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BREWER: Good afternoon and welcome to the Government, Military and Veterans Affairs Committee. I'm Senator Tom Brewer, representing the 43rd Legislative District, which is 11 counties in western Nebraska. I serve as the Chair of this committee. The committee will take up bills in the order that 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 on proposed legislation before us. The committee members may come and go during the hearing. That's just part of the process. They have bills in other committees and like Senator Conrad said she has, like, three bills so she will be going back and forth. Ask that you abide by the following procedures to better facilitate today's meeting. Please silence your cell phones or any electronic devices. When it's time to present on your bill we have the front row reserved for those that are presenting on the bill that is up and--

_____ : All of these electrical dimensions wake up each other [INAUDIBLE].

BREWER: Well, this is why we silence these electronic devices. Here we go. We'll do one better, we're going to turn this off so I don't have to worry about it because it has a mind of its own. All right. We'll have the introducing senator for the first statements on the bill, followed by proponents, opponents, and those in the neutral. Closing remarks will be reserved for the introducing senator. If you're here today and you plan to testify, I ask that you get one of the green sheets off the table, fill it out completely, and please print clearly so we can read it. If you're here today and you just want to make a record of your presence, there is the white sheet that you can fill out and indicate whether you're a proponent, opponent, or neutral. Remember that when you come forward to testify to bring the green sheet forward. If you have handouts, we'd ask that you provide ten copies. If you don't have ten copies, give with the pages, we'll get copies made. When you come up to testify, please speak clearly into the microphone, spell your name after you announce it so we get it in the record correctly. How many are here to testify on either of the two bills? All right. We'll use the five minute system today. So on the light system there you'll have four minutes of yellow, one minute-- four minutes of green, one minute of yellow, and the red. No displays of support or opposition to bills, vocal or otherwise, will be allowed during today's presentations. Committee members with us

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today-- Senator Conrad is off and gone because she has three bills, but she would be the first. Senator Sanders, go ahead and I'll have you introduce.

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

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

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

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

BREWER: We have two senators, Senator Aguilar had surgery and he is recovering and Senator Raybould is in a meeting so kind of know where everybody's at. Senator Sanders is Vice Chair, Dick Clark is the committee council, Julie Condon is committee clerk, and our pages today are Landon and Audrey in the back over there. All right. With that, we will invite up our first presenter, LB770, Senator Machaela Cavanaugh. Welcome to the Government Committee.

M. CAVANAUGH: Thank you, Chairman Brewer. Good afternoon.

BREWER: Good afternoon.

M. CAVANAUGH: Chairman Brewer and members of the Government, Military and Veterans Affairs Committee, I am Machaela Cavanaugh, M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h. I have the privilege of representing District 6, west central Omaha, Douglas County. I'm here today to introduce LB770, a bill about ADA compliance. LB70 [SIC--LB770] would require the Secretary of State to conduct an audit of offices of the Department of Motor Vehicles, the election commissioners, and the county clerks, and all of the polling locations throughout the state of Nebraska to determine compliance with the federal Americans with Disabilities Act. It would also require the Secretary of State to report findings along with any recommendations to you, the Government, Military and Veterans Affairs Committee of the Legislature and to the Governor. While, the Americans with Disabilities Act passed in 1990, we are still trying to bring all facilities into compliance. According to data collected in 2020 by a coalition of organizations that advocate for persons with

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disabilities, we have a long way to go to making polling places and government services truly accessible to persons with a disability. They-- their trained observers were sent out during an election to make firsthand observations and record information. The good news is with respect to voting was that 89 percent of voting machines were set up and positioned so a voter could privately-- could vote privately. Still, 11 percent were not. But getting to those machines was a challenge for about half of persons with disabilities. Fifty-five percent of doors into a polling place could be opened with one closed fist, meaning no grasping, pinching, or twisting the handle. Twenty-six percent of doors were powered to open the door, creating a barrier for the person in a wheelchair. Only 57 of the entrances were 32 inches wide, wide enough for a wheelchair. Fifty-seven percent of polling places had a clear, accessible route to an entrance that was free of curbs, steps, and other obstructions. Parking, 60 percent of polling sites had at least one accessible parking place-- space for every 25 spaces, and only 56 percent of the handicapped spots were clearly marked with a visible sign. Thirty-five percent had curb cuts or safe ramps. The Nebraska Secretary of State's Office has been working on this so it's better than it was. Coordination with counties and their changing situations make this challenging. My staff and theirs have had a conversation about accessibility issues and timing of this bill. We have agreed to continue to talk and work with them to make this audit and possible future updating of polling sites as smooth as possible. I appreciate the information in the letter that they sent to the committee. One of the-- one piece of the bill that may seem strange is the audit of another department, the Department of Motor Vehicles. However, using driver's license or state identification cards for voting creates a direct link between DMVs and the voting process. So, I mean, essentially, I think I, I captured what this bill intends to do. The Secretary of State's Office did reach out, and I'm more than happy to work with them on an amendment to ensure that this is something that they are able to execute without any difficulties. So I'll take any questions.

BREWER: OK, before we start questions I need to read in testimony that we do have, an ADA proponent, Kathy Hoell. She's from Papillion and so she's going to be read in as a proponent to LB770. Anyway, I needed to get that taken care of before we jump into questions here.

M. CAVANAUGH: Thank you.

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BREWER: Well, thank you for the opening. If we were to look at the 93 counties, did they break it out by county who hasn't met the ADA requirements or is it by polling site or what's the best data out there to know?

M. CAVANAUGH: You know, that I don't know. I think that's something that the Secretary of State's Office would have to give to us. But this-- I mean, obviously, if we find that a lot of these counties that the facilities are lacking, it's probably going to cost money in the future that I assume that they will come to us for, but.

BREWER: Well, and, and I see they put a--

M. CAVANAUGH: A fiscal note.

BREWER: --well, there we go-- they put a pretty good price tag on your bill, right?

M. CAVANAUGH: Yeah.

BREWER: I was just curious how they come up with that \$4,004,656. They didn't happen to share any logic behind how they got there to you did they?

M. CAVANAUGH: It just-- I'm-- all I have is the information that we all have is that it's based on what they anticipate the cost to be.

BREWER: All right. Well--

M. CAVANAUGH: Unfortunately.

BREWER: --I mean, there's, there's a little description there but--

M. CAVANAUGH: Yeah, it's--

BREWER: --it doesn't really break out how they get to that, but--

M. CAVANAUGH: No, and I don't know if the-- I don't believe they're testifying today, but I will follow up with them to get a more clear answer as to why that would be.

BREWER: OK. Let's see if we have some questions for you. Senators, first questions for Senator Cavanaugh? All right. You will stick around for close?

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M. CAVANAUGH: Yes.

BREWER: OK.

M. CAVANAUGH: Thank you.

BREWER: OK. We will start with proponents to LB770. Welcome to the Government Committee.

EDISON McDONALD: Hello.

BREWER: I should say welcome back.

EDISON McDONALD: Yeah, always happy to be here. Edison McDonald, E-d-i-s-o-n M-c-D-o-n-a-l-d, representing the Arc of Nebraska. We advocate for people with intellectual and developmental disabilities. We are here today in strong support of LB770. Over the last five years, I have come to you again and again and again and again and again with this same study with our updated data from 2020. And we know that we have ADA violations, HAVA violations, Section 504 of the Rehab Act violations, Nebraska Revised Statute Section 32 violations within our polling locations across the state. We need to fix these. This is federal law we are not complying with. This bill helps to provide a tool and a pathway to help ensure that we are regularly assessing this process. Currently, the Arc of Nebraska partnered with other organizations has gone and collected this data. This process would go and help to make sure that it is better incorporated into the Secretary of State's Office like other states do and ensure that we have a pathway to make sure that these are being fixed. We do appreciate that the Secretary of State has been working with us over the last five years on a number of these issues. To my understanding, they've put in a couple hundred thousand extra dollars. It's going to be a lot more. And not only are these ADA violations for elections and for polling locations, they are schools, they are churches, they are community centers. They are the hubs in which we allow people with disabilities and people in general to communicate and to congregate and to have discussions and engage in our full civic society. So with that, I would urge you to go and take action, whether that's within moving this into an amendment within the committee bill or working with the Secretary of State to move something else forward to ensure that we have all of our election polling places fully accessible. And I'll take any questions.

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BREWER: All right, Edison. We have you here and you may be the most knowledgeable person we have as far as understanding the ground truth on where we're at.

EDISON McDONALD: Um-hum. Yep.

BREWER: So if we were to look at where we're deficient, is that-- most of that outstate?

EDISON McDONALD: Yeah. So we don't have as much data as I would like fully across the state. We've got kind of pockets of data. I can tell you especially, it is typically those smaller, under-resourced counties where you have county clerks where that is kind of a, a last thought. And that is also just, you know, not just for them not having the resources, but also not being knowledgeable on what some of those issues are. And one of the points that was made was talking about DMV. So over this last year, myself and my staff went and reviewed, I think we did 26 different counties, DMVs, county clerks' offices and their drop boxes, and a lot of them were rural communities. And I'd go in there and chat with the county clerk and they'd have no idea. They'd say, oh, yeah, we're accessible. And then if you go to the chart on the second-- page eight, I just walked through with them and say, you know, is there at least one accessible parking space for every 25 spaces? And just kind of walk through with them on that and they'd be like, oh, no, you're right there aren't 25 spaces. But yeah, I think the majority of the resources would go towards rural communities, but it'll be all over at least some.

BREWER: So when the federal government made the, the requirement on ADA, I assume like with a lot the federal government does there's no dollars that came with it so basically that becomes the state's responsibility to get within compliance.

EDISON McDONALD: Yes and no. So the ADA, there aren't the dollars in there, but HAVA, the Help America Vote Act, the Secretary of State is supplied funds to help bring those into compliance.

BREWER: OK. Good to know. And, and some of the smaller counties, then I assume that would probably fall upon the city or the county to, to either make sure the curbs are accessible or the ramps are installed or whatever needs to be done to make it so that it meets the requirements.

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EDISON McDONALD: Yeah, again, ish. So it depends on the location. For the polling locations specifically, they will need to do that. Other than that, the private businesses do already have that requirement under the ADA and then HAVA also adds that requirement under the Help America Vote Act specifically for those polling locations. So there's multiple sets of folks with responsibility to become compliant with this. So if it's, you know, like if it's a small town bar that is the polling location, then the bar would have responsibility, as would the county clerk, as would the Secretary of State, and the Secretary of State has been providing some funds but they just need a lot more and they need the, the extra enforcement to push on the counties.

BREWER: So the \$4 million A bill with this is probably not that far off.

EDISON McDONALD: I mean, that's really hard to, to estimate. I don't know how they got to that number either. I'd been thinking it might be up to \$10 million. I know, it, it can, it can vary widely, you know, and some of them, they're going to be easier to fix, you know, like going and changing a doorknob so that it's easier to grasp that's going to be a pretty cheap fix, but a ramp that's going to be a lot more costly.

BREWER: Yeah, or a elevator or--

EDISON McDONALD: So there's a wide array of kind of costs there.

BREWER: OK. So who polices whether or not a place is compliant or not? I mean, there isn't--

EDISON McDONALD: The Department of Justice Civil Rights Division.

BREWER: Do they get out to western Nebraska much?

EDISON McDONALD: No.

BREWER: So it's kind of upon the counties, the cities, you know, the--

EDISON McDONALD: Yeah.

BREWER: --the Secretary of State--

EDISON McDONALD: It's--

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BREWER: --to, to make sure that you've got places that are accessible or else you're just not going to have people that can get there.

EDISON McDONALD: It's on them or on the individuals who go and report those issues to the Department of Justice. And in this regard, the big concern, frankly, is me going and reporting and saying to the Department of Justice here are the hundreds of violations that I've recorded that I've told the state about multiple times a year for the last five years.

BREWER: All right. Well, you've set a good base for us to understand things. Questions for Edison? Yes, Senator Lowe.

LOWE: Thank you. And thank you, Edison. When you contact these county clerks or, or whoever you contacted at the courthouses, what was the response? Were they able to fix the things? Did you follow up with them as far as the parking spaces or maybe a, a ramp at the step or something like that? Have they been compliant with that?

EDISON McDONALD: So some of the things have been fixed and you can see that in the shift from our 2018 to 2020 data. But the majority of things haven't been fixed and we could probably work on a little bit more aggressive follow up. But the Secretary of State's Office has also been talking regularly with them about these issues, providing more training and has been engaging with them on these and, you know, kind of hoping that after enough times of being told that they might finally follow up and fix it.

LOWE: OK. And as far as counties, when you said you went out to visit, did you go out to far western Nebraska?

EDISON McDONALD: Yep,--

LOWE: And--

EDISON McDONALD: --all the way to Scottsbluff. One day I did an 1,100-mile trek throughout your district, your district, and your district.

LOWE: Oh, pretty much normal then, huh?

EDISON McDONALD: Yeah. Yeah.

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LOWE: Yeah, kind of what we do.

EDISON McDONALD: Yeah.

LOWE: And I think that's it for now. Thanks.

EDISON McDONALD: Yeah.

BREWER: All right. Additional questions for Edison? All right. Thank you for your testimony.

EDISON McDONALD: Thank you.

BREWER: OK. Additional proponents to LB770? Welcome to the Government Committee.

HEIDI UHING: Hi, Senator Brewer, members of the Government Committee. My name is Heidi Uhing, H-e-i-d-i U-h-i-n-g, and I'm the public policy director for Civic Nebraska. I'm here today in support of LB770, which would require an audit of election-related sites throughout Nebraska for compliance with Americans with Disabilities Act. Throughout our state, people cast their ballots in a variety of facilities that temporarily serve as polling places such as libraries, schools, fire stations, and churches. The ADA requires that public entities ensure that people with disabilities can access and use these voting facilities. It can be difficult to find enough polling locations that are already ADA compliant, so states have needed to make adjustments to ensure that all these locations are accessible for voting. The Justice Department's ADA Checklist for Polling Places offers guidance to election officials for determining whether a polling place already has the accessibility features needed by voters with disabilities or whether it can be made accessible using these temporary solutions. While Nebraska does offer absentee voting, which is used by many voters with disabilities, it cannot take the place of in-person voting for those who prefer to vote in person on Election Day. Any alternate method of voting must offer voters with disabilities an equally effective opportunity to cast their votes in person. I understand the Secretary of State has been working to help county election officials bring polling sites into compliance using some federal funds provided by the Help America Vote Act. Nearly \$100,000 has been distributed to 13 counties for repairs and upgrades to polling locations and another \$100,000 on behalf of counties for accessibility improvements. These

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funds have provided some improvement like ramps, new door handles, and additional parking spaces. The, the Americans with Disabilities Act was passed in 1990 and decades later all our polling sites are not yet compliant. A larger, ongoing and more coordinated effort is needed in order to identify all the upgrades needed across the state and to fund that work so no voter faces barriers to the polls. And I will say in my conversation with the Secretary of State, it sounds like they have used a contract person from the state ADA compliance office that has done work for them previously and they and an engineering firm specializing in ADA compliance provided that \$4 million estimate.

BREWER: All right. Thank you, Heidi. And I, I got a note, the \$4 million is for the audit--

HEIDI UHING: That's right.

BREWER: --so that's why the, say, \$10 million, might, might be exactly more--

HEIDI UHING: Not as far off. Yeah.

BREWER: --more realistic when it comes to actually making all the repairs necessary to, to get everybody within compliance. The, the, the form that you gave us here, this would be the actual checklist--

HEIDI UHING: That's right.

BREWER: --that they would actually go and check yes or no or not applicable and--

HEIDI UHING: Yep, that's provided by the Justice Department.

BREWER: Well, this is helpful. Thank you.

HEIDI UHING: Yep.

BREWER: All right. Let's see if we've got questions. Questions? Questions? All right. Thank you. Thanks for this. OK. We are still on proponents to LB770. Welcome to the Government Committee.

ARLO HETTLE: Thank you. My name is Arlo Hettle, A-r-l-o H-e-t-t-l-e, and I'm the Grassroots Advocacy Coordinator with the Nebraska Civic Engagement Table. The Table works with nonprofit members across the

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state to increase voter turnout and ensure all communities are involved in the policy decisions that affect them. We're here today in support of LB770. It's important to evaluate the ADA compliance of our polling places and protect the voting rights of Nebraskans with disabilities. This audit and report is a necessary step to begin making much needed changes at polling locations. So in this packet I have a couple of different things. So the first is that, as you've already heard, data collected from other organizations has shown inadequacies in Nebraska's polling place accessibility, including a lack of ramps, doors that are difficult to open, and a lack of power doors. And I kind of wanted to show how many of these accessibility issues can be solved with little to no cost. So I've included part of a 2020 report from the National Disability Rights Network, which gives examples of low cost measures which can include temporarily designating more accessible parking, installing temporary ramps with edge protection, retrofitted door levers, propping doors open all the way with doorstops, or designating a poll worker to help open doors and provide other supports for voters with disabilities. While other more permanent measures can and should be explored, these examples can help show that ADA compliance does not have to cost the state a great deal of money in many cases. However, in order to identify all these areas of improvement for compliance we would need the initial investment to conduct the audit, which LB770 would allow for. Another thing that I've included part of in there is that I read through the most recent accessibility audit done by the state of Wisconsin, which Wisconsin has required those since 2009. The Wisconsin Elections Commission is now regularly auditing its polling places for barriers for disabled and elderly voters. So these audits that they do take, they say between 20 and 60 minutes and they have five areas that they evaluate polling places based on which is parking, pathways, accessible entrances, interior routes, and the voting area itself. And then they evaluate the problems with those areas on a three-tiered system from whether it would fully impede the voter from casting their vote, be a significant barrier or be a burden or an inconvenience. Those reviews are given to election clerks who can create plans of action to address concerns. And these audits have helped municipalities and counties make significant improvements and led to the creation of a supply program to provide polling places with temporary equipment to improve accessibility and the creation of a committee with disability rights groups to advise the Election Commission on its recommendations and next steps. It's been a really

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fruitful partnership that has stemmed from an audit like the one that LB770 would propose evaluating existing problems and barriers. And then finally, I know talking about ADA compliance in broad terms it can be easy to forget individual sides so I wanted to share a little bit of a personal story about all this as well. My dad has had Parkinson's disease since I was in middle school and his encouragement is really why I'm involved in politics and he's always been kind of my model of what a civically engaged citizen looks like. When I was growing up, he would take me to vote with him every time no matter how small the election. But as Parkinson's has affected his mobility more and more in recent years, he switched to voting by mail. So I was asking him about this and he was sharing that our polling place, which is a church near our house, has heavy pull doors that aren't feasible for him to open without assistance. So there was a school board election a few years ago, where he had to wait 15 minutes for someone to come by and open the door for him because poll workers were all stationed in the basement. There was no one around and it was a low turnout election. And so after that, he decided that it wasn't worth it for him to try to vote in person. And it's really fortunate that we have those alternative voting systems. But as Heidi said, everyone should be allowed to have the option to vote in person. And it is nonetheless illustrative of, you know, the problems that this audit could reveal. In that particular case, there really wouldn't have been, you know, a significant cost with solving that problem. It could have-- the door could have been propped open on its-- already with a doorstop or some kind of, you know, tie system or just having a poll worker stationed upstairs to help people as they were coming to the building. So Nebraska Table hopes to see LB770 advanced out of committee either as a stand-alone bill or as part of a package. And we look forward to taking a step forward and making all of our polling places ADA compliant. Thank you.

BREWER: Thank you. All right. If we go to the last page on page eight here, there's five distinct polling categories within each zone: parking, pathways, accessibility entrance, interior routes, and then voting area. Does that kind of-- does that match up with the, the checklist that we got on the--

ARLO HETTLE: I'm not 100 percent sure. This is the, the-- what Wisconsin uses.

BREWER: All right.

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ARLO HETTLE: So it, you know, would be based-- I just wanted to kind of give an example of what-- this is from their-- the audits that they do.

BREWER: All right. I'll mirror the two up, see how close we are. All right. Let's see if we have any questions for you. Questions? Questions? All right. Thank you for your testimony.

ARLO HETTLE: Thank you.

BREWER: OK. Any additional proponents for LB770? Come on up.

LARRY STORER: Good afternoon.

BREWER: Welcome to the Government Committee.

LARRY STORER: Larry Storer, S-t-o-r-e-r, Omaha, Nebraska, 68132. I am a proponent maybe for different reasons. Born in 1943, I grew up in a very small town in southwest Iowa, a very patriotic family, and grew up being taught a lot of patriotic things and believing in my government and that they would be doing the best for us they could. But as I got older, I started getting taught things in high school and, and college and then started checking things out for myself. I did realize that over all those years and even continuing today that there are problems with our elections, otherwise, all of our politicians wouldn't be running helter-skelter, proposing bills, trying to fix the problem. But they were denying-- they all denied it up until just recently when people like myself that voted for Mr. Trump wanted to say that there were some problems with the election. There's no problems. Well, if there's no problems that we don't need all these bills. So I want to add to this that if the criminal organizations with power in places like New York, Chicago, and various other places had political machines, is it not possible that there was a political machine in Omaha underground by a guy named Dennison? Is it not possible that we still have political organization of political corruption? Yes, I think so. That's why we see some of these bills coming out. Now if you're going to play with the elections and manipulate the vote, you'd hate to think that you'd do so with disability people. But why would they not? If they can block one or two votes, that would make the difference in a small city or a small county why would they not do that? People that want to do that are very smart. Criminals are generally very smart. Citizens are also kind

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of logical. And so we feel that, well, for example, the word Secretary of State was used quite often here. I was a Robert Borer supporter. He has requested information about the elections numerous times and been denied every time. So I don't think that I could rely on my Secretary of State to make sure that this bill is on the up and up and properly supervised, that he would ever answer anybody if there was a complaint about it because he doesn't think he needs to answer the people, doesn't need to reply with requests for public records. We have bills for that, too. So I'll end my discussion there that don't rely on just the Secretary of State, you know, the county clerks, the election commissioners in the counties might, might not be totally on the up and up and the mail drop boxes might be a problem for people with disabilities in wheelchairs that don't have people that can carry the ballot to the box for them. Very quickly, and I saw an example yesterday in the city council where the first time I ever remember somebody in a wheelchair went down to the microphone. They were stumbling all over themselves to find a microphone that he could use. There wasn't one. So the guy that operated the console went stumbling into the equipment room to find one and he came out without one. So they finally bent the microphone over, the operator's microphone over so that guy could testify. So they don't necessarily think about it from a citizen standpoint. I'm pretty critical, but you people are busy, but you don't look at it from our standpoint in a lot of cases and that's what you're supposed to do. Yes, you're a citizen, too, but you're so wrapped up in that circle of other politicians that you might be misled. Thank you.

BREWER: All right. Hang on, Larry, let's see if we have any questions. Questions? All right. No questions. OK. Any additional proponents to LB770? Come on up.

CINDY MAXWELL-OSTDIEK: I'm so sorry, I didn't fill out a green sheet yet. Can I do it after?

BREWER: Yeah, as long as you don't forget, then I'll be in all kinds of hot water with my clerk.

CINDY MAXWELL-OSTDIEK: OK. Promise.

BREWER: OK. Welcome to the Government Committee.

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CINDY MAXWELL-OSTDIEK: Thank you, Senator Brewer. Good afternoon, Chair Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Cindy Maxwell-Ostdiek. That's C-i-n-d-y M-a-x-w-e-l-l-O-s-t-d-i-e-k. I want to thank you for holding this hearing open today for all who come to testify. It is unfortunate that not all committee hearings this session were held open for everyone and I want to call attention to our privilege and responsibility as the Unicameral second house. I'm a mother and small business owner and volunteer. I'm an Independent and I volunteered in the past as a nonpartisan election observer with Civic Nebraska. And with that program, I was pleased to also complete accessibility surveys with the Arc of Nebraska and the data that they were compiling. I wanted to testify today in support of LB770 to require the Secretary of State to audit the office of Department of Motor Vehicles, election commissioners, county clerks, and all polling places for compliance with the Americans with Disabilities Act. I remember being surprised at the variety of polling locations, and while most were very accessible, some did have concerns. Consistency and oversight will ensure all voters will be able to confidently attend their polling location and know that they'll have the accommodations they need. I wanted to thank Senator Cavanaugh for bringing this important legislation and I hope you'll advance LB770 and ensure all Nebraskans can participate in our elections without any barriers.

BREWER: OK. Thank you, Cindy. Let's see if we've got questions. Just quickly, since you've actually been out working polls, what's the most common thing you see that is a impairment to the ADA?

CINDY MAXWELL-OSTDIEK: Really, it was different at a few places. I apologize, I didn't quite catch everything that the person before me was discussing but a couple times it was to do with the doors.

BREWER: OK.

CINDY MAXWELL-OSTDIEK: One school location actually previously held it in a different part of the school and had moved it to the library and it had an outdoor-- a door leading to the outside that you could access and they didn't have a way to keep it open, it kept locking so voters couldn't get in. So they actually put something in the door to jar it open which made it difficult for someone that came had a walker. So I think that they did the best they could and then we actually just had quite a few voters hold the door open. Everyone

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really tries to help each other out, but those types of things come up and I just think that if we could be consistent with reviewing these different locations it will be good for all voters. There was one church that had quite a few difficulties for, you know, someone who would come that would be in a wheelchair. And sometimes they were at locations that I felt were dark. You know, when you get into the evening hours and making sure that it's well lit from the parking lot all the way in. Those were just a few of the things that I had come across and I just really thought it was important work that the Arc of Nebraska and Civic Nebraska was doing.

BREWER: OK. Thank you. One more around, any questions? All right. Thank you for your testimony.

CINDY MAXWELL-OSTDIEK: Thanks so much.

BREWER: And don't forget, got to get a green sheet. OK. Any additional proponents to LB770?

***KATHY HOELL:** I support LB770 because as a person with a disability I am witnessing the ways that people with disabilities are being excluded from voting. The Americans with Disabilities act (ADA) was passed 33 years ago and then the Help America Vote Act was passed 21 years which required polling places to be accessible by ADA standards. Here it is 2023 and we still have inaccessible polling places. Obviously the current system of determining accessibility is not working. In addition, the proposed legislation on voting wants to limit mail in ballots. Explain to me how does a person with a Disability vote when they can't even open the door. Please move LB770 to General File.

BREWER: All right. Is there anybody-- oh. OK. Any opponents to LB770? Is there anybody here in the neutral? All right, we'll invite Senator Cavanaugh to come on back and close it up. Oh, and I do have letters to read in. You have seven proponents, no opponents, and no one in the neutral. Senator Cavanaugh, welcome back.

M. CAVANAUGH: Thank you. I did get some clarification on the fiscal note. Not, not great clarification but the Secretary of State, they did ask for an estimate and that \$4 million is the estimate that they got. They also thought that it was high. I am going to request from them what they put in the request for the estimate so that we can

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maybe have a clearer idea of why it's \$4 million to do the audit. But that was pretty much it. I think that was the only outstanding question, but I'm happy to take any others.

BREWER: All right. Well, some of the testimony was interesting in that I had not ever seen the polling place checklist. That's kind of nice to see what all they look at.

M. CAVANAUGH: Yeah.

BREWER: OK. Any questions for Senator Cavanaugh? No questions. All right.

M. CAVANAUGH: Is this the shortest voting bill this year?

BREWER: Well, your, your brother's up next so we're, we're-- today is a--

M. CAVANAUGH: OK, competition for the shortest voting bill this year?

BREWER: All, all Cavanaugh day today is what we got.

M. CAVANAUGH: Thank you.

BREWER: All right, we will transition our committee to LB-- LR3CA, and we will stand by for John Cavanaugh.

SANDERS: There he is.

BREWER: Welcome to the Government Committee.

J. CAVANAUGH: Oh, good afternoon.

BREWER: Just take, just take your time. Just get settled in, relax.

LOWE: Catch your breath.

BREWER: Whenever you're ready. Don't want to rush you.

J. CAVANAUGH: Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. I am Senator John Cavanaugh, J-o-h-n C-a-v-a-n-a-u-g-h, and I represent the 9th Legislative District in midtown Omaha, and I'm here to introduce LR3CA, a constitutional amendment which would provide for nonpartisan

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elections for Governor, Lieutenant Governor, Secretary of State, State Treasurer, Attorney General, and State Auditor. LR3CA mirrors the language in our state constitution regarding nonpartisan legislative elections and applies it to statewide executive offices. If adopted by the Legislature, this amendment would be placed before the voters at the 2024 general election. I've heard quite a bit of feedback on this bill. Some opponents have made it very clear, and I suspect some on this committee may agree with them, that they want partisanship in Nebraska elections. They would actually prefer more partisanship. And while this is a valid viewpoint, it is one that I fundamentally disagree with. Voters I found are pretty informed. When I ran for Legislature in 2016, my opponents were both Democrats. I spoke to every voter that I could because everyone could vote. I had to speak to Democrats, Republicans, and Independents. I had to listen to all of their concerns. If we had a partisan primary for the Legislature, I would not have had to speak to any voters who did not-- who was not a Democrat. My election would have, have been decided in a low-turnout primary. And while I'm confident I would have been able to win, I don't think it would have had the results-- it would have had resulted in a healthier campaign. Similarly, I think that when our elected officials are essentially elected in low turnout primaries, it stops them from listening to the concerns of all voters. When an elected official is elected by only a small portion of votes-- voters, I worry that they will ignore those who cannot vote in the primary election. This leads to an increased polarization and less willingness among elected officials to work together. Our current Governor received 33 percent of the vote in, in a primary election. The previous Governor received 26 percent of the vote in his first primary election. The current State Auditor, State Treasurer, Attorney General, and Secretary of State were all elected largely without major party opposition. And while I suspect that criticism of this bill is grounded in a fear that it will result in more members of the Democratic Party getting elected to office, I, I think experience in this state shows us that isn't the case. Our legislative elections are largely nonpartisan and while a handful of districts wind up with one Republican and one Democrat on the ballot, usually in heavily partisan districts, we see two Republicans or two Democrats advance past the primary. Occasionally, we'll see a registered nonpartisan, which is, is unheard of in, in partisan elections or a libertarian like former Senator Laura Ebke. Nonpartisan elections allow a greater number of people to participate in the small-d democratic process. It doesn't

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typically change voters' views of the candidates, and, and candidates are free to associate themselves with a political party or receive the endorsement of a political party. What this would do is open the election up to the many, many Nebraska voters who are not affiliated with a political party and very often do not get, get a choice in who the candidates are for a particular office. It has worked well for the Nebraska Legislature for nearly 90 years. It's time that we gave voters a choice to make our statewide elections nonpartisan as well. Thank you for your time and I'd be happy to take any questions.

BREWER: All right. Thank you, Senator Cavanaugh. Let's see if we got any questions on LR3CA. Senator Lowe.

LOWE: Thank you. Thank you, Senator Cavanaugh. Wasn't Laura Ebke a Republican when she ran and then changed once she got in office?

J. CAVANAUGH: I think that's right.

LOWE: OK. I just couldn't remember. Thank you.

BREWER: OK. Additional questions? All right. You're going to stick around for close?

J. CAVANAUGH: I will. Thank you.

BREWER: All right. We're going to start with proponents to LR3CA. Any proponents? Come on up.

CINDY MAXWELL-OSTDIEK: I filled it out this time.

BREWER: All right. Welcome back to the Government Committee.

CINDY MAXWELL-OSTDIEK: Thank you. Good afternoon, Chairperson Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Cindy Maxwell-Ostdiek. That's C-i-n-d-y M-a-x-w-e-l-l-O-s-t-d-i-e-k, and I know I mentioned this just a few moments ago, but since each hearing is individual, I do want to thank you for holding it open for everybody that's come to testify. It's unfortunate it's not been the case at all the hearings at the session this year. And I believe that it's an important privilege and responsibility for the second house. I'm a mom and small business owner. I'm a volunteer and I'm a registered nonpartisan. I ran for Nebraska Legislature in District 4, which is west Omaha. And I testify

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today in support for LR3CA, a constitutional amendment to provide for nonpartisan nomination and election of the Governor, Lieutenant Governor, Attorney General, Secretary of State, Auditor of Public Accounts, and State Treasurer. I am sure from a hearing last week, we all discussed about how there are about 25 percent of us in Nebraska who are nonpartisans, that we don't belong to either major political party and we're unable to fully participate in all of our state's primary elections. As nonpartisans, we're able to request a primary ballot for the Congressional elected office, but not for other office at the statewide level. I'm president of Rank the Vote Nebraska. We're working to bring ranked choice voting to the Cornhusker state and we believe also in open primaries. And we want to thank Senator Cavanaugh for bringing this important legislation. Please advance 3R-- excuse me, LR3CA and ensure everyone can participate in all of our primary elections, please.

BREWER: All right. Thank you for your testimony. Let's see if we have any questions. Questions? Questions? All right. Thank you.

CINDY MAXWELL-OSTDIEK: Thank you.

BREWER: OK. Any additional proponents to LR3CA? All right. Welcome back to the Government Committee.

LARRY STORER: Well, these Cavanaugh's look awful familiar. Anyway, I am a proponent. Again, maybe for different reasons than most. Born and raised in Iowa. I've been to a few caucuses over there, which are quite different than how we do things in Nebraska.

BREWER: Can we have you spell your name and say it?

LARRY STORER: S-t-o-r-e-r. They herd you like cattle into certain areas of the gymnasium. But the nomination process starts before that. And, you know, we all have parties and were invited to the GOP Party, the Democratic Party, the St. Patty's Day parties, and that's where we started making our connections with the political factions. The Founding Fathers warned us about factions and unfortunately we didn't learn our lessons. As I learned going to lots of things over the years, everybody wants power, and unless you're part of the GOP Party or the Democratic Party or the Douglas County wing of that party, whichever one it is, you don't have much power because they get together and they march down here control you people, pretty much. But

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what's upsetting is that when I go to a primary election, I have to choose a party in order to vote. I have to select a ballot and I cannot change my registration. You're kind of forced to register one way or the other also, basically three choices, I suppose. I think that's unconstitutional and I think we ought to do away with the nomination thing. So first of all, I think you ought to scratch the word "nomination" out of here because the nomination federally to have a, a, a convention. I think they have conventions here. That's where the nominations actually occur, not at the ballot box. The ballot box is where we vote so maybe you should change the word on that. I'm also upset with the faction thing of it is because they didn't want to tell you hold your nose, vote for the ticket. Because if you don't, the other guy is going to sneak in under the tent and we don't want the other guy whether that was Bob Borer or Carol Blood. That's sort of the undue influence on other voters, in my opinion. So if we go for nonpartisan everything that every citizen that has the right to vote can do as he pleases on that Election Day. Doesn't have to be herded, doesn't have to be girded or left out of the process because he's not part of the party that comes down here on what do they call it, Conservative day at the Legislature or Liberal day at the Legislature, where we get to have lunch and, and lobby all of you individually and then we can knock on your door, too. But unless you're part of those factions, you probably don't get much word at things. So, yeah, all for this. If it had been done this way for the last election, we might have had a new Secretary of State and we might have had a new Governor but due to the lack of factions in power. Thank you.

BREWER: All right. Thank you for your testimony. No questions. OK. Additional proponents to LR3CA? Additional proponents? Anyone here in opposition to LR3CA? Come on up. Welcome to the Government Committee.

STEVE DAVIES: Thank you, Senator Brewer and senators on the committee. This will be similar testimony to a similar idea. I testify in strong opposition to LR3CA. This proposal would remove the single most observable description about a candidate's philosophy and policies.

BREWER: Steve, can we have you say and spell your name?

STEVE DAVIES: I'm sorry. Sorry. Steve, S-t-e-v-e D-a-v-i-e-s.

BREWER: Thank you.

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STEVE DAVIES: This proposal would remove the single easily observable description about a candidate's philosophy and policies. In all elections the more information the electorate has about the candidates allows for more knowledgeable decisions for voting. Especially in down ballot elections, candidates have very limited ability to create the truly informed electorate. The party identification allows the voter a valuable amount of information that would otherwise be masked. The success of our republic depends in part on informed electorate and party identification, although imperfect and limited, is a valuable part, too important to dismiss. Without it, voters will be more confused and down ballot elections will be decided with a smaller percentage of voters. Political parties provide benefits to our electoral and civil life. They help recruit candidates, aid their fundraising, and help educate the electorate on candidates and issues. If this proposal succeeds, the parties may wither away taking away the structure and benefits. This is one of a number of proposals that purport to bring a more enlightened, responsive, and civil government, but in reality deliver much less. For example, from 1967 until 2020, Alaska, which has almost twice as many registered Republicans as Democrats, has elected a Republican U.S. Representative with the exception of one two-year term in the early 1970s. For the most recent elections, the state instituted one of the ideas, ranked choice elections, and now have a Democrat in the office who was not first choice but was elected because of second, third, and maybe fourth choice. Finally, there are recent studies that show that winners of nonpartisan elections overrepresent upper socioeconomic classes and it will not end divisiveness. Thank you for your time.

BREWER: All right. Thank you, Steve. Let's see if we're going to have some questions for you. Questions for Steve? Questions? All right. Thank you for your testimony. OK. So we are on opponents to LR3CA. Any additional opponents? None. Is there anybody here in the neutral for LR3CA? All right, we'll invite John-- Senator Cavanaugh back up. And we have letters to read in before you close there. You have five proponents, 68 opponents, and zero in the neutral. Thank you.

J. CAVANAUGH: Thank you, Chairman. And thanks to everybody who came and testified in favor and as opposed. And just by way of clari-- and I, I didn't catch Steve's last name, I wrote it down. Is it Evies [PHONETIC]?

STEVE DAVIES: Davies.

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BREWER: Davies.

J. CAVANAUGH: I totally wrote it down wrong. Davies. Thank you, Mr. Davies. And Mr. Storer, is that right?

LARRY STORER: Yeah.

BREWER: Larry.

J. CAVANAUGH: Thank you for being here. And so, I mean, I brought this bill and I brought a similar bill, if you all recall last time, I know many of you were on this committee, and my position is just I actually don't-- I'm not interested in taking party name off of the ballot. I think that's just, that's the language we have there. I, I have no problem with that line item being on election. My issue is that, one, we shouldn't decide who gets to vote for who, that the state shouldn't be paying for parties to determine who their nominees are. So Mr. Storer's point is a good one. We should use-- the parties can use the conventions to make their nominee, make their selection known and, and who they're endorsing. But anybody of that political affiliation should be able to run on the ballot and, and go head-to-head with somebody else. I think you might have seen in this last election, I think if we had this system in place, you would have seen two Republicans on the general election ballot, probably for every office, maybe even Governor. I guess I'd have to go and look at the numbers, but it'd be pretty close. The top two vote getters in a Republican primary may have both exceeded the single vote getter in the Democratic primary. And, you know, there are people on my kind of side of a political spectrum that are opposed to this idea for that very reason. But my position is not one of trying to political expediency or trying to get more people that agree with me elected. My position is about this is how we should run elections. We shouldn't institutionalize political parties, we shouldn't give them an automatic line item on the ballot, and we shouldn't spend our money to allow both the Democratic or Republican Parties or the Marijuana Now Party to decide who their nominees are going to be. I'm not here-- I, I don't have a problem with ranked choice voting, I'm just not advocating for it. But I just would point out that in Alaska, what happened was the guy who got elected was the top vote getter and so he would have won under any standard of election. And what happened was that more people ran so people had more of an opportunity to express their opinion because of how they did the ranking and people got to

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vote and actually express who they were voting for. I'm not advocating for that at this point in time. I know some people would like us to change that system. I don't think we're ready for that. But what I think we are ready for is to conduct all of our elections to allow everyone to pick one ballot in the primary, vote for the one person that they think should be on the general election ballot, and then we can have a general election with the top two vote getters regardless of their political party. So I'm open to, you know, those type of criticisms and changes to the amendment because the taking the party line off of that is not necessarily my-- doesn't serve the objective I'm trying to achieve, I guess.

BREWER: OK. All right. Well, let's see if we got any questions for you. Senator Halloran.

HALLORAN: Thank you, Senator Brewer. This may not be so much for you, Senator Cavanaugh, but for my fellow committee members, it seems like we heard a bill or CA similar to this. Senator Bostar, I thought.

SANDERS: Yes.

HALLORAN: And I searched his and I couldn't quickly come up with it but does that, does that ring a bell to you too [INAUDIBLE]?

J. CAVANAUGH: I read in the paper that he had a bill last week that was about nonpartisan elections and I think that they were different. He and I did not coordinate on the conversation, I guess.

HALLORAN: But the intent was similar, if, if I recall. OK. I was just curious. I didn't know if I was--

J. CAVANAUGH: I haven't read his yet so I'm not going to say whether I'd support it or not, but I, you know, anything that gets us in a step in this direction is probably something I would end up supporting--

HALLORAN: OK.

J. CAVANAUGH: --whether it's my bill or someone else's.

BREWER: I think his was all elections. This is statewide elections.

J. CAVANAUGH: I'm trying to do a smaller subset of elections.

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BREWER: OK. Any additional questions for Senator Cavanaugh? All right. Thank you for your testimony and your close.

J. CAVANAUGH: Thank you.

BREWER: With that, we will close on LR3CA, and we'll go ahead and empty the room and get ready for Exec.