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Government, Military and Veterans Affairs Committee
March 16, 2017

[LB163 LR15CA]

SENATOR MURANTE: The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Thursday, March 16, 2017, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR15CA and LB163. Senators present: John Murante, Chairperson; Tom Brewer, Vice Chairperson; Carol Blood; Tom Briese; Joni Craighead; Mike Hilgers; John Lowe; and Justin Wayne. Senators absent: None.

SENATOR MURANTE: (Recorder malfunction) My name is John Murante, I'm the state senator for District 49 and the Chairman of this committee. We are here today for the purposes of conducting public hearings on two bills. We'll be taking those bills up in the order in which they appear on the agenda outside of this room. If you wish to testify in any of the matters before us, we ask that you fill out one of these green sheets of paper which are located on either side of the room. If you are here and wish to demonstrate your support or opposition for either of the bills before us but you do not wish to testify, we ask that you fill in one of these sign-in sheets; again, they are 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 proceedings is that the introducer will be given an opportunity to open. Then we will listen to proponent testimony, followed by opponent testimony, then neutral testimony, and the introducer will be given an opportunity to close. We ask that you listen very carefully and to try not to be repetitive. In the Government Committee, we do use the light system. Each testifier is allotted four minutes to speak. When the yellow light comes on, you have one minute remaining and we ask that you begin concluding your remarks. When the red light comes on, your time has expired and we will open the committee up to any questions that they may have of you. At this time, I would like to encourage everyone to turn off or silence any cell phones or other electronic devices, anything that makes noise. I would advise everyone in the audience that this is a committee that is equipped for technology, so you may see members utilizing laptops, iPhones, and things like that. I can assure you they're focused on the matter before us and are researching the issues that are on the table. If you have a prepared statement or exhibit or anything you'd like to have distributed to the committee, we ask that you provide 12 copies to our page. If you don't have 12 copies, just provide what you have to our page and he will make copies for you. And our page for the day is Joe Gruber; Joe is from Omaha. And with that we will proceed to the introduction of members. On the far left is Sherry Shaffer. Sherry Shaffer is the Government's Committee's clerk. To her right is State Senator Carol Blood; Senator Blood represents Bellevue. To her right is Senator Joni Craighead; Senator Craighead represents Omaha. To my immediate left is State Senator Justin Wayne; Senator Wayne also represents Omaha and he will be with us shortly. To my immediate right is Andrew La Grone; Mr. La Grone is the Government Committee's legal counsel. To his right, State Senator Tom Brewer from Gordon, Nebraska; Senator Brewer is the Vice Chairman of this committee. To his right, Senator Mike Hilgers; Senator Hilgers is from Lincoln, Nebraska. To his right, Senator Tom Briese; Senator Briese is

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from Albion. And on the far right is Senator John Lowe; Senator Lowe is from Kearney. And with formalities having been dispensed with, we welcome back Senator Morfeld to your Committee on Government, Military and Veterans Affairs.

SENATOR MORFELD: There's only two bills today. [LR15CA]

SENATOR MURANTE: We wanted to give you all the focus and attention that you deserve, Senator Morfeld. [LR15CA]

SENATOR MORFELD: Well, good afternoon, members...Chairman Murante and members of the Government Committee. My name is Adam Morfeld, that's A-d-a-m M-o-r-f-e-l-d, representing the "Fighting 46" Legislative District here today to introduce LR15CA in response to Senator Murante's wonderful LR1CA. So I introduced this in response, not because I necessarily think that any amendment to the constitution to prevent voter ID...the state constitution, is absolutely necessary, but rather when I saw Senator Murante's proposed constitutional amendment, I thought that instead of leaving it open ended, voters should know what they're voting for and deciding on rather than then punting it to the state Legislature. Now, obviously, if Senator Murante would have prescribe this specifically what kind of voter ID law there would be or wouldn't be, he would probably include one where there would be a voter ID law; mine is the converse because I don't believe that we should have voter identification laws. So to start out with, first, I think it's important to note that in the federal constitution the right to vote is constitutionally protected, not explicitly, except on the basis of race, but rather it's been interpreted that way through the Fourteenth Amendment--equal protection clause; the Fifteenth Amendment banning discrimination based on race; and then also the Twenty-fourth Amendment banning poll taxes. There's also due process implications that come into play as well. Now what's interesting in Nebraska is that we have one of the most stringent constitutional protections of the right to vote, more so than any other state. Missouri is actually fairly close; we almost have identical language. I think ours is Section 21 of our constitution; theirs is Section 22. So I don't know if they were just copying notes or doing whatever at the same time at their constitutional convention, but they're very similar. And it's important to note that because some of the rulings that people bring up on the floor of the Legislature in terms of supporting voter identification, don't take into account...and these are federal court rulings, like Crawford, they don't take into account Nebraska State Constitution because they're based on other states that do not have the more stringent protection of the right to vote. Now, I think it's important to also note that states can enact constitutional amendments that are more stringent and protect certain rights more so than the Federal Constitution as long as they do not come into conflict with the federal constitution or they do not narrow that constitutional right provided for in the constitution. That's exactly what Article I, Section 21 of our constitution does and it states "all elections shall be free and there shall be no hindrance or impediment to the right of a qualified voter to exercise their elective franchise." It's fairly clear, fairly specific. And unlike one of our constitutional officers

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that appeared before you today...or not today, but several weeks ago, or maybe it was last week, I can't even remember, I have so much fun with Senator Murante on the floor that it all kind of blurs together, but I think that, from what I understand, is he stated that the right to vote is not actually a right, but rather a privilege. And that's just not true. And, you know, it's disappointing coming from our chief election officer, and it's also even more disappointing coming from somebody who is a licensed attorney. But Black's Law Dictionary of a constitutional right is...and I'll just quote: this term is given to a right that has been guaranteed by the United State Constitution or a state constitution that cannot be violated by the laws or Congress. Now I won't bore you with the definition of what a right is. I think we all understand that. And I think that it's important to note that, number one, the right to vote is protected under the federal constitution. Number two, it's protected under our state constitution even more stringently than the federal constitution. And then also, number three, while these are seemingly innocuous requirements, I mean, I think a lot of us can probably pull out our wallet right now and pull out one or two forms of identification. Depending on what the state legislatures actually enact, like for instance, Senator Charlie Janssen's first voter ID bill that was introduced in Nebraska Legislature, since I can remember, it required that it not only be a photo identification but one with their current and valid registered address. Now, if you go into a classroom full of students, and I talk to a lot of them because I represent the University of Nebraska-Lincoln area, and ask them--how many of you have an ID? A lot of them will raise their hand. They'll put it up. How many of you have an ID with your current and valid registered address? You'll see about, maybe a third to maybe half the hands still go up. So these ID laws are generally not as broad as people think. It's not just any state issued ID with your face on it and your name, oftentimes they're very specific. And in the Nebraska Legislature, they've often been fairly specific and fairly narrow. And that's what particularly impacts people that are highly mobile, whether they be young or young professionals or low income; or on the other end of the spectrum, the least mobile, so people with disabilities, people who rely on other forms of transportation in order to get from point A to point B. And there's plenty of federal case law from both conservative and more traditionally liberal circuits and districts that have detailed, in depth, some of these individuals and these plaintiffs that are impacted disproportionately and have, quite frankly, after three, four, five times trying to get the right ID, just gave up, because in some cases it was a three- or four-hour deal each time. And so with that noted, I think that it's also important to talk about what's required to infringe upon a constitutional right. And in order to infringe upon a constitutional right, there has to be a compelling state interest. And in order for there to be a compelling state interest, there has to be a threat to the public that is not just theoretical, but rather documented and real. So it can't just be...oh, well, you know, protecting the right to vote and the sanctity of voting is really important. Well, that's great, but there has to be an actual documented reason as to why there's a threat to the right to vote. And there has to be evidence basing that. And I'm not just making this up, this is the different analysis that federal courts look at when they're looking at whether or not an infringement upon a constitutional right, which we've already established is in the state of Nebraska, whether or not that's justified by the state, justified by a compelling state interest. And

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so in Nebraska that simply does not exist. Now there has been a few stories in Nebraska of certain types of voter fraud happening. But none of them have been voter impersonation. And I think that it's really important to note that voter ID only protects against voter impersonation. And so when you see a headline, oh, person registered to vote who shouldn't have, voter fraud, we need voter ID, that's not what this is getting at. That's not the solution to that kind of problem. And in fact, sometimes what we see is people who have lawful legal status here but are not citizens accidentally check that little box at the DMV and suddenly they're registered to vote and they're like, oh shoot, I actually want to get off the roll. And so sometimes that happens. There's also been times...I know there was a Canadian and I think it was in Council Bluffs, who in Canada they can actually in some providences documented legal immigrants can actually vote in some of the local elections. And they voted thinking, well, that was the case in Iowa, which, obviously, it was not; and in most cases in the United States it's not. There are some municipalities that are allowing documented legal immigrants to vote in their local elections, but not in Council Bluffs. So I think it's important to note that voter identification only protects against voter impersonation. And there's a reason why this is one of the most rarest forms of fraud, and I'm happy to get all the different studies and bring those to you and hand those out, I didn't want to kill three trees here today, but I can provide those studies to you. You're more likely to get struck by lightning twice than be a victim of voter impersonation fraud. And I think that you have to walk through why this is so rare. So let's say that I want to impersonate, well, let's say Senator Hilgers. Let's say I want to impersonate Senator Hilgers and really, quite frankly, it's only because of proximity, he doesn't live that far away from my district, and so it's just more convenient for me. So first I have to go into the voter registration database, put their correct information in so their name and then their address and then find out who they are...or not who they are, but where their polling place is. So then I go to their polling place. Then I have to show up in person in front of a few different election officials, among some neighbors and some other people, say that my name is Mike Hilgers; hope that that poll worker doesn't know who Mike is, which I doubt they would, and then, just kidding, I'm sure they would know who you are, they didn't know who I was when I walked in. But any case, and then you have to hope that that poll worker doesn't know who that person is that you're impersonating or know who you are, for that matter as well. Then you have to hope that the actual voter doesn't come in after you and say, hey, because if Mike then shows up and I've already voted for him, Senator Hilgers is going to show up and say my name is Mike Hilgers, I'm here to vote and the election worker is going to say--oh, well you've already voted, Mr. Hilgers. Now, Senator Hilgers isn't just going to walk away and go, oh, I already voted, my bad, I must have forgotten that earlier in the day when I got my Starbucks coffee. No, what's going to happen is that's going to alert both Senator Hilgers that somebody, one, has impersonated him; and then, number two, the election worker that's something is up. We don't hear of those cases happening. And I bet if we heard of those cases happening that would get reported up, because that's fairly egregious and most voters wouldn't stand for that and would file a complaint, if the election worker hadn't already taken care of it. And then also, I think that we also have to hope that many of these polling locations,

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particularly in urban areas, which is where people are most concerned about, a lot of these polling locations have cameras and they have film, whether it be at the local church or at the school or whatever the case may be. So then we would be able to then investigate who that person is that impersonated and find out who that is. Finally, so...and then you have to repeat that over and over to actually swing the outcome of the election, unless you're in Senator Kolowski's district or somewhere else where, you know, it was fairly close in some elections. Finally, the other reason why we know voter impersonation is not a problem is because we have one of the largest sample sizes to study this issue in the entire country of any research study and it's called the American election, particularly presidential elections that are hotly contested, we have millions and millions of people show up. And if people were being impersonated, people would know about it, or at least a few would figure it out when they showed up to vote and were told that they already voted. We don't hear about it. Voter impersonation is not a problem because, number one, it doesn't pay off if you want to swing an election and it's tough to get away with in many of these areas. And number two, we have a large sample size--every four years, usually every two years, and in some cases during local elections even more. I think it's also important to note that some, including folks on this committee, I know, and out in the public have said...or at least compared the need to produce an ID for certain day-to-day activities to the fundamental constitutional right to vote and producing an ID for that. And one of the things that people bring up is flying. Well, we produce identification for flying because there is a noted problem with terrorism and people hijacking planes and there is a security risk, there's a compelling state interest. Also, most importantly, flying is not a constitutional right. Senator Blood, you do not have a constitutional right to fly, I'm sorry, nor do I. Prescription drugs, well, there's compelling state interest to monitor prescription drugs because we have an overwhelming problem with prescription drug abuse. In fact, we passed legislation, I think it was last year, to tighten that up. Also, reality check, getting prescription drugs is not a constitutional right. Alcohol, we need ID to buy alcohol. Well, there's a serious alcohol problem in many communities, in pretty much every community, and we have found that it's dangerous for people under the age of 21. Also, I think as shown in other states, earlier in the nineteenth century, alcohol is not a constitutional right. Cigarettes, same thing; public health issue, not a constitutional right; writing a check, same thing, not a constitutional right and there is a serious check fraud problem that we've experienced in the past and currently. I personally don't think that any amendment to the constitution to protect against voter ID is necessary. I think that our constitution adequately prohibits voter identification. And maybe that's the reason why Senator Murante introduced his constitutional amendment...or his proposed constitutional amendment. That being said, this committee is going to pass out a constitutional amendment concerning the right to vote and concerning the production of photo identification...or identification of any kind. I think the voters should be confronted with an amendment that is more specific and is an amendment that they understand, they know what's going to happen after they either vote yes or no on that. And when it comes to the fundamental constitutional right to vote, there must be a compelling state interest before we infringe upon it. And the data shows and our experience shows that there is not a compelling

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state interest because there is not a voter impersonation problem. I'd be happy to answer any questions that you may have. Thank you. [LR15CA]

SENATOR MURANTE: Thank you, Senator Morfeld. Just a couple of thoughts. And first, let me say, you and I think fundamentally disagree on the issue of voter identification. [LR15CA]

SENATOR MORFELD: Um-hum. [LR15CA]

SENATOR MURANTE: On a personal level, I talk with you enough about this particular election policy and election policies broadly, I think that...although it is a reasonable disagreement, I don't take any sort of personal offense to the disagreement. I think you're a person...and maybe not a lot of people know it, but when election bills come out of this committee, over the past few years, you are among the members of the Legislature who have ensured that they're thoroughly vetted and by the time they get to the floor, traditionally, they don't have a lot of opposition... [LR15CA]

SENATOR MORFELD: No. [LR15CA]

SENATOR MURANTE: ...because we've been able to work so well together to make sure that what comes out of this committee is as broad base commonsense support. So with that said, I understand it's just a reasonable policy disagreement. [LR15CA]

SENATOR MORFELD: Agreed. Thank you. [LR15CA]

SENATOR MURANTE: One, I wouldn't call it a correction, but when I believe when Secretary Gale was speaking a couple of weeks back, what I understood him to say was he clarified his statement about whether voting was a privilege or a right to suggest that it's not an absolute right, that the Legislature can place certain conditions on voting such as being 18; we've discussed earlier this year whether there should be a waiting period for felons to vote; we place certain conditions on whether or not people can vote. And so it is not an absolute right insofar as there's nothing the Legislature can do to regulate it. I think you'd probably agree with that statement at least. [LR15CA]

SENATOR MORFELD: There is no such thing as absolute rights. [LR15CA]

SENATOR MURANTE: Okay. [LR15CA]

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SENATOR MORFELD: But I...and again, I was...I heard secondhand from three or four people and so... [LR15CA]

SENATOR MURANTE: He did say that initially, but I think he clarified it to say it's not an absolute. [LR15CA]

SENATOR MORFELD: Okay. There was clarification. Good to know. [LR15CA]

SENATOR MURANTE: Third, the way your constitutional amendment is drafted would, in my view, invalidate a number of election laws that currently exist and...including some election laws which you and I have worked on together (inaudible) not to pass, which is to say it's not photo identification that's being banned, but any identification at all cannot be required to vote. Is that your intention to go that far, or...what was your intention with opening it that much? [LR15CA]

SENATOR MORFELD: Well, and after...I'm glad that you brought that up, Senator. And after reading through it, as you know, we all introduce things and we start to think about them and make changes, for instance, as we all know, when we register to vote for the first time we have to show current, pursuant to federal law, some proof of residency. Well, this could be interpreted as trying to usurp federal law. I mean, I think that I would be amenable to an amendment, particularly if this committee is really excited about passing this onto the floor. I would be amenable to an amendment that would clarify that, and, particularly, one that would specify and narrow it to just photo identification. [LR15CA]

SENATOR MURANTE: Okay. And finally, for you just to demonstrate how open minded of a person I am, I'm willing to make a compromise with you right now. (Laughter) [LR15CA]

SENATOR MORFELD: Oh, I'm ready. (Laughter) [LR15CA]

SENATOR MURANTE: What if you and I were to agree right now that we were to put both LR1CA and LR15CA on the ballot and see which one the people of Nebraska vote for? Is that a compromise you'd be willing to make? [LR15CA]

SENATOR MORFELD: No. (Laughter) [LR15CA]

SENATOR MURANTE: Fair enough, Senator Morfeld. [LR15CA]

SENATOR MORFELD: Thank you for being willing to compromise. [LR15CA]

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SENATOR MURANTE: Senator Blood, then Senator Craighead. [LR15CA]

SENATOR BLOOD: In that order, is that what you just said? [LR15CA]

SENATOR MURANTE: Yes. [LR15CA]

SENATOR BLOOD: Thank you, Chairman. Actually, I have several questions. [LR15CA]

SENATOR MORFELD: Okay. [LR15CA]

SENATOR BLOOD: Personally, I wish there was some kind of chemical reaction where if one was an opponent on an issue and one was a proponent that they just canceled each other out and we'd be done because I hate messing with the constitution; but that's not going to happen. So here's my questions. [LR15CA]

SENATOR MORFELD: Yeah. [LR15CA]

SENATOR BLOOD: In your personal opinion and based on your research, do you feel that voter ID would have the same effect as the poll tax did back in the '50s and '60s, and before that? And if so, why? [LR15CA]

SENATOR MORFELD: So first off, yes. There has been and it depends on how the state crafts the law. And that's what concerns me about Senator Murante's constitutional amendment, in particular, is that it leaves it open ended to the Legislature. Now, some legislatures have said, we're going to pay...actually most now have said, we're going to pay for whatever identification needs that we require. That being said, oftentimes, particularly for the elderly and particularly for the young and who, in some cases, like I did, move two or three a year because we're moving from dorms and doing all that. That...transportation costs, the cost to get your birth certificate, the cost to get...whatever the documentation leading up to that identification, in my mind, is a poll tax. So I think almost all photo identification laws are in some way a poll tax, whether it be directly or indirectly. [LR15CA]

SENATOR BLOOD: So if I hear you correctly, in the fact that it creates an additional hurdle. [LR15CA]

SENATOR MORFELD: It creates an additional hurdle which often costs money. Yes. [LR15CA]

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SENATOR BLOOD: And disenfranchises the poor, the disabled, the elderly. [LR15CA]

SENATOR MORFELD: It's been well documented in federal court cases that it has. [LR15CA]

SENATOR BLOOD: So why do you think...so that was one of four...so why do you think that opponents to this bill believe voter ID is a solution to what is apparently a nonexistent problem? [LR15CA]

SENATOR MORFELD: I think that there has been a myth of voter fraud that has been spread by certain political entities that has created, among well-meaning people, both legislators and otherwise, to believe that this is a problem that we need to address and that this is a solution. For instance what will happen, I'll give you an example, what will happen in Virginia, several years ago, the Attorney General, right before their election, came out and said--look, we found 150 dead voters...150 dead voters that voted. And so the headlines all over the state were--dead voters voted. When they actually did the research, and there was a group of people that did the research and that looked into each one, and actually I think it was the Attorney General's Office themselves that did the investigation, they found out that what happened was people who were mostly elderly voted by mail or voted early before the election and then they died before the election; but they still cast their ballot legally. And that's what they found out actually happened because they were looking at--were they dead on the day of election and did they vote? And so I think that advocates for voter ID that want to push this, that I think know better, have disseminated these different little incidences without telling the entire story, and in some instances the news media has helped perpetuate some of those incidences because rarely do you see the follow-up article headline of, oh, dead voters didn't vote, that's not sexy, it doesn't sell papers anymore, I guess. But in any case,...and then that has created an aura and perception among the common public and some legislators, who I think are well meaning...I'll put Senator Murante in that category...in to introducing these...I heard that Senator Lowe...(laughter) in to introducing some of these laws. So I...yeah. [LR15CA]

SENATOR BLOOD: So I know that like...I guess it was 2012, South Carolina tried to do that and didn't the justice department step in? Do you... [LR15CA]

SENATOR MORFELD: Yeah. [LR15CA]

SENATOR BLOOD: And what was their reasoning for stepping in and saying you cannot do this; you can't...? [LR15CA]

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SENATOR MORFELD: Yeah, well, and 2012 was several years ago, so I have to go back to the original case and claim on justice department side, but in 2012 they found that there would be a disproportionate impact among traditionally disenfranchised populations for a few different reasons. And one thing that I should note is that since then the voting rights act has been significantly weakened, so now it falls on, not the Department of Justice to do preclearance, but rather the federal courts and advocacy organizations. [LR15CA]

SENATOR BLOOD: And so lastly, especially with the demeanor what it is right now in Washington, D.C., we have a lot of naturalized citizens in Nebraska. Do you think that they would find voter ID intimidating? [LR15CA]

SENATOR MORFELD: You know, I can't speak for them. I would say that many naturalized citizens, I have a lot of immigrants and refugees, particular in my district, and so I get to know them and I work with them. A lot of them are of limited means. And this type of...depending on what the Legislature would pass under Senator Murante's bill, or if we just take care of the problem with my constitutional amendment, it could be very burdensome for them. And I know that many of the immigrants and many of the refugees, who I think will eventually have citizenship status, come from countries where interacting with the government is not a pleasant experience and something they often try to avoid. So could be. [LR15CA]

SENATOR BLOOD: So 4.2 is...why do you and Senator Murante want to mess with the state constitution? Why don't you guys just like call a truce and get it over with? [LR15CA]

SENATOR MORFELD: I am more than happy to go on the floor and withdraw my constitutional amendment if Senator Murante agrees to withdraw his. [LR15CA]

SENATOR MURANTE: I like my compromise better. (Laughter) [LR15CA]

SENATOR MORFELD: Thank you, Senator. [LR15CA]

SENATOR BLOOD: Thank you. [LR15CA]

SENATOR MURANTE: Senator Craighead. [LR15CA]

SENATOR CRAIGHEAD: Thank you, Mr. Chairman. Thank you for introducing this legislation, Senator Morfeld. I just have a question, you were talking about, obviously, they're not constitutionally...what was the word you used...amendments, but... [LR15CA]

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SENATOR MORFELD: Yeah, yeah. [LR15CA]

SENATOR CRAIGHEAD: Okay, so we have to have an ID for tobacco, alcohol, flying, cashing a check, any form of welfare, SNAP benefits, you know, we have to have a check...or we have to have an ID for everything, disability benefits, whatever, Social Security benefits, so I guess I'm looking for why this is the one thing that we don't when we have to have it for everything else? [LR15CA]

SENATOR MORFELD: Yeah, because it's a constitutional right to vote. And when you put barriers that keep people from voting, who have that constitutional right, when there's no compelling state interest to do so because there's not an actual problem that that law would prevent that person from voting, then you're violating their constitutional right. And this is not just a perceived problem, this is not just a...oh, somebody may not be able to vote who is otherwise eligible, there are well-documented incidences...and I brought an article, I won't read through the article, of particularly elderly folks who tried multiple times to get the right identification because a lot of states have very specific identification that you need and were unable to and unable to vote. And these are, you know, these are citizens, these are veterans, these are...in one case in Illinois two nuns who didn't...they didn't have birth certificate because they were born out on a farm and they didn't have a birth certificate. And so...well, actually I think that was Wisconsin. And so...so that's why. [LR15CA]

SENATOR CRAIGHEAD: So if they're elderly, would it be possible that they probably have a Social Security card? [LR15CA]

SENATOR MORFELD: Some of them do. Actually, the gentleman in this story, in Texas, who was the plaintiff in the federal case, got struck down by the Conservative Court of Appeals, Fifth Circuit, actually he didn't have a Social Security card, and that was one of the problems. But oftentimes, elderly folks that I talked to that are homebound, they don't have a driver's...they don't drive anymore. Oftentimes what they'll have is they will have a really old identification card that has a previous address or something like that, and oftentimes, under most state photo identification laws, that's not acceptable. [LR15CA]

SENATOR CRAIGHEAD: How many people do you think...if...this is...I'm sure you're going to be just guessing at this, but how many people do you think this affects in the state of Nebraska? [LR15CA]

SENATOR MORFELD: You know, I know that there's some advocacy organizations that have looked at those numbers, but I haven't talked to them recently. Three years...four years ago when

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I was appearing before this committee opposing these types of things, I could have ran those numbers off the top of my head, but I don't do that stuff anymore. [LR15CA]

SENATOR CRAIGHEAD: Thank you. [LR15CA]

SENATOR MORFELD: Yeah, thank you. [LR15CA]

SENATOR MURANTE: Thank you, Senator Morfeld. And I just want to follow up on something Senator Craighead had said. You take a very passionate and principled stance that...and the exercise of people's constitutional rights that they should not have to show identification. I'm worried...I'm concern...I am interested to know whether you would apply that to the exercise of people's Second Amendment rights, as well. [LR15CA]

SENATOR MORFELD: So glad that you brought that up. I actually brought statistics because I thought either you or Senator Hilgers was going to do that. Yeah, I mean, so the difference with that, so, that's a perfect example and I left that one out because I was just waiting. I actually have it right here, that's (f), purchasing a handgun, right after writing a check. But, you know, the reason why the court has found that we can put some restrictions on the Second Amendment is because there's compelling state interest. And there's compelling state interest because we have very clear evidence, not just evidence, it's happening right now in some of our communities of gun violence which leads to a lot of deaths. From 1991 to 2013 alone, there was 743 homicides in the city of Omaha. That's an average of 34 a year. And so there's a well-documented problem with gun violence and so the Supreme Court has said there can be some reasonable restrictions on the ownership of guns, and one of those restrictions is having to show ID and go through a background check for handguns and other things. Now that being said, I think that there's a reasonable debate as to whether or not that actually prevents gun violence. But the Supreme Court, because there's an actual identifiable problem, and in Omaha's case--743 homicides from 1991 to 2013, the Supreme Court has found that there can be some reasonable restrictions. Now, if there are 743 well-documented...not even well-documented, but documented and prosecuted incidences of voter impersonation in the state of Nebraska, then I'll probably be the first one at this table trying to figure out a solution on how we make sure that people have what they need to prove who they are and is as least burdensome while still addressing that compelling state interest. But we don't have that problem. [LR15CA]

SENATOR MURANTE: Senator Hilgers. [LR15CA]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Mr. Morfeld, for your presentation; always appreciate listening to you on these issues...and other issues. On your last point, which I think is a critical point, because this is not a bill, this is a constitutional

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amendment. And so part of what I hear is in opposition to voter ID based on...based in part on the lack of data to support proponents argument that there's fraud. And you sort of suggested that at the end, maybe more than suggested, that said, hey look, if there is demonstrable evidence and it's good data, then my position might change, to some degree, so why should we...by enshrining this in the constitution, your constitutional amendment, we essentially take that policy tool out of the toolbox for a future Legislature if the data does change. So there's some folks who don't need that additional data to think that it's important. But let's say in five or ten years, if the world looks like it, as you described it hypothetically, why should we put that in the constitution rather than through legislation? [LR15CA]

SENATOR MORFELD: Honestly, I mean I'll be perfectly honest with you, Senator, it's a great question. I don't necessarily think you should pass this out of committee. I think that this, for me, is about starting alternative conversation of why do we need to have photo identification in the first place? That being said, if you're going to pass anything out of committee that would require ID, I would hope that the voters would know exactly what the end result is; which Senator Murante's constitutional amendment...proposed constitutional amendment does not provide, it punts it back to the Legislature. So you bring up a good point. Like I said, I don't actually think that this is necessary at this point, but I think it's an important conversation to have. And I think it's an important conversation for me to have with all of you as the committee that decides on these bills whether they advance from committee or not. And I'm hoping to swing a few of your votes today before you vote his out of here, unless you already did that and it's not reported. (Inaudible). [LR15CA]

SENATOR MURANTE: We're waiting on you, Senator Morfeld. [LR15CA]

SENATOR MORFELD: So kind of you, Senator. [LR15CA]

SENATOR HILGERS: A follow-up...a question, on a slightly different conversation, but I think it's an important one, because they can (inaudible) some of the questions that Senator Craighead had asked is this idea that in whole other parts of our society, you need some sort of identification in order to take part, a bank account is a great example, but it's not the only one. And so I take your point to say, well, this is a constitutional right so it's different. But shouldn't the focus really be on, because society is where it is, we need identification of some kind in order to participate in all these opportunities, shouldn't the focus be on making sure folks have this minimum threshold to prove their identify rather than saying...and then apply that to other instances like voting than saying no, no, no, let's just not require any identification of any kind in the voting context, shouldn't that be the focus? What's your sense on that conversation? I mean, what... [LR15CA]

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SENATOR MORFELD: Yeah. No, it's a good question. And, I mean, so in an ideal world, everybody would have access to identification because it helps them with a lot of other things. I mean, we've got a bill in Judiciary right now that would give free state-issued identification to inmates that are getting out of the judicial system because it's so important for them to have identification and it's really hard for some of these guys and gals to get this type of identification once they're transitioning out. So yeah, in an ideal world, we'd all have easily accessible identification and this wouldn't be an issue. But the reality is, is that we have increasingly made it tougher and tougher to get identification, particularly because of concerns of many states because of immigration, for better or for worse, and that has also made it tougher for citizens who have the right to vote to get that identification. And then oftentimes the states, and I can go through the states, pass photo identification laws for the purposes of voting that are very narrow and very stringent. And so, yes, in an ideal world, it would...photo identification that was up to date would be easily accessible and that this wouldn't be that big of deal. But the problem is, is that it's not easily accessible; it's often very hard to get, particularly for certain demographics, and then also it's proven to turn people away who have the right to vote who should be voting. [LR15CA]

SENATOR HILGERS: What if Senator Murante's constitutional amendment was passed and it gives it to the Legislature and the Legislature said we'll just do whatever...it's not photo identification, whatever identification that you would need to show to register, you need to show that when you vote. How would you feel about that? [LR15CA]

SENATOR MORFELD: Well, I'd feel a lot better about it. I would have to see what the legislation would actually be. I'll tell you right now though, I've been working on these issues...I mean, I've been working on these issues for ten years now and...which is a third of my life, and those are generally not the pieces of legislation that are introduced and proposed here. So I'm highly skeptical of putting it in the constitution. [LR15CA]

SENATOR HILGERS: But as a (inaudible). [LR15CA]

SENATOR MORFELD: As a, yeah, as a theoretical, yeah, I mean, if you did HAVA requirements, which is utility bill, bank statement, I mean it's...I think there's 15 different documents. I'd be less opposed to it. I'd still question the need for it, but I'd be less opposed to it. And...I'd be much less opposed to it. I'm not going to commit to anything because, again, I don't think that until there's an identifiable problem you should restrict the right to vote. [LR15CA]

SENATOR HILGERS: So I take your hypotheticals about, you know, well, it would require these incredible burdens for someone to just falsify one person's vote. [LR15CA]

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SENATOR MORFELD: Um-hum. [LR15CA]

SENATOR HILGERS: But aren't there counter-hypotheticals that actually if someone was sophisticated and savvy, they wouldn't be doing it around the country, they would focus on a place where it would really matter. You can get, as you know, long lists of all the voters, you can crunch data and find, hey, here's the 200 people that have moved or passed away or...I know that all the issues you talked about, those concerns...those hurdles to (inaudible), I mean, is it...can't you construct other hypotheticals that show that it could be easier in other instances. [LR15CA]

SENATOR MORFELD: Certainly, you could construct other hypotheticals, and particularly if somebody like you is doing it, I'd be a little bit more scared, I suppose. But, you know, I would also say that there are a lot of different ways that we can address those and identify those through things like what Senator Vargas has introduced this year; through other modernization practices that we're looking at as an interim study committee before this session. There's ways that you can identify those problems. We would know the people that moved or the dead voters or whatever people want to...all the hypotheticals people want to bring up, if we actually had modernized databases that were more robust and talk to each other. That would be a more effective and efficient way of identifying if there was a problem and if we actually needed to make some of these more burdensome requirements than just assuming that there could be a problem and violating people's constitutional rights. [LR15CA]

SENATOR HILGERS: Thank you. [LR15CA]

SENATOR MORFELD: Thank you, Senator. [LR15CA]

SENATOR MURANTE: Senator Lowe. [LR15CA]

SENATOR LOWE: Thank you, Chairman; and I appreciate it, Senator, for bringing the bill. Number one, that was probably the longest introduction I've ever heard on any of our bills and so you've won that award here today. [LR15CA]

SENATOR MURANTE: He wasn't here when Senator Brasch introduced the daylight savings bill. (Laughter) [LR15CA]

SENATOR MORFELD: I was going to say, I don't know if I really like that distinction. [LR15CA]

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SENATOR LOWE: I was still asleep at the point. You brought up a hypothetical about people probably couldn't be able to do this just because they would be caught. [LR15CA]

SENATOR MORFELD: Not that they couldn't be able to do it, but it would be unlikely and tough. [LR15CA]

SENATOR LOWE: It would be hard. As I was campaigning this year, I ran into a lot of people that said, yes, they are registered voters but they haven't voted in years. Could somebody not find out that they haven't voted in years and organize a group of 25 or 30 people to come in and vote in their stead, especially if they haven't voted, the precinct members didn't know them and they...just by talking to these people, could that not also happen? And then that would not be recorded as a problem because it goes undetected because they're not dead, they're not having other problems, there's no way to know, but they're still people, they don't vote, so they're not coming to the polls and finding out, well, I guess somebody voted in my place. I mean, hypotheticals are both ways. [LR15CA]

SENATOR MORFELD: Yeah, absolutely, Senator. I think it's a good hypothetical. I'd like to note that this is making it so the government doesn't mandate something based on our previous debate that we had yesterday. I'm trying to win you over, Senator Lowe. (Laughter) But, you know... [LR15CA]

SENATOR LOWE: You don't like my red votes. [LR15CA]

SENATOR MORFELD: In any case, to answer your question, I mean, certainly you could probably organize 25 or 30 people. I think it would be pretty tough to keep 25 or 30 people quiet on the issue, being as though they'd all be committing multiple felonies. The other thing too is, you know, if that was happening, we would eventually figure it out because somebody would eventually show up to vote and alert that we have a problem. Because when I say that we have the largest sample size in the entire country each election cycle it's because when you're looking at something like that, you're looking at that many people, somebody is bound to slip up, somebody is bound to go in and vote and say, wait, somebody already voted for me, what? I mean so, is anything likely? Sure, anything is likely. But my point is, is that we should not restrict fundamental constitutional rights until we know we have an identifiable problem. And there are plenty of mechanisms already in place to identify whether or not we have a problem. And not only that, there's plenty of things that we can do that are proactive to ensure that the system is more secure without actually disenfranchising people before we know that it's a problem--things like automatic registration, things like making sure that we have more modernized election systems that talk to each other. [LR15CA]

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SENATOR LOWE: Thank you. [LR15CA]

SENATOR MURANTE: Thank you. Senator Blood. [LR15CA]

SENATOR BLOOD: A couple of quick questions have come to mind hearing some of the conversation. And it's always Senator Hilgers' fault, by the way. (Laughter) [LR15CA]

SENATOR HILGERS: Blame the lawyer. [LR15CA]

SENATOR BLOOD: Do you...thank you, Chairman Murante. Senator, do you believe it is good policy for public servants, such as ourselves, to create any type of policy based on hypothetical situations? [LR15CA]

SENATOR MORFELD: That's a good question. [LR15CA]

SENATOR BLOOD: When the statistics show that there's not a problem and our own Secretary of State has come out and said there is no problem. [LR15CA]

SENATOR MORFELD: I appreciate you helping me out there. No, I mean I...when it comes to fundamental constitutional rights? No. I don't think it's good to create policy that would inhibit or impede upon fundamental constitutional rights when the issue that we're looking at addressing is only theoretical. That being said, I think in other areas, I think it is acceptable at times. But not with fundamental constitutional rights. [LR15CA]

SENATOR BLOOD: So to create good policy, as elected officials, then it's our job to create policy. It sounds like I hear you saying that it is good to have a strong foundation of facts before we ever create such policy. [LR15CA]

SENATOR MORFELD: Absolutely. Facts are always useful before we start violating constitutional rights. [LR15CA]

SENATOR BLOOD: And yet again I put one more plug in, are you sure you and Senator Murante can't just cancel each other out and come to terms. [LR15CA]

SENATOR MORFELD: Never know, miracles happen every day. [LR15CA]

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SENATOR MURANTE: All right, seeing no additional questions, thank you for your opening, Senator Morfeld. [LR15CA]

SENATOR MORFELD: Thank you. And just so the committee is aware, I have two other bills in Judiciary today, so I may have to waive closing. [LR15CA]

SENATOR MURANTE: Understood. All right, we'll proceed to proponent testimony on LR15CA. Proponents? Commissioner Boyle, welcome back. [LR15CA]

MIKE BOYLE: Well, thank you, it's always good to be here with you. I enjoy coming. My name is Mike Boyle, M-i-k-e B-o-y-l-e. I'm a former election commissioner, back 40 years ago; I'm a former mayor of Omaha, and presently a member of the Douglas County Board and I'm speaking here on behalf of the board in support of this constitutional amendment. I'll be as brief as possible. Forty years ago, when I was running elections on Douglas County, I followed my predecessor, who was a very active Republican and a good friend of mine, Monte Taylor, and Monte has developed a system where the polling places were staffed, and it really answers your question, Senator, staffed with residents. And we had a sign at the entrance in big letters that said the people handing out ballots are your neighbors. Well, we didn't have any problems because to walk in there, if Ann and I went to the precinct where we used to live, we would have been stopped. And the neighbors said, well, you don't live...didn't you move? And the answer is yes, so...people don't do that when they're...they have that chilling effect if they're trying to be a law breaker. We also used a group of people called inspectors who...and this is really old time stuff, but inspectors who actually walk the precinct. And before they walked the precinct, we sent out a postcard to every registered voter at their address with the instructions from the post office--do not forward. Those came back in bundles, they triggered the inspector saying I don't think this person lives there anymore and they would be able to cull that. If that person was not there, "challenged" was stamped on their registration. So when they appeared at the polling place, challenge, they had to prove then that they were residents and able to vote. All this came about as a result of an election law that was passed by the Legislature, I think about 1906. It was introduced by N.P. Dodge, the real estate person, the man in Omaha and his family, and there's a wonderful report that N.P. Dodge Fair Election Law, which I have copies of, pretty poor copies, but I'll see that all of you get it, and it was really fascinating history about how people would chain vote, which means today we can't put our own ballots in the box, you have to put them in that little sleeve and it's dropped in. It used to be that if Senator Murante and I were in collusion, he would tell me bring back ballot number 5. And so I would bring back an unmarked ballot number 5 and I would hand off all the other ballots back, put them in the box myself, give it to him, he'd give me a half pint of my favorite beverage, then he would mark it for the person you wanted and then give it to Senator Blood and she would walk in and pretty soon it's all chain voting and you're voting for the same person over and over--very corrupt. Very quickly what happened was, and it's oddly enough, it was my wife's grandfather who was a subject of this, he

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was a Democrat, and the machine, I always take glee in saying that a machine in Omaha was Republican, but anyhow, what they did, they stuffed the ballot box, they brought the boxes down to the floor of the Legislature, that's in this little pamphlet, opened them up and found the people signing in to vote were signing in not only with the same handwriting, but also in the order in which they lived in the precinct. And so it was extremely corrupt. So all of those things changed. And I think the burden should be on the government to monitor who's voting; make people know that the precincts are staffed by their neighbors, and intensify the checking before it all happens. And I want to last say that spouses of members of Armed Forces can register to vote, I believe, in Nebraska if they've never set foot here. So what do we do with them if they walk in with an address in Virginia and try to vote in Omaha or wherever. So, I think it's something that is really overblown. I do agree with what Senator Morfeld has said. We had one incident of voter fraud while I was there--a very nice old lady in her 80s, used to go to rest homes, and I got a call from a nurse who said she...a person in a coma had voted. And so I asked her to come in. She was...I won't say her name, we didn't prosecute her. I said something has happened at the polling place...the rest home. She burst into tears. And I said, you know, we're not going to...we're going to go through and pull out some of those ballots and I think you know why. And she said, I'm really sorry; I just feel so strongly that I want my Republican friends to win. Don't we all.
(Laughter) Thank you very much. Any questions? [LR15CA]

SENATOR MURANTE: It's on the record now, Commissioner Boyle. (Laughter) [LR15CA]

MIKE BOYLE: I have Republican friends. [LR15CA]

SENATOR MURANTE: Senator Blood. [LR15CA]

SENATOR BLOOD: Thank you, Chairman Murante. Thank you for your testimony. [LR15CA]

MIKE BOYLE: Yes. [LR15CA]

SENATOR BLOOD: So if I hear you correctly, you feel confident in the abilities of our election commissioners, our deputy commissioners; I know in Sarpy County we have Mr. Bena and Deb Davis and they do excellent work. You feel that we're covered when it comes to staff and qualified people to monitor this issue. Is that correct? [LR15CA]

MIKE BOYLE: Oh, I absolutely do. I think the law requiring one party that's appointed by the Governor and the other party is appointed, probably to the Central Committee (inaudible) recommended. It's a good balance to have. And it, you know, turns into a good relationship in most cases. But neither one of them would tolerate any messing around. So it's a good system.

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Plus, the employees are honest people. I mean, I have a great deal of faith in the people that are conducting our elections. [LR15CA]

SENATOR BLOOD: I would agree. I think the people in Sarpy County, I don't mean to speak on behalf of the Chairman, but I'm sure he probably agrees is that we have an exceptional office in Sarpy County. [LR15CA]

SENATOR MURANTE: All right, any additional questions? Seeing none, thank you for your testimony. [LR15CA]

MIKE BOYLE: Thank you very much, I appreciate it. [LR15CA]

SENATOR MURANTE: Welcome back. [LR15CA]

SHERRY MILLER: (Exhibits 1 and 2) Yeah, I'm having fun; thank you. There are two pieces of paper going around for you today. One is a copy of my testimony; the other is a summary of voting restrictions in place for the 2016 presidential election. And Nebraska is included in this summary, by the way. Thank you for this opportunity to speak in support of LR15CA. I am Sherry Miller, S-h-e-r-r-y M-i-l-l-e-r; president of the League of Women Voters of Nebraska. Something funny happened regarding this proposed resolution. On December 2, I spoke at a meeting regarding the placing of voter restrictions around the U.S. on Election Day, November 8. That's why I gave you that summary. At the end of the meeting, I circulated a friendly petition asking for signatures to support an amendment to our state constitution, specifically prohibiting the requirement of a photo ID in order to vote. This informal petition, with no legal force, mind you, I sent to Senator Morfeld's office with a note that it was his to do with as he wished. Senator Morfeld does not recall getting that communication, but what a wonder it was to see his LR15CA introduced. What a nice coincidence. Because our constitution already prohibits any hindrance or impediment to the right of persons to vote in Nebraska, it would seem, and it should seem that LR15CA is not necessary. I would like to agree, but knowing that LR15CA is now a priority resolution, the league supports LR15CA as an appropriate response to the attempt to weaken our constitutional protection for voters' rights. The league believes that voting is a fundamental right that must be guaranteed; and I urge you to advance LR15CA to General File. And since I have a few moments here, I want to ad lib. I think it was Senator Craighead asked about numbers of people that might be affected. And this was brought out in earlier testimony during the session that there are at least...there are about 5,000 out-of-state freshmen who come into our college system every year and they can vote on their campus address if they want to. The other thing I want to comment on, you've heard testimony from poll workers about the burden that would be placed on them to check up to 15 different types of ID, for example, and how that might slow down the process of voting, if it's a general election for president, for example. And

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the last thing I'm trying to do is find out for my daughter how much it's going to cost to get a copy of her marriage license in Colorado. She's going to be moving to Germany and living there and she needs all this documentation so the Germans will let her in. And when I glanced at the Web site, it seemed to me like it was very, very pricey to get this copy of a marriage license. It has to be notarized and everything that she could then send, you know, take with her to the German government. So there are expenses involved, there certainly are. And that's it.

[LR15CA]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thanks for coming down. Still on proponent testimony. How many more proponents do we have? Okay. Welcome. [LR15CA]

OMAID ZABIH: (Exhibit 3) Thank you. Good afternoon. Chairman Murante and committee members, my name is Omaid Zabih, my first name is spelled O-m-a-i-d, and my last name is spelled Z-a-b-i-h, and I'm a staff attorney for Nebraska Appleseed. We're a nonpartisan, nonprofit organization dedicated to justice and opportunity for all Nebraskans. And I'm here to testify in support of this amendment. As you heard before, there's no evidence of voter impersonation, that voter impersonation is a problem in Nebraska, it's, in fact, the rarest form of voter fraud and it is virtually nonexistent. Policies that seek to impose voter identification requirement into our voting system are solutions in search of a non-existent problem. And this amendment would ensure that such unnecessary and drastic policies are not embedded into our voting system. Just to talk a little bit about how voter ID requirements would affect Nebraskans, they would introduce substantial and burdensome barriers to voting, particularly affecting low income, elderly, disabled, and young Nebraskans. An estimated 200,000 Nebraskans lack a state-issued driver's license and they would face structural and financial obstacles in obtaining photo identification. And this concern would become even more acute if these Nebraskans are forced to, for instance, pay a fee to obtain documents to acquire a photo ID. And additionally, rural Nebraskans would encounter serious obstacles to obtaining a photo ID where more than 1 in 3 Nebraskans don't have daily access to a DMV. And 70 percent of the counties that have access to...excuse me, 70 percent of them would only have access to a DMV less than one time per week. Requiring a photo ID may sound innocuous to those of us who have a driver's license. But there are many Nebraskans, as you've heard before, who are life-long voters or who are new voters who may encounter issues such as seniors who move into assisted living and who may have voted for their entire lives but then face real barriers to finding transportation to the DMV to update their photo ID; or students on a budget who may have moved multiple times per year. These are real barriers and obstacles to many Nebraskans. And we do think our constitution, which states clearly that all elections shall be free and that there shall be no hindrance or impediment to the right to...of a qualified voter to exercise the elective franchise. We feel that this is actually strong enough to exclude voter ID, but we feel that this amendment would serve

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as sort of a clarification to ensure that future policies don't include any sort of voter ID. And we urge the committee to support this amendment. I'd be happy to take any questions. [LR15CA]

SENATOR MURANTE: All right, thank you for your testimony. Are there any questions? Seeing none, thanks for coming down. [LR15CA]

OMAID ZABIH: Thanks. [LR15CA]

SENATOR MURANTE: Are there any additional proponents? Are there any opponents? Is there any neutral testimony? Welcome back. [LR15CA]

BRI McLARTY HUPPERT: (Exhibit 4) Good afternoon, members of the Government, Military and Veterans Affairs Committee. My name is Bri McLarty Huppert, that's B-r-i M-c-L-a-r-t-y H-u-p-p-e-r-t; I'm here in my official capacity as the director of voting rights with Nebraskans for Civic Reform, a nonpartisan, nonprofit advocacy organization that works to remove barriers and improve accessibility to our democratic institutions. We're testifying in a neutral capacity today just because in looking at the language proposed in LR15CA and looking at the current language in the Nebraska Constitution, we feel that the current language is actually strong enough to already prohibit a photo ID based on the Weinschenk v. Dale Morris case out of the Missouri Supreme Court that was decided in 2006. That case, unlike the Indiana case, was actually a state-based challenge where they looked at the specific Missouri Constitution and the provisions provided there that are reflected very similarly here in Nebraska. For example, they had a similar language that election shall be free. And while they don't have the specific hindrance and impediment language, in the valuation that the Missouri Supreme Court did in looking at the strict scrutiny of a photo ID, they did point to some of the individuals and evidence provided of voters that were impacted. For example, elderly citizens that may not be able to stand in line or make it down to, for example, the vital records...Department of Health and Human Services to get the necessary documents. They also looked at individuals that has Cerebral Palsy that may have issues going, traveling, or signing documents. So while the specific language isn't completely the same, we believe that it is similar if a case were to be brought here in Nebraska that a similar decision would be made by the Nebraska Supreme Court. So just to talk a little bit about what happened in Missouri, it was a photo ID requirement that it be a government-issued photo ID, and individuals instead of being a facial claim, which is what we saw in Indiana, it was individuals that were actually impacted and provided evidence about their ability to pay the \$15 for the birth certificate; their ability to go and actually obtain the documents, not just monetary, but the time and energy that would be expended to have to go and provide them. In Missouri, specifically, the Secretary of State estimated about 240,000 individuals didn't have the ID. The Department of Revenue said about 146,000. So the Missouri courts determined that that was actually significant enough individuals that could be impacted, and we would see a similar

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number here in Nebraska. I believe about 86 or 87 percent of individuals have a Nebraska driver's license or state ID card, so I think that comes out to about, roughly, 200,000 individuals, based on our DMV records. So we would see a similar evidence there. But what I want to talk specifically about is this strict scrutiny and analysis that they did. So Senator Morfeld already talked a little bit about what the balance would be when you're looking at a fundamental right. They used the Missouri language in the constitution to determine that the right to vote is a fundamental right and therefore it would be bumped up to a strict scrutiny standard where it has to be narrowly tailored, as well as there has to be a compelling government interest. What they talked specifically about in their case was the perception, that being one of the reason why they brought forth the photo ID case is the perception of integrity in our elections. The Missouri Supreme Court decided that that wasn't enough to burden the individual voters on this fundamental right. So in talking a little bit when you compare LR1CA and LR15CA, the perception of voter...election integrity by the voters isn't enough, they needed documented evidence. And the Supreme Court specifically pointed to the fact that they didn't include that evidence in Missouri and the fact that the Secretary of State has said some it here, we feel that the holding would be similar and that's why we're coming in a neutral capacity because we don't believe that adding language or amending the constitution is necessary given the current protections we have. The case law that we see in other states within the eighth circuit. And to be quite honest, Nebraskans for Civic Reform is not the biggest fan of putting minority rights and protections for fundamental rights into the...onto the ballot for a small subset of the population to decide upon, which is one of the basis of our opposition to both LR1CA, and then while we're in a neutral capacity. Neutral here because we do support what Senator Morfeld is trying to do, which is to protect the fundamental right to vote and prevent photo voter ID. So that's why we're in a neutral as opposed to an opposition. And I'll answer any questions. [LR15CA]

SENATOR MURANTE: All right, thank you very much for your testimony. I do have one quick question, just to clarify. So it is your organization's belief that without a constitutional amendment, if the Nebraska State Legislature were to enact a voter identification law, a photo identification law, it would be unconstitutional based on our state constitutional provisions, is that correct? [LR15CA]

BRI McLARTY HUPPERT: Yes, that's correct. [LR15CA]

SENATOR MURANTE: So in order for us to pass a photo identification law in order...on your organization's perspective, we would need to amend the constitution first. Not that you advocate for that, but that in order that step one would be amending the constitution, step two would be passing a bill, but it has to go in that order if it's going to comply with the constitution. [LR15CA]

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BRI McLARTY HUPPERT: Yes, and I would venture to go a little bit further, which is what I think you're trying to get me to say, LR1CA actually wouldn't do that. You added a different language in there so the two provisions would actually be in conflict with each other. So whatever law was actually implemented, if LR1CA were to be passed by the people, and then if the Legislature were to enact a photo ID law, we wouldn't be able to have the extensive list because the language specifically says--require a photo identification. If that were to happen, then whatever that statute was would be interpreted in light of the first provision that's in LR1CA, which is the "shall be free and there shall be no hindrance or impediment." So, if that answers your question. [LR15CA]

SENATOR MURANTE: Okay. Senator Hilgers. [LR15CA]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Ms. McLarty...I thought it was McLarty. (Inaudible.) [LR15CA]

BRI McLARTY HUPPERT: Yep, McLarty Huppert. Just added a new one. [LR15CA]

SENATOR HILGERS: Okay. You're married? [LR15CA]

BRI McLARTY HUPPERT: Yes. [LR15CA]

SENATOR HILGERS: I'm sorry. Congratulations. (Laughter) [LR15CA]

BRI McLARTY HUPPERT: I don't wave it around. (Laughter) [LR15CA]

SENATOR HILGERS: That's awesome, congratulations. You were here the other day, I was like McLarty...I...anyway. [LR15CA]

SENATOR MURANTE: So Senator Hilgers was not invited. [LR15CA]

BRI McLARTY HUPPERT: And I will be honest, on the slips to call you off the floor, I get a little lazy, (laughter) I forget the last one. [LR15CA]

SENATOR HILGERS: On that...so I (inaudible) ask a question, I just want to...so it's your position that if there was a...if the constitution were to be amended, then it, nevertheless, would still be...it would do what it wants to do because of the previous provision? [LR15CA]

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BRI McLARTY HUPPERT: Yes. So to...in my opinion, to pass a photo ID requirement, that would pass muster from what we've seen in the Missouri Supreme Court case and other cases across the country, you would have to strike "free elections" and most likely you would also have to strike "hindrance and impediment" to overcome any barriers that rural voters may have access to obtaining those DMV documents. [LR15CA]

SENATOR HILGERS: So do you have any case for that? Because when I think of constitutional interpretation or even amending a contract, for instance, I mean, it's pretty...I think it's a pretty common principle of interpretation that if you meant it later, you give effect the amendment in light of it, but you don't say, well, I know you wanted to amend it now, but don't forget about this provision, so therefore since you didn't word it just right, we're going to ignore the amendment. Is there a case that you might support that position. [LR15CA]

BRI McLARTY HUPPERT: I'd have to look at a specific case, but I have talked with several lawyers, including lawyers at the Lawyers Committee for Civil Rights, the Brennan Center for Justice specifically, because I had that questions when I saw the original LR1CA and they're the ones that also reassured me that that's...their interpretation as well, that it would be interpreted in light of that because that provision stayed in drafting. So, I mean, we're going to get into strict, crazy statutory interpretation canons here, but in knowing what that language was and in knowing what current court cases are available to help you interpret what that language could be interpreted as. Leaving it there was a decision that whatever you pass will be done in light of that. So, I mean, this is...but there's...you can always challenge it, it's a different statutory canon, so. [LR15CA]

SENATOR HILGERS: Right, right. I'd be interested...if you have any research or analysis on that, I'd be interesting in seeing it. [LR15CA]

BRI McLARTY HUPPERT: Yeah, I'll get some from the Lawyers Committee on Civil Rights, because those are the guys that have been litigating this across the country, so they might have a little more in-depth on the specific things, I mean, I am just a lowly recent law grad in Nebraska, so I'll go to the experts. [LR15CA]

SENATOR HILGERS: Not at all. Thank you very much. [LR15CA]

SENATOR MURANTE: Seeing no additional questions, thank you for your testimony.
[LR15CA]

BRI McLARTY HUPPERT: Thank you. [LR15CA]

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SENATOR MURANTE: (Exhibit 5) Is there additional neutral testimony? Seeing none, I do have a letter of support from Kaleigh Nelsen of the National Association of Social Workers, Nebraska Chapter. Senator Morfeld, you're recognized to close. [LR15CA]

SENATOR MORFELD: And my bill is almost up, so I'm going to waive. Thank you very much for your guys' time, I appreciate it. [LR15CA]

SENATOR MURANTE: Okay, it's good to have you; thank you, Senator Morfeld. And that closes the public hearing on LR15CA. We'll proceed to the second and final item on the agenda, LB163. Senator Vargas, welcome back to your Committee on Government, Military and Veteran Affairs. [LR15CA]

SENATOR VARGAS: Aw, you say that to all the senators. [LB163]

SENATOR MURANTE: It is all of your committees. [LB163]

SENATOR VARGAS: (Exhibit 1) Hello, everybody. Good afternoon, Chairman Murante, members of the Government, Military and Veteran Affairs Committee. Thanks for having me back. My name is Senator Tony Vargas, T-o-n-y V-a-r-g-a-s; I represent District 7, the neighborhoods of downtown and south Omaha here in the Nebraska Legislature. I'm here to talk about LB163. LB163 was actually the first bill that I introduced this session as the first bill I introduced as a new state senator. I believe it's safe to say that the issue addressed in this bill fair and equal access to voting and ensuring full participation in our democracy is not only very important to me personally, but is important to our community. LB163 expands access to early voting for working Nebraskans by requiring counties with a population of more than 100,000, that's Douglas, Lancaster, and Sarpy County, to do three things. First, the counties must expand one to three early-voting locations which cannot be located in the same legislative district. Second, the hours of operation at early voting locations would be extended to 8:00 p.m. on weekdays and eight hours on Saturdays. And the third is that all early voting locations would operate for the full early voting period which is 30 calendar days before the election day. After introducing LB163, I had the opportunity to speak with some election commissioners and county commissioners of the three counties and I expressed too many concerns was what we heard. The first is the fiscal impact to counties which provides the election commissioners' budget. And two, the length of the early voting period for extended hours of operation. The length of the early voting period is about...I talked with this with Douglas County Election Commissioner, Brian Kruse, as well as a couple of county commissioners in Douglas County about a month ago to talk to ways to potentially address these two concerns. We arrived at AM269, which I will pass out right now. AM269, which will be in front of you in a second, I officially introduced earlier this week and is what I would like to focus the remainder of the hearing on. AM269 addresses

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the fiscal and logistical concerns expressed to me and still maintains the intent of this bill which is to expand access to early voting for working Nebraskans. The amendment entirely eliminates the additional early voting location and instead focuses on extending hours of operation at the election commissioners' offices in each county. It also leaves the extended hours largely up to the discretion of each election commissioner so they can do what works best for their own offices. Specifically, the amendment requires each election commissioners' office to be open for at least five additional hours Monday through Friday, and for at least four hours on Saturday. These extended hours would be only for two weeks before election day, rather than the full 30 days early voting period, which election commissioners have told me is the busiest and most effective time to have extended hours. To summarize the changes in the compromise that I agreed to making after talking with the county and the election commissioners in Douglas and listening to the feedback from others, as introduced, LB163 would have added 636 work hours per county per election. As amended, we're adding just 18 extra hours for working hours and early voting hours per county. As introduced, LB163 would have resulted in an added cost to hundreds of thousands of dollars per county. As amended, Douglas County estimated the cost would be around just \$8,000 approximately. Extending the hours of operations at the election commissioners' offices will enable Nebraska voters who work or who go to school during normal office hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, to have the same opportunity to cast their ballot early as other voters who have more flexibility in their daily schedule, or live or work closer to the election commissioners' office. I'd also like to note that in states that allow early voting and have hours on weekend days, election officials report it is their busiest time. For example, in North Carolina in 2012, the first week of early voting saw nearly 17,000 voters, with 11,000 of them on Saturday. In Florida in 2012, the last Saturday before election day was the earliest voting in person day in nine of the ten most populated counties. New Mexico, which has early (inaudible) voting Monday through Saturday of every week starting 28 days before election day requires 12 hours of operation on every day of early voting and reports Saturdays as the most popular voting day across the state. Now when I was running for the Nebraska Legislature, I cannot tell you the number of times I heard from people that they would like to vote early and get it done, but that they just couldn't make it work and they couldn't make it to the election commissioners' office, which is in my district, and many other people's district, a length away. From mine, it was about a 40-minute drive around trip during their office hours. They could have gone on the weekend, but the office isn't open. And I count the number of times that somebody from my campaign, or even hearing from other campaigns, would drive voters to the election commission to make sure that they can vote early because they didn't have a car and they couldn't take the bus because it was too difficult at times and you couldn't rely on the schedule and there was no way they ever could have made it in time. Douglas, Lancaster, and Sarpy are big counties in both geography and population. So this isn't just a problem for my district. Senators that represent all corners in these counties signed on as cosponsors of this bill because they face the same issues and want to see early voting hours extended for their constituents. As amended, this bill carries very, very little fiscal impact to counties. Doing something that seems

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so small as adding 18 extra hours of early voting time can make a big difference for Nebraska voters and for participation in our elections. With that, I'll close and be happy to take any questions. [LB163]

SENATOR MURANTE: All right, thank you very much for your opening. Senator Craighead. [LB163]

SENATOR CRAIGHEAD: Thank you. You mentioned as you were walking your district that you had quite a few people that were unable to do this. How many would you guess that might be? [LB163]

SENATOR VARGAS: I would venture to say hundreds. And that's partly because we knocked on about 30,000-plus doors; but a significant number of people. [LB163]

SENATOR CRAIGHEAD: Did you ask them if they had considered voting absentee so they could do it by mail? [LB163]

SENATOR VARGAS: Well, I think one of the...I did not. But part of the reason...some of what I heard from voters is that they wanted the choice. So for those that want to vote early and can't vote on election day, potentially, because, again, they can't get off on work or there's some other barrier on election day; they want to vote early, they still want the in-person feeling, they want to be able to cast their ballot. That's one of the reasons why they wanted that choice, but they couldn't do it because we don't have the hours beyond regular business hours. [LB163]

SENATOR CRAIGHEAD: I was just curious, because there was an option for them to be able to vote. [LB163]

SENATOR VARGAS: Yes, I mean there is early vote through ballots, and we have seen that and people are taking advantage of it, but where the reference...and some of the states that I mentioned, many of those states do see their early voting in person is going up a tremendous amount because changes and making it easier for working families to be able to vote after business hours. [LB163]

SENATOR CRAIGHEAD: Thank you. [LB163]

SENATOR VARGAS: Thank you. [LB163]

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SENATOR MURANTE: Thank you, Senator Craighead. Senator Blood. [LB163]

SENATOR BLOOD: Thank you, Chairman. Senator, in your research did you find that expanding the hours of operation for early voting sites that that appeared to be the most cost-effective measure for boosting turnout? [LB163]

SENATOR VARGAS: I would say that there are many...there's a confluence of things that help to boost voter turnout. I'm proud to say that these are...these counties, I think, have enacted certain practices and are doing things to increase voter turnout. But what we see as a policy recommendation and...actually the Brennan institute (Brennan Center for Justice) was referenced earlier, they did a research paper on how early voting could be improved. And one of their key seven policy recommendations, not best practices, policy recommendations was supporting minimum daily hours and extended hours even on weekend hours so that working families can vote beyond business hours. And they saw that there was a huge uptick in voter turnout, but specifically in in-person early voting which they then saw as a...it alleviated some of the concerns received for some of our county offices, which is we do have long lines and our counties are doing everything they can with the resources they have to be able to mitigate those concerns. But it provides a little bit more of the voting to having early, alleviates the stress on the different county offices. [LB163]

SENATOR BLOOD: Wasn't there also a report, I think it was Common Cause from Massachusetts that said that evening and weekend hours were consistently what they showed what was needed as far as extending hours? [LB163]

SENATOR VARGAS: Yes, yes. And there...I think there's a lot of actual research that shows that there are many different instances, specifically in expanding early voting hours. And again, that's the main purpose of this amendment is it provides better access and especially for working families, individuals that don't have the flexibility that those...that have more flexibility have. [LB163]

SENATOR BLOOD: So what's the benefit of boosting turnout? Who does it benefit? [LB163]

SENATOR VARGAS: I think it benefits everything that we're talking about...it benefits our democracy; I think it benefits...the ability for individual people's voices to be heard. And that is why we're here, I mean, we are here because there are people that voted for us. And I think we want to do everything within our ability as elected officials to make sure there's more equitable access for voters to be able to exercise the right to vote. And I believe this bill is simply providing an additional extension so that we are making it easier for some of our hardest

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working Nebraskans that can't get away during business hours to be able to do something as simple as vote early. [LB163]

SENATOR BLOOD: So if I hear you correctly, you think it's our jobs to make it easier for people to vote, not harder? [LB163]

SENATOR VARGAS: I think it's...we have the ability and it is our responsibility to do everything we can to make it easier for people to vote. I think we had this conversation before about the constitutionality of voting. In this instance, we are just trying to remove barriers for working families and individuals that don't have the flexibility to exercise the right to vote early in person. [LB163]

SENATOR BLOOD: Thank you. [LB163]

SENATOR MURANTE: Senator Brewer. [LB163]

SENATOR BREWER: Thank you, Chairman. All right, so we get this into kind of a usable format. The before Senator Vargas and after Senator Vargas, how many more hours and how many more locations will be open? [LB163]

SENATOR VARGAS: So before, in the original legislation for LB163, it would be two additional offices in each of the counties...and the election office... [LB163]

SENATOR BREWER: Gotcha. [LB163]

SENATOR VARGAS: Sorry, two additional voting locations, the election offices count as an early voting location, and then you would have an additional 636 hours per county. So 30 days out you'd add each day, Monday through Friday, expand it to 8:00 p.m., and then you'd have eight hours on Saturdays, four Saturdays before each election; that was before. The after is no additional early voting locations; we removed that. So we're keeping the election office is the only early voting location and we're expanding the minimum amount of hours that would be extended beyond business hours; so five hours, Monday through Friday, and four hours on Saturday for a total of about 18 hours, two weeks before each election. [LB163]

SENATOR BREWER: And that's what switched it from like \$156,000 to \$8,000. [LB163]

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SENATOR VARGAS: That's actually what switched it to a range of about \$250,000 to upwards of \$350,000 based on the projections and the outdated fiscal note that you have for Sarpy, Lancaster, and Douglas to...when our conversations, what the costs would be to expand hours and work within the confines of our given staffing for our counties and extend the hours to less than 20 hours for early voting. [LB163]

SENATOR BREWER: Okay. Staying in the spirit of us trying to not put anymore unfunded burdens on those that we seem to want to do that to, even though we mean to or not, those three counties, have they given you a north, south, I'm sorry, a yes that they like the concept, or how have they weighed in on this? [LB163]

SENATOR VARGAS: I believe we have some counties that are going to be here testifying. I know we have some support from some of our county commissioners, some counties that are supporting it and have some things that they want to be able to change. I'm willing to work with them on that. I think in the end game what we're hearing is there are some election officials that are doing things to expand on this. And that's fantastic. I actually commend them because we have common ground on policies that are going to support working families to vote beyond business hours and early. But we also know that election commissioners and those offices that there is change in leadership at times, and that happens with administrations. I believe it's incumbent upon us to pass policy that creates some consistency for the basic standard for what we're doing to support working Nebraskans to vote early, make sure we're moving some of these barriers and make it easier for them. [LB163]

SENATOR BREWER: Thank you. [LB163]

SENATOR VARGAS: Thank you. [LB163]

SENATOR MURANTE: Thank you. Senator Lowe. [LB163]

SENATOR LOWE: Your amendment is a big difference from the original bill. Do you see it working as well as the original bill? [LB163]

SENATOR VARGAS: I think it does. I think the original intent of the first bill was to really make sure we are ensuring that we're providing more access, equitable access. However, we realize that the cost to the counties is high. (Cell phone verbal interruption). Did you ask me a question, Senator Hilgers? (Laughter) You're imposing on Senator Lowe's question. [LB163]

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SENATOR MURANTE: Let's remind everyone to turn off or silence any cell phones or electronic devices. [LB163]

SENATOR HILGERS: It's (inaudible) electronic devices. I'm doing research. [LB163]

SENATOR MURANTE: Okay, he was researching. [LB163]

SENATOR VARGAS: Just researching with Siri. (Laughter) To answer your question, I think...one of the reasons why we led to this compromise is because we do want to make sure we're being responsible as senators. And also, doing everything we can to take steps in the right direction to pass policies to support working Nebraskans. And addressing one of the...the biggest concern was the fiscal note and the cost and the feasibility...sustainability is exactly what the intention was here. And I believe that takes a step in the right direction to ensure that we are expanding early voting hours is better for working families. [LB163]

SENATOR MURANTE: Seeing no additional questions, thank you for your opening; much appreciate it. [LB163]

SENATOR VARGAS: Thank you very much. [LB163]

SENATOR MURANTE: All right. And we will proceed to proponent testimony of LB163. Commissioner Boyle. [LB163]

MIKE BOYLE: Good afternoon. [LB163]

SENATOR MURANTE: Good afternoon. [LB163]

MIKE BOYLE: Mr. Chair, members of the committee, my name is Mike Boyle, M-i-k-e B-o-y-l-e. I'm a member of the Douglas County Board representing, really, pretty much the same part of the district, or all of the district, that Senator Vargas represents. So a lot of the things he talks about ring very true with me. I've been on the board since 1997. What's so fascinating about the compromise that you have before you is, first of all, the dramatic reduction in cost that occurred. And that, frankly, this is how I feel, it came from the attitude of Senator Vargas of trying to make something happen that would improve the situation for voters. He was willing to compromise and came in with a meeting with P.J. Morgan who is a Republican, also a former mayor, who beat me in 1989, but anyway we're good friends. (Laughter) We're good friends, we serve on the county board; we have a lot of the same interests. He's a terrific guy. He came to the meeting, as well as me, we had the election commissioner...the chief deputy, Senator Vargas, and a member

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of his staff and we talked about this bill and the cost and so forth. And it was really dead on arrival and he understood that. And so he revived it and came up with something that makes sense, that's inexpensive, but still gives people, for example, the big most important part of my book is availability of voting on Saturday. That's a big deal. So it's very impressive that he did that and we're very grateful that he did, because this makes it possible for us to do this without a terrific burden. And ironically, I don't mean to go back to other testimony, but I remember yesterday that Senator Gale talked about...oh, excuse me, Secretary of State Gale spoke about the 72 percent turnout in a way that he said he was...I think he was proud of it, and we all are. Well, this is an opportunity to make that go just a little bit further, maybe 73, 74, whatever. But this gives people who work an hourly and so forth a chance to come out on Saturday and vote. Senator Vargas really said it all. I don't want to repeat what he said, but I think this is a terrific compromise that he's put together; makes a great deal of sense, and I think it's good for the citizens of the state. So I hope that you will approve it. And I'm certainly available for questions. [LB163]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? Senator Brewer. [LB163]

SENATOR BREWER: Thank you, Mr. Chairman. All right, following up on the line of questioning with Senator Vargas there. What we're trying to do is make sure that if we decide to pass legislation that we don't put some requirement on you that really isn't fair or the cost of it is something that's going to cause you a lot of challenges. Looking through the change that he has made, is that a fair burden; is that something you think is worth the cost that you're going to have to absorb? [LB163]

MIKE BOYLE: Absolutely. The board was very opposed to the first presentation; the money was just too much and just didn't work. And we also had some opposition from our good friend, the election commissioner, about how ballots would be handled and so forth, and he made good points, so we listened to him as well. And so, yes, in a nutshell, this is a wonderful compromise, one that we can afford. We're not fans of unfunded mandates, but this is one where we're asking you to mandate us to spend a little extra money to expand availability for voting to all of our citizens. So we support this. [LB163]

SENATOR BREWER: Well, and just so you know that we agree with you that Senator Vargas can be a bit of a bulldog when he gets focused on something. (Laughter) Thank you. [LB163]

MIKE BOYLE: Thank you. [LB163]

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SENATOR MURANTE: I think Senator Brewer's question kind of brought up an interesting question in my mind which is to say--if Douglas County wants to keep its election office open longer, why do you need a state law? Why don't you just keep your election office open?
[LB163]

MIKE BOYLE: You know, to be honest with you, I was hoping you wouldn't ask that question. (Laughter) The answer is we probably could. We'd have to twist the arm of the election commissioner; not very hard, because he's very good to deal with. So the answer is yes. But this codifies it and because there are big changes. Again, going back to when I was election commissioner, we actually did have a full-time office at the Westroads Shopping Center for voting, because I observed that so many of the people voting were from west Omaha, and a territory that's not necessarily my political faith, but they needed to have access to voting. And we opened on Saturday out there. And it went...it was a full-time...full-blown office in the Westroads Shopping Center. And...but...after I left it was closed. So...but in any event, the answer is yes. I think the election commissioner has that authority, but he has, to this point, gone along with this compromise. [LB163]

SENATOR MURANTE: Okay. Senator Hilgers. [LB163]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Mr. Mayor? Commissioner? How do you prefer to be called? [LB163]

MIKE BOYLE: Oh, just...my wife always calls me dear. (Laughter) [LB163]

SENATOR HILGERS: Thank you for your testimony. [LB163]

MIKE BOYLE: I'm in trouble. I need a place to spend the night here. [LB163]

SENATOR MURANTE: We'll call her up later to respond to that. [LB163]

SENATOR HILGERS: So first I...the concept of providing working families more time to vote is one that I fully support. I have a lot of working families in my district who work full...they work 9 to 5, it's very difficult to vote. [LB163]

MIKE BOYLE: Right. [LB163]

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SENATOR HILGERS: Following up on Senator Murante's point, and I also...because I also understand that sometimes you need a little prodding because as reasonable as election commissioners are, sometimes maybe they don't want to spend the extra dollars. The one question that I've got is if we mandate it now, and you got a reasonable election commissioner, you got a reasonable board, you've got the money, that's one thing; but in four years, six years, eight years, maybe you don't have the money. Is it better to provide not a statutory mandate, but just to...is it better just to provide a discretion so when you've got the money you can do it, but if you ever have to pull it back you can without having to get the Legislature to take away the mandate. [LB163]

MIKE BOYLE: Well, you know, actually it's just such a small amount of money, it amounts to 18 hours. And when you start multiplying that by an hourly wage and so forth and what it would take, I think it's reasonable and it's not burdensome to that point and that's why we...after hearing the first one, we said no deal; the second one it made sense. And the other thing too, and he can speak for himself, but I think this gives the election commissioner a little bit of cover. I know that he would like to be able to serve the constituents better as well. And so this is something, well, I can't help it, the county board did it and Senator Vargas, you know. But the deal is that if he presents his budget and this is budgeted in there, we're not going to criticize him for it because we're the ones that said--please do it. And we had his cooperation, so...at least last time I heard. We'll see what he says. If he appears as an opponent I'm ugh. (Laughter) [LB163]

SENATOR HILGERS: Thank you. [LB163]

SENATOR MURANTE: Thank you. Senator Lowe. [LB163]

SENATOR LOWE: What color of dress are you going to buy your wife for making that comment, just would like to know? (Laughter) [LB163]

MIKE BOYLE: Well, I'll tell you what, I think it's going...it has to be a red rose for starters, even though tomorrow is St. Patrick's I didn't wear my green tie, but anyway. So, yeah, I'm in trouble. [LB163]

SENATOR LOWE: Thank you. [LB163]

SENATOR MURANTE: All right, seeing no additional questions, thank you. [LB163]

MIKE BOYLE: Thank you all very much. [LB163]

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SENATOR MURANTE: Appreciate it. Mr. Kohout, welcome back to the Government Committee. [LB163]

JOE KOHOUT: Chairman Murante, members of the Government, Military and Veteran Affairs Committee, my name is Joe Kohout, K-o-h-o-u-t, appearing today on behalf of the Lancaster County Board of Commissioners. I am here to offer support of LB163, but the board had a spirited discussion about this bill this morning and so I've been directed to come with some qualifiers on that support and so I hope the committee will listen to those. The board supports LB163 as amended by AM269 because what it does is it codifies a lot of the process that we do here in Lancaster County. So from that perspective, it's not going to have a fiscal impact or it's not going to have beyond what we currently do. But the two qualifiers that they suggested was (1) make it clear that the bill's intent is to apply to primary and general elections so that if we run into a situation with a special election or something like that that this would not apply in those circumstances. But they would also ask that the committee consider some flexibility at some point in the future if the five hours during the regular work week aren't as...aren't providing as much voter access as perhaps adding an additional hour on a Saturday night or something like that, that they would want some flexibility in that component of it. So...and those are conversations we're willing to have with the committee, willing to have with Senator Vargas; but that's, I think, after we look at this from an implementation standpoint. So with that I will try to answer any questions that you might have. [LB163]

SENATOR MURANTE: All right. Thank you very much for your testimony. Senator Briese, then Senator Hilgers. [LB163]

SENATOR BRIESE: Thank you, Chairman; and thank you for being here. So you might suggest requiring an additional eight hours a week, at least for...which on Saturday and up to the county to decide whether they want to extend the hours? [LB163]

JOE KOHOUT: No, no, no, I think at some point in the future, if we were to look at, you know, some flexibility in terms of, perhaps, you know, maybe we're not getting turnout on Saturday and maybe we're mandatory...may have to have that four hours. But staying open an extra hour Monday through Thursday, maybe there would be some flexibility. It's the same amount of hours, but it might be better for us to do that. Just some flexibility; we would just ask for the openness long term if this, ultimately, proves that the hours that are in this version of it may not be the best, it may, five years from now, it may be very different. And so that's what we would just ask on the record that that consideration be out there. [LB163]

SENATOR BRIESE: Okay, very good, thank you. And for the record, Mayor, my wife does not call me "senator." (Laughter) [LB163]

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ANNE BOYLE: But he calls me commissioner. (Laughter) [LB163]

JOE KOHOUT: I thought Commissioner Boyle was going to get up here and say a green dress, because tomorrow is St. Patrick's Day and the Boyles, you know. [LB163]

SENATOR MURANTE: All right. Seeing no additional questions, thank you for coming down today. [LB163]

JOE KOHOUT: Thank you. [LB163]

SENATOR MURANTE: Much appreciate it. And Commissioner Cavanaugh, all our favorite Douglas County Commissioners are here today. [LB163]

JIM CAVANAUGH: Well, thank you, Mr. Chairman. My name is James Cavanaugh; I'm a Douglas County Commissioner, and Cavanaugh is spelled C-a-v-a-n-a-u-g-h, and I'm here today to echo the sentiments of the previous Douglas County Commissioner, Mayor Boyle, and urge you to support this worthy bill. We commend Senator Vargas for bringing this matter to your attention. Voting is the air supply and life line of any democracy. And I think it's no secret that we have abysmal voting percentages, not only in Douglas County, but in Nebraska and, really, nationwide. Anything that we can do to enhance people's ability to exercise the right to vote is something that we should encourage. For a modest investment here, we in Douglas County, I think, could move that needle towards a higher percentage of voters participating in the elections. And I think we could all agree that's a good thing. This is not a Democrat or a Republican or an Independent or a Liberal or a Conservative issue; this is a Democratic principle. And we all share those principles and I think that what we have here today in LB163 is an expression of how we can move that principle forward by working together. And we would urge you to act favorably on LB163 and put it out at your earliest convenience. I'd be happy to answer any questions you might have. Thank you. [LB163]

SENATOR MURANTE: Thank you very much for your testimony. Senator Blood. [LB163]

SENATOR BLOOD: Thank you, Chairman. Just for clarification, what was the voter turnout in Douglas County? Because I think Sarpy was almost 75 percent. [LB163]

JIM CAVANAUGH: I'd defer to the former election commissioner of Douglas County and my senior member on the county board. [LB163]

MIKE BOYLE: I defer to the current election commissioner. (Laughter) [LB163]

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SENATOR BLOOD: There's a lot of shenanigans going on here today. [LB163]

BRIAN KRUSE: Nearly 78 percent, 69.63 percent, I think. [LB163]

SENATOR BLOOD: So Sarpy did better than Douglas. (Laughter) [LB163]

JIM CAVANAUGH: And good for you. [LB163]

SENATOR MURANTE: Good shot there, Senator Blood. [LB163]

JIM CAVANAUGH: You know, I point out, you bring up a good point, in presidential years, I think we all know that the percentage of participation tends to go up. In off years, and we're currently on the cusp of a municipal election in Omaha, it goes down and sometimes way down. And the projections...and, Brian, correct me if I'm wrong, for the municipal election this spring, it's pretty low, isn't it? [LB163]

BRIAN KRUSE: It, historically, is about 20 percent for the primary, 30 percent for the general, historically. [LB163]

JIM CAVANAUGH: That's pretty anemic when you're talking about we're selecting the mayor and the city council of the largest city in the state. So if we could do something about that, even to move it 5 to 10 percent, I think it's an investment worth making. [LB163]

SENATOR BLOOD: And what is the average income of people in Omaha...in the Omaha metro area, do you know? [LB163]

JIM CAVANAUGH: The average income of Omaha residents? I do not know. [LB163]

SENATOR BLOOD: But there's a lot of working-class people that work a lot of hours. [LB163]

JIM CAVANAUGH: Yeah, that's exactly right. [LB163]

SENATOR BLOOD: Thank you. [LB163]

JIM CAVANAUGH: You bet. [LB163]

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SENATOR MURANTE: Senator Hilgers. [LB163]

SENATOR HILGERS: Thank you, Mr. Chairman; thank you, Mr. Cavanaugh, for your testimony...Commissioner Cavanaugh, for your testimony. Do you have any comment on Mr. Kohout's suggestion to limit this just to primary and general elections or do you have any reaction to that? [LB163]

JIM CAVANAUGH: Well, I...you know, I think that it's good across the board. We had some discussion with our election commissioner of Douglas County about relative fiscal impacts on it. We have a third of a billion dollar budget annually; this is minimal expense. I mean, double the cost of the fiscal note, point, zero, zero, zero, one percent to the end of the block. So it's not a question of resources, it's just a question of will. [LB163]

SENATOR MURANTE: Thank you, Commissioner Cavanaugh. It's just that...you had a lot of legislative experience. I do have to say that there is something a little bit different about this bill that we oftentimes get people who bring legislation that deal with the regulation of political subdivision and that's usually because the political subdivision and whoever is bringing the bill are impasse and, basically, they want us to force a county or a political subdivision of some sort to do something. I don't recall an instance where a county who has the authority to do a thing is coming to the Legislature and telling us to force them to do the thing that they already can do by themselves, so I'm wondering why that is the case in this instance. I mean, why...like I asked Commissioner Boyle, why don't you just do it? Why are you asking for a state law to do something that you can already do if you wanted to? [LB163]

JIM CAVANAUGH: And that's a good question. As you know, the black letter law on counties is we're creatures of the Legislature. We can only do or not do what you tell us we can do or not do. And maybe it's an over abundance of caution that we're asking for the statutory authority to do it, but whether it is or not there's never any question when you tell us to do something that we do it, for good, bad, or indifferent. (Laughter) That's what we do. We're creatures of the Legislature. [LB163]

SENATOR MURANTE: I'm not sure Senator Groene would agree with this. I don't have any more. Does anyone have additional questions? Seeing none, thank you for your testimony. [LB163]

JIM CAVANAUGH: Thank you very much. [LB163]

SENATOR MURANTE: Welcome back. [LB163]

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BRI McLARTY HUPPERT: (Exhibit 2) Good afternoon. My name is Bri McLarty Huppert, that's B-r-i M-c-L-a-r-t-y H-u-p-p-e-r-t and I'm here on behalf of Nebraskans for Civic Reform in my official capacity as the director of voting rights. So the testimony I want to provide to the committee is, maybe, to possibly kind of get to that question that Senator Murante and Senator Hilgers have both been asking is why should the Legislature? And my answer to that would be the voter. When you talk about the county board or the Election Commissioner making a decision about expanding early voting hours to the evening and the weekends, it only lasts as long that election and only lasts as long as that county budget for voters having that type of consistency knowing that Saturday voting is available, knowing that extended hours outside of the traditional 8 to 5 work week could provide a good source for those. And what I wanted to share is some of the experiences we heard from voters in the 2016 election. Part of NCR's job and the work that we do is to empower voters to be their own advocates, but then also to assist them in the process of voting. We have an active voter assistance line where voters can call us with questions about early voting, about where to find nonpartisan information, about how to register to vote. But we also do what's called an election observation program. We send nonpartisan election observers to polling places to observe to make sure that individual's rights are being respected and to collect data that we then use and share with election officials and with you all. So this is part of that data. What we actually found out is there was a significant long lines for early voting in Douglas and Lancaster. We sent individual voters and just asked them to time it. And someone in Douglas County they arrived first thing in the morning about 7:30 and they were in line for about two hours. The line snaked all the way through the parking lot and around the corner. I'm not going to say for sure that having it open on Saturday would have alleviated that problem, but it is showing that some people do want to vote early and expanded hours might make it a little easier. I know that in some of the news reports, the Douglas County Election Commissioner noted that it was more difficult towards the end of the day, as well as over the lunch hour which shows that the traditional 8 to 5 hours may not be working and people may have to carve out time and weekends and evenings might help the voter do that. The numbers you have specifically in front of you is in Douglas County it was announced that about 1,200 early ballots were rejected because the individuals either forgot to sign or the signatures didn't match. What we did at Nebraskans for Civic Reform is we actually received the list from the Douglas County Election Commissioner and culled through it. There were about 1,200...805 individuals that just failed to sign the envelope. So a very easy fix for a ballot that would have been rejected and their vote not counted. We were able to match about 779 voters through the Voters Activation Network and get phone numbers for them. We called through and left messages for everyone. We talked to about 111; of those, about 47...45...47 had no idea that their ballot had been rejected. We then instructed them on ways they could remedy the problem. And two of the ways was, one, to vote a provisional ballot on election day; and the second was to go down to the election officials office; and a lot of the conversations we had were, well, I can't get there between 8 and 5. We had individuals who were actually poll workers who found out that their ballots were going to be rejected and they had to go vote on election day. Luckily, they

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were serving at their own polling place. They had to kind of clock out, go and vote a provisional ballot and then go clock back in because they couldn't make it to the election commissioner's office in that 8 to 5 time period. So we do have some instances where expanded hours would actually help voters be able to either remedy something like a rejected ballot or be able to just vote early. So I just wanted to share some of those experiences that we saw from voters and that we heard. I would like to point out, we did put on the backs the legislative districts. I know for Senators Murante and Craighead, they probably need a little bit more because you can kind of guess where they are in Douglas County. And I would like to point that the times where they turned out less than 34 percent, which was kind of the average, were districts like LD18 and LD5 and LD39 that tend to have a significant trek to the election official's office which is located at about 115th and Dodge. So just to provide a little bit of an illustration of how the distance and singular location and the limited hours can impact voters and their ability to either remedy a rejected ballot or to go and actually vote early. So I just wanted to give a little bit of anecdotal evidence that we saw in 2016 and kind of, hopefully, provide a little more answers to the question of why should the Legislature do it and to help the voter. I'd be happy to answer any questions. [LB163]

SENATOR MURANTE: All right. Thank you very much for your testimony. Senator Hilgers. [LB163]

SENATOR HILGERS: Just real briefly, Mr. Chairman. Thank you for your testimony. Just can you walk through with me this chart you got so...legislative district--the number that you found that were rejected for lack of signature. What's this...what's the next column--reported as voted...had actually (inaudible) were voted on the rolls? [LB163]

BRI McLARTY HUPPERT: So what we did is we were able...we have an on-line database called the Voter Activation Network. It's a database of all registered voters in the state of Nebraska, and we use this to do a lot of our research to kind of look at voter turnout and stuff. So the first is we matched the list that was given to us by the Douglas County Election Commissioner, and that's the 779, we were able to find unique individual records for. So that's the number for...that actually had a rejected ballot for lack of a signature, and that was the only reason we looked at. The second column--Reported as Voting in the 2016 General, we compared that to the voter history that's provided by the Secretary of State to...I think it's the Nebraska Civic Engagement Table, is the nonprofit member-based organization that runs the van. So then they match who turned out to vote with the voter in our voter activation network. It kind of just allows us to search by voter history, by legislative district, so that's kind of who actually went and either remedied their ballot or they voted a provisional ballot and the ballot was counted. [LB163]

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SENATOR HILGERS: Okay, so that column is the folks who actually...the number of people actually...ultimately did cast a valid ballot. [LB163]

BRI McLARTY HUPPERT: Exactly and took action. [LB163]

SENATOR HILGERS: Okay. [LB163]

BRI McLARTY HUPPERT: So you can see in some of those districts like LD5 and 18 and 39 it was below the average of 34 percent. I will add that when we actually talked...of the individuals we talked to, the 111 voters, they actually turned out at a rate of 59 percent. So having that conversation with us and learning that their ballot was rejected and how they could remedy it resulted in a higher turnout. So I know that's not addressed in the bill here, but I would say that education of voters about how to check that their ballot has been accepted or not should be something I know NCR is going to focus on and we'd love for the Legislature to brainstorm ideas of ways we can improve that kind of education. [LB163]

SENATOR HILGERS: Thank you. [LB163]

BRI McLARTY HUPPERT: Of course. [LB163]

SENATOR MURANTE: Thank you. And seeing no additional questions, thank you very much for your testimony. [LB163]

BRI McLARTY HUPPERT: Thank you. [LB163]

SENATOR MURANTE: Welcome back. [LB163]

SHERRY MILLER: Yeah, well, I got flat-footed...caught flat-footed by the amendment. I'm Sherry Miller, S-h-e-r-r-y M-i-l-l-e-r. I had submitted a letter to support the LB163, but I hadn't read the amendment. So I am here to ask you to disregard the first letter that was submitted. I'll be sending another one to show our support, the league's support for extended hours at the election commissioners' offices. And I just wanted to also mention that as a volunteer with the League of Women Voters, I've done lots and lots of voter registration, and it has always been a great pleasure to work with Dave Shively of Lancaster County, back then bent over backwards, essentially, to make sure anyone who wanted to register to vote in the General Election last fall had every opportunity right up until the last minute permitted by law which I think was 6:00 p.m. Friday before. And I sat at Russ's IGA for a couple of hours and we registered one person and

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she was very excited. So we do support LB163 and I will be sending an amended testimony. Okay? [LB163]

SENATOR MURANTE: All right. [LB163]

SHERRY MILLER: All right. [LB163]

SENATOR MURANTE: Thank you very much for your testimony. Seeing no questions, all right, are there any additional proponents? Is there opposition testimony? (Laughter) The love fest comes to an end. [LB163]

BRIAN W. KRUSE: No, no, no, no, not just yet. [LB163]

_____ : We did ride down together. [LB163]

BRIAN W. KRUSE: No. I won't have to hitchhike home. [LB163]

SENATOR MURANTE: Welcome. [LB163]

BRIAN W. KRUSE: (Exhibit 3) Welcome. Thank you. Chairman Murante and members of the committee, my name is Brian W. Kruse, B-r-i-a-n W. K-r-u-s-e. I am the Douglas County Election Commissioner and I am here to testify in opposition of LB163 which as amended would require counties with a population of more than 100,000 inhabitants: Douglas, Sarpy, and Lancaster; to establish additional hours for early voting prior to an election. I appreciate Senator Vargas amending this bill to remove the requirement for additional early voting locations after having conversations with myself and a few Douglas County Commissioners. I am always willing to hear ideas or suggestions that enhance the voter experience. While I am not opposed to early voting hours, I do not believe it should be codified in state statute. Currently, there is no law that prohibits additional early voting hours, in other words, we can already do this. I do not believe it's necessary to create a law and more regulations to do something we already have the ability to do. Furthermore, while this bill only pertains to counties with a population of 100,000 or more, I would imagine voters within counties of all sizes have difficulty getting to election offices during regular voting hours. Should not every voter in our great state be afforded the same opportunities when it comes to voting? Having never extended office hours before in Douglas County, or at least not in recent memory, we need flexibility to see what works best for the voters in our county. Local election officials understand what works best for their jurisdictions. They need the ability to see what works and what does not work for each type without being bound by a specific time frame. In addition, it only makes sense that for larger

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elections you might need more hours, and for smaller elections, less hours. These are decisions that can best be made at the local level. In Douglas County, we are constantly educating and informing voters regarding the ease and convenience of early voting, nearly 34 percent of voters chose this option in the last election. Ballots, which are no more than two pages, may be returned to the election office with a single first class postage stamp or for no cost if returned to one of our ten drop boxes. Almost half of returned ballots, 49 percent, were placed in a drop box during the last election. Drop boxes are available 24 hours a day, 7 days a week, during the early voting period which allows voters to return their ballots up until 8:00 p.m. at a location closer to their home. Lastly, I had planned to release this information at a press conference on Monday; however, I want to inform the committee that Douglas County plans to add early voting hours for our upcoming city elections and future elections. Specifics will be forth coming on Monday at 9:00 a.m. during the press conference. There will also be information at the press conference making it easier for voters to see if the early voting ballot has been accepted or rejected and giving them the opportunity to correct that. This was prompted by feedback received from the community members via our stakeholder group in Douglas County, which I meet with on a monthly basis during election cycles. This discussion started prior to the introduction of this current bill by Senator Vargas. This is an example of local election officials working with their voters to do what's best for their jurisdiction. I might also add that I'm not sure where the \$8,000 number came from, Senator Brewer. My office was not asked to calculate the hours for that. We did not participate in that. We were not consulted on that. So I think let's not get caught up on the \$8,000 number, because I have no idea what it would cost our office because I haven't done those numbers and I'm not exactly sure where those numbers came from. In conclusion, each election is different, and the local election officials should be allowed to choose what works best for their voters. I urge the committee to not advance LB163 to General File. Thank you for your time.

[LB163]

SENATOR MURANTE: And thank you for your testimony. Senator Blood. [LB163]

SENATOR BLOOD: Thank you, Chairman. And you actually answered half of one of the questions. My question was, if you have the ability to do it, why do you not do it? [LB163]

BRIAN W. KRUSE: We are. [LB163]

SENATOR BLOOD: So you are now going to be doing that. [LB163]

BRIAN W. KRUSE: And that comes from our stakeholders group, from listening to the voters. [LB163]

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SENATOR BLOOD: And you make a comment about size and counties, I don't know, what is your background, how did you get to be the election commissioner? I don't know. [LB163]

BRIAN W. KRUSE: I was a funeral director before this. I was a manager of several funeral homes. [LB163]

SENATOR BLOOD: Interesting. [LB163]

BRIAN W. KRUSE: I applied...I applied for the job; interviewed, and they chose me out of a pool of candidates. [LB163]

SENATOR BLOOD: I bet the people you work with are a little noisier than (inaudible). [LB163]

BRIAN W. KRUSE: (Laugh) Yeah, it's nice to have conversations at work now. [LB163]

SENATOR BLOOD: So sorry, that's bad. I did a Senator Lowe there. (Laughter) So wouldn't you say that...so you know a little bit about budgeting. [LB163]

BRIAN W. KRUSE: Oh yeah, yes. [LB163]

SENATOR BLOOD: I mean, talking about the numbers, and I hear you say that maybe you didn't meet with Senator Vargas, but it sounds like your county commissioners did, and aren't they the ones that plan your budget or how you get your budget? Or is that not (inaudible) in Douglas County? [LB163]

BRIAN W. KRUSE: Well, they send us a budget and we're responsible for our budget and then we have to go to the board and present our budget to them. [LB163]

SENATOR BLOOD: But they ultimately hold the purse strings (inaudible). [LB163]

BRIAN W. KRUSE: They ultimately hold the purse strings, yes. [LB163]

SENATOR BLOOD: Okay, (inaudible). And then you talked about the difference between smaller counties and bigger counties, and I don't know if this is, in deed, the intent, but when I read a bill like this and I see that they picked particular population area, to me my common sense which may not be right... [LB163]

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BRIAN W. KRUSE: Sure. [LB163]

SENATOR BLOOD: ...and I would be the first to admit that, is that smaller counties have smaller budgets and don't always have the ability to...even \$8,000 would be too much for a small budget, while Lancaster...especially, I mean, you guys have that fancy restaurant tax, but...Lancaster and Douglas County and Sarpy County...it's the end of the day, they tend to, maybe, have a little bit more leeway in their budget. So, I mean, I would certainly understand and I don't know if indeed that's the reasoning, but it may be a matter of a budget more than anything else and then population, you're serving a lot more of the population in the three bigger counties. But... [LB163]

BRIAN W. KRUSE: Sure. [LB163]

SENATOR BLOOD: So you're committed to doing this for how long? [LB163]

BRIAN W. KRUSE: We're going to do it for the city election and then we're going to do it for the elections moving forward. [LB163]

SENATOR BLOOD: Forever. [LB163]

BRIAN W. KRUSE: Now, we're going to start out small and we're going to see how it goes. [LB163]

SENATOR BLOOD: And what is your version of starting out small? [LB163]

_____ : So much for the press conference. [LB163]

BRIAN W. KRUSE: Yeah. We are going to start out...we will be open the election immediately...excuse me, the Saturday immediately preceding each election from 9:00 a.m. to 1:00 p.m. and moving forward. [LB163]

SENATOR BLOOD: So one Saturday in an election is your extra hours. [LB163]

BRIAN W. KRUSE: So far. [LB163]

SENATOR BLOOD: Not earlier or later or... [LB163]

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BRIAN W. KRUSE: Not at this point in time. [LB163]

SENATOR BLOOD: What about the people who work in retail? [LB163]

BRIAN W. KRUSE: There's early voting. You know you have the option of early voting which is so easy. I mean, it... [LB163]

SENATOR BLOOD: No, I agree though. I just... [LB163]

BRIAN W. KRUSE: You can fill out the form and snap a picture on your smart phone, you can e-mail it in, scan it in, drop it off. [LB163]

SENATOR BLOOD: Our awesome election commissioner went ahead and sent one out to everybody this year. And I think that was a wonderful thing. [LB163]

BRIAN W. KRUSE: And we did too for the General. [LB163]

SENATOR BLOOD: Well, that makes you awesome too. [LB163]

BRIAN W. KRUSE: (Laugh) Okay. [LB163]

SENATOR BLOOD: But what I found going door to door, and I'm sure other senators did as well, is that there's a certain level of suspect, depending on what people's backgrounds are, that they want to do it in person, which I think is kind of silly, but it is what it is. [LB163]

BRIAN W. KRUSE: Sure. And I would...you know, early voting is 15 days before the election. And so if we're open during the week and then we're open on Saturday, I would say someone that works retail probably doesn't work 8:30 to 5:00 every day and also on Saturday. I'm just saying. I would think at some point in time if they wanted to vote in person because that would be more than 40 hours in a week. That's just my observation. I understand folks in retail do work odd hours and lots of hours. [LB163]

SENATOR BLOOD: Kind of like funeral directors. [LB163]

BRIAN W. KRUSE: Unlike funeral directors, absolutely. So I can appreciate that. [LB163]

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SENATOR BLOOD: Thank you. [LB163]

SENATOR MURANTE: Thank you. Senator Craighead. [LB163]

SENATOR CRAIGHEAD: Thank you, Mr. Chairman. Do you have any idea where that \$8,000 number came from? Did somebody just take a dart board and throw or do you have any idea where it might have come from? [LB163]

BRIAN W. KRUSE: I have no clue. I was shocked when I heard that number sitting in the audience. Like I said, we...our office was not consulted on that in the least bit. I would think they would have wanted to consult us to see how many employees, which employees, because it's not just one person working at the counter. There are behind-the-scene things that go on that require additional employees. So I..I have no idea where that number...I'm not saying that number is correct or not correct, I just have no idea where that number came from since we were not consulted on that. [LB163]

SENATOR CRAIGHEAD: Okay, thank you. [LB163]

SENATOR MURANTE: Thank you. Senator Briese. [LB163]

SENATOR BRIESE: Thank you, Chairman Murante; and thank you, Mr. Kruse, for being here. When we're talking about number of employees, how many employees...or would you estimate would be involved in this for those that (inaudible) 18 hours a week. [LB163]

BRIAN W. KRUSE: Well, you know, if you're going to be open, you have to be full service. I mean, if somebody comes in to get a map or to buy a voter seat file or something like that, it's not good service. You can't tell them no, I'm sorry, the only thing you can do today is early vote. I mean, that's not a possibility. You have to have telephone operators, because the phones have to be turned on so you can answer questions if you're going to answer that you're going to be open, you have to answer the phone. We have no idea what to expect. So we are planning for three front counter people, at least three telephone operators. Then at myself, the deputy will be there and the office manager in case issues arise. At least one of our IT gentlemen will need to be there in case we have technical issues. And also, at the end of the day, every day, we scan all of the ballots in. And so we would need to scan all of those in at the end of Saturday so they're in the system so when early voting resumes on Monday, we have everybody accounted for. And then we post a list each day at the end of the day for anyone really, but for candidates and campaigns to go out there and look and see who voted early, who requested a ballot, and who turned them in. So we would want to provide that same level of service on Saturday because if you wait and

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do it on Monday then your list is commingled where we do it every day for them otherwise. So I would think we would need 10 to 12 people. [LB163]

SENATOR BRIESE: And you mentioned scanning in on Saturday at the end of the day. How much additional time and how much manpower would that require if you were guessing? [LB163]

BRIAN W. KRUSE: It depends on how many votes we have. I mean, you have to scan each one in, then we run lists to make sure they all add up, you know, that we have all the votes in and that everything matches up. Once we close at 1:00, we're probably not gone until 2:30. [LB163]

SENATOR BRIESE: Okay. [LB163]

BRIAN W. KRUSE: I mean, if we have a decent amount of ballots. Could be longer if we have a problem. [LB163]

SENATOR BRIESE: Okay. [LB163]

BRIAN W. KRUSE: And I'm talking for a city election now. In a gubernatorial or a presidential, I mean, you know, we get a lot of people to vote on a Saturday in a presidential, we're going to be there until 7:00, 8:00 at night potentially, like we are now getting things taken care of. [LB163]

SENATOR BRIESE: The extra 18 hours that the amendment refers to, do you think that's overkill? Is that overdoing it? [LB163]

BRIAN W. KRUSE: You know, I think we...I don't want to say it's overkill or it's not overkill. I think we should start out and see what happens. You know, if we get people to come on Saturday, then I'm not opposed to increasing the hours. But, you know, probably for a presidential, that's not enough. But for a city primary, yes, that's probably a little excess. It's probably, quite frankly, we need to be good stewards of taxpayer dollars, and so if I'm paying employees to sit there do cross word puzzles, you know, that's not a good use of taxpayer dollars. [LB163]

SENATOR BRIESE: Okay. My impression earlier, maybe I was mistaken from the earlier testimony, was that you were in reasonable agreement to this amendment. Did you acquiesce in the amendment at one point? [LB163]

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BRIAN W. KRUSE: We visited about the amendment in my office. We didn't come to any...we did not come to these specific terms. And I think my position has been...again, we don't need an amendment to do something...we don't need a law to do something we can already do. So if you're asking if I helped craft this amendment with these hours, I would say the answer would be no. [LB163]

SENATOR BRIESE: Okay, okay. Thank you. [LB163]

BRIAN W. KRUSE: Does that answer your question? [LB163]

SENATOR BRIESE: Thank you. [LB163]

SENATOR BREWER: All right, any additional questions? [LB163]

SENATOR CRAIGHEAD: One more. I just want to make sure I heard you correctly, with early ballot forms that we fill out and sign and send in, did I hear you correctly that say you can snap a photo if you can with your phone and send it to you? [LB163]

BRIAN W. KRUSE: Correct. So when you fill out your early ballot form, you can take a photo... [LB163]

SENATOR CRAIGHEAD: Yep. [LB163]

BRIAN W. KRUSE: ...of that and you can email it to us from your smart phone. We've tried to make it as easy as possible. You can mail them in, hand delivery them, e-mail them, fax them, or take a photo on your phone and send it to us. [LB163]

SENATOR CRAIGHEAD: That does make it simple. I thought that's what you said. Thank you. [LB163]

BRIAN W. KRUSE: Yes. [LB163]

SENATOR BREWER: Senator Lowe. [LB163]

SENATOR LOWE: Would you be willing to be open the Monday through Friday also so you didn't have to have a law telling you to? [LB163]

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BRIAN W. KRUSE: I'm open to anything. I think, as I said, we need to start small. [LB163]

SENATOR LOWE: Because I bet your big bugaboo is you don't what the Legislature telling a city what to do. [LB163]

BRIAN W. KRUSE: That's right. I mean, I just don't...it's local control issue. And I'm not opposed to being open Monday through Friday, but I think we need to start off with a Saturday and see how it goes, see if there is a demand for that. One of those nights, Friday, the last day, the 24th, we're already mandated to be open until 6:00 p.m., which is the last day to register to vote in person...or excuse me, to vote in person and register to vote in person. So you can vote early on the last day. So one of those days we're already open an additional hour. [LB163]

SENATOR LOWE: And what would the cost be for this extra 18 hours in your mind? [LB163]

BRIAN W. KRUSE: I'd have to get back to you. I mean, I really I'd have to...I mean I have to look at what each of my employees makes because it's overtime and figure out how many hours we'd have to have them there. Because it wouldn't just be the 18 hours; we'd have to determine the actual number of hours above and beyond the 18 hours. I could do that, I could put some numbers together and send them to you. Because everybody in my office makes a different hourly rate and that is overtime. [LB163]

SENATOR LOWE: I also noticed you mentioned yourself and your deputy, but I'm assuming you're salaried. [LB163]

BRIAN W. KRUSE: We're salaried. [LB163]

SENATOR LOWE: So it does...you could fill up all the hours then... [LB163]

BRIAN W. KRUSE: Right, sure, you bet. (Laughter) [LB163]

SENATOR MURANTE: All right, thank you, Senator Lowe. Senator Blood. [LB163]

SENATOR BLOOD: Actually, I have several questions. I'm going to piggyback first on Senator Briese's only because I need clarification, Mr. Kruse. Am I pronouncing your name correctly? [LB163]

BRIAN W. KRUSE: Um-hum. Yes, ma'am. [LB163]

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SENATOR BLOOD: Okay. I thought I heard you say you hadn't met with Senator Vargas since the very first meeting, but then I heard that you did...how many times did you meet with Senator Vargas? [LB163]

BRIAN W. KRUSE: Once at my office. P.J. Morgan, Mike Boyle, and I have met once at my office. [LB163]

SENATOR BLOOD: So that was on the amendment that you met? [LB163]

BRIAN W. KRUSE: No, that was on the original bill. [LB163]

SENATOR BLOOD: Didn't we just hear that you had a chance to look at the...you did see the amendment, but you what? [LB163]

BRIAN W. KRUSE: I saw the amendment for the first time when it was e-mailed to me by Senator Vargas on Tuesday. [LB163]

SENATOR BLOOD: On Tuesday of this week. [LB163]

BRIAN W. KRUSE: Correct. [LB163]

SENATOR BLOOD: Okay. And did you respond to him? [LB163]

BRIAN W. KRUSE: I did not. [LB163]

SENATOR BLOOD: Okay. And then the other question I have, and I have to say, and I apologize to my friends that are in this room that work for the government, in addition to me, but you make more money than I do, is that...the thing that I'm always concerned...if I run a business and I have to do extended hours for maybe Christmas and I don't have a big budget, what I do is I stagger my shifts. Why are we not hearing...I mean, if you had somebody come in an hour earlier or stay an hour later, why can't you just have somebody who normally works 8 to 5 work 7 to 4 or 9 to 6? [LB163]

BRIAN W. KRUSE: We staff for those hours of 8 to 5. So you potentially have lines then if you don't have that first hour if you don't have all of your staff there then you potentially have a backlog. [LB163]

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SENATOR BLOOD: But you still would have all your staff there? [LB163]

BRIAN W. KRUSE: But I wouldn't have all...if I have three people working the front counter and I only have one come in for the first hour and two stay for the second hour and we have voters in line, you can't give the quality of service to all of those voters with one person that you can with three people. [LB163]

SENATOR BLOOD: Does your employee contract allow for comp time in your county? [LB163]

BRIAN W. KRUSE: They can have comp time, but it's their choice. I cannot make them. [LB163]

SENATOR BLOOD: So that is something that is an option though when it comes to budgetary issues? [LB163]

BRIAN W. KRUSE: I would say no because we never know if an employee is going to take comp time or not, because as I said, we cannot force them to take comp time. [LB163]

SENATOR BLOOD: I always find that puzzling. It seems like government makes things so much harder than the average Joe on the street when it comes to solving problems like this. And I always...I see heads shaking, I always find it concerning. I mean, most government employees do have comp time, at least in Nebraska. I know not all contracts are that way. And how hard is it to say--hey, we're willing to give you comp time if the 30 days leading up to it you're willing to come in and, clearly, it's your option, but we're offering this to you. Can you not do that under your contract? [LB163]

BRIAN W. KRUSE: I can and I did in the presidential election. I said comp time is available to you. I had two employees that took it and the rest of them wanted the overtime because their...as you can...I mean, it's a fact, they're making a lot of money doing overtime. [LB163]

SENATOR BLOOD: Out of curiosity, why would you be willing to do that for one election, but not more in the future? [LB163]

BRIAN W. KRUSE: Our workload doesn't warrant it. We're not working any overtime at this point for a city election. We haven't had to. [LB163]

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SENATOR BLOOD: What about the next presidential election? [LB163]

BRIAN W. KRUSE: We'll offer the comp time, just like we did in the last one, and we'll do it for the gubernatorial too. But again, it's their choice if they want the overtime or the comp time. [LB163]

SENATOR BLOOD: Thank you. [LB163]

SENATOR MURANTE: Thank you. Seeing no additional questions, thank you for your testimony. Mr. Uhe, welcome back to the (inaudible). [LB163]

FRED UHE: Senator Murante, members of the Government, Military and Veterans Affairs Committee, my name is Fred Uhe, F-r-e-d U-h-e, I'm the director of government and community affairs for Sarpy County appearing today on behalf of the Sarpy County Board. We applaud Senator Vargas for raising some of the questions, and we do, truly, appreciate him moving away from the amendment. But as chairman of our board, Don Kelly, informs the Senator yesterday in an e-mail that we still have some concerns about the Legislature mandating our staffing levels. Things...one size doesn't fit all and we'd much prefer to approach this maybe on a more voluntary basis and working with different interest groups. Some statistics--our voter turnout last election was 74 percent. If you remove some of the inactive voters that are on the rolls because of federal regulations, the percentage is probably closer to 83. And nearly 40 percent of the voters were early voters that took advantage of either walking in to the Election Commissioner's Office or through mail. Frankly, the biggest staffing complaint we get is a state issue, actually, that's the Department of Motor Vehicles and you may be hearing this issue later. But I've not had one constituent...in my role for the county I do all our social media, I respond to a lot of comments and e-mails as far as comments and concerns. And again, drivers' testing seems to be our biggest issue which we're working with the DMV and Appropriations; you may be hearing this on the floor later. But, you know, an access to any government service raises a question because it's not only the right to vote, but, I mean, access to the courts and other agencies and there's probably people in the building cringe if they hear me say that because how do we better serve? Traditionally, Sarpy County has, for instance our treasurer's office is open later on Wednesday nights allowing people to come in after work. Originally, we started staying open until 6:45. Basically after 6:00 business drops and now they are open until 6:00. Wayne Bena, our awesome election commissioner, as you guys have heard a couple of times today, I told Wayne, he's riding back with me, I may not be able to get his head in the car, but the...I think there are some voluntary things; I mean we're all committed to service. But again, I mean, on behalf of the Sarpy County Board we are...I don't think it's a role for the state to kind of mandate staffing or hours in our offices and allow us to kind of decide the best way to meet the needs of our constituents. So with that I would entertain any questions. [LB163]

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SENATOR MURANTE: All right. Thank you very much for your testimony. Senator Craighead. [LB163]

SENATOR CRAIGHEAD: Thank you, Mr. Chairman. Thank you, Mr. Uhe, for being here. Okay, I'm going to ask every single person this: Where did the \$8,000 number come from, do you know? [LB163]

FRED UHE: I have no idea. [LB163]

SENATOR CRAIGHEAD: All right, thank you. [LB163]

FRED UHE: Basically, I just came across the amendment as well. I don't think Wayne Bena, our election commissioner, even had time to look at it. I did participate in the original fiscal note which is probably about \$250,000. And it's also important to note that in Sarpy County's case, we are the smallest land mass county, so getting to Papillion for our courthouse is not that difficult, unlike, maybe, Cherry County or someone similar. [LB163]

SENATOR CRAIGHEAD: Thank you. [LB163]

SENATOR MURANTE: Thank you. Senator Hilgers. [LB163]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you for your testimony. Have you, Sarpy County, done a cost analysis on what it would cost? [LB163]

FRED UHE: Not based on the amendment. I've not sat down with Mr. Bena to identify what amount of staffing levels he would need and which...we expect there will be overtime, particularly for the general elections, these are employees that love overtime because it's getting close to Christmas. In our case, we...if you have comp time on our books, we do require you to utilize most of it during the fiscal year. So I mean, it will have a budgetary impact some time on us, but I couldn't say what exactly it would be it. And that's part...one of the things, too, I think, let us discover what works. (Inaudible) Mr. Kruse offering in a city election that moves the needle on the turnout there because, you know, as we all know, November is football season. Well, Saturdays and Husker home games at 11:00 kickoff is going to be pretty sparse for a lot of businesses, so I'd hate to mandate an office be open when no one comes in. And our concern is once it's in mandated in statute and we then we say, well, this isn't working, then we'd have to come back and seek legislation to repeal it. So, again, I think local solutions for local problems. [LB163]

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SENATOR MURANTE: Thank you. Senator Wayne. [LB163]

SENATOR WAYNE: Sorry, I'm late to the party, I had three bills I was introducing in different committees today, so it was one of those fun days where I got my steps in. So part of the issue that I think this bill is trying to address with the amendment, I just want to get your take on it, is the right to vote is a pretty sacred right. And the ability to have consistency throughout the state, I think, is a good thing, especially when you think about access to the ballot challenges that arise. And so while I appreciate local control, don't you think there needs to be some clear guidelines statewide so no matter where you're at in the state, you know your early ballot is going to be open between 8 and 8, or 8 and 4, that you shouldn't have to have different times no matter what part of the state you're from? [LB163]

FRED UHE: Our election commissioner will follow me, that might be more appropriate for him. I don't disagree, and then, actually, I think this is one when we first looked at this bill, why just the "big three"? I know references to working families, I have a lot of relatives out in greater Nebraska that would probably claim they work harder than I do. And so some standards, you know, again, everything is different. I think as far as the law, I think there are a fair number of statutes that kind of guide what the election commissioner is going to do. But I would probably defer that to our election commissioner when and if he follows me. [LB163]

SENATOR WAYNE: That's fair. I just wanted to get your reaction. Thank you. [LB163]

SENATOR MURANTE: Thank you. Senator Blood. [LB163]

SENATOR BLOOD: Thank you, Chairman Murante. Mr. Uhe, can you tell me when you...the first time you saw the amendment? [LB163]

FRED UHE: Yesterday morning. [LB163]

SENATOR BLOOD: And did you respond? [LB163]

FRED UHE: Actually, I was not notified, I just stumbled across it doing some prep work. I did find out from some our commissioners, Senator Vargas did interact with most of our commissioners either a phone call, an e-mail, and so I had several calls on our take on it. And so the conversations is pretty much that...you know, let us just try to fix this ourselves. And I think our numbers are pretty good. So it's...you know, I mention I do social media, I mean if there's changes or things in an election law I can help push that out. I'm on Sarpy Twitter page, Facebook page or whatever. I know that Commissioner Bena and I attended a civic event and we

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were actually going to go to lunch and he actually stopped by to check his drop box on a Sunday afternoon and emptied it to make sure there were no issues with overflowing. Again, I think we're pretty attentive and, you know...let us figure out voluntarily. And I think was mentioned, yes, the county board, who I represent, does set the election commissioner's budget so there is...you know, I mean, you could say that the three commissioners in the big three counties are appointed by the Governor, but they still, you know, I know at least in Sarpy, the working relationship is very, very strong. And so I think if our county board says, okay, Wayne, try this, I doubt if he would really come back and say no, and because the power of the purse is pretty strong. [LB163]

SENATOR BLOOD: Thank you. [LB163]

SENATOR MURANTE: Thank you. Senator Lowe. [LB163]

SENATOR LOWE: I'll ask this question again. Would you be willing to open up early on the Monday through Friday in order to not to have a bill passed by us so that you could do it on your own without having... [LB163]

FRED UHE: Again, our election commissioner who really sets his hours is going to follow me, but I think on behalf of the county board, you know, we're willing to look at situations and... [LB163]

SENATOR LOWE: To accommodate the people that may need this? [LB163]

FRED UHE: Yeah, yeah. I said we've had...for instance, our treasurer being open an hour later, that impacts court security, building issues and stuff, but we've done it because it better serves the constituents. So I think we'd be willing to take a look at it. [LB163]

SENATOR MURANTE: Okay. Seeing no additional questions, thank you for your testimony. [LB163]

FRED UHE: Thank you. [LB163]

SENATOR MURANTE: Continuing on opposition testimony. Welcome back. [LB163]

WAYNE BENA: Mr. Chairman, for the record my name is Wayne Bena, W-a-y-n-e B-e-n-a; I serve as Election Commissioner for the third largest yet smallest county in the state of the

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Nebraska, Sarpy County. I also represent our county clerks and that's one of the reasons that I'm here today. Commissioner Shively could not attend today due to a family commitment, but he wanted me to, on his behalf, say that he agrees with Commissioner Kruse and I in opposition to this bill which we'll talk about in a minute. I did contemplate not coming down today; we're just saying ditto. However, a couple of things regarding needing to get Commissioner Shively's issue on the record, as well as I haven't been asked one question this entire year, hint, hint, in this committee. But finally, I wanted to say thank you to Senator Vargas and his staff in regards to their outreach on this bill. My philosophy on any bill from the start is to assume it's going to pass 49-0 when it gets introduced. And with that I'm willing to work on any bill to make it even better, even if I end up opposing it. So as a former LA in this body, to you, Meg, I want to appreciate that your work that you have done on this bill, you have done fantastist work for your senator. I look forward to working together on other election legislation. And, Senator Vargas, thank you for allowing me to comment during this process. I did want to make your bill better throughout this process, however, it comes down to the one question you asked me early on in the process--what will it take for you to support this bill? And my answer remains the same--you're going to need to put an A bill on it because if the state's not willing to pay for it, it's harder for us to say as a county that we should be paying for it. The decision regarding any county department, any county department of what hours they should have should rest between the department head and the county board that controls their budget. On the flip side, if you do extend office hours and then discover it is not utilized or not used by the voter, then it should not take an act of the Legislature to be able to reduce those hours in a future Legislature. We are allowed to do this now by law. If I, with the consent of my board, want to increase the hours and the board is willing to pay for that, I can do that. I will say that right now all offices in the state of Nebraska, all 93, are required to remain open until 6:00 p.m. ten days prior to the election for the voter registration deadline. For three out of the four elections that we have in Sarpy County, that's an nonissue day. I actually let everyone go home on those three elections and stay and staff the office myself because we have never had more than one to two people come in for any purpose during that election. In the presidential general election, the...we will have a line starting at 5:00...4:45 when we close, and usually it's getting through the line that we have at 4:45 through 6:00 is the normal people that we serve during that time. I will say in regards to the 18 hours, I've calculated it to be 17, because one of those days is the day that we're required to open until 6:00 p.m., so I don't know if Senator Vargas contemplates that we have to remain open an additional five hours that week or the one additional hour that we're already open in state law constitutes that. So I'm basing this off of 17 hours. It is the policy of our office and most offices that we help every voter who is in line at closing time. So just because we close at 6:00 p.m. doesn't mean there might not be a line outside the door that we'll keep this and go beyond the 18 hours. Again, I'm willing to look at additional hours for mine, however, cementing this into state law does not allow flexibility. And again, this is for three counties, not all 93. So with that I will say thank you, Senator Vargas and to your team, and ditto for what my previous opponent testimonies have said. Thank you. [LB163]

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SENATOR MURANTE: Thank you, Commissioner Bena. Senator Craighead. [LB163]

SENATOR CRAIGHEAD: Thank you, Mr. Chairman. And thank you, Mr. Bena, for being here. I will ask you that first question again: Do you know where that \$8,000 figure came from? [LB163]

WAYNE BENA: I do not. [LB163]

SENATOR CRAIGHEAD: Okay. And when did you get the amendment? [LB163]

WAYNE BENA: I first got the amendment on Tuesday. [LB163]

SENATOR CRAIGHEAD: Thank you. [LB163]

SENATOR MURANTE: Thank you. Senator Blood. [LB163]

SENATOR BLOOD: Thank you, Chairman Murante. Mr. Bena, do you know what the fastest-growing county in Nebraska is? (Laughter) [LB163]

WAYNE BENA: That would be Sarpy. [LB163]

SENATOR BLOOD: Thank you. [LB163]

WAYNE BENA: Or just Gretna. [LB163]

SENATOR MURANTE: (Laughter) The best part of the best county. Senator Wayne. [LB163]

SENATOR WAYNE: You said that...you have to stay there until 6:00 for voter registration. [LB163]

WAYNE BENA: The last day of voter registration, which is ten days before every election, every election office is mandated to open until 6:00 p.m. or I believe it's 5:00 p.m. on the Mountain Time Zone. [LB163]

SENATOR WAYNE: Where's that mandate come from? [LB163]

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WAYNE BENA: It's in state law. [LB163]

SENATOR WAYNE: So state law does regulate your hours in certain places. [LB163]

WAYNE BENA: Correct. Um-hum. [LB163]

SENATOR WAYNE: So because voter registration is so important as a state, we've put into law that you have to stay open. [LB163]

WAYNE BENA: I believe that hour is to be consistent among all county offices for that day since all offices close at certain times, it provides a consistent closing time statewide for voter registration. [LB163]

SENATOR WAYNE: So besides the fiscal note, wouldn't you agree that voting should be consistent too for days and times? [LB163]

WAYNE BENA: I would agree. I would agree that...I would agree that it can be consistent, yes. But the decision to open is between...and office hours is between a county and their election commissioner. [LB163]

SENATOR WAYNE: No further questions. [LB163]

SENATOR MURANTE: Senator Hilgers. [LB163]

SENATOR HILGERS: Thank you, Mr. Chairman. On that...on Senator Wayne's question, the way I read the amendment, other than the at least...well actually it's...save this reading's existence it doesn't make a...certainly does not make it statewide, but even amongst the three counties it doesn't make a consistent standard for when the office shall be open. Is that your read of the amendment? [LB163]

WAYNE BENA: I have had questions regarding this amendment that I communicated to Senator Vargas' staff, mainly because how you consider the day before the election Monday in regards to a week. I understand what the amendment is trying to do. The two full weeks prior...or two weeks, 14 days, that you should be open four business...five business hours during the business week and four hours on Saturday. The Saturday is clear to me. The day before the election, if viewed that any day in a business week during the 14 hours prior to your election would mean my office would have to stay open from 8:00 a.m. to 10:00 p.m. the day before the election

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because we have to be five hours during the week. So there's a little...there's some ambiguity...I understand what he's trying to say. I don't know if the amendment is saying it. Do you see what I'm trying to get at? [LB163]

SENATOR HILGERS: I see what you're saying. But because it's written such that it's at least five hours, notwithstanding that week, which is the Monday, I understand. But the week before you could do three hours on Friday, you could do two hours on Thursday, and no hours on Monday, Tuesday, Wednesday. [LB163]

WAYNE BENA: And again, changing that...yes, in court, yes, you could choose the hours. I have some questions in regards to that 14 days is the start the Tuesday of the first week. And again, how do you adapt the one hour we're already open already in to that. [LB163]

SENATOR HILGERS: Already. [LB163]

WAYNE BENA: So again, it's a wording issue. But it goes back to my cementing the hours. If those business day don't work, then...but weekends do, we shouldn't have an act of the Legislature to be able to do what works in our communities. [LB163]

SENATOR HILGERS: Thank you. [LB163]

SENATOR MURANTE: Senator Brewer. [LB163]

SENATOR BREWER: Thank you, Mr. Chairman. Actually that exchange answered my question, but I want to make a comment, that was the nicest "no" I've ever heard when you shared that exchange at the beginning there. [LB163]

WAYNE BENA: I've worked in this body. (Laughter) [LB163]

SENATOR MURANTE: So, Commissioner Bena, I have a question for you regarding the practical effect. Let's assume we adopt the amendment and the bill is enacted into law. Is it your view, based on the concerns of the Lancaster County Board, that this bill would apply to any election beyond just presidential or mid-term election, including special elections? [LB163]

WAYNE BENA: I haven't...I haven't...in regard...I haven't thought of that issue in regards to the amendment. [LB163]

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SENATOR MURANTE: Okay. [LB163]

WAYNE BENA: I was thinking just in regards to just the local control issue. I haven't looked that deep. [LB163]

SENATOR MURANTE: Fair enough. [LB163]

WAYNE BENA: I'm willing to get back to the committee, but I want to be perfectly honest, I do not know if it would apply to a special. [LB163]

SENATOR MURANTE: Okay. All right. Senator Wayne. [LB163]

SENATOR WAYNE: Going back to the voter registration, do you know when that was enacted, because I don't know; I'm just trying to make some notes. [LB163]

WAYNE BENA: Before my time. So I started in 2010 and it was already in law in there. I probably assume it was around probably during...when HAVA...so at least probably 2006. [LB163]

SENATOR WAYNE: And what is it...what does it specifically say? [LB163]

WAYNE BENA: On the last day of voter registration in person...the in person voter registration deadline is 6:00 p.m. on ten days prior to the general election. So the second Friday before the election, all offices are to be open until 6:00 p.m. (inaudible) the Mountain, I believe...we're open from 8:00 to 6:00; I believe it's 7:00 to 5:00, I believe. [LB163]

SENATOR WAYNE: And that only applies to general elections? [LB163]

WAYNE BENA: All elections. [LB163]

SENATOR WAYNE: So all elections. So... [LB163]

WAYNE BENA: Primary and general. (Inaudible) special elections, the voter registration (inaudible), so all elections. I believe in primary and general elections, I have stayed open until 6:00 p.m. in special elections in the past. [LB163]

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SENATOR WAYNE: For voter registration. [LB163]

WAYNE BENA: Correct. [LB163]

SENATOR WAYNE: And that's just one day? [LB163]

WAYNE BENA: The last day of in-person voter registration. [LB163]

SENATOR WAYNE: Okay. All right, thank you. [LB163]

SENATOR MURANTE: All right. Seeing no additional questions, thank you, sir. Mr. Dix, welcome. [LB163]

LARRY DIX: Good afternoon, Senator Murante, members of the committee, for the record my name is Larry Dix, L-a-r-r-y D-i-x. I'm executive director of Nebraska Association of County Officials appearing today. I think we're still in opposition. I just came in from Kearney, got back from a meeting. Certainly, I just got back to my office and I heard a little bit of the discussion and I came back over so I apologize for not being in tuned to the discussion that happened before. And also we want to thank Senator Vargas for bringing the amendment, because I think the amendment, it's moving, maybe, in the right direction here. I think what piqued a little bit of my interest, Senator Wayne had asked the question about should this apply to all 93 counties in essence. And when we look at that certainly there is a difference when we get, certainly, to some of the counties in Senator Brewer's area, you know, when we start having offices open in Arthur County and there's the population of Arthur County is 400 people, we would like to at least leave some of that flexibility from NACO's point and, of course, the way the bill is drafted, of course it's 100,000 or larger. And initially we had felt that that really...we know we have people here to testify that it truly does impact them. But that sort of piqued my interest and I thought well I...maybe I should run over here just to have that conversation or at least see if there's any questions in regards to that. Because our state, as diverse as it is, when you do get to some of the smallest, smallest counties and then we do mandate additional hours, sometimes there really isn't going to be anybody that shows up in those counties, even though if it was mandated those counties would be open, they would have their doors open for that hour. The other thing, I think, when we get in here, and I'd have to read this more specifically, but I think in some of those court houses we'd like the flexibility because we're starting to enter into different time zone in part of our state and some of those court houses have differing times of the hours that they're open. So we from NACO, the NACO board, originally, when we looked at the green copy we opposed it because we felt that this really should be a local decision, something that each and every county looks at and deals with their voters in their county, what they see the workload being. And so that was the reason why, initially, NACO took its opposition to that. And then, like

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I said, Senator Wayne sort of asked that question and I thought, well, maybe I had better address that if possible. So with that, I'd be happy to answer any questions anybody would have.
[LB163]

SENATOR MURANTE: All right. Thank you very much for your testimony. Senator Hilgers.
[LB163]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Mr. Dix. You may have said it, but I didn't catch it. So the NACO is opposed to the green copy. Have you seen the amendment and do you...does NACO have a position on the amendment? [LB163]

LARRY DIX: You know, when the...we did take the position on the green copy to oppose. We did look at the amendment, and at that point in time we felt that that really it...it was amended to the bill that still addressed the 100,000 or larger, and so at that point in time I felt we were just going to see what Douglas, Sarpy, and Lancaster were working out, thinking that probably Senator Vargas had worked with them, possibly, on this amendment, so we weren't...I haven't had a conversation with Senator Vargas specifically about that amendment. So I would tell you...I would tell every committee with everything I think you all know, NACO is more than happy to work with any senator on an amendment if we need to, to see if there is something that we can work together on. [LB163]

SENATOR HILGERS: So just so I've officially...tell me if this is right: I hear you saying NACO is opposed to the green copy; you're still looking at the amendment. You haven't seen enough...or you're at the point where you would change your opposition to neutral or otherwise, is that fair or is it (inaudible)? [LB163]

LARRY DIX: I think that's a fair statement. We would definitely...when we looked at the amendment, because I think on the way back in the car I think I heard that Lancaster County had a discussion on it and felt that there was some benefit to the amendment. But then by the time I got back I noticed, you know, Douglas County still was in a position of opposition. I would want to, from NACO's perspective, as we represent all the counties, I would want to have that conversation to understand where...what moved Lancaster County and what was still the issue in the other counties. So we would probably stay there until I knew that answer. [LB163]

SENATOR HILGERS: Perfect. Thank you. [LB163]

SENATOR MURANTE: Thank you. And seeing no additional questions... [LB163]

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LARRY DIX: Thank you. [LB163]

SENATOR MURANTE: (Exhibits 4-8) ...thank you very much for your testimony. Is there additional opposition testimony to LB163? Is there any neutral testimony? Seeing none, I have letters of support from ACLU-Nebraska; from Kate McDougall of the National Association of Social Workers, the Nebraska Chapter; from Tessa Foreman of Nebraskans for Peace; Sherry Miller of the League of Woman Voters of Nebraska; and Mary Boschult of the League Women Voters of Lincoln and Lancaster County. Senator Vargas, you're welcome to close. [LB163]

SENATOR VARGAS: Thank you very much. [LB163]

SENATOR MURANTE: No, thank you, Senator Vargas. [LB163]

SENATOR VARGAS: Chairman and members of the committee, thank you very much. I'm going to anticipate the question that Senator Craighead has been asking: Where did that \$8,000 number come from? I got a lot of points I want to touch upon, so I appreciate your support with this. We had a meeting, that was me, Commissioner Kruse, Commissioner Boyle, Commissioner P.J. Morgan, my legislative aide, couple members of also the Douglas County office, and in that conversation was this compromise talking about how do we make this more feasible, understanding that there are steps in the right direction. Obviously, you've had this conversation, election law does exist. We as the Legislature have passed statutory requirements on election law, we do that. We're elected by our constituencies. And in this conversation was an evolution to make this more...make sure the cost was being addressed; make sure we're providing flexibility and autonomy and with some parameters to counties, and also elevating how we go about providing additional extended early voting hours to working families. And in that conversation came these numbers, actually very, very hard numbers--the five hours, the weekend hours, came out of this and there was an agreement. And we were going to work on an amendment and that specific number came; and there will be others that can testify to that that were in that room, especially some people that testified before, like the county commissioner, that \$8,000 number came from Commissioner Kruse simply asking what it would cost to have extended early voting hours for the number that we were proposing. That's where that number came from. And if you also want to reference, you can see inside of this...the original fiscal analysis, there are numbers that already give us some hard data for the cost for an additional person or overtime hours. I think an additional person costs, in the original fiscal note, is about \$18 an hour. The original cost for overtime was around \$25. So if you're already starting to add up the numbers here, the cost of this doesn't...it's still not getting to this point where it would beyond...much, much more beyond that \$8,000 approximate number. That number came from Commissioner Kruse and that's what we worked off of because...and that's why we actually submitted the amendment ahead of time because we wanted to make sure that there was some ability and time and reaction

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to get some feedback and work on it because that's what we want to do. We want to make sure that this is amenable. And I would urge you, after this, during this to check the numbers so that you can see. And we did a really quick calculation, if we had \$18 an hour and we had two additional new employees...or 18 specific days, potentially 17 now, now that we know that, you know, there's already an hour that's added in statute, so it would be around \$648, \$18 an hour for 8 additional hours for two employees, that's \$648. That's overtime. We're going to add a little bit more to that. So as you can see, it's not outlandish to see this \$8,000 number which did come from Commissioner Kruse, and there's others to attest to that. And in this compromising and working on amendments is trying to work through some of the issues and that's why we work through it. I think that we're seeing that there's numbers that are telling us that this is feasible. We've also had county commissioners and an entire county say they're supportive of this. I know we're hearing, and I actually really appreciate when we have honest discussion and people coming against something, but are always willing to work together. I think we've had differing views on the election commissioners and their stance on what local control means. I don't think this is either a yes or no issue on local control. But to address your question, the \$8,000 number came in that meeting from a conversation to try to make this work and that's what we worked off of. [LB163]

SENATOR CRAIGHEAD: Thank you. [LB163]

SENATOR VARGAS: The other issue I wanted to make sure to address, there was a question about, well, if the counties can do it, why don't we just let the counties do it? I think we sit here, we pass laws. We pass laws that affect many different entities, you know, subdivisions. And I think we make informed decisions on when to do that, when we're elevating the standard to make sure that individuals in Nebraska, the ones that we represent are being heard and the quality of life is improving. And that's why I brought forward this bill. You heard people talking about codifying. Well, we want to codify best practices into policy. Believe it or not, we wouldn't be the only state that does this. In that report in the Brennan Institute, there were several: Arkansas, Florida, Georgia, Nevada, New Mexico, North Carolina, Tennessee, Texas, that all must offer weekend voting. I'm going to repeat that: they must offer weekend voting, this is in statute. And they do this and they've done this because there are senators, people that represent like us, that are bringing forward policies to try to elevate the quality of life and specifically elevate our voter turnout. And so there is...I think there's a strong rationale here when we're codifying practices and setting things, not to be just best practices to be short term but elevating to make sure we're doing even more, more than what we currently see. That's what this is about. And the flexibility piece, and I'm so happy we're...I'm more than willing to work with Commissioner Bena because he's been tremendously kind throughout all this, and you're right, he's really good at saying no in the nicest way possible, but it lends me to this that if we need to be a little bit more specific in language, we can do that. The reason why we provided the guidance on the four hours in the weekday and the four hours on the Saturday is because we do believe that there is some

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flexibility that we want to provide to counties so they can do what's best knowing their staffing plans. So that's one issue I wanted to address. I also wanted to talk about--well, we already do a great job. And I would venture to say some...different semantics. We said we do a pretty good job. Some people said we did great, pretty good, we've gotten better. I wouldn't disagree with that. If we look at some of our numbers, and I think we heard from our election commissioners, Douglas is around 69 percent voter turnout in 2016; Lancaster County 73 percent, 2016, approximately; Sarpy we had 74 percent. And even more, and this is true, if we're starting to clean up our voter roles because of federal mandates and statute, we'd probably be even higher. But that would apply to every single county, so it's going to be a little higher if we proof some of the voter rolls. Well, I'm going to give you some more data: In Denver, in Douglas County for Denver, 81 percent voter turnout in 2016. In Hennepin, a St. Paul, Minnesota, county, 74 percent voter turnout, 2016; Jackson County, Kansas City, 77 percent; Polk County, Des Moines, around 77 percent. We're talking about three, four percentage, sometimes ten percent voter increases. We may be doing a good job, and I commend our election commissioners for continuing to do that. But good is not best yet. And we are constantly trying to be idealistic about how we improve voter turnout and make it easier for voting families. And this just shows you that we can and should do more. And other states, like the ones I mentioned, are already doing more. And I can continue to tell you the statistics on others that extend beyond business and voting hours and have passed statutes to add extra early voting locations to make it easier. And that gets me to my next point--why do we do this in these counties? Why would we do this in 100,000-plus counties, why not greater counties? I think there was a question about cost and about size. The reason why is when we do look at some election law, it applies to the size of a county. In Pennsylvania, they have a specific statute that applies to the size of the county that says you have a certain number of early voting locations because, well, to have one voting location for two hundred...100,000-person county and one potentially for something that's 10,000 doesn't seem very equitable. And so that's what we're talking about is creating equity or else I would just make...wouldn't have made the 100,000 mark. We're doing that because there's a disproportion population size across counties and we are trying to provide some level of equity and access to people in Nebraska. And so that's the rationale as to why we did that because that is happening and we're talking about election laws across this country. When we're talking about cost and that \$8,000, I just want to encourage people, I think we found out there's an extra hour now that we know we might not have to pay for it, and that this cost is, again, came from this conversation; but we are hearing from some counties that they can...this is a cost that not only are they going to absorb, but they believe that it's worthwhile to invest in it. We don't only make costs affect in this decision on whether or not it's expensive. I can tell you that. As a member of the Appropriations Committee, I do not only look at things at their cost, I look at the benefit. We are constantly doing that on a day-to-day basis. I think it's important that we do that. And I mentioned this before, it's why we're going to continue to invest in our on-line voter registration system because it's right. We make these decisions because they are strategically trying to support our state and do more for Nebraskans. And that is why I believe this small investment in counties, and we've

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heard support from some counties, that it is a tradeoff worth...willing...that is worthwhile to make. We talk about is this enough? We talk about city elections. Now this is the time where...you might know this about me; Senator Brewer said I'm a little bit of a bull dog; but I'm idealistic about this. I'm a bull dog, but I'm going to be idealistic about what's possible in our state. I know municipal elections are at 20, 30...20 to 30 percent, we're saying, in Douglas County. I'd like to see where they all cross all these other counties. Twenty-three percent is not good enough. And because that is the turnout we currently have, and that's the rationale why we shouldn't extend early voting, that doesn't match up. We should be expanding it because we expect more. If our general elections are getting up to 70 and they're continuing to increase, we need to continue to be ahead of the curve about how we make that number 40, 50, 60 percent. And if these municipal elections matter so much, mayoral, city elections for city council, county, if they matter so much, we should be doing everything in our ability to make sure that more voter turnout is happening. So to say that it's...we're not seeing the demand, then we need to continue to improve policies that are going to make sure that we are improving voter turnout at any cost necessary. And we talked about this being a constitutional right. Over time--this was another actually piece of information that came from this meeting. And one of the reason we asked about this number, \$8,000, is it was...we were asking about what flexibility exists, we don't have to, necessarily, do overtime. As commissioners, they do have the discretion at making their staffing plans. As somebody that has worked in different sector, worked in school districts, and I do resource allocation and studies, working with principals, we work on staffing plans. And again, I don't know what the...there must be experience, obviously, in running a funeral home for making sure we're staffing appropriately, and that's what he's been doing as an election commissioner and all our people are doing, which means that they're able to make strategic decisions to ensure that we are trying to cut down costs as possible and maximizing the amount of services we're providing. I do believe in our commissioners to do that. So why we provide the flexibility and why we make sure that we are being a little bit more open minded to it, but this overtime that has to be overtime, that initial conversation came from that meeting that there is an ability to have a little flexibility in overtime. And then the last thing is just...oh, state law, we talked about state law. We talked about, well, we don't need to do this, this is a mandate from the counties, I do think there's a relationship in local control. I understand that. I was on a school board and I can tell you that there are many laws that came down from the State Legislature to school boards that sometimes I would look at and be like I'm really happy this has finally come. Somebody has set the standard for our state, elevated the standard of what we want and expect for services for standards and it's really great. And there are some instances where I might disagree. But I don't think this is a black or white notion that we should never be as a state creating statute that helps further elevates something as important as voting. And so I just want to make sure it's very clear that this state law, this regulation there are instances where we do that. We've done that to create some of the statutes that were called out today. And the last thing is, I'm more than happy to work on some of the language because I believe this is so important. I think you saw, and many of you know me, when working through this amendment, and we came down from so many

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working hours and so many additional early voting locations it was to be able to have some compromise and do something in the right direction. When I...I think that sometimes we don't always have to do that. I did that because we received meaningful feedback. I believe that's what we should be doing. And I'm ready and willing to work to make sure that clarity is there on the hours, because if that clarity helps provide some more support and some more confidence to our election commissioners, we can do that. And that, I want to thank you because I think this was a fantastic conversation and I hope I was able to address some of the misinformation that was spread, and then also address some more research to show that across our state, across our country there are state senators just like us doing everything we possibly can to increase voter turnout and make good, great and that's what this is about, specifically for working families and those that don't have the flexibility to vote early at their convenience. Thank you. [LB163]

SENATOR MURANTE: Thank you, Senator Vargas. Senator Craighead. [LB163]

SENATOR CRAIGHEAD: Thank you, Mr. Chairman. Thank you, Senator Vargas. Just one quick question: Do you know, did the Douglas County Board endorse LB163 as a whole? [LB163]

SENATOR VARGAS: The original, and that was one of the clarifications, LB163, when it was originally brought, they were in opposition. Yes. That was the original, they were in opposition, yeah. [LB163]

SENATOR CRAIGHEAD: I forgot to ask that earlier. [LB163]

SENATOR VARGAS: No, no, no, that's a great question. Thank you very much, Senator Craighead. [LB163]

SENATOR MURANTE: And, Senator Vargas, would you address for us one of Lancaster County's concerns which was whether you intended this to apply only to gubernatorial and presidential elections, primary and general, or special elections, bonding elections, SID elections, things like that? [LB163]

SENATOR VARGAS: Yes. So, I think some of the feedback we received is while for some special elections there may not be as much of a demand. You heard my idealism. Obviously, I would want to make this apply across all of the elections, but I understand that there is something to be done around making this work for when we have more voter turnout. We do see that in general and primary. So if we want to apply this to general and primary, I would be open to that to make sure that (1) and I think we heard that from Lancaster that that's something that

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would help satiate their appetite for this. And when they testified in support of this bill for Lancaster, I would be happy to clarify that and to make it easier. [LB163]

SENATOR MURANTE: And how would you address the comments of Commissioner Bena who basically said we have one instance in state law where we mandate election commissioners stay open and there is so little public interest that he sends his staff home and just does it himself because nobody walks through the door. So why do we need a state law, because if we pass it and we have all this extra expense and nobody votes, all we're...we have a cost benefit analysis where we have all cost and no benefit and we have to pass a state law to undo it. So how would you comment on that? [LB163]

SENATOR VARGAS: Yeah, I think that...well, there's one is...we are doing a cost benefit analysis and we've heard people say that it's worth the cost benefit analysis, elected officials. I think that's very important. And we also have officials that are managing that are trying to make sure that there's cost benefit analysis. I trust you that that does happen...again, the Appropriations Committee meeting we have people on both sides that are trying to...that are making an argument for cost benefit analysis on both sides. I think what's important here is the benefit to Nebraskans. I think it's possible that as we are changing, if more people know, and I think Senator Wayne asked this question, if more people are knowing that there's extended hours and there is some communication to that, more people are going to access it. And we have seen that on the OPS school board when we've provided some more services and we've got the communication out, more people have attended more events, more services. And when we don't have it, and when working families don't have always the capability to advocate for that, well, it means that there isn't always the demand or voice. But I have been hearing this and I was very proud to have so many senators from all three of these counties cosign...cosponsor this because they believed and from their work and from their time being on the campaign trail and being elected officials now at many different levels that it was time for us to mutually invest in this in our 100,000 populated more counties and that this is...there's still flexibility for our counties to do what's best within their staffing plans with the hours and that this cost is still minimal. [LB163]

SENATOR MURANTE: Senator Hilgers. [LB163]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Senator Vargas, I appreciate your closing. One of the points you touched on was the cost benefit analysis. We focused a lot on the cost. I don't think we focused enough on the benefit. And I hear what...I'm going to restate this and you can correct me if I'm wrong and then I have a question, but I hear you saying the benefit is that we have more people vote. And the reason that I've heard is, one, it's sort of common sense, we have more time for people to vote; and two, that other counties and states that have a

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similar type of...additional early voting hours...in person early voting hours have a percentage...higher percentage of people voting, at least in the last election, that was one data point. My question to you is, what...is there any data research study that talks about the incremental difference when folks actually increase hours that we could use to analyze the benefit here? So, and what I'm really getting at is, one, is there anything that shows that what happens really is a vote shift. In other words, we're not increasing the total number, but folks who might have voter earlier on election day now are voting on Saturday. Or is it an actual increase in the vote? And if so, is there anything that might help quantify what that increase might be? Is it a tenth of a percentage point, something that actually suggest might be three or four points, because as we're weighing the cost and benefit I think that would be valuable.

[LB163]

SENATOR VARGAS: Yes. And I think I mentioned this earlier and I want to maybe elaborate on it. I talked about the confluence of policies. I think there are many policies to help support, and we have some. We have on-line voter registration system. I introduced an automatic voter registration. We've had some...you know, improvements in how we do our early voting and...sorry, our ballot...our mail in ballot system. But since states do it differently, different states do it, you know, in different ways. Right? It's hard to pinpoint exactly what it is. However, in the states that we are seeing these extensions on early voting, and specifically from that research study that I referenced before, it did show that, and I'm going to state this: our research shows the key benefits of early in-person voting are reduced stress on the voting system on election day, shorter lines on election day, improved poll worker performance, early identification and correction of registration errors and voting system glitches, greater access to voting and increased voting satisfaction. Based on this research, we make the following policy recommendations for early in-person voting: Begin early in-person voting a full two weeks before election; provide weekend voting, including the weekend before election day; set minimum daily hours for early voting; distribute early voting places fairly and equitably; and so on. They had seven of these. And this was coming from some of our experts in election across the country and they actually surveyed 12 of what we saw the highest turn out early in-person voting states, survey the election commissioners for those states to inform this research study. I think we're seeing that there is an increase and impact their policy recommendations based on what they are both hearing qualitatively from individuals that are doing this across the country and we can provide some small data points quantitatively, but I cannot give you, because of this small thing, it's going to increase X amount. [LB163]

SENATOR HILGERS: I totally...and I, frankly, I'd be surprised if there was...because it's hard to tease out causation... [LB163]

SENATOR VARGAS: Yeah, yeah, exactly. [LB163]

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SENATOR HILGERS: But just so I understand what I...just so you and I...I understand what you're telling. That study talked about some of the qualitative benefits: streamlining, less stress, etcetera, which have value, no doubt. [LB163]

SENATOR VARGAS: Um-hum. [LB163]

SENATOR HILGERS: I didn't hear...I just want to make sure I...if it was in there, I didn't hear. [LB163]

SENATOR VARGAS: I'll re-reference from my opening testimony: In North Carolina in 2012, the first week of early voting saw nearly 17,000 voters with 11,000 of them on Saturday. [LB163]

SENATOR HILGERS: So that... [LB163]

SENATOR VARGAS: We're seeing the first question you had, which is this shift to more people are voting...are taking advantage of Saturday. And then we also saw an increase in the voter turnout in different counties. And in Florida we saw an increase in voter turnout in different counties in nine of the ten most populated counties. In New Mexico, in-person voting was available Monday through Saturday every week and we saw...oh, I don't have that actual number. But we saw this in North Carolina and we saw this in Florida, a significant increase in voter turnout on the weekend days, and we also saw increase in voter turnout in general. [LB163]

SENATOR HILGERS: Okay. Thank you. [LB163]

SENATOR MURANTE: Thank you. Senator Brewer. [LB163]

SENATOR BREWER: Thank you, Mr. Chairman. All right, we understand that as we're hearing all the testimony, which I got to tell you, I think you could sell ice to Eskimos if you wanted to here, but going back to the testimony from Douglas, Sarpy, and of course it would have been nice to have Lancaster here and be able to squeeze some more information there, the constant line that came out of that is local control and letting them have the flexibility to have that. From your perspective, why is that necessarily not a good thing or not necessary? [LB163]

SENATOR VARGAS: Big question--whether or not it's necessary...what I'll say is I understand why we believe and work with the local control, that's why we have our local entities, absolutely understand and agree with that. But I don't think it's a black or white, because, obviously, there are times where we have created statutes and passed laws that impact many different counties

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and many different sub-entities and government entities and people. In this instance, the big question we're asking (inaudible) are we where we want to be with voter turnout? I think, my opinion, we're not where we want to be yet. We've seen some statistics in 2006 election, just that, and we can do more. I think the second question we ask ourselves is--is that cost of where we want to be worthwhile investment? And based on the numbers, and again, I urge you to look at the fiscal note and the specific cost for...where we saw the biggest cost for rent, you saw the biggest cost for additional early voting locations and for hours for the...the hundreds of hours we added in our original bill that this minimal hours that we put on that that cost is worth the benefit of what we're trying to get to, especially when we have significant data points in other states and other lawmakers like ourselves that have gone forward to listen to our constituents and set, what I don't think is the high standard, I think we're setting the minimum standard. And that's what I believe this is about. And that there is still flexibility and choice on how to go about implementing this for other counties. [LB163]

SENATOR BREWER: All right, that's a good answer. Just some trivia here since we're talking elections, I real quick looked, Sarpy was 74.4, but just as a parting note here, Arthur was 81 percent, Blaine was 81 percent, Keya Paha was 80 (percent), Logan was 81 (percent), Grant was 81 (percent), and Hooker was 81 (percent), all of those combined account 2,419 people. Sarpy had 81,000 (inaudible). (Laughter) [LB163]

SENATOR BLOOD: That's pretty darn awesome. [LB163]

SENATOR VARGAS: Pretty darn...and exactly...it reinforces why we focus on the larger counties because there is a more significant opportunity to elevate those codified standard practices...standard policies that are going to make sure we are doing more than what we currently have. [LB163]

SENATOR BREWER: And I put the ball on the tee for you. [LB163]

SENATOR MURANTE: Senator Wayne. [LB163]

SENATOR WAYNE: I'm going to kind of break a rule of not...I think this is an opportunity for you to talk and for us to listen and ask you questions, but in this committee I think it's important to understand that we deal with preemption around the state quite a bit. Talked about gun laws, preemption. Talked about a lot of other issues that deal with preemption across the state dealing with different governing political subdivisions; heard on the floor why we should hear these because it deals with multiple political subdivisions. That's no different than this case when dealing with the fundamental right of voting and that it should be consistent across the state in what we're doing. So with that framework, I'm kind of a simple guy in the sense of I would like

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to just see straight voting hours, at least in the three big, and maybe we can base it off of like we do primary, first class, and all that other stuff, come up with a similar situation. But I would like to just see straight hours this many days before the election, you're open from here, you're closed to there, and we make it consistent at least for the three largest so there's...everybody has the same equal access to the ballot. And that way, especially with the fluidity between Sarpy and Douglas County and people moving back and forth it's the same whether it's the week before the election you're going to 8:00 to 8:00 or...and one Saturday. I think we got to have a Saturday in there, because I will tell you, and I'm saying all this to ask you a question, as an attorney who works downtown, it is hard to get to the election commission before 5:00 to turn in my ballot. And I can tell you a lot of people that I represent don't always trust the government. And what I mean by that is they either want to show up to the poll or they want to show up to the place where they can hand it to a government official and say--thank you for taking my ballot. They really don't like the mail in part of it because they don't know if it really goes. So that's why this bill is, I think, important for at least the people I represent too. So with that, I guess, are you open to the idea of a straight hour to hour, whatever those hours are and number of days, make it simple and across. And I know it's going to take a lot of negotiating with everybody else, but are you still open to that idea? [LB163]

SENATOR VARGAS: I am. If the members of the committee are looking for additional consistency and are trying to set the standard and see an appetite for doing more like this, extending early voting hours, I would be. And you touch upon something really important, in the original bill we extended Monday through Friday hours til 8:00 p.m. on weekdays, every weekday, 30 days before the election, really long time out, and eight hours on Saturday. And one of the pieces of feedback we got is we don't have enough demand throughout that entire time. That's one of the reasons why we pared it down and we decreased the number of hours during the week day so that commissioners that know...election commissioners that know their high and low times that they can strategically staff. And I think they alluded that there are...they know some of their high and low times. So if we can...we know some of our high and low times, we can strategically staff people so that it doesn't disrupt service that we had heard about that we were going to have to consistently provide service and there would be longer lines. I think we have enough information to show that that's staffing...that strategic staffing can happen is it's still within the ability. But if there is a way to create some consistency and create that low...that minimum standard to elevate this, I'd be more than happy and open to that from the committee. [LB163]

SENATOR WAYNE: Thank you. Do you have (inaudible) the gun bill there? (Inaudible).
[LB163]

SENATOR HILGERS: I see you endorse the fundamental preface of LB68. (Laughter) [LB163]

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SENATOR VARGAS: What bill was that? [LB163]

SENATOR MURANTE: Just put in on consent calendar. (Laughter) All right, and with that thank you, Senator Vargas. [LB163]

SENATOR VARGAS: No more questions? [LB163]

SENATOR MURANTE: Are there any more questions? He really wants more questions. [LB163]

SENATOR VARGAS: I'm down for more questions. [LB163]

SENATOR MURANTE: Seeing none, that closes the public hearing on LB163, and that's our public hearings for the day. Thank you, everybody. [LB163]

SENATOR VARGAS: Thank you very much. [LB163]