I'm sorry...acceptable identification documents are not readily available to all voters and would disproportionately affect individuals with low incomes. As we and others have noted in the past, acquiring photo identification, one of the items in the bill's list, means that voters will have to pay a fee to exercise their right to vote, a right enshrined in our state constitution. Nationally, approximately 11 percent of Americans do not have government-issued photo ID. Many of the other documents enumerated in LB912 such as a utility bill, government check, paycheck, or other government document that lists the name and address of the voter and is dated within 60 days before being presented, are not materials immediately accessible or available to low-income voters. So as you've been hearing, some rental properties do not include utility bills sent to the renter; some voters may live at a residence in which the utility bill is under a roommate or a family member's name. Additionally, state law does not require employers who pay through direct deposit to also provide a copy of a paycheck to employees. And some larger employers may well have a delay in keeping up-to-date addresses in their records for all employees. Similarly, states which disburse public assistance, such as the SNAP--Supplemental Nutrition Assistance Program--to voters use electronic transfers and debit-like cards instead of issuing a check. Some other forms of assistance are paid directly to the provider rather than the individual. And other government letters or communication, as the bill references, often come far less frequently than every 60 days. So voting is an American right and making voting harder is not a Nebraska value. And for these reasons we urge you to indefinitely postpone this bill. [LB912]

SENATOR MURANTE: Thank you very much for your testimony. Seeing no questions, much appreciate it. Thank you. Welcome. [LB912]

MAREN WESTRA: Hello, my name is Maren Westra, M-a-r-e-n W-e-s-t-r-a. And I am here today on behalf of the Urban League of Nebraska, an organization that seeks to empower people by helping them achieve economic parity, equality, and civil rights, which are values I think we all agree with. And a necessary part of this work is advocating against laws and policies that would disenfranchise people, which LB912 does. A 2013 study by the Center for People in Need shows that low-income voters are less likely to have valid and current photo identification and that this number increases and decreases proportionate to income. So the additional requirements of LB912 would only serve to further burden these voters. Middle and upper class individuals and families are more likely to own a home, while low income people are more likely to rent, according to the PEW Research Center. People with less wealth will, therefore, be disproportionately affected by the requirements of LB912 because they have less residential consistency and stability. In addition, young people move more often. Data provided by the U.S. Census Bureau shows that individuals in their 20s make up the highest percentage of people who

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change addresses in any given year. All of this information demonstrates that a bill such as LB912 would disproportionately affect low-income and/or young voters. Making the voting process more difficult for these individuals deprives them of their constitutional right to participate in democracy. It's also unnecessary, as evidence shows that voter fraud is not a problem in Nebraska. I would urge each of you today to vote against LB912 and instead consider ways to modernize the election system so that no one is disenfranchised or deprived of their right to vote. Help us work toward equality in government representation. [LB912]

SENATOR MURANTE: All right. Thank you very much for your testimony. Senator Bloomfield. [LB912]

SENATOR BLOOMFIELD: Thank you. Thank you for coming in, Ms. Westra. How many forms of identification might you have on you right now? [LB912]

MAREN WESTRA: I have my driver's license. [LB912]

SENATOR BLOOMFIELD: Okay. So if we were to amend this thing down to one form of ID, would your opposition go away? [LB912]

MAREN WESTRA: No, because I still think that the issue is that if you move more often, you're less likely to have an updated ID. I can tell you that I just graduated from college this semester, moved to Omaha, and I haven't been to the DMV to update my license. And it's a priority, but it's hard when you're working a nine-to-five to get in there to do that, and especially if you consider people who, like I said, have less stability in their residence and might have to move every few months due to circumstances that are beyond their control or related to having a low income. It can be difficult to keep up on having an ID. But I don't think that that should deprive them of their right to vote in their district. [LB912]

SENATOR BLOOMFIELD: Thank you. [LB912]

SENATOR MURANTE: Thank you for you...excuse me, Senator Groene. [LB912]

SENATOR GROENE: Have you re-registered since you've moved? [LB912]

MAREN WESTRA: Yes. [LB912]

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SENATOR GROENE: How did you...what identification did you show when you re-registered?
[LB912]

MAREN WESTRA: I re-registered on-line. [LB912]

SENATOR GROENE: All right, thank you. [LB912]

SENATOR MURANTE: Thank you very much. Additional opposition testimony. Senator Conrad, welcome back to the Government Committee. [LB912]

DANIELLE CONRAD: Hi. Good afternoon. Hi. Well, I actually had to ask for directions on my way over here. I wasn't here very much the last few years. [LB912]

SENATOR MURANTE: Spent too much time down at Appropriations with Senator Mello.
[LB912]

DANIELLE CONRAD: (Exhibit 6) I know it, I know it. Well, good afternoon, Chairman Murante, members of the Government Committee, my name is Danielle Conrad, that's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. I appear today on behalf of the ACLU of Nebraska. We're a nonprofit, nonpartisan organization that works to defend and strengthen individual rights and liberties guaranteed by the United States and Nebraska Constitutions. We appear in opposition...respectful opposition to LB912's effort to put any additional burden on the constitutional right to vote. We're passing around some lengthy policy and legal analysis, I think, about four or five pages of light reading there, single spaced, that I'll leave for you to take a look at. And I won't rehash some of the very cogent and important arguments that fellow proponents have already brought forth. But I will give you kind of the top lines from our perspective. We see LB912 as suspect from a policy, legal, and practical perspective. As noted in proponent testimony, there's only a potential for voter fraud that this legislation seeks to cure. That, my friends, is a classic solution in search of a problem. And not only is that important from a policy perspective, it's important from a legal perspective, because when you're talking about putting additional burdens or barriers up to fundamental rights, like the right to vote, which is explicitly protected in the United States and the state constitutions, those burdens and barriers would be held to the highest level of judicial scrutiny upon review...strict scrutiny. And the only voter ID case that has been upheld by the United States Supreme Court thus far has been on a facial challenge, leaving the door wide open for...as applied challenge. So I think that the courts have been very clear that you have to have a very sufficient record demonstrating a problem of voter fraud before you're allowed to pass additional barriers or burdens on that fundamental right. So without that record in Nebraska that everybody seems to agree does not exist, it would be inadvisable for this body to move forward passing additional barriers that no doubt would be

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subject to challenge in court. It would be lengthy, it would be costly, and the taxpayers of Nebraska would be forced to foot the bill for that. So we...without, again, the documented record of voter fraud, LB912 is unnecessary and unconstitutional. We do believe it will create burdens on Nebraska. A very, very similar law was recently struck down out of Texas in the Fifth Circuit just this year which had a very similar laundry list of the acceptable documentation as presented in LB912--a utility bill, a bank statement, a paycheck, a government document, etcetera, etcetera--that I'd direct your attention to for further review and analysis when you take this up. Again, Nebraska State Constitution has an even clearer and more specific and higher, I think, standard that we need to look at, as well as in Article I, Section 22. And then just in closing, I'll let you note that there is case law in the Eighth Circuit which has indicated that some individuals with sincerely held religious beliefs against recording graven images cannot be forced to have a photo ID present. It's an old ACLU of Nebraska case. And then additionally, we do see some privacy concerns with how these documents are presented to government officials, how they're stored, how they're utilized, some of those kinds of things, because they have sensitive personal and financial information on them potentially. So those are kind of the top lines. Appreciate any questions or concerns and would be happy to work with the committee or others that are interested in ensuring that we can create a system that fosters robust democracy for all Nebraskans. [LB912]

SENATOR MURANTE: Thank you, Senator Conrad. [LB912]

DANIELLE CONRAD: Thank you. [LB912]

SENATOR MURANTE: Seeing no questions,... [LB912]

DANIELLE CONRAD: Thank you. [LB912]

SENATOR MURANTE: ...thank you very much for coming down today, much appreciate it. Additional opposition testimony to LB912. Welcome. [LB912]

MARY BOSCHULT: Thank you. Good afternoon, Chairman Murante, and members of the committee. My name is Mary Boschult, that's M-a-r-y B-o-s-c-h-u-l-t, and I'm here to represent the League of Women Voters of Lincoln and Lancaster County in opposition to LB912, a bill that would increase voter registration process and voter identification requirements. The League of Women Voters is a nonpartisan organization that encourages informed and active participation in government. The league does not support or oppose candidates. We work to increase understanding of public policy issues and to increase voter participation in elections. Neither the bill, LB912, nor the intent statement identify a problem that is to be solved by this legislation. There's no report or evidence of voter fraud in Nebraska. Experience in other states has shown

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that increasing voter identification requirements has a disproportionate negative impact on participation of the young, the elderly, low income, students, and other mobile populations. I'd be glad to answer any questions if you have them. [LB912]

SENATOR MURANTE: Thank you very much for your testimony. Seeing no questions, thank you very much for coming down today, much appreciate it. [LB912]

MARY BOSCHULT: Yes. Great. Thanks. [LB912]

SENATOR MURANTE: (Exhibits 7-9) Is there additional opposition testimony to LB912? Seeing none, is there any neutral testimony? Seeing none, Senator Smith has waived closing. But before we end the hearing on LB912 I have additional letters of opposition from Tessa Foreman of Nebraskans for Peace. Looks like we got a few more in while we were speaking today: one from Sherry Miller of the League of Women Voters, I assume, of Omaha; and the other from Candiss Williams of the Alpha Kappa Alpha Sorority. And so that ends the hearing on LB912. Thank you very much for coming down today. We'll wait for people to filter out before we move to the next item on the agenda. [LB912]

SENATOR GARRETT: Welcome, Senator Murante, to your Government, Military and Veterans Affairs Committee. [LB1109]

SENATOR MURANTE: Thank you, Senator Garrett, members of the Government Committee. For the record, my name is John Murante, J-o-h-n M-u-r-a-n-t-e. I represent Nebraska's 49th Legislative District here in the Unicameral Legislature which includes Gretna and northwest Sarpy County. And I am here today to introduce LB1109. As the members of this committee who have been around for a while know, we have dealt with this subject matter before. And it has been a long process to get to where we are today. And it has been a lot of work, but the university came to me last year with a problem. The problem that they had is that the existing statutes and the process for hiring president and chancellor of the University of Nebraska was causing numerous potential candidates to lead our university to not even apply. And there will be a lot of testimony following me to get into detail as to the exact numbers and the nature of that problem. Senator Hadley, who will be speaking after me, introduced legislation two years ago to address the problem. But I believe that what we've introduced here today is a good middle ground to solving the problem of many candidates refusing to apply to our university while maintaining an open and transparent process. And how we have accomplished that is to create what the bill labels and is named the enhanced public scrutiny hiring process. So under the current statute, the university is required to release the public documents relative to the candidate who they hired and the three candidates who they did not hire, the three finalists who they did not hire. What we are proposing is that the public documents for the primary selection, the

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person who is initially selected to lead, be either chancellor or president of the University of Nebraska, those documents will remain public. But the people who were not hired by the University of Nebraska, the documents for those finalists do not have to be public. And in exchange, to ensure that we have...that we continue an open and transparent process, we'll have a 30-day mandatory waiting period which will include public hearings in each of the campuses of our university, which requires the candidate to be hired to make themselves open and available to the media, to the faculty, students, and staff of our university, to answer any questions which may come of them, and what I believe will allow the state of Nebraska and its citizens to fully vet the leaders of our academic institutions. What we're talking about here is whether we want to have Nebraska at a competitive disadvantage with all of our peer institutions, with many of our peer institutions. And as the testimony that comes behind me will articulate, we are one of the very few institutions in the nation who do it this way. And I'd remind the members of this committee there is more than one way to be transparent. And I would submit that a process which requires public hearings, which requires candidates to make themselves available to the public, which requires potential leaders of our university system to answer questions of the people who they are going to lead is an open and transparent process. And it's one which maintains our priority in this Legislature of being transparent but eliminates the competitive disadvantage that we have made for ourselves within statute. Speaker Hadley will speak after me and talk about his experience--35 years, I've heard, Speaker Hadley, in the education industry--longer than I've even been alive so that's pretty impressive. And he is going to talk about the system that we have and what he has observed through hiring processes around the country. And I have to say I know there are opponents to this bill who are going to testify. I've sat down with them. I have had good discussions with them about what it is we can do to ensure that the process is transparent, it's a process that Nebraskans can believe in but doesn't cost us the candidates we want to have come lead our institutions. Those discussions haven't amounted to a compromise as of yet, but my door remains open to listening to what we have in mind because I believe we can get this done. I believe that we can earn the public trust on this. I believe that we can have a process in our state which is open and transparent but does not put us at a competitive disadvantage with our peer institutions. There will be a lot of testimony so I would be happy to answer any questions that you have, but understanding there's a lot of experts coming behind me. So I would be happy to answer anything you may have. [LB1109]

SENATOR HANSEN: Thank you, Senator Murante. Just for the record, Vice Chairman Garrett had to go introduce a bill in another committee and so I will be conducting this hearing until he returns. Are there any questions for Senator Murante? Senator Groene. [LB1109]

SENATOR GROENE: Just to clarify, you said the records of the chosen candidate and the three that were not chosen. But when the records are supposed to be released, it's before anybody has been selected. We don't know who the finalist is yet. All four of the finalists' records are released at the same time, right? [LB1109]

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SENATOR MURANTE: Are you talking about under status quo... [LB1109]

SENATOR GROENE: Status quo. [LB1109]

SENATOR MURANTE: ...or under my...under the status quo, yes. [LB1109]

SENATOR GROENE: All right. Were you worried that the one who got it plus the three that were rejected if it was after the fact that...I just wanted clarification. [LB1109]

SENATOR MURANTE: I believe it can be after the fact. I can go and look at the statute and will defer to the folks behind me, but I believe they can just drop it off and say this is the hire. These are the three people we did not hire, but this is the new leaders of our institution. [LB1109]

SENATOR GROENE: I didn't know, but we'll have to get that clarification. [LB1109]

SENATOR MURANTE: If I'm incorrect about that, I'll clarify. [LB1109]

SENATOR GROENE: Well, I want...we all need it clarified. Thank you, Chairman. [LB1109]

SENATOR HANSEN: Any other questions? [LB1109]

SENATOR BLOOMFIELD: I'll get you later. [LB1109]

SENATOR HANSEN: Seeing none, Senator Murante, will you be staying to close? [LB1109]

SENATOR MURANTE: I'll be here. I'm not going anywhere. [LB1109]

SENATOR HANSEN: All right. Then we will begin with proponent testimony. [LB1109]

SENATOR HADLEY: (Exhibit 1) Vice Vice Chair Hansen, is that how I address you? Deputy Vice Chair. My name is Galen Hadley, G-a-l-e-n H-a-d-l-e-y. You might wonder why I'm here testifying. I guess this is an area of interest to me. It stems from about 35 years in higher education, from assistant associate to full professor; dean of college of business, two colleges of business; vice president for administration; vice president for academic affairs; senior vice chancellor of academic and student affairs; and interim president of the university. I have probably worked on so many searches that I've lost track of them, not only as a member but

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chaired the search, the whole...so I'm very familiar with the search process in higher education. The question, as most people want to frame it, is the difference between what is called an open or transparent search and the other side is called an inclusive search. And what I mean by that, an open search that is completely open has all of the candidates who ever apply are open for scrutiny. Florida has that law right now. As an example, Joe McFadden, who was the president of the University of South Dakota when I was the provost there, somebody submitted his name to the University of Florida as a potential candidate. He was then listed as potentially seeking that job just because somebody sent his name in because anybody who sent in a name they were listed. If you go to the Web site right now, the University of North Dakota is doing a search and they list every person who applied for that position. On the other side of the spectrum you have what are called confidential searches where basically the fully confidential searches are you walk into a room like this and the board of regents or trustees are sitting there and they introduce the new president. And that's the first time anybody has had a chance to meet them, know them, hear their names. This bill I think is very good because it strikes a middle ground between the fully transparent and the inclusive. And I call it inclusive because by keeping some of the records internal you encourage more people, you include more people in the search process. For years they said the private institutions, i.e., Northwestern, that are privately funded have used closed searches. And the argument is public institutions should use open searches. Well, I just checked. Right now the state of Nebraska pays about 23 percent of the bills at the University of Nebraska. So we have gone from a fully public-supported institution to where students and other people are paying a lot of the bills. The share of the University of Nebraska and state college system has gone from 20 percent of the state budget 20 years ago to 14 percent of the state budget now. I'm going to use the university...well, one other thing. As a general rule, the higher rated an academic institution is, the more likely they're going to use some type of closed search. That's just a rule of thumb. That generally is the way it works. I'm going to use UNL as an example, but my example applies to all four campuses and to the presidency. The reason I use UNL is there are a lot more information about searches in the Big Ten. In 2010 UNL joined the Big Ten. And I'm not going to say a word about the athletic part of it. What I'm more interested in, we joined an outstanding, an outstanding academic group of institutions. I'll quote to you from the Big Ten Web site: The Big Ten Conference is a union of world-class academic institutions who share a common mission of research, graduate, professional and undergraduate teaching and public service. Actually in the academic side of it, the University of Chicago is also a member of that group. We talk a lot...I will mention one other thing from the academic. There are five power conferences, and I ran across a rating that listed the academic institutions in each of those conferences, including private and public institutions. The top-rated institution athletic conference was the Big Ten Conference. The average rating for private and public for the Big Ten was 58.29. Next was the ACC, Pac-10, Pac-12, SEC, and finally was the Big 12 that we left. The average institution in the Big 12 was rated at 117.5, almost twice as low as the Big Ten. The reason I bring that up is that we're in competition with the Big Ten, not only on the athletic field but on the academic field. Now I want to quickly run through...I spent quite a bit of time looking at the searches that I

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could find for Big Ten institutions because, folks, when I look at UNL and the presidency of the University of Nebraska system, that's who we're competing with to get presidents and chancellors. University of Michigan a number of years ago, Mary Sue Coleman was named as president of the University of Michigan. She was a sitting president at the University of Iowa. She was quoted as saying if they had not had a closed search she would have never applied for the job. She was rated one of the top ten presidents by TIME Magazine, one of the top ten presidents ever by TIME Magazine. Yet she was willing to move because it was a closed search. I found it interesting they just hired Mark Schlissel. Mark Schlissel is former provost of Brown University, which is 14th among all universities in the nation. And they kiddingly said they had a press conference where they introduced Mark Schlissel and everybody in the audience was saying, who is the guy with the beard up there? It was the new president of the University of Michigan. Now I'm saying this bill would not have that because we have a bill that says that person would be named and then we would have a 30-day period for the vetting of that. So that would not happen. University of Illinois, Tim Killeen. He was head of research for the SUNY system, almost a billion dollars in research. In essence, the search committee declined to name the other two finalists. University of Wisconsin, they have an open search process. But I did read their last search process. Two of their members of their board of regents said they felt the pool was less qualified than it had been in the past. Penn State, Eric Barron was named president of Penn State. He was a sitting president at Florida State University. He basically said, I would not have applied if my name had been made public because I couldn't. I could not...my institution would not have understood that. Ohio State hired Michael Drake, chancellor of the University of California at Irvine, the ninth ranked public institution went to Ohio State. Again, OSU kept their search records confidential. You're not going to get a Michael Drake moving from a Cal Irvine if it's an open search. They're just not going to do it. University of Maryland hired a man named Mr. Loh who had been provost at the University of Iowa. He had only been there two years and the University of Maryland asked him to apply. The only way he would apply was if it was a confidential search because he wasn't going to tell University of Iowa that I'm going to be leaving or I could be leaving. The state law, my understanding in Maryland, the state laws allows confidential searches. Purdue University hired Mitch Daniels, the former governor. Again, he was announced as the president at the time by the search committee. He was the only candidate named as a finalist. University of Minnesota is a really interesting case because they have open laws like...as we have. They have what they call four semifinalists. And in essence, they pick from those four semifinalists to have the finalist. Of the four semifinalists, two of them dropped out because they did not want to have their names put out as searching for the University of Minnesota president. The only name put forward was Eric Kaler, and he was put forward as a single finalist and hired at the University of Minnesota. Rutgers, same thing; finalists never made public, a sitting president hired. Michigan State University, finalists are named at Michigan State. But guess what they have. They have a 21-day period just exactly like the 30-day period that's in this bill. They in essence bring candidates in, then they pick one, and then it's only 21 days later before they can formally sign them on the dotted line as president of Michigan State

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University. University of Iowa is just having a real tussle over there. They had an open search and now the faculty don't like who they picked so the faculty is suing in the courts over the search. Open searches cause problems to sitting presidents in their home institution. Let me give you two examples that I ran across at the University of South Dakota. I coordinated the search for the new president when I was interim president there. I was not a candidate. One is that I had the president of Citibank in South Dakota, the largest single employer in the state of South Dakota, called me at 7:00 in the morning and withdrew from the search at 7:00 in the morning. Secondly, the person we hired was a very good president. About four or five years later she decided that she was ready to move on to another position, and she applied in four or five places and became a finalist and her name was made public. And the Argus Leader, the paper in Sioux Falls, had a tongue-in-cheek editorial that they were going to have a contest of where she was going to apply next. That's a pretty damning thing for a sitting president to have a newspaper say they're going to have a contest of where she's going to apply next. It was the idea that if she doesn't like us, she should leave. Anyway, I'll finish with a quote. This is from a sitting president: When I entered the search for the president of this university, I did so with the complete support of the president of the university I was serving as provost. As president of my current institution, I would not enter a search where my name would be made public before being hired. It would cause serious problems with my current board of trustees. They hired me to chart a course for this institution through a long-range plan and to be here to see the long-range plan implemented. Anything less would cause serious friction between myself and my board. In summary, I truly believe this bill is a good compromise between a confidential search and an open search that will allow the University of Nebraska to get the best candidate for running this institution. With that, I would ask the pages if they would hand out this. I know you want something to put you to sleep tonight. This is my testimony from the last time that I introduced this bill so I know I had...Senator Bloomfield was on the edge of his chair last time and I'm sure he's on the edge of his chair this time. I would be happy to answer any possible questions I can. [LB1109]

SENATOR HANSEN: Thank you. Any questions for Speaker Hadley? Senator Bloomfield. [LB1109]

SENATOR BLOOMFIELD: Let me get up here on the edge of my chair first. [LB1109]

SENATOR HADLEY: Yeah, okay. Don't fall off though. [LB1109]

SENATOR BLOOMFIELD: Okay. I think it was four years ago we reached this compromise system we're working under now. Is that about right? [LB1109]

SENATOR HADLEY: I thought it was 2007, Senator Bloomfield. I could be wrong. [LB1109]

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SENATOR BLOOMFIELD: It seemed like I was here. I haven't been here that long. [LB1109]

SENATOR HADLEY: Okay. [LB1109]

SENATOR BLOOMFIELD: But I've been... [LB1109]

SENATOR HADLEY: We can...I think maybe somebody behind...yeah, yes. [LB1109]

SENATOR BLOOMFIELD: This thing has been around so many times that it really doesn't matter. Under the system we use now, what consequences did the other applicants for president of the University of Nebraska suffer when we selected our current president? [LB1109]

SENATOR HADLEY: You know, I can't really speak to it. I can speak to one applicant. [LB1109]

SENATOR BLOOMFIELD: Would you, please. [LB1109]

SENATOR HADLEY: He was...how do I politely say it? It isn't uncommon for people to use a search process to leverage increases in salary at their current institution. And I think that could have happened in the last search. [LB1109]

SENATOR BLOOMFIELD: Did he get a nice raise? [LB1109]

SENATOR HADLEY: Yes, he got a nice raise out of it. [LB1109]

SENATOR BLOOMFIELD: Was he entitled to it? [LB1109]

SENATOR HADLEY: Yeah. That was in another state so I can't comment on it. [LB1109]

SENATOR BLOOMFIELD: I look at our current process. I see the new president sitting back there. It looks to me like it worked. [LB1109]

SENATOR HADLEY: You know, I think he is best suited to tell you why...I agree he is doing a super job. I will only say we are very, very lucky to have President Bounds here. I hate to set up a system where we just fall back on luck to get the right person. [LB1109]

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SENATOR BLOOMFIELD: I don't believe it was luck. Thank you. [LB1109]

SENATOR HANSEN: Senator Groene. [LB1109]

SENATOR GROENE: Senator Hadley, you said the past president of Iowa was rated one of the top ten ever? [LB1109]

SENATOR HADLEY: Yes. [LB1109]

SENATOR GROENE: And went to Michigan? [LB1109]

SENATOR HADLEY: Yes, Mary Sue Coleman. [LB1109]

SENATOR GROENE: And then you said her replacement now they've had trouble and it's an open... [LB1109]

SENATOR HADLEY: No. Senator Groene, the replacement for Mary Sue Coleman at Michigan is the provost from Brown, which is one of the top-ranked institutions. So that's where he's moving. The problem is that the person who recently left the University of Iowa and they hired a new president over there, they're having problems because they went outside of higher education and hired an IBM executive to come in and run the institution. And they have completely open search. And the faculty got upset or is upset that they did not hire an academician. [LB1109]

SENATOR GROENE: But Mary Sue when she was at Iowa, she got selected in an open process. And Iowa ended up with one of the top ten in the nation by that open process? [LB1109]

SENATOR HADLEY: No. She was at the University of Iowa as president. I don't know the process they used. I would guess it would have been an open process (inaudible). [LB1109]

SENATOR GROENE: Same as the IBM. [LB1109]

SENATOR HADLEY: Yeah. And then...but when she went to Michigan, it was not an open process. She was hired in just a... [LB1109]

SENATOR GROENE: But her replacement at Iowa was an open process. [LB1109]

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SENATOR HADLEY: Yeah. [LB1109]

SENATOR GROENE: And that's the IBM or there's one in between there? [LB1109]

SENATOR HADLEY: No. There's probably maybe one or even two in between there. [LB1109]

SENATOR GROENE: So it worked great for Iowa when they hired her. [LB1109]

SENATOR HADLEY: Yeah. And now the faculty is upset that they did not hire an academician. [LB1109]

SENATOR GROENE: And that doesn't say they picked the wrong guy. [LB1109]

SENATOR HADLEY: No, that's exactly right. [LB1109]

SENATOR GROENE: It just says the employees are upset. [LB1109]

SENATOR HADLEY: This fellow was a senior executive with IBM. [LB1109]

SENATOR GROENE: He might be a great president if they'd just give him a chance. [LB1109]

SENATOR HADLEY: There's a lot of...I just might say there is a growing trend to at times look toward the business world for leadership. [LB1109]

SENATOR HANSEN: Thank you, Senator Groene. Senator Bloomfield. [LB1109]

SENATOR BLOOMFIELD: Thank you. [LB1109]

SENATOR HADLEY: Does he get two questions? [LB1109]

SENATOR BLOOMFIELD: Three times. [LB1109]

SENATOR HADLEY: Three, okay. [LB1109]

SENATOR HANSEN: He's using Senator Larson's. [LB1109]

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SENATOR BLOOMFIELD: You followed up on what we just had Senator Groene just mention. Had this new president over there come in under this top secret method that you're looking at, until they got him hired would the opponents that are opposing him now still not have been just as disappointed? [LB1109]

SENATOR HADLEY: I'm sure they would have opposed him... [LB1109]

SENATOR BLOOMFIELD: So the selection system would have had no bearing whatsoever. [LB1109]

SENATOR HADLEY: I think that's correct. [LB1109]

SENATOR BLOOMFIELD: Okay, thank you. [LB1109]

SENATOR HADLEY: That's correct. I guess my major point was to say that you had an open system there and the faculty is upset. [LB1109]

SENATOR BLOOMFIELD: But if it hadn't been an open system, they would have been just as upset. [LB1109]

SENATOR HADLEY: They might have had something else to complain about along with (inaudible). [LB1109]

SENATOR BLOOMFIELD: In-between. Thank you. [LB1109]

SENATOR HANSEN: Thank you. Any further questions for Speaker Hadley? Seeing none, thanks for coming out. [LB1109]

SENATOR HADLEY: Thank you. [LB1109]

SENATOR HANSEN: Next proponent. [LB1109]

TIM CLARE: (Exhibits 2-5) Good afternoon, members of the committee. My name is Tim Clare, C-l-a-r-e. I'm a member of the University of Nebraska Board of Regents. I'm here today on behalf of the board to express our unanimous support for LB1109. This legislation would significantly improve Nebraska's competitive position in the marketplace for talent. My colleagues on the board and I thank Senator Murante and his cosponsors for their leadership on

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this issue. As board members, we have a constitutional responsibility to govern the University of Nebraska on behalf of the citizens of the state. The taxpayers elect us to make good decisions that keep the university moving forward. Perhaps our most important duty is appointing a president of the university and confirming the appointments of the chancellors. As you know, great leadership makes all the difference for an organization. Our president and chancellors are responsible for setting an overall tone of excellence across the university. Nebraskans rightfully expect us to find the best possible individuals to serve in these positions. When we as a board think about what we need to do to sustain our current momentum, recruitment of talent is one of the top items on the list. But we are convinced that Nebraska's current law that in effect requires four finalists to publicly be named for senior leadership positions is a barrier to our continued success. When you consider the national landscape and the hiring practices of other public universities across the country, in fact, 5 of 65 schools in the Power Five conferences have the same laws that we do. That means that 60 of the 65 schools do not have these laws. The facts are clear. Nebraska is fighting with one arm behind our back. Let me say a few words about what LB1109 does not do, because I think there are some important facts that sometimes get left out of the discussion. Nebraska...excuse me, LB1109 does not eliminate the vital role that the public plays in executive searches. The University of Nebraska belongs to the taxpayers. We welcomed and we encouraged the public's participation in our searches from start to finish. Feedback and vetting by members of the university community, Nebraskans, and the news media is an important part of our process. Consider, for example, our recent presidential search. Our first step in the process was to appoint two search committees made up of 34 individuals representing key university constituents, faculty, staff, students, donors, leaders in business and in agriculture from all across the entire state of Nebraska, and others that were put in place to ensure that we would be...that we would benefit from a diverse range of perspectives. These committees were responsible for helping us conduct a broad and inclusive search, seek nominations and applications, evaluate application materials and screen candidates, interview leading prospects, and ultimately recommending finalists to the board. I think you would be hard pressed to identify a major university constituency that was not engaged throughout our process. We also asked Nebraskans to weigh in on what qualities we should be looking for in our next president. We set up a Web site. We were pleased that more than 400 Nebraskans took the time to share their thoughts and help us develop a robust presidential profile. Faculty Senate and Student Senates also submitted profiles. And when we identified finalists, each participated in a public forum that were open to any Nebraskan and member of the media. LB1109 would not change any of that. University policy requires us to appoint broadly representative search committees for senior leadership searches which include members of constituencies with which the position interacts. We will continue to do that. We will continue to invite Nebraskans to help us develop job descriptions. And we will continue to provide public forums that give members of the public opportunities to meet finalists, ask questions, and share their feedback. The difference is that one finalist, one priority finalist would be subject to this public process versus four. What does this help? What does...what that does is help us build as deep, diverse, qualified, robust candidate

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pool as possible. Our experience, confirmed by external search firms with whom we have worked, tells us that excellent candidates are unwilling to be part of a search process in which they are outed as one of multiple finalists. This is particularly true of sitting presidents and chancellors who are exactly the types of experienced leaders we would want in our applicant pools. And it is not just a matter of saving face. These executives are often in the middle of sensitive conversations with policy makers or donors and they cannot afford to put those negotiations at risk by being identified as a candidate elsewhere. [LB1109]

SENATOR HANSEN: Excuse me, yeah, the red light is on so I'm going to see if maybe a person has a question for you. Senator Bloomfield. [LB1109]

SENATOR BLOOMFIELD: Regent Clare, do you have some more you would like to say? [LB1109]

TIM CLARE: I've got three short, little... [LB1109]

SENATOR BLOOMFIELD: Please proceed. [LB1109]

TIM CLARE: Thank you. I apologize. [LB1109]

SENATOR HANSEN: Not a problem. [LB1109]

TIM CLARE: As a result, many potentially excellent candidates are unwilling to even be considered for Nebraska's leadership opportunities. Meanwhile, they may say yes to our competitors in places like Ohio, Illinois, Indiana, Minnesota, Michigan, and Pennsylvania where only a single public finalist is required for senior university positions. I think that's a disservice to Nebraskans. The process set forth in LB1109 strikes the right balance between the public's right to know and our ability to hire the best individuals to lead our university. It puts us in a position to advance our goals for excellence. On behalf of the board, I hope you agree that it is wise public policy. I'm also submitting for the record testimony from Tonn Ostergard, immediate past chair of the University of Nebraska Foundation, and letters from Mr. Walter Scott and Mr. Mogens Bay. And that concludes my testimony. [LB1109]

SENATOR HANSEN: Thank you. Are there more questions for Mr. Clare? Senator Bloomfield. [LB1109]

SENATOR BLOOMFIELD: Thank you. Mr. Clare, you said that when we went searching for the president last time you had hearings, public hearings for the four potential nominees. [LB1109]

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TIM CLARE: Yes, sir. [LB1109]

SENATOR BLOOMFIELD: How many people showed up at each one of those hearings?
[LB1109]

TIM CLARE: The ones that I was in Lincoln attending, they were full. [LB1109]

SENATOR BLOOMFIELD: So there was interest for the broad spectrum of all four of them
basically. [LB1109]

TIM CLARE: I can't speak for the other campuses because I was not there... [LB1109]

SENATOR BLOOMFIELD: Okay. [LB1109]

TIM CLARE: ...but the ones in Lincoln, yes. [LB1109]

SENATOR BLOOMFIELD: Being as I have a little back-and-forth continually with the Speaker,
with Senator Murante, I'm going to call them "Professor" Murante and "Professor" Hadley right
now. [LB1109]

TIM CLARE: Okay. [LB1109]

SENATOR BLOOMFIELD: If they had both applied, at one of these hearings it comes out that
"Professor" Hadley is a scallywag, that's how you eliminate people. You find out at the public
hearing that there is discourse somewhere throughout the body that this professor you're looking
at now should maybe not have that job. And if you come with only one, say you come with
"Professor" Murante and somebody thinks he's a scallywag, you can't find that out because you
didn't have any public hearings for him, for the three of them. [LB1109]

TIM CLARE: Well,... [LB1109]

SENATOR BLOOMFIELD: To me, I see real issues here with keeping the whole state involved
in this thing. You only come in with one option and if somewhere through that it would come out
that "Professor" Hadley is, in fact, a scallywag, you have destroyed the man. [LB1109]

TIM CLARE: Well, with all due respect, I'm not going to call "Professor" Hadley nor Murante
scallywags (laughter). [LB1109]

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SENATOR BLOOMFIELD: It's...they understand where I'm at with it. [LB1109]

TIM CLARE: But let me address that. If the two of them would be applicants for the position, we still couldn't go public with it because we don't have four. We have to bring four forward. If we find two other like scallywags, if I can use your term, we then come public and we conduct the public search. The issue is, however, that are we attracting a robust pool with the process, because if they are the only ones that are applying for this position, a position that's in the Big Ten university, for example, with UNL, are we attracting the best leaders to lead that particular institution? And the data shows that those leaders are not willing, a sitting president or a sitting chancellor is not willing to come forward and put their current job at risk, also their donor pool at risk, at their current institution. And those are the type of leaders that we want to be leading our university. So I think if that's the case, an open and closed shut situation like that is the case, I would tend to agree. What LB1109 does, however, it goes beyond that and says we would bring forward that one candidate, that sitting president or sitting chancellor, and say this is the person that we think would be a great leader at our institution. And we're going to give the public, the media, the stakeholders, the donors, the faculty, the students the opportunity to vet this candidate for a 30-day period, giving them that opportunity. And then we're going to be hearing their feedback coming back to us. [LB1109]

SENATOR BLOOMFIELD: On one candidate. [LB1109]

TIM CLARE: On one candidate, correct. [LB1109]

SENATOR BLOOMFIELD: That's wherein my problem lies. I think that needs to be open and a little more transparent. [LB1109]

SENATOR HANSEN: Thank you, Senator Bloomfield. Senator Groene. [LB1109]

SENATOR GROENE: Regent Clare, usually, I've only been here a year and a half, but usually legislation usually addresses a problem. Senator...Mr. Bounds, Mr. Milliken, Mr. Perlman, Mr. Kristensen at Kearney...how long have you been a regent? [LB1109]

TIM CLARE: This is my eighth year, so I participated in... [LB1109]

SENATOR GROENE: Can you tell me of any of those positions where they were inferior candidates that we chose and we should have had a bigger pool? [LB1109]

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TIM CLARE: I'm not going to say any candidate is an inferior candidate. I'll address the search at the Med Center because I was involved with that. We had four candidates that came forward and submitted for the job. That search failed. And as a result, we went back into the pool not having to go public, and that drew a lot more interest and we were able to attract Chancellor Jeff Gold and... [LB1109]

SENATOR GROENE: Could you explain that, how you didn't have to come up with four more candidates? [LB1109]

TIM CLARE: Because the way the rule is today, if there's four candidates and we bring them forward and that search fails, as I understand the rule, we do not have to go public again with that fifth candidate. [LB1109]

SENATOR GROENE: But the fifth candidate had to come from the existing pool. [LB1109]

TIM CLARE: No, I don't believe we had to come forward from the existing pool. [LB1109]

SENATOR GROENE: And earlier, to Senator Bloomfield's question, if two candidates came forward and there was 25 candidates, their names won't become public, and even two candidates wouldn't become public until you had four. [LB1109]

TIM CLARE: Correct. [LB1109]

SENATOR GROENE: So they wouldn't be exposed right away. To that question, does it concern you that transparency and accountability is a character trait? To me it is. [LB1109]

TIM CLARE: I believe it is. [LB1109]

SENATOR GROENE: Do you really want somebody hired who believes that isn't a good character trait and they won't come forward... [LB1109]

TIM CLARE: I think... [LB1109]

SENATOR GROENE: ...for a position because they don't like that character trait to be imposed on them? [LB1109]

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TIM CLARE: I don't think it's that they don't like it. I think that the fact is, number one, I think initially you're looking for somebody who is not necessarily looking for a new job. You're looking for somebody who is a sitting president or a sitting chancellor in a current institution and are happy in that job. They don't want to risk donor relations at their current institution if they're talking to another institution because if that donor hears that there's discussion going on that they may be leaving, that project is at risk with that donor. The issue then becomes that we want to attract the best candidates. I don't believe it's a transparency. I believe it's more of a situation where if I submit my name I stand at best a one in four chance of getting that job. And then I've got to, if I don't get it, I've got to go back to the same institution. And at worst I stand a zero percent chance of getting that job, so I think... [LB1109]

SENATOR GROENE: Sir, if you have a very good...Mr. Milliken, when he was here, we can agree or disagree how good a president he was. If you knew he was looking for another position and he didn't get it, would you have fired him? [LB1109]

TIM CLARE: It would have potentially challenged his role with other donors that were knowing that he was looking to depart. [LB1109]

SENATOR GROENE: What's the difference between somebody being honest with the donors and saying they're looking for a job or getting the job and just disappearing on them? [LB1109]

TIM CLARE: I don't...I can't speak to that. What I can speak to is... [LB1109]

SENATOR GROENE: I see no difference. [LB1109]

TIM CLARE: ...that there's the risk that the institution runs on the completion of that particular project or a project that they're trying to work on with the donor if the leadership is going to be changing. [LB1109]

SENATOR GROENE: Thank you. [LB1109]

SENATOR HANSEN: Thank you, Senator Groene. Senator Bloomfield. [LB1109]

SENATOR BLOOMFIELD: Thank you. I believe this is part of the conversation that Senator Hadley and I engaged in the last time this came around, I think Senator Avery as well. Does this not allow you to slip in and more easily steal a candidate from a university where he's already sitting... [LB1109]

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TIM CLARE: I don't know that it... [LB1109]

SENATOR BLOOMFIELD: ...without that university knowing that he's even looking?
[LB1109]

TIM CLARE: I don't know that I use the word "slip in and steal a candidate" because 60 of 65 schools in the Power Five conferences are already... [LB1109]

SENATOR BLOOMFIELD: What words would you use to describe going in and hiring away somebody that's... [LB1109]

TIM CLARE: I would call it... [LB1109]

SENATOR BLOOMFIELD: ...theoretically content with his job? [LB1109]

TIM CLARE: I would call it recruitment of... [LB1109]

SENATOR BLOOMFIELD: Okay. [LB1109]

TIM CLARE: ...outstanding candidates. [LB1109]

SENATOR BLOOMFIELD: Okay, I guess you can use your words and I think mine still apply.
[LB1109]

SENATOR HANSEN: Thank you, Senator Bloomfield. [LB1109]

SENATOR BLOOMFIELD: Thank you. [LB1109]

SENATOR HANSEN: Mr. Clare, I had just a follow-up question. Earlier there was a little bit of a reference about a prior agreement and there was some dispute over years. Is that something you can speak to? [LB1109]

TIM CLARE: I can, yeah, I can talk a little bit about the deal that was... [LB1109]

SENATOR HANSEN: If you would. [LB1109]

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TIM CLARE: I think it was, the rule was or the compromise was, back in 2007, I believe. I can say that...and I obviously wasn't on the board then, I wasn't there, and neither was anybody else that's in university leadership right now and, in fact, neither were any of you. But things have changed since then. And I remember when we were hiring in the process of interviewing President Bounds, there was tweets of the questions that were asked of President Bounds and tweets with his answer. And Twitter wasn't even around when the compromise was agreed to back in 2007 so, again, things have changed that would further justify, I believe, LB1109. [LB1109]

SENATOR HANSEN: Okay, thank you. Any further questions? Seeing none, thank you, Mr. Clare. [LB1109]

TIM CLARE: Thank you. [LB1109]

SENATOR HANSEN: We will take our next proponent. Welcome. [LB1109]

KRUPA SAVALIA: (Exhibit 6) Good afternoon. Chairman Murante and members of the committee, my name is Krupa, K-r-u-p-a, Savalia, S-a-v-a-l-i-a, and I'm an M.D./Ph.D. student at the University of Nebraska Medical Center. I had the honor of serving as UNMC's student regent and student body president from January 2014 to April 2015 and was also a member of the screening and selection committee for the most recent NU presidential search. Thank you for allowing me to testify today in support of LB1109, a bill that I believe has critical implications for students enrolled in the University of Nebraska system. I wanted to begin by telling you just a little bit about myself. I was born in New Jersey and earned my undergraduate degree in biomedical engineering from the University of Southern California. I took a few years off and worked in clinical research for several years before enrolling in the competitive M.D./Ph.D. Scholars Program at UNMC in 2009. I received my Ph.D. from the department of cellular and integrative physiology in 2014 and am in the last semester of my fourth year of medical school with graduation just a few months away. I'm here today because I believe there is great value in LB1109. I'm convinced that this bill will position our university well if we are to continue being competitive in the academic marketplace. I make this statement with confidence for primarily three reasons. First, students absolutely understand the importance of recruiting great leaders because the senior leaders of the University of Nebraska have a profound and long-lasting impact on our students. They oversee our academic mission. They hire the faculty who equip us with the skills we need to succeed in our respective careers. They build partnerships with other institutions and businesses that provide us with the opportunities to study abroad and engage in unique learning experiences. They also facilitate fund-raising efforts that support scholarships and help build innovative facilities which are essential to our professional training and success. All of these factors are of critical importance to students and, most importantly, to the quality of

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education that we receive. Second, I believe that the vision of our university, as laid out by our senior leaders, facilitates attraction of remarkable talent to Nebraska. At the Medical Center this carries extreme weight because many of our students in medicine, nursing, pharmacy, allied health, and public health are committed to staying in Nebraska following graduation. From my many conversations with students over the past six and a half years, it is clear that this allegiance to our state is fostered by the initiatives articulated by our senior leaders and the great value that they place in our university's contribution to Nebraska through teaching, research, and service. Third, my personal experience over the past six and a half years at UNMC has assured me that this institution truly values student engagement in important decision-making processes. Students have historically been engaged in university searches for leadership and our input has been highly valued. I can attest to that personally from my experience in our last presidential search. As one of two students on the 13-member screening and selection committee, I was exhaustively asked about my student perspective and, what qualities do you, Krupa, think students would value in our leader? Furthermore, I was consistently asked to actively engage with the candidates that we interviewed by asking direct questions, evaluating their candidacy, and conveying my student perspective on each candidate's strengths and weaknesses in the context of our institutional goals. As a student regent I had the privilege of sitting at the board for 15 months where my questions and comments were not only encouraged but they were valued. As students we have confidence in the Board of Regents to perform the duties they were elected to execute and judiciously govern our university on behalf of Nebraskans. From my personal experience on the board, this confidence has only grown stronger and is importantly supported by what I as a scientist commonly refer to as objective and reliable data. It is in the best interest of the students of the University of Nebraska to recruit exceptional senior leaders. And as a senior student, having been at the University of Nebraska Medical Center for the past six and a half years and having served as student regent and having the pleasure of serving as a student body president for 15 months, I truly believe that LB1109 would place us in a more competitive position to do exactly that. I, therefore, encourage you to support this important legislation. Thank you for allowing me to express my opinion today. I would be happy to take any of your questions at this time. [LB1109]

SENATOR HANSEN: Thank you, Ms. Savalia. Any questions? Senator Bloomfield. [LB1109]

SENATOR BLOOMFIELD: Thank you for coming in and I hope you do stay in Nebraska. How many of the applicants last time were you able to talk to and interview? [LB1109]

KRUPA SAVALIA: All the candidates that we brought in to interview before selecting the final four, I interviewed all of them. [LB1109]

SENATOR BLOOMFIELD: Okay. [LB1109]

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KRUPA SAVALIA: And then I was also actively involved in the public interview of the four candidates that we had in Lincoln while I sat on the board. [LB1109]

SENATOR BLOOMFIELD: Okay, thank you. [LB1109]

KRUPA SAVALIA: Sure. [LB1109]

SENATOR HANSEN: Thank you, Senator. Senator Groene. [LB1109]

SENATOR GROENE: Clarify, you said as a student there was a student...you were also part of a student group that was involved or as a student regent you were involved? [LB1109]

KRUPA SAVALIA: So I've been a student of the University of Nebraska for six and a half years. I was elected to be the student body president and, therefore, was honored to be able to sit on the Board of Regents. And so when the Board of Regents decided to make up two committees of constituents of, you know, community leaders, faculty members, student leaders, I was selected as one of those students on the selection and screening committee. [LB1109]

SENATOR GROENE: So you held two positions there: part of the Board of Regents as a student regent and then also on this selection committee. [LB1109]

KRUPA SAVALIA: Sure, yeah, um-hum. [LB1109]

SENATOR GROENE: Thank you. I was just trying to clarify. [LB1109]

KRUPA SAVALIA: Yeah, um-hum, and all of the student regents from each of the campuses had some role or some capacity in the presidential search because we wanted to make sure that the diversity of our different campuses were in some way, shape, or form represented on the committees. [LB1109]

SENATOR GROENE: Were you involved in the search for the past chancellor of the Medical Center? [LB1109]

KRUPA SAVALIA: No. So that was my predecessor, Jeremy Hosein. He was involved in that search. [LB1109]

SENATOR GROENE: But you were a student at... [LB1109]

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KRUPA SAVALIA: I was a student, um-hum. [LB1109]

SENATOR GROENE: All right, thank you. [LB1109]

KRUPA SAVALIA: Sure. [LB1109]

SENATOR HANSEN: Thank you, Senator Groene. Any further questions? Seeing none, thank you for coming out. [LB1109]

KRUPA SAVALIA: Thank you. [LB1109]

SENATOR HANSEN: We will take our next proponent. If I could just get a show of hands of proponents or, I guess, testifiers in any capacity just to give me a frame of reference. All right. Thank you all for coming down. This will be exciting. [LB1109]

ROB ROBERTSON: Good afternoon,... [LB1109]

SENATOR HANSEN: Good afternoon. [LB1109]

ROB ROBERTSON: ...Senator Hansen and members of the Government Committee. My name is Rob Robertson, R-o-b R-o-b-e-r-t-s-o-n. And I'm here representing the Nebraska Farm Bureau Federation and the Ag 40 Group. The Ag 40 Group is a coalition of 40 agriculture organizations across the state and I currently am chair of that group. And also then the Nebraska Farm Bureau Federation is the state's largest farm organization and I'm the chief administrator for that organization as well. I'm here today to communicate our position in support of LB1109. You know, the land grant mission of the University of Nebraska is extremely important to agriculture, particularly in the ag research area, the ag extension area. And agriculture in Nebraska is a huge stakeholder in terms of the University of Nebraska. If ag is going to grow, if we're going to grow Nebraska, we need the best and new and better innovation and technology. We need new and better research. We need new and better ways to communicate that research out through extension. And we need a new and better partnership and a stronger partnership with the University of Nebraska. We don't get that partnership unless we select strong leaders at the University of Nebraska. We need the best and the most qualified leaders to run for those openings. We need those leaders to have the vision for how the university can partner with agriculture, how it can partner with the state through its land grant mission to move this state forward. As the state's number-one industry in agriculture, we cannot afford any process where there is a risk where you don't have the best candidate being considered. We have high expectations in agriculture for strong leadership and that comes from good candidates running

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and seeking these offices. We need the vision of leadership to move things forward at the University of Nebraska. There's a lot of good momentum right now with Innovation Campus, with the Rural Futures Institute, with the Water for Food Institute, and a lot of good things that the University of Nebraska is doing to move the land grant mission forward. But if you make a statement saying that we have a process without getting the best candidates forward to be considered and that statement you can't say is correct or true, then that really concerns us in agriculture. And that's why agriculture and Nebraska Farm Bureau and Ag 40 is here today supporting LB1109 and appreciate your time and I'll answer any questions. [LB1109]

SENATOR HANSEN: Thank you, Mr. Robertson. Any questions? Senator Groene. [LB1109]

SENATOR GROENE: I'm from agriculture and I can remember a time we had a search--I think it was Milliken's--where I didn't like a couple of the candidates. They had no background in agriculture, had probably never been on a farm. So I called my regent. We might have the best, as a minority in agriculture, the best candidates that's good for the Med Center, that's good for the architect college, the engineering college. You really don't want any input prior to that final decision? Agriculture doesn't want an input? [LB1109]

ROB ROBERTSON: Oh, absolutely we want input. But I think the bill as crafted, there would be ample input in that 30-day period. And so in agriculture that doesn't worry me, because I agree exactly what you just said. That's why we had our... [LB1109]

SENATOR GROENE: So in that 30-day period you're going to recommend that they don't hire him? [LB1109]

ROB ROBERTSON: If there's a candidate that doesn't have the leadership and vision for the land grant mission that's largely supporting the agriculture, number-one industry, yeah, we'd make that recommendation not to hire him. [LB1109]

SENATOR GROENE: So you think we should then go back through the process again and come with one candidate again and then we'd vet that one candidate... [LB1109]

ROB ROBERTSON: Absolutely, yeah. [LB1109]

SENATOR GROENE: ...versus four right away and ag can have its say early on? [LB1109]

ROB ROBERTSON: Absolutely. I trust the process that's outlined in the bill. [LB1109]

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SENATOR GROENE: Hmm. Well, thank you. [LB1109]

SENATOR HANSEN: Thank you, Senator Groene. Any other questions? Thank you, Mr. Robertson. [LB1109]

ROB ROBERTSON: Thank you. [LB1109]

SENATOR HANSEN: We'll take our next proponent. [LB1109]

KIM RUSSEL: (Exhibit 7) Good afternoon. My name is Kim Russel, K-i-m R-u-s-s-e-l, and I am here today on behalf of the Nebraska Chamber of Commerce and Industry and also the Lincoln Chamber of Commerce. I serve on the board and the executive committee of the Lincoln Chamber and I'm the immediate past chair of the Nebraska Chamber. Some of you may know me in my role as Bryan but wearing my chamber hat today. Both chambers offer complete and unanimous support for LB1109. And I'm pleased to speak to the committee today due to my past experience in my field as a candidate in both public and confidential searches and also from my experience in recruiting and selecting leaders throughout my career. It's certainly true that our current search process in Nebraska has brought excellent people to our state, such as Dr. Bounds. However, the chambers believe that the current selection process will in the future lead to a reduced pool of candidates. Frankly, the pool of appropriately experienced leaders for top higher education jobs is small and I believe shrinking. As has been stated previously, our university is competing nationally against both other universities, public and the privates, as well as with the private sector for our top talent. So the question I think that's really before the Legislature is whether a reduced candidate pool will be sufficient for future services. I believe and the chambers believe that this will not serve the university or the state well in the coming years. You might be asking, well, you know, why would the candidate pool likely be narrowed under our current process? And that's because sitting presidents I believe have a duty first and foremost to their current institution. Sitting presidents in good conscience can't leave their current organizations hanging for a number of months with indecision while another organization undergoes its search process. I make this assessment of the quandary faced by sitting presidents because I've walked in those shoes earlier in my career. Now if you're content with sitting presidents not being a part of future University of Nebraska searches, then there probably is no reason to pass LB1109. Let me just kind of tell you a little story from my experience. A couple weeks ago I was giving a talk to a group about...a community group about healthcare. And at the end, at the Q&A section, typically the Q&A I get at those is usually questions about the Affordable Care Act or why are the price of drugs so high. But a little bit to my surprise, the question that I got from that audience was because they had reviewed kind of my career and that kind of thing and I was the CEO at a public hospital before I came to Bryan and to Lincoln. And the question that I was asked is, if the Bryan search had not been a confidential search, would I

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have been a candidate for the search? And "absolutely not" was my response because of what I felt was my duty to the institution not to put the institution that I was leading and the president at that point in time through several months of indecision. So if you are in agreement that the future candidate pools for the searches here at the University of Nebraska need to be fully inclusive, then I think the next question in front of the Legislature is, well, how do we maintain sufficient public review? I believe the 30-day vetting process that's outlined in the bill does allow the public to provide their comments to the hiring authority, which is ultimately the Broad of Regents. And of course in our state the final check and balance is that our regents are elected by the public. So the chambers strongly support LB1109 and on behalf of the Lincoln and the Nebraska Chambers I ask your support. Be happy to stand for any questions. [LB1109]

SENATOR BLOOMFIELD: Thank you, Ms. Russel. I guess I'm the Vice Deputy Vice Chairman? (Laughter) [LB1109]

KIM RUSSEL: I'm trying not to take this personally but, you know,... [LB1109]

SENATOR BLOOMFIELD: So do you have any questions, Senator? We're down to two. [LB1109]

SENATOR GROENE: Just don't leave me because I'm going to start wondering if maybe I should run for cover too. But anyway, but I'm sitting there as a regent at a university and I've got...my president is dealing with me, keeping a secret that they applied at another university and then they just leave me like that. Would I rather have three months to contemplate that, that they might leave? Or would I just like to be gone the next day? [LB1109]

KIM RUSSEL: Well,... [LB1109]

SENATOR GROENE: What would you prefer an employee at one of your major departments? [LB1109]

KIM RUSSEL: Yeah. I faced that situation and typically what happens when a decision is made that someone is going to leave, there is then a discussion of what will be their actual exit date. And typically, assuming that there has, you know, been a good relationship and all of that all along, typically it can be two or three months down the road and that allows time for transition. And that's what I would expect and assume that would happen, and particularly in academic searches when new people tend to come and go about at the time of a new semester starting or something like that. [LB1109]

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SENATOR GROENE: All right, thank you. [LB1109]

SENATOR BLOOMFIELD: I guess we'll let it rest at that. [LB1109]

KIM RUSSEL: All right. [LB1109]

SENATOR BLOOMFIELD: Thank you for coming in. [LB1109]

SENATOR HANSEN: Thank you. [LB1109]

SENATOR BLOOMFIELD: I will turn it back over to the Deputy Vice Chairman at this point. [LB1109]

SENATOR HANSEN: Thank you, Assistant Vice Deputy Chairman. We welcome our next testifier. [LB1109]

HANK BOUNDS: (Exhibits 8 and 9) Vice Vice Chairman Hansen and members of the committee, thank you for this opportunity. I am Hank Bounds, H-a-n-k B-o-u-n-d-s, and I am president of the University of Nebraska. Thank you for the opportunity to spend a few minutes with you today to speak in support of LB1109. I'm also submitting for the record a letter from David Bellshaw, vice president at Isaacson, Miller, a nationally recognized search firm, that speaks to some of the issues that you've been questioning the other testifiers about. Having had some experience on both sides of the executive search process, I hope that I can provide some useful perspective. I arrived in Nebraska ten months ago having been recruited under the perfect circumstances. I'd been fortunate to experience some successes in my previous positions. I was looking for the next great opportunity. So when Nebraska called, I said yes even knowing that if I made it to the end I would be standing with three other public finalists. Most potential candidates for university leadership positions aren't recruited under such perfect circumstances, so they aren't quite so willing to participate in a public process that puts their job status and effectiveness at risk. I can tell you that with absolute certainty. Today I am on the other side of the fence of the search process. I am looking for the next chancellor at the University of Nebraska-Lincoln. This is the eighth search I have led for a university/college leader. While I can't share specific data, I can say that the candidate pool I am working with is a fraction of the size of what I would expect for a position of this stature. Senators, let me reiterate that point. Even when I was searching for a leader of a small regional college in my home state of Mississippi, my applicant pool was always at least three times the size of the pool that I have now for a chancellor of a Big Ten university. That's not a criticism of the pool. These are highly qualified individuals who may have well made it to the end of the process no matter what the law

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was. But we don't know what we don't know, and it is a fact that the pool is small compared to those I've worked with in the past. There is no question in my mind that our current law requiring at least four public finalists in order to protect the privacy of the rest of the applicants is the reason why. So if anyone suggests that it's just speculation that our law could have a crippling effect on our searches or that evidence that our law is not the most effective approach in today's higher education environment is just anecdotal or that we don't have proof that the law could harm our university, let me tell you, based on my experience, that is not the case. The law is not in line with the approaches used by the majority of our competitors, not just in the Big Ten but across the country. It does not reflect the current higher education environment, which is as competitive as it has ever been. And it is hamstringing us in our efforts to bring the very best leaders to Nebraska, the leaders who are responsible for making sure we serve the state effectively. To get those people here, we have to have a search process in place that does not discourage excellent candidates from even being considered. LB1109 establishes such a process balancing the public's right to be engaged with our duty to cast the widest net possible in searching for talented individuals to fill critical leadership positions. Let me be clear. The involvement of our constituents is at the core of our searches. Their input and guidance is incredibly valuable in helping us select leaders who have a deep understanding of this state and university and who possess the knowledge and characteristics desired by a diverse range of stakeholders. Take the current search. I am being assisted by a 25-member advisory committee that represents UNL's major constituency groups. The committee is chaired by a faculty member and includes a half dozen additional faculty members, including the current Faculty Senate president. The committee members have sat with me every step of the way, giving me advice on the qualities we should be looking for, helping me screen applicant materials, making sure we are considering a diverse pool, and reviewing and vetting candidates, and working with me to narrow the group down to the most outstanding individuals. Faculty interests have been well represented throughout this process, as they should be. Nothing in LB1109 changes that. Search committees will continue to include representatives of key constituent groups. We will continue to invite public participation. We will continue to welcome vetting by the public and media. The only thing LB1109 does is allow some of the vetting to take place prior to a public announcement of a priority candidate. The vetting doesn't go away. That's why we engage search firms in broadly representative search committees. But by allowing us to bring forward one finalist versus four we are able to build a much larger pool for our search committees to review. We give them more choice, not less. This is not about making our searches easier. It is not about excluding the public or the media. It is not about reducing our accountability to Nebraskans whose dollars support our operations. It is about putting us in the best possible position to be successful in attracting talent to our state. When I look at the national landscape, there is no doubt in my mind that a change in the law would significantly improve our competitive position. I am certain that's what legislators and Nebraskans want for their university and you can help us achieve that goal by supporting LB1109. Thank you. And with that, I'd be pleased to take your questions. [LB1109]

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SENATOR HANSEN: Thank you, President Bounds. Are there any questions? Senator Groene. [LB1109]

SENATOR GROENE: When I talk to you and question you, because you believe in transparency and accountability, I can look you right in the eye and I know this guy isn't going to lie to me, he's got character. Could it be that we have small applicants that we've already culled the ones from the group? It's like putting a sign in your door: We have drug tests here. They turn around and leave. But in Nebraska, because of our character and our values and our morals, we say, if you're going to come here, you better be willing to be transparent and accountable. And it culls the bad ones right away. Do you...when you...here's the question: Do you think we could have had a better president of the University of Nebraska at this time if we would have had a closed--it's a trick question but you know where I'm going (laughter)--if we would have had a closed search? [LB1109]

HANK BOUNDS: So let me first address the closed search. This is not a closed search. And I'm going to get around to answering the question about me. So let me tell you what we could do currently. The board could change their own policy and I could name, I could go find a chancellor and say, you are the next chancellor at Nebraska-Lincoln. Or I could bring four names forward and at the same time that I bring them forward I could say, you are the four and you are the chancellor. The law doesn't stop that from happening. We could do that now. The fact of the matter is we really think it's important, the board really thinks it's important to make certain that we are vetting candidates all along the way. And I really don't think this has anything to do with character. So if I were to use a sports analogy and we were to have a head coaching position available and we were to say money is no object, do you think that we would get the four most successful candidates in the country to be an applicant if they had to go back and convince their home school that they still loved them when they didn't win it? That's the issue that we're dealing with. When they come here, clearly they have to be transparent, clearly they have to be vetted. I really think this isn't...so the balance is, does the ability to vet three candidates that we're never going to see again override the need to spend a lot of time really understanding the values and the ability for an individual to lead? And what happens is when candidates are called--and I called lots of people during the search that absolutely said, Hank, we would love to be there but we cannot be a part of a public process--that is the case that happens across the board. Back to me, you know, we don't know what we don't know. I do know from talking to the search committee that a number of people said no. I'm sort of...I won't say I'm young anymore. I'm mid-career. Could there have been someone? Absolutely. That would be much better than me? Absolutely. And the problem is we kept all of the...you know, some of those candidates couldn't get in it because they weren't--get into the presidential search--because they weren't in the perfect position. I was in the perfect position. I was retirement eligible in Mississippi. I was being recruited at a number of places around the country, had the perfect situation with my board. They knew that I was going to take another opportunity. I knew that I couldn't be in

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multiple open searches but I wasn't...and so what we have to look for is people who are in the perfect position to be an applicant. [LB1109]

SENATOR GROENE: Now you have ag background, right? [LB1109]

HANK BOUNDS: Yes, sir. [LB1109]

SENATOR GROENE: You grew up on a farm. I noticed that and it's like seeing the Miss Nebraska candidates and you pick the one you think is going to win. I was routing for you because I seen the ag background. I don't get to see that if...and I called. I think I talked to Mr. Phares and had a conversation--I like that Bounds guy. I couldn't do that if you do this. I still believe I'd rather cull them early and get the most integrity we can get because, you take the football analysis, I know some very good football coaches that I wouldn't trust them anywhere near my wife or my daughter. So we at Nebraska weigh the two, we weigh the two--we weigh that character and we weigh that ability. We're unique that way. I like that. But anyway, thank you, sir. [LB1109]

HANK BOUNDS: So just to respond to that, I really don't think this is about character and I really don't think that we are limiting choices. The fact of the matter is that someone with deep ag background is on the search committee. If...so this, let me be clear, this legislation will not impact the current UNL search. But let's say that we were doing this three, four, five years down the road. We would be in the same place that we are now with having people with ag background that can look at those individuals and make certain that they possess the skill sets necessary to be successful in the state of Nebraska. The other thing that I want to make clear is, when we name a preferred candidate, we're not offering them the position. We're making them a preferred candidate to be completely vetted, and so I...someone asked a question earlier, and I didn't get the question, but the first question was, what was attendance like? I can tell you from my experience it was...the...it was sparsely attended. It was a three-and-a-half, four-day review, had a couple, three, maybe four interviews. The vetting that took place for me, the intense scrutiny took place after I was named. There were a few stories in the paper about my background but not intense scrutiny. And there was a question about change and there was a deal. I think it's important to recognize that times, things do change. [LB1109]

SENATOR GROENE: Excuse me, but, all right, so it's a secret search. We see this in football coaches. I'll use the same thing. Our press is very aggressive in this state. They know we're looking for a president. You don't think they're calling around and nationally and trying to figure out who you guys might be looking at? And then when you get closer, you don't think they're going to find out and then call that university and say, is your president looking for a new job or is your chancellor looking for a new job? And they get ahold of that president and he's got to put

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himself in a bind: Do I tell the truth or do I lie to this reporter? You see it in football coaching all the time--somebody says, I'm not looking, and next thing, next day they're at Ohio State. But anyway, so do you really want to put those candidates in that position? [LB1109]

HANK BOUNDS: So if we're speculating about could I guess if someone is a candidate and receive a call, sure, that can happen. That's a very different situation with a reporter thinking that something might happen and speculating about it as opposed to someone having to purposely put their name in the hat and be a public finalist when they still have a position in another place and take on the risk that they have to go back after not having won the position. Those are very different positions in my view. [LB1109]

SENATOR GROENE: One last question, if you wouldn't have been hired, do you think--was it Mississippi State?--they would have fired you? [LB1109]

HANK BOUNDS: I do not think they would have fired me. But again, recall that I told you I was in the perfect... [LB1109]

SENATOR GROENE: If you're good, nobody is going to get rid of you. [LB1109]

HANK BOUNDS: So it's not just about getting rid of someone. It's about effectiveness. It's about the ability to go and recruit students and faculty and work with donors and make certain that they stay a part of the mission. So you talk about stealing candidates. This is a competitive marketplace. And if I can go get an unbelievably talented individual to come lead this place, absolutely, I'm going to go after them somewhere else, because I want to give our students and our faculty the best chance to be successful, and the best way we do that is to make certain that we have a process that doesn't take talent out of the mix before we can ever have a conversation with them. [LB1109]

SENATOR GROENE: Would you call the president of that college and say, I'd sure like to interview your president of your Kearney campus for a position we have? [LB1109]

HANK BOUNDS: I'm sorry, I don't understand. [LB1109]

SENATOR GROENE: Would you call the president of that college in another...wherever your candidate that you want is working as a chancellor of a campus, would you call that president and say, I would sure like to interview your employee over here at this campus for a position we have? Or would you just go direct to the candidate? [LB1109]

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HANK BOUNDS: So we would recruit individuals. We would have...I would have a conversation with them about how they have that conversation with their direct supervisor. That's sort of a two-way street in terms of who makes that decision. There is a difference in your direct supervisor knowing this and everyone knowing back at your home institution. [LB1109]

SENATOR GROENE: Thank you. [LB1109]

SENATOR HANSEN: Thank you, Senator Groene. Thank you, President Bounds. I would have at least one question. [LB1109]

HANK BOUNDS: Sure. [LB1109]

SENATOR HANSEN: You touched on it very briefly, but I know this was before your time in Nebraska, but a potential agreement that had happened in the past. I thought I heard you mention it and just wanted to give you the opportunity. [LB1109]

HANK BOUNDS: Oh, I'm sorry. Thanks for bringing that back around. So I obviously was not here in 2007. I understand that there was an agreement in 1999. There was sort of a follow-up agreement in 2007 that basically states that if at least four candidates aren't made public, then the entire pool must be made public. And that's not just for chancellor and president. That's for every position at the University of Nebraska, every single position. And so I have heard from some in the media that said we struck a bargain, there was an agreement. And from my perspective as president of this university, that agreement is not in the best interest of the University of Nebraska. And my job is to do what is in the best interest of the university, and so to not recognize that there have been dramatic changes...for example, reporting has changed dramatically. I can tell you that I went through the process where I went home and read Twitter the afternoon after I was interviewed in a public interview and I read the questions that were asked me in the interview and my answers and I followed the other candidates and saw that they had the same questions. And so candidates that came after me had the ability to look at all the candidates, understand what the questions are and understand what the answers are. And that's not...I mean that's good reporting. There's nothing wrong with that. The media needs to be engaged and I...but things have changed dramatically. And, you know, we think about...the question was asked about our other leaders. I am completely thrilled with the leadership we have on our other campuses. I think all of them do a great job. But when John Christensen was hired and Doug Kristensen was hired, social media wasn't nearly what it is today. The rules have completely changed. Everything goes...those kinds of things go viral immediately and it's just the marketplace that we live in. One of my...one of the testifiers that preceded me spoke to the fact that the marketplace has changed. I can tell you that these jobs are now so public that there are fewer and fewer people who are willing to undergo the scrutiny that exists in these kinds of roles.

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They just don't want to do it. And so the talent pool is more shallow because, number one, we have lots of people out there who are retiring and, number two, there aren't as many people that want to go into these kinds of positions. And so perhaps there was an agreement. But my goal here is to do what I believe is in the best interest of the University of Nebraska and the students that we serve. [LB1109]

SENATOR HANSEN: Okay, thank you, President Bounds. [LB1109]

HANK BOUNDS: Thank you. [LB1109]

SENATOR HANSEN: (Exhibits 10-14) Any further questions? Thank you for coming down today. Any other proponent testifiers? Last call for proponents. All right. I will read into the record some letters of support. We have Mogens Bay of Valmont Industries; Walter Scott of the Suzanne and Walter Scott Foundation; Tonn Ostergard of the University of Nebraska Foundation; Jim Vokal of the Platte Institute; and David Bellshaw of Isaacson, Miller. Those were letters of support. With that, we will move to opposition testimony and whoever would like to be the first testifier. Welcome. [LB1109]

MIKE REILLY: (Exhibit 15) Thank you, Mr. Chairman, members of the committee. I am Mike Reilly, R-e-i-l-l-y, executive editor of the Omaha World-Herald. Thank you. I am also president of Media of Nebraska, an organization that represents all the state's newspapers and broadcast organizations in important matters of public interest. LB1109 is important. It's important because it would be a step backwards from a good compromise that's in existing law. It would be a step backward from this Legislature's strong record historically of protecting our public interest in an informed and watchful citizenry. If you don't mind, Mr. Chairman, I'd like to ask how many opponents are here. Not all of us are going to testify. Is that all right? [LB1109]

SENATOR HANSEN: Well, they went ahead and did it, so. [LB1109]

MIKE REILLY: Thank you. Many of them are like me: supporters of NU who want what's best for this state university. As a newsman I have reported on government agencies for more than 30 years, mostly in Nebraska. I know the arguments government officials like to make in favor of secrecy when government boards are trying to hire someone to run a public agency. The argument is that disclosure will scare away some of the best candidates. We've heard it again and again today. I thought it was interesting, the anecdotes that were presented and what were not presented, because when proponents first promoted this bill's introduction they did so by misleading senators. They said that there were 140 or 146 potential candidates for the NU president's job last year that did not apply specifically because of disclosure fears. That's what they said. The World-Herald exposed the truth a couple of weeks ago. The consultant admitted

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that, for all he knows, those candidates just didn't want to spend February in Lincoln. But let's just assume for a moment that a few potential candidates really are put off by Nebraska's process, which, by the way, is about 75 percent closed and 25 percent open. This bill would make it 99.9 percent closed. But there could be some people that are put off by this 25 percent openness. They're put off by the prospect of meeting the faculty and the public for a public job. Who really wants to hire those folks, and who really thinks those folks are the best candidates? Who are these bold, cutting-edge leaders who are afraid of the public or so fearful of letting their current employer know someone else is interested in them? Keep in mind, please, that the names of candidates are only disclosed when they're finalists. All the wonderful process that the student regent described is under the current law and it's all...most of it's going on behind closed doors. A great candidate, with the rarest exceptions, ought to be in good standing with his current employer. He or she should not be someone tenuously holding onto a job. And think about this bill for a minute. If these folks are afraid to be one of four, why would they not also be afraid to be one of one? One of two things has to be true. This will not solve this supposed problem that they have; or they'll let the candidate know, hey, it's a done deal, the 30 days, you know, don't worry about it. I mean that's really the only two ways that this addresses this supposed problem. Now the NU Regents say they are thrilled with the hiring of Dr. Bounds. Times have changed, I guess, in the ten months since he started. I don't doubt that the regents are happy with Dr. Bounds. The regents say this process made it harder to hire Dr. Bounds. But look...where is he? Did he leave? Well, you all saw it. And the process worked. He did not look to me like the competitive disadvantage. What about the three other finalists that Dr. Bounds beat out? Well, the World-Herald interviewed them recently and guess what? None of them say their careers were in any way hurt by the public process. One of them scored, as it was mentioned before here, one of them scored a 16 percent raise and a retention bonus. So this bill is a solution to a nonexistent problem. It just encroaches on the public's interest for having the ability to have input and to hold accountable their elected officials. I ask you to please reject LB1109 and I thank you for listening. [LB1109]

SENATOR HANSEN: Thank you, Mr. Reilly. Are there any questions? Senator Groene.
[LB1109]

SENATOR GROENE: Was I correct that if we get secret searches...secret selection, you guys are going to be out all over the place putting out feelers, trying to find out who they're interviewing?
[LB1109]

MIKE REILLY: Of course. [LB1109]

SENATOR GROENE: And you'll be calling college campuses and asking... [LB1109]

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MIKE REILLY: Yes. [LB1109]

SENATOR GROENE: ...them bluntly if they're in the process, our candidate? [LB1109]

MIKE REILLY: Yes. Yes. Other testifiers who were part of the 2007 compromise can talk about the history behind it, but it was a history of secret searches and reporters ferreting out those secrets. And since 2007 we have not been as aggressive in trying to ferret out names before the finalists came out. But if... [LB1109]

SENATOR GROENE: So you kind of stick to the 4 now and you don't expose the other 10 or 12,... [LB1109]

MIKE REILLY: We make no effort to expose the others. [LB1109]

SENATOR GROENE: ...which could harm them. [LB1109]

MIKE REILLY: Yeah, so that has been sort of the gentlemen's agreement part of the legislation and, yeah, that will go away and it'll be more like the search to replace Pelini. [LB1109]

SENATOR GROENE: Yeah. All right, thank you. I was just curious. [LB1109]

SENATOR HANSEN: Thank you, Senator Groene. I would have a question, Mr. Reilly. [LB1109]

MIKE REILLY: Oh, sure. [LB1109]

SENATOR HANSEN: Just in...because you referenced the search for President Bounds, I guess you were framing it in the sense of the regents must have changed their minds since we're hiring him and then...but yet he testified in support. I guess this is...that's a statement and if you would like to respond, I will give you time. [LB1109]

MIKE REILLY: Well, I'm not sure I understand your question. But I mean Dr. Bounds is a good guy. I've met him. We've had lengthy discussions. He's put in a horrible position today to have to say, well, maybe they could have found somebody better than me. I mean that's just crazy. The regents are very excited, have told me very recently as part of the context of the discussion behind this bill that they're very happy with Dr. Bounds, they're very happy with Dr. Gold, who

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was also hired as part of this process, Doug Kristensen, John Christensen. Everybody likes those guys, you know, and so again it seems like a solution searching for a problem. [LB1109]

SENATOR HANSEN: Thank you, Mr. Reilly. [LB1109]

SENATOR GROENE: One more question. [LB1109]

SENATOR HANSEN: Senator Groene. [LB1109]

SENATOR GROENE: I heard a couple testifiers say, well, the way they interpret the law, they could announce the winner and the three other candidates the same day. I can't see that in the law, vice versa, what...how do you interpret that and what have they done in the past, announced the candidates, and how... [LB1109]

MIKE REILLY: They've announced the candidates and given us an appropriate amount of time to vet them. And we've had other instances with other government agencies where they tried to just announce the winning person and they were going to tell us the "also rans" and we've objected to that recently. If I'm remembering correctly, that was much of the circumstance with the Omaha Public Power District search where the World-Herald objected to that strenuously and they started over. [LB1109]

SENATOR GROENE: Thank you. [LB1109]

SENATOR HANSEN: Thank you, Senator Groene. Seeing no further questions, thank you, Mr. Reilly. [LB1109]

MIKE REILLY: Thank you. [LB1109]

SENATOR HANSEN: Welcome. [LB1109]

KURT GEISINGER: (Exhibit 16) Thank you. Hello. My name is Kurt, K-u-r-t, Geisinger, G-e-i-s-i-n-g-e-r. Allow me to begin by thanking the committee for the opportunity to speak to them regarding this bill which will significantly affect the University of Nebraska community. My name, as I said, is Kurt Geisinger. I am a distinguished university professor at the University of Nebraska-Lincoln and I run a research center on campus. And I've been here for ten years and previously I served five years as a dean of arts and sciences at another university and nine years as a chief academic officer, a vice president for academic affairs. I'm also the president-elect of

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the UNL chapter of the American Association of University Professors, and I'm here to speak on their behalf. Our president had been here but she had to leave to teach a class. We respectfully oppose the passing of LB1109 for the following reasons, knowing that those who are proponents are well intentioned in their efforts. LB1109 significantly diminishes the participation of faculty, students, and the general public in the critical decision of who will next lead the university. This is not a minor thing since universities have a complex structure of authority and governance. As was demonstrated recently at the University of Iowa where faculty participation in the selection of administrative leaders was diminished and ultimately ignored, the university was seriously damaged. In the short term in Iowa, there has been damage to the reputation of the university; and in the long term, a university (sic--leader) was hired over faculty objections and is likely to experience a rocky time in office. Overall, the process was significantly...significantly diminishes the voices of prominent stakeholders dramatically and increases the risks of a bad outcome. Supporters of LB1109 might say that the major stakeholders, like the faculty, will still play a role in the proposed new process because there are a few faculty representatives on the search committee. Some might say that's enough. We disagree. In the current hybrid search method, faculty are able to do two things. First, they can communicate their ideal characteristics for leaders to their representatives on the committee to help guide the initial generation of a pool of candidates. Then they are able to give informed feedback on the four actual candidates brought to campus. No one candidate could reasonably be expected to fulfill the ideals of all stakeholders on a campus, so being able to compare the strengths and weaknesses of the actual four finalists and select the one that fits best for Nebraska is, therefore, critical. Eliminating that step essentially eliminates meaningful feedback in the search process. It also opens the university and the candidate to significant public embarrassment should one candidate presented to the public not meet with stakeholder approval. Our current process is less risky. On a personal aside, I would say I was in presidential pools at one time. I was offered a presidency once of a major university and realized that it wasn't the right job for me and I withdrew. If there were only one candidate, imagine how embarrassing that could be. Proponents of the proposed legislation claim that pursuing a closed search process, rather than the hybrid one that we currently use, would generate a better pool of candidates and, thus, ultimately a more successful leader of our university system. Again, we disagree. We think that our current process has served the university system and the citizens of Nebraska extremely well. A candidate hired without meaningful feedback from all members of the community, university and off campus, is far less likely to be a successful leader than one who arrives with a vote of confidence that comes from having been chosen over other candidates by everyone involved. We, therefore, strongly recommend staying with the current system. One important thing that students learn at our public university is that they have a voice in the governance of the university and that as citizens in a democracy they have a voice in shaping their state and their world. The university models this participation in citizenship through its...through the way its governance is shared by students, faculty, and administrators alike. Although we all play different roles and have different responsibilities, we all work to make the University of Nebraska a great university system. In

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sharp contrast, changing our current search process to a secretive, closed-door deal carried out by a few, rather than a serious responsibility shared by the many, would go against the open and democratic ethos that our university embodies. This bill tells students and faculty, as well as the Nebraska public, that their voices do not matter. It says that their role is to rubber stamp a decision already made rather than participate meaningfully in the search process. The current hybrid procedure, on the other hand, strikes the right balance between protecting the privacy of candidates throughout the early stages of the process and allowing stakeholders to participate in the process at the key moment. This is sensible. This is the Nebraska way: balanced, fair, appropriate and, we believe, successful. We strongly oppose any change to the current procedure and, thus, we strongly oppose LB1109. We respectfully ask the committee to vote against forwarding this bill to the floor. Thank you. [LB1109]

SENATOR HANSEN: Thank you, Mr. Geisinger. Are there any questions? Seeing none, thank you for coming down today. [LB1109]

KURT GEISINGER: Thank you. [LB1109]

SENATOR HANSEN: We'll go up, the next testifier up. Just a point of clarification, if we have any first-time testifiers, there's no particular order. It's who walks up to the table. With that, welcome. [LB1109]

DAVID BUNDY: (Exhibit 17) All right, thank you. I guess I'm addressing Deputy Vice Chairman Hansen still. I'm David Bundy, B-u-n-d-y, editor of the Lincoln Journal Star, 926 "P" Street, Lincoln, Nebraska. Today you're getting the media's full-court press in opposition to LB1109. Our profession is built on open records and transparency. We tend to have kind of a knee-jerk reaction to legislation that chips away from those concepts. I realize that sometimes we can be a little heavy on the "jerk" part of that, but we really do have the best interests of the public at heart, we believe. We are, indeed, opposed to LB1109. Since our position is so predictable, it intrigued me when President Hank Bounds and Regent Tim Clare offered to come visit with the Journal Star's editorial board last week to make their case. I greatly respected them for making the time to visit. The conversation was cordial. But both sides knew, and we even joked about it, that the only thing that we were certain we would agree on was that we would not agree. But I was struck by one thing that I had not expected. Typically I view those who try to separate the public from the public record as mortal enemies of society who have something sinister to hide. Regent Clare and President Bounds did not strike me that way. I believe that they believe that LB1109 is necessary to conduct their business as effectively and as efficiently as possible. But their job isn't to conduct their business; it's to conduct the public's business. And the public's business needs to be done to the greatest extent possible in public, even when it's inconvenient. If someone were to draw up the most efficient and effective way to run a city or a

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state or a nation, it certainly wouldn't involve popular elections. It wouldn't involve checks and balances, three branches of government, or anything that resembles a Legislature. But we trade some of that efficiency for a process that we call democracy. And in a democracy, the power ultimately belongs to an informed public. Democracy hinges on public access to information, which is the foundation of accountability. That's why laws to protect open record...that's why there are laws that protect open records and that's why anything that erodes those laws deserves a long, hard look both for its immediate impact on policy and what it says about the long-term implications and relationship between people and their government. Is the hunch that we might get better candidates in a less transparent search worth taking from the public a piece of the public record that it's bought and paid for? This public business got even more public yesterday when the university asked the Appropriations Committee for \$242 million in taxpayer money for infrastructure improvements. That's \$242 million out of the pockets of the same people that would be denied access to information by LB1109. President Bounds and our regents lead a university that Nebraskans can be proud of. We do things the right way. We respect the law and operate with integrity. The university's appropriations request indicates they're thinking long term and their intent on building a bright future. Tossing aside a reasonable public records law, one that the university officials themselves helped craft, to compete with the recruitment fad of the day shows a short-sightedness and a contempt for the public that's not what our university or state is about. Please reject LB1109. Be glad to answer any questions. [LB1109]

SENATOR HANSEN: Thank you for your testimony, Mr. Bundy. Are there questions? Senator Bloomfield. [LB1109]

SENATOR BLOOMFIELD: Thank you. Mr. Bundy, would you prefer to see us go back to the wide-open system where you had access to everybody that applied? [LB1109]

DAVID BUNDY: Of course, as a member of the media and as a newspaper guy, I'd love that. But I'm willing to live by the agreement that both sides came to in 2007 recognizing, yes, that times have changed since then. And President Bounds mentioned, you know, the next search in five years. Times will probably have changed again. [LB1109]

SENATOR BLOOMFIELD: Yeah. I guess I'm not willing to go back or willing to vote toward going back toward those days where everybody was looked at because then nobody knows what's going on because you're talking about 50, 60 people or more. [LB1109]

DAVID BUNDY: And we're not asking for that here. We're... [LB1109]

SENATOR BLOOMFIELD: No, I understand that. [LB1109]

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DAVID BUNDY: Okay. [LB1109]

SENATOR BLOOMFIELD: But I am inclined to agree that we'd ought to stay where we're at. Would you...what would you think if we were to take it down to the last two standing guys? [LB1109]

DAVID BUNDY: You know, I got a similar question on this the last time and four is better than two, two is better than one. [LB1109]

SENATOR BLOOMFIELD: Ten is better than four. [LB1109]

DAVID BUNDY: It's math. [LB1109]

SENATOR BLOOMFIELD: Thank you. [LB1109]

SENATOR HANSEN: Thank you, Senator Bloomfield. Senator Groene. [LB1109]

SENATOR GROENE: Sir, but you, the press, has honored this since 2000, when was it, or... [LB1109]

DAVID BUNDY: Two-thousand and seven was when this agreement was. [LB1109]

SENATOR GROENE: You've never tried to find out who the fifth candidate was or even cared or, if you found out, you haven't... [LB1109]

DAVID BUNDY: I've got a higher ed reporter here in the room who could tell me if I was fibbing but, no, to my knowledge we have never tried to step outside the agreement that was made. [LB1109]

SENATOR GROENE: Thank you. [LB1109]

SENATOR HANSEN: Thank you, Senator Groene. Any further questions? Thank you for your testimony. [LB1109]

DAVID BUNDY: Thanks. [LB1109]

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SENATOR HANSEN: Welcome. [LB1109]

STEPHANIE HEDRICK: (Exhibits 18-20) Thank you. Members of the committee, my name is Stephanie Hedrick; that's H-e-d-r-i-c-k. I'm the director of news for what's called the Nebraska News and Information Network. That includes KOLN/KGIN in Lincoln, KSNB in Hastings and Grand Island, and our three channels in North Platte that include KNOP. In other words, I don't just represent TV stations. I also listen to a lot of our viewers, a lot of Nebraskans from across the state. And I hear a lot about the investment that they have in the university and in government matters no matter what the distance is from their capitol city. But I'm not here to talk about what they say now. I want to give you a picture of what the distrust that may happen between your constituents and the university, what could be fostered if this bill is passed. In order to do that I look beyond our state's borders. As you have heard from others, many public universities across the country use closed methods for finding presidents or other higher positions. Some have a lone finalist policy like the one proposed here. Many use the same disclosure system we currently have here in Nebraska. And many have dealt with the fallout of mistrust between their regents and faculty and public after trying to find ways to keep the search closed. To name a couple: Kent State, University of Michigan, and LSU. But let me enlighten and remind you and even go into further detail about one from our neighboring state of Iowa, Hawkeye country, in which a feeling of closed government has caused a rift between the faculty, the public, and the board of regents. Long story short, the new president was one of four candidates who was named as the top choice in what the faculty senate and others called a rushed and secretive search. At one point The Gazette newspaper in Iowa reported two flaws on his resume. One of them, he cited working for an LLC in Colorado that The Gazette found wasn't even registered in Colorado. Now there is even a lawsuit playing out against the university calling for the decision to be voided. Why? Not necessarily because of the new president's qualifications, but because the regents seemed to already have their mind made up and seemed to turn a deaf ear to the public over a top position the public would be paying for. That president now has an uphill battle. With his experience in the business world he may do an excellent job. But I talked with a fellow news director in Iowa who said, for a person brand new to that position, he already has a lot of fences to mend simply because of the search process. Now imagine the mistrust that could be fostered even more when you pass a bill that already says we won't even disclose the final four candidates to the public. To some of the feelings such a bill could create among the public, I read to you a section of an editorial written about the University of Alabama-Birmingham president who, after he was also chosen through a closed process, made a closed decision to eliminate the school's football program. In this editorial Frank LoMonte says, "When trustees choose a president without public input, it sends two destructive messages. First, that open government is an annoyance to be subverted wherever possible, and second, that the president's only job is to keep the board happy. Why would a president value the voices of students, faculty and alumni when the board that hired him did not?" Don't let Nebraska get on a slippery slope into public distrust and closed government. And I'll be happy to take any questions. [LB1109]

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SENATOR HANSEN: Thank you, Ms. Hedrick. Any questions? Seeing none, thank you for coming down today. [LB1109]

STEPHANIE HEDRICK: Thank you. [LB1109]

SENATOR HANSEN: Next testifier. [LB1109]

JACK GOULD: (Exhibits 21 and 22.) Senator Hansen, members of the committee, my name is Jack Gould, that's G-o-u-l-d, and I'm here representing Common Cause Nebraska. I'm going to just divert a little bit from my testimony to address that question that Senator Hansen has raised about the history of this process. I mean, there was a time when every candidate that appeared on campus was available and open, everyone knew who they were. But then the agreement was six candidates would be the finalists who would be identified. And then, the regents chose to go down to Kansas City and hold secret meetings with candidates. And Common Cause was part of the effort to make that visible, but it was a breach of con...it was a breach of faith. And it was an agreement that was literally against the law. But the regents chose to do that. Then the agreement was made four finalists would be chosen. So we've gone this whole process down to one now. And this is, I think, the second or third time we've been here discussing this question of who should be the finalist or how we should select the finalist. I've given you two documents there. One is my testimony; the other is just something related that I'll mention later on. The old adage "if it ain't broke, don't fix it" certainly applies in this case. We've hired two presidents under the current system. If there's a problem, let's say what it is. Let's come out and say, look, it didn't work; we got bad guys, we got to find a better way. But, obviously, we haven't done that. So the system must work and we need to continue in that process. There's been implications that we need to take on the approach of hiring a CEO, that somehow that type of approach lends itself to a secret hiring and we'll have a more professional person. The problem with that is that we are not a for-profit institution; we don't have a product that's being bought and sold. We have individuals who are gaining an education with the hope that they will become better contributors to the state and to a better world. The funding of the University of Nebraska comes from tax dollars, tuition payments, and contributions to a billion dollar foundation. The amount of public support that's involved here should clearly make it better for this group of people to have something more than just a conversation with a finalist. They ought to be part of the process. With all due respect to the Board of Regents, its members do not represent the state of Nebraska. They don't have...represent it in terms of gender; they don't represent it in terms of race; they don't represent it in terms of economic background. To say...or to increase the power of the regents in the selection process while limiting the scrutiny of candidates by the public is simply a breach of faith. This is a land grant college...university, and the public has a vested interest and that interest should be served by giving them a role, and certainly a major part in making the selection process. The Government, Military and Veterans Affairs Committee has a long history in support of the idea not expanding government. LB1109 does just that. It extends the power of

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the regents, it increases the control, and it deprives the public of their vested interest. Thank you. Any questions? [LB1109]

SENATOR HANSEN: Thank you for your testimony. Are there any questions? Senator Groene. [LB1109]

JACK GOULD: Yes, sir. [LB1109]

SENATOR GROENE: You mentioned it a little, sir, but I kept hearing about the students, the alumni, the employees, the regents, the donors; there's a whole segment of citizens out there, and I got a lot of them called, people who went to Creighton, people who went to Hastings College, blue-collar workers that work the railroad, nobody in their family ever went to the university system. Do you think they ought to be in the process too? They happen to pay taxes. [LB1109]

JACK GOULD: Not only do they pay taxes, but they probably buy football tickets and make a contribution in that manner to the foundation. Those people, certainly, should be included. [LB1109]

SENATOR GROENE: Thank you. [LB1109]

SENATOR HANSEN: Thank you, Senator Groene. Any other questions? I would have a question. I don't believe I heard you address the second handout you passed out. Would you like to address that? [LB1109]

JACK GOULD: Oh, I'm sorry, yes. I think that's of some value. I was talking about the economic preparedness of the regents for making a selection process. So I thought one thing would be worth going and looking at how much money was spent on getting elected. And to the idea being that the people that Senator Groene is talking about are not likely to become regents, largely because of the economics involved, but you can note that some of the regents have spent as much as \$450,000 to be elected to that position. It's an unpaid position. There aren't a whole lot of people that can afford to pay the kind of money that the regents have paid in order to get that position. So that's one of the reasons why the representation in terms of gender, race, and economics is there. That's why I brought that forward. Thank you for reminding me. [LB1109]

SENATOR HANSEN: Okay. Yes, thank you for your testimony. Any further questions? Thank you. [LB1109]

JACK GOULD: Thank you. [LB1109]

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SENATOR HANSEN: Welcome. [LB1109]

ALAN PETERSON: (Exhibit 23) Thank you. Senator Hansen, members of the Government Committee, I'm Alan Peterson, A-l-a-n P-e-t-e-r-s-o-n. I, for almost 40 years, have represented the news media both in the Legislature and many times as their lawyer. I am an attorney. I want to offer some perspectives I have, not only from the longevity I've got in these issues of open meetings and open records, but also because I know the facts about this 2007 agreement that's been referred to several times. I was there. I was part of making that agreement on behalf of the public and the media. And I would talk about that or answer questions if there are some about it. That was a deal with the university president and the general counsel. And it was a deal struck because there was a bill on file at that time that would have changed the law, which was pretty much wide open, to one which the bill as introduced would have said, well, when finalists are selected. And how do we know finalists...anybody who is invited for an interview. Senator Aguilar from Grand Island introduced that bill, LB389, in 2007. That was not acceptable to many people, including the media, my client. And we negotiated a compromise which is the law now. That's the law and in Section 84-712.05 regarding the availability of public records, of the applications and resumes and references of the last four finalists. In other words, four finalists needed to be selected. And those should be open and the other side of the compromise was the media would not go after all the other original applicants who may have had only slight interest. That arrangement was made in the offices at Regents Hall with then President Milliken, General Counsel Dick Wood, very honorable folks, a representative of the Omaha paper was there as a Media of Nebraska person, and I was there as their lawyer and lobbyist. And the idea was a compromise. And we understood it, not to bind the Legislature, of course it can't--no one Legislature can bind the next one--but it was a token of good faith and we all shook hands on that and meant it. And I know we meant it. At the hearing on the bill which implemented that compromise, it was LB389 in the year 2007, the One Hundredth Legislature of Nebraska, General Counsel Wood, Dick Wood, who some of you may know or remember, said that he found the compromise that had been reached "very agreeable" and urge you to move this bill, as amended, forward to the Legislature. But more important than Dick Wood's testimony, the other university proponent of that compromise was a gentleman named Dean B.J. Reed from UNO, and he, I believe, was second in command. I believe he was assistant to the chancellor. And what he said was that, well, I think this is a really good compromise between, again, the public's right to know who those candidates are, meaning the finalists, and to have them come forward in an open interview process and the ability to keep that pool as strong as it can up to the point that you've made those final selections. And when he was asked by then Chairman of this committee, Senator Avery, whether it wouldn't be just better to close it all off, he said it was extremely important. And he said there was no one on the search committees that he had served on, many of them going clear back into the '90s, and including President Milliken's search committee, there was no one who thought it should be all closed. They all thought it should be, to a degree, open. I don't know what's changed. As far as I'm concerned, I'm an old lawyer, and I hope I have

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integrity and a deal is a deal. A deal is a deal. The regents can change it; they can say things have changed. The Honorable President Bounds and the Honorable Speaker, who are good people, obviously, and well intentioned, they need to at least think about the ethics of what they're trying to do here. Aside from the public policy reasons for open meetings and for open records in our state, that law goes back to 1866, the Territorial Legislature. I'm just... [LB1109]

SENATOR HANSEN: Absolutely, we'll see if there are any questions. [LB1109]

ALAN PETERSON: (Inaudible), Senator. Thank you, very much, Mr. Chairman. [LB1109]

SENATOR MURANTE: Senator Bloomfield, did you have a question? [LB1109]

SENATOR BLOOMFIELD: I did. Were you finished with what you wanted to say? [LB1109]

ALAN PETERSON: I just wanted to finish one thing if I could. [LB1109]

SENATOR BLOOMFIELD: Okay. Then I will have another question for you as soon as you're done with that. [LB1109]

ALAN PETERSON: Thank you, Senator Bloomfield. Besides the public policy and the fact that we settled this in 2007, there's no showing of any real change since then. And every single argument you heard today from the proponents, we heard back there before 2007. Come on, it's not that the world hasn't turned (inaudible). I'll quit because my time has expired. Thank you, Senator. [LB1109]

SENATOR HANSEN: Thank you. [LB1109]

SENATOR BLOOMFIELD: I'm back to my original question. That agreement was reached in 2007, how long was it after that that the university and the regents started trying to renegotiate that agreement? [LB1109]

ALAN PETERSON: Two years ago they tried to pass a bill similar to this one. So that law stayed in place. [LB1109]

SENATOR BLOOMFIELD: Was there one before that also? [LB1109]

ALAN PETERSON: Oh, yes, there were three or four. [LB1109]

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SENATOR BLOOMFIELD: After they agreed to the 2007 agreement, do you know when the first time was they came in and tried to reach that agreement? [LB1109]

ALAN PETERSON: My recollection is it was 2013. [LB1109]

SENATOR BLOOMFIELD: Okay, thank you. [LB1109]

SENATOR HANSEN: Senator Groene. [LB1109]

SENATOR GROENE: What year was it again they went to Kansas City? [LB1109]

ALAN PETERSON: 2004. [LB1109]

SENATOR GROENE: So they were over a barrel to do something. [LB1109]

ALAN PETERSON: At that time, the law called for...the interviews, I believe, that the...anybody who got an interview, that was to be the trigger to open up the records. And...but the university search committee went down there, met with candidates. And when they were challenged by Common Cause and by the media over that, the answer was, well, we were asking these candidates questions and we were meeting with them, but it was just social. [LB1109]

SENATOR GROENE: You said you made the agreement with President Milliken and their lawyer, Woods. [LB1109]

ALAN PETERSON: Yes. Dick Woods, yes, Dick Woods. [LB1109]

SENATOR GROENE: They made that decision or did the regents agree? Did any regents testify? [LB1109]

ALAN PETERSON: There were no regents in the room. However, four of the current regents were regents then, four of the eight. But, no, they didn't directly negotiate. President Milliken, and I believe perhaps the lobbyist Ron Withem, former Speaker here, was also in the room. I'm not sure of that. [LB1109]

SENATOR GROENE: So we don't know the feelings of the regents at that time on that agreement. [LB1109]

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ALAN PETERSON: No, other than it was a pretty major bill, I would speculate they probably heard about it. But I can't say that for sure. [LB1109]

SENATOR GROENE: When you helped...I'm assuming you helped with the language of that bill, that existing law. [LB1109]

ALAN PETERSON: Yes, yes. [LB1109]

SENATOR GROENE: How do you read that? Can they announce the winner and three other candidates or do you read it that when the four finalists are chosen, they should be... [LB1109]

ALAN PETERSON: Yeah, because I came up a while ago with your question, I looked at the existing law real quickly. As soon as four finalists are decided on, then the public records law says their resumes and so forth are public. So the regents don't really have anything to do once that four finalist group has been set, the public records law takes effect. Yet they couldn't be, sit on it until after the selection, for example. [LB1109]

SENATOR GROENE: They could. [LB1109]

ALAN PETERSON: They could not. [LB1109]

SENATOR GROENE: They could not by...ethically they couldn't. [LB1109]

ALAN PETERSON: They would have to turn them over as soon as the finalists are selected, yes. They couldn't play that game. [LB1109]

SENATOR GROENE: Well, we heard that you could. You could just announce it. [LB1109]

ALAN PETERSON: I heard that and I don't agree with that at all. That's not how the law reads. [LB1109]

SENATOR GROENE: All right, I just wondered what you thought the intent of the law is since you were involved. [LB1109]

ALAN PETERSON: I was involved. And I don't mean this in any way other than for facts: I was asked by a number of senators to draft the public records law in 1978 and '79. And I did. And I

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know what it means. I know what it means. And this Legislature has protected that law beautifully ever since. [LB1109]

SENATOR GROENE: Thank you. [LB1109]

ALAN PETERSON: Yes, thank you. [LB1109]

SENATOR HANSEN: Thank you, Senator Groene. Any further questions? Seeing none, thank you for your testimony. Welcome. [LB1109]

JOHN BENDER: (Exhibit 24) My name is John Bender, J-o-h-n B-e-n-d-e-r. I am here representing the Faculty Senate of the University of Nebraska-Lincoln. We circulated to the senators a resolution opposing this bill. They voted on that by e-mail. The vote was 48-4 in favor of the resolution opposing LB1109. This overwhelming support for this resolution from the faculty members reflects the deep skepticism they have about secrecy in searches for university presidents and chancellors and the importance they attach to the principle of shared governance. By shared governance, I mean the idea that governing boards, administrators, and faculty all play an important role in administering the university. The faculty bears primary responsibility for matters of curriculum, instruction, research, faculty status, and matters regarding the student life that affect the academic process. Teaching, including extension and research, are the university's core mission. For that reason, faculty should have a voice in all decisions that bear on those functions. And no decision is more likely to do that than the selection of the top administrators for the university or a campus. The UNL faculty agree with the AAUP position that the process of seeking and hiring university leaders should be a cooperative one involving governing board, administrators, and faculty. And at a public institution like the University of Nebraska, that should include the general public, students, alumni, donors, anybody who has a stake in this institution. All of these groups should have an opportunity to review the finalists, not just one person but the finalists for the top position, and to make their views known about those finalists to whoever is responsible for making the final selection. The faculty of the University of Nebraska-Lincoln want administrators who will help the university achieve excellence in teaching, research, and service, and to do so in all disciplines from accounting to zoology. We believe that the best way to move the university ahead is through a selection process that is open and transparent. And we think that the current process is the minimum that is required for that desirable degree of openness and transparency. Thank you. [LB1109]

SENATOR HANSEN: Thank you, Mr. Bender. Are there any questions? Senator Groene. [LB1109]

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SENATOR GROENE: I don't know what I'm talking about here, but in departments at the university you have chairs, don't you? [LB1109]

JOHN BENDER: Yes. [LB1109]

SENATOR GROENE: How are they selected? [LB1109]

JOHN BENDER: It varies somewhat from department to department. Some departments elect their chairs; in other departments and colleges, the chairs are appointed by the deans. [LB1109]

SENATOR GROENE: And that's within the University of Nebraska's system? [LB1109]

JOHN BENDER: Yes. [LB1109]

SENATOR GROENE: How is it in other Big Ten schools, pretty much the same? [LB1109]

JOHN BENDER: Pretty much the same. I know that...I think in many Big Ten schools it's much more common for departments to elect their chairs, not deans. [LB1109]

SENATOR GROENE: And when they're appointed, how does that process work? Do people vie? [LB1109]

JOHN BENDER: Usually, in my college, in journalism and mass communications, the dean decides who he or she wants to have as department chair. The deans are selected in a much more open process. [LB1109]

SENATOR GROENE: The deans of each... [LB1109]

JOHN BENDER: Of each college, yes. So the dean of journalism, we had a new dean hired a couple of years ago and that was the result of an open process much like what we're going through now with the chancellor where finalists were identified and they were brought in and interviewed by the faculty and others who were involved in that decision. [LB1109]

SENATOR GROENE: Is that common in...throughout the university system? [LB1109]

JOHN BENDER: Yes, yes. Yes. [LB1109]

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SENATOR GROENE: It's good to know that the school of journalism has an open process.
(Laughter) [LB1109]

JOHN BENDER: Yes, I think so too. [LB1109]

SENATOR HANSEN: Thank you, Senator Groene. Any further questions? Thank you for your testimony. Welcome. [LB1109]

PEGGY YEAR: (Exhibit 25.) Good afternoon, Senators. And thank you for this opportunity. My name is Peggy Year, P-e-g-g-y Y-e-a-r. And I'm here this afternoon to speak against LB1109. My husband, Rob Dump, and I are publishers of six weekly newspapers in northeast Nebraska. We spend a great deal of our time reporting on village, city, school board, and county meetings, and I am continuously surprised that people, once elected, seem to think government works best with deals made behind closed doors without any annoying interruptions like input from the citizens they represent. While this certainly is the quickest and easiest way to govern, it's not the best or the proper way. What we have discovered in the 24 years we've been doing this is that once people are elected and in government, they think governing should be easy, and it is not. What apparently makes Nebraska unique, and if I may say so, a great place to live, is its openness to the open process. Why change that now? I'm sorry, I just got out of...this process has worked for decades in Nebraska and continues to work. What doesn't work are closed-door policies. We now have another legislative proposal before us to close the search for a new University of Nebraska chancellor, and I'm still trying to figure out why so much time is being spent trying to hide a process that, as evidenced by past hires, works quite well. Currently, each of the four finalists run a gauntlet of interviews from the search committee, to the board of regents, to a board of student and faculty representatives, to open public forums, like receptions and coffees with regular people like you and me who send their kids into the university system at campuses across the state. LB1109 does establish a 30-day vetting period for a single priority candidate for NU president and/or chancellor during which members of the public, university community, and news media can meet the candidate, ask questions, and offer input before any board action on his or her appointment. I'm sorry, but to my way of thinking, the board, by winnowing down all of the candidates to just one candidate presented, has already taken board action. What process does the public have of offering their displeasure with a candidate if the candidate has already been selected? The notion that the Regents' candidate will be vetted after the person has already been anointed by the board is nothing but a fallacy. Who will vet a candidate once he's been named "the chosen one"? Remember our state slogan--Nebraska Nice? In Nebraska, we're the type of folks that rally around newly appointed leaders trying to find that person's best attributes. We don't generally go to these month-long meet-and-greets trying to dig up dirt on these folks. So in essence, the plan to vet the candidate after the selection process simply doesn't work. Who will be trying to vet a candidate in the middle of his victory lap around the state? No one. That's not the Nebraska way, just like this attempt to put the public process behind closed doors is not

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the Nebraska way. And if the regents do come to the realization this hand-picked candidate won't work out, how do they tell that person, whom they've basically appointed to that position, that, well, this didn't work, sorry? And then, who in their right mind is going to reapply to go through all of that again? The best and the brightest? I don't think so. Some people tend to forget that you and I are the ones literally paying the price for the education of our youth and we should have a voice in who runs our institutions, from the schools in our hometowns to the University of Nebraska in Lincoln, Omaha, or Kearney. When well informed, the people of Nebraska tend to make very good decisions. Their opinions should be sought out and trusted, not ignored or disregarded. We don't want the selection process for the largest institution in Nebraska to be easy. We want it to be done right. [LB1109]

SENATOR HANSEN: Thank you, Ms. Year. Are there any questions? Senator Bloomfield. [LB1109]

SENATOR BLOOMFIELD: Thank you. Thank you for coming down, Ms. Year. [LB1109]

PEGGY YEAR: Um-hum. [LB1109]

SENATOR BLOOMFIELD: I do have one question about Nebraska Nice. (Laughter) I prefer the watchfulness of the people. [LB1109]

PEGGY YEAR: That sounds like a good idea to me. [LB1109]

SENATOR BLOOMFIELD: And I think...will you agree that we are getting away from the watchfulness of the people with this bill? [LB1109]

PEGGY YEAR: I think that we could stray away from it if we don't watch laws in particular like this one. Yes. Yes. [LB1109]

SENATOR BLOOMFIELD: Thank you. [LB1109]

SENATOR HANSEN: Thank you, Senator Bloomfield. Senator Groene. [LB1109]

SENATOR GROENE: Do you think...you're up there northeast by Iowa, do you think there's another Big Ten school that has just one university...or the state does, do you think there's another university out there where the citizens think that's my chancellor, that's my president, that's my football coach? And when they do good they take pride; and when they do bad they're

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ashamed or they...do you think that anybody else in the Big Ten has that kind of attitude about their university? [LB1109]

PEGGY YEAR: I'm an import to Nebraska. And so I kind of have a less subjective view. And I would agree with what you're...the point you're trying to make. Nebraskans own everything in Nebraska. And they take a great deal of pride in everything from the Unicameral, which is totally unique, to the one university system to the Husker football team. Yes. [LB1109]

SENATOR GROENE: Thank you. [LB1109]

SENATOR HANSEN: Thank you, Senator Groene. Any further questions? Seeing none, thank you for coming down, Ms. Year. [LB1109]

PEGGY YEAR: Thank you. [LB1109]

SENATOR HANSEN: Welcome. [LB1109]

DENNIS MORGAN: Senator Hansen, members of the committee, thank you for this opportunity today to offer testimony. My name is Dennis Morgan, D-e-n-n-i-s M-o-r-g-a-n. I own the Ultimate Review weekly newspaper in Antelope County and I currently serve as president of the Nebraska Press Association, made up of the weekly and daily newspapers from across the state. I'm here today representing that association opposing LB1109. Nebraskans have taken great pride in open government laws having been placed on the books requiring our public institutions to conduct business in open meetings for all to see. One such example is the notification at the start of every public meeting of the location of the open meetings laws so every person attending knows and understands the meetings where the people's business is conducted will be done so openly. Before the Legislature now is a bill, LB1109, which would change how the University of Nebraska is allowed to conduct the hiring of chancellors and presidents. Proponents say Nebraska's current law prevents the university from getting the best candidates to apply since some don't want their employers to know they are considering another position. Print and broadcast media alike oppose LB1109 in large part because the new law does not allow the public the real opportunity to play a part in an open selection process of finalists for the position. For lack of a better description, if the university is allowed to just name one finalist, the choice has, essentially, been made with no public input from taxpayers, students, faculty, and the list goes on and on. That's not open government, but rather the regents saying, here's the one person we want; your opinion doesn't matter. As one opponent of LB1109 has said, the selection process will become nothing more than a victory lap should LB1109 become law. In no way is this transparent. It accomplishes just the opposite--cloaking the hiring process so that the public cannot on its own truly identify who the best candidates would be. We, the print media, who

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have the obligation to provide information to all Nebraskans believe the citizens' opinions matter. We believe an open process helps, not hinders, the decision-making process. Let's be clear about this. Opposing LB1109 is by no means an attack on the university. To the contrary, we take great pride in our university and the quality of education it provides to the people of this state, the role it plays in creating and maintaining the good life for all Nebraskans. We want to trust the regents to make the best hiring decisions. We need to verify that the right candidates will be hired. The current law does what it set out to do--foster public trust that a public university needs. LB1109 is bad proposed law. Senators, as I conclude my remarks, I urge you to reject LB1109 and continue to allow us, with current law, to work together so the best candidates for these important positions are hired, not under the cloud of doubt and suspicion, but under the sunshine of open proceedings for all to observe, understand, and participate in. Thank you for the opportunity to testify. [LB1109]

SENATOR HANSEN: Thank you, Mr. Morgan. Are there any questions? Seeing none, thank you for coming down. [LB1109]

DENNIS MORGAN: Thank you. [LB1109]

SENATOR HANSEN: We will take another testifier. [LB1109]

ELIZABETH REMBERT: Hello, Senators. [LB1109]

SENATOR HANSEN: Welcome. [LB1109]

ELIZABETH REMBERT: (Exhibit 26) I'm Elizabeth Rembert from Bow Valley, Nebraska, and a freshman journalism student at the University of Nebraska-Lincoln. Thank you very much for your time and for the opportunity to speak with you today. I represent the students opposed to LB1109. We are deeply concerned about what LB1109 could mean for the future of the university and the message it sends to students and others about closing off key information regarding the hiring of top-level university leadership. As students and future alumni, we represent the largest constituency, as well as one of the largest funders of the university. With our money and trust, we make the university possible. We deserve to be informed of processes that will significantly impact our university. Therefore, I am here to voice student concern about what we believe to be the adverse effects of this bill. It concerns us that other institutions are encouraging transparency while LB1109 encourages secrecy. The selection criteria of candidates should be made known. A candidate's own ambitions and principles are extremely indicative of the ambitions and principles that they would apply to the university. By withholding selection criteria for the university leader, committee members are withholding the future of the university. Students deserve to know the background and qualifications of every seriously considered

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candidate, not just the one selected for the position. I don't want to feel stuck with the person leading my university. I want to feel confident that he or she was the best choice and feel confident in placing my education into the leader's hands. Additionally, students are concerned about the post-election 30-day vetting period. The possibility of being rejected after potentially being selected seems that it would dissuade good candidates from being a part of the pool. Having to dismiss a candidate only a month after potential appointment would bring embarrassment to the candidate, to the students, to the university, and to the state as a whole. Beyond embarrassment, this would mean the university would have to start over the time-consuming and expensive election process. To students, LB1109 proposes the denial of our right to know, as well as risking incredible inefficiencies in the system. I urge this committee to take appropriate action and allow students what we deserve by granting access to the process of finding new university leadership. Thank you again for this opportunity to speak. And should you have any questions, I'll be glad to answer them. [LB1109]

SENATOR HANSEN: Thank you. Could we start off by just having you spell your name for the record. [LB1109]

ELIZABETH REMBERT: Oh, I'm sorry, yeah, E-l-i-z-a-b-e-t-h R-e-m-b-e-r-t. [LB1109]

SENATOR HANSEN: Thank you. Are there any questions for Ms. Rembert? I have one and it's a little lighthearted. Earlier it was said the taxpayers pick up the cost of higher education, so I have to ask--do you have any student loans yet? [LB1109]

ELIZABETH REMBERT: I do. Yeah, I do. So, yeah. [LB1109]

SENATOR HANSEN: As do I. Senator Bloomfield. [LB1109]

SENATOR BLOOMFIELD: I have to follow up on that. Are you...do you soon expect to be a taxpayer? [LB1109]

ELIZABETH REMBERT: Yes. [LB1109]

SENATOR BLOOMFIELD: Thank you. (Laughter) [LB1109]

SENATOR HANSEN: Seeing no further questions, thank you for coming down. [LB1109]

ELIZABETH REMBERT: Thank you. [LB1109]

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SENATOR HANSEN: Welcome. [LB1109]

TERRY KROEGER: Thank you. Senator Hansen, committee members, thank you for the opportunity to speak with you today. My name is Terry Kroeger, T-e-r-r-y K-r-o-e-g-e-r, and I'm the publisher of the Omaha World-Herald and the president of the Berkshire Hathaway Media Group, 1314 Douglas Street, Omaha, Nebraska. First, let me say that I'm a Husker and a proud alumnus of the University of Nebraska-Lincoln and a supporter of the university both personally and through our company. I'm always interested in what's best for the university, both in the short and long term. Further, the idea of introducing one priority candidate...I'm sorry...LB1109 is a solution in search of a problem. And has been earlier mentioned, the hires of Dr. Bounds and Dr. Gold are deemed great successes by the Board of Regents and both were hired under the present law. Further, the idea of introducing one priority candidate is interesting, but truly robs the public of any ability to make a comparison with other applicants. Put another way, this 30-day vetting period of one candidate, short of a truly scandalous finding, is really window dressing for a decision that is, in reality, already final. I also think it's important that my opposition to this bill does not propose to take the hiring decision away from the Board of Regents as they carry out their duties. The responsibility for hiring these important officials lies with the Board of Regents, as is their obligation. But we believe they are also obligated to accept public input prior to making that critical hiring decision. It's also important to consider the slippery slope that is almost certain to come about if this LB1109 were to become law. It is difficult to believe that schools boards, city councils, public utilities, and other public boards will not line up to follow this precedent. Proponents of this bill will emphasize that this bill is only about the university leadership positions, but the precedent that's being set is serious and alarming to anyone interested in the public's right to know. The public's right to know what its public institutions are doing is one of the founding principles of this country. That tradition and practice has benefited the citizens of Nebraska for generations and the passage of this bill turns its back on that tradition in favor of vesting power in a small number of powerful individuals. I'm grateful for the opportunity to address your committee and urge you to reject LB1109 as it significantly diminishes the public interest and our collective ability to observe the important work of our government. Thank you. [LB1109]

SENATOR HANSEN: Thank you for your testimony. Are there any questions? Seeing none, thank you. [LB1109]

TERRY KROEGER: Thank you. [LB1109]

SENATOR HANSEN: Is there any further opposition testimony? Seeing none, we'll switch to neutral testimony. Is there anybody wishing to testify neutral? Seeing none, we welcome Senator Murante to close. [LB1109]

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SENATOR MURANTE: Thank you, members. And I have to say, having sat through a comparable public hearing on this subject matter two years ago, I was particularly impressed with the thoughtful nature of both the support and the opposition on the subject matter. I think it was a dramatic improvement over two years ago. As you know, I'm not an academic. I'm never going to work for the University of Nebraska; I am not a university administrator and I never will be. I'm a small business owner. That's the world that I know and that's the world that I live in. And what was brought up more...more often in this public hearing than in the public hearing of two years ago was the concept that if someone doesn't want their name disclosed to their current employer that they are searching for work elsewhere, that that is somehow some sort of a character flaw, that they don't believe in transparency, that, I believe, to quote it exactly, that that person would have no character values or morals. And to everyone in this room, I won't ask for a response, of course, but I will ask you to think about it and self-apply that principle. How many of us in this room have had a job with an employer and sought another job somewhere else for better pay, better work, a promotion in general? And how many of us who applied for that job, before we got hired at the new job, told our employer that we were looking elsewhere? Because I will stipulate that I've looked for another job and I have not told my employer that I was looking in years past. I would speculate that the vast majority of the people in this room have looked for other work before and the vast majority of the people in this room did not inform their employer that they were looking for a job before they got it. That's speculation. Now I can speak on a personal level that I have employed hundreds of employees, never once has someone come to me and said they were looking for a job before they got a new one. I've had plenty of people come to me and say they got a better job offer, they're moving on. And our position, and I think the position of any employer of value, is to say, good luck, we're glad that you're moving on and growing. Now in our world, a 10 percent raise, someone going to another job and getting a 10 percent raise is a \$1.50 an hour. In the world that we're talking about in this bill, a 10 percent raise is a significant amount of money. And the jobs that they have right now are jobs that if they lost would be material. I don't know how we can reject the simple psychology of the fact that someone who is the president of a university elsewhere would not want to risk the job that they had by applying to the University of Nebraska with the system that we have. I don't think any of us would apply that to ourselves. And that is certainly not anything I have experienced in the hundreds of employees that I have had. Now there was talk about the compromise of 2007. And Alan Peterson, for whom I have a tremendous amount of respect, talked about it in great passion. But I want to make an analogy for you. That same year, this Legislature made a different deal on a different subject matter and they created the Learning Community. And right now, this year in the Education Committee, the members of this Legislature are evaluating that deal, determining whether that deal was the best public policy and are considering revisions for it. It's not imprudent to make those sorts of evaluations. That's our job; that's our responsibility to evaluate those deals that were made. And to be absolutely clear, as policymakers, Media of Nebraska and the Board of Regents did not make a deal to change the statutes of the state of Nebraska. State senators passed laws in the state of Nebraska. And we are here today to evaluate the laws passed

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in years past. I think that's perfectly appropriate and it's something that we should do. Now it was discussed that this will be a rubber stamp. Why even have a 30-day process? Two points: First of all, if it was intended to be a rubber stamp, which I assure you it is my intention that it is not, it wouldn't even be in the bill. In years past, this bill has been introduced without any sort of public vetting of the priority candidate. But a point that was made once that I don't believe was emphasized enough was that the people who are making this decision, the Regents of the University of Nebraska, are constitutional officers. It was said that they aren't representative of the state of Nebraska, and that may be true, but they are representatives of the state of Nebraska. They have bosses. Those bosses are their constituents. And if after a month-long vetting period, the people of Nebraska resoundingly reject one of these priority candidates, the Board of Regents will be duty bound, if they want to keep their jobs, to listen to their constituents. It's no different than any of us. When we have popular outrage on an issue, we listen to our constituents. And the Board of Regents are no different. So this is not simply a rubber stamp. These are constitutional officers. And it was once referenced that this is a top-secret process. Folks, friends, because I consider every member of this committee a friend, for better or worse, a closed process, a top-secret process is when the university announces on Sunday that their president is retiring and on Monday they announce the replacement. That happens. That's probably the majority of what happens in public institutions around this country. That's not what this bill does. Bills which require public hearings are not closed processes. Bills which require priority candidates to answer questions from the faculty, the students, and the staff of the university, is not a closed process. A process which requires a month cooling-off period is not a closed process. Now I'm willing to entertain what more information the opponents of this bill would like on the priority candidates and I'm willing to engage in that discussion, but this is an open process. It's just a different way of being open. It's perfectly appropriate, I think, and it is not simply a judgment of the leadership of the university that we have right now, because I can tell you from my experience, I have hired managers in my establishment after a lengthy hiring process. And the person I'm thinking of specifically, after the lengthy hiring process was a disaster, and replacing that person I scrambled as anyone who works at employing people in small business, as Senator Garrett would know, had to scramble to replace that person almost over night. And the replacement did a wonderful job; worked with me for years. That doesn't mean we should embrace the process that we scramble and just make a willy-nilly decision because it yielded a good response, and we shouldn't use a more deliberative process because it yielded somebody that didn't work out. The important part is the process, because at the end of the day, anyone who works in business knows, you're going to end up with the better choice more often than not with the best process available. Now I believe that the best process available is what is outlined in LB1109. I encourage your support of the bill. Thank you. [LB1109]

SENATOR HANSEN: Thank you, Senator Murante. Are there any questions from the committee? Senator Groene. [LB1109]

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SENATOR GROENE: I stand by my comment that transparency and accountability is a rare trait. And that's who I want representing me in the university system, John...Senator Murante, my friend, but there's a huge difference between public and private. You know, maybe the World-Herald if they would have got to vet the last CEO of ConAgra, we'd still have ConAgra. But that didn't happen, but that shouldn't happen. This is a huge difference. We do police chiefs, we do fire chiefs, we do...all the way down the line. And we have a reputation in Nebraska of doing that. We're not Michigan, we're not Iowa, we're not Illinois. We've always done that. And I admire you for taking on this bill. I'm assuming you did it because you went through that last year and sitting over there was better than sitting here, (laughter) but...but anyway, no, I'm just going to disagree with you and I understand...I understand. Regent Hawks came in and talked to me; I've never met...a very honest man, answered all my questions. Hank Bounds is a very honorable man. I understand where they're coming from. But we just have a different viewpoint. [LB1109]

SENATOR MURANTE: Sure. I can tell you, Senator Groene, that there are two separate questions. First of all, is there something wrong that the...because the statement was affirmatively made, there must be something wrong with someone who wants to come to the University of Nebraska if they don't want to tell their current employer that they're looking for a job. I would say...I can't imagine any of us self-applying that to ourselves and using that same standard. The second question is, well, yeah, that's true, but we're private citizens and this is a public institution. And that's true. That's why we have outlined in this bill how I believe the president and the chancellor of the university will be the most publicly vetted hire in the entire state of Nebraska. Lieutenant Governor doesn't have to go through this process. [LB1109]

SENATOR GROENE: He runs for office. [LB1109]

SENATOR BLOOMFIELD: (Inaudible) still (inaudible). [LB1109]

SENATOR MURANTE: Well, he could be...but he could...the Lieutenant Governor could be appointed; any appointed position. [LB1109]

SENATOR GROENE: You asked me, I'm going to answer your question. When I decided to run for office, I went to my employer and they said, well, we don't want to lose you. But I said it's going to be three months and I'm going to do it anyway. But I didn't go seek really...because now we're talking public, not private. It's two different worlds...universes as far as I'm concerned. But, no, I thank you for sponsoring the bill. And very rarely are we on different sides, so thank you. [LB1109]

SENATOR MURANTE: Indeed. [LB1109]

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SENATOR HANSEN: Thank you, Senator Groene. Senator Bloomfield. [LB1109]

SENATOR BLOOMFIELD: Thank you. And I have to take exception with you. I think every job I ever worked my employer knew that if I found something better, I was down the road. [LB1109]

SENATOR MURANTE: I would say you're a rare case, Senator Bloomfield, which we already knew. [LB1109]

SENATOR BLOOMFIELD: But, be that as it may, it's factual... [LB1109]

SENATOR MURANTE: Okay. [LB1109]

SENATOR BLOOMFIELD: ...that I've gone in to my employers and said...and disagreed with them completely on things, and you may get the thing--well, if you don't like it here, hit the road. And you come back with--as soon as I find something better I'm out of here. And somewhere in between there if they value you as an employee, they will reach an accord. If you are doing a good job, they are no more anxious to see you go down the road than you are to leave that position. [LB1109]

SENATOR MURANTE: I would say...I don't disagree with you, Senator Bloomfield. I would say in a competitive work environment, it is both natural and appropriate and, quite frankly, good business practice to observe people in other companies who are doing a good job and to want them to work for you. And I don't think there's anything inappropriate about that. I think that is the way of the world and I suspect that some of the opponents of this bill have business models that are built that way as well. [LB1109]

SENATOR BLOOMFIELD: I don't disagree with that. What I disagree with is when you want that individual to work for you that you try to slide in under the back gate and sneak him out of there before somebody else offers him a raise. And as Senator Hadley said, one of the people that applied last year for the presidency, the school he was working with apparently wanted to keep him because they gave him an additional \$16,000. [LB1109]

SENATOR MURANTE: I'd say, Senator Bloomfield, if your suggestion is that prior to a company hiring away an employee from a different company, they need to, on a regular basis, inform their current employer that they're trying to hire them away, that very, very seldom happens in the real world. [LB1109]

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SENATOR BLOOMFIELD: I'm well aware of that. [LB1109]

SENATOR MURANTE: Okay. [LB1109]

SENATOR GROENE: Thank you, Vice Vice Chairman. But I guess my point is, the process comparable across the country, they can still recruit, they're going to hire recruiters. They can go recruit the candidates. They can say it's private right up until the final four. You don't have to make that decision as a candidate that you want to jump into that ring until they tell you you're one of the final four. [LB1109]

SENATOR MURANTE: Sure. You would have that concern if you were confident enough in yourself to believe that you would be in the final four. The only people who would not have that concern, if they were applying here and had absolutely no concern at all if they were going to be in final four, then, yes, that's true, they wouldn't have that concern. But I'm not sure we're real worried about that particular segment of potential hires. [LB1109]

SENATOR GROENE: I'll stand by my earlier statement. It's a great vetting process when...right off the bat when you've got that transparency right there in their face. Saves us a lot of time. [LB1109]

SENATOR MURANTE: I'm not sure how, but I will discuss that with you, I'm sure, at a later time. [LB1109]

SENATOR HANSEN: Thank you, Senator Groene and Senator Bloomfield. Are there any further questions? Seeing none, thank you, Senator Murante. [LB1109]

SENATOR MURANTE: Thank you, members. [LB1109]

SENATOR HANSEN: Are there any further letters for the record? All right, that will close the hearing on the bill, and I believe close the hearing for the day. [LB1109]