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Government, Military and Veterans Affairs Committee  
February 24, 2016

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[LB788 LB1040 LB1107]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, February 24, 2016, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB788, LB1040, and LB1107. Senators present: John Murante, Chairperson; Tommy Garrett, Vice Chairperson; Dave Bloomfield; Joni Craighead; Mike Groene; Matt Hansen. Senators absent: Tyson Larson and Beau McCoy.

SENATOR MURANTE: Welcome, everyone, to the Government, Military and Veterans Affairs Committee. My name is John Murante. I'm the state senator for District 49, which includes Gretna and northwest Sarpy County, and I'm the Chairman of this committee. We are here today for the purposes of conducting three public hearings. We'll be taking up the bills in the order on which they appear on the agenda outside of this room. If you wish to testify on any of the matters before us, we ask that you fill out this green sheet and submit it to the bin in front of the committee clerk. If you are here and wish to testify your support or opposition to any of the matters before us, but do not wish to testify, we ask that you sign the sign in sheet also located on either side of the room. If you do testify, we ask that you begin by stating and spelling your name for the record, which is very important for our transcribers office. The order of business is that the introducer of a bill will be permitted an opening statement, after which time we will listen to proponent testimony, followed by opponent testimony, then we'll hear neutral testimony, at which time the introducer will be permitted an opportunity to close. We ask that you listen very carefully and try not to be repetitive. We do use the light system here in the Government Committee. Each testifier is permitted four minutes, when the amber light comes on you have one minute remaining and we ask that begin concluding your remarks at that time, when the red light comes on your time has concluded and we will open up the committee for any questions they may have of you. At this time, I would ask everyone to turn off or silence any cell phones or other electronic devices, anything that makes noise. If you have a prepared statement, an exhibit, or anything you'd like distributed to the committee we ask that you provide 12 copies to the pages, who will distribute them to the committee members. If you don't have 12 copies, that's fine. Again, give them to the pages and we will make copies for you. So we will begin with the introduction of members. To my far left is Sherry Shaffer, she is the Government Committee clerk. State Senator Joni Craighead of Omaha, Nebraska. State Senator Beau McCoy, also from Omaha, we do not anticipate Senator McCoy will be with us today. State Senator Matt Hansen from Lincoln, Nebraska. Dylan Frederick is serving as research analyst for the day. State Senator Tommy Garrett from Bellevue, Nebraska, Senator Garrett is the Vice Chair of this committee. We anticipate State Senator Dave Bloomfield from Hoskins, Nebraska will be joining us shortly. Followed by State Senator Tyson Larson from O'Neill. Senator Larson is ill today and I do not anticipate seeing him. State Senator Mike Groene from North Platte, Nebraska. So with the formalities having been dispensed with, Senator Cook, welcome to your committee on Government, Military and Veterans Affairs.

Transcript Prepared By the Clerk of the Legislature  
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Government, Military and Veterans Affairs Committee  
February 24, 2016

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SENATOR COOK: Thank you very much, Mr. Chairman, Chairman Murante. And thank you, committee members. I am indeed Tanya Cook, that is spelled T-a-n-y-a C-o-o-k, I represent the 13th Legislative District in Omaha. I present to you today LB788, which updates the Professional Landscape Architects Act. These changes were brought to me by the Nebraska Board of Landscape Architects. The profession of landscape architecture is regulated in all 50 states. Nebraska's board was created in 1967 and charged with regulating the practice...this is in Section 81-8,184. The board is a self-funded agency that operates on cash funds derived from fees collected for application and licensure of landscape architects. Its members serve without compensation, except for necessary travel and incidental expenses incurred in the discharge of their duties. It is the policy of the board to periodically review the statute and the rules and regulations for their relevance. Such a review was prompted by changes in how the national examination was being administered. The board determined it was an opportune time for an in-depth examination of the act. The resulting recommendations to bring the act up to date with current best practices are included in LB788. I note that the board worked closely with several stakeholders during the entire revision process and want to alert the committee that we've had some additional information which will be potentially amended into LB788. The green version addresses a number of items, the most substantive are: first, the revision of the definition of professional landscape architect and the practice of landscape architecture; two, expanding the actions the board may take on complaint cases, including the procedure to follow and the ability to assess penalties and/or costs; three, revising the exemptions for when a professional landscape architect is not required; and four, adding the requirement of a coordinating professional when more than one design professional is involved on a landscape architecture project. Testifiers to follow will go into detail regarding the need for these and other changes. The proposed revisions benefit the public, the licensees, and the board. The public will get a clearer understanding of what a landscape architect is able to do and when a licensed landscape architect is required. Landscape architects benefit by having more streamlined processes, including on-line license renewals and eventually an on-line application process. The bill also provides an alternate path to licensure for those licensed in another state. The board benefits from the streamlined processes, including strength in authority to address compliance issues. Such legislation often gets caught up in turf battles...I served on Health and Human Services, so I've had a little bit of experience. I am very pleased to say that the landscape architects worked closely with several stakeholders in drafting this legislation. The following have said they are supportive of or neutral on LB788: the Great Plains Chapter of the American Society of Landscape Architects; the Nebraska Board of Engineers and Architects; the American Institute of Architects, Nebraska Chapter; the American Counsel of Engineering Companies, Nebraska Chapter; Professional Engineers Coalition through the Nebraska Society of Professional Engineers; the Nebraska Nursery and Landscape Association; and the Nebraska Board of Land Surveyors. I want to commend the Board of Landscape Architects for its diligence in conducting the review of the Governing Act, obtaining the cooperation of other relevant professional organizations, and developing this proposal, which

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February 24, 2016

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if passed, would better reflect the state of the profession in today's world. I ask that you look favorably upon this proposal and advance it for further consideration. Thank you. [LB788]

SENATOR MURANTE: Thank you, Senator Cook. Are there questions for Senator Cook? Senator Bloomfield. [LB788]

SENATOR BLOOMFIELD: Thank you. Welcome to the committee, Senator Cook. Any particular reason you feel that it's essential that this office be located in Lincoln? [LB788]

SENATOR COOK: You would have to ask somebody who does this for a living. I don't think...especially some of the advances that are going to be made and participating through electronically... [LB788]

SENATOR BLOOMFIELD: Okay. I see it was added on in Section 5 of the bill and I just wondered why. [LB788]

SENATOR COOK: To me, the bill sponsor, that is not essential. [LB788]

SENATOR BLOOMFIELD: Okay, thank you. [LB788]

SENATOR MURANTE: Seeing no additional questions, thank you much for your opening. [LB788]

SENATOR COOK: Thank you very much. And I have another committee to go to, but would follow up with any member... [LB788]

SENATOR MURANTE: We will miss you dearly. [LB788]

SENATOR COOK: Oh, I thank you. [LB788]

SENATOR MURANTE: All right, we will proceed to proponent testimony on LB788. The first proponent. And if you wish to testify on the bill, I would ask that you come closer to the first couple of rows. We have a lot of empty seats in the first row or two, so please do that. We would appreciate it. Welcome. [LB788]

DENNIS BRYERS: (Exhibits 1, 2) Welcome. Thank you very much. Senator Murante, committee members, thank you very much for holding a hearing on this bill. My name is Dennis

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

---

Bryers. I am a licensed landscape architect, I work for the city of Omaha Department of Parks and Recreation. I live in Omaha. I just want to thank everyone on the Government, Military and Veterans Affairs Committee for holding this public hearing. Besides being a landscape architect, I'm also a fellow in the American Society of Landscape Architects, I've been on the Nebraska State Board of Landscape Architects since 2002, and I've been chair of the board since 2004. And I'm the current chair, so I can answer any questions (inaudible) on that as well. A lot of this stuff has already been, you know, addressed by Senator Cook. I just want to thank Senator Cook and her staff, especially Susan Hale, for all of their help in putting everything together and getting it here. The Nebraska State Board of Landscape Architects started this process of looking at revising a portion of our law back in the summer of 2013. The board and staff researched a lot of information going to all the states. As has been said, the profession of landscape architecture is regulated in all 50 state in the United States, as well as 3 providences in Canada and the territory of Puerto Rico, and I can say the District of Columbia is in the process of putting together regulations to regulate the profession there. In doing this, we looked at surrounding states and their laws. We looked at current states and jurisdictions that have upgraded their laws in the last few years, we also worked closely with the Counsel of Landscape Architectural Registration Board, which is the international organization that promotes the regulation of landscape architecture. It is very similar to the architects who have NCARB and the engineers who have NCEES. We also worked with the American Society of Landscape Architects, ASLA, both our local chapter and the national organization, as well as an organization called the Council on Licensure, Enforcement and Regulation, also known as CLEAR, and they are kind of a large national organization that works with all regulatory jurisdictions to help. As has been mentioned, the proposed revisions address numerous things. Some of the highlights...some of this may be repeating...but revision of the act's intent is to: include the welfare or well-being in the legislation, updating that; updating our legal definition of the practice, since a lot of that dates back to 1967, when the law was originally passed; it will provide definitions and key terms for design professions, intern landscape architect; authorize the landscape architects to serve as coordinating professionals, as is currently listed for engineers and architects in the engineer and architects statutes; helps to increase or develop alternate pathways to licensure, so we make sure anyone who wants to become licensed can; improve our agency's efficiency by allowing biannual license renewals instead of annual renewals. The other information I handed out in the packet is more background on the profession of landscape architecture, just to give you an idea if you're not that familiar with the profession and what landscape architects do. And I'll just conclude that basically on the behalf of the Nebraska State Board of Landscape Architects, Nebraska's licensed landscape architects, and also for just the continued protection of the public health, safety, and welfare, I'm urging you to support this bill and please advance it to the Legislature so they can take it up. I'll take any questions now. [LB788]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions?  
Senator Bloomfield. [LB788]

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

---

SENATOR BLOOMFIELD: There is one, thank you. You're striking language on Page 2, Line 31 and Page 3, Lines 1 through 3 that basically says you can get your license by having practical experience. You're eliminating that. Any reason why if a guy has been doing it all of his life that he... [LB788]

DENNIS BRYERS: It's being stricken that way, if I remember right, and being updated. Experience is still required. To get a license you really have to meet three requirements: educational experience; licensure or passing an exam; then experience itself, in order to become licensed. In the past there have been some laws where someone who has been able to work, you know, a certain number of years or so without having taken the exam and without having the education in order to apply to take the licensing exam. And that is really, I mean, I believe in almost all jurisdictions that I know of no longer allow that. They want someone to at least have this path of having some education, having the experience, but also taking and passing the licensing...the registration exam, in order to become licensed. [LB788]

SENATOR BLOOMFIELD: So if you been doing it for 30 years and decide you want to get licensed, that doesn't count until... [LB788]

DENNIS BRYERS: Well, it would be up to the discretion of the board. What the person would do is they would have to apply to the board, come in, show their experience, and then the board would make a decision whether they have enough experience or the appropriate experience that they could take the licensing exam. [LB788]

SENATOR BLOOMFIELD: Could they then offset the education? [LB788]

DENNIS BRYERS: It would be looked at. It would be on a case-by-case basis. [LB788]

SENATOR BLOOMFIELD: Thank you. [LB788]

SENATOR MURANTE: Senator Groene. [LB788]

SENATOR GROENE: You said jurisdictions, it is by community. If they have zoning laws that you have to hire a landscape artist or a landscape engineer if you're going to... [LB788]

DENNIS BRYERS: By jurisdiction, I was really talking national jurisdiction, being states in that sense. Each state regulates the profession. [LB788]

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

---

SENATOR GROENE: As a consumer, I have an office building and I want...I go down to my nursery and I said I want three of those trees, five of them trees. Why don't you guys come out and landscape it for me. I can't do that? [LB788]

DENNIS BRYERS: Yes, you can. There's provisions, even in the current law right now, if you own property...or as the owner of a property you can, you know, do your landscaping, if it's landscaping you want to do, or anything related to that, you can do that without hiring or being a licensed landscape architect. [LB788]

SENATOR GROENE: I'm talking about I want this nursery to come out. [LB788]

DENNIS BRYERS: If you want...yeah, the nursery can come out as well. One of the changes we're making in the current law would be to expand on the scope of the work that landscape designers, landscape nurseries and such can do. The current law is a little restrictive, it dates back to 1967, it's something we want to change. We've worked with the Nebraska Landscape and design... [LB788]

SENATOR GROENE: Do most larger nurseries have a landscape... [LB788]

DENNIS BRYERS: It varies. Some have a landscape architect, some have just landscape designers who are very qualified. [LB788]

SENATOR GROENE: So If I'm putting in a development, I've been doing it for years, I'm putting in a housing development and I'm used to just my crew doing it and bringing in fill dirt, putting some berms in, putting the drainage in, I have to have a landscape engineer? [LB788]

DENNIS BRYERS: If you're doing drainage, you would probably end up either having a landscape architect or a civil engineer doing that. If you're doing for the whole subdivision, if you're working on a lot by lot basis with a client, that would be different. You would be able to work on (inaudible). [LB788]

SENATOR GROENE: I guess on the flip side of this question, where is it mandatory that if you're going to do a project that you have to have a landscape engineer? Is there such a thing? [LB788]

DENNIS BRYERS: Not a landscape engineer, but a landscape architect. We looked into the definitions, it describes or states the type of work that landscape architects can do and actually do around in the country. So based on that, it kind of outlines the work that we'd require, you

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

---

know, could require. And again, also too in the law, if you get toward the end, one of the extensions in any licensed engineer or architect can also do the same type of work that a landscape architect can do. [LB788]

SENATOR GROENE: But I'm looking at the consumers in there. Is there an instance where the consumer, if he wants something done... [LB788]

DENNIS BRYERS: A consumer can easily go to a nursery. I mean, if you're landscaping your house, you want to build a patio or something like that, you can go to a landscape designer, you can go to a nursery. [LB788]

SENATOR GROENE: All I'm saying is like if I'm building a house then I'm going to have somebody paid to put my electrical system and he has to be licensed. [LB788]

DENNIS BRYERS: A licensed electrician, you're right. [LB788]

SENATOR GROENE: But this is not the case with... [LB788]

DENNIS BRYERS: You know, if you're siding the house you could have a landscape architect do it at an individual house, but being it's your house and your property you're working on, you wouldn't have to. [LB788]

SENATOR GROENE: Then I can hire anybody to do it. [LB788]

DENNIS BRYERS: You could. [LB788]

SENATOR GROENE: They don't have to be licensed. [LB788]

DENNIS BRYERS: No. [LB788]

SENATOR GROENE: So this is more for your industrial group, that you want some standards within your organization or try to build standards. [LB788]

DENNIS BRYERS: Well, the standards have been there. We're upgrading them from where they were from 49 years ago. I mean, Nebraska I believe was the third or fourth state in the United States to pass statutes in order to regulate the landscape architecture profession. So they've been there, over time in 49 years the type of work that landscape architects do has evolved. [LB788]

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

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SENATOR GROENE: Last year we did it for the surveyors organization. This is similar, you're just trying to... [LB788]

DENNIS BRYERS: This is similar. Yes, it is. Yep. [LB788]

SENATOR GROENE: Thank you. [LB788]

SENATOR MURANTE: Senator Garrett. [LB788]

SENATOR GARRETT: Thank you, Senator Murante. Quick question. The statement of intent says that this is going to remove a military renewal exemption. Can you tell me what that is? [LB788]

DENNIS BRYERS: I would have to go back and check because I don't exactly remember what that entails. I'd have to check with staff on that because at the moment I'm kind of drawing a blank on that one. I will get back to you, Senator, though on that. [LB788]

SENATOR GARRETT: Okay, thank you. [LB788]

SENATOR MURANTE: Okay. Seeing no additional questions, thank you very much for your testimony. Much appreciate it. [LB788]

DENNIS BRYERS: Thank you very much. [LB788]

SENATOR MURANTE: Additional proponent testimony to LB788? Welcome. [LB788]

JON WILBECK: (Exhibit 3) Good afternoon, Senator Murante, members of the committee. My name is Jon Wilbeck, that's J-o-n W-i-l-b-e-c-k. I am the interim executive director of the Nebraska Board of Engineers and Architects, an agency very similar to the Landscape Architects. I was asked by the board to testify today...by my board, the ENA board. The Nebraska board has read the provisions of LB788 at their meeting on Friday, and they do support the provisions of the bill that allow professional landscape architects to act as coordinating professionals. Because the bill references architects and professional engineers, the board thought it was a good idea to testify our support of those provisions because those two professions are mentioned. Real briefly, coordinating professionals are design professionals who coordinate the design of projects when there is more than one licensing involved. It helps to streamline the design, make sure all the parts and pieces are working and designed the way they

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

---

should, and it is a very simple but very effective way to ensure a good project and protect health, safety, and welfare. That's all I had. Any questions? [LB788]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down today. Much appreciate it. Additional proponent testimony to LB788? Welcome. [LB788]

JOHN ROYSTER: (Exhibit 4) Good afternoon. I'm John Royster, my name is spelled J-o-h-n R-o-y-s-t-e-r, I am a professional Nebraska landscape architect, license number 180, and I am from Omaha. Today, I am here to testify on behalf of one of the organizations which is supporting this, the American Society of Landscape Architects, Great Plains Chapter. I am the trustee for the Great Plains Chapter, as well as serving on the national board of directors for ASLA. Our chapter includes Nebraska, North and South Dakota. ASLA represents approximately 15,000 landscape architects across the United States, about 110 of those 15,000 live within our chapter's boundaries. For the past several decades, as Dennis spoke of earlier, our organization has very much supported legislation to regulate our industry and license landscape architects. As he said, we have licensure in all 50 states, Puerto Rico, and we are working on licensure in the District of Columbia. I want to make it very clear that ASLA and ASLA's Great Plains Chapter supports the improvement of Nebraska's law as proposed in LB788. Nebraska's first law, as Dennis said, was passed in 1967. As far as I know, that was about the third professional landscape architects act in the United States. That act, if you look at it historically, was extremely progressive because it regulated not only the use of the title landscape architect, but also the practice of landscape architecture. I'm very familiar with the act because for 15 years I served as a Governor's appointee to the State Board of Landscape Architects, so I've seen the ins and outs of the current law and how it has been administered and how it could be administered more effectively. Several provisions in the law will help the law become a better law, help the board do a better job, and also improve staff resources. These changes reflect...are based, as Dennis said earlier, on model legislation that's been developed by our profession, as well as the laws of surrounding states. And I'm sure you realize this, but anytime when you look at a law, you always look at what your neighbors have done. And we've done that. As Dennis said earlier, a task force was convened in 2013, I was a member of that task force, it was made up of several landscape architects from across our state. We met several times and looked at what are the issues with the existing law and what needed to be changed. As he said, there were a number of stakeholder meetings, the last of which was a public hearing on the proposed legislation, in September of 2015. All members of my organization, the American Society of Landscape Architects, Great Plains Chapter, were made aware of that meeting and invited to it. Senator Cook really hit a lot of the improvements in the current law, but the fact that it adds the concept of welfare as a responsibility of the licensee is very important. Most importantly, it updates our definition of the law, and when you think of a definition that's 49-years-old...or that was written 49 years ago, I'd ask do you really think that definition is going to apply today in 2016. So I think that's very important. As a former

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

---

board member, one of the things that we were faced with when we had a compliance case is we really didn't have clear direction on how to enforce that case. And that's one of the really things that I think is very important about this, it gives the board a process to enforce compliance actions and it also creates a process that if someone contests an action on how the board moves forward in doing that. As Jon Wilbeck just said, the adding the coordinating professional section is very important and will help us coordinate our work with architects and engineers. And surprisingly enough, a lot of times architects and engineers work for landscape architects on projects. Also talked about the alternate pathway to licensure, which I think is a concern. And then, as I said earlier, it will allow the agency staff itself to go from an annual to a biennial license renewal. And having done that for 15 years, I can tell you that will save a lot of staff time. On behalf of the executive committee of the Great Plains Chapter of the American Society of Landscape Architects, I ask the committee to vote to advance LB788 to general file. With that, I would thank you for your time and answer any questions. [LB788]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions?  
Senator Groene. [LB788]

SENATOR GROENE: Thank you, Chairman. Sir, I'm looking at 81-8...is this where you're talking about you're going to get authority? "The board shall enforce the Professional Landscape Architects Act and rules and regulations under the act, including enforcement against any unlicensed person." How do you decide they're unlicensed if they advertise that they're a landscape architect? [LB788]

JOHN ROYSTER: I'm not an attorney, but I'll answer that the best I can as a former board member. One, is any time someone who is...you know, having a license makes you a landscape architect, so if I call myself a landscape architect... [LB788]

SENATOR GROENE: Advertise in the phonebook or whatever. [LB788]

JOHN ROYSTER: Yeah, in the phone book or whatever...and I'm not licensed, that's a pretty clear-cut case. There are people that have gotten into the business of doing what within the profession of landscape architecture without actually practicing. And in that case, that would be, instead of a title compliance case, it would be a practice compliance case. It would be no different than someone deciding they were going to build a 50-story office building and saying I'm going to call myself an architect so suddenly I can design a 50-story office building. I don't know if I can answer that. [LB788]

SENATOR GROENE: Does somebody have to complain? I mean if I hired my nursery and basically they lay it out and they give me these three-dimensional drawings and they say they're

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

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going to put these mounds here and this fountain here and I like what they did and they didn't claim they were an architect and they came out and did it and I paid them... [LB788]

JOHN ROYSTER: You know, if they don't use the title of landscape architect, they (inaudible) cross that line. If they're not practicing the profession, and there is a gray area, but what this law also does is it gives a better definition of landscape design versus landscape architecture. Right now, if you read our law, if you want to call yourself a landscape designer you can, but you have to sell plants as part of selling your design services. That was something that made great sense in 1967, it really makes no sense now, and it kind of gets back to your consumer issue. Landscape architects and landscape designers have a good relationship. Landscape designers primarily work in single-family homes, you know, single commercial buildings, and quite honestly, I own a firm, I'm not cost-competitive against them on that. And when somebody calls me and says I want you to do my single-family home, I ask is it a big home or a little home. If it's a little home, I send them to a landscape designer, maybe a nursery or maybe... [LB788]

SENATOR GROENE: So who are your clients? [LB788]

JOHN ROYSTER: I am president and CEO of Big Muddy Workshop, we're landscape architects in Omaha. My largest client is the city of Omaha, Omaha Public Works, Omaha Parks, Omaha Planning. Currently, we are working with Bluestone Development in Omaha, on a project we are helping them preserve trees on a site. The city of Lincoln has been a client of ours, primarily we do a lot of work for the federal government as well. We're not in the single-family home business, we really don't do much development. [LB788]

SENATOR GROENE: And some in your profession do major developments and...HDR, when they built their building, will they hire one to do the landscaping around the outside? [LB788]

JOHN ROYSTER: HDR has several landscape architects on staff, in both their engineering company and... [LB788]

SENATOR GROENE: They are an engineering company. They'll do their own, all right. All right, thank you. Wasn't a good example. [LB788]

JOHN ROYSTER: That was actually a great example because landscape architects work the majority of their time on projects that require licensing...engineers and architects. And that's why our law being, you know, more similar to theirs is really important. [LB788]

SENATOR GROENE: Thank you. [LB788]

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

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SENATOR MURANTE: Okay. Seeing no additional questions, thank you very much for your testimony. Much appreciate it. [LB788]

JOHN ROYSTER: Thank you. [LB788]

SENATOR MURANTE: Is there additional proponent testimony to LB788? Welcome. [LB788]

TIM GERGEN: Thank you. Good afternoon, my name is Tim Gergen, T-i-m G-e-r-g-e-n. I am a registered professional civil engineer here to testify. I have 19 years of experience in civil engineering, my first 17 spent at a traditional civil engineering firm, mainly civil engineers and surveyors. These last two years I have transitioned to a full service firm with architects, landscape architects, mechanical engineers, electrical engineers. I have found that in these last few years that when our designs complement each other, where we have other designers where we are working together closely, best give a design. As a civil engineer, I'm working closely with stormwater quality, and that is just passed recently in the city of Lincoln, those requirement as of February. And in Omaha, I think they've been in place for a couple of years now. And so where I see most working with landscape architects in our field is when we are able to design stormwater quality treatment facilities that...where a civil engineer can provide the drainage calculations and the landscape architect can provide the calculations for the soil compositions, the planting species, and give us that overall design that would complement the stormwater quality to best purify the...remove the solids from the stormwater. So what I'm finding is that I support this bill because I feel most comfortable working with registered landscape architects knowing that they've fully gone through education, internship, and registration. That is why I'm in support of this bill. I'd be happy to take any questions you may have. [LB788]

SENATOR MURANTE: Thank you very much for your testimony. [LB788]

TIM GERGEN: Thank you. [LB788]

SENATOR MURANTE: Seeing no questions, thank you very much for coming down today. Much appreciate it. Is there additional proponent testimony on LB788? Any additional proponents? Is there any opposition testimony to LB788? Is there any neutral testimony on LB788? Senator Cook has waived closing, but before we close the hearing, I have letters of support on LB788 from Richard Sutton of the Landscape Architectural Services; Steven Rodie, representing himself; Mary Patrice Slaven, representing herself; Brian Pecka, the Executive Committee of the Great Plains Chapter of the American Society of Landscape Architects; Daniel Thiele of the Professional Engineers Coalition of Nebraska; and John Royster of Big Muddy Workshop, Inc.; and a letter of neutral from Lynn Johnson of the city of Lincoln. And that closes

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

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our hearing on LB788, we will proceed to the next item on the agenda, LB1040. Senator Johnson, welcome back to the Government Committee. [LB788]

SENATOR JOHNSON: (Exhibits 5, 6, 7, 8, 9, 10, 11) Thank you. My name is Jerry Johnson, J-e-r-r-y J-o-h-n-s-o-n. LB1040 creates a Travel Agency Registration Act. The bill will require that beginning July 1, 2017, a travel agent or travel agency doing business in the state of Nebraska shall register with the Secretary of State. The applicants shall complete the application and show evidence of obtaining a bond or be able to show evidence of financial responsibility in the amount of \$10,000 in the form provided by the Secretary of State. The annual registration fee, not to exceed \$25, shall be included with the required application. In lieu of a bond or guarantee required, the applicant may file with the Secretary of State proof of professional liability with errors and omissions insurance in the amount of at least \$1 million annually; or B, deposit with the Secretary of State cash securities or a statement from a federally insured financial institution guaranteeing performance of the applicant up to a maximum of \$10,000 to be applied for the purpose for which the bond would otherwise be applied. I bring this bill to you on my own, I was not asked by any agency. I was asked by a constituent of mine. The constituent and his wife is here today, there's others testifying, they have had firsthand experience where a person acting as a travel agent did not fulfill the agreement and when it came time for the travel, there was no money there to book the arrangements and so there was no trip to be taken. More recently, well, February 12, I was traveling out to Grant and I heard of an incident in North Platte where a person doing business as travel professionals had found...the customer from Moorefield, Nebraska, found out there was no arrangement made for their trip. They had made a deposit of \$18,000 the year before and through the records they found out that the agent did receive the money, put it in their bank, in this case her bank, and there was never any arrangements made for that trip to be made by the client. So with that, there is probably some concern whether \$10,000 covers it with the bond, because in some cases it does exceed that. I think there will be some evidence out there that might indicate maybe this needs to be increased. There is probably some comment out there why is this needed, there's just maybe one or two bad apples in a barrel. Well, it does involve money, it does involve an anticipated trip that people are planning on, and it's very devastating if that does not happen. So with that, I'll close my opening. There is a little bit of a fiscal note from the Secretary of State, we did meet with them as to how they would handle the application and handle the process. And so there is a little bit of a fiscal note because it will take a part-time person for this, plus there will be some cost involved, but there's also a revenue side to that. So with that, I'll close my opening and I'll probably stick around for closing. [LB1040]

SENATOR MURANTE: All right. Senator Craighead has a question. [LB1040]

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Government, Military and Veterans Affairs Committee  
February 24, 2016

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SENATOR CRAIGHEAD: Thank you, Mr. Chairman. Senator Johnson, thanks for bringing this to us today. This may be a question for one of your testifiers, but these travel agents who really weren't, were they found on the internet or how was the connection made? [LB1040]

SENATOR JOHNSON: I believe one of them had been in the business for awhile and over the period of years had maybe had some issues. So somehow, I'll say put out a shingle that they were in the business, and some cases it might be somebody they know and trust. The one that was in North Platte actually, according to the paper, was doing business as travel professionals, so kind of hanging out the shingle. [LB1040]

SENATOR CRAIGHEAD: Thank you. [LB1040]

SENATOR MURANTE: Thank you, Senator Craighead. Senator Bloomfield. [LB1040]

SENATOR BLOOMFIELD: Thank you. Senator Johnson, is this industry totally unregulated in Nebraska now? [LB1040]

SENATOR JOHNSON: I'm not aware of any registration. The agency might be registered with the state as doing business, but not as maybe through this type of a system. And there's a national...or American Society of Travel Agents that some of these agents belong to and I'm sure they have some sort of a code or something. But I don't believe everybody is required to be part of that organization, so it's somewhat open-ended. [LB1040]

SENATOR BLOOMFIELD: I haven't had the opportunity to read this whole thing yet, but how restrictive is it? If you asked me how do I get from here to Hoskins and I give you directions, am I suddenly a travel agent? [LB1040]

SENATOR JOHNSON: I would say unless you have money involved in it and you had to make arrangements or I had to make arrangements for you to get there, then I might. But just giving out directions would not be part of it. [LB1040]

SENATOR BLOOMFIELD: Okay, thank you. [LB1040]

SENATOR MURANTE: Senator Groene. [LB1040]

SENATOR GROENE: Senator Johnson, you called me on a Saturday or a Sunday and said have you read your local paper and yeah, they had it in the paper, about \$18,000. And it was a

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

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registered...I'm going to pass out the news article, but they had a parent travel company, and the agent who was affiliated with them took the \$18,000. And this farm family wanted to take all their kids on a vacation, once in a lifetime vacation, and they lost \$18,000. But I'll pass that. [LB1040]

SENATOR JOHNSON: So there might be a registration, but the bonding part and the liability part would probably be as important in this case as it would be the registration. [LB1040]

SENATOR GROENE: Do you think the committee should, if we followed up on this, raise the bond to more than \$10,000? [LB1040]

SENATOR JOHNSON: Well, that might be something to consider, because I think there's testimony behind me that that dollar figure is higher than \$18,000. [LB1040]

SENATOR GROENE: I would believe that the premium on a \$50,000 bonding would be much more than \$10,000. [LB1040]

SENATOR JOHNSON: Yeah, right. No, it's definitely amendable as we see fit or you see fit. [LB1040]

SENATOR GROENE: Thank you. [LB1040]

SENATOR MURANTE: Okay. Seeing no additional questions, thank you very much, Senator Johnson. [LB1040]

SENATOR JOHNSON: You bet. [LB1040]

SENATOR MURANTE: And we will proceed to proponent testimony on LB1040. And as before, if anyone is planning on testifying on LB1040, I would ask you to come forward and kind of sit in the first couple of rows. Welcome. [LB1040]

LOUIS AUSTIN: (Exhibit 1) Bear with me, my voice isn't real good here. Okay, my name is Louis Austin, and it's spelled L-o-u-i-s A-u-s-t-i-n. I'm here today to ask you for your support on LB1040, to provide some information as to why it is needed. Please understand that there is no intent to smear or discredit travel industry, as I believe that the industry may be on the verge of experiencing a period of rapid growth. It is said that the baby boomer generation is beginning to retire in unprecedented numbers and as they age and the desire to travel increases, I feel that the

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

---

travel industry will flourish. It is important to understand that many people, especially the elderly, may no longer want or be able to go through the process of planning individual trips, which would include travel, hotel reservations, meals, and attractions. In addition, some prefer to travel with friends. Tours created by travel agents do all of the planning, allowing the clients to simply select a tour that they would enjoy. Clients pay the fee, pack the bags, and enjoy their trip. It also affords an opportunity to meet new friends. That being said, it is important that we create an environment that protects travel consumers from those who are willing to take advantage of them. The purpose of LB1040 is to provide a level of protection for consumers who purchase travel from agencies whose purpose is to plan, develop trips, vacations, or tours for the traveling public. Licensing registration will bring them in-line with other service professions in the state. It is typical...or difficult, excuse me, for me to comprehend that my barber, who charges me approximately \$20 per haircut must have 2,100 hours of education, pass an examination costing \$190, and be licensed by the state prior to being allowed to cut his first head of hair. The state literally has scores of professions which require similar qualifications. It should be noted that many of these professions provide the service before fees are collected, affording the consumer certain guarantees. Currently, there is no requirement to be registered, certified, or licensed by the state of Nebraska to be a travel provider. As a result of a lack of requirements, any person can organize a trip or tour, even though they may not have any training or prior experience. Travel agents may receive thousands of dollars fees prior to providing the service. While most agencies are honest and upright business people providing desired services, the current situation opens the door for problems for consumers. I have made copies of an experience my wife and I shared with a number of others, which I hope will enlighten you as to the need for LB1040. Our experience was with only one travel agency and should not reflect on all agencies, but it is to show what can happen when no training, qualification, or registration is required. Typically, a minimum number of travelers must sign up for each tour before it is cost-effective for the agency. Our trip required 20 individuals at an average cost...number rounded down to \$4,000 per person. This scenario would have given the agent \$80,000 prior to the service being provided. So that person is holding \$80,000 of our money, canceled the trip and said, you know, there's nothing we can do. The other thing is we're told, and you senators from Omaha understand this on the bill that passed where they were selling these trip things...anyway, they're in the millions of dollars they're off. And so this provider didn't have to have any training at all. I see my red light is on, so I thank you for your time. [LB1040]

SENATOR MURANTE: All right, thank you for your testimony. Are there any questions? Seeing none, thank you very much for coming down today. Much appreciate it. Is there additional proponent testimony? Welcome. [LB1040]

LOLA AUSTIN: Hello. Good afternoon, I'm Lola Austin, L-o-l-a A-u-s-t-i-n. I'm basically going to summarize what happened and what Louis just talked about. We learned that the state of Nebraska's Attorney General Consumer Protection Division attempts to mediate complaints,

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

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however, because the mediation process relies on voluntary cooperation of both parties, if either party fails to cooperate, no resolution is possible. We learned that recovering your money is not as simple as asking the agency to refund your money when they cancel the tour. Current law requires a local law enforcement or the consumer to prove fraud or a defense attorney can simply claim the agency had poor business model or poor business practices and the money is gone through no fault of the agency. There are different areas in the packet highlighted. On page 22, Marcia stated she intended to secure reservations for the Alaska tour in the next 7 to 10 days, after having to cancel the trip on August 5, due to medical reasons. However, on page 26, she explained that Marcia's Tours has been having financial difficulties for some time and had used the money for the Alaska tour to pay off previous tours or other business expenses. When customers were requesting their refunds, their money was not available for refund. According to the Cass County Sheriff's Office, they stopped documenting new complaints after the search warrant was served, and believed there was approximately \$40,000 in other tours that had not been refunded. This was incorrect, as the bankruptcy filing indicates the number to be \$122,795. Although we were aware the travel insurance purchased by the consumer only covers the consumer if the consumer must cancel due to unforeseen problems such as death or illness in the family, this particular agent stated she did not realize it did not also cover when the agent cancels a trip. We learned that the agency would need to carry insurance to cover any loss they might sustain if they are forced to cancel a trip for any reason such as death in the family or injury or personal health issues. We learned the only way to recover your money is to take the agency to civil court, unless law enforcement has proven fraud. Marcia told the state patrol investigator she would sooner go to her grave than not refund somebody's deposit the company owed them. Marcia ensured the investigators that everyone would get their money back from any deposits that were made and trips not taken or they would be able to roll the money over onto new tours. We learned that if you file a suit in district court, as three clients did, the agency may simply file for bankruptcy as Marcia's Tours did on December 3, 2015. However, since the disputed moneys are considered unsecured debt, they are unlikely to be recovered. This was proven as the agency in question filed Chapter 7 bankruptcy, leaving 32 of their clients to forfeit a combined total of \$122,795, numbers taken directly from Marcia's Tours bankruptcy filing. In addition, if the individuals who had paid for the Alaska tour had not required their money prior to the bankruptcy filing, there would have been an additional \$48,270 lost as a result of the bankruptcy. We understand the passage of LB1040 will not change what has already occurred, but the goal is to protect others in the future. Thank you. [LB1040]

SENATOR GARRETT: Thank you, Ms. Austin. Are there any questions from the committee? Thank you for your testimony. Are there any other proponents? Welcome to the Government, Military and Veterans Affairs Committee. [LB1040]

LORIS WILES: Thank you. My name is Loris, L-o-r-i-s, Wiles, W-i-l-e-s. I agree with the information that was presented by Mr. and Mrs. Austin. I also had dealings with this particular

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Government, Military and Veterans Affairs Committee  
February 24, 2016

---

travel agent, that I had booked an 11-day trip to the Southwest to visit national parks, that was paid in advance and was cancelled due to the government shutdown and parks being closed. Was told that the tour would be rescheduled the following year and so was looking forward to that. And within a week of the departure, the following year in 2014, that particular trip was cancelled due to health issues with the owner of the travel company. I have several friends that had booked other trips with this particular agent and there were several thousands of dollars involved here. And all of us are in the same boat, looking forward to a trip, paid for a service that never happened. Thank you. [LB1040]

SENATOR GARRETT: Thank you for your testimony, Ms. Wiles. Senator Bloomfield. [LB1040]

SENATOR BLOOMFIELD: Thank you. Ms. Wiles, is that individual still in business out there? Does she still have a shingle... [LB1040]

LORIS WILES: Well, she filed bankruptcy. You know, at the time that these trips were being cancelled and we were told that they were being rescheduled, she was still trying to put other trips together. But you know, there were dozens of people that had been left holding the bag, that wasn't going to give her any more money and not have any service provided for that. [LB1040]

SENATOR BLOOMFIELD: Is that still an ongoing case for bankruptcy, do you know? Or is it (inaudible)? [LB1040]

LORIS WILES: I think it was in bankruptcy court in January, and I think it's...what, the middle of March that it will come to an end, something like that. [LB1040]

SENATOR BLOOMFIELD: Is there any hope of getting anything back at that point? [LB1040]

LORIS WILES: Not according to the financial statements. You know, they've got \$250,000 worth of assets approximately, and about I think what, \$400,000 worth of liabilities. [LB1040]

SENATOR BLOOMFIELD: Thank you. [LB1040]

SENATOR GARRETT: Any other questions from the committee? Thank you, Mrs. Wiles. Any other proponent testimony? [LB1040]

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

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MARY ANN TOMAN: My name is Mary Ann Toman, Mary, M-a-r-y, A-n-n, Toman, T-o-m-a-n. I had not planned on testifying, but I did find out that there was a lot of travel agencies who were opposed to this bill. And I'm really quite surprised because we've talked to several that said thank God that something was going to be done, because they knew that there were people out there in Nebraska that were operating in this manner. And most of your people that are booking travel, it's a large percentage are retired and elderly. They've got the time, they have savings, and they're ready to travel, so that's a lot of the people that were hurt in this situation. And it was like 46 people all together, but a lot of them didn't put their name down because they thought they would still get their money...and this is all from Cass County, and there are some Sarpy County people also. And then what happened is basically there was a thief among us, and it was someone that you had trusted and done business with for years. And when they kept saying that they would book it, they would make it right, we didn't know that they were spending all the money on their own personal house...and you know, they even owed the federal government taxes. And I just want you to know it could happen to you. If you plan on taking your kids to Disneyland or grandchildren to Disneyland, it could happen to you. You put the money in advance, they say it's refundable up to a certain point, you know, and a lot of them comply with it, but not everybody. And they don't have to, that's the whole problem is that they don't have to. If you're a realtor and you take money to buy a house, that money goes into a trust account, your down payment, and they can't use it. They have to hold onto it until you close the deal, and it should be the same way. They should not be able to spend your money until the trip takes off or it's completed. And there's been a lot of news coverage about...like for instance like home remodeling people who have scammed older people, and they go to jail. But this criminal, all she had to do was file bankruptcy and doesn't have to refund any of the money. And they just...that's about it, but we were all very shocked that there weren't ever any charges filed. And this person filed bankruptcy and that's supposed to be the end of it. But this bill might protect it from happening in other counties, anywhere in Nebraska. That's it, thanks. [LB1040]

SENATOR GARRETT: Thank you, Ms. Toman. Questions from the committee? Thank you for your testimony. Are there any other proponents? Seeing none, are there any opponents? Anybody to testify in the neutral capacity? Senator Johnson, would you like to close? [LB1040]

SENATOR JOHNSON: I'll be brief. We started working on this bill at the tail end of 2015; and as we worked through it, we thought, okay, this is kind of an isolated incident. But we find out it isn't. We knew we had to get the Secretary of State involved with the registration, and because of that involvement, no fault of theirs, it took us a long time to get an opinion from them and how they would handle it. And that's the reason this bill is coming out as late as it is. We would like for you to act on it if possible. It's too late for the priority bill, but if it can come out at least it maybe would have a chance on the floor at some point. If not this year, we'll make it a new priority probably next year. [LB1040]

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

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SENATOR GARRETT: Thank you for bringing the bill. This is terrible. I mean, our heart goes out to you all for this. This is a glaring deficiency and I'm almost wondering if your requirement for a \$10,000 financial responsibility ought not be higher. And definitely these folks should be bonded. There's no reason on God's green earth that folks should have to go through this. [LB1040]

SENATOR JOHNSON: Yeah, I would definitely agree. Thank you. [LB1040]

SENATOR GARRETT: Any other questions from the...thank you, Senator Johnson. [LB1040]

SENATOR JOHNSON: Thank you. [LB1040]

SENATOR MURANTE: (Exhibits 2, 3, 4) Thank you, Senator Garrett. Before we close the hearing on LB1040, I do have a letter of support from Mayor Paul Lambert from the city of Plattsmouth; a letter in the neutral capacity from John Gale, Secretary of State; and another letter in the neutral capacity from Theodore Fraizer of Fraizer and Fraizer Law Firm. So that closes the hearing on LB1040, thank you Senator Johnson. We'll proceed to the final item on the agenda, LB1107. Senator Garrett, welcome back to your Government Committee. [LB1040]

SENATOR GARRETT: Thank you, Chairman Murante, fellow members of the Government Committee. I'm Senator Tommy Garrett, T-o-m-m-y G-a-r-r-e-t-t, and I represent the people of Sarpy County in District 3. I'd like to thank Secretary Gale for bringing LB1107 to me. As we all know, equipment purchased with federal Help America Vote Act funds in 2005 is aging and will eventually need to be replaced. I think it would be most cost-effective for us to begin the discussion of these future purchases of election equipment sooner rather than later. While keeping in mind that the new methods and technology are always becoming available, alternatives to the traditional polling place model, such as voting by mail or vote centers, have developed in the past 15 years. On-line voting, although not feasible at this time, will continue to develop and may be available as an alternative in the future. While technology evolves and our current equipment ages, I believe it is important for us to think about how these new changes are going to affect the counties, disabled Nebraskans, privacy in voting, and the overall integrity of the process. I talked to the Secretary of State, and he brought up the wonderful idea of bringing together stakeholders from various groups to discuss Nebraska's future election needs. This approach has been used successfully in the past in the elections area, with groups like the Vote Nebraska Initiative in 2003 and the Election Reform Task Force in 2001. The stakeholders who would come together to make up the Nebraska Election System Initiative would include the Secretary of State; the Chairman of the Government, Military and Veterans Affairs Committee; the Chairman of the Appropriations Committee; four election commissioners or county clerks; one representative from a disability rights organization; one Nebraskan with a disability; two

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

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members representing minority communities; one military veteran; the executive director of NACO, the Nebraska Association of County Officials; and the chairperson of both the Republican and Democratic Parties will be allowed to appoint one member each to the Nebraska Election System Initiative. Speaker Hadley has brought to my attention this morning his concern that this initiative may violate separation of powers between the Legislative and Executive Branches. Out of an overabundance of caution, I recommend that the committee amend the bill to make the Chairman of Appropriations and Government, Military and Veterans Affairs Committee ex officio nonvoting members of the initiative. I think that will address the concerns. LB1107 would require the Nebraska Election System Initiative to issue their report and recommendation by December 31 of 2017. The Legislature would then more than likely take up their recommendations during the Second Session of the 105th Legislature. And with that I'd like to entertain any questions you might have. [LB1107]

SENATOR MURANTE: Thank you, Senator Garrett. Are there any questions? Now the only question I have for you, Senator Garrett is I got the same letter that you did, and did the rest of the members of the committee get the speaker Hadley this morning, regarding the separation of powers issue? We'll have it distributed to the members of the committee. For the record, the issue of task forces and separation of powers issue is not exclusive to this bill, it's been an issue that's been ongoing for quite some time. And I think the challenge that the speaker has is that the task forces that this is modeled on and that you referenced go back to 2001, 2003, which is before a time when Dave Heineman was governor and Mike Flood was speaker and the separation of powers issue sort of came to the forefront. And their point has really been, and continues to be, really two fundamental questions when setting up things like this, is that what this task force is...what they are required to do is it policy-making or is it administrative. And if it's policy-making, it should be done by legislators; and if it's administrative, it should be done by the Executive Branch, but they shouldn't be...talking to each other is an overstatement, but they shouldn't be on the same board voting with each other. That's where they're coming from, so I think that that first question we've got to figure out. Is this task force...is it going to be making public policy or is it going to be administering public policy that has been made by the Legislature--and that's ultimately how the board will be constructed. And feel free to comment on that, but I think it's... [LB1107]

SENATOR GARRETT: No, I couldn't agree more, that's a good discussion for us to have. Thank you. [LB1107]

SENATOR MURANTE: Okay, any questions...wait, Groene has a question for you. [LB1107]

SENATOR GROENE: Yes, I do. Senator Groene to you, sir. [LB1107]

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

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SENATOR MURANTE: Senator Mike Groene, the honorable Mike Groene of North Platte, Nebraska. [LB1107]

SENATOR GROENE: Now we're getting along. Why does the Executive Branch even need to be involved? What part do they play in election law? [LB1107]

SENATOR GARRETT: Well, the Secretary of State, John Gale, is a part of the Executive Branch here, you know, in the part for elections. [LB1107]

SENATOR MURANTE: He's the chief election officer of the state of Nebraska, is the Secretary of State. [LB1107]

SENATOR GROENE: He's one of the...I'm just thinking the Governor as the Executive Branch. Where did you...who brought this to you? [LB1107]

SENATOR GARRETT: Secretary of State Gale. [LB1107]

SENATOR GROENE: That's what I thought, thank you. [LB1107]

SENATOR MURANTE: Okay. Seeing no additional questions, thank you very much, Senator Garrett. It's a battle for the chair. Mr. Erickson, welcome back. [LB1107]

NEAL ERICKSON: Thank you very much, Senator Murante. Thank you, good to see you members of the committee. For the record, my name is Neal Erickson, N-e-a-l E-r-i-c-k-s-o-n, and I'm Deputy Secretary of State for Elections, here to testify in support of LB1107 on behalf of Secretary of State John Gale. I would start off by thanking Senator Garrett and his staff, as well as Senator Bloomfield, for signing on to this bill on behalf of our office. Actually, Senator Garrett I think explained the bill, I don't know that I have a whole lot to add to it. Yeah, it does set up an initiative over the group of stakeholders within the election process to take a look at potential changes in the process if that becomes viable. The aging of the equipment, we are going to have to face at some point in time the next generation of equipment and some kind of purchase. There are a variety of ways of doing that, but we're going to have to face it at some point in time. And when you have that kind of situation, it's a very appropriate time to take a look at the process you currently use. Currently, we use a polling place precinct model, there have been discussions with some stakeholders about other alternatives, such as vote by mail, you know, potentially on-line voting...internet voting, whatever you want to call it. It's probably in the future someplace, probably not viable at this point in time. But even when we made the original purchase of this equipment in 2005, the idea behind it, we thought internet voting would

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

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be coming along much sooner. And so we kind of looked at, you know, we've got a 15-year-or-so lifespan on this equipment, this might be developed by that point in time. And if that does occur, it will be a major shift in the way votes are cast. So it provides an opportunity to look at the process. If we make alterations to it, it will impact a different mix of equipment that are utilized. For example, if by mail, you don't need the number of disabled units that we currently own, which is about oh, almost 1,400 units, because you have to have one in every precinct. Vote centers are another process out there that have become a little more popular in some locations. So the aging of the equipment is enough to provoke a discussion of do we want to change the process at the same time. LB1107 will put together a group of the stakeholders that are involved in the election process currently and hopefully the give and take that you would see with having them be one group and listening to the same presenters on the same testimony. I think you get a better feel for does one process help a group more than another does, do you have a problem...one particular subgroup of the community have a problem with a particular type of voting system. So I think it's a healthy thing to bring these stakeholders together. We've used this, as Senator Garrett mentioned, in the past with both the Election Reform Task Force, the Vote Nebraska Initiative, and as well as to a degree the HAVA Plan Commission. And so with that, I will not repeat anything else that Senator Garrett has said. I would mention that there is a provision in there to pay the expenses of the members on there in that bill. We did not put a fiscal note on it because we think that we can handle that. But allowing to pay expenses allows for a little bit more potential pool of people that might be willing to serve on this. It's kind of difficult to say somebody from the Panhandle to come in for meetings when you're not paying any of their expenses. With that, I would urge your support of LB1107 and answer any questions you might have. [LB1107]

SENATOR MURANTE: Thank you, Neal, for bringing this before us, and send my regards to the Secretary for first of all bringing this issue to the forefront. I think we all acknowledge that something has to be done in the near future, maybe not the immediate future, but in the near future something has to be done. And this commences in January 1 of 2017, and between now and then I'm sure that your office and this committee will be working hand in hand to figure out where we're going for the next 15 years, because it's going to be a lot of work. [LB1107]

NEAL ERICKSON: Well, and I would agree with that. And we don't view it at as there being a crisis right now. Optical scan equipment is I think probably a little more stable long term. When you get into DREs or touch screens, you have more electronics involved, they tend to fail a little bit quicker. But I think we've got sufficient time to make a very reasoned approach to this and make some long-term decisions that will count for the next 10 to 15 years. [LB1107]

SENATOR MURANTE: But it's good that we're being able to have this discussion without there being a pending crises. [LB1107]

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Government, Military and Veterans Affairs Committee  
February 24, 2016

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NEAL ERICKSON: Exactly. [LB1107]

SENATOR MURANTE: That there's no catastrophe, we're actually trying to be proactive in state government, which is odd and unusual. But are there any additional questions for Mr. Erickson? Seeing none, thank you very much for coming down today. [LB1107]

NEAL ERICKSON: Thank you. [LB1107]

SENATOR MURANTE: The next proponent. Welcome. [LB1107]

MARTY RAMIREZ: Welcome. Thank you. Good afternoon, my name is Marty Ramirez, M-a-r-t-y R-a-m-i-r-e-z. I'm a native Nebraskan, a Vietnam veteran, a retired psychologist from UNL, and a member of the Latino Community. I thank you for the opportunity to testify in support of LB1107. While it is generally assumed that most of all voting-age Nebraskans have benefited from the current voting system, Nebraska, through LB1107, now has an opportunity to ask what kind of voting system do we want as we look into the future. LB1107 offers a way to make the voting experience both more intuitive and more inclusive for all Nebraskans. LB1107 represents a great step forward in a nonpartisan way. Equally exciting about this bill is not only the development of new hardware and software tools for voting, the idea that the design can be a way to increase accessibility and engagement with civic life for all Nebraskans. LB1107 would begin to look at the larger experience of voting as an entry point, starting when people become aware of an election and extending to the moment when they learn of the results of their vote. LB1107 will bring a holistic user experience lens to what goes on when we vote. We need to involve all stakeholders and rethink the larger systemic question of voter engagement, particularly for how we might reach the politically unengaged. We see this bill as having an expansive vision to make the voting experience both more intuitive and more inclusive for all, especially in our culturally diverse communities. As documented in a recent census, we are witnessing a change in face of Nebraska, with increase in cultural diversity. The question of how we disposed information to these various cultural groups in Nebraska, that includes language issues, is crucial in dialogue of LB1107. We envision voters will cast their ballots on an easy to use platform that's successful to individuals with hearing, vision, and mobility impairments. Instead of dictating how people should change to meet the needs of the current system, we need to focus on how the system might be redesigned to meet people's needs. Your vote counts is the foundation of every voter's call to action. It has been found that voting behavior are often actually decided by impact, each vote makes a difference; by community, people voting with family and friends at centralized voting centers; and convenience, designed convenient voting has people feel that they don't have time to vote. LB1107 will offer opportunities suggesting new ways to approach voter engagement efforts. We must design multiple voting experience to match factors that matter most to people. LB1107 will offer new ways to think about our voting

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Transcriber's Office

Government, Military and Veterans Affairs Committee  
February 24, 2016

---

experience, keeping in mind the human needs, social, (inaudible), tactical, and insight. The solutions aren't about changing people's perspective, but designing ways to vote that meet people where they're at. How might we envision a voting experience that makes them feel that their vote does matter and count? Finally, the passage of this bill will begin a dialogue at looking at the designing of new elements that will be supported for the current and the next generation of voters. Thank you. [LB1107]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down today. Much appreciate it. [LB1107]

MARTY RAMIREZ: Thank you. [LB1107]

SENATOR MURANTE: We are on proponent testimony to LB1107. Welcome. [LB1107]

JOHN WYVILL: Thank you, Mr. Chairman. My name is John, J-o-h-n, Wyvill, W-y-v-i-l-l. I am the executive director of the Nebraska Commission for the Deaf and Hard of Hearing, and I'm here today speaking in favor of LB1107. From a perspective of the disability community and the deaf and hard of hearing community is that it is very important that voting be accessible to people with disabilities, especially in terms of upgrading equipment and the processes. And we support and laud responses of the legislation and Secretary Gale for advocating and recognizing the need for making and improving accessibility. Second is that Secretary Gale is also aware of my unique background and my past life, and has asked me to come speak in favor of the bill. In my past life, I have been a lawyer, I have been an election commission in the state of Arkansas, representing a gubernatorial candidate for governor, and participating in election law issues. So I think that the Legislature should be commended for its very proactive approach and exploring possibilities of what needs to be done, what the potential ramifications for that, and any potential price tag for that. So with that, I open it up for any questions you may have for me. [LB1107]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down today. Much appreciate it. [LB1107]

JOHN WYVILL: Thank you for your time. [LB1107]

SENATOR MURANTE: Another race to the chair. People are excited about LB1107. Welcome. [LB1107]

SHERYL WRIGHT: (Exhibit 1) Thank you. My name is Sheryl Wright, it's S-h-e-r-y-l W-r-i-g-h-t. I'm here as a representative of the League of Women Voters of Nebraska, and wanted to talk

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

---

about LB1107. The League of Women Voters believes that voting is a fundamental citizen right that must be guaranteed. This has been a basic league principle since its origin over 95 years ago. To that end, it is vitally important to address the needs of Nebraska's counties as they prepare to replace aging equipment. The league thanks Senator Garrett for introducing LB1107 and wishes to state that our support of LB1107 was brought to our senator's attention during our legislative day last Tuesday, February 16. We specifically want the committee to be informed that the league supports only voting systems that are secure, accurate, recountable, accessible, and transparent. The league applauds the inclusion of representatives of a broad spectrum of the electorate and would consider it a great honor to be asked to send a representative to the Nebraska Election System Initiative. In other words, the league would like to have a seat on the initiative, if that would be okay. The reason for the league...it's been, like I said, we've been around for 95 years...I haven't been that long, but they have. We're...the existence of the league is to ensure that voter protection and also its engagement. That's all I have. If you have any questions, I'd be happy to answer them. [LB1107]

SENATOR MURANTE: Okay, thank you for your testimony. Are there any questions? Seeing none, thank you very much for coming down today. Much appreciate it. Still on proponent testimony. [LB1107]

DALE BAKER: Yes, hello. [LB1107]

SENATOR MURANTE: Hello. Welcome. [LB1107]

DALE BAKER: (Exhibit 2) Hi, I'm Dale Baker, and it's D-a-l-e B-a-k-e-r, and I'm the Hall County Election Commissioner. So I'm one of the persons that are in the trenches. This is the first time I've actually been a proponent of a bill in here, so this is very exciting for me. I had the opportunity to serve on the HAVA Commission and that commission made significant improvements to our election system. The commission members that sat on that commission are similar to the content that you're suggesting in LB1107, and I think that that was...that accomplished a new level of fairness, reliability, and inclusiveness. So I really like to report the content of that bill for the members that you'll be asking to serve. As has been stated previously, most of the equipment that we're using now is about a decade old and we're starting to find that we're having trouble with it. It's a maintenance issue, it's expensive for us to maintain...or it will be expensive for us to maintain when the HAVA funds are gone. I'm happy to see that we're looking forward instead of backward with this particular bill because it's saying that what we do in the election is important and that we need to look ahead about what is going to be happening in the future. This is not a new dialogue for us. I also sit on Secretary of State Gale's Election Advisory Board and we also speak about where we think things should be going in the future. So I'm going to leave it at that and I hope that I speak to you as somebody who is very proud of how

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

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Nebraska presents their elections and how our elections are conducted. I think that Secretary of State Gale, and Neal, and everybody in the office has been extremely cautious about making too many big steps in the election process, so that it's we don't take one step forward and 10 steps back because we've gone too far too fast. So I speak for all of us out in trenches, I hope, in saying that we're proud about how Nebraska elections are conducted and hope that this bill moves forward. Thank you. [LB1107]

SENATOR MURANTE: Okay, thank you very much for your testimony. Seeing no questions, thank you much for coming down today. Mr. Shively, welcome back to the Government Committee. [LB1107]

DAVID SHIVELY: Trying to sit down here. Anyway, thank you, Senator Murante, members of the Government Committee. My name is David Shively, D-a-v-i-d S-h-i-v-e-l-y. I am the Lancaster County Election Commissioner and I am here today in support of LB1107. And I too would like to thank Senator Garrett for introducing the bill and Secretary Gale for pushing this piece of legislation. I go back a ways in elections now, I've been in the position for 16 years and I was on the election task force we had in 2001. That was basically established after the problems in the 2000 election in other parts of the country. I thought we made some really wonderful changes to election law that really helped us out during those first years before Congress passed the Help America Vote Act in 2000. And then I, through the federal law, was on the HAVA Commission for the state as well. And several things that we talked about, looking at our equipment and everything, has been an important part of the process. I think this is just something that can continue that. We continue to look forward, get to that point before we're in crisis mode...and I just would appreciate your support of this legislation and look forward to seeing this happen. [LB1107]

SENATOR MURANTE: Okay, thank you very much for your testimony. Seeing no questions, thank you for coming down today. Much appreciate it. Mr. Dix, welcome back. [LB1107]

LARRY DIX: Good afternoon, Senator Murante, members of the committee. My name is Larry Dix, spelled L-a-r-r-y D-i-x, here in support of LB1107. Certainly we appreciate Senator Garrett and the Secretary of State working on this. One of the unique things that we always find with elections, and why we're interested in this bill, is the preplanning that it takes to pull off an election. And our election commissioners in the state of Nebraska have done a tremendous job over the years and part of that is the working relationship that they have with the Secretary of State, how they participate together, work together, plan, work through many of those processes. And so we believe it's very, very important to get out ahead of the curve on this election equipment and the need for it. You heard from some of the election commissioners that, while we're not in crisis mode, certainly we have to do the proper planning. One of the unique things

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

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about elections is the elections will happen on a certain day, no matter what. It isn't like when you get close you say oops, we're not ready, let's move it a week down the road. It's going to happen on that day, so it does require a tremendous amount of planning. And I think this is a step in the right direction to get out ahead of the curve, look at how our elections are going to look in the future. You will note the executive director of Nebraska Association of County Officials is named in here. A little bit of background on that, previously, for a number of years of my career I worked in the election industry, so I have a pretty significant background in that area. I worked in a number of different states across the United States and I was interested in the gentlemen from Arkansas and I wanted to go up and introduce myself afterwards because we worked on certification of election equipment in the state of Arkansas. So with that, I would certainly be happy to answer any questions and I thank you for considering this bill. [LB1107]

SENATOR MURANTE: Thank you, Mr. Dix. I do have one for you. One of the policy questions that's going to be discussed over the next few years in this process is who pays for the elections and who pays for this election equipment. Now as you know, most of the political subdivisions in Nebraska reimburse the counties for their ballot space, but the state does not. [LB1107]

LARRY DIX: Correct. [LB1107]

SENATOR MURANTE: Do you have a background as to why that policy was established or how far back that goes? [LB1107]

LARRY DIX: Well, I think that goes quite a ways back, as far as political subdivisions reimbursing the counties for those ballot issues. When you look at that, there are many times when elections are held it is not necessarily a primary or a general, it is a special election, it is run only for the significance of that political subdivision. And I think in that situation they start to look at here is the significant amount of cost, not only just the paper that runs through the machine, but a lot of it is the programming and unique things that go on with programming of ballots. And so that's been there for a number of years. Certainly, when we get to the site of constitutional amendments, those can take up a significant amount of ballot space, but all of those costs really there is no reimbursement from the state on constitutional amendments or state-elected officials. But it's been that way for as long as I can remember. [LB1107]

SENATOR MURANTE: Okay, thank you. Seeing no additional questions, thank you, Mr. Dix. Additional proponent testimony? Welcome. [LB1107]

BRAD MEURRENS: (Exhibits 3, 4) Welcome, thank you. Good afternoon, Senator Murante, members of the committee. For the record, my name is Brad, B-r-a-d, Meurrens, M-e-u-r-r-e-n-s, and I am the public policy specialist with Disability Rights Nebraska, the designated protection

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

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and advocacy organization for persons with disabilities in Nebraska. I'm here today also to support LB1107. 15.6 million people with disabilities voted in the November 2012 elections. Almost one-third, about 30.1 percent of voters with disabilities reported a difficulty in voting at a polling place in 2012, compared to 8.4 percent of voters without disabilities. The most common problems reported were difficulty in reading or seeing the ballot or understanding how to vote or use the voting equipment. Among voters with disabilities, 6.5 percent used extra features or devices in voting such as large displays, magnifiers, lowered machines, and accessible voting machines. There was a wide range of problems reported in understanding how to vote or using the voting equipment, mostly concerning the technology. More general difficulties included being able to reach the machine, machine malfunctions, and difficulty operating the machine, for example: trouble pulling knobs or putting the indicators in the right box. In Nebraska, voter turnout by people with disabilities closely mirrored the turnout by people without disabilities, it's a difference of about 0.7 percent. LB1107 is needed. For many people with disabilities in Nebraska, election technology and/or voting alternatives may be the only way for them to be able to exercise their constitutionally guaranteed right to vote. Much like a car needs to have a periodic assessment and review of its systems, a tune up or oil change if you will, so should Nebraska's election technology. But where the car analogy breaks down is that one might have alternative modes of transportation. For example, take a bus, get a bike, call a friend and catch a ride. But for many Nebraskans with disabilities in particular, there are no other suitable alternatives other than using technology to vote independently. We are pleased to see that the impact of election technology and alternatives used by people with disabilities has been given heightened scrutiny within this legislation. We further appreciate that this ability advocates and individuals with disabilities will be included in the initiative membership. Under our authority, given by the protection and advocacy for voting access legislation, if asked, Disability Rights Nebraska is ready and willing to participate on the election technology initiative and is prepared to share our expertise regarding voting and people with disabilities. As such, we recommend that this bill be advanced. I'd be happy to answer any questions that you may have. [LB1107]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down today. [LB1107]

BRAD MEURREANS: Thank you. [LB1107]

SENATOR MURANTE: Much appreciate it. Ms. McLarty, welcome back to your committee on Government, Military and Veterans Affairs. [LB1107]

BRI McLARTY: Yes, well thank you for having me. Sorry, I'm fighting a cold. 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 here in my capacity as the director

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

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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. Nebraskans for Civic Reform would like to express our support for LB1107, and thanks to Senator Garrett for bringing forth this proposal to create the Nebraska Election Systems Initiative. While this proposal bears a striking resemblance to a legislative resolution Senator Hansen brought forth, it does go beyond that resolution's focus and opens discussions to alternative methods of running elections, something Nebraskans for Civic Reform has attempted to do piecemeal by bringing forth specific legislative proposals before this committee. But we are excited that the Secretary of State is willing to add a task force that can explore these options and more. In the Legislature we are of course limited to discussing and evaluating policy decisions. This task force could provide a mechanism for public discourse on incorporating technology in our elections like electronic poll books, availability of on-line sample ballots, and electronic reminders on election day via text message or e-mail, all of which could be decided within the Secretary of State's Office as they administer and conduct elections. We do have some reservations on the language, specifically the language defining the scope of the initiative and the individuals appointed. As for the language delineating the scope, we feel it fails to encompass other components of election administration that need to be considered if alternative methods like conducting elections exclusively by mail are endorsed. If the alternative method of elections conducted exclusively via mail is seriously pursued, modernizing our election registration system, as well as how elections are conducted in the actual like casting a ballot side, should be considered just because if we're going to do something like all-mail elections, having a different modernization of our election registration or voting registration to keep updates and make it easier for people to update their information, especially if ballots are going to be mailed out. We do believe that since it does have the broad catch-all phrase including, but not limited to, this in theory could prompt these necessary discussions. But we just wanted to make it clear and kind of bring it up for the record that these should be discussed tangentially with alternative methods of voting. Secondly, in our discussions with members of the disability community and advocacy organizations when drafting LR403, Senator Hansen's bill, some specifically asked that language be added to not have just one individual with a disability, but to have two, just because some of the needs that come with say, a visual disability or a speech or physical or hearing disability, those experiences are so uniquely different that having two may just make sure that we have...kind of cast a wider net and incorporate more experiences into the discussion about alternative methods of voting. So we would suggest that similar language be added to the bill to incorporate two individuals, as opposed to just one. Furthermore, the language specifically in Section 1, Subsection (2)(c) specifies that the initiative shall study the impact of alternative methods and equipment "on disabled, minority, and young voters," yet on the membership list in the following section it doesn't explicitly include the appointment of a young voter, but it does someone of the disability community and the minority community. So we would just suggest that that might be an amendment that the committee may be interested in including, just because when you talk about student voters who are registered to vote, as they legally are allowed to in their permanent

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

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address, if we went to something say, all-mail elections, they would be mailed a ballot but if their student address is say in Lincoln when they're from Ainsworth, their experience with that would be something that I think would be very helpful to the initiative in discussing. And so we just would suggest that that be an amendment that's included. And it's also our hope that the Secretary of State's Office would open up applications to serve on this initiative, so that a wide array of individuals of varying backgrounds are considered and true diversity of opinion and experience come together to examine all possibilities, that can report concrete and achievable recommendations to the Legislature for their consideration. So thank you for the opportunity to share thoughts, and I'd be happy to answer any questions. [LB1107]

SENATOR MURANTE: Okay. Are there any questions? Seeing none, thank you very much for coming in today. [LB1107]

BRI MCLARTY: One of the easier ones, thank you. [LB1107]

SENATOR MURANTE: Much appreciate it. Is there additional proponents wishing to speak on LB1107? Are there any opponents? Is there any neutral testimony? Senator Garrett. [LB1107]

SENATOR GARRETT: Thank you, and I'll be brief. I'd like to thank all the folks that came out as proponents. This is something I think we're all in agreement and I think we can tweak it a little bit with amendment in committee. And boy it would be really nice if we could get it on consent calendar, but we'll have a discussion on that. And whether we ever get to consent calendar would be (inaudible), but no. [LB1107]

SENATOR MURANTE: We had some threats about that this morning, so we'll see where we go. [LB1107]

SENATOR GARRETT: Indeed we did. All right, any questions? [LB1107]

SENATOR MURANTE: All right, any final questions? [LB1107]

SENATOR BLOOMFIELD: Do you have any letters to be read in from Wayne County? [LB1107]

SENATOR MURANTE: From Wayne County? No, I think I have every other county in the state, but not Wayne County. [LB1107]

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

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SENATOR BLOOMFIELD: Okay. I got a letter from the county clerk at Wayne County. If the committee would like a copy of it, I'll make it. [LB1107]

SENATOR MURANTE: (Exhibits 5, 6, 7, 8, 9, 10, 11, 12) In support? Okay. Well, in addition to that letter, we have the following letters in support: Kristin Mayleben-Flott of the Nebraska Planning Council on Developmental Disabilities; Rebecca Rossell, the Lincoln County Clerk and Election Commissioner; Janene Bennett, the Otoe County Clerk and Election Commissioner; Brian Kruse, the Douglas County Election Commissioner; Joann Fischer, the Knox County Clerk and Election Commissioner; Diane Olmer, the Platte County Election Commissioner; Mary Eickhoff, the Richardson County Clerk and Register of Deeds; and Karla Zlatkovsky, the Dawson County Clerk. And that's it. [LB1107]

SENATOR GARRETT: Get her done. [LB1107]

SENATOR GROENE: I got a question, I'm not ready to go home. [LB1107]

SENATOR MURANTE: Yes, Senator Groene, what can we do for you? [LB1107]

SENATOR GROENE: Thank you, Senator Murante. Instead of a military veteran, one of the minorities that's been affected by the elections lately the most, which I haven't heard out of the advocacy groups for elections yet, is the active duty serviceman who is stationed out of state across the oceans, his vote not getting back and counted. Would it be better to have somebody on here instead of a military veteran, because he's just either he's a citizen or handicapped. Somebody from the military to address... [LB1107]

SENATOR GARRETT: Still on active duty? [LB1107]

SENATOR GROENE: Yeah, to address the... [LB1107]

SENATOR GARRETT: I'm wondering...you know, there's a prohibition from being on active duty to being involved in any political process or anything. [LB1107]

SENATOR GROENE: But look with somebody with experience with that, because that as a minority, the last couple presidential elections who have been effected the most that their vote is not counted. [LB1107]

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

Government, Military and Veterans Affairs Committee  
February 24, 2016

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SENATOR GARRETT: Very, very true. And as a military veteran, I can tell you that, you know, absentee ballots were...they made a real good effort for folks to get there, but if you're in a combat zone, it's a lot more difficult. But I think a military veteran should be able to... [LB1107]

SENATOR MURANTE: We just created a military and veterans commission, so maybe that would be a... [LB1107]

SENATOR GROENE: Because we're the government and military, we need a veteran on everything just to balance things? [LB1107]

SENATOR GARRETT: Absolutely. [LB1107]

SENATOR MURANTE: Thank you, Senator Groene. Any final questions? Seeing none, that closes the hearing on LB1107 and ends the public hearings for the day. Thank you, everyone. [LB1107]