

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**BREWER:** [RECORDER MALFUNCTION] Military and Veterans Affairs Committee. I'm Senator Tom Brewer from the 43rd Legislative District in western Nebraska. I serve as the Chair of this committee. This committee will take up bills in the order they are posted on the agenda. Our hearing today is your public part of the legislative process. This is your opportunity to express your position in proposed legislation before us today. Committee members might come and go during the hearing. This is just part of the process. They will have bills to present in other committees on occasion. I ask that you abide by the following procedures to better facilitate today's meeting. Silence or turn off all cell phones or electronic devices. Move to the reserved chairs when you're ready to testify.

\_\_\_\_\_ : Could you try again?

**BREWER:** This is why you turn them off all-- there, it's dead. When it's time to move, to testify, if you're planning to testify, we're reserving the front row for that. So we'd ask you to move forward. We're just going to have this so that as the testifiers come forward, you just move down and that way we, we have a good head count. How many are here to testify on one of the three bills before us this morning? OK. Thank you. So you guys can start moving forward any time you want. OK. The introducing senator will make his initial remarks followed by the proponents, opponents and those in the neutral testimony. Closing remarks will be reserved for the introducing senator. If you're planning to testify today, please pick up one of the green sign-in sheets. It's on the back table. Please fill out the green sheet. Before you testify, have it ready to turn in when you come up to testify. Please print clearly. Yesterday we had some that nobody, I don't care how good you are at reading, could make out what was on that sheet of paper. So please work with us there. That way we're able to record accurately who was here. On that sheet, it asks for information and one of them is the phone number. We're not going to sell your number to anybody, but when the testifiers are going through the testimony, if they have a question on what you said. So you used a acronym or something and they don't understand it so then it goes into the record, they can call you and say, hey, can you help me to understand what this means? So please, if you fill those out, it gives us the ability to make sure that that testimony is, is clear and proper. If you do not wish to testify, but you want to record for the official record that you were here, there are white sheets. You can fill those out. They're back in the room and then it will go into the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

official record that you were here. And it also indicates whether you're a proponent, opponent or neutral. If you have handouts, we ask that you bring ten copies. If you don't have ten copies, let the page know and we can get copies made. When you come up to testify, please speak clearly into the microphone. We're going to ask you to state your name, then spell your name, both first and last name. Again, this is simply so it's in the record correctly. We'll be using the light system today. Obviously, with the number of testifiers, we can go with the five minute. So green light for four, yellow for one. When it turns red, your time is up. And if you take it until Dick Clark's alarm goes off, you're very done. All right. No displays of support or opposition to a bill, vocal or otherwise, will be allowed. The committee members here with us today will introduce themselves, starting on my right, Senator Conrad.

**CONRAD:** Good morning. Hi, I'm Danielle Conrad from north Lincoln.

**RAYBOULD:** Good morning. Jane Raybould, Legislative District 28, the heart of Lincoln.

**SANDERS:** Good morning, District 4, Rita Sanders with District 45, the Bellevue/Offutt community.

**AGUILAR:** Ray Aguilar, District 35, Grand Island.

**LOWE:** John Lowe. District 37, Kearney, Gibbon and Shelton.

**HALLORAN:** Steve Halloran, District 33, which is Adams County, Kearney County and Phelps County.

**HUNT:** Megan Hunt, and I represent District 8 in the northern part of midtown Omaha.

**BREWER:** All right. Our committee legal counsel is Dick Clark, committee clerk is Julie Condon, and the vice chair is Senator Sanders. Again, if you're planning to testify, right now, I got one testifier, so it's going to be a quick, easy morning. Please don't be shy. Move up and then we can, we can make this thing hit a battle of rhythm and we'll, we'll get this over with. With that, good morning, Senator Halloran. Welcome to the Government Committee.

**HALLORAN:** Good morning, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. Thank you for this hearing. For the record, my name is Senator Steve Halloran, S-t-e-v-e

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

H-a-l-l-o-r-a-n, and I represent the 33rd Legislative District. I'm here today to introduce LB195, adopt the Faithful Delegates to the Federal Article V Convention Act to the committee for your consideration. I will keep my remarks brief this afternoon as I assume there will be quite a bit of testimony to follow from the second house. LB195 was created based on the concerns raised during the legislative floor debate during the 2021-2022 biennium session on LR14, a resolution, a resolution to Congress for a convention of states to propose amendments to the U.S. Constitution, as well as findings from the 2017 interim study LR181, which examined recommendations for procedures to be used for a convention of states under Article V of the U.S. Constitution by the state of Nebraska. The purpose of the Faithful Delegate to the Federal Article V Convention Act is to provide the rules and procedures necessary to create and guide a Nebraska delegation to any Article V convention called by Congress or a convention of states. It provides the Legislature direction relating to the election of delegates and alternate delegates. If necessary, the recall of a delegate or delegates from a convention, along with the filling of vacancies caused by a recall. Additionally, it creates a structure to determine if an unauthorized vote has occurred and the penalty for knowingly casting an unauthorized vote. In closing, Nebraska currently has several convention states calls for proposed amendments to the United States Constitution. One call for a balanced budget amendment has 28 of the 34 required states to call a convention of states. We could very well see a convention of states within the next few years. As a state, we must be prepared to act when called. LB195 would provide the framework necessary for us to effectively participate in any convention of states. I would be happy to answer questions to the best of my ability from the committee that you may have about this bill, along with the amendment that has been passed out, AM92, I provided to the committee, which is merely a clean up on page 3, line 15 to strike a few unnecessary words in that line. Thank you, Chairman Brewer and members of the committee.

**BREWER:** All right. Thank you for that opening. Questions for Senator Halloran. Well, I would ask if you're going to stick around for close, but you're the next two bills after this, so.

**HALLORAN:** Do I have that choice? I will stick around.

**BREWER:** All right. Thank you. All right. We're going to start with proponents to LB195. Come on up. Proponents to LB195. All right. We'll

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

start with opponents to LB195. He'll snag your slip there. All right. Welcome to the Government Committee.

**SHERI ST. CLAIR:** Thank you. A lot quieter than yesterday, Senators.

**BREWER:** Just a little quieter.

**SHERI ST. CLAIR:** Sheri St. Clair, S-h-e-r-i S-t-C-l-a-i-r. I'm speaking on behalf of the League of Women Voters of Nebraska. The League opposes LB195. We are concerned that there are many unresolved questions about the powers and processes of an Article V constitutional convention. The League has identified a number of criteria that should be met prior to calling such a convention. These include the fact that, that such convention must be transparent and not conducted in secret. Representation must be based on population rather than one state, one vote, and delegates should be elected rather than appointed. Voting at the constitutional convention must be by a delegate. The constitutional convention must be limited to a specific topic. Only state resolutions on a single topic count when determining if a constitutional convention should be called and the validity of state calls for an Article V constitutional convention must be determined by the most recent action of the state. So all these criteria for calling an Article V constitutional convention are not in place. Therefore, the League of Women Voters urges that this committee not advance LB195.

**BREWER:** All right. Thank you. All right. Questions for Sheri? Yes, Senator Conrad.

**CONRAD:** Thank you so much. Good morning, Chairman Brewer. Good morning--

**SHERI ST. CLAIR:** Good morning.

**CONRAD:** --Sheri. Good to see you. I think we're all kind of waking up after a long couple of days, but excited to start with an invigorating topic this morning. Sheri, just to make sure I kind of have my head around the League's opposition, if memory serves, I think measures like this have been introduced in the past, is that your understanding?

**SHERI ST. CLAIR:** They have been introduced in the past. You know, this is not just a Nebraska position, it's--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**CONRAD:** OK.

**SHERI ST. CLAIR:** --the position of the League of Women Voters of the United States.

**CONRAD:** OK, very good. And kind of, if I remember the debate from years past and I'm guessing some of that is applicable to this year's measure that Senator Halloran has brought forward, there's fears about a runaway convention, representation, some legal policy and practical considerations about how this might work if adopted is that--

**SHERI ST. CLAIR:** That is.

**CONRAD:** --a fair CliffsNotes, kind of.

**SHERI ST. CLAIR:** A fair summary.

**CONRAD:** OK. I appreciate it and I'll, I'll dig into the materials and listen to the other testifiers too. Thank you.

**SHERI ST. CLAIR:** Thank you.

**BREWER:** All right. Senator Raybould.

**RAYBOULD:** Good morning, Sheri. Welcome back--

**SHERI ST. CLAIR:** Thank you.

**RAYBOULD:** --to the Government Affairs Committee. I have a question for you. I'm, I'm not up to speed on this issue at all, so I apologize for this question. But has the state of Nebraska even adopted a legislation that calls and supports for the convention? Are we one of the states that has done?

**SHERI ST. CLAIR:** I believe that we are one of the states.

**RAYBOULD:** We are. OK. All right. Now this makes sense.

**SHERI ST. CLAIR:** Mm-hmm.

**RAYBOULD:** OK. Thank you.

**BREWER:** OK. Any other questions? All right. Thank you for your testimony, Sheri.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**SHERI ST. CLAIR:** Thank you.

**BREWER:** OK. Any other opponents to LB195? Welcome to the Government Committee.

**WESLEY DODGE:** Good morning. My name is Wesley Dodge, W-e-s-l-e-y, Dodge, D-o-d-g-e. I'm from Omaha, and I'm associated with RepresentUs. And I'm here to speak in opposition to the legislation. Unlike yesterday's testimony, where you had some very specific language in the Constitution, where there shall, there shall be no hindrance or implement to the right of qualified voter to vote. In Article V, the situation is a lot more complicated because it's incredibly vague. When I got ready to come in here and testified, I looked at the legislation, you know, the two, LB195 and LR31, which are both considerably longer than Article V of the Constitution that deals with it. And what I would like people to look at, we have passed it. We passed it last year and it was a little scary because it went through fast. It was introduced and I think it came through and it was in in like a week or something like that, maybe two tops. And so I think it's important we ask why? Why do people want this passed? What are the, what are the reasons? I see Second Amendment proponents. I see balanced, balanced budget proponents. There's an organization called Wolfpack, which is a liberal organization that's funded by a guy named Cinq Hui Ga (PHONETIC) who wants to undo Citizens United and then the Mercers and the Koch brothers, you know, prior to the one's death were the funders. I spoke at the Free Speech Society in Omaha this last summer, and they divided my time because I was talking about ranked choice voting between myself and someone speaking on term limits. I was excited about speaking at the organization. I brought some copies of the pocket constitutions to give to people. And as I was speaking and listening to this fellow talk about term limits, it was like there's something else going on here. And what was going on was he was involved with that organization funded by Howard Rich, trying to get an Article V convention adopted but he was talking about term limits and you barely saw it in his presentation. He mentioned Article V at some point. So I'm fearful of those Trojan horse kind of experiences that I've seen when this was adopted. And so to me, the big question is why? I want people to look at it and say, why is this being done? And then I think it's also a dark money issue to some degree. We've got some good bills pending right now, LB9 and LB737, which can deal with some of those issues. But I'm scared because this is, this is dark money type of things happening here to try to, to drive a wedge in and do some things we don't want done. I don't know how much of a

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

historian all of you are, but we've been down the, the, the path of the Articles of Confederation and I feel like we're going back to that when we're looking at this, this type of thing. It looks like this is the concept that's behind this, so that troubles me. When I read the language in LB195, I think it severely neuters whoever goes. So it looks like we're supposed to do committees. It's supposed to be a legislator. I forget the numbers that you are all actually representing. I think it's about 40,000 people. So do we have one legislator that's picked by everyone else to go represent everybody in this constitutional convention? That's scary, I mean, that's not scary because any of you individually, but it's just scary to me that one person is going to represent the state of Nebraska. When they do the convention, they can blow everything up. It's just, it's just like the second continental Congress that brought us the Constitution. They can blow everything up. The only things that are protected is a clause that had to do with slavery, which is fortunately obsolete now. And a second one that says we'll still have equal representation in the Senate. So, and that one's somewhat debatable according to what people have said. So all of those things are problematic to me. I really want you to look at this. We have passed it. We've got the sunset clause. I even called, I forget which, which legislator it was that, that plugged in that five year, but I called her up and thanked her. I said, thanks for that. I mean, it's important. And in five years things might be a lot different. Michigan is now a completely Republican-controlled state, or I'm sorry, Democratic-controlled state. And in five years or four years, where are we going to be if this isn't definite? Are we going to hit that two-thirds limit? You know, in 20 years, I'll probably be gone and some of you will be a lot older. You know, what's going to happen? So I just want you to, to look at it. The runaway convention is what I'm worried about. Changes will occur at that convention if it's held. The people who are there to some degree will be there because the ultra-rich amongst us got this passed so that they can make the changes they want to change. I believe in, in equal representation and the power of the poorest of us, along with the power of the richest among us being somewhat equal. And for that reason, I'm opposed.

**BREWER:** All right. Thank you for your testimony. Let's see if we have questions for you. Senator Raybould.

**RAYBOULD:** Well, sir, thank you very much for your testimony. So to help me understand better, are there other states out there that have put guardrails on what happens in our state, but it won't affect the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

convention? Because you said what could happen at the convention, it could just all blow up.

**WESLEY DODGE:** I honestly, I can't answer that specifically as to each state. But as you read Article V, I mean, we still have the supremacy clause. We're still a federal form of government. So once we get there, the way I interpret Article V, and I don't profess to be a super constitutional scholar, I think all bets are off at that point. And I don't, I don't want to use that as hyperbole, but they are going to sit down, they're going to say, what are we going to do? And like I said, this LB195, it, I'm reading it to say that we're going to have meetings and they're going to tell the delegate exactly what you're going to do and, or delegates, and if that happens, our delegates are going to go in with their hands tied. You know, something will blow up there at the Constitutional convention and it's like, well, am I obligated to what my Legislature specifically told me I can do? And then I have to sit on the sidelines while something catastrophic potentially happens.

**RAYBOULD:** Thank you.

**BREWER:** OK. Other questions? I guess, I got one for you before you go. You bounced around with names and different things, so for clarification, are you opposed to term limits?

**WESLEY DODGE:** Am I opposed to term limits? No. I like, I forget whose bill it is. It's taken us to three. I think that would be good to go to three but, because I think they'd give us some more consistency in the Legislature.

**BREWER:** OK. Are you opposed to the balanced budget?

**WESLEY DODGE:** I think the balanced budget question is, is a deep question. I think part of a budget is the income as well as the expenditure. If you look at what's happened with taxation since the Reagan administration, right now, the average Joe, a person like me, pays about 14 to 14.5 percent of my income in taxes. What's his name, the Amazon owner? Amazon doesn't pay taxes. I just saw that the two largest oil companies made \$50 million-plus. They don't pay taxes. The average oligarch, I shouldn't call them oligarch. The ultra rich, the one percenters, they average about 3 to 4 percent. So my answer to that is when I have a budget in my house, I start with my income. And so I keep my balance, my budget balanced. I'm living OK on a, not a

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

exceptionally high-income because I spend time coming down here instead of billing time as an attorney, which I am, but if you run a budget, you got to, you got to have the income. And we've been blowing up the income and still spending the money and that's just not smart. So the answer is, yes, I support a balanced budget, but I think part of that is the income and you got to keep the income coming in.

**BREWER:** Well, and I think some of the thought process behind the Article V is if the system continues to do what it's doing and 30-some, we're into the trillions in, in debt, and just in the time that some of us have been here that's, that's jumped \$10 trillion. Do you think there's a breakpoint where if we go far enough in debt that there'll be consequences? Or do you think we can just keep running this indefinitely?

**WESLEY DODGE:** Yeah, I think there will be consequences. And I think part of the problem is, we tend to have older people elected to offices and they're focusing on what can I do now, what can I do to get to the next election and get elected? And then it's easy to spend money. And when you analyze what's happened nationally with our budget and I've looked at this and I wish I had one of those minds where I could pull numbers out like crazy, but I just tend to speak in generalities, but if you look at the increase in our national debt, it doesn't track with, with the party in power necessarily, you know. So, so people make the noise when they're not in power and condemn things. And then when they are in power, they don't make that same noise that they used to make when they weren't. So I think a lot of this, this reaches back to my ranked choice voting concepts that reaches back to I think every election should in essence be a general election. If we, if we have you concerned about everybody that votes in, in May, as much as you're concerned about everybody that votes in November, I think we're going to get, we're going to get people who can make harder choices. And if you don't have to worry about whoever is on the right or whoever is on the left and keeping them happy in May, I think you're going to be more responsible with your budget too, but you're going to be trying to do the greater good for the greater amount of people.

**BREWER:** Well, and to your point on term limits and balanced budget, you know, I guess we can consider ourselves somewhat blessed in Nebraska because we balance the budget every year and we have term limits. You know, whether term limits are a good thing and what the number of years are, Nebraska saw fit to put this limitation on. The

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

more concern here is we're talking about the federal side. And there are no limits. There's no term limits, there's no budget limits. And I think some are concerned that at a point the system can't continue, it will collapse. And if what you're, you're saying, this geriatric ward that we have running the country--

**WESLEY DODGE:** No insult was intended.

**BREWER:** --allow it to continue to do this, what, what checks do we have to make sure that it just doesn't?

**WESLEY DODGE:** We can still amend our Constitution. We just don't have to do it this way. We can talk about specifics. We can offer specific amendments about a balanced budget. We can offer specific amendments about term limits. It's there, it's, it's the thing we've done every single other time we've amended the Constitution.

**BREWER:** So, we're going to take the geriatric ward that is enjoying term limits and we're going to trust them to change the Constitution that would limit their powers.

**WESLEY DODGE:** No, we could, we could pass some legislation that, that does what I told you about where every election becomes a general election. And we don't, we don't get these entrenched people that once they're in, they're in and the money comes in and--

**BREWER:** When you say we can change it, who's the we in this?

**WESLEY DODGE:** I'm hoping we can make noise as a general population that we want to see those changes. Alaska's made changes recently. Hawaii just adopted changes.

**BREWER:** So you're saying states make changes.

**WESLEY DODGE:** Sure.

**BREWER:** OK. But then how does that state affect the national? Because states can be pretty squared away. We're pretty-well hitting on all cylinders, doing the right thing. Our concern is if the big central federal government won't check itself, won't manage the way it should, whether it be term limits, whether it be budget, whatever, how do you effect that? Is the, I think where folks start to look toward Article

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

V and say is, is this one of those options that are out there that we should be looking at?

**WESLEY DODGE:** It's an option, but I think it's, I think it's too dangerous.

**BREWER:** OK, but if we don't use that, what do we use? That's what I'm trying to get to.

**WESLEY DODGE:** What I was just discussing. I think, I think if we do an elect, if we adjust our, our statewide electoral systems all the way across the board, we're going to get people who aren't, I mean, dark money bill. If people, if people don't get \$100,000 dropped in their campaign, so somebody that wants them in power gets them in and they're limited to a \$1,000, there's less power there. And the, yeah.

**BREWER:** Not going to argue that.

**WESLEY DODGE:** Have you read The Politics Industry book?

**BREWER:** I have not.

**WESLEY DODGE:** It's a really good book. And, and again, I wish I could come up with exact numbers. But before you get into the, the, into the, the booth to cast your vote, they're not concerned about your vote. They're concerned about money. When I say they, I mean the elected officials. Who can I, who can I make happy so I get that \$40,000 donation? I get that \$40,000 dark money donation and your vote doesn't mean that much to me until I can start flooding, flooding the airways and, and making this ubiquitous concept come through everybody's head that somebody is the devil that maybe isn't.

**BREWER:** OK.

**WESLEY DODGE:** I am-- Kauth. I live in her district. There was a dump yesterday, a term limit dump on her from some PAC out in South Carolina. And so they're trying to manipulate you guys from South Carolina. And so, but we need to, we need to clean that up and if we clean that up, then we're going to get to the problem. We got to, we got to fix it from the ground up. We got a bad foundation. We got to fix the foundation before we remodel the living room.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**BREWER:** OK. Well, I guess I was, I'm still looking at the federal side and you're looking at the state side.

**WESLEY DODGE:** And, and, I have my 5 minutes and thank you for the extra questions. I love it. Thank you. But if we have a more in-depth conversation, which I'd love to, I think maybe there might be some fixes there. I can't come up with them right now sitting at this table without the resources. I would like to really get to that.

**BREWER:** Additional questions? Senator Conrad.

**CONRAD:** Thank you. Thank you, Chairman Brewer. Good morning, Mr. Dodge. I don't want to put words in either of your mouths, but it sounds to me maybe like your exchange with Senator Brewer maybe we were kind of talking past each other. I took his point to mean that there are, of course, a variety of different ways to amend our state and, of course, our federal Constitution. And is the general perspective, from your point of view is, this is just not the way to go about it? You'd prefer that citizens or that citizens utilize the other mechanisms to amend the federal Constitution. Is that a fair estimate?

**WESLEY DODGE:** Yeah, it gets back to the, to the why question I asked at the beginning, what's the purpose? Once we're in the, in the door, what's the purpose?

**CONRAD:** Sure. Yeah. Because I, and I appreciate there's a lot of related issues here, but it sounds like maybe there is just a difference of opinion in regards to the best strategy to utilize for, for amending the U.S. Constitution.

**WESLEY DODGE:** Right. Right. I think, I think that limitations are important and, and Article V is very vague. If you, if you read it, it's very vague.

**CONRAD:** Yes, I appreciate that. Thank you so much.

**WESLEY DODGE:** Thank you.

**BREWER:** OK. All right. Any additional questions? All right. Thank you for your testimony.

**WESLEY DODGE:** Thank you, I appreciate it.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**BREWER:** OK. We are still on opponents to LB195. All right. Are there any in the neutral for LB195? All right. We'll invite Senator Halloran back up for close.

**HALLORAN:** Well, thank you for the opportunity to have the second house come in and speak. I think Mr. Dodge made my point for me. Clearly, and for those that weren't involved with the Article V resolution LR14, LR14 resolution specifically detailed three subject matters that the resolution that convention of states would be confined to. One was fiscal restraint. People commonly refer to that as a balanced budget amendment. Second one was term limits on Congress. And the third one was limiting the scope and authority of the federal government. Now, that may seem very broad, but the Tenth Amendment narrowly defines what the authority is of the federal government, very narrowly defines it, and gives all other authority to the states. Over time, we have acquiesced our state authority to the federal government. Honestly, we don't have much state authority available to us anymore. And the reason for that, the reason we acquiesced that to the federal government was is that a lot of appropriations bills, let's just use highway construction, for an example. One of many, many of the appropriations that come from the federal government or ARPA monies recently are very much, very much defined by the federal government. And there's always, there's always some little caveats that are applied to it that require the state government to do this, A, or this, B, in order to get the money. And so over time, we have acquiesced to the federal government to get that money. Well, what have we done? We have acquiesced our own authority to drive and operate our own state to do that. But anyway, so those three subject matters, fiscal restraint, term limits, limiting the scope of the authority of the federal government. I'm not sure if the two testifiers that testified in opposition to this read the Faithful Delegate amendment, but it narrowly details, details that narrowly those delegates that are chosen by us and yes, they're going to be from the legislative body. I don't know how you have an open, an open call for delegates statewide. It would be a, it would be a general election process where people would have to run for it and campaign for it and everything else. It would seem to be a little bit impractical, particularly if the call for convention is called and we have a limited amount of time to appoint delegates to go. So the bill does designate the delegates would be chosen from the Legis, from the Legislature. Legislators have already been vetted by the electorate, hopefully, vetted by the electorate and elected to that position. And

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

the Faithful Delegate amendment points out that if they go beyond the scope of those three subject matters, they are called back. They are called back and the alternate that is nominated by us, the Legislature, takes their place. In any vote that they made that's outside the scope of those three subject matters, it's not going to be runaway convention because they can't go out the scope of those three subject matters. But if they go out the scope of those three subject matters, then they are called back. I suggested capital punishment, but I thought that was a little bit harsh. But they are called back and any vote that they made that was outside the scope of those three subject matters is null and void. Now, no good deed goes unpunished. You know, I heard all these complaints about a runaway convention and, and I put together this bill to narrowly define or to very specifically define what a delegate can and can't do and what happens if they go beyond the scope. And we have a few people that aren't satisfied with that. It's like the S.S. Titanic, right? It was a ship that was never supposed to sink, and people took that voyage with that perception that it would never sink. Well, let's use a metaphor. The, you know, that's just an analogy between the S.S. Titanic and the United States, our government. So the sinking ship, you know, the Titanic hit the iceberg, it's starting to list and starting to go down. And there are a few people on board that say, you know, I wouldn't rush to those lifeboats. I'm not sure, I'm not confident that those lifeboats have navigation equipment on it. And, you know, I don't think it's as confident as the ship is that's almost sinking. I'm not getting on those lifeboats. Well, the founding fathers created a lifeboat. They created an artic, Article V is not complex contrary to what someone said previous to my comments here. Article V is very straightforward and very simple. It details two methods for proposing amendments to the Constitution, not creating amendments to the Constitution, simply proposing them, subject matter. Those two methods are, as has been pointed out, Congress has, if two-thirds of Congress agrees to proposed amendment, that proposed amendment goes to the states for ratification process, and it takes three-fifths of the states, three-fourths of the states to ratify. It's a high hurdle and it should be. You know, you can't willy-nilly put something in the Constitution. The second method is when states call for a convention of the states for the same purpose. That purpose is proposing amendments to the Constitution, not creating amendments, proposing them. And that method also, when 34 states call for convention of states they gather together, much like we do in the Legislature, and they, and they discuss those three subject matters I mentioned, and

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

they propose the language for a proposed amendment. Then it goes, if they agree on one of those or language for proposed amendment, it goes to the states for the ratification process. Same methodology, same safeguards in place. Right? So I, you know, this is, when I, when I took the oath of office, like we all did, I took the oath to uphold the Constitution, both the state and U.S. Constitution. I didn't put my, I didn't go like this. You know, remember, when you're a kid, you know, if you didn't want to tell the truth, you, you put the one hand, cross your fingers and put it behind your back and say, I swear. Right? Well, that crossing your fingers meant you really didn't swear, so. But I swore to the Constitution, uphold the Constitution. Well, guess what? Article V, in very simple language, gives a, gives an alternative for the states to say, look, federal government is getting a little out of hand. I handed this handout to you, \$31.5 trillion in debt. And my phone's ringing. I got it in my back pocket and it's as annoying as heck, I'll tell you. But this is very telling, right? \$31.5 trillion. It's gone up at least a trillion dollars in the last year and a half. More importantly, if you look on that information I gave you, debt per citizens, \$94,000. When a baby is born, they're born with \$94,000 in debt. Debt for taxpayer is \$246,000. More importantly in the bottom, I think that is fundamentally what we should be concerned about, and that is the U.S. federal debt to gross domestic product. Right? Gross domestic product is the value of all the goods and services produced in this country in one year. That's a, that's, that's what we, that's our, that's our wealth in production in one year. Well, 1960, the percentage of our federal debt to gross domestic product was 53 percent; 1980, 34 percent; year 2000, 59 percent. Here we are 23 years later and it's 120.37 percent, 120 percent of gross domestic product. What does that mean? That means our national debt, federal debt is 20 percent more than all the goods and services produced in this country. Think about that. That's amazing. And it's unsustainable. Right? And to Colonel Brewer's, Chairman Brewer's point with his question, well, so what do we do? Do we lean on one of the two methods in Article V for proposing amendments, and that's through Congress. They've all been done that way before. Convention of states have never been called, so we've never tested that. So we've got, we're going to depend on the same people, Congress and administrations. And this goes across party line. This accumulated debt didn't happen because of one party. You know, they were kind of locked in arms to spend willy-nilly, like I hate to denigrate sailors, but like drunken sailors at times. And they, they accumulated that debt. So we're expecting Congress, one of whose roles is proposing an

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

amendment to the Constitution, to say, yeah, I think you're right. I think you should tie our hands and have term limits. It's really tying our hands. But yeah, I, no, they're not going to do that and would have proposed to Congress is in charge of appropriations and spending to say, well, you should have a balanced budget. Right? No, they're not going to do that. They're not going to do that. So it's, so the founding fathers put in place a safeguard. They put in a safeguard in the event that something like this comes to be and here we are. So, you know, I'm upholding the Constitution. Article V is in the Constitution. And I didn't cross my fingers and say, I swear to uphold the Constitution, except, except for that part in Article V, part in Article V, about states having the authority to call for convention of states to propose, propose amendments. I uphold the Constitution except for that part, you know. I'll have people come up to me and say, well, you know, this is putting the Constitution at risk. No, I say, you're putting the Constitution at risk by not respecting Article V. OK. Any questions? I will try to not spend the rest of the morning answering them.

**BREWER:** Well, thanks. Thanks for that explanation. Questions for Senator Halloran? Senator Conrad.

**CONRAD:** Thank you, Senator Halloran, and I know that you've been consistently passionate about these issues during your, your term of service, and I think that was evident in your closing remarks as well. I just wanted to note, I think that I was conflating kind of a faithful elector kind of proposal in regards to our Electoral College votes. I mean, I see here that you're attempting to implement perhaps the work the Legislature did previously in kind of spelling out how the, the delegate to a convention of states may be selected, how they would operate. So I just wanted to apologize for me kind of initially reading it out of context there. And I think that hearing was illuminating to have a better understanding of, of what you're trying to do in regards to this. And, you know, I, I think that there's so many fascinating constitutional law questions in relation to these proposals, and we definitely don't have time to have a full debate on the mike about all of those that I would be very excited to, to continue those conversations with you and, you know, think creatively as well if, you know, I'm hearing a lot of the concerns in regards to federal spending and economic policy. I know previous Legislatures have utilized other strategies like even a substantive legislative resolution calling on our members of Congress to take certain actions

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

or to think in certain ways and that perhaps is another solution that I was thinking about in regards to your testimony but appreciate it.

**HALLORAN:** I appreciate that. Thank you. If I might add, you know, the balanced budget or the fiscal restraints, I think that's pretty descriptive. But how, you know, how the language comes about proposing an amendment to do that, that's another question, right? But, but that's, that's the process we go through here when we talk about bills. We wear it down to language we think that's, that's, that would be and should be constitutional and that the public would accept. The Swiss have a creative way of doing this. The Swiss have what they call, I think it's called a debt break. Debt break. And what that is, it limits the amount of debt that their country can have as a percentage of their gross domestic product. Right? So it wouldn't be, I think, unreasonable. I'm not trying to say this is what would happen or one of the proposals might be, but maybe that our U.S. debt can only be 95 percent of our gross domestic product. Because people say, people will say, and I'm getting down to the scope of what your comments and I appreciate your comments, Senator. People will say, well, Senator Halloran, we don't really owe this money, the national debt. We don't owe this money. And some people say we owe it to ourselves and to those people that say, well, we owe it to ourselves, I say, well, if you borrow money from the bank, I would like to be there when you go into the bank and you say, I don't owe this back, I owe it to myself. It doesn't make sense, right? One thing you can't escape for sure though, well, or Congress cannot escape is they have to annually pay the interest on the national debt. I think that little sheet pointed out what that is. Maybe it isn't on here, but the interest is right at half, half of, what is it? Half a trillion, though, right? So in that interest, with the interest rates going up like they are, that becomes more of a problem, but my point is, they cannot escape paying the national debt or the interest on national debt. They have to, bondholders get a little bit antsy and upset if you don't pay the interest. Principal is another thing, but they want, so my point is half a trillion dollars can go to a lot of other spending issues that we would maybe rather prioritize than paying interest. You know, there's no bankers in here, so, you know, they, they like, they like the interest coming in. I get that. But we could better prioritize that half trillion dollars to other programs that benefit American citizens rather than paying the interest on national debt. I spoke too long on that, but.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**CONRAD:** No, thank you. Appreciate it.

**BREWER:** OK. Any additional questions for Senator Halloran? All right. Thank you for your close and that will close our hearing on LB195 and we will get reset. Oh, I got to read in there the letters and I got that right here. We had four proponents, three opponents, none in the neutral. Now, we'll close the hearing on LB195 and reset for LB31(sic LR31). Senator Halloran, whenever you're ready.

**HALLORAN:** This is kind of an irony that it's Groundhog Day because a lot of-- (LAUGHTER) because a lot of what we're talking about here so this may be abbreviated, hopefully it will be, but. Thank you, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee for the hearing today. For the record, my name is Steve Halloran, S-t-e-v-e H-a-l-l-o-r-a-n, and I represent the 33rd Legislative District. I'm here today to present my legislative resolution, LR31, which calls for the state of Nebraska to call for limited Article V convention of states which would discuss and potentially propose amendments to the U.S. Constitution. It takes 34 states with matching resolutions to call a convention. Currently, 19, 19 states have passed resolutions that match the language in LR31. In 2023, there were 17 states where there is either active convention of states legislation or has already passed in one chamber. So another of other states are, are looking at the very same language. Once that 34 state threshold is met and Article V convention of states is called, and through a convention process, amendments are proposed, those proposed amendments will still have to be ratified by 38 states, as laid out in Article V of the U.S. Constitution. LR31 calls for a convention to propose amendments in the following areas: One, impose fiscal restraints on federal government; two, limit the power and jurisdiction of the federal government; and three, limit, limit the terms of officials and for members of Congress. By requiring matching resolutions by 34 states, it naturally creates a structured framework for the topics discussed during the convention. Let me repeat that. By requiring matching resolutions by 34 states, it naturally creates a structured framework for topics discussed during the convention. All 34 states will be disciplined from their own state Legislatures to stick to limiting discussions to those three topics. I'd like to shift gears a bit and take a few minutes to refute. Maybe I don't need to do this because I already did this. All right. Shifting gears a little bit and refute some of the arguments against an Article V convention of states. You will hear the term runaway convention and con-con. Con-con refers to constitutional convention. And I think it's a very

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

good piece of marketing because when you think of a con, you think of a convict and it's kind of criminal and so forth. The Constitutional convention is convened to write a new government charter as was done in 1787, to fix the articles-- failed Articles of Confederation. Through that process, the Constitution was created. Note that it took three years, three years for the 13 states to ratify the newly created Constitution. Clearly, even that convention was not a runaway convention, not a runaway process. However, an Article V convention of states operates within the U.S. Constitution as a method for proposing amendments to the Constitution, not as an instrument to rewrite the Constitution. Article V explicitly states that a convention can only meet for the purpose of proposing amendments. Then there's a fear of a runaway, runaway convention. They will tell you that they don't have control of process. Once the convention states process, it convenes, the delegates from each state will become drunk with their own power and purpose in proposed amendments outside the scope of which the convention was called. Remember 34 states, individual states with matching resolutions call for an Article V convention of states. Clearly, these states have mutually understood purpose. This committee has just held a hearing on LB195, Adopt the Faithful Delegate to the federal Article V Convention Act that will ensure that the Nebraska delegates to an Article V convention will be bound to the scope of the subject matter in the states application to the convention. Other states have adopted similar legislation that would put constraints on their delegates. Second, one could reasonably agree that delegates and commissioners would conduct in civil manner, much like other interstate compacts. But let's just say, you know, I'm going to jump to the conclusion because I'm becoming quite repetitive from the first proposal. Forgive me for that. We should have done them in a different order and that's my responsibility. With that, I would open, open up for, for questions from the committee.

**BREWER:** Senator Hunt.

**HUNT:** Thank you, Chairman Brewer. Senator Halloran, is this the same LR that you've introduced in the past, but just left out the sunset that we passed?

**HALLORAN:** That's right.

**HUNT:** OK. Thank you very much.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**HALLORAN:** Mm-mmm.

**BREWER:** OK, no new copy. Senator Raybould.

**RAYBOULD:** Thank you, Senator Halloran, for all the information you've provided on this. I've learned quite a lot. The question I have is the language that you use, did you say fiscal restraint or balanced budget? I wasn't sure which was in the LR.

**HALLORAN:** The subject matter is, one of the three subject matters is fiscal restraint on the part of Congress.

**RAYBOULD:** So how is that further defined? What does fiscal restraint mean? What is it understood, because sometimes people have way different interpretations. Fiscal restraint means quit taxing us to death. You know, that could be, you know, one of the most common interpretations that people say quit taxing us to death. And so that doesn't go to the subject matter but I think it's really relevant and important is balancing the budget. So I figured that is way too much, you know, flexibility in subject matter or subject jurisdiction that we're trying to be consistent on as we go forward because some of the points Mr. Dodge raised, to me are quite relevant. Who is pushing for this? Who is funding the push for things like this? And that's, that's also very, very, very important to any discussion and dialogue because it could open up so many varied interpretations but I know that you've studied it a lot longer than I have. Tell me what you think that interpretation means.

**HALLORAN:** I think that, I think when I suggested that, you know, for an example, the alternate method and another country uses a fiscal break, the Swiss use that. Fiscal restraint is something that I think every family understands, right, within the combined, confines of the income that they have and the expenses that they have, they have to show fiscal restraint. Now, how, you know, how they interpret that, I think it's pretty universal. They have to stay within the confines of what they have to spend. So we could have put it in there balanced budget amendment, but that would have confined it to that, right? It would have been a balanced budget amendment and, and quite honestly, that, you know, narrowing it down to that subject matter would have said, well, we can't talk about the fiscal break. It's a balanced budget amendment. So just like we are not sent here with con, confined direction from our constituents when they vote us in, at a convention of states, much like as in the Legislature, they will discuss the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

definition of what fiscal restraint means and they'll propose something. And again, it's a proposal. The states, when they go through the ratification process may say, no, we don't want that.

**RAYBOULD:** Well, thank you for that. I mean, I just hear so many conflicting ideas. I know in Congress today they talk about fiscal restraint. And then one interpretation is we got to quit hiring so many people in the IRS department because they're going after individuals that they don't need to be going after. So to them, fiscal restraint means we got to really limit the amount of people that are working in that department. I, as a business person, say, oh my gosh, why would you restrict a department that is a revenue source that helps keep our, keep our country fiscally sound, that contributes the preponderance of wealth, that allows us to, to manage our resources and to me, revenue. And I think Mr. Dodge said that very clearly. Revenue is essential to, to look at the entire picture. And so, people have so many different ways of interpreting fiscal restraint. But I mean, if it were really clear and I understand what you said, but there has to be an agreement on a debt cap or a debt limit or a break, a debt break point, I get that. But I just have some concerns about how people can go down it, go down a rabbit hole that might not be to the benefit of.

**HALLORAN:** That's very good. I've not heard the rabbit hole analogy.  
(LAUGHTER).

**RAYBOULD:** I hear it all the time.

**HALLORAN:** I, I understand the concerns, but, but people have those same, same kind of concerns that they have with us in our process--

**RAYBOULD:** Sure.

**HALLORAN:** --or Congress with our, their process. I will make one minor correction. IRS is not a financial source. We are the financial source and IRS audits that. We are the financial source.

**RAYBOULD:** I understand that.

**HALLORAN:** Taxpayers are the financial source.

**BREWER:** OK. Any additional questions? Senator Conrad.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**CONRAD:** Thank you so much. And just, Senator Halloran, just to follow up on your exchange with Senator Hunt, just, I had a chance as a citizen observer to watch the process play out in the last biennial and I know you worked closely with Senator DeBoer and others to kind of forge a compromise to help the resolution move forward and that included, I think it was a five-year sunset proposal on that. So as you're bringing this forward, I just wanted to ask and I think we're all clear-eyed about how political processes work, are you bringing this forward because you see a change in the political landscape in Nebraska, in the Legislature this year to move this without the sunset? Or do you think the sunset in and of itself was suspect from a legal or policy perspective? Because I, and I ask not to be glib about it, but because--

**HALLORAN:** Sure.

**CONRAD:** --you know, looking at, say, for example, the equal rights amendment, I've read a lot about whether or not states can rescind their resolutions in support of that and how that fits into the historical and larger picture. And I think there's some fascinating open questions across the political spectrum and across time about how we utilize these processes. So sorry to be long-winded, but my, my question is, is the removal of the five-year sunset, so to speak, is it political, is it substantive, is it both? If you could just help me to understand a little bit more about, about your thinking here.

**HALLORAN:** Well, I appreciate the question. Primarily, it's, it's, I think Mr. Dodge used the reference that LR14, which is what we're talking about--

**CONRAD:** That's right.

**HALLORAN:** --that was passed with the sunset, went through, through, went through too fast.

**CONRAD:** OK.

**HALLORAN:** It might have gone through early in that session, but, but believe me, it didn't go through too fast. I mean, I had been involved with this for the last five years. Prior to me, Senator, Senator Ebke did it for several, two or three years before that. There's nothing fast about seven or eight years. So but, no, it's, it, and so that's part of my argument for taking the sunset away is, is that it, it takes a lot of time to get something like this in place. And I didn't

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

want to, I didn't want to put that burden on future senators once it was sunset to say, hey we need to revisit this issue and do this again and take another 7, 8 years to do that. Now, keep in mind, the Executive Board has the authority and we see it from time to time almost every year, the Executive Board, people can propose a resolution to the Executive Board to rescind any previous calls for a convention of state--

**CONRAD:** Right.

**HALLORAN:** --and put in front of Legislature to do that. So there is a means of, of rescinding a call for a convention of states. And I think that's, I think that's adequate to do it that way.

**CONRAD:** Yeah. Yeah. And I think what I'm reading from the literature is that perhaps it's an open question about whether or not those rescissions are effective or kind of how it fits into the grand scheme of things. And I also was wondering if it might be a good idea, separate or distinct from this measure that you're proposing today, if maybe we work together as the Government Committee or with the Executive Board, maybe on a broader interim study just to make sure that there is a clear understanding of the process, kind of an inventory of what Nebraska has put forward in regards to changes to our federal constitution, attempts to, you know, rescind them and what that might mean and, you know, how it works into, we can't bind future legislators, (INAUDIBLE). There's so many fascinating questions is my point, is my long-winded point there. And I think particularly in the term limits era and dynamic, as you just noted, it would be helpful to have kind of a clear framework or primer available to all stakeholders to make sure that we have a clear understanding of our history and treatment of these issues in Nebraska. So I'd, I'd be excited to work with you on some of these (INAUDIBLE).

**HALLORAN:** I appreciate that, and I open up, I'm termed out, you know, this last two years, my term. I will, I will give you all an open invitation to ask me back to be a guest speaker.

**CONRAD:** There you have it. All right. Great.

**BREWER:** All right, thank you. Now, for when the time your bill or your LR14 passed, until now, has the federal government done anything to restrain the budget or implement term limits?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**HALLORAN:** OK, if they have, it, it would be a surprise, that I have not heard of that.

**BREWER:** Well, all right. So those, those things haven't changed since you passed it. I just trying and I-- now, one of the reasons I think maybe that was concerns about using the term balanced budget. If we were to do that, is, as opposed to fiscal restraint, I know on, on the Department of Defense side, if you balance the budget, which I mean it sounds great in theory, but in reality, you would collapse the system right now because we have got used to this, you know, fat cow. And to get the cow skinnier, your roads, your bridges, your Department of Defense, I mean, all of these things that make America what it is, probably could not sustain itself. Now, fiscal restraint could help you start thinning the cow down, but balanced budget, I think, would probably be detrimental. That's why I think the verbiage was there. I'm just guessing. I don't know it for a fact. I wasn't in D.C. to hear any of this, but I think if you look at it, that would be a more reasonable approach than a fixed balanced budget, because in Nebraska, we do have the luxury. Our Department of Defense, we have a military department, fairly small part of our budget because really it's, it's the federal government that's helping us make all that happen. Our roads, the majority of the money there is coming from the federal government. Same with the major bridge operations stuff. So, I mean, am I off track or is this the way you see this?

**HALLORAN:** No, I pretty much agree with all that. I mean, the balanced budget to Senator Raybould's conversation and question about, a balanced budget, if we had a balanced budget amendment in the Constitution, I think very clear language that would require a balanced budget. There's two ways to balance a budget or a combination of two ways, but the two ways to balance a budget, one is restraining spending. The other one is increasing taxes or income, right? Income. So, so I'm a little hesitant to have a balanced budget amendment for the simple purpose that if it was an amendment in the Constitution, we would be giving carte blanche authority by the Constitution for Congress to spend whatever they want, because they would say, look, we've got to balance the budget. The way we're going to do it is going to increase taxes and give little credence to the other side of the equation, like all businesses have to do or households have to do and look at the spending side of it. So fiscal restraint, I think, covers, is a very good descriptive term for the general subject that they talk about.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**BREWER:** OK. Additional questions for Senator Halloran? All right. Thank you. And let's see, you're going to stick around to close again?

**HALLORAN:** I am.

**BREWER:** Good.

**HALLORAN:** Gosh, I thought that was the close. (LAUGHTER)

**BREWER:** All right. On LR31, we will start with the proponents. Proponents, come on up. Welcome to the Government Committee.

**STEVEN STEINKUEHLER:** Thanks, Senator.

**BREWER:** Whenever you're ready, go ahead.

**STEVEN STEINKUEHLER:** My name's Steven Steinkuehler, S-t-e-v-e-n S-t-e-i-n-k-u-e-h-l-e-r. Currently, I am a volunteer with Convention of States Nebraska. I serve as the legislative liaison, and I have been with Convention States since 19, or 2019. I don't have a lot to say, except I support Senator Halloran and his objective in what he's trying to accomplish. But I do think I have some additional information based on some of the questions. Senators on this side, if you flip to the second page of that, you will see the metrics that are associated with where the convention of states is. I hope that's self-explanatory. That first section is, states that have passed the COS application and then states that have got it through one of the houses in their Legislature. And this is repetitive, but I think it's, it's, it's consistent and I'll just read this. You guys can follow along. An Article V convention of states is a constitutional tool provided by our founders to empower, empower the American people to hold their government accountable. This is accomplished by proposing amendments to the Constitution. And then somewhat repetitive, but in conjunction with what the Senators already talked about are the three elements that with, from a convention of states perspective, they're seen as an aggregate component that is, that flows from all the states that pass this legislation. Additionally, as has been already alluded to, 34 states need to pass, pass the resolution and 38 can ratify the Constitution. That's a high bar. Anyway you look at it, that's a high bar. You asked about guardrails. That might be considered a good guardrail. OK. So we had-- and 19 states have passed the COS resolution to call for an Article V convention and you've got that information. And then I was up around 4:00 this morning and I really put some thought into this and I just, I'll say it verbatim. But, you

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

know, I'm old enough now that I've reached the point where I think I can say that. And that's I believe that individuals have taken time in today's fast-paced, ever-changing world to step back, take a deep breath and think seriously about what is working and what is not working in our country these days, what we might need to change and what we are willing to risk in order to impact change. We are all very fortunate that we live in a country where this is possible. Article V offers each state's citizens working with their state's Legislature this opportunity. Let's make the most of this opportunity. In Nebraska, we have, currently, we have 22,000 individuals that have signed petitions in support of where we're going with this legislation. With that, I'll be quiet and take any questions you might have.

**BREWER:** All right. Thank you, sir. All right. Questions for Steve? Yes, Senator Conrad.

**CONRAD:** Thank you, Dr. Steinkuehler. Really appreciate your testimony and the background and information. And I just had two questions to figure out if your organization had a position on these issues, and if not, I'm happy to follow up after the hearing, too, but did your Convention of States organization believe that states can effectuate that they can rescind, call for a convention of states? Do you, do you believe that that is allowable under the Article V process?

**STEVEN STEINKUEHLER:** I don't know. With that I don't know.

**CONRAD:** OK. I'm trying to sort through the same learning questions, so I wanted to know kind of like--

**STEVEN STEINKUEHLER:** (INAUDIBLE) trying to put that in my memory bank, so I cannot.

**CONRAD:** --no, and we can follow up after the hearing here and it was just the same question in regards to that LR14 from last year about whether or not you thought the sunset was permissible in calling for a convention of states or not, so.

**STEVEN STEINKUEHLER:** yes, we would support that, yes.

**CONRAD:** OK. Thank you so much.

**STEVEN STEINKUEHLER:** Thanks, Senator.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**BREWER:** OK. Additional questions? Senator Raybould.

**RAYBOULD:** Thank you, Dr. Steinkuehler, for coming and starting your day at 4 a.m. So I appreciate that.

**STEVEN STEINKUEHLER:** That's not normal, just so you know. (LAUGHTER)

**RAYBOULD:** We know you're prepared. So I'm looking at it, at the, the handout says one, two-thirds or 34 of the states pass a resolution, the convention will be called. And then the next one says it takes 38 of the states to ratify the Constitution.

**STEVEN STEINKUEHLER:** Mm-hmm.

**RAYBOULD:** So when the states get together, they're going to, I thought they, from what Senator Halloran stated, that they, they make proposals that go to Congress.

**STEVEN STEINKUEHLER:** Yes. Oh, no.

**RAYBOULD:** No.

**STEVEN STEINKUEHLER:** They-- where did the senator go? Where'd he go? Did I--

**RAYBOULD:** They go through, did they make proposals to Congress that the Congress then puts out to the states?

**STEVEN STEINKUEHLER:** All the states.

**RAYBOULD:** So that, so, I'm sorry. Help me walk through the process.

**STEVEN STEINKUEHLER:** I'd better let the Senator do that. Do you understand the question?

**HALLORAN:** [INAUDIBLE].

**STEVEN STEINKUEHLER:** All right. Thank you.

**BREWER:** Yeah.

**RAYBOULD:** So--

**CONRAD:** He will take it in closing.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**RAYBOULD:** Oh he'll take it in closing. OK, thank you.

**STEVEN STEINKUEHLER:** OK.

**BREWER:** All right. Additional questions? I had not seen this breakout of the states and the date that they had passed the applications, so this is good. Thank you. Appreciate it.

**STEVEN STEINKUEHLER:** Thanks, Senator.

**BREWER:** All right. Well, no other questions, thank you for your testimony.

**STEVEN STEINKUEHLER:** Thanks.

**BREWER:** OK. Additional proponents to LR31. All right. We will transition to opponents to LR31.

**SHERI ST. CLAIR:** I'll go again. Sheri St. Clair, S-h-e-r-i S-t-C-l-a-i-r, on behalf of the League of Women Voters of Nebraska. I'm not going to repeat, you know, all of our objections. They're identical to what they were to the previous bill. I think want to point out just simply that a single issue would be preferred to these multi-issue proposals. And secondly, we have previously passed legislation that is still in effect, going to be in effect for several more years. And I think that once there, limit is reached, it's up to a future Legislature to determine whether or not they want to continue to pursue calling for an Article V constitutional convention.

**BREWER:** OK. Additional questions for Sheri? All right. Thank you for your testimony.

**SHERI ST. CLAIR:** Thank you.

**BREWER:** OK. Additional opponents to LR31? Welcome to the Government Committee.

**WESLEY DODGE:** Thank you. Wesley Dodge again, W-e-s-l-e-y D-o-d-g-e, from Omaha, and I'm associated with RepresentUs. Mr. Clark sent me a note after my last testimony about a statement I made where I said I thought that the Article V had passed in about two weeks. The reason I thought that is because the legislative session in '22 opened on January 5, and the Article V resolution was passed on January 22, 17 days later. So I'm not, I'm not real refined on what maybe passes or

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

what doesn't go to committee and that kind of thing, so that, excuse my confusion there. But I looked at the start of the session and I looked at when the bill passed and it was 17 days, so. And I thought that was one or two weeks. I was watching for committee hearings at that time. I don't recollect a committee hearing or if it was, you know, sometimes they'll slip through and people don't see those. So he had asked me to clarify the record on that. And I'm not going to be redundant like Ms. St. Clair suggested too, I'm not going to go through my spiel again. But while I was sitting, I did look up. There's, there's like five or six pending things out there as far as the federal budget is concerned, Senator Brewer, that a, there's a Simpson-Bowles act, which was kind of set aside. But there's a modification of that now where they've got percentages, like Senator Halloran was discussing, where if we raise revenue by 21 percent, which we can do by getting rid of a lot of the, the loopholes and the exemptions that exist right now. If we tax corporations and we're more effective with our collections with the IRS, we could raise that by 21 percent. There's two resolutions that if we reduce our debt to 60 percent of their GDP, and then there's the second one that's 21 percent, so they're out there. I mean, you all have better connections with our senators right now than I do. So you could talk to Ricketts or you could talk to Fischer and say, hey, these are out there, let's start driving those. And again, I won't be redundant with my testimony but I wanted to clear up the record. Thank you, Mr. Clark, for making me aware of that. And I still in, in the same position. I don't think this is a good idea. As far as the process is concerned, just very quickly, I won't try to steal his thunder, but the, they propose amendments and then they go to the states for ratification. So it's like in our original second continental Congress, they have the meetings, they come up with the amendments, etcetera, and then they're ratified by the states again, so.

**RAYBOULD:** And that number is 38.

**WESLEY DODGE:** I don't know, it's, it's--

**BREWER:** 34 triggers.

**WESLEY DODGE:** Something, yeah, Yeah, 38 to ratify.

**BREWER:** OK. Any additional questions? Senator Raybould.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**RAYBOULD:** So I think you mentioned a good point of reconciling our budget by some of the proposals that are out there that we can encourage our federal senators to propose. Did that include that you briefly mentioned Senator Elizabeth Warren's proposal, where it really targets those multi-million dollar earners that pay virtually no taxes, is, is that in the percent?

**WESLEY DODGE:** I think that's part of it. I just, because Senator Brewer brought it up, I googled--

**RAYBOULD:** OK.

**WESLEY DODGE:** --and you know how trustworthy that always is. So I hate to be held to it, but I, I found a good site that actually broke down several, several different methods of, of trying to rectify these problems. Can't find it right now quickly what I was just looking at, but they have like four or five of them and it's like a mortgaged house. It's going to take 30, 40 years, but it took us longer than that to get there, right? So we started quadrupling it or whatever back in the mid-eighties. And I think I've read recently a quarter of that, that we have right now has occurred in the last four or five years. But, correct me if I'm wrong, but I think that's what I had read, so.

**BREWER:** It's, yes, it has accelerated. Any additional questions? OK. Now, just, just for clearance, so what you're proposing is the way out of this is taxation?

**WESLEY DODGE:** When you run a household budget or a country's budget, you need income to pay your expenses. So, yes, that we, we fund our government through taxes. Yes, we need taxes.

**BREWER:** OK.

**WESLEY DODGE:** It's not carte blanche, let's tax everything. I mean, I think the 60 percent tax that people are proposing on consumption goods, it would be, would be really detrimental. I think there's places we're not recovering taxes that we could be recovering taxes. Again, I don't profess to be a tax expert and I don't want to say anything that gets anybody's ire up, but I've read things about taxation of assets earned in foreign countries that we don't, we don't tax enough. We got to watch that. There's all kinds of exemptions and things like that. When I was in law school, you know, the tax code is, is twice as big as the Bible. You know, so there's a, there's a lot of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

stuff in there that people have become experts at doing. And the people who, who benefit the most by it put the most money into making sure we don't, we don't resolve those issues. We could make it real simple. I really do think we could. I think in the twenties or thirties, didn't we do it by a postcard? I think I remember reading that, it's like, what did you make? Pay 3 percent and here you go.

**BREWER:** OK. Any additional questions? Thank you for your testimony.

**WESLEY DODGE:** All right. Thank you.

**BREWER:** OK. Additional opponents. Holy cow, this is Groundhog Day. Gavin, welcome back.

**GAVIN GEIS:** Chairman Brewer, members of the committee, good morning. My name is Gavin Geis, that's spelled G-a-v-i-n G-e-i-s, and I am the executive director for Common Cause Nebraska. Nice to see you again on just such a short timeline.

**BREWER:** Not so short.

**GAVIN GEIS:** Typically, I don't read straight from testimony, but there are some technical aspects here that I want to get right. So I will, I'll be reading today. Common Cause opposes an Article V convention for many reasons, including the absence of authority on how a convention would be governed and the threat of a runaway convention that could pose to all of our constitutional rights. But specifically regarding LR31, we believe the resolution it rescinds, LR14 is a better vehicle for an Article V application. To begin with, we believe there's good reason to retain the sunset provision contained in LR14. This provision was part of a compromise reached by this body that allowed LR14 to pass. That alone would be good enough reason to retain the provision, but there, but there is good reason to place a sunset provision in any Article V application. Courts have noted the regarding, regarding Article V, states are the weathervane for public support of issues requiring constitutional change. As such, this Legislature should be frequently reviewing all of our Article V applications to gauge public interest in support of the matters contained in them. The alternative is that resolutions sit on our books indefinitely and the state ignores its role engaging in local interests. As such, we believe it's wise to retain the sunset provision in LR14 and review, and review this matter again in five years. I want to note there was a mention of rescission that has been

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

brought up before in the Executive Board. It has never found ground even for issues as controversial as interracial marriage. We have resolutions on our books from decades and decades ago and there is no interest in rescission, so I think a better measure is to include a sunset provision rather than relying on a hope that we can rescind the bad ones as we go. Beyond the sunset requirement, the additional provisions contained in Section 2 complicate the call and will ultimately make it difficult to convene any convention. These are not contained in LR14. The provision in Section 2, the provisions in Section 2 are all unsettled legal questions and will lead to great debate should a convention be called. Regarding limiting Congress's role in a convention, there is good reason to believe that both Congress and the courts would disagree with one or more of the provisions contained in LR31. Over the years, multiple bills have been introduced by the Congress to establish rules for an Article V convention. Clearly, there is a belief in Congress that they have some authority here. Additionally, the U.S. Supreme Court has already shown a willingness to expand Congress's powers under Article V. In *Dillon v. Gloss*, the court held that Congress has the authority to set a time limit for the ratification of constitutional amendments, despite the fact that that is mentioned nowhere in Article V. As such, it's no stretch to believe the courts will hold that Congress has additional authority regarding an Article V convention, even if it's not explicitly stated and noted in the convention. In light of the unsettled nature of these provisions, we believe it wise to leave them out of the official application and avoid the complications they will create. Finally, several of the provisions in Section 2 raise questions of how they'll actually be applied. In particular, Section 2(b) states that a convention will only be convened, convened when applications of substantially the same purpose are received, are received from the required states. Given the purposes contained in LR14 and LR31, what will constitute, what will constitute substantially the same purpose? If 33 states call for a convention on just term limits, will our call be included as the 34th, or must the applications include all of the elements of this call to be substantially the same purpose? Likewise, if 33 states call for convention that could be said to limit the power and jurisdiction of the federal government, will this application be included under Section 2(b)? Section 2(h) raises similar questions by restricting the convention to topics contained in this resolution. The purpose of this application includes imposing fiscal restraints on the federal government, as well as to limit the power and jurisdiction of the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

federal government. Under my reading, this is a fairly broad call. It implies many matters. Would 2(h) restrict Nebraska's call for convention to one using only the exact wording of the resolution's call or would other state applications on issues of fiscal, fiscal restraint and limiting the federal government capture Nebraska's application as well? Given the good reason to retain the sunset provision and the potential complications created by Section 2, we believe this body should reject LR31 and retain LR14 as a better example of a state application for a convention. Thank you.

**BREWER:** Well, I think we had this conversation before. You're not an attorney.

**GAVIN GEIS:** I'm not an attorney?

**BREWER:** Are you an attorney?

**GAVIN GEIS:** I am an attorney. Unfortunately, yes.

**BREWER:** You sound like one.

**GAVIN GEIS:** I'm sorry.

**BREWER:** You're very detailed. You're concise. You break it out. And, and keeping up with you is the hard part because you go faster than I can read. But, I appreciate the fact that you're very thorough, you're very detailed, And you must have made those notes this morning, because it's pretty rare that your testimony as it's sitting in front of me as you go through it, so is that a good guess?

**GAVIN GEIS:** Yes, it is a good guess. I was a little busy with, you know, yesterday's hearing.

**BREWER:** Well, as many pages as you've got here, you've been working. All right. Any questions for Gavin? Thanks for coming in and--

**GAVIN GEIS:** You'll see me again.

**BREWER:** --I may have to call you up and catch you up at some point here because I had a couple of notes, but I can't even catch up with my notes to ask the question right now.

**GAVIN GEIS:** No worries.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**BREWER:** Thank you. All right. Next opponent to LR31. Come on up. If you're in the front row, you're in the right place. Welcome to the Government Committee.

**ARLO HETTLE:** Hi there. My name's Arlo Hettle, A-r-l-o H-e-t-t-l-e. I'm the grassroots advocacy coordinator at the Nebraska Civic Engagement Table, which is a member organization serving around 70 other nonpartisan, nonprofit organizations across the state. Our mission is to ensure every community across the state has the opportunity to have a seat at the table and be involved in the policy decisions that affect their lives. I'm not an attorney. Gavin, I think, said a lot of what I was gonna say, a lot more thoroughly than I would be able to. So I just kind of want to echo that we're concerned that LR31 could potentially radically change the Constitution without the ability for involvement from everyday people that these changes would effect. We see here in Nebraska where it's so easy for people to be able to speak to their representative, have that input in their government. And we're just really concerned that an Article V constitutional convention would move away from that philosophy completely, particularly if there are outside actors and special interests that are going to be playing a large role in this. We would rather be focusing here on building a generation of civic leaders, getting people involved in their communities and turning out more voices for the ballot box. And so we would ask you to oppose LR31. Thank you very much.

**BREWER:** All right. Thank you. Questions for Arlo? All right. Thank you for coming in. OK. Next opponent to LR31. Welcome to the Government Committee.

**JOEY ADLER RUANE:** Good morning, Chairman Brewmer-- Brewer, and members of the Government, Military and Veterans Affairs Committee. My name is Joey Adler Ruane, J-o-e-y A-d-l-e-r, space, R-u-a-n-e, and I am the policy director with OpenSky Policy Institute, testifying today in opposition to LR31. The need to use great care with taxpayer dollars is essential at all levels of government. We are concerned by LR31's call for fiscal restraint, restraint such as a balanced budget amendment at the federal level. Such limitations would worsen economic downturns and reduce the federal funding that many Nebraskans depend on. Going into debt at the federal level works to stabilize the economy during recessionary periods. During an economic downturn, businesses and consumers spend less, which leads to job losses. Federal stimulus helps cushion the economic blow and keeps the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

purchases of goods and services from falling further. This is why macroeconomic advisors and economic forecasting firm found that recessions would be deeper and longer under a constitutional balanced budget amendment. Had one been in place during the Great Recession, they found that the effect on the economy would be catastrophic and would have doubled the unemployment rate. This is also why more than a thousand economists, including 11 Nobel laureates, issued a joint statement condemning a constitutional balanced budget amendment that was considered by Congress in 1997 warning that it would mandate perverse actions and aggravate recessions. There's hardly a better example of this than the 2020 stimulus package. It passed in response to the economic fallout of COVID-19. To balance the budget, such legislation would have had to have resulted in corresponding tax increases so that the nation would not take on debt. To avoid this outcome during crises, a constitutional amendment would need to include exceptions that account for every scenario that could require sudden and unexpected government spending. A balanced budget amendment would also have severe consequences for nearly all Nebraskans by reducing federal support for communities throughout the state, including farmers, retirees and veterans. In 2019, federal dollars accounted for more than 27 percent of appropriations of all fund sources in Nebraska and 31.5 percent during the Great Recession in fiscal year '09. In FY19 alone, federal funding accounted for more than \$952 million of K-12 and higher education budgets in Nebraska. Without federal funding for education, Nebraska taxpayers would be responsible for an additional \$653 per adult to make up for the lost revenue. Such a loss of federal funding would likely exasperate current frustrations with property taxes. A significant amount of federal dollars come to Nebraska through defense-related spending as well. In FY19, the Department of Defense spent \$1.6 billion in Nebraska, over \$900 million, over 900 million of these dollars directly paid for 16,501 personnel, with another \$700 million doing the jobs in the private sector to contracts with the DOD. Furthermore, in 2019, Nebraska farmers received \$950 million in direct federal payments. Eliminating some or all of these programs would be extremely harmful to many Nebraskans. We appreciate the concerns about improper spending, which is why we support efforts to improve the transparency of tax incentives and other tax expenditures at the state and local levels. We are always interested in the spending of taxpayer dollars being monitored and evaluated on their merit. It's for these reasons, we urge the committee to oppose LR31. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**BREWER:** Thank you. Questions? Just, you heard my comments earlier, I hope, about I don't support the balanced budget either. I mean, the concept I do. The problem is, realistically the impact would, would be incredibly painful right now because of how large our government and our budget is. And I would guess that's why they are focusing on fiscal restraint instead of balanced budget. Do you see an opening where fiscal restraint might be something we should look toward?

**JOEY ADLER RUANE:** I, you know, I think that any time that we trying to have some transparency about the way in which taxpayer dollars are spent is a good thing. But I don't know that fiscal transparency is necessarily as defined as maybe we would like it to be in order for us to, you know, give you a more definitive answer on that. I would be happy to sit down and talk with you about what that can do, though.

**BREWER:** All right. Thank you. Thank you for your testimony. I appreciate you coming in.

**JOEY ADLER RUANE:** Thank you.

**BREWER:** All right. We are still on opponents to LR31. Welcome to the Government Committee.

**JIM FROHMAN:** Thank you. Hello, my name is Jim Frohman, J-i-m F-r-o-h-m-a-n. I'm here to testify in opposition to LR31. But first, let me say that I believe the federal government needs to be fixed and that Congress is incapable of fixing itself, and that the only way the many issues needing to be fixed will get fixed is through an Article V Constitutional Convention. My opposition to LR31 is not with its intent, but with its implementation. The convention called for in LR31 will never happen. It is a waste of time to pursue it, especially when there is an alternative that could succeed. LR31 and other similar issue-based calls will never be passed by the required 34 states. It is simple math. To reach 34 with LR31 or similar conservative issue-based calls will require all Republican-controlled states, plus all 11 divided states, plus one Democratically-controlled state to sign on. This will never happen. I cannot imagine a scenario where this could happen. It is a waste of time and energy to pursue issue-based calls for an Article V Constitutional Convention. There is a way to successfully call for a convention. And issuing neutral call with a framework for the convention could be passed by both conservative, liberal and divided state governments. It is the only way to 34. It is the only way the issues, you care about, will ever be

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

considered at a Constitutional Convention. I previously emailed all of you, most of you at least, and this morning all of you, my suggestion for a call for Constitutional Convention. I'm not going to go into the specifics unless you have questions. I support the intent of LR31, but I cannot support a bill that has no future and cannot achieve its goal. The call for Article V Constitutional Convention in LR31 will never succeed. And I have a couple of really quick, additional points based on the testimony so far. Congress has, and this is an assumption, but there have been more than enough calls for constitutional convention since the beginning of this country to have had a constitutional convention. My assumption, and I believe it's accurate, is that Congress has basically ignored these, and their justification is that they have not received 34 identical calls for a constitution. I can't think of any other reason other than literally saying, I'm going to ignore it. And it could be both. The current LR31 does not match 19 previous, or 18 actually, previous calls for constitutional convention by the COS action group. So effectively, if this were to pass, we have taken ourselves out of that and we no longer are part of that 19 member states, assuming Congress is, in fact, demanding identical calls. And nowhere in Article V is that stated that that has to happen, but that is the justification Congress is using. So if you pass this, you have taken yourself out of the, out of the COS calls. You're no longer a member of that group, and you've guaranteed further that it will never happen. The other quick note, and I am not aware, but I have done extensive research. There, every, there's been a whole bunch of questions about this, and you can take any one of the questions you may have and you can find 50 people on either side that will tell you you're right, you're wrong and whatever. So studying this issue more will get nowhere, frankly, because it's been studied and there's opinions to go, galore. The only way those opinions will ever be put into concrete and decided is if the call actually happens, then things will happen. Then there'll be court cases. Then there will actually be decisions made and we will have an understanding of what an Article V means at that point in time. Today, it means whatever person you're talking to. So thank you for your time and your service.

**BREWER:** All right. Thank you, Jim. Questions? All right. Let me at least hit you with one here. Yesterday was kind of a long day and last night was a long, short night, and so forgive us if we're just a little weary today trying to get focused on things. I know Senator Halloran, and I'll be looking forward to his close to talk about this,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

has spent six years, I know of working hard to try and figure out what right looks like and how we get there. So the analogy used of, of the Titanic, you know, kind of does, makes you stop and pause and think for a second. You know, are we one of them that's listening to the, to the music and not paying attention to where the water line's coming up on the ship? But if what you're saying is true, it doesn't really leave a lot of hope that there's any way to save the ship here. I mean, what's your response to that?

**JIM FROHMAN:** Well, my response in that's, I won't go into a lot of detail, but an issue in neutral call where you're not presenting conservative issues or liberal issues or in-between issues, is the first step because you're sustained. You can't get to 34 if you're promoting liberal or you're promoting conservative issues. You just can't do it. The math is there and not, you know, I don't know why people are refusing to do it. Look at the math, but it's simple and I'd love to have somebody tell me where I'm wrong. You can't get there. So you have to have an issue in neutral call and to deal with all of the issues that people do bring up about a convention, and there are some legitimate issues people do bring up, the runaway and other issues, I propose putting a framework within the call that addresses those issues and basically prevents some of the concerns that you would see with a constitutional convention. So the call would actually have an embedded framework. It would be issue in neutral so it could be supported by liberals, it could be supported by conservatives, it could be supported by in-between, the divided states. You would actually have a chance to reach 34. And to use the Titanic example, where I see it in my, in my case, the example that was used is if you already have a convention and then how does that work once you have it, the Titanic would have never been launched, is what I'm saying. It would have never made it out to the ocean because they cannot complete it and we'll never complete at 34, reach 34 as I anticipate.

**BREWER:** The issue I see, though, is everyone talks about guardrails, how to put guardrails on. Everybody wants guardrails so that whatever issue they don't want to talk about, it doesn't get talked about and then they know what is going to be talked about. If we leave the white board open and just charge in there, the fear on everyone's part would be such as no one would want to move forward with that because they see guardrails as, as a safety, not as, as a, I don't know, limitation that you see it as in getting the support.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**JIM FROHMAN:** Well, in my suggestion, there's, there's two pieces that I would respond to. One is, I limit the number of amendments that can be proposed. Each state would have three amendments that they could propose. So that puts a limit and prevents a runaway because you could only have, you know, 150 amendments at max. And more than likely, many of those would be duplicates, some of them at least. But anyway, so that puts the limit there. The guardrail concept, frankly, is a way to limit to what you want. So conservatives limit it to conservative issues, liberals limit it to liberal issues, issues. So if you use the example that was brought up in terms of this is just how the Legislature works, well, you don't come into legislative session saying we're only going to deal with conservative issues or we're only going to deal with liberal issues, you come in with an open chart and you deal with whatever issues is put forward by the different senators when they submit their bills. That's how this would work. It's still under state control. The Legislatures still have the controlling interest through various mechanisms in my proposal. So the limit of the three bills or three amendments would be, and per state would be the guardrail in terms of preventing a runaway. So if you're using a guardrail in that sense, there are pieces in my, what I'm suggesting that would help handle that, but it would leave it open to any state to bring anything they want forward. And yes, some states, I doubt it, but some states could bring some really crazy things forward. But as has been noted, and in my example, you'd have to get 60 percent of the people in the convention to approve that. And if by some crazy miracle you've got some crazy amendment out of a constitutional convention, you still have to get 38 states to approve it. So there's plenty of guardrails there and the guardrails that I propose are open enough to actually let a constitutional convention act as the Legislature, so.

**BREWER:** All right. Well, thank you for your testimony. Let me double check. OK. Thanks for coming in.

**JIM FROHMAN:** Thank you.

**BREWER:** It's nice to have someone who isn't a hired gun. They're here on their own, so appreciate it.

**CONRAD:** Thank you.

**BREWER:** All right. Next opponent. Welcome to the Government Committee.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**HEIDI UHING:** Hello, Chairman Brewer and members of the committee. My name is Heidi Uhing, H-e-i-d-i U-h-i-n-g, and I'm the hired gun for Civic Nebraska. (LAUGHTER).

**BREWER:** Good.

**HEIDI UHING:** I'll be testifying in opposition to LR31. The resolution specifies that the convention would be limited to proposing amendments to the Constitution that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and members of Congress. This is an incredibly broad scope of changes that could be made. The balanced budget amendment is the clear priority of the convention of states, the primary organizations supporting this effort. But every agency, every dollar of state aid and every subsidy to farmers, schools and businesses would be at risk. As voting rights advocates, Civic Nebraska opposes an Article V convention because the Department of Justice, voters last line of defense against the state in, against state infringement on voting rights would be exposed. As Nebraskans, we oppose this resolution because a balanced budget amendment would throw our state budget into chaos. If a balanced budget amendment were passed, Congress would determine where to make cuts in order to balance that budget. There'd be nothing preventing drastic reductions in the state aid that this Legislature relies on to conduct Nebraska state government. In 2018, federal dollars comprised 30 percent of our state budget. It's easy to criticize out-of-control federal spending, but an Article V convention would, in every likely scenario, result in devastating financial impacts not only to the federal government but to our Nebraska state budget. As most of you recall, the Legislature spent considerable time debating this issue last session, and a deal was struck to rescind Nebraska's application in 2027. For all the reasons above and the fact that this matter was very recently addressed by the Legislature, we ask that you not advance LR31.

**BREWER:** OK, Thank you. Questions? All right. Thank you for coming in. We are still on opponents on LR31. Those in the neutral on LR31? Senator Halloran, would you like to close in LR31?

**HALLORAN:** Well, I would love to waive, but there was plenty, I don't know, stress, not going to happen. So, you know, I will applaud Mr. Frohman for suggesting something that is unconstitutional. What he was proposing was a constitutional convention. Let's make it clear,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

definitions are important. Article V defines, defines a convention of states as a convention to propose amendments as we discussed, right? By definition, the Constitutional Convention, which is commonly re, Article V, is commonly referred to as a con-con Constitutional Convention, is misleading because by definition the Constitutional Convention is by design. Its purpose is to design a new constitution. So what he was proposing was every state, 50 states, three amendments apiece. Oh my gosh, people are getting upset with these three narrowly-defined subject matters, and he's proposing 150. So I would suggest that that shouldn't happen because that indeed would be a con-con. OK. I respect all the other propo-- you know, all the other, all the others that were in opposition. I respect them, but I didn't hear too many solutions. Just didn't hear too many solutions, right? We're passing this debt on to our kids and that's OK, that's fine. I'm, I'm, look, you know, at my age, I can probably survive the economy no matter. You know, the direction is not good right now but whatever it throws at me, I can probably survive it. I'm a tough-enough old geezer. I won't eat roadkill off the road like Senator Brewer will, but I can survive. (LAUGHTER) But, but that being said, you know, my kids and grandkids, no, I don't know. I think there's nothing more immoral and unjust than passing debt on to your kids and that's what we're doing, right? Fiscal restraint it's not going to, the sky won't fall. I think it's something that's very important because our kids do deserve better than having us pass debt to them. I could go on and on, but I appreciate and respect the committee's time and I have one more bill and I want to respect my own time on that, so.

**BREWER:** Just as a refresher, when you started this process many, many years ago, when you handed one of these out, I want to say in 2017, do you remember what the number was?

**HALLORAN:** I don't. I should have kept better records.

**BREWER:** I believe it was about \$10 trillion less than this.

**HALLORAN:** I would say that's, that would be close.

**BREWER:** Seemed like it was around 22 and now we're at 31.5. All right. Any questions for Senator Halloran? Senator Raybould.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**RAYBOULD:** Thank you for all the information you have shared with us. So help me understand. OK. So in order to call the convention, 34 states have to agree on calling a convention, correct?

**HALLORAN:** On the same subject.

**RAYBOULD:** OK.

**HALLORAN:** And, and to reclarify, it was said before, suggested before that there's 19 states that have signed on to the resolution with those three subject matters. LR31 has those same three subject matters in it, so it's the same thing.

**RAYBOULD:** OK.

**HALLORAN:** And there are 17 other states who have the same resolution language that they're considering, so. I'm sorry I interrupted you.

**RAYBOULD:** And then how many of those, say they're all convened, they're working on amendments, what is the percentage or number that they have to agree on? Is it, if they get a 50 you know, if a majority agrees on this amendment, then it gets kicked out and then it has to hit all the states to get ratified. So what, what is the threshold? Once they're convened, they come up with an amendment--

**HALLORAN:** I understand.

**RAYBOULD:** --and I guess, let's say they, they only have 34 states participating.

**HALLORAN:** It would be governed by Mason's Rules. In 2017, I went to a convention of states. Actually, it was a convention of states in Phoenix, Arizona, called, called by, uh, initiated by Arizona to call for a convention of states to, for the purpose, sole purpose of, of writing the rules and regulations for conducting a convention of states. It was very well-disciplined. I went not representing Nebraska because I didn't get early enough authority from the Speaker, from the Legislature to represent, but I went as an observer, right? So I wasn't a delegate there, but so and that was my fault. I should have asked for it sooner. Anyway, that whole process was very, very disciplined and organized, and it broke up into committees to deal with these various kinds of questions of how a, a convention would be conducted and it was all done under Mason's Rules. And it, so it has the same kind of, same kind of format that a Legislature does have on

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

dealing with how many votes does it take. A simple majority, plurality and so forth. So it's not willy-nilly. It would be set up very similar to what our state Legislature is.

**RAYBOULD:** But it, so do all those 34 states have to agree on Mason's Rules?

**HALLORAN:** They have to subscribe early on in the process. They will have to all agree on the Rules, yeah, which is only right.

**RAYBOULD:** Because it's not called out in the Constitution, the federal Cons-- the U.S. Constitution, what is the agreement once they convene on the amendments? That's not spelled out.

**HALLORAN:** And really, if you look at the Constitution, it doesn't define the rules and regulations for Congress to conduct itself either, right?.

**RAYBOULD:** OK. So in theory, you could have 17 states that come to an agreement that this is a great amendment to kick out and start the ratification process. Is that correct or no? So 34 states, they're all convened in 17 states.

**HALLORAN:** Trust me, they'll be, virtually every state is going to be represented because they'd be foolhardy not to be there represented, right? So there'll be 50 states represented. So it's not going to be these 34 states show up that are all in agreement on having their call for a convention of states. In every state, it's going to be one state, one vote, right? They'll have three delegates at minimum. It's whatever the body decides for the number of delegates but Congress won't have any say over that. They're not to govern what a convention of states does. It should not be their authority. They're a second authority that can do the same process, but they're not going to govern the authority of how a convention of states is, is called.

**RAYBOULD:** OK. Let's say there's 50.

**HALLORAN:** What's that?

**RAYBOULD:** Fifty states all show up.

**HALLORAN:** Yep.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**RAYBOULD:** And so 25 states could kick out an amendment depending upon subject matter and if that's how Mason's Rules holds it, so 25 could kick it out. OK.

**HALLORAN:** If that's the Rules they agree on, and I would imagine it would be. OK.

**RAYBOULD:** That clears up my confusion. Thank you.

**BREWER:** Additional questions for Senator Halloran? All right. We have some letters to read in. Let's see, letters in support: proponents, 18; opponents, 10; neutral, 0. With that, we will close the hearing on LR31 and reset for LB194.

**CONRAD:** Welcome back.

**BREWER:** Welcome back.

**HALLORAN:** There was a song like that.

**BREWER:** All right, Senator Halloran, welcome back to committee.

**HALLORAN:** Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs, Affairs Committee. Thank you for this hearing. For the record, my name is Senator Steve Halloran, S-t-e-v-e H-a-l-l-o-r-a-n, and I represent the 33rd Legislative District. I'm here today to introduce LB194, the Second Amendment Preservation Act to the committee for your consideration. Article 1, Section 1 of the Constitution of the state of Nebraska, titled Bill of Rights declares, and I quote: All persons are by nature, free and independent and have certain inherent and inalienable rights. Among these are life, liberty and the pursuit of happiness. End of quote. In 1988, the people in Nebraska voted in an almost 2 to 1 margin to amend this section and add, and I quote: And the right to keep and bear arms for the security or defense of the self, family, home and others, and for a lawful common defense, hunting or recreational use in all other lawful purposes and such rights shall not be denied or infringed by the state or any subdivision thereof. End of quote. Bills at the federal level can be in direct violation of these protections in the Nebraska Constitution, which, which the citizens felt must be included in the Bill of Rights. The people of Nebraska depend on us to uphold and protect their constitutional rights, which is why LB194 is necessary. LB194 prohibits any agent or employee of the state of Nebraska or any political subdivision from

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

participating in the enforcement of any federal directive regarding your firearm, firearms accessory, or ammunition that does not exist under state law. And that's important. I'm going to reemphasize that. Under, that does not exist under state law. LB194 would protect lawful gun owners in the state of Nebraska from federal government overreach, which seeks to restrict their Second Amendment freedoms. Subsections 4 and 5 of Section 2 of this bill includes something very important to emphasize, and I quote: This right to be free from the commandeering hand of the federal government has been mostly notable, notably recognized by the Supreme Court of the United States in 1997 in *Printz v. the United States*, when the court held that the federal government may issue, may neither issue directives requiring the state to address particular problems nor command the state's officers or those of their subpolitical subdivisions to administer or enforce a federal regulatory program. And the anti-commandeering principles recognized by the Supreme Court of the United States in *Printz v. the United States* are consonant with the advice of James Madison, who in federalist number 46 advised a, quote: Refusal to cooperate with the officers of the union in response to either unconstitutional federal measures or constitutional but unpopular federal measures. The bill would not prohibit the State Patrol, for example, from continuing their, their implementation of the National Instant Criminal Background Check System, the NICS, and the issuance of concealed carry permits. The Federal guidelines incorporated into statute are covered on page 3, line 3 of the bill, where we expressly state that this bill only applies to regulations that do not exist under the law of the state of Nebraska. Other states have implemented this legislation without the loss of federal funds, and I'm willing to work with the State Patrol to ensure that that is the case for us as well. At this time, 14 other states have passed legislation making them a Second Amendment sanctuary state, and it is time for Nebraska to be included. Perhaps your office, like mine, has received many emails and phone calls in regard to LB194. I urge you to also look through 174 public comments total and of those, I think it was 93 for and 81 opposed. People in Nebraska are adamantly and overwhelmingly opposed to legislation that would restrict their Second Amendment rights and have shown strong support for LB194. Those who will testify after me will speak to the need of this legislation and the will of the people in Nebraska to see this enacted into law. In the meantime, I will be happy to answer any of your questions.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**BREWER:** All right, thank you, Senator Halloran. Questions on LB194?  
All right. Oh, Senator Raybould.

**RAYBOULD:** Senator Halloran, thank you again for being here and introducing interesting legislation. Were you aware that the state of Missouri passed something similar to this, the Second Amendment Preservation Act last year?

**HALLORAN:** I am aware of that.

**RAYBOULD:** Are you also aware that that piece of legislation was objected to by 60 police chiefs throughout the state of Missouri and it is now held up in court?

**HALLORAN:** I am aware as well.

**RAYBOULD:** OK, terrific. Thank you.

**HALLORAN:** Terrific.

**BREWER:** You're on.

**CONRAD:** Thank you, Senator Brewer, and you've had a very busy morning, Senator Halloran.

**HALLORAN:** That's fine.

**CONRAD:** So yes, I agree with Senator Raybould. Thank you for bringing forward such interesting and complex bills that I think really touch on so many different, different areas of our work together. And it's, it's definitely invigorating, intellectually to engage with you on these matters. But the way I read this, and help me understand if I'm oversimplifying it, is this essentially acts kind of like a nullification kind of, kind of measure where you know for different reasons over the course of our history, different groups have utilized nullification for laws that they find to be unjust. And I think there's a lot of really interesting history there, but is that essentially what this measure is, is essentially kind of a nullification measure. Or is it not? Is that an unfair assessment?

**HALLORAN:** Well, I would not say anything you would suggest is unfair, Senator. (LAUGHTER)

**CONRAD:** All right, good to know.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**HALLORAN:** I can understand the concept or the concern about nullification or interposition. I can understand those concerns. It's not nullification in this case because we're recognizing the federal government's ability to make those laws and enforce those laws. What this bill does is, is, does not require our state law enforcement to enforce a federal law. And I think we have Supreme Court rulings that back that up. In fact, Senator Raybould's question about Missouri, I think Missouri did a, how would you say, relatively incompetent job in their legislation. I think this, I think this, this bill deals with any law that the federal government may have that is not parallel. It does not have a parallel law in the state of Nebraska, right, as I mentioned before. It has to have, it has to, there has to be an existing law in the state of Nebraska that parallels that federal law. If that federal law has got a state law parallels it, we'll enforce it like any other. But if the state has not ruled a law parallel to that, that infringes upon the Second Amendment and be required to enforce it. I hope they're not coming in here. Yes, I'm sorry.

**RAYBOULD:** Senator Halloran, I have another question. So when the federal government passed the assault weapons ban and I think, was it in 1994, did the state of Nebraska adopt that as well?

**HALLORAN:** Well, I'm getting a negative shake of the head from our legal counsel here, so I would say no.

**RAYBOULD:** OK. So again, so that federal government reissued an assault weapons ban, you're saying that, and I'm looking at our counsel here too, would say that that would not necessarily impact our state of Nebraska.

**HALLORAN:** Well, can the Chair recognize the--

**BREWER:** I can, I can have the legal counsel advise us because that's what he gets paid to do.

**DICK CLARK:** So Senator, the federal government has the authority to pass laws at the federal level. And they would be able to enforce the laws that they pass on a supplement standard or any other topic until a court restrained them. This would just prevent agents of the state or its political subdivisions from participating. So this doesn't direct them to interfere, but it would direct them not to participate in that federal action. The federal government, of course, there's a supremacy clause in United State's Constitution, they would not be

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

fettered by our state law in this respect, but the state wouldn't be involved in assisting.

**RAYBOULD:** Then to get to my question then, wouldn't this create tremendous amount of confusion in law enforcement's mind on what federal laws they can and cannot be directed to enforce? Because from summaries about the state of Missouri, they're struggling with that confusion itself.

**HALLORAN:** I think there might be some initial confusion, but, but I think when the feds, if the feds implement a law, implement a law that is, has questionable constitutional grounds in regards to the Second Amendment, that that would be addressed rather quickly by the state whether or not that coincides with the state law that we have. If it doesn't coincide with the state law that we have, then we would not be required to enforce it. Now, it wouldn't nullify the law, the federal law. The federal government can come in and enforce that law with their own agents, but we wouldn't be required to do it with our state law enforcement.

**RAYBOULD:** Thank you.

**HALLORAN:** Mm-hmm.

**BREWER:** Senator Halloran, I was quickly looking through all of the opponents, trying to find police chiefs, sheriffs, and to this point here, I haven't found any yet. Have you had any communications with law enforcement?

**HALLORAN:** I have. It was just, it was just yesterday. We had a law, law enforcement representatives from Lancaster County and Douglas County come in and visit with me about that. And they had reservations about, that much of what you're talking about. And I put it upon their lobbyist to help with a potential amendment to deal with that. So there may be a future amendment coming down the pipe here on this, but I had not received it. It was only yesterday that they expressed concern about it.

**BREWER:** Well, and I guess if, if that's what you're hearing from them, if we use 70, LB77 as an example and the sheriffs came in neutral, the chiefs come in neutral, police officers come in neutral, it was only the Omaha and Lincoln police unions that came in in opposition to LB77. So, I mean, that's probably going to be the squeaky wheel if there's a particular law enforcement organization's going to have the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

most immediate issue. But I just wanted to, I would have thought that if there was an issue, that they would have sent some type of a opposition letter or something, but.

**HALLORAN:** And it would have been nice. It's not a secret. It's been several weeks since we dropped bills but I would have, you know, maybe I should have reached out to them and that's on me. But I would have thought if they had concern, they would have come to me with it and we would have worked with them on it.

**BREWER:** All right. Questions for Senator Halloran? All right. Thank you. OK. LB194, those in support of LB194 will be up first. Proponents. Welcome to the Government Committee.

**DAVE KENDLE:** Thanks, Senator. Thanks, Senator, thanks, Chairman, thanks, Senators, for allowing me this chance to testify. We all know that, or my name is Dave Kendle, D-a-v-e K-e-n-d-l-e. We all know the Second Amendment states that the right to keep and bear arms shall not be infringed but that hasn't stopped our federal government from attempting to do exactly that. I believe LB194 clearly represents the will of the people of the state of Nebraska, the second house of this Legislature for several reasons. First, in 1988, the people voted to amend the state constitution with the language that Senator Halloran already read so I won't read it to you again. Second, in 2021, in a, in a purely grassroots effort, 91 of 93 counties in Nebraska adopted resolutions declaring themselves to be Second Amendment sanctuaries. I participated in that effort in Seward County, and I can tell you that the sheriff in Seward County was one of the main proponents of that. These counties directed their sheriffs to support their citizen's Second Amendment rights against any federal attempt to infringe upon them. And thirdly, former Governor Pete Ricketts on April 14, 2021, in recognition of that grassroots statewide effort, declared Nebraska a Second Amendment sanctuary state and signed approximation, a proclamation stating Nebraska shall stand up against federal overreach in attempts to regulate gun ownership and use in the Good Life. This bill codifies the spirit of these efforts into a single state law, and I urge the committee to advance LB194 to the floor for a vote of the full Legislature. Thank you.

**BREWER:** All right. Thank you. Questions? All right.

**DAVE KENDLE:** Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**BREWER:** Thank you for your testimony. We are continuing with proponents to LB194. OK, no proponent. We will shift to opponents to LB194. Welcome to the Government Committee.

**MATTHEW FRANKEN:** Thank you, Senator Brewer. Thank you, members of the committee. My name is Matt Franken. I'm the vice president of Lincoln Police Union and I'm a currently-assigned detective at the Lincoln Police unit's team three, criminal investigative unit. I've been a police officer almost, just over 25 years. And today, I'm here to represent the brave men and women of the Lincoln Police Union. What I've given to you is a letter authored by Lincoln Police Chief, Teresa Ewins, and she has asked, her members of her staff have asked that I pass it along to you while I'm here. And if you'd allow me to read from a prepared statement. The Lincoln Police Union would like to express their opposition to LB194. The Lincoln Police Union would like to stress their support of the Constitution and the Second Amendment. We believe LB194 in its current construct would have unintended consequences, the result of which would negatively impact community safety, more specifically, gun violence. We adopted to meet and discuss our concerns with Senator Halloran yesterday. At this point, it doesn't seem like we have the ability to offer any language changes, suggestions. The partnership between local law enforcement and varying federal law enforcement agencies is extremely beneficial to the local agencies for a number of reasons. Partnership brings with it a number of valuable resources to our local communities that are many times restricted from local funding sources. This gives our local communities added resources that are used to create a safe community to live, work and raise our families. Please let me explain a few of these resources our community here in Lincoln currently benefits from. Our officers have had access to federal prosecutors who have partnered with us on a variety of cases. Guns and drugs go together hand in hand. Guns and gang violence are, are and always will be intertwined. And guns are sometimes presented in cases of human trafficking. With the assistance of local federal prosecutors in Lincoln and Omaha, officers of the Lincoln Police Department has successfully partnered with, partnered on cases like those listed above. The current workload of the Lancaster County Attorney's Office, Douglas County Attorney's Office, and State Attorney General's Office are immense in following the backlog from the pandemic. Having a federal avenue for prosecution gives every prosecutor in the previously-listed officers an opportunity to focus more of their energy on the current and future backlog. Jurisdiction can become a limiting factor in some of our more

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

complex cases. Take, for example, a murder investigation that the Lincoln Police Department undertook in 2017. This case was quickly complicated by jurisdiction because evidence led Lincoln police investigators outside of their jurisdiction and outside of the city of Lincoln. Because of a positive relationship with the Nebraska State Patrol, the FBI, the Saline County Sheriff's Office, and many other state, local and federal agencies, this issue was resolved quickly and efficiently and the result, and resulted in a positive outcome for the prosecution of those responsible for murdering a young Lincoln woman. A second example occurred in 2018. The Lincoln Police Department investigated the murder of a young mother in north Lincoln home as a result of gun violence. The federal prosecutor in that case charged the defendants under the Hobbs Act. The Hobbs Act prohibits actual or attempted robbery, extortion, affecting interstate or foreign commerce in any way or any degree. The collaboration of local law enforcement and federal prosecutors resulted in successful federal prosecution and conviction of a very violent group and a very positive outcome for a Lincoln family who suffered because of the gun violence. It goes without saying that being responsible with the funding of our budget with local taxpayer dollars is a priority for us. Many of the partnerships provide funding for overtime and training reimbursement. This funding allows our local law enforcement agencies the benefit of keeping officers working cases and out in the community longer, especially during time of low-staffing and a challenging recruiting and retention environment like we have never seen in the history of law enforcement. I would also add that there are many other task forces in Grand Island and Hastings that are doing the same work that we are here and also out in further western Nebraska that is doing the same work with the same federal task forces. Please take this argument against moving LB194 forward in the spirit that it was intended and the Lincoln Police Union strongly opposes LB194. Thank you for your time today.

**BREWER:** All right. Thank you for your testimony.

**MATTHEW FRANKEN:** Thank you, Senator Brewer.

**BREWER:** Now, unless I misread what Senator Halloran has put into this bill, you understand this will not restrict you from working with any of the federal agencies, only if there was legislation passed that was contrary to Nebraska law.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**MATTHEW FRANKEN:** I understand that to a certain degree, but there are interpretations among some of our members that believe other than that. Yes, sir, I do understand that.

**BREWER:** Oh, I don't doubt that there isn't members you got that might perceive it any way they want, but if it's in black and white in the law, I guess who's going to make the decision that you are, aren't from the police perspective. Either it's in the law or it's not in the law. I guess I'm kind of trying to understand this.

**MATTHEW FRANKEN:** OK. What's your question, sir?

**BREWER:** OK. The federal government passes a law--

**MATTHEW FRANKEN:** Yes, sir.

**BREWER:** --that is not a law in Nebraska. The idea is that, that Nebraska law enforcement would not be required to then help the feds when they come to kick in a door. So how would that prevent you from working with task forces and doing the things you're doing right now?

**MATTHEW FRANKEN:** I think in the current construct of that particular bill, our interpretation of how that bill is written is that if it is enacted in its current form that that would eliminate our participation. And I think that's how our Chief has interpreted it, based on the little bit of reading that I did there too.

**BREWER:** All right. I will look forward to a legal review on that one. Thank you. Questions? Senator Raybould.

**MATTHEW FRANKEN:** Yes, ma'am.

**RAYBOULD:** I don't have an exact question, but I think it's an answer to your question that you were asking. A DOJ court filing shows that nearly a quarter of state and local enforcement official, officials who work directly with ATF, 12 of 53 officers withdrew from joint collaborations before the law even went officially into effect in Missouri. And a recent ATF special agent testified that 13 and perhaps 14 of the 53 state and local officers with federal deputizations have withdrawn from participation in ATF task force in some capacity based on the law that was passed and that now is being held up in court and sued by--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**BREWER:** You're reading about a Missouri law--

**RAYBOULD:** It's the Missouri.

**BREWER:** --that was not used to judge the Nebraska law.

**RAYBOULD:** No, they talked about 13 or 14 of the 53 states and local officers in other states have, that this has been passed in, have made that decision that they have to withdraw from the ATF joint task force.

**BREWER:** OK, but I guess, just talking to me you're reading, what is this?

**RAYBOULD:** Policy sheets on the legis, the LB that we're discussing.

**BREWER:** OK, and--

**RAYBOULD:** That's something, you know, we have our legislative aides. They have to do their job and give us summaries of-- so we have better, understand the issue that's brought before us.

**BREWER:** OK. I don't have that sheet, so.

**RAYBOULD:** I can give you--

**BREWER:** All right. Additional questions. Senator Lowe.

**LOWE:** I just have a very simple one. I think I missed it. Could you spell and say your name again?

**MATTHEW FRANKEN:** My name is Matthew. Last name is Franken, F-r-a-n-k-e-n, and I'm with the Lincoln Police Union. I'm a vice president and I'm also a detective for the Lincoln Police Department.

**LOWE:** All right.

**BREWER:** Thank you for catching that, John. Appreciate it. OK. Any other questions? All right. Thank you for your testimony.

**MATTHEW FRANKEN:** Thank you, Senator Brewer.

**RAYBOULD:** Thank you.

**BREWER:** Welcome to the Government Committee.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**MICHAEL TODD KOZELICHKI:** Thank you. But, may I talk?

**BREWER:** Sure.

**MICHAEL TODD KOZELICHKI:** Just before we begin, the handout that's being given to you is actually from Douglas County Sheriff Aaron Hanson. I actually represent the Omaha Police Department, but wanted to make sure that that was given to you. He asked me to make sure it was given to the Senators.

**BREWER:** We'll need your name and spelling to get started here.

**MICHAEL TODD KOZELICHKI:** Sure. My name is Sergeant Michael Todd Kozelichki. It's K-o-z-e-l-i-c-h-k-i.

**BREWER:** Whenever you're ready, I'm sorry.

**MICHAEL TODD KOZELICHKI:** OK. So good morning, everyone. Thank you, Senator Brewer and the members of the committee for having me. My name is Sergeant Todd Kozelichki with the Omaha Police Department. I've been a police officer for nearly 28 years, and I'm currently assigned to the Omaha Police Department's firearm squad. I'd like to take a couple of minutes to explain why the Omaha Police Department is in opposition to proposed LB194. The way in which the bill is written leaves more questions than answers for local law enforcement and our federal partners. The Omaha Police Department, like many other local law enforcement agencies have traditionally partnered with federal agencies such as the FBI, ATF, U.S. Marshal Service and the DEA to form task forces that address a variety of communities, safety and quality of life issues that don't just stop at the city and county lines. These task forces often focus on things such as violent crimes, gangs, human trafficking, sex trafficking, narcotics such as fentanyl and bank robberies, all of which are more often than not accompanied by firearms. I want to highlight some of the consequences that LB194 would specifically have in the Omaha Police Department and our violent crime reduction strategies if this bill were to pass. One, it would dissolve many of our task forces or potentially dissolve many of our task forces, thus preventing agents and OPD detectives from being able to work together on federal firearms-related cases. Dissolving the task forces would also mean that OPD would no longer have immediate use of the computerized federal eTrace system, which is a, which is a system used to trace firearms in straw purchase cases and other high-profile investigations. This system often provides immediate

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

investigative leads targeting detectives as they conduct their investigations into crimes of violence where firearms are recovered. Two quick examples. One, in 2015, there was a murder of the Omaha Police Detective, Kerrie Orozco. At that time, Omaha Police officers provided firearm and other investigative information to the ATF regarding the firearm used to kill Detective Orozco. That information, along with an emergency gun trace, led to the identification of the straw purchaser responsible for providing the firearm to the individual who killed Detective Dor-- Orozco. Sorry. Straw purchasers put firearms in the hands of convicted felons, prohibited gang members and juveniles every year. However, that is a federal gun law violation. LB194 would prohibit our police employees from sharing this information assisting in the identification or participating in the arrest of straw purchasers like the one provided, or the one who provided the firearm that killed Detective Orozco. Again, another quick example. Just two days ago, we had an active shooter incident that occurred in the Omaha Target store. OPD provided information to the ATF for an emergency trace on that firearm. Within a couple of hours, investigative leads were returned by the ATF for OPD to follow up on relating to that investigation. To continue. Discontinued use of the federal NIBIN system. So what NIBIN means is National Integrated Ballistic Information Network. NIBIN conducts comparisons on recovered firearms, bullets and casings. Those comparisons are then entered into a database for comparison against other crimes across the country. Weekly, shell casings and guns recovered in Omaha have been linked to other crimes within our city and across the country using NIBIN. This has led to the identification and arrest of numerous violent offenders on state and federal crimes, such as the homicide, bank robbery and RICO violations. If this program did not exist, this would certainly have a negative effect on various criminal investigations within the area. To continue. Firearm violations on the federal side are much more expanded than that of the state prohibited charge. So on our side for the state, we have 28 deaths, 1206, which is the possession of a deadly weapon by a prohibited person. On the federal side, they have basically a prohibited person charge that actually has, that is expanded as compared to ours. For example, on the federal side, prosecutors have the ability to charge people who are a person, persons in possession of ammunition. Those individuals who possess firearms, who are drug users or drug addicts, illegal aliens in possession of firearms, persons who are adjudicated mental defective or committed to a mental institution who possess firearms, and those persons who are also dishonorably discharged from the military and

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

possess firearms. Also, felony defendants who are under indictment or bound over on felony charges, they are prohibited from acquiring new firearms. The Nebraska prohibited charges does not include these options. Thus, LB194 as written, local law enforcement would not be able to assist in pursuing these types of cases on the federal level. Finally, LB194 would have a huge impact on the budget of many police departments, including OPD. For many local agencies participating in these federal task forces, comes with funding for things such as officer training, vehicles and the fuel that filled those vehicles. Officer safety, investigative equipment.

**BREWER:** Go ahead. Finish up.

**MICHAEL TODD KOZELICHKI:** Investigative expenses such as local law agencies do not have the budget to conduct long-term expensive investigations involving drugs like fentanyl, which are often distributed by criminals who utilize firearms and are linked to out-of-state organized, organized violent crime rings. Grant funding could also be affected by this. Traditionally, many of the violent crime are intervention and prevention of federal grant programs that OPD receives, require us to partner with federal law enforcement and prosecutorial partners. LB194 would essentially eliminate the eligibility for many of these grant programs should we no longer be allowed to assist or cooperate with our federal partners relating to federal firearms violations. Many of our investigations, it's initially unknown whether or not a case will develop into one that includes federal firearms violations. When cases do develop into those partnering with federal law enforcement agencies and prosecutors, it's crucial that we work together on these. Due to the vagueness of the proposed law and out of the fear of fine or prosecution, local law enforcement agencies will have to be extremely restrictive on how we conduct business with our federal partners as it pertains to any investigations involving firearms. Whether any intent of this proposed law or not, LB194 muddies the partnership between local and law enforcement and federal law enforcement agencies as it appears to protect criminals more than an assist local, I'm sorry, more than assist law enforcement from protecting our law abiding citizens. Essentially, LB194 handcuffs the cooperation between local and federal law enforcement more than the handcuffs of criminals who are out there committing violent crimes. Thank you for your time.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**BREWER:** Thank you. All right. Questions? All right. Let me, let me jump into this. All right. Go ahead, Senator Raybould.

**RAYBOULD:** I'm sorry, this is not a question, but I want to say thank you for the Omaha Police Department, their incredibly quick action yesterday at the Target. I mean, it makes all Nebraskans proud of your response and the officers immediately taking care of that situation where there was no loss of life, except the individual who was perpetrating the crime.

**MICHAEL TODD KOZELICHKI:** Thank you, Senator.

**BREWER:** All right, back to the bill. The Second Amendment Preservation Act was not and we'll confirm that when Senator Halloran gets here, but the DNA is not that you immediately sever all ties with any federal agencies. And yet that's the, that's the testimony you're giving here, that immediately these task forces are shattered and that all these, this nightmare of things are going to happen. The idea is simply is, as I understand it, that if there was a federal law that was implemented, that there either is not a law here or against a law in Nebraska, that's the only time this would even come into effect. I mean, is that how you perceive this or have I read it all wrong here?

**MICHAEL TODD KOZELICHKI:** No, well, so I think it's vague, Senator, I really do, because I go back to Senator, is it Raybould? Is that correct? So I go back to what she's talking about relating to Missouri. I know probably the laws aren't exactly the same, but here's the issue, it sounds like that's going on in Missouri. You have, you know, I'm part of the ATF task force down in Omaha, or I'm sorry, up in Omaha, and you have several detectives who were part of these task forces in Missouri who actually were pulled from these task forces because they were unsure whether or not, whether it be unsure or vagueness or what have you, of whether or not to pursue these federal firearms laws that are not included in some of their state laws, which I kind of spelled out here. Some of these firearms laws that we deal with on a normal basis are not included in the federal, or I'm sorry, in the state side for us. So the thing would be, is that OK? So if, if we're going to sit there and say, well, you know, this is not intended to, to effect that, well, it does. I mean, our prohibited side for the state is not the same as the federal one. Yeah, I mean, the commonalities would be, you know, a prohibitive person, you know, when it comes to being a felon. But I mean, if you expand that to the ammunition, if you expand that to the mental defective side of it, if

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

you expand that to the illegal alien side of that, we need our federal partners to be able to enforce those types of laws. We need their assistance in that. The straw purchasing. That, that's a perfect example where we use that, especially in my unit all the time. ATF tracing, we use that all the time. And when speaking with, you know, the ATF, is the potential there that if a law was passed like this, that those systems would not be available because we're sharing of the information that could lead to federal firearms violations, which then goes on the federal side. Yeah, there's an issue at that point. I mean, there's an issue in the sense that are we going to be liable for that? And I think that's where people are uneasy, is the liability side of it.

**BREWER:** Well, you know, and if I was in law enforcement, I would, I would be concerned too. And I think that's a, that's a fair issue. And Sheriff Hanson's letter here, he has a specific line and issue, too, he's addressed, so.

**MICHAEL TODD KOZELICHKI:** And I'm sorry, I don't and I don't have a copy. You guys got all the copies, so.

**BREWER:** Yeah, well, that's not fair, if you don't have one in front of you.

**MICHAEL TODD KOZELICHKI:** That's OK.

**BREWER:** The point being that, there probably needs to be a look at things that are in conflict that does put you in a bad way. So that, I totally agree with that. I think we need to sort that out. I guess what I'm trying to sort through is when we have these, especially Second Amendment issues, you know, when we call across the state to talk to other sheriffs across the state, because ultimately the sheriff is the senior law enforcement folk, guy in each of the, the counties. It comes down to two counties that are always our issue. Now, that's where most of the population is, so rightfully so. You guys deal with more, you know, difficulties, more challenges, more volume, everything. So what we're trying to figure out is, is how can we help those that don't have that and yet not hurt you? So that's, that's what we're trying to work through here. So please don't perceive this as, as trying to do something to hurt you guys, but if it's something that's going to hurt you guys, we need to, we need to figure out how to make it so that it isn't.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**MICHAEL TODD KOZELICHKI:** Right. And from our side, I mean, speaking with again, being part of the ATF task force, I mean, you have the potential of let's just say this bill is passed the way it's written. Let's just say that, OK. So like Omaha itself, I mean, Omaha has the only NIBIN system in the state. OK. The reason why our system is so successful, not only in the Midwest but in the United States, I mean, we probably have one of the higher hit ratios relating to the NIBIN, and that's where you're, again, doing the comparisons between shell casings and firing guns and being able to connect crimes or what have you, it's because we have dedicated personnel down in our crime lab who are basically test firing all these firearms. And when we take in 14, almost 1,500 firearms this year, and so those, you know, those semiautomatics that are taken in, are all test fired. The shell casings that are collected from all these scenes are all entered in the NIBIN and then we're able to make those correlations. We work with the correlation center through the ATF. You know, when, when you speak to the ATF side on this, is there a potential of losing a system like that? Absolutely. And I mean, that's where, and then again, going back to the gun tracing. Absolutely, because that is all through the federal government. I mean, they control that entire thing. So the potential of not being able to use those systems to further our cases when it comes to potentially going under federal firearms laws, I get what you're saying when you say, well, the existing federal firearms laws, you're OK, Meaning if they're the same as the state.

**BREWER:** Right.

**MICHAEL TODD KOZELICHKI:** The problem is there are laws that are not the same as the state. Straw purchasing being one. Again, the ones that I talked about relating to the prohibitive person. That, we do a lot of that in the city of Omaha so that becomes an issue at that point.

**BREWER:** Well, I, you guys have the hardest job because you're trying to not only deal with the criminal element, but you have plenty of lawyers that are looking over your shoulder trying to, to judge what you've done--

**MICHAEL TODD KOZELICHKI:** Yep.

**BREWER:** --in an instantaneous decision that may or may not determine whether you live or die. So I don't know of anyone who has to do that. You know, in the military, we have plenty of time to plan it, organize

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

it, go do it. And then it's usually we go in and do it and we go do something else.

**MICHAEL TODD KOZELICHKI:** And I appreciate that you recognize that.

**BREWER:** You guys are under the gun, 24/7.

**MICHAEL TODD KOZELICHKI:** Yeah.

**BREWER:** So never doubt for a minute how much we appreciate what you do and the fact that you guys put it on the line every day. So other questions? Oh, Senator Lowe.

**LOWE:** Thank you, Chairman, and thank you for coming to testify today.

**MICHAEL TODD KOZELICHKI:** Absolutely.

**LOWE:** If the feds put in a law, or places a weapons ban or an ammunition ban on the citizens of America and it, it, and it's infringing on our Second Amendment rights, in your opinion or the department's opinion, I know you're not speaking for everybody in the department--

**MICHAEL TODD KOZELICHKI:** Right.

**LOWE:** --but you 're here on--

**MICHAEL TODD KOZELICHKI:** Right.

**LOWE:** --Sheriff Hanson's behest. How would our Legislature deal with that to protect?

**MICHAEL TODD KOZELICHKI:** How would they deal with that?

**LOWE:** How would they deal with that to protect our Nebraskan's Second Amendment rights?

**MICHAEL TODD KOZELICHKI:** That's a really hard question, Senator, and I'm sorry. I don't know if I can answer that. I just want to make sure that, that--

**LOWE:** We're just trying to be proactive.

**MICHAEL TODD KOZELICHKI:** No, I understand that. I understand that. I want to make sure it's understood that with the Omaha Police

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

Department, we're not all about like a gun-grab type situation. And I think what happens with these types of laws, though, though, the, you know, the intent is not to hurt law enforcement obviously, but you have these unintended consequences on these types of laws that people do not think about. They're not seeing the big picture, is that, so let me, so we're not all about the gun-grab stuff, is what I'm saying. So we're not out there just, you know, we're, I can't ever see a situation where you're just going to start going door to door and just start picking off firearms because the federal government has some type of a law relating to that. I think that would be ludicrous. I think that would be ludicrous.

**LOWE:** There have been countries that have done that.

**MICHAEL TODD KOZELICHKI:** Yeah, and I think that's, I mean, I, my personal opinion is that that's wrong. I think that's, that's because I am pro Second Amendment too, within reason, obviously, in the sense that if it's going to affect the police department which, which I think it will. Just like it did in some agencies down in Missouri, then that's a real issue because, I mean, you know, a task force like the one that I'm on and also the FBI, DEA, and well, Marshals are a little bit different, but you're going after the most violent offenders, you know, when it comes to creating the most havoc that's in your city. And if we're hamstrung on that because we cannot go after certain laws or what have you, because it looks like we're participating with the feds, that that's a big issue because it's going to create a lot of issues for all these communities, not just our community. You know, I mean, I can't speak for everybody, but down in Lincoln, I'm sure. Grand Island, I mean, all these larger communities are going to have issues relating to that because there's, there's crime all over the place, you know. So, I mean, going back to what you asked, I don't know. I don't know the answer to that. Of course, that's, that's why you guys are the Senators and there's lobbyists and what have you to try to figure that out. I don't know. I just want to make sure it's understood that the Omaha Police Department's not all about the gun grab. That's not, we understand, I get an idea of why people want to pass this because they want to protect the Second Amendment and I'm all for that. But, you know, let's make some common sense legislation here to where it's not going to hamstring any of the law enforcement when it comes to being able to work with the federal system on a normal basis on, on, on these laws

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

that we're going after that I spoke about. So hopefully, hopefully, I answered it the best that I can.

**LOWE:** Can you help us in that legislation how we can--

**MICHAEL TODD KOZELICHKI:** Can I personally help you or, I don't know about me. I don't know. I don't know the answer to that, sir. I mean, I'll be honest with you. I was asked yesterday to, to represent this because I work for the firearm squad and, and what have you. I don't know the answer to that until I talk with people obviously connected to our department and, and the unions and what have you, so. And the lobbyists, I guess. So, I really don't know the answer to that. I'm sorry, I can't answer, so.

**LOWE:** Thank you.

**MICHAEL TODD KOZELICHKI:** Yeah, no problem.

**LOWE:** And thank you for what you do.

**MICHAEL TODD KOZELICHKI:** Absolutely. Thank you.

**BREWER:** I'm absolutely confident that one called Aaron Hanson and he would be here to help line up issues and understand things.

**MICHAEL TODD KOZELICHKI:** Well, I think he, you know, I don't, well, I do have the letter here, but I mean, I think he expressed that in that letter that, you know, that he also understands that the intent of the bill. But, you know, that there could be some consequences here that you guys, when I say you guys, I'm talking about, you know.

**BREWER:** He's, he's always been great when he worked with you guys--

**MICHAEL TODD KOZELICHKI:** Yes.

**BREWER:** --where he's at now.

**MICHAEL TODD KOZELICHKI:** Yep.

**BREWER:** He's never hesitated to help in any way he could, so. All right. Any other questions? Thank you for your testimony.

**MICHAEL TODD KOZELICHKI:** Thank you. Appreciate it.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**BREWER:** Come on. Welcome to the Government Committee.

**MELODY VACCARO:** Thank you. My name is Melody Vaccaro, M-e-l-o-d-y V-a-c-c-a-r-o. I am here representing Nebraskans Against Gun Violence. We are opposed to LB194. There are a lot of different ways people can look at a, you know, a bill that wants to remove partnerships with the federal government. I really wanted to talk today about, and really bring home a national conversation and a state conversation that we're having, which is, where do, you know, where is the line around police accountability. And thinking about, you know, we already have problems where we're not always seeing law enforcement enforce our state laws and adding some confusion to the mix about whether or not we enforce some federal laws, some state. Who gets to decide that? And I think that's a big problem. So I've brought a handout that shows some progression in 2020, Nebraskans Against Gun Violence release the Nebraska firearm report. And we found that a lot of law enforcement agencies around the state are not reporting their domestic violence information to the state Crime Commission, which is in violation of Statute 42-930. It was passed in 1998. So a long, long time passed. Alia Conley did a whole investigative report for the Omaha World-Herald in 2021. Senator Wendy DeBoer from Omaha brought a legislative resolution to study this issue. And you can see that, you know, when you look at the 2016 noncompliance, you look at 2021, there's a lot fewer departments. So some of that work has been good. We still see Omaha Police Department out of compliance and then which, you know, Megan Hunt, Senator Hunt is part of that. And then you, Senator Tom Brewer, are part of, and your district is the Loup County Sheriff's Office is not reporting their data. And so, so I wanted to really raise that topic of police accountability. And one of the things that they are accountable to is, you know, enforcing and following all of the laws that we have in our society. You know, and I have to bring up, of course, just this week, the family of Tyre Nichols buried somebody, buried him because he was murdered by police during a traffic stop, right? Like we're in a big national conversation around that. And so it is cert, I don't think the direction of the conversation is not about like, oh, we're going to ban guns. That's not the direction of the national conversation. We heard that throughout the Obama term. We're hearing it through the Biden term. And there's nothing really actually had, this is all just dumb. You know, with national theater that's happening in these political rhetoric, rhetoric circles. There's not really a real conversation on the table that we need to prepare and protect

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

ourselves from. We actually really do have a problem with police and society and knowing, do they have the right tools? Do they have the right accountability systems? Do we have the right structures in place to make sure that we are living in harmony between the arm of government that is the enforcer of the laws and then, of course, the right of people to live in peace and live in safety. And that includes in partnership with police and that includes from police violence. And so, you know, that's something that I wanted to bring up. And, you know, so we're a nation of laws. We expect everybody to follow the laws. That includes people that are like me, regular citizens living our best lives. That includes law enforcement like we've been discussing. And, you know, of course, it includes policymakers. We expect them to follow the laws. We live in a representative democracy, and we expect people to be represented in every district by people who live in their districts. Thank you.

**BREWER:** All right. Thank you. Questions? All right. Since you brought it up, I'm going to have to fire back on an issue. And I cannot speak for the Omaha Police Department even though they're on here. I will tell you that the one you've got me on the bad list here is Loup County. Just as a reference, county seat is in Taylor, Nebraska, with a population of 600. They got 600 square miles and they have a sheriff, one person. So I don't doubt that they probably missed the report. But we work hard at finding additional requirements for law enforcement that make it almost impossible for them to meet the training to provide any type of protection, because just being available and in these smaller counties, they're, they're ragged. They just got nothing left. So I don't doubt that we're legitimately missing the report, but I don't think it's because they're bad. And, you know, I struggle with the fact that we talk about what happened in Memphis and, and yet we just heard we couldn't be prouder of the Omaha Police Department on what they did. So let's not mix them, because I think sometimes we make a particular group bad because of what others do. I, in Omaha, I don't know how we can be any more pleased with, with how they've helped when they needed it, because they've had some really tough situations in the last few weeks. And, and I don't know (INAUDIBLE) any of them that they haven't really worked hard to try and do a good job and respond as needed and be there. And so I, I think this is probably correct and we're probably guilty of it, but I just struggle when I got a sheriff and that's it. He tries his best.

**MELODY VACCARO:** Yeah. They're actually, in Nebraska Crime Commission are lots, I mean, every sheriff and county and police department,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

they're all listed in the Crime Commission report and many of them do report zero or one incident for the entirety of the year, right, because of the low population number. And so, of course, the most egregious violation is Omaha, where almost half the state lives. And, you know, so, of course, that is, certainly I understand that. And I also agree we count on police to do the right thing. And what I'm was really trying to bring to light is this dissonance between what we're seeing around guns in the politic and what we're seeing around guns in the real world. Because in the real world, people bring assault weapons and the Omaha Police show up and they kill you because you are dangerous and you are putting everyone in danger when you do that. But meanwhile, when we're talking in the politic, we act like it's not a big deal, that people with assault weapons show up to show how angry they are and how they, they could kill everybody in a moment. And we're all supposed to be like, oh, yeah, that's fine, though. But at Target, it's a worth killing someone over. That is a dissonance that I'm trying to bring up. And so as we're talking about the role of police, I think that is, you know, that's just part of that dissonance.

**BREWER:** All right. Thank you. OK. Additional opponents to LB194. Welcome to the Government Committee.

**SHERI ST. CLAIR:** Thank you, Senators. I'm Sheri St. Clair, S-h-e-r-i-S-t-C-l-a-i-r. I am speaking once again on behalf of the League of Women Voters of Nebraska. We are in opposition to LB194. The League believes efficient and economical government requires coordination among different agencies and levels of government. It looks like the purpose of this bill is to provide for a possible future scenario in which the Nebraska law could conflict with federal law. While there are instances where federal law changes, it takes time for state laws to catch up, intentionally creating laws for the purpose of conflicting with federal ones is not in the best interest of Nebraska. Taxpayers of our state trust Unicameral appropriated funds for general good, not needless lawsuits. Section 7 of this bill states that if any portion of the bill is found unconstitutional, remaining sections should still be considered valid, indicating that even in writing this bill, there's in anticipation of court challenges. So again, fruitless and expensive court battles don't serve the needs of our communities. The bill also states that any public employee who knowingly violates this act, or in other words, follows federal law, would be subject to civil penalties that include fines up to \$3,000, collected as lien foreclosures if not paid in

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

cash, Class 1 misdemeanors. So not only does this bill open up Nebraska to frivolous lawsuits, it would also place public employees in a somewhat precarious position. Public employees may have to choose between filing conflicting sets of order at the perils of their jobs, financial stability and legal standings. So attempts to intentionally put the state employees against the federal government cannot be recommended. The League discourages this bill's future, further advancement. Thank you.

**BREWER:** All right. Thank you. Questions for Sheri? All right. Thank you for your testimony.

**SHERI ST. CLAIR:** Thank you, Senator.

**BREWER:** All right. Any additional opponents to LB194? Anybody in the neutral? Senator Halloran, would you like to close on LB194? Went a little longer than I thought.

**HALLORAN:** Well, it did. That's good. That's the way it works, that's the way it should work. That's fine. Thank God for Google. Did a little, had a little time to do a little Googling, and we all do that, so don't look at me with skepticism and cynicism. But the Missouri law, the distinction between what the Missouri law has in place and what I'm proposing here is, it's nullification. The Missouri law very specifically nullifies a federal law, and this bill does not do that. If there's, you know, it comes into play if the federal law proposes some kind of restriction on the Second Amendment that is not defined in our laws. Missouri doesn't do that. They just, they just cut the wide swath and nullify federal law. So it's not comparing apples to apples with their bill and what's happening there and what's happening here. That being said, we all say when there's, when there is opposition to any of our sponsored bills, well, I'd be glad to work with the opposition. OK. And that's what I will do. I don't get paid near as much as their lobbyist does, so she's, I'm not expecting anything from her monetarily, but it, it, at some level it's on them. If they have issues with, with the bill, I would suspect that they should be helping me out with that bill. And I will, I will contact them and see if we can't do that.

**BREWER:** I will be sure and get you a copy. Did you get a copy of Aaron Hanson's letter?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**HALLORAN:** I don't think, I might have, but I was kind of busy Googling.

**BREWER:** We need to get your copy. There's, there's one example he has in here, and maybe, maybe you and Dick could look at it and--

**HALLORAN:** OK.

**BREWER:** --legally think through whether or not we're going to make an issue that this is going to cause him challenges. Senator Raybould.

**RAYBOULD:** Senator Halloran, were you done? I just want to--

**HALLORAN:** No, yes, I'm, that's fine.

**RAYBOULD:** So one of the things that I wanted to point out from the testimony of OPD, OPD and LPD that they talk about compliance and putting in jeopardy, like the Crime Commission grants are so important. I know to the city of Lincoln when we get additional funding to hire more police officers or allow us to purchase additional safety gear for law enforcement or firearms or training, you know, it goes that whole gambit. And so when we're in noncompliance, that's what they talked about, that we put at risk some of those federal dollars that, that are desperately needed to help supplement the city and the county dollars to, to keep law enforcement safe and to allow them to do their jobs as efficiently as possible. So I'm hoping that when you reach out to them to enlist their help, also follow up on the compliance issues, like what, what do we put at risk? I know they mentioned a few items about that, but we're so intertwined with the federal government and to be honest, we're dependent upon this partnership to allow our law enforcement to do their jobs as efficiently and effectively and as safely as possible and to keep our community safe, so the compliance and losing those federal dollars are very, very impactful. And so I think Ms. Vaccaro brought up the compliance only that's, and we recognize that there is a tremendous shortage of law enforcement trying out there, trying to do their job with whatever resources they do have. But it also puts at risk those counties and those communities of federal funding when they're not in compliance in reporting these crime statistics that they have to do on a regular and routine basis. That's just one example of all the many things that they have to do in regards to keeping in compliance so that they can still continue to get federal funds. That was my--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**HALLORAN:** That was a question?

**RAYBOULD:** No, I kind of rambled, so I apologize, but--

**HALLORAN:** No, that's fine.

**RAYBOULD:** -- I just wanted the question was to you, could you work with them as you're going to follow up with them, talk about compliance issues and what do we put at risk?

**HALLORAN:** Understand.

**RAYBOULD:** What's in jeopardy because that's important.

**HALLORAN:** I appreciate that. At some level, this conjures back to some discussion in, in the first two bills that I had in reference to, for lack of a better term, the heavy hand of the federal government in forcing us to do something that may not be of our will at the state level. Right? So, so, yeah, we'll withhold money. Now let's, we should be focused a little bit more on ATF, for example, saying, no, don't you dare withdraw money from helping us enforce crimes. Homicide is against the law at the federal level. It's against the law at the state level. About every drug law that you can think of is a violation at the federal level and similarly at the state level. And we're trying to enforce those, we need your help. Please don't pull your money unless you want to be vindictive at the federal level. So, I mean, if they, if they want to leverage their federal money to get us to write or not write laws, I guess that's their prerogative. But I will talk to them about compliance issues.

**RAYBOULD:** Thank you.

**BREWER:** All right. Any additional questions? Seeing none, we'll read in on LR, or LB194, we've got 80 proponents, 72 opponents, 0 in the neutral. With that, we'll close the hearing on LB194 and close the hearings for this morning. See you guys in a little over an hour.

[BREAK]

**BREWER:** Good afternoon. Welcome to the Government, Military and Veterans Affairs Committee. I'm Senator Tom Brewer, representing the 43rd Legislative District of western Nebraska. I serve as the Chair of this committee. The committee will take up the bills in the order

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

posted on the agenda. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on proposed legislation before us today. Committee members may come and go during the hearing. This is just part of the process. They have bills to introduce in other committees. I ask you to abide by the following procedures. To better facilitate today's meeting, please silence or turn off any cell phones or electronic devices. Please move to the reserved chairs when you're ready to testify for the bill that you're here to testify on. These are the two chairs in the front. Today shouldn't be a problem. We don't have enough testifiers to make it a issue. The introducing senator will make a initial statement followed by proponents, opponents, those in the neutral testimony. Closing remarks are reserved for the introducing senator. If you're planning to testify, please pick up one of the green sheets in the back. Have it filled out clearly and legibly. Bring it forward when you get ready to testify and give it to either the committee clerk or one of the pages. If you do not wish to testify but would like a record of your being here at the hearing, there's a white sheet that will afford you the ability to indicate whether you're here as a proponent, opponent or in the neutral. If you have handouts, we'll need ten copies. If you don't have ten, notify the pages. We will get you copies. If you've come to testify, we would ask that you would speak clearly in the microphone, state your name, then spell both your first and last name. We will be using the light system here today. You will have five minutes-- four minutes, green light, one minute at the yellow, and then when it turns red, you're done. No displays of support or opposition to a bill, local or otherwise, will be allowed. This is a public hearing. Committee members with us today, we will start on my right with Senator Raybould.

**RAYBOULD:** Good afternoon, everyone. I'm Jane Raybould, Legislative District 28 in the heart of Lincoln.

**SANDERS:** Good afternoon. Rita Sanders, representing District 45, the Bellevue-Offutt community.

**AGUILAR:** I'm Ray Aguilar, District 35, Grand Island.

**LOWE:** John Lowe, District 37: Gibbon, Shelton, and Kearney.

**HALLORAN:** Steve Halloran, District 33: Adams County, Kearney County and Phelps County.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**HUNT:** Megan Hunt, District 8, and I represent the northern part of midtown Omaha.

**BREWER:** Dick Clark, legal counsel for the Government Committee. Julie Condon, our committee clerk. Senator Sanders is the Vice Chair and our pages today are Logan and Audrey. All right, we will welcome up Senator Clements to introduce LB390. Welcome to the Government Committee.

**CLEMENTS:** Thank you, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. I'm Senator Rob Clements, R-o-b C-l-e-m-e-n-t-s. I represent Legislative District 2 and I'm here to introduce LB390. LB390 was brought to me by our Secretary of State to improve processes and logistics of early ballots to be mailed to voters, to clarify duties and requirements for voter agents and improve security of voting by agent. LB390 amends Section 32-808 and 32-943 of the Election Act. Changes in 32-808 shorten the time period early ballots are to be available from at least 35 days to not more than 30 days prior to an election, harmonizing this time period with the current 30-day period for obtaining a ballot in person laid out in 32-942. The rationale for making these time periods align is logistical. Ballots must be certified by the Secretary of State 50 days before an election. Having two ballot delivery deadlines 35 and 30 days prior has created some logistical printing and delivery problems with ballot availability, especially as early voting has become more and more popular. Ensuring these time periods align provides 20 days rather than only 15 days to the secretary and election offices to prepare and mail early ballots to voters. Secretary of State Evnen may have more details related to the problems they have faced. LB390 also clarifies the duties and restrictions for voter agents found in Section 32-943. Voter agents are returning ballots to election offices on behalf of voters, but this is currently not clear in the law. This bill clarifies that an agent may return a voted ballot to the election office on behalf of an early voter. LB390 would also exclude an agent from being a voter's employer or the agent of such employer. It continues to limit a person to act as an agent for no more than two early voters. The white-copy amendment I am, I am providing, AM233, added the requirement that agents sign the ballot envelope in addition to the voter's signature. This will help ensure that a person is serving as an agent for no more than two early voters, whether they hand in the ballot in person or deposit it in a drop box. The amendment also allows the Secretary of State to promulgate rules for the returns of ballots by agents to ensure the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

law is followed. Let me summarize the provision to the Election Act found in LB390 as amended: (1) shorten the time period ballot is to be mailed or to be available from at least 35 days to no more than 30 days prior to an election; clarify that an agent may return a voted ballot to the election commissioner on behalf of a registered voter; (3) excludes the agent from being a voter's employer or the agent of such employer; (4) the white-copy amendment, AM233, requires that the agent in addition to the voter sign the envelope of the returned ballot. LB390 would harmonize early ballot availability time periods and make some security improvements for voting by agent. I thank you for your consideration of LB390. The Secretary of State will be following me, but I'll try to answer any questions at this time. And, Mr. Chairman, I've got my own committee to get back to so I do not plan to close.

**BREWER:** OK, so you waive close. Senator Clements, real quick, this was, this was handed out. Is this an example of--

**CLEMENTS:** Yes.

**BREWER:** --of what a--

**CLEMENTS:** That's a sample form.

**BREWER:** --re-engineered--

**CLEMENTS:** --for requesting an early voted-- an early ballot application. The Secretary of State has this form. This is a suggested form. It's not the required form. Other election offices could have something similar, but it shows the signature of voter or agent and printed name of the agent. So in the event-- if there is an agent requesting the ballot, that's provided for on this form.

**BREWER:** I see. All right, let's see if we have some questions for you. Questions for Senator Clements? Yes, Senator Hunt.

**HUNT:** Thank you, Chairman Brewer. So this-- is this bill saying that to take an example, if I was returning the vote-by-mail ballots to a drop box of my mom and dad and my brother. Would that be illegal under this bill because it would say the agent can't act for more than two voters?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**CLEMENTS:** I think your-- the way I'm reading it is yes. You have yourself and two. I think you-- you know, you do your own, but two others would be your limit besides yours.

**HUNT:** So if my household was my mom and dad and my brother, I couldn't take everyone's ballots with me? We'd have to go two trips or--

**CLEMENTS:** You could only be the agent for two of them.

**HUNT:** OK.

**CLEMENTS:** Right.

**HUNT:** Thank you.

**BREWER:** OK. Any other questions? Senator Raybould.

**RAYBOULD:** Good afternoon, Senator Clements. I know yesterday we heard testimony from nursing homes and other assisted living facilities and typically, they help the residents of that home when they vote. And they collect all the ballots and probably one person takes them to the election commissioner's office or the mailbox outside there and assist in depositing them there. So it sounds like that would be a big violation.

**CLEMENTS:** I think they're not being the agent. They're not requesting the ballot as an agent. The voter themselves asks for an early ballot and the voter themselves are signing the envelope. That would be a good question for the secretary, though. I think that there is a distinction there. This is-- the, the two-ballot limit is if you're acting for-- as the agent. The agent requested the ballot, the agent is returning the ballot. But I'd like, like--

**RAYBOULD:** The clarification.

**CLEMENTS:** --to defer to the secretary.

**BREWER:** OK. All right.

**RAYBOULD:** Oh, I have another question. So it looks like on the envelopes, we're adding-- or is this something that's already been done? It says voter signature and then below it, it says agent signature, if applicable. So that means that'll be going on the, the new envelopes.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**CLEMENTS:** Yes. That has not been on the envelope in the past. If, if a agent is returning it to an election office, the election office has notice of who returned that. But if it's going into a drop box without the signature, they weren't sure who had, who had returned the ballot. So the agent's signature on the envelope is to help for tracking what-- who has returned it.

**RAYBOULD:** So this is only, this is only for those voters who work with an agent, correct?

**CLEMENTS:** Yes.

**RAYBOULD:** So, for example, I see my office, my B&R office is so close to the Lancaster County Election Commissioner's Office and I see vehicle after vehicle line up to just drop it in the, in the mailbox. So I could probably gather, you know, my neighbors and a few others. And on my way to work, I would drop them in the box. And I'm, I'm not their agent. I'm just a neighbor helping them out because it's right on the way to work. I assume I'm not violating any rules.

**CLEMENTS:** I don't see a restriction to that, but--

**RAYBOULD:** Oh, OK.

**CLEMENTS:** --I'd like to defer to the secretary as well--

**RAYBOULD:** OK, sounds great.

**CLEMENTS:** --for the details.

**RAYBOULD:** Oh, I have one more question. OK so I'm reading the Nebraska early voting ballot application and I'm trying to do the math in my head and I'm a little bit slow after lunch. It says you must submit your application to have a ballot mailed to you by the close of business on the second Friday before the election. So no later than the second Friday before the election. Is that how--

**CLEMENTS:** Yes.

**RAYBOULD:** So that's really only--

**CLEMENTS:** That's--

**RAYBOULD:** --15 days.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**CLEMENTS:** That's current-- you know, this-- my bill is not changing that. That's--

**RAYBOULD:** OK.

**CLEMENTS:** --current rule.

**RAYBOULD:** OK. So we can have the Secretary of State clarify that.

**BREWER:** All right. Additional questions for Senator Clements? All right, thank you and waiving close.

**CLEMENTS:** I waive close.

**BREWER:** Got you.

**CLEMENTS:** Thank you, Mr. Chairman.

**BREWER:** Thank you.

**CLEMENTS:** Thank you, committee.

**BREWER:** All right. We will invite up our favorite elected official because you come visit us more than anyone else.

**HALLORAN:** That's right.

**BREWER:** Whether you want to or not.

**BOB EVNEN:** It's an honor.

**BREWER:** Please have a seat. Welcome to the Government Committee.

**BOB EVNEN:** Thank you. Mr. Chairman. Thank you, members of the committee. My name is Bob Evnen, B-o-b E-v-n-e-n. I have the, I have the honor and privilege of serving as Nebraska's Secretary of State. I want to express my thanks and appreciation to Senator Clements and the ten cosponsors of LB390. I will quickly summarize what you've already heard. This bill will codify existing practice that early ballots that are mailed are done by nonforwardable first-class mail. So if, if it isn't deliverable to the address it's written, it's not going to be forwarded. And that's the current practice that will be codified into statute if LB390 is adopted, as I hope it will be. The bill harmonizes the date for both the start of early ballots to be mailed and the start of in-office early voting and that would be 30 days prior to the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

election. It limits an individual agent to only return two early voting ballots other than their own. So you could not drop off a bunch of people that you would collect at B&R and where you, you-- your office at B&R, which is close to the drop box, but you would not be able to do that. You would be limited to two. The-- and it also clarifies that a person who's a candidate or who is serving on a campaign committee or an employer agent of such a person can't serve as an agent to request to return an early ballot on behalf of a voter unless they are a member of the registered voter's family. And this-- by the way, this, this return aspect of things is in parity with what we already have, which is as an agent, you can only request a ballot for yourself and two other people. So this, this provides parity now that you can only request a ballot for yourself and two other people. Now you can also only return a ballot for yourself and two other people. So with that, I'd be happy to answer any questions. And, and I would also say that following me will be Deputy Secretary of State Wayne Bena of the elections division. And it could very well be that I will-- number one, anything I say is subject to correction by the deputy. And, and number two, I may just outright defer on-- depending on what your questions are.

**BREWER:** All right. We will see if we have any questions. Senator Hunt.

**HUNT:** Thank you, Chairman Brewer. Hello, Secretary Evnen.

**BOB EVNEN:** Good afternoon, Senator Hunt.

**HUNT:** Thanks. So if-- the scenario I was describing earlier, if I live in a house with my mom and my dad and my brother and I take all three of our-- of their ballots so four ballots from my household to the drop box of the election commissioner. Am I legally an agent or am I only an agent if I filled this out and requested to get all the ballots for them in the first place?

**BOB EVNEN:** You're an agent if you take ballots back for anybody other than yourself.

**HUNT:** OK.

**BOB EVNEN:** You're an agent for those other people. And, you know, my suggestion would be take your brother with you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**HUNT:** OK. What if my brother is homebound or serving in the military or working or watching my child so that I can take their ballots?

**BOB EVNEN:** You know, the restriction here would be you could return your ballot and two others.

**HUNT:** OK. And it doesn't matter if I have identified myself as an agent in advance by filling this form out.

**BOB EVNEN:** I'm going to defer to, to Wayne for that.

**HUNT:** OK.

**BOB EVNEN:** But I-- my-- if you are returning a ballot for people who are other than yourself, you are their agent.

**HUNT:** OK. I don't see a definition of agent in this, in this bill. Do you know if there's a definition of that that would apply to this bill elsewhere in statute?

**BOB EVNEN:** I don't know.

**HUNT:** OK. That's all I have for now. Thank you.

**BREWER:** Senator Raybould.

**RAYBOULD:** I wanted to follow up on some of the scenarios that we're giving because I, I think the practice is if I have a neighbor that's not an employee, if I have a neighbor, I can take their ballot and I'm not the registered agent. I'm just a neighbor because they may have broken their hip and I can take it and drop it off on the way to my office. And I know the language said if it's not signed by an agent, it invalidates the ballot, but the question is, like, how is the election commissioner going to know? Because I'm going to put it in the drop box. How are they possibly going to know what the difference is? Or do they have surveillance cameras that I just picked it up from my neighbor and-- you know, how are they going to even know?

**BOB EVNEN:** Well, I guess they're counting on you performing your duties as a citizen honestly.

**RAYBOULD:** Yeah.

**BOB EVNEN:** But the-- there are mechanisms and different places where it can be checked. But the, the fundamental aspect of it would be that

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

if you are dropping off a ballot for someone else, that you'd fill out your name and sign it.

**RAYBOULD:** OK. Thank you.

**BREWER:** Senator Conrad.

**CONRAD:** Thank you, Chairman Brewer. Good to see you, Mr. Secretary.

**BOB EVNEN:** I'm sorry, Senator, could I--

**CONRAD:** Of course.

**BOB EVNEN:** Could I--

**RAYBOULD:** Yeah.

**BOB EVNEN:** The other thing that, that-- you know, how could you know? I'm not sure how you would know. There-- I, I would think there are mechanisms, but there also is this and that is it's a violation of law. It's a violation of the Elections Act and, and it's a Class IV felony to do it.

**CONRAD:** To do what?

**BOB EVNEN:** To act as an agent without acknowledging it. All right. I'm sorry. I apologize, Senator.

**BREWER:** Senator Conrad.

**BOB EVNEN:** Apologize for the interruption.

**CONRAD:** No, no, no, that's help-- that's helpful. I always give any colleague an opportunity to, to complete their thought. I appreciate that. But I think I'm sensing some of the same confusion with my colleagues here. And, and we can defer to get some technical information from Wayne if that's your preference, Mr. Secretary. But I think the confusion I'm sensing is around the current law regarding agents and Senator Clements' measure, which you're here in support of, which basically seeks to extend the current framework about agents to utilization of ballot boxes or otherwise. Is that kind of a fair assessment? So I think maybe we're just talking past each other for, like, with the current legal framework is for the limited instances where people can serve as an agent. And then Senator Clements' proposal that you're supporting basically kind of tries to, to use

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

that framework for returns utilizing ballot boxes or otherwise. Is that, is that fair? Is that maybe what I'm sensing is-- people are confused about?

**BOB EVNEN:** Yes. It's--

**CONRAD:** OK.

**BOB EVNEN:** Yes.

**CONRAD:** Yeah. OK.

**BOB EVNEN:** I'm not sure what people are confused about, Senator, but yes, this is extending the, the-- your, your explanation of it is-- I believe is correct.

**CONRAD:** OK. Well maybe--

**BOB EVNEN:** It's extending the agency requirements in obtaining ballots--

**CONRAD:** Uh-huh.

**BOB EVNEN:** --to returning ballots as well.

**CONRAD:** OK. Yeah. So maybe what would be helpful is to go back to the kind of 101 level here. So, Mr. Secretary, if you would, explain to us the current law regarding the use of agents to facilitate--

**BOB EVNEN:** Under current--

**CONRAD:** --somebody's ability to vote.

**BOB EVNEN:** Certainly and I'll invite Deputy Secretary--

**CONRAD:** And Wayne can help us out.

**BOB EVNEN:** I will invite Deputy Secretary, Secretary Bena to, to clarify, if not correct, anything that I'm saying. Under current law, if you wish to obtain a ballot for others--

**CONRAD:** Yes.

**BOB EVNEN:** --you-- then you indicate that when you go in to request the early--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**CONRAD:** Yes.

**BOB EVNEN:** --ballot and you are serving as that person's agent in requesting the ballot.

**CONRAD:** Right.

**BOB EVNEN:** That's current law.

**CONRAD:** And it's utilized, I think, in pretty narrow, specific circumstances kind of like Senator Raybould was talking about, as long as I'm not a part of the candidate committee or--

**BOB EVNEN:** Right.

**CONRAD:** --some other things, that I can help out a few folks if they designate me to run to the election commissioner's office, grab their ballot for them, they fill it out and then I, I take it back for them kind of. That's how the current agent program kind of works, right?

**BOB EVNEN:** Yes. And this-- well, the current agent program stops if you obtain the ballot. So this extends the current agent process to the return of the ballot as well.

**CONRAD:** Oh, OK. I understand your perspective on it. I'm not sure I agree 100 percent, but I, I, I think I understand where you're at. And maybe we can pick it up with Wayne too. But I think that there is maybe just a confusion about how the current law works regarding agents and then how Senator Clements' proposal would seek to perhaps extend that. And I see it as attempting a parallel approach. That may not be a fair assessment, but I think we're just getting a little confused for how the current agent law works and then what this proposal does, which I think is-- you know, it sounds kind of innocuous on its face, but it's actually, I think, a pretty significant restriction on the ability of people to utilize drop boxes, which I'm concerned about, so. And I think the agent component in current law is very different than what we're seeing in this. But I, I'll keep an open mind and keep talking about it.

**BOB EVNEN:** And I would invite you to ask Mr. Bena.

**CONRAD:** OK.

**BREWER:** OK. Senator Raybould.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**RAYBOULD:** I think I will take your advice and ask Mr. Bena.

**BOB EVNEN:** Let's just leave it at that.

**BREWER:** Every-- everybody's waiting--

**BOB EVNEN:** Thank you, Senator.

**BREWER:** --waiting to talk to Mr. Bena. All right. Any other questions? Seeing none, thank you. All right, Mr. Secretary.

**BOB EVNEN:** Thank you, Mr. Chairman. Thank you, members of the committee.

**BREWER:** All right. With that said, we're going to welcome up Wayne Bena. Thank you for taking the time to come see us, even though you are slightly committed.

**WAYNE BENA:** I have one minute, right?

**BREWER:** You have as much time as you want. I guarantee that. All right, welcome to Government Committee.

**WAYNE BENA:** Good afternoon, Chairman Brewer, members of committee. My name is Wayne Bena, W-a-y-n-e B-e-n-a. I serve as Deputy Secretary of State for elections here on behalf of Secretary of State Robert Evnen in support of LB390. As you've heard from Senator Clements and the secretary of the policy, I am always here to help you with the administration of said legislation in any given capacity and that is what I've been here to do. No arm-twisting whatsoever. I'll leave it at that. And three in a row-- I'll answer any questions that you may have and three in a row, I have not had the yellow light so with that, I'll answer your questions.

**BREWER:** All right, thank you. And we'll get started here. I'm looking to my right. Senator Conrad, please.

**CONRAD:** Thank you so much, Senator Brewer. Good to see you again, Wayne. OK, let me start at the 101 level. Can you help to explain to the committee and for the record how the existing agent program works under current law?

**WAYNE BENA:** Correct. So--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**CONRAD:** Thank you.

**WAYNE BENA:** --you-- a spouse comes into the election office, wants to maybe vote in the office themselves, maybe take the ballot home with them. While they are there, they fill out an application, the one that you have there. That is our current application. Instead of the signature for the voter, you fill out the agent's signature. It's then logged into our voter registration system that the spouse picked up or it could be a friend. It-- or--

**CONRAD:** Right.

**WAYNE BENA:** --whoever, logs that name into the system. A ballot is then prepared for them to take away with them. It can be a spouse. I've had a friend.

**CONRAD:** Yep.

**WAYNE BENA:** I even had on election night a nurse felt so badly for a patient that just went to the hospital, on her break, came and got a ballot for her patient. It was-- so the restriction in that case is you can be an agent for only two individuals.

**CONRAD:** Right.

**WAYNE BENA:** So if you're, you're coming in, you could get it for your spouse and your 18-year-old child. If you had two child-- children, you could only do it for one, OK? So that's the agent process in regards to I call it checking out a ballot, OK--

**CONRAD:** Right.

**WAYNE BENA:** --for a voter.

**CONRAD:** Good analogy.

**WAYNE BENA:** OK?

**CONRAD:** Right.

**RAYBOULD:** But the return.

**WAYNE BENA:** Return, there are no limitations in return right now at all. However, what I will tell you is, is that in practice, when said spouse comes back with that ballot and their own, OK, it is logged as

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

a in-person return for the person who was there and it's an agent return for the person that was-- the other person that was not them. And most people ask, is one of these your ballot and one of these someone else's? They say yes and that's how they're logged into the system. Currently under the law, there-- it-- you can turn in 100 ballots if you want to. And I think what you've heard from Senator Clements and Senator-- and the secretary and possibly other testifiers is when you have an early ballot, you tend to-- and give it to somebody else, you lose some of that security in regards to that ballot possibly when you give it to someone else. We always say use a trusted source. So there are no restrictions and what the policy that this is, is saying is that a person can only return a ballot for two people and only two people. So while there's not a policy now, that's what this legislation is, is looking to do, is to start a policy of you can only return two ballots.

**CONRAD:** Right. Because under current law, if I as a voter request a vote-by-mail, early ballot, it's up to me how it's returned, right? I can mail it back. I can utilize the drop box. I can get it to a friend or neighbor who's running errands or offers to take it in. That's really-- I maintain the agency as the voter for how it's returned. And your-- Senator Clements' proposal that you're here supporting today basically severely restricts that agency as a voter to only allow a person to return up to two ballots to a drop box or in any other way, shape or form.

**WAYNE BENA:** That is the policy request.

**CONRAD:** OK, I, I definitely appreciate and understand that. I, I'm skeptical about the legislation and we've talked about this many times in the past. I think it is unfortunate and disappointing that it perpetuates issues and narratives around the "big lie" surrounding the, the most recent-- or the previous presidential election. And, and I think that it also really undercuts the ability of people to vote. And again, kind of perpetuates this false narrative around what the secretary has called ballot harvesting in the past, which I think is a common practice to help people return their votes. I will take the secretary at his word and I know that you always carry out the same. We absolutely should make it hard to cheat and easy to vote. And I see this as a way to make it harder to vote. So I appreciate your clarity and kind of laying out existing law and kind of what the proposal would do. But I think I'm, I'm gaining a better understanding through this dialogue, which is exactly what-- how the process is supposed to

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

work, to understand what's happening with this legislation. So thank you, Wayne. You're always a great source. Appreciate it.

**BREWER:** OK. Senator Raybould.

**RAYBOULD:** So following the, the scenario of this new proposal, so like I said, my office is close to the election commissioner. I get my ballot, I sign and be the agent for my husband. I pick up his ballot. He's out of town. I leave it there for him to vote. I go out of town. But I would be obligated by the change in this law, since I was the registered agent that picked it up-- I'd have to also sign it. That's what it says here.

**WAYNE BENA:** Any agent would have to sign the ballot that returns it on behalf of the voter, not necessarily the person that picked it up. It would just require an agent's signature so the agent would sign that on there is the, is the proposal. So it does not have to be the same person that picked up the ballot that dropped it off, but if you're having someone else drop it off for you, they would sign the ballot envelope.

**RAYBOULD:** OK. So when you check it to see, OK, the agent that signed out for it was me, but it can be a different agent that returns it.

**WAYNE BENA:** Correct.

**RAYBOULD:** And if they're-- so if I checked it out for my husband and since he's not always good at following directions, he signs it and just drops it--

**WAYNE BENA:** Is that on the record now?

**RAYBOULD:** This is on the record. So he signs it, but he doesn't have the agent that checked it out for him sign it. He just drops it off without an agent's signature on that.

**WAYNE BENA:** That doesn't matter because it's his own--

**RAYBOULD:** It doesn't matter.

**WAYNE BENA:** It's his own-- at that point, it's his own ballot and he's returning his own ballot so that's fine.

**RAYBOULD:** OK. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**BREWER:** All right. Senator Hunt.

**HUNT:** Thank you. Thank you, Deputy Bena, for being here. Can you speak-- Secretary Evnen was asked something similar, but can you speak to the enforcement of this bill? I mean, we have poll watchers. We have these self-appointed vigilantes who go house to house in Lincoln knocking to see if the people who live there are the people who voted, these types of, like, personal detective work type things. Does this-- how is this going to be enforced and are we going to put cameras by the drop boxes? We've had-- I feel like we've had people come up and testify before that they think all these things should be surveilled, if not completely done away with or-- I mean, can we expect people standing around the drop boxes checking people's ballots before they get put in the box? Like, how, how will this be enforced?

**WAYNE BENA:** That's a great question. I mean, I know-- you know, right now, we track the people that check out ballots and so we will know if someone is breaking the law that's checking out too many ballots for an individual. We would-- if-- you know, if they are following the law and signing the envelope, we would know as-- if we do the signature, which Senator Clements has now done a white-copy amendment, we would most likely have to do a tracking-- that same kind of tracking system or voter registration system. Doesn't mean it's-- the person's going to sign it or not. I understand what you are saying, but I guess in regards to any law or an enforcement of the law, someone would have to notify the--

**HUNT:** Make a complaint.

**WAYNE BENA:** Make a complaint. I liken it to in its simpler form, there are speed limits. You and I drive I-80 every day. Everybody's not going 75, but there are police officers that are pulling you over.

**HUNT:** I do get caught, I will say. I've been caught many times. But if I went to your drop box outside your-- the election commissioner--

**WAYNE BENA:** So someone could, someone--

**HUNT:** --with my dad's ballot, my mom's and my brother's ballot--

**WAYNE BENA:** You know, I would say is--

**HUNT:** --could I expect to become a felon?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**WAYNE BENA:** Ninety out of our 93 counties, they only have one drop box and it's outside of the courthouse.

**HUNT:** Right.

**WAYNE BENA:** Many of our courthouses do have cameras on them, not required, but they do. Or they have people that are just walking around and someone might see someone putting multiple ballots in a ballot box and may say something about it. So like any law, someone would have to catch that person or report that person that something suspicious was, was going on, which in the election process, whether it's this or anything else, we want people to report things--

**HUNT:** Sure.

**WAYNE BENA:** --that may be an abnormality, so.

**HUNT:** I, I just have the concern that this is veering too much into validating conspiracies around election fraud that don't exist and also veering into encouraging a culture of intimidation around voting. It's already happening. Like, people are already coming to people's personal homes as unelected, unappointed, unaccountable, you know, residents of our state demanding to know how people voted and who lives in the house. And I, I don't think anything would stop them from doing the exact same thing around drop boxes. And I don't think I'm giving anybody any ideas. I think that they're excited to do this. And so I would hate for the Legislature to be responsible for encouraging that type of intimidation of voters and I would hate for the Secretary of State's Office to be, you know, endorsing that. So thank you.

**WAYNE BENA:** I understand your perspective. Again, this is a-- again, one of those policy, policy decisions that the Legislature can make that we would have to put into effect. Happy to answer any questions. But I will say this is not the first state to do something like this. So this isn't brand new. Other states do have similar type of restrictions on ballots being returned.

**HUNT:** I have one other quick question on that.

**BREWER:** Yep.

**HUNT:** Is this, is this from the mind of Senator Clements or was this brought to him by the Secretary of State?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**WAYNE BENA:** It was brought by the Secretary of State's Office.

**HUNT:** OK. Thank you.

**BREWER:** Senator Conrad.

**CONRAD:** Thank you, Wayne. I think that maybe similar measures have been introduced in years past, maybe even in Nebraska. And I remember kind of engaging in the process during that time. Maybe they had a slightly different iteration to them, but kind of trying to get after the same kind of policy decision that you mentioned. And I remember there is a great deal of discomfort amongst committee members with, you know, really cutting off any sort of opportunities, particularly for elderly residents in congregate living to return their ballots. Is that kind of generally your recollection in terms of some of the issues in similar past proposals?

**WAYNE BENA:** I believe that's on one side, but you can also-- on the other side of that, there are folks that would report to our office, our county election office's possible influence at the same type of nursing home facilities or what have you. Are they collecting ballots from individuals that they shouldn't be collecting them from in the first place? Was it requested? Was it-- things that have been brought to our attention is were ballots requested on behalf of a voter in the correct manner and they were returned in the said correct manner? So there's both sides of, of the-- but we do hear about, you know, retirement homes and nursing home facilities of whether or not there's undue influence in regards to the requesting, voting and returning of a ballot, so.

**CONRAD:** OK. I'm not sure that's exactly responsive to my question, but-- and maybe that's a separate and distinct [INAUDIBLE]--

**WAYNE BENA:** What I'm saying is I agree with what you said on, on your end. But there's also, on the other end, the thought of collecting at this-- these same facilities could be of collecting multiple ballots that weren't intended and wanted to be collected in the first place.

**CONRAD:** OK. So let's just dial that back for a second. So-- but under existing law, there would be penalties for unlawful influence of a voter's choices or requests for ballots or return for ballot. I mean, you can't-- no one can just willy-nilly meddle with an individual's right to vote--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**WAYNE BENA:** There are laws, yes.

**CONRAD:** --right, so--

**WAYNE BENA:** Correct, there are laws.

**CONRAD:** If there are, in fact, bad actors who are breaking the laws in congregate living situations like nursing homes, whether that's-- I don't know if you're implying staff or otherwise, that would be kind of news to me. And, and your office, I'm assuming, is investigating those kinds of reports?

**WAYNE BENA:** It would be done on a local-- it would be done on the local level. I have heard anecdotal evidence of this. I'm being fairly clear. I will go to a meeting and speak and someone will say, well, what about nursing homes? Couldn't they just request a ballot for a person and take it back? I'm saying there is that mindset that that could happen there.

**CONRAD:** OK. So you're not saying that it is happening. You're saying that this is just kind of part of questions that have been posed in the past.

**WAYNE BENA:** Correct.

**CONRAD:** OK, that's--

**WAYNE BENA:** Now as being the Sarpy County-- former Sarpy County Election Commissioner, have I had nursing home employees bring back 50 ballots from the residents--

**CONRAD:** Right.

**WAYNE BENA:** --of their, of their facility? Absolutely.

**CONRAD:** Yeah, I think it's been common--

**WAYNE BENA:** And some--

**CONRAD:** --practice.

**WAYNE BENA:** I would say that there are some that wonder if that should be a legitimate practice. That's-- should they be doing that is, is the policy that this law is looking to have the discussion.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**CONRAD:** OK. OK I, I, I understand and, and appreciate that beat. The other instance, kind of high-profile instance in regards to ballot collection that I remember in recent years was I think President Trump was having a rally in Omaha and Secretary Evnen was working with campaign officials to collect ballots. Isn't, isn't that accurate? I mean, I think it's pretty well documented in the--

**WAYNE BENA:** My--

**CONRAD:** --press from a few years ago.

**WAYNE BENA:** My recollection of that is, again, at that point, it was not illegal and there was nothing wrong with that.

**CONRAD:** Right.

**WAYNE BENA:** But I think that, that the secretary wanted some guardrails around that as well because of, of, of that.

**CONRAD:** OK.

**WAYNE BENA:** So I think they wanted to make sure that the people that were turning ballots in at that event, those ballots did get back--

**CONRAD:** Absolutely.

**WAYNE BENA:** --to the election office is my recollection. But at that point, I mean, that-- it was not a-- something that was unlawful, so.

**CONRAD:** Right. That's 100 percent right. So the main kind of instances in Nebraska where we've seen people facilitating the return of early ballots has been generally in nursing homes and then at one campaign rally a few years ago. Is that kind of your general assessment of kind of how this works in practice?

**WAYNE BENA:** In returning, I mean, anyone can return anybody's ballot--

**CONRAD:** Right.

**WAYNE BENA:** --or, you know, anyone-- any registered voter can grab someone else's ballot even from-- you know, I've had folks when I was the election commissioner call me, like, I have a friend who's really sick in--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**CONRAD:** Yeah.

**WAYNE BENA:** --another county, can I get a ballot on their right. Yeah. If you drive out to that county election office, you can.

**CONRAD:** Exactly.

**WAYNE BENA:** So there's, there's many different situations and it's not very limited. I will, I will say agent ballots out of-- during the early voting period out of my office were quite regular.

**CONRAD:** Sure.

**WAYNE BENA:** Main-- the majority are spouses and kids of, of, of the person coming in--

**CONRAD:** OK.

**WAYNE BENA:** --but it is not a limited practice.

**CONRAD:** OK. Last question then I'm, I'm really, really really done. And I so appreciate you sharing your knowledge about kind of how this works in practice. And I think it's been well publicized that the secretary and, and your office have done really very extensive, I think, analysis about our recent elections in Nebraska and have demonstrated that there's little, if any, voter fraud or malfeasance happening in our, in our elections. Is that kind of a fair assessment of things? I've read most of the reports and I know they're lengthy and, and detailed, but.

**WAYNE BENA:** Not-- I will go to the, the two that are the most recent is that we, you know, listen to this committee and we're in that. We-- in the past, it has been difficult to produce a list of people that voted in a particular election given the timelines of the election certification and opening up the voter registration system to allow people to continue to register. So listening to those concerns-- and I know, Senator Halloran, you asked the secretary pointblank, can we do this? And so we went through a lot of work with our county election officials to have voter history put into the voter registration system first before we canvass the election and open up the voter registration system. And so the difference between the people that received voter history and the number of ballots counted was-- the difference was, I believe, at that 400ths of 1 percent difference between the two-- thousands, excuse me, of 1 percent. The second thing

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

that was done was that we expanded our manual audit of 10 percent of the precincts statewide, including one precinct in all 93 counties. And in that, there were only 11 ballot discrepancies on, on particular won races. Five of those were light-- or mostly attributed to a light mark that the voter didn't follow the instructions to heavily do the oval and that canvass board decided that that probably was a vote and the machine thought it was too light. There were a few ballots that we knew existed that probably got misfiled in our larger county and another box that they just couldn't find and it was taking too long. So that was 25,000ths of 1 percent error rate. So listening to concerns that people have had, we've expanded those efforts to be transparent and show there is, there is-- we should have confidence and our elections can be a guide for other states on how to do it.

**CONRAD:** Yeah. I-- thank you so much for refreshing my recollection in that regard. I remember reading the PowerPoint and the reports and, and I think that, that really underscores my skepticism in looking at this measure is that your office has done extensive analysis that the existing law, with all of its safeguards, has produced safe, secure, really-- maybe not error free, but relatively error-free elections. And that's a credit to our strong laws, laws, our hardworking election officials and, and I really appreciate it. Thank you.

**BREWER:** All right. Additional questions for Mr. Bena? Sargeant-- Sergeant Lowe. Senator Lowe.

**LOWE:** Thank you for the promotion. Thank you, Wayne, for being here. And how will the general, general public know that they can only turn in their one ballot plus two others? Will it be printed on the envelope or something like that, the notification?

**WAYNE BENA:** Yeah. And all-- you know, each ballot includes instructions put in and we can have, have the county election offices add that to the instructions that you're only allowed to-- someone to return only a ballot. You have someone-- you can only return a ballot for two people. So that's an easy addition.

**LOWE:** Just for clarification and everything.

**BREWER:** All right. Senator Raybould.

**RAYBOULD:** So if, if I return my own ballot, do I have to sign the new line that says agent as well?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**WAYNE BENA:** No.

**RAYBOULD:** No. OK. Thank you.

**BREWER:** All right. Any-- Sergeant-- sorry, Senator Halloran.

**HALLORAN:** Private would be just fine. Thank you, Chairman. Thank you, Wayne, for being here. So how-- again, refresh us or refresh me at least to how many, how many drop boxes are there in the, in the state?

**WAYNE BENA:** There's a good question. Minimum 93 and then you add one extra in Stanton County, you add three more-- four more in Sarpy County. And Brian [PHONETIC], you have-- Brian has 12 additional on top of that. So 93, 94, 99, 102-- probably about 104, 105.

**HALLORAN:** OK. And in the ones that are at the courthouse are, you know, more monitored, if you will. Some of them have cameras, as you say, just as a security-- general security for the courthouse. But for those drop boxes that aren't at a courthouse, how do, how do we know if people drop 10, 12, 15, 20?

**WAYNE BENA:** I know Douglas County, all 12 of theirs have cameras on them in some form or fashion. There's-- not necessarily all 93 counties have a-- they have, they have cameras at their courthouse if it's-- some have it directed at-- towards the area of their drop box, some may not. The others, I believe, are places that could have, have cameras. But also people-- I mean, like anything else, if there's a citizen complaint, someone seeing someone do something, then that can be possibly looked at in regards to that.

**HALLORAN:** And as is the case with any good law, if there's people clever enough, they can probably do something that's not legal, but, but yeah. OK. I appreciate that. Thanks.

**BREWER:** Senator Hunt.

**HUNT:** Not Sergeant? I'm the only one?

**BREWER:** Sorry.

**HUNT:** Thank you, Chairman Brewer.

**BREWER:** I will if you want me to.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**HUNT:** That's stolen valor. That's not me. Would you support an amendment to this bill to-- so Senator Halloran's question about how will people know that this is the law? You know, especially people who, year after year, election after election, have thought nothing of bringing to the drop box by the election commissioner the ballots of their mom and dad and brother who they live with. Like, of course, that would not feel like a crime to a person who has always done that their whole life or whatever. So his question made me think would the-- would you guys support an amendment saying that, you know, the ballot has to say this on it, on the envelope somewhere as part of the instructions, just to make sure that there aren't any counties or anything that slip through the cracks and people don't know that they can't bring more than two ballots?

**WAYNE BENA:** What, what I would say is I can't obligate the office on policy, but I'm happy to take it to the secretary and discuss that with you and any other senator that wants to in regards to the further consideration of this bill.

**HUNT:** Thank you. It makes me think of a lot of other amendments, too. Like, maybe we should require a camera facing the slot of every drop box. Maybe these videos should be made public record. Maybe there should be a YouTube channel where people can look at everybody returning their ballot. Like, there's just a lot of ideas to make it even more secure. Thank you.

**BREWER:** OK. Any more questions? All right, thank you for your testimony. All right, next testifier. Next proponent to LB390. All right, we will transition to opponents to LB390. Those in the neutral for LB-- what category are you in on it?

**ARLO HETTLE:** Opponent.

**BREWER:** All right, come on up. If there's any other opponents, come forward so I know how many we have here and we can keep everybody in order. Welcome to the Government Committee.

**ARLO HETTLE:** Thank you. Hello, Senator Brewer and members of the committee. My name is Arlo Hettle, A-r-l-o H-e-t-t-l-e. I'm the grassroots advocacy coordinator at the Nebraska Civic Engagement Table. We share some of the concerns that were brought up previously by some members of the committee about this bill. But we also want to add an additional concern, thinking about the implications here about

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

limiting the time available for Nebraskans to vote by mail. And just wanted to share some data from the 2022 election to help shed light on just how popular mail-in voting is because I know there can be some misconceptions about that. Vote by mail is popular in Nebraska among members of all parties. Almost 40 percent of the votes cast in the last election, which was over 250,000, were by mail. Half of those came from Republicans, 36 percent from Democrats, and 15 percent had an unknown or other party. Excluding the counties that vote exclusively by mail, there-- the five counties that had the most voters voting by mail were Harlan, Gage, Wayne, Douglas, and Thayer, just showing that vote by mail is popular in both rural and urban areas of the state. And vote by mail numbers are pretty consistent across all three congressional districts. Vote by mail is also particularly popular among the state's youngest and oldest voters: 31.2 percent of votes cast by 18 to 24 year olds in last election were by mail, as well as 51.2 percent of those age 65 or older. And 5 percent of ballots in 2022 came from Nebraska's all-mail counties, which would be particularly affected by a shortening of the mail-in voting window. So we just really want to emphasize that there's no reason for the legislature to reduce the time Nebraskans have to take part in this proven and trusted voting method. Our work as an organization involves working with our members who are around 70 other nonprofits across the state to educate their communities about how to vote. And we see that every election, many citizens have questions about the voting options available to them, the time that they have to vote. And we just want to make it clear that it's important that there is time for voters to get this information to do their research and we don't need to be eliminating that. So we would ask you to not enact any measures that give Nebraskans less flexibility in exercising their right to vote and encourage you to look at this part of LB390 and vote against it if it limits the mail-in window. Thank you.

**BREWER:** All right. Thank you. Questions? Questions? Senator Raybould.

**RAYBOULD:** Yes. Mr. Hettle, thank you so much for coming. So could you talk a little bit more about limiting the number of days? Because I see right now, it says 35 days prior to--

**ARLO HETTLE:** Yeah and this bill would lower it to 30 days--

**RAYBOULD:** Thirty days, OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**ARLO HETTLE:** --which we know is for consistency reasons, but we think that perhaps the consistency could be increased rather than decreased.

**RAYBOULD:** OK. Thank you.

**BREWER:** Any other questions? All right, thank you.

**ARLO HETTLE:** Thank you.

**BREWER:** OK, next opponent to LB390. Welcome to the Government Committee.

**HEIDI UHING:** Thank you, Chairman Brewer and members of the committee. I understand that Senator Clements brought this bill at the request of the Secretary of State to, in part, harmonize some deadlines regarding the release of different types of ballots. We're grateful--

**BREWER:** Can we get your, your name and spell?

**HEIDI UHING:** Heidi Uhing, U-h-i-n-g, first name is H-e-i-d-i. I'm the public policy director for Civic Nebraska. While we are grateful for our election officials' dedication to improving and streamlining their processes, we are obligated to oppose LB390, primarily because it would result in five fewer days of early voting. Civic Nebraska supports the voting rights of all Nebraskans, including access to voting by mail, which is growing in popularity and increasing participation in our elections, particularly in our 11 all-vote-by-mail counties. These rural counties have consistently outpaced the Nebraska average in terms of turnout. In November 2022, voter turnout in these counties was at 69 percent, which is 14 percent higher than the rest of the state. Statewide, roughly 40 percent of voters cast their ballots early. Because voters clearly appreciate this convenience, we urge you to preserve the number of days that Nebraskans can vote by mail. And in response to the amendment brought to the hearing today, I share the concerns that have been discussed among the committee members already as far as creating an environment of hostility around being helpful regarding people's votes.

**BREWER:** All right. Thank you.

**HEIDI UHING:** Thanks.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**BREWER:** See if we have questions. Questions? All right, thank you for your testimony. OK, any additional opponents to LB390? Welcome to the Government Committee.

**SARA FREEOUF:** Thank you. My name is Sara, S-a-r-a Freeouf, F-r-e-e-o-u-f. I'm in Crete, Nebraska. I'm almost 77 years old. In fact, this month I will be. I don't think I have missed voting in my entire life. However, I feel betrayed by what's happened to our elections. Basically, our elections, our right to vote, secures all our other rights. And I think you as a committee doing what you're doing can make that better or maybe not. We will see. What I want to convey to you today is a little kerfuffle I had with Governor Ricketts at a tailgate. I approached him about Internet connectivity of our black box machines because we had tried in Saline County to get the CVRs from our county clerk and we were not able to. And we became aware that some of this was not what we had thought it was regarding the black boxes. And because ES&S is a company in Omaha that pretty much is the corporate ruler over our elections, I decided to confront the Governor and tell him that they're Internet connected. Three times he told me, Sara, it's a red herring. The third time, I gave him my teacher look and I said, what are we going to do about this? And he handed me a card, which was Matt Miltenberger's card, and said, get back to him and then he'll contact me. So the letter you have is what I sent to Miltenberger. And so if you go to the link at the bottom, you will see the video that Governor Ricketts told me later at the steak fry that he had watched. I think he is now a believer that the machines are Internet connected and that's why I'm here today. Any of this stuff you people do, it's putting lipstick on a pig. And I'm a teacher so I did an audio video for you. This is the solution, a simple plain.

**BREWER:** No, no displays. Put it, put it down.

**SARA FREEOUF:** No displays. All right.

**BREWER:** Go ahead.

**SARA FREEOUF:** So do you have any questions?

**BREWER:** Hang on. Let's see if we have any questions for you. Thank you. OK. Questions? Yes, Senator Raybould-- Conrad.

**CONRAD:** I just wanted-- thank you, Senator Brewer. Ms. Freeouf, good to see you again. I saw you in Education earlier this week, Senator

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

Sanders and I did. But I see you had just a few simple words on the presentation materials that you brought. And if you wanted to just read them into the record, we can write them down here, but wanted to-- it looked like--

**SARA FREEOUF:** You mean my--

**CONRAD:** Yeah, you just had--

**SARA FREEOUF:** --the illegal thing that I brought?

**CONRAD:** --a couple of quick maybe bullet points.

**SARA FREEOUF:** OK. My, my points are paper ballots.

**CONRAD:** OK. Yeah.

**SARA FREEOUF:** Same-day voting. I think it's fine to have military and people that are disabled able to vote at distance. Everybody else needs to show up on one day. Make it a holiday. We need to have precinct-level vote counting. And I could go into detail about what happened after the November election in Saline County when we went down to watch the counting, but I won't bore you with that. Show a legal voter ID and no more machines.

**CONRAD:** Appreciate it. Thank you. I wanted to give you a opportunity to get that in the record.

**SARA FREEOUF:** Thank you for that, Senator Conrad. Thank you.

**BREWER:** And we won't call it illegal. We just kind of have a policy we don't use those.

**SARA FREEOUF:** Yes. OK. I didn't know that.

**BREWER:** Well, that's OK.

**SARA FREEOUF:** I'm a teacher. I like audio visuals.

**BREWER:** And you shared the information so we appreciate that. So don't--

**SARA FREEOUF:** Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**BREWER:** You bet. All right. Thank you. OK, next opponent to LB390. Welcome to the Government Committee.

**ROSE GODINEZ:** Thank you, Senator Brewer, committee members. My name is Rose Godinez, spelled R-o-s-e G-o-d-i-n-e-z. I'm an attorney with the ACLU of Nebraska, testifying here on behalf of the ACLU. Voting is the cornerstone of our democracy and as such, we oppose any further restrictions on it, as they disproportionately impact rural voters, the elderly, people with disabilities. And another group of people that has not been mentioned by the committee and current members so far are people who are currently incarcerated and have the ability to vote. If there is going to be a time restriction on when ballots should be mailed, it should certainly be longer, not shorter. And in addition, we have worked previously with county jails and oftentimes, those ballots are returned in bulk. So oftentimes, more than two. And that would disproportionately impact the voters sitting in our current county jails who have the legal right to vote. For those reasons, we urge the committee to indefinitely postpone this bill. I'd be happy to answer any questions.

**BREWER:** All right. Questions? All right, seeing none, thank you for your testimony.

**ROSE GODINEZ:** Thank you.

**BREWER:** OK. Any additional opponents to LB390? Anybody here in the neutral? All right, Senator Clements-- oh, OK.

**LOWE:** Maybe two.

**BREWER:** Are you in the neutral or opponent?

**AMBER PARKER:** You said neutral?

**BREWER:** Yeah.

**AMBER PARKER:** Yes.

**BREWER:** OK.

**AMBER PARKER:** Sorry.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**BREWER:** OK. Is there anyone else here to testify on LB390? You want to come probably to the front row up here so we've got you accounted for. All right, Amber. Start whenever you're ready.

**AMBER PARKER:** OK. A-m-b-e-r P-a-r-k-e-r. The connection to FTX is playing a part in Nebraska elections through the connections to the Center for Voter Information. The Center for Voter Information had mailed out unrequested ballot requests. It could be hundreds of thousands in Nebraska. And founder is none other than the former CEO of FTX, Sam Bankman-Fried's mother, Barbara Fried. I found it interesting with the Secretary of State and Wayne Bena of priding themselves-- and I keep hearing it-- in election integrity. We do not have that. We have a nondisclosure agreement with our voting machines presently to where we the people in all this room, we, we wouldn't know if anything were found in those machines. And it's been brought up that that's against the Constitution and the Nebraska Constitution, but it just seems that it's fluff speech when they come forward in trying to sell us a bill of goods. I want to come forward and let you know that there were five ballot requests that were not requested; two were from Sarpy County election office, three were from the Center for Voter Information. Now again, I want to clarify that these are unrequested ballot requests. Why is this important and why am I highlighting this? What would be the purpose of, of sending a registered voter an unrequested ballot request and in, in in cases, not just one but multiple? As here, up to three. From the Center for Voter Information, the mother, who's a cofounder who just happens to be-- is Sam Bankman-Fried's mother, who was the former CEO to FTX and which FTX had through their cryptocurrency exchange and what their money laundering was. And we found out it went to Ukraine, came back and then went into what-- super PACs, Republican and Democrat. My point being this and why I'm testifying in the neutral side. Senator Hunt, you brought up a great point. We don't have cameras showing. If somebody wanted to set somebody up and say, hey, they were sending in multiple ballots and did this and had a connection within the government, where-- how, how are they going to work? Due process, our Constitution, right? How are they going to show that? We, we don't have any accountability. So LB390 and in, in this area, we need to ask ourselves what kind of foundation are we building? I mean, if somebody can be facing felony charges in these areas, the reality of what the Secretary of State should be looking at is what is going on with the Center for-- I want to say the right name-- Center for Voter Information and the connection. And why are they not paying attention

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

to the multiple ballots? Now, I want to be clear. I'm not saying that Center for Voter Information's name is on that. Their name has been on the unrequested ballot requests and there are envelopes on this. Furthermore, I want to address this. Why are there different bulk mail permits, which means it came from different organizations? The name of the person that received it, their name was in different form, but symbol-- and but for an example. John Smith, John Smith, the third. Another example-- and these are just examples to give you an idea. They take a name, they combine them and then they try to make them look different, but it's to the same address and the same person. Another example, if it was Sunsetview, one word, but then separating them into two words, Sunset View. This right here is something that needs to be investigated. This is huge. And I have a question: why in the world are people from out of state knowing people in Nebraska? And it's not just Nebraska. You know, Barbara Fried, she had helped with the Mind the Gap. And I, and I would have to look at in other areas. But Civic Nebraska is well aware of Center for Voter Information. They're also aware of Get Out the Vote. We need to secure our elections in these areas. And right now, the focus of what needs to take place, LB390 is not putting a focus on these areas and it is in concerns of felony as well. I believe that there are areas that, that could help right now, but it's putting a Band-Aid on, like, a-- something leaking and not taking out the cancer of what's going on. And what's going on is not being addressed and we need to get to the bottom of this. The Sarpy County election office, why, why was there anything coming from the Sarpy County election office in these areas as well that were unrequested ballot requests? I haven't heard many get to that point and I would encourage-- thank you.

**BREWER:** Hang on, hang on. Let's see if we have questions. Thank you for your testimony. OK. Questions? Questions? All right, thank you. OK, next neutral testimony on LB390. Welcome back to the Government Committee.

**CONNIE REINKE:** Hello. Connie Reinke, C-o-n-n-i-e R-e-i-n-k-e. Yesterday, I presented really quickly. I, I am neutral on this. I believe that there is good-- some good points being brought up and being taken care of, but I want to tell you we are in an emergency situation with our elections and Senator Halloran's bill, LB193, I support that. This situation needs to be taken care of, not in Band-Aids. It needs to be taken care of and secure-- and, and securing our elections. Yesterday, the first graph that I showed you was more votes over the population, not just more registrations over the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

population. Votes per age, there were more votes than the population. This is red flag. I mean, this stuff is-- you know, it's maddening that, that we're not getting investigations on these things. Dr. Frank [PHONETIC] tried to meet with the Secretary of State. The Nebraska Voter Accuracy has tried to meet with the Secretary of State to show this algorithm, which is like a recipe. It's a programming-- programming that's done, which reflects that chart that was shown yesterday that shows more votes than people, the population in certain areas. This is proven. It's happening all over the country in every county and every state. It's a pattern of voting that is a red flag. It-- a huge. It's like-- I was, I, I was trying to understand this myself because I'm not a mathematician. These graphs, what they show is if you had kindergartners, a graph of kindergartners that were three and a half feet tall, and then you had a seven-foot kindergartner, that shows that there's a major, major problem. It's a red flag. So this needs to be looked into. So you have these algorithms that are showing that there's major problems and then the stuffing of ballots, which this bill has to do with and is, is eliminating some of the problems. But what happens is the election machines have an algorithm in them and that means it's not a natural vote. It's, it's programmed. And then what they do, you've heard of the 2000 Mules. The ballots come in to fill in and match the votes because they know who the people are that the machines have selected. Then the stuffed ballots come in and make the ballots match. This happens in-- like, in the 2020 election, our elections-- it took many days to actually complete. And during this time, the votes are being matched. Early mail dropoff voting is where much of the fraud occurs. There's a report done by Dr. Shiva-- and I did bring something from that-- where much of the fraud occurs. In this example here, we've talked about multiple ballots and duplicates. In Maricopa, there were zero duplicates reported when they did the election. When Dr. Shiva examined the mail-in ballot envelopes, he actually found 17,322 duplicate or multiple ballots. It was two, three, and four and some of them had signature areas where they were blank and there were duplicates of them. Now, this hasn't been done in Nebraska, but we have had evidence and I myself personally have found 16 persons that had multiple ballots that they received in the mail. And so this bill is about mail-in ballots and that's the, that's the concern I have and that's why I'm neutral on this.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**BREWER:** OK. Connie, thank you for your testimony. OK, so this, this sheet here that just identified is the Arizona numbers from that roll up there.

**CONNIE REINKE:** There is a full report and I, I would like to get that to you as well.

**BREWER:** But this one here that has the different columns, this is what again?

**CONNIE REINKE:** This is a cast vote record. We've been denied over 250 times from election clerks across the state of Nebraska that have reported that we don't have this record. We looked in the statutes and it, and it says that we can examine the summary of votes cast. We believe that this is the record. ES&S machines have cast vote records in their manual and other states with, with ES&S machines have received cast vote records. What this does is it shows if there's a controlled vote or if it's a random vote and we have not been able to get that in Nebraska.

**BREWER:** OK. And this last page that you have with the yellow highlighting, that is what again?

**CONNIE REINKE:** This is when someone is able to get the cast vote record. This is what I handed out yesterday, the report I handed out, and I just highlighted the end of this. These cast vote records, every, every one that they have has shown a progressive decline mathematically impossible for random-arriving mail-in ballots. The mail-in ballot counting was manipulated in Pima County, Arizona, by recording ballots in mathematically impossible order, which created a progressively, progressively declining Democrat-Republican ratio for almost all race, races. And I might just say this isn't about Democrat or Republican. This is about freedom versus enslavement to these machines because they're controlling our elections and it's, it's proven all over the country. And--

**BREWER:** OK. Thank you.

**CONNIE REINKE:** --so that's, that's--

**BREWER:** Let's see if we have any questions for you.

**CONNIE REINKE:** Sure.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**BREWER:** Senator Halloran.

**HALLORAN:** Thank you, Mr. Chairman. Thank you, Ms. Reinke, for being here.

**CONNIE REINKE:** Sure.

**HALLORAN:** So these request for cast ballot vote-- cast vote record, you've not been able to get votes?

**CONNIE REINKE:** No.

**HALLORAN:** And the reasons that they give you for that is?

**CONNIE REINKE:** We request that from the county election clerks and they have said that the record doesn't exist or they don't know how to run the report. Those are the main two reasons. So we resubmitted a request and said we'd like what you say in the statute. It's called the summary of votes cast. It's been denied again. We asked whatever it's called, whatever this record is called, that's what we'd like. It's the-- it shows each voter-- number one voter, how they voted and all the way down the ballot. Voter number two, how they, how they voted all the way down. So it doesn't have their name, but it has one, two, three, four, all the ballots. We don't want just a total number of ballots. It doesn't tell-- we're not able to tell anything from that. When it's broke down that way, we can tell if it was random voting or if it was, like, a controlled to a certain point.

**HALLORAN:** So they're saying that the software in the voting machines won't accommodate that report?

**CONNIE REINKE:** Yeah. And if you look at the-- it's called the CV-- CVR Report for Dummies, there's a picture of the screen of electionware, which is what's used in, used in the election offices. And you go down to export and it has CVR report. So I don't know what's so complicated about it, about printing out this report. I, I'm wondering if, if it's proprietary based on the election machines, if that's the excuse for not, you know, giving us this record. I don't know. But I've been working a year and a half nonstop trying to understand this and this is destroying our country and it's destroying everyone, not just, not just the people that say that there's a problem with the elections. This is destroying our whole country and it's an emergency situation. When I began, I didn't understand all these graphs. I didn't, I didn't understand because I'm not a mathematician, mathematician, but I've

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

listened to that DVD that I handed out to all of you at least 30 times and I understand it now. So I encourage you to watch that DVD--

**BREWER:** All right.

**CONNIE REINKE:** --for our [INAUDIBLE]

**HALLORAN:** We appreciate it.

**CONNIE REINKE:** You're welcome.

**BREWER:** OK, any additional questions? All right, Connie, thank you--

**CONNIE REINKE:** You're welcome.

**BREWER:** --for your testimony. Let's see, we are still on those in the neutral capacity. Are there any additional neutral positions? If not, we will read our-- four proponents, nine opponents, one in the neutral on LB390. That will close on LB390. I will hand the gavel over to the Vice Chair. All these people came in for a Bena bill.

**SANDERS:** Good afternoon.

**BREWER:** Good afternoon, Vice Chair Sanders and fellow members of the Government Committee. I am Senator Tom Brewer. For the record, that is T-o-m B-r-e-w-e-r. I'm here representing 11 counties in the 43rd Legislative District of western Nebraska. I'm also here today to introduce LB514. I'm introducing this cleanup bill. I know you guys hear that a lot. It's literally a, a legitimate cleanup bill on behalf of the Secretary of State. This bill includes a number of administrative election updates brought to me by the Secretary of State. Let's see, if you guys look through-- there's 40-some pages to LB154-- or LB514. And I know, it's a long day. If you look through, it's little-bitty things here and there. So to try and give you some long opening speech on it, it's, it's near impossible. So I am going to forego the torment and just simply say that I will be followed by the Secretary of State's representative, who will be more than willing to go into those details unless you have some questions you need me to answer at this time.

**SANDERS:** Are there any questions?

**BREWER:** I think--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**SANDERS:** Senator Halloran.

**HALLORAN:** You spelled your name. Could you spell it again?

**BREWER:** B-r-e-w-e-r. All right, I will stay for a closing even though I don't want to. Thank you.

**WAYNE BENA:** I'll do my opening remarks while the pages pass around. What you really want to see is the summary. So my name is Wayne Bena, W-a-y-n-e B-e-n-a, B-e-n-a W-a-y-n-e, Deputy Secretary of State for elections here on behalf of Secretary of State Robert Evnen in support of LB514. This, for members that are new and returning and-- this is a bill that starts the day after the last legislative session and goes until a bill is introduced usually on the eighth, ninth or tenth day. And it is a collaboration between the Secretary of State's Office, the county election officials, NACO, sometimes the League of Municipalities, such as today, to find the little things in, in an administration of elections that can be fixed and tweaks after we've-- we go through an election year that are noncontroversial. Pulled together so there's not 40 bills and 40 hearings and a consent calendar just on elections, but put together to, to save time so that each individual one doesn't have to be its own bill and its own hearing. I will-- I always like to give credit where credit is due. Ben Larsen, my election specialist, is in charge of what we call the list. Someone will call me. I will read an article and I will probably yell out, Ben, add this to the list. And that's how December of every year, we start to put together this omnibus bill. So what I've passed before you are two things; one is the summary sheet and one is a table of contents so that if there is a certain topic that interests you more than others, you can go right to it and we can tell you exactly what page number it's at. And I'm going to go off of the summary sheet to streamline this process. And then, yes, I probably-- I will not be four in a row of not hitting the yellow light on this one. So with that, I'll go through. I'm going to have some amendments to talk about in a minute and I can have those passed around now as well, things that we found after the introduction. So first section is regards to remonstrance petitions. That is a creature of cities and villages and a representative of the League of Municipalities will be coming in after me to talk specifically about that one. Something that we did a few years ago they wanted to expand to first-class cities. They will be happy to talk about that. But again, it is one of those instances in which we added to this bill, one less bill, one less hearing for all of you in regards to this, that's something that's simple. Next

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

section is in regards to city initiatives. It requires city clerks to immediately notify their county election official upon receipt of a municipal petition. While the municipal petitions happen at the municipal level, the county election office will be in charge of determining how many registered voters. And they also need to be ready to maybe hire temporary employees, especially if this was brought to us here in Lancaster County in which Lincoln city petitions were brought forward and the Lancaster County Election Commissioner did not know they were coming until they came-- that they were turned in. So this would provide-- the city provide a little bit of notice so they can run their reports and have staffing ready to be able to do the, do the actual processing of the petition pages. Sections 3, 4 and 39 are from the Revisor's Office to incorporate new sections of the Election Act. It's the standard language from the Revisors. Section 5, 6, 36 and 37 is in regards to electioneering. We are not changing anything in the election statutes. That's something that was highly negotiated two years ago. We thought it would be better to put something as well into the definition sections of the Election Act so people could, in the definitions, know what electioneering is. Yesterday, I was approached by the Civic Engagement Table in regards to an amendment they wanted to this. They were fine with-- and I have a letter that I said I would provide so they didn't have to be here today and I agreed to their language changes. They believe that adding the initiative type language to a definition is in conflict with IRS code in regards to what actual-- and it's lobbying of initiative petitions rather than electioneering. We are still going to be banning electioneering in regards to campaigning for an initiative petition within 200 feet of a polling site, but it's technically not electioneering under IRS code. So there's electioneering. And then there's going to be also the campaigning of initiative petitions in the same, in the same manner. I agreed to those and those amendments are placed in there and we'll work with committee counsel, if this bill were to get out, to have those changed. So this is very minor in nature. Under the Help America Vote Act, if you register to vote by mail for the first time in the state of Nebraska and do not provide an address verification document, we are required to ask for a said address verification document. And if you don't, you have to bring such ident-- address identification to the polling site when you vote on Election Day or you vote provisionally. What this does is it says that a voter can provide that electronically instead of having to mail it or put it or bring it into the office. So there's-- so that's just keeping up with the times of that regardless of-- you know, I want to say is regardless of what

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

happens with the voter ID, this has to be-- this is federal law in regards to this. So an address confirmation document helps to confirm your address, where you live, in the registration process. So this will not change in law. Some people have, have said in the voter ID law, you can just bring your utility bill. That's only for registration purposes, for the specific instance of registering to vote for the first time by mail in Nebraska. So the arguments you've heard about that and you will hear about that have nothing to do with voter ID. It has to do with registration. So, so we're just allowing folks to be able to digitally email that to the election office. Third-party mail or return envelopes. We have had an issue and this is not only third parties, but also political parties. They will send early ballot applications to voters, which is a completely legal under the First Amendment thing that a campaign or a third party can do. However, these early ballot applications are then sent back to the organization first and not to the election office. And then once at the election office, they are then sent to-- or to the organization or political party or what have you then are sent off to the election office. This is-- can create some time crunches in regards to voters who believe that they may have sent it to the election office in time to get their early ballot, when in fact, it went to a different address of the organization that sent the mailing in the first place and it didn't get to the office in time. This would state clearly that these third-party applications need to go directly to an election office and not to that organization sending them first. So this an-- to make sure that the voter is getting the application and they may not know that it's a third party giving them the application and they blame the election office for not sending them the ballot when they never got it in the first place. Next section, Section 9, we're harmonizing that while under 25-1654, we last session changed the voter file to only allow the date of-- the birth year as being public record. But for jury lists, they do need the full birth date. We do provide that, but we're putting it back into 32-330 that birth dates, full birth dates are allowed for jury purposes because they need that to match up with DMV records so you can get jury duty, so-- which I still haven't gotten yet, so. Next is we're just moving some-- we are moving some language in another section about election maps into the correct section or where you would expect to see it. Sometimes we find an election law that a specific law got changed, but the language should probably be in a different section because that's where you're looking for it. So again, maps that have to be provided to election offices, we're moving it to the section that best fits of where you

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

would find it, so. Next one candidate, names. This one's a little more substantive. If all of you at one point filled out a filing form with our office and if you took a look at the back of that filing form, you might remember there's a long half-page list of an Attorney General's Opinion of what name conformity that you can use on the ballot, whether or not-- you know, Robert, Bob, Wayne-- nothing is short for that, sorry. But what you're normally known as in the community or if you want to use your maiden name instead of your married name or a combination of two. Those are all outlined in an Attorney General's Opinion. It has actually never been put into law and so we thought to put all of those into law. After we submitted that, we did another look and we had some language changes in regards to how we codify that and that's the second part of the amendment. Actually, we gave that to Bill Drafters and they gave-- they had something available, but it was 48 pages long. With everything else, I wasn't going to go ahead and provide that to you. But we cut out just the stuff that we had amended and gave it to you in the summary sheet. That's what we're asking, just to be amended into that. Candidate petition end date. I brought to the attention of this committee before that there are some petitions that never have an end date, even though the election in which they were trying to do it for has passed. I brought in two new party petitions a few years back. I think I remember the joke that I made with Senator Hunt about you could go into your grandfather's trunk and find Bull Moose Party and so do those petitions, the pages. Candidate petitions we end on the election date and the date on which they were due for that election, then you have to start over, so. Hall County Election Commissioner-- and she will be testifying-- brought to our attention allowing email notification to candidates who are nominated by petition to simplify the process and minimize the time versus having to send a certified letter. An old court case, Stenberg v. Moore in 1999 allowed for ditto marks to be used on the address line of an initiative petition if your--- you and then your spouse just did it afterwards. The language was never taken out of the law. And so sometimes my team is reading through the law and realizing there's been a lawsuit taking it out and we just need to take it out of the law. So that's what the ditto marks are. Petition name removals. If you sign any type of petition and then decide later that you don't want your name associated with it, you can file something with the filing officer in regards to removing your name. So even if it is verified, it's, it's not counted. This clarifies what office you would actually file that with and some additional language added by the Revisor to help out with this process. Next, we've had a couple of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

instances in the last-- since I've been here in the last five and a half years in which sponsors for an initiative petition have wanted to add or subtract people based upon, let's say, a death or a person didn't want to be associated with the petition anymore. We had no mechanism in a state law to actually allow for it. We honored it. We actually placed it in the file with everything else. But this allows for an actual mechanism to add someone as a sponsor or to remove someone as a sponsor to an initiative petition. Election notices. We require political subdivisions-- the counties need to send a notice to all the political subdivisions letting them know what-- that we received your filings and here's what the race is on the ballot. We just want to make sure the auto-advancing races go onto that notice as well so they're not missed by the political subdivisions so they know what's going on. This one I am-- is probably the most substantive and something that I-- that I'm probably the most proud of in regards to this bill. This would allow any naturalized citizen who was naturalized after the voter, voter registration deadline to be able to go to the county election office, provide a certificate-- that citizenship paperwork, be able to register to vote and vote on a provisional ballot in the office in order to vote in that election. This came to us-- in 2020, there was a naturalization ceremony here in Lincoln that just so happened to happen after the voter registration date. And unfortunately, all those people that registered to vote wouldn't-- weren't eligible to vote in that election by no instance of the scheduling of that naturalization ceremony. So we're providing a mechanism for newly naturalized citizens to be able to register to vote and vote when it was-- had nothing to do with themselves. You just heard this in the last bill, but we put it into this bill as well. It clarifies that all ballots are nonforwardable mail and first-class postage. That means they get the first priority to go out. And also, we don't want ballots-- if you happen to move and don't change your address on your registration, we don't want your old address ballot going to your new address because it's a completely different ballot. And it allows us the opportunity to allow the voter to change their registration. We got a request from the counties that are completely by mail-- we had done a bill to-- a few years ago that all drop boxes had to be opened once early voting started. Well, in the counties that are completely by mail, they don't start until 20 days, when they mail out the ballots. So this says that you don't have to necessarily keep them open for the two weeks that nothing is going to be put in them. So it clarifies when they have to actually be open in the by-mail counties. Next, recall election costs. We've had a

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

couple of instances in which we have-- political subdivisions have gone all the way to doing the verification and it didn't meet it, but they didn't have the ability to charge anyone for those-- for that work. And so this would allow the counties to bill the political subdivisions associated with the recall if a petition is issued. Right now, you can only-- you cannot bill unless a member is recalled or resigns. So if the-- if it's not recalled, right now, you can't recover those costs. So this says you can't recover those costs because they are quite-- can be extensive. We felt some interesting language that for offices-- you know, there are certain offices that can be recalled. And for those that file with our office, there's nothing specific saying that people can file with our office for those race-- for those entities that file with our office that can be recalled. It says with the county. And so most of the people that file with our office are multi-county type of races or they, they represent districts in multi-counties. This is just saying is for those natural resource districts, irrigation districts, those that can be recalled that file with our office, the recall petitions are specifically filed with our office and not with the county. Finally, initiative petition affidavits. We are requiring-- we already have-- we worked with this body in regards to the initiative process to come up with a process in which once initiative petitions are turned in, the sponsor just needs to sign an affidavit saying that they have turned in the minimum amount of signatures that if all of them were counted or are all accepted, that you would make the ballot. This was to prevent situations that we have had in the past in which initiative petitions have not even turned in the minimum number at all, by tens of thousands, and it was a complete waste of the county election official's time to verify petitions that never would have had any chance to make it. This clarifies that this sponsorship statement needs to make sure it confor-- that when you're turning it in, that you have the minimum of not only-- that you're conforming with the-- what the constitution says of when a ballot petition goes on the ballot, not only the minimum number of signatures statewide, but of the current 5 percent of 38 counties as well, and provides a penalty if you false swear on that document. So we just want to make sure that-- the intent was that you're turning in a petition that you believe meets all constitutional requirements and that's what we want codified in regard to this. That is it. This is probably the smallest omnibus bill I've ever had and I hope that-- that's not five minutes. It's probably the smallest omnibus I've ever had because the hope is each and every year that I bring one, there's less and less things we

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

actually have to change. But as we found-- as yesterday when I brought a few bills in regards to things because we haven't had an election since 1951, we're going to find little tweaks here and there. So this is not the most important bill that you're going to see, but I think this is a good starting point for a lot of-- I like putting it together because I get to work with-- a lot of different organizations and our county election officials and NACO and the League of Municipalities put it together, but it's also a way that we can also work together. You know, someone calling me outside yesterday saying they just wanted a little bit of a tweak. Absolutely. Happy to bring it so you don't have to come and testify because I have to be here, you don't necessarily have to. So it's a good way to bring-- it's a nice, simple bill to, to negotiate, but put other stuff on and if it happens to get a committee priority, I love that too as well. So with that, I will answer any questions you may have.

**SANDERS:** Oh, it's me. Senator Raybould.

**RAYBOULD:** Well, I just have a couple of really quick questions. On the mail, mail drop boxes in Section 25, you talk about are open according to Section 32-960 at least ten days. In know in Lancaster County, I mean the-- maybe I'm interpreting it completely wrong, but the-- you know, the drop boxes, they're open probably every four hours and you're talking about the votes inside the drop boxes?

**WAYNE BENA:** No. What, what we're saying is, is that we require-- when there's not an election, most drop boxes have a-- like, a guard so you can't just throw trash in there or what have you. So we require them to be open during the early voting period so starting when mail ballots are going out, so--

**RAYBOULD:** OK.

**WAYNE BENA:** --35, 35 days. What this is saying is in those counties that are completely by mail, they start, they start sending the ballots out 20 days before the election according to the rules and regs associated with by-mail precincts. So they just didn't want to necessarily open up their ballot boxes earlier than they needed to. So this is just clarifying you just need to open your ballot boxes ready for collection when your ballots are going out.

**RAYBOULD:** I, I just think, well, if they get full, you need to open them-- empty them, but that's--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**WAYNE BENA:** Oh, this has to be just opening them so they-- ballots can be deposited in them.

**RAYBOULD:** Oh, OK.

**WAYNE BENA:** Yeah.

**RAYBOULD:** I see what you're saying.

**WAYNE BENA:** Yeah.

**RAYBOULD:** I see. Got it. OK. And then there's another one: initiative petition affidavits. These are-- you're talking about statewide--

**WAYNE BENA:** Correct.

**RAYBOULD:** --initiatives. OK because I know if-- in Lancaster County, if you have a initiative, you can keep dropping them off. So it gives them more time to verify--

**WAYNE BENA:** Um-hum. Yeah.

**RAYBOULD:** --the signatures collected. But this is only the statewide--

**WAYNE BENA:** Initiative on the state, it's-- you turn them all in at the--

**RAYBOULD:** All at once.

**WAYNE BENA:** --at the same time. And, and, and all you're doing is just saying-- we want sponsors of a petition to actually count theirs-- go through a verification process. We're not saying-- you're not certifying that you're going to make the ballot or not make the ballot. You're just saying is if the number of signatures required to get on the ballot is 1 million, you've turned in at least 1 million signatures. And so I'm not-- and so because we have had situations in which it required 1 million and they turned in 500,000, you know, for example, and we had to verify those. And it took up a lot of time, money and resources of our county election officials when it was never going to make the ballot and I had no way of stopping it, so.

**RAYBOULD:** OK. Thank you for a really good point by point, section by section-- I got it. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**SANDERS:** Thank you, Senator Raybould. Are there any other questions? Mr. Bena, so the white copy or the amendment where you can read that with us--

**WAYNE BENA:** Yeah, the--

**SANDERS:** Do you need a copy?

**WAYNE BENA:** I need to keep one for myself.

**CONRAD:** Here you go.

**RAYBOULD:** He's got it.

**CONRAD:** OK.

**WAYNE BENA:** So what we allowed-- so again, we cut some language out initially. The Attorney General's Opinion did say in by which the candidate is distinguished from others. So we put that back in. That's what the Attorney General's position. Some of this other has to do with-- and I didn't-- we actually never had a mechanism in state law that if someone changed their name between the primary and general election, that they could have the ability to change their name and that might be a situation when that occurs. So this would just also allow for a person to turn in documentation to our office requesting that their name be changed on the ballot. And then just like that there's a filing objection, there'd be a objection deadline by a candidate or by someone regarding, regarding that. And so these were some of the-- some of us-- some of the things brought to us by Revisor and then internally within our office to fix that, to fix those portions, to-- one, to conform and then questions that were brought to us by the Revisor after the fact when we were looking at amending this. The other document you have is from the Civic Engagement Table that I agreed to make the changes that they requested in regards to separating the definite-- separating initiative petitions from the electioneering definition, but still saying that you can't do that-- what they say, lobbying of that effort within 200 feet or within the same amount of feet as a campaign person would from a polling site and those are the changes.

**SANDERS:** Thank you. Are there any other questions? Seeing none, thank you, Mr. Bena. This the line up here? Welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**BRIAN KRUSE:** He covered it pretty good. Excuse me. You're welcome.

**SANDERS:** Proponent as well?

**BRIAN KRUSE:** Correct. Good afternoon, Chairman Brewer, members of the committee. My name is Brian Kruse, B-r-i-a-n K-r-u-s-e. I am here as cochair of the NACO Clerks, Register of Deeds, and Election Commissioners' legislation committee, as well as the Douglas County Election Commissioner. I'm here to testify in support of LB514. I would like to thank Senator Brewer for introducing this bill, which has numerous components that will help clarify election laws. There is generally a bill introduced each session to help further define election laws and clean up minor irregularities in the election law act. I'll just touch on a couple of these that Mr. Bena touched on. These two that I'm going to touch on specifically benefit voters. The first one is individuals who become United States citizen after the voter registration deadline, but before the election take place, will now be able to go to their election office and exercise their right to vote. Currently in the bill-- we've talked to Mr. Bena about this-- currently in the bill, it says that they would only be able to do that up until noon, 12 p.m. on the Monday before the election. And we would just like to move that the close of business on that Monday so they have that full day to do that. And he's, he's been agreeable to that, so minor change there. And then voters who need to provide additional documents to register to vote will now be able to provide those documents via email. So like he said, you know, voters who register for the first time by mail, if they need to provide a document to us, they can now-- rather than mailing it through the U.S. mail or bringing it in, now they can email it to us. So it's just another convenience for the voter. Hopefully speed that process up for their voter registration too and get that done quicker for them. So in conclusion, LB514 may not be exciting, but it is an important bill and I urge this committee to advance it to General File. Thank you for your time this afternoon.

**SANDERS:** Thank you. Are there any questions? Seeing none, thank you for your testimony.

**BRIAN KRUSE:** OK, thank you.

**SANDERS:** Welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**TRACY OVERSTREET:** Good afternoon, Vice Chairman Sanders, committee. I appreciate the time. I'm Tracy Overstreet, T-r-a-c-y, Overstreet is O-v-e-r-s-t-r-e-e-t. I am the Hall County Election Commissioner in Grand Island. I also serve on the election law committee for NACO's County Clerks, Register of Deeds, and Election Commissioners group. I'm here today in support of LB514. There are several positive changes from Nebraska Secretary of State's Office that's included in this bill. We strongly support the listing of local election offices as the recipient of voter registration documents. That's page 8, line 18. We have had instances in the past in Hall County where election documents are distributed by third-party organizations with a return envelope back to the third-party organization. That does create a delay on processing the documents. It can also lead to voter confusion if the voter calls to check up on documents and our office hasn't even received the document yet. In many cases, the third party will hold applications or registrations until there's a bulk number to return. In, in Hall County's case, we've had one that held up to 700 and we got 700 in one day rather than getting 20, 30, 40 documents in a day. We had one big data dump of 700 in a day, which is hard to process. It creates a backlog then. By listing local election offices and their addresses on the return envelope, there will be timely, accurate return of applications and registrations. And we can also be more informative to our voters. We also strongly support allowing late registration for new citizens, page 26, line 21. Shortly after I started as election commissioner about five years ago, a new citizen, a naturalization ceremony was hosted at a Grand Island high school. It was on a Saturday night. Happened to be the day after the registration deadline and that was really heartbreaking. The proposal here would allow for new citizens to register to vote the day before an election and will provide the flexibility and also show support for those new citizens. Mr. Kruse just talked about changing the time frame from noon the day before the election to the end of business. I think with two different time zones across the state of Nebraska, changing that language to close of business is more understandable to all voters and administrators-- election administrators across the state. I apologize in my letter that one of the things that I did ask Mr. Bena to include, he talked about the email notification, I did not include in my letter and that's really important. We've had different petition instances in Hall County and there are a lot of timelines in the petition process, both to start and stop processes. And we had one that we weren't really able to stop because everybody knew it was ended, but we hadn't had the certified letter or the deputy track down

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

the person yet to give a letter. So the email notification, really a sign of the times, would be very beneficial and a cost savings to taxpayers I think as well. So we appreciate that being included in LB514 and encourage you to advance LB514. So if you have any questions, I would be happy to answer them. Thank you.

**SANDERS:** Thank you. Are there any questions? Seeing none, thank you for your testimony. Welcome.

**BETH BAZYN FERRELL:** Thank you.

**SANDERS:** Again.

**BETH BAZYN FERRELL:** Again. Good afternoon, Vice Chair Sanders, members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials and I'm appearing in support of this bill. We'd like to thank Senator Brewer for carrying the bill and we'd also like to thank the Secretary of State for dealing with all of these issues that help fine-tune elections. This is a list we appreciate being on and we appreciate always being able to rely on them to take care of these issues for us so that we don't have to bring you a whole host of little bills. With that, I would be happy to take any questions.

**SANDERS:** Any questions? Seeing none, thank you for your testimony. Good afternoon.

**WES BLECKE:** Good afternoon, Vice Chair Sanders and the committee. First, I want to thank, I want to thank Senator Brewer and the Secretary of State's Office for introducing or-- this through the omnibus bill. My name is Wes Blecke, W-e-s B-l-e-c-k-e. I work for the city of Wayne as the city administrator and I'm here to fully support LB514, but I'm going to-- specifically, my testimony will focus on the language of the first-class cities, the remonstrance process regarding petitions. So our quick story here. In the fall of 2021, the city of Wayne solicited a request for proposals for an eight-acre tract of land owned-- of city-owned land. The city of Wayne, like so many other rural communities, are struggling with housing, are in great need of all types of housing in their, in their communities. After a review process of two developers that submitted proposals to us and going through the legal steps to, to sell the property-- or to enter into a purchase agreement for the property, a petition drive to void the purchase was started by a member of the community. While the petition

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

leader was receiving his own legal advice on how to go about the process, city personnel heard early on that they were only planning to apply Section 16-202 to the process; 16-202 does not define what a petition should look like other than stating only 20 signatures per page will be counted. The city, including its attorney, believe that the city-- that since the county election commissioner would have to get involved in counting the signatures per Section 32-628, the petition process would have to follow the law like that of any other petition carried through, through other petitions through the state in Nebraska. The shorter of the story was Section 32-628 was not followed by the petition carriers and a possibly-- a possible legal argument was brewing. Luckily for the city, the petition did not gain enough valid signatures. Had enough valid signatures been collected, the city council would, would have been in a difficult situation because it had concerns about how the process had been handled from the beginning and since and since Section 16-202 states the council ultimately, after a hearing, would have to validate the petition. So in conclusion, simply cross-referencing the petition requirement from Section 32-628 by including it in the remonstrance statute in 16-202 will help clarify the law and make the process much clearer for both the city as well as petition carriers. So with that, I would take any questions you have for me.

**SANDERS:** Thank you. Do we have any questions? Senator Hunt.

**HUNT:** Thank you, Senator Sanders. Do you have a copy of your testimony? Would you mind sharing that with the committee via email?

**WES BLECKE:** I sure--

**HUNT:** Thank you.

**WES BLECKE:** Absolutely.

**HUNT:** I just-- you had some numbers in there I don't want to forget. Thank you.

**WES BLECKE:** Gladly do that.

**SANDERS:** Any other questions? Thank you for your testimony.

**WES BLECKE:** Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 2, 2023

**SANDERS:** Are there others? New--positive-- proponent? Opponent?  
Neutral? Closing?

**BREWER:** All right. I don't want to say it was a boring bill, but I  
fell asleep during Bena's comments and I was so desperate I went to  
Murante's website to see if any leftover cash anywhere, so. Any  
questions?

**SANDERS:** Are there any questions for Senator Brewer? Senator Halloran.

**HALLORAN:** Did you have any left over?

**BREWER:** No, no, but I did find my nephew had \$250 so I plan to take  
half of it.

**SANDERS:** Thank you, Senator Brewer. We do have, for the record,  
letters sent in: one proponent, zero opposed, zero neutral. Thank you.  
We now conclude LB514.