

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

BREWER: Good afternoon and welcome to the Government, Military and Veterans Affairs Committee. I am Senator Tom Brewer, representing the 43rd Legislative District of western Nebraska, and I serve as the Chair of this committee. The committee will take up bills in the order that they are posted on the agenda today. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us. Committee members may come and go during the hearing. This is just part of the process. They have bills to introduce into the committees. Senator Aguilar is recovering from knee surgery, will not be with us day. And Senator Hunt is busy running about in other committees presenting and then she'll be with us as our fourth bill today. I ask you to abide by the following procedures to better facilitate today's proceedings. Please silence your cell phones or any electronic devices. Please move to the reserved chairs when you are ready to testify on the given bill that you're going to testify on. These are basically all the chairs in the, in the front row here. The introducing senator will make the initial statement followed by the proponents, the opponents, and then the neutral. Closing remarks are reserved for the introducing senator. If you're planning to testify today, please pick up one of the green sheets back on the table, fill it out legibly and be ready to turn it in when you come forward to testify. You can either turn it in to the committee clerk or one of the pages. If you do not wish to testify but want a record of your presence here today, there is a white sheet on the table and you can fill that out. If you have any handouts, we ask you provide 10 copies. If you don't have 10 copies, please let the pages know so that we can make copies for you. When you come up to testify, please speak into the microphone and clearly give us your name and then spell your name, both first and last names, for the record. Today, we'll be using the three minute testifying time on our timer. That will give you two minutes in the green light, one minute in the amber and then, when the red comes on and the audible hits, you know you're done. No display of support or opposition to bills, vocal or otherwise, will be allowed from the audience. And our committee members that are here with us today will introduce themselves, starting on my right.

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

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

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

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

HALLORAN: Good afternoon. Steve Halloran. I represent the heart of Nebraska: Adams County, Phelps County, and Kearney County.

BREWER: Senator Sanders is the Vice Chair of the committee, Dick Clark is the legal counsel, Julie Condon is the committee clerk. And our pages are Logan, raise your hand, and Luke. All right. So with that, we will go ahead and move to our first bill today, which is LR4CA and we'll pause just a moment, give--

_____ : She'll be here any second.

BREWER: All right, no worries. We'll just, we'll just stand by. No rush.

SANDERS: Colonel, [INAUDIBLE] school of students [INAUDIBLE].

BREWER: Oh. We have a group of students here today? Where are you guys from?

_____ : Central Valley.

BREWER: Oh, well, thanks for being here.

SANDERS: Welcome.

BREWER: How many are here as students? Oh, very nice.

LOWE: Nice.

BREWER: Well, thanks for being here. Senator Cavanaugh, welcome to the Government Committee. Well, we were just getting to know some of our crowd here today.

M. CAVANAUGH: Thank you. Sorry for the delay.

BREWER: No, no. No worries. Welcome to the Government Committee.

M. CAVANAUGH: Thank you. Good afternoon, Chairman Brewer, members of the Government Committee. My name is Machaela Cavanaugh, M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h, and I represent District 6, west central Omaha. I'm here today to introduce LR4CA. This is not the first time I've introduced this and, Chairman Brewer, I think you have been here for all of them. And essentially this is a constitutional

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

amendment to reinstate voting rights for convicted felons. We, a few years ago passed reinstating voting rights two years after, I think, release and I believe that Senator Wayne has a bill to just upon release this would never take the voting rights away to begin with. It is in our constitution that we take away voting rights when you commit a felony and so that is why it has to be a constitutional amendment. So this is just step one. It does not take-- it keeps the exception for treason. So if you commit treason, this bill would not change your voting rights. And let's see here, I think that's probably basically it. You've heard it before. We've got some people coming in and I think it'll be interesting to hear their perspectives. Thank you for your time.

BREWER: All right. Well, thank you for your opening. Let's see if we have some questions from the committee for you. Questions for Senator Cavanaugh? All right. Will you stick around for close?

M. CAVANAUGH: I will. Yes.

BREWER: OK.

M. CAVANAUGH: Thank you.

BREWER: Thank you. All right. So we're going to start with proponents to LR4CA. Come on up. Welcome to the Government Committee.

JASMINE HARRIS: Thank you. Good afternoon, Chair Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Jasmine Harris, J-a-s-m-i-n-e H-a-r-r-i-s. I am the director of public policy and advocacy for RISE and I requested this testimony be included as part of the public hearing record that shows RISE is in support of LR4CA. RISE is the largest nonprofit organization in Nebraska, focused solely on "habilitative" programming in prisons and reentry support. And our overall mission is to break generational cycles of incarceration. Taking the right to vote away from people with felony convictions is a practice that began in the late 1700s to early 1800s. The very fabric of our country was built on the democratic process, the participation of its members to determine its course. A U.S. citizen can lose their citizenship by committing one of seven expatriating acts. The only one of these acts that is considered breaking the law and results in conviction is treason or participation to overthrow the U.S. government. There are no other convictions stated that would require someone to lose their citizenship. The number one criteria for being able to vote is being a U.S. citizen.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

And depending on the location and election, this doesn't even have to be a criteria. Therefore, a fundamental basic right of voting should not be taken away. Since the last time this piece of legislation was introduced, Washington, D.C. has joined the ranks of Maine and Vermont that do not take the right to vote away from anyone who is incarcerated, which includes those serving sentences for felony convictions. In Nebraska, individuals who are arrested and/or awaiting trial for a felony or a misdemeanor, whether in jail or out on bail, still have their right to vote. Along with times changing our policies should change when we have found that they do not support the original arguments used to put them in place. What we know is that the original reason for the stripping of voting rights in Nebraska has roots embedded in racism. Thank you to this committee for voting LB20, which Senator Wayne brought out, which would remove the two-year waiting period to restore voting rights for people who have finished their felony sentence, including any parole or probation on to General File. That bill will not address the many people who never stepped foot into prison but have a felony probation sentence. This legislative resolution will. If this legislative resolution makes it to become a ballot initiative, the caveat is that these individuals wouldn't be able to vote for the constitutional amendment. We stand in the gap for them. And for these reasons, RISE supports LR4CA and ask the committee members to vote this resolution out of committee to General File. Thank you.

BREWER: All right. Thank you for your testimony. Let's see if we have some questions for you. Any questions? Yes, Senator Raybould.

RAYBOULD: Thank you, Ms. Harris, for coming. Could you repeat again the federal language that would strike your citizenship again. What are the--

JASMINE HARRIS: There are seven expatriating acts.

RAYBOULD: OK.

JASMINE HARRIS: I don't remember them all by heart, but a lot of them, they're voluntary. So, like, if you join the army of another country, if you become a citizen of another country. Treason is the only one that is breaking the law that is those seven expatriating acts.

RAYBOULD: OK. Thank you.

JASMINE HARRIS: Um-hum.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

BREWER: All right. Any other questions? All right. Thank you for the testimony.

JASMINE HARRIS: Thank you.

BREWER: OK. Next proponent. Welcome back to the Government Committee.

GAVIN GEIS: Chairman Brewer, members of the committee, good afternoon. My name is Gavin Geis. That is spelled G-a-v-i-n G-e-i-s. I'm the executive director for Common Cause Nebraska. Common Cause Nebraska supports LR4CA because we believe a representative democracy should work for and listen to every member of our society, including those currently serving a criminal sentence. For our democratic process to properly respond to the people's needs, it requires voters for a wide variety of backgrounds. When communities are underrepresented at the ballot box, the issues they face are underrepresented as well. Nowhere is this truer than our criminal justice system, which has long cut felons out of the voting process and is experiencing a period of crisis in Nebraska. Prison issues are felt most acutely by the prisoners who inhabit them. And by disenfranchising felons, the issues that affect them, like prison overcrowding, go unaddressed for too long. Beyond the harm disenfranchisement does to our democratic process, it also fails to be an effective deterrent and can do more harm than good in preventing recidivism. As a punishment, disenfranchisement doesn't work to deter crime any more than a criminal sentence does. People who are undeterred by a prison sentence are unlikely to be convinced by the threat of losing their voting rights. Additionally, the loss of voting rights disconnects felons from their communities and pushes them further towards the edges of our society. Instead, voting connects felons to their communities and can aid in their reentry upon release. The right to vote is at the heart of American democracy, even as we have struggled to extend that right to everyone. Over the past 200 years, we've worked to expand the franchise. First, to nonproperty owners, then black men, women, Native Americans, and finally Asian Americans. LR4CA gives that right the greatest protection and ensures that it isn't lost for any reason other than a betrayal of our nation. If we truly believe voting is vital to democracy and to being a citizen, it should be a right lost in only the most dire of circumstances. People in prison retain their citizenship, and we expect that having served their time, they'll return to the communities as productive members of society. But while calling on them to be good citizens, our system generally denies or erects barriers to exercising their right to vote. Removing felonies from the list of crimes that disqualify a voter, LR4CA would restore

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

the voting rights of those currently serving time for felony convictions and prevent the use of disenfranchisement for anything other than treason. This would help ensure that the interests of prisoners aren't overlooked and that they maintain their connection to the outside world while incarcerated. We urge you to give the right to vote the greatest protection and move this legislation to the floor for full discussion by the body. Thank you.

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

GAVIN GEIS: Thank you for your time.

BREWER: OK, still on proponents to LR4CA. Welcome to the Government Committee.

JADEN PERKINS: Good afternoon, members of the Government, Military and Veterans Affairs Committee. My name is Jaden Perkins, J-a-d-e-n P-e-r-k-i-n-s, and I'm here representing the Heartland Workers Center. At Heartland Workers Center, we do everything we can to increase voter accessibility wherever we can, and we're here to express our strong support for LR4CA, a constitutional amendment that aims to ensure that Nebraskans never lose their right to vote even while incarcerated. Let's take a look at why our current constitutional statute on this issue is historically racist. In 1787, the constitution considered black people as three-fifths of a human being. Before the Civil War, as according to the Brennan Center for Justice, voting rights and the loss of these rights were not linked to convictions and America did not incarcerate in large numbers and states that adopted broad felony disenfranchisement did so after establishing full white male suffrage by eliminating property test. After the Civil War, the Thirteenth, Fourteenth, Fifteenth Amendments came along. Birthright citizenship was established for exclusively freed enslaved people. Black men were granted the right to vote. In 2000, black men were elected to state and federal offices. Soon after, America responded. The exception in the Thirteenth Amendment, allowing slavery as the punishment for a crime, was paired with the Black Codes, which basically criminalized black life, then America continued to fill its monstrous prison system with black people for decades to come. What is the result of this history? Black Americans of voting age are more than four times as likely to lose their voting rights than the rest of the adult population. One of every 13 black adults is disenfranchised in some states like Virginia, Kentucky, Tennessee, and until recently, in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

Florida, one in five black people have been disenfranchised from the ballot box. This means that in total, 2.2 million black citizens have been banned from voting due to this policy, and 38 percent of that disenfranchised population in America is black. LR4CA is a commonsense proposal that will amend the state constitution to enshrine the right to vote to many system-impacted Nebraskans making our state a bright beacon for voter accessibility. It's time to write this historical wrong and let the people of Nebraska decide this issue at the ballot box once and for all. I urge you all to move this resolution out of committee and on to General File. Thank you.

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

JADEN PERKINS: Thank you.

BREWER: Welcome to the Government Committee.

HEIDI UHING: Hello, Chairman Brewer and committee members. 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'll be speaking in support of LR4CA. This constitutional amendment is similar to LB20, a bill you heard from Senator Wayne to remove the current two-year waiting period before former felons are eligible to reregister to vote. We threw our support behind that bill as we believe it to be more like-- we believe it to be more likely to garner support. But in principle, we support expanded voting rights and there is precedent for this policy. In the District of Columbia, Maine, and Vermont felons never lose their right to vote even while they are incarcerated. In Nebraska, this bill would re-enfranchise the 5,300 people serving felony sentences, the 1,100 on parole, 4,000 on felony probation, and the 370 people in jail that currently are unable to vote totaling nearly 11,000 Nebraskans. Just last Friday, Minnesota Governor Tim Walz signed a bill to restore voting rights to thousands of convicted felons in his state once they leave prison instead of after completing parole. That law will go into effect July 1 and will allow as many as 55,000 formerly incarcerated felons to vote. I'd like to take the opportunity to note that if the state were to reinstate voting rights for those having served felony sentences, it should be obligated to also inform the public of this important change to our elections. The statewide public awareness campaign proposed by Senator Slama's LB535 seems like a great opportunity for cost savings to have that campaign about new voter ID procedures include information about how former felons are now eligible to vote.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

BREWER: OK. Thank you for your testimony. Questions for Heidi? Questions? All right. Thank you for your testimony. OK. Next proponent. Welcome to the Government Committee.

SHERI ST. CLAIR: Thank you. I'm Sheri St. Clair, S-h-e-r-i S-t C-l-a-i-r, testifying on behalf of the League of Women Voters of Nebraska. The right of every citizen to vote has been a basic principle of the League of Women Voters since its founding. The League has undertaken nationwide efforts to promote voter protection and education and prevent the development of processes and laws that threaten to disenfranchise voters. Consistent with that position, the League is a proponent of LR4CA. According to The Sentencing Project report titled "Lockout 2022: An Estimate of people denied voting rights," it estimates that nationally 4.6 million Americans, roughly 2 percent of the voting age population will be ineligible to vote due to laws or policies, many of which date back to the post-Reconstruction era. In Nebraska, the report estimated that almost 18,000 citizens are in prison, jail, or on probation and are not allowed to vote due to a felony conviction. Based on the eligible voters in Nebraska, that means 5.5 percent of Nebraskans are disenfranchised and cannot vote compared to the national average of 2 percent. We urge you to vote LR4CA out of committee and to the General File for debate. This proposed amendment would allow voters to decide whether a felony conviction other than for treason would take away the basic right to vote.

BREWER: All right. Thank you.

SHERI ST. CLAIR: Thank you.

BREWER: All right. Questions for Sheri? Questions? Questions? All right. Thank you for your testimony. OK, still on proponents to LR4CA. Welcome to the Government Committee.

OLIVIA LARSON: Thank you. Good afternoon, Chairman Brewer and members of Government, Military and Veterans Affairs Committee. My name is Olivia Larson, O-l-i-v-i-a L-a-r-s-o-n. I am here as a representative of the Voting Rights Restoration Coalition and would like my testimony to be included in the official record. We are in support of LR4CA. As part of my position as a policy fellow working with people involved in the criminal justice system, I have met with many people whom LR4CA would positively impact. Currently, there are only two states Maine and Vermont, as well as the municipalities of D.C. and Puerto Rico, that allow people in prisons to vote. This is known as the gold

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

standard among voting rights advocates. Many states have taken steps towards this goal, including allowing people to vote as soon as they are released from incarceration. Nebraska is one of the few states that rescinds the right to vote from individuals even after their sentence has been completed. As I've previously testified, there's an arbitrary two-year waiting period imposed in order for people to be eligible to vote once more. As such, Nebraska remains one of the most extreme states in terms of penalties for those with felony convictions to access their voting rights. With the passage of LR4CA, our state would become a champion of voting rights for people incarcerated. The revocation of voting rights is a penalty without a purpose. The Voting Rights Restoration Coalition believes the best people to advocate for changes to the criminal justice system are those directly involved in that system. People who have been incarcerated have families and issues they care about. The unavoidable fact is that individuals in prison will still be affected by policies passed in the state. They simply will not be able to vote on them. Voting is one of many prosocial behaviors linked to reducing crime and increasing public safety. It gives people a stake in their community, something people while incarcerated are isolated from. A concern heard very often among justice-impacted people is the inability to have a say in the issues that they face. Many of these individuals believe that once incarcerated, they're unable to vote ever again. Many of these-- sorry, as our current laws stand is confusing and apply different wait times to individuals once they are-- in their community based on parole, probation, and the two-year waiting period. LR4CA would remove this confusion as individuals would never lose their right to vote and allow individuals to maintain civic engagement. For these reasons, the Voting Rights Restoration Coalition supports LR4CA. We thank Senator Cavanaugh for introducing it and we ask the committee to vote yes and advance this bill out of committee. Thank you.

BREWER: All right. Thank you for your testimony. Questions? Questions? All right. Thank you for your testimony. OK, still on proponents to LR4CA. Welcome to the Government Committee.

MICHELLE LaVAUGHNE-FEILING: Hi, you guys. So sorry, I'm going to read off my phone because I don't have access to a printer. Chairman Senator Brewer and fellow members of the Government, Military and Veterans Affairs Committee, greetings. My name is Michelle LaVaughne-Feiling, M-i-c-h-e-l-l-e L-a-V-a-u-g-h-n-e-F-e-i-l-i-n-g. I rise today in support of LR4CA, the proposed constitutional amendment that would remove the disqualification of felons of the great state of Nebraska from being able to vote. I spoke before this committee before

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

in regards to other voting rights bills for persons convicted of felonies here in Nebraska. I truly believe in a simple right that so many millions of Americans enjoy, which is the right to vote. A criminal background should never be the reason to disqualify one from voting in local, state, and federal elections. I am an individual on federal probation, having been in federal prison for nine years and six months. And let me be honest, I have three felonies myself. However, my last felony was in 2011. I was released from the Federal Bureau of Prisons on October 29, 2020. I had some severe struggles when I was released. However, I-- however, I have to share my personal story of success since getting out and how being civically engaged has helped and encouraged me to stay on the right track, on the right path, in the right track of life. I'm 36 years old, trans woman who is going through my personal and sometimes very difficult journey to affirm my gender. I am extremely active in all aspects of society. I'm a member of Metropolitan Community Church of Omaha and very active in the church. I am a veteran of the United States Army, having spent five years as a food service specialist in '92 Gulf. I conquered the way of life of, of addiction, finally taking charge and going into what I had always dismissed residential drug and alcohol treatment with the Department of Veterans Affairs for almost nine weeks in Grand Island, Nebraska at the Veterans Affairs Medical Center there. I came out of treatment and utilized the fact that it was total living-- sober living at Michael House in Omaha, Nebraska as a positive experience and I am now exploring my own place in Omaha where I live-- where I can live to continue on my positive path in life. I'm a frequent member and attendee of [INAUDIBLE], a Zoom-based Alcoholics Anonymous meeting that meets at three different times, seven days a week. I also, from time to time join a good Narcotics Anonymous meeting. Also for the last year, I managed to build professional success. First, starting at a logistics company called the United Parcel Service and then I discovered an opportunity at Amazon at the newest Amazon fulfillment center in Sarpy County, Nebraska. And let me just say this, what you hear on the news in regards to the negativity around Amazon is not true. Indeed, for me personally, I work a great six-day-a-week schedule, working 10 to 12 hours overnights. I'm also a learning ambassador and I train and retrain and coach new and current associates as well as recently applied to be a process assistant and work for operations at the Performance Center. I also am blessed to be married to a wonderful and amazing husband, Malik Bhajji [PHONETIC], who is now waiting for his newly applied visas to come through so he can continue to teach here in Nebraska. He's a civics and history teacher, having taught in The Gambia in West Africa for eight years.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

He even told me he was honored to have gotten the honor of the best teacher in eastern region of Gambia. Also, in case you want to know, he wants to come to raise a family with me. I'm very much civically engaged, working with nonprofits of all kinds of backgrounds from Civic Nebraska, RISE, and Nebraska Chapter of the Nebraska Poor People's Campaign. I have to say, being civically engaged has increased-- has decreased my desire to ever want to relive a life of criminal activity of any kind former level. I'm currently also in therapy for mental health, gender dysphoria, and trauma I've encountered in my life from being molested as a child and raped three times as an adult to dealing with family dysfunction when I was younger and it has been a lot for me. However,--

BREWER: Go ahead, finish.

MICHELLE LaVAUGHNE-FEILING: OK. However, the purpose of this hearing is to hopefully let me as a felon and many others who are felons in the state be able to vote. And you will only increase our desire to be productive members of society if you allow that to occur. A simple vote that many take for granted I would cherish. I would carry the privilege with great honor to voice my opinion or opinions at the ballot box with great pride. There are indeed states within this country, both Democratically and Republican led, that allow felons to vote, also D.C. where I was sentenced out of. It's not something that is not societally wrong to allow a felon to vote. Perhaps, there is fear from politicians that if you allow felons to vote you might not get reelected where elections are based on the policies you present to get elected. So if you don't get elected or reelected, then it just simply means you don't have policy ideas that resonate. Also, being from the military and having a father retired from the United States Army after 20 years of service who was very clear cut about a person who commits crimes, and is a Republican, made the comment: I don't get it, you did your time, I don't get why you can't vote. And my husband doesn't understand it at all. Indeed, he says it is a form of suppression for me and others like me. Is a too far-fetched to give felons in Nebraska the right to vote? No, it's not too far-fetched. Indeed, you might not have some additional re-offenders, might indeed help reduce the prison population. We all know that the state prison system is buckling and building additional prisons is not going to help the situation and so I ask you to pardon that personal thought. I hope you consider giving felons the right to vote, it's 2023 not March 1, 1867, when Nebraska became a state. And we definitely, I don't think, think like the past political figures in this state.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

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

MICHELLE LaVAUGHNE-FEILING: Thank you.

BREWER: OK, still on proponents. Welcome to Government Committee.

ARLO HETTLE: Good afternoon, Government Committee. My name is Arlo Hettle. That's spelled A-r-l-o H-e-t-t-l-e, and I'm the grassroots advocacy coordinator with Nebraska Civic Engagement Table. We serve around 70 nonprofit members statewide, working to increase voter turnout and build a more engaged Nebraska. And we're here today in support of LR4CA because the Table believes that the right to vote should never be taken away. Felony disenfranchisement does nothing to improve our criminal justice system or prevent recidivism, but instead it creates a barrier that discourages voting and other forms of civic participation upon release. There are a variety of reasons that voting rights reintegration would be beneficial. For one, voting is a civically healthy behavior that promotes reintegration into a community. And while prisoners are physically removed from their community, voting provides a way for them to retain stakes in its well-being and participate from afar decisions that will benefit them, their families, and their neighborhood. We want to see every citizen be a voter helping to make decisions that would shape a better future for them in their community and there's no need to exclude felons from this process. We encourage you to vote LR4CA out of committee and give the voters of Nebraska the ability to make Nebraska a state that never takes away a citizen's right to vote. Thank you.

BREWER: Thank you, Arlo. Let's see if we have any questions. Questions? Questions? All right. Thank you for your testimony. OK. Any additional proponents? We'll move to opponents to LR4CA. And is there anybody here then in neutral for LR4CA? All right, we'll ask Senator Cavanaugh to come on back and close.

M. CAVANAUGH: Any letters for the record?

BREWER: Oh, thank you. That was a great prompt to remind me. OK. Proponents, 16; opponents, 43; and neutral, we had one. With that, now. Thank you.

M. CAVANAUGH: Thank you. Thank you, Chairman. Thank you, committee members, for taking the time to be here today and listen to why reinstating voting rights is so important. You know, this is-- nothing

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

about taking voting rights away will impact decision-making when it comes to whether or not somebody is committing a crime. This is not something that they take into consideration and so taking away this right doesn't really factor in and it's a punishment that has no correlation. And so I hope that we can remove that from our constitution and move forward. Thank you.

BREWER: Thank you. Let's see if we got any questions. Questions? Questions? All right. Thank you.

M. CAVANAUGH: All right and thank you. Have a great day.

BREWER: And thanks for reminding me on the letters.

M. CAVANAUGH: Yes.

BREWER: Appreciate the help. OK, we'll have a slight pause while we switch our bill numbers and we will welcome our very own John Lowe to the testifier seat. Senator Lowe, welcome to your Government Committee.

LOWE: It's hot. Thank you, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is John Lowe. That's J-o-h-n L-o-w-e, and I represent District 37, which is Kearney, Gibbon, and Shelton. LB51 [SIC--LB541] would make public power elections in Nebraska partisan. Electricity is the lifeblood of every business, school, home, farm in our communities. Our electricity is produced and supplied by public power. Therefore, public power boards are some of the most important governing bodies in Nebraska. With these governing bodies being so important, I believe it is critical that voters have a clear understanding of who they are voting for. In reality, there are two great ways to do this. One is to run a campaign by knocking on every door in your area, phone calls and text messages and also direct mail. Traditionally, public power races just have not done this, at least until recently. We are now seeing an influx of huge money being spent by a few groups. All of a sudden, hundreds of thousands of dollars are being dropped into public power elections each election cycle and each time and every time these donations go to individuals of the politi-- the same political mindset. For example, Nebraska Conservation Voters Political Action Committee received \$475,000 from Washington, D.C. to get involved in elections here in Nebraska in 2022. In the R+42 district that I happen to live in, one candidate received \$99,460 from this group to try to get them elected. These are elections that used to cost maybe up to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

\$1,000 to run, couple sheets of plywood, your name along a couple popular, popular streets, and you got your name out there. In 2020, \$500,000 was received by Nebraskans for Common Ground, another group looking to influence Nebraska political power races. While I applaud these individuals and groups for supporting renewable energy, a small change in state law would level the playing field in these races. Allowing for public power elections to be partisan would remove the advantage that these out-of-state special interests have created for themselves by giving Nebraska's-- Nebraskans a clear choice. With that, I'm happy to answer any questions. I have a testifier behind me that has had experience in this. It just seems like it's-- people aren't well-educated on a lot of political races as we found. We would all like them to be well-educated. We would all like them to have knowledge. But we've all gotten the fliers that have come in against us or for us that weren't from us as we campaigned. So we would just like to make it clear to the voter on where a candidate stands. Thank you. With that, I'll take any questions.

BREWER: All right. Thank you, Senator Lowe. And just to double check on your intro, you said this is LB--

LOWE: LB541.

BREWER: Got it. All right.

LOWE: What did I say?

BREWER: You may have said LB51 but it's all right. We got you covered here.

LOWE: All right.

BREWER: All right. Questions for Senator Lowe? Senator Conrad.

CONRAD: Thank you so much, Senator Lowe, good to see you as always.

LOWE: It's good to be here.

CONRAD: It's good to be here. It's good to be together and debating these important issues. And I think that there's probably a, a great deal of dissatisfaction across the political spectrum with big money or dark money in our politics and what that means for both process and result. For me, it's hard to figure out what the-- bless you, Senator Halloran-- what the right solution might be to addressing that. You know, I, I know campaign finance reform is one solution that's been

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

looked at, of course, you know, that brings with it a lot of concerns around free speech, of course. But your solution that I'm looking at here is, is just to ensure that we have partisan labels for some of these, these other offices that, that are available. Is that a fair assessment?

LOWE: Basically, when, when you-- when the-- when you look at the ballot it says R, D, Marijuana Party, whatever, behind the person's name so you know kind of how they stand.

CONRAD: OK.

LOWE: It's not always the case, but it's a little bit clearer choice.

CONRAD: Yes, that-- very good. And that, and that was exactly my next question, because I know, for example, you know, on issues related to public power and conservation that I don't think those values necessarily fit within one political party, so to speak. I think that they've, you know, in my experience in Nebraska, always been something that Republicans, Democrats, Independents alike feel a lot of pride in our public power system and structure. I think there is a lot of consensus across the political spectrum when it comes to things like conservation policy. So I was just trying to kind of figure out how your solution may be helpful to voters on those position pieces or perhaps cloud some of that, that common ground that exists. But I was just trying to get an understanding about the, the different solutions that are before us and I appreciate you bringing the bill.

LOWE: Thank you.

CONRAD: Thank you.

LOWE: Thank you.

BREWER: All right. Any additional questions? Senator Halloran.

HALLORAN: Thank you, Chairman Brewer. Thank you, Senator Lowe. So it's not-- it's fairly common for the parties to have what is commonly called the platform and respectful-- respectively individuals that subscribe to whatever party it is are generally pretty familiar with their platform. Would you say that's the case?

LOWE: Generally, yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

HALLORAN: Yeah. So what you're trying to do is to help, help the voters understand on these races generally what party they're with, with the understanding that they may have an understanding like they have an understanding of the platform and can relate to those principles in regard to the candidate?

LOWE: Exactly. Would you like more than one-- one-word answer?

HALLORAN: No, that's a perfect answer, Senator.

LOWE: OK.

BREWER: OK. Any additional questions? All right. You'll stick around for close? Yeah.

LOWE: All day.

RAYBOULD: He has no choice.

CONRAD: He'll reserve the right.

BREWER: OK, we'll start for proponents for LB541. Welcome to the Government Committee.

DEREK RUSHER: Thank you, Chairman Brewer, members of the committee. My name is Derek Rusher, D-e-r-e-k R-u-s-h-e-r. I'm representing myself. Thanks for allowing me to testify today. I was an educator for 15 years before becoming the president and CEO of the Kearney Area Chamber of Commerce in January of 2018. I've grown to love public service, and in March of 2022, I decided to run for the board of the Nebraska Public Power District. And the last year we've seen a variety of techniques employed to undermine the will of voters expressed through campaigns. And my campaign was unfortunately no different. I was warned about how there was smear campaigns against my predecessor a couple of years prior to my election, and he was a former mayor, UNK grad, a well-respected gentleman in Kearney, Nebraska, and he was smeared in 2016 by my same opponent, opponent because of outside money and lies. Even with this information, I vowed to run a clean campaign moving forward. My dad's motto: do right. It guides me in my primary focus to represent Kearney in the right way. Back to this year's election, based on the public accountability and disclosure statements filed by my opponent, her contributions were 100 percent from registered Democrats or left-leaning organizations. And because of my subdivision is mainly Republican, in order to win, my opponent portrayed herself more conservatively. Her last campaign flier was--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

that was sent to fliers had her name across the top, and, I quote, is the only proven conservative candidate for the MPPD. And across the bottom, I quote, vote conservative. And the most contradictory phrase, I quote, fighting the far left radicals. I guess fighting the exact people of organizations that financially supported her campaign. This might not sound unusual to you, but for a rookie campaigner in the world that's trying to instill the do right motto in my five children, it was appalling to me. If the, if the dishonest campaign doesn't raise concerns, the campaign finances should. I was able to raise about \$25,000 for my campaign. Way more than I ever thought I would have to. I had almost 60 unique donors, 100 percent of them being from the state Nebraska. My opponent during her campaign was given over \$103,000 from about six donors that I can find publicly. She received three individual contributions from registered Democrats. She was also-- she also received \$2,000 from NextEra Energy Resources, \$1,000 from Nebraska New Energy, and \$99,460 from Conservation PAC. One hundred percent of her contributions were registered-- from registered Democrats or left-leaning advocacy groups. But all of her campaign material was very conservative and screamed Republican. The bottom line, because public power elections are nonpartisan, they promote dishonesty. Voters deserve transparency instead of fraudulent and misleading campaigns funded by outside money. With little to no media coverage of local elections, voters may have very little sense of what candidates stand for. At least if they have an R or D after their names, voters will have a clue about whether their overall systems mesh with their own even if they don't know their specific platforms. In the absence of a party ballot, voters will turn whatever queue is available, which often turns out to be a hot button item. My opponent campaigned on job creation and property tax relief during her MPPD campaign the previous cycle. I believe if we continue to keep public power elections nonpartisan and, and allow outside money to come into our great state, we will only have representatives of the upper socioeconomic status representing Nebraska. I ask you, do we want to elect officials that are bought, dishonest, and represent the views of outside money or do we want to produce elected officials that will represent their constituents who are friendly, honest, hardworking Nebraskans? Thank you.

BREWER: All right. Thank you. Let's see if we got some questions for you. Questions? Questions? Senator Halloran.

HALLORAN: Thank you, Mr. Chairman. I like your dad's motto. It's a pretty good one for your kids to learn.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

DEREK RUSHER: Yes, sir.

HALLORAN: And they, they did have an unfortunate example of learning through your election process. So you lost the race?

DEREK RUSHER: No, sir.

HALLORAN: You did win the race in spite of all that?

DEREK RUSHER: Yeah, knocked on about over 2,500 doors. It was a family affair. My, my children, my five children helped in my campaign and, and we did it together.

HALLORAN: Some good old-fashioned door knocking.

DEREK RUSHER: Good old-fashioned, honest door knocking.

HALLORAN: OK. So that was-- that's what you had to combat, a lot of outside money was, was just shoe leather and door knocking and, and getting to know your voters?

DEREK RUSHER: Yeah, I would say that was exhausting, especially when I would knock on a door that my opponent had knocked on, whether it was her or a paid person, I would receive the comment multiple times: Oh, I thought she was a Republican. Oh, I thought she was the conservative candidate. And I was the only registered Republican candidate in the race.

HALLORAN: So what you're looking for is, and it's an overused term, we use it a lot here, I understand that but doesn't belittle the importance of it, but it's transparency to the voter in regard to who they're voting for.

DEREK RUSHER: Yeah, I think transparency would be great. I would love to see more integrity in elections. I'm sure all of us would, would love that. What we saw over the past year was ugly. Even in, in my own party. But, yeah, transparency, I think, would be huge. I think it would be very valuable for the voters to just understand that platform because public power is not a high profile race. My list at the chamber of commerce sits in the bottom right corner. It's the last one of all of our elected officials, how we track them. And, you know, unfortunately, you know, people just don't know a lot about it so I believe that this would solve a lot of those problems. And I have a lot of peers now on the board and that have been part of the NPPD board that have similar experiences.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

HALLORAN: Well, thanks for testifying today. It's been good to hear from you.

DEREK RUSHER: Yeah, you're welcome.

BREWER: OK. Just for the record then, you're currently on the NPPD board?

DEREK RUSHER: I am, correct, but I'm representing myself.

BREWER: OK. I'm saying, but the, the election that you won was for the NPPD board.

DEREK RUSHER: That is correct.

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

DEREK RUSHER: Thank you.

BREWER: All right. Any additional proponents for LB541? Come on up. Welcome to the Government Committee.

STEVE DAVIES: Thank you, Senator Brewer and other senators on the committee. My name is Steve Davis, S-t-e-v-e D-a-v-i-e-s and I testify in support of this bill. Partisanship is a big part of our political life and as the previous testifier displayed the nonpartisanship does bring in risks that we know we can't see. And just that partisan label gives voters some indication about a candidate that they wouldn't otherwise have and you can see the results that could have happened in his race. So I urge the passage of this bill. Thank you.

BREWER: Thank you, Steve. Let's see if we got any questions. Questions? Questions? All right. Thank you for your testimony. All right. We are still on any proponents to LB541. Connie, welcome to the Government Committee.

CONNIE REINKE: Thank you. Connie Reinke, C-o-n-n-i-e R-e-i-n-k-e. I am a proponent of this bill. I do believe that there should be the party listed on, on the, the ballot. I believe that this is really important and there are so many other things that are so important. I'd like, I'd like to read some information on source code and how that might apply to this issue. What is source code? Source code is the human-readable representation of instructions that control the operation of a computer. Computers are composed of hardware, the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

physical devices themselves and software, which controls the operation of the hardware. The software instructs the computer how to operate. Without software, the computer is useless. Source code is the human-readable form in which the software is written by computer programmers. Source code is usually written in programming language that is arcane to-- and incomprehensible to nonspecialists, but to a computer programmer the source code is the master blueprint that reveals and determines how the machine will behave. Source code could be compared to a recipe. Just like a cook follows the instructions in a, in a recipe step by step so a computer executes the sequence of instructions found in the software source code. This is a reasonable analogy, but it's, it's also imperfect. While a good cook will use her discretion and common sense in following the recipe, a computer follows the instructions in the source code and mechanically and unflinchingly literally. While errors in a recipe might be noticed and corrected by the cook, errors in the source code can be disastrous because the code is executed by the computer exactly as it's written, whether that was what the programmer intended or not. Also, the computer software is vastly more complex than most recipes. What source code has to do with elections? Over the past several decades, we have automated more and more of the election operations. Elections have become increasingly reliant upon computing technology. The source code in voting machines and in some ways to the procedures provided to the election workers. Procedures are instructions that are to be provided to people. Who writes the election software? Now companies have voting equipment vendors creating this source code. OK.

BREWER: You can finish up if it's not too long here.

CONNIE REINKE: OK. There-- we have asked in the counties for this source code for our election system and have not received it. So it's very hard to trust our elections, the, the individuals that are elected. Most states do not receive or require access to the source code, however, there are some exceptions and it's listed down on the sheet: Florida, New York, Texas, Utah. There are others that require the vendor to provide source code to the actual parties, political parties. And so I just wanted to give that information today.

BREWER: OK. So there's two documents that you handed out. First one is Professor Clements, and it's referenced Dodge County Commissioners. Your second one is by David Wagner and this is just general information that you talked about in your, your opening--

CONNIE REINKE: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

BREWER: --or your presentation.

CONNIE REINKE: It was mentioned in another committee meeting that someone wanted to understand what source code was and so I wanted to make sure that you understood that clearly and have some information on that. As well as Professor Clements came from New Mexico, he's an attorney, that he has been very involved in elections. And there are two things that would help us make sure that our elections are secure. And one of those is source code, the coding of how the ballots-- how the names on the ballots were read by the computers. And the other thing is the cast vote record. And so even putting this partisan information on it, I support this bill. But we have so many important election issues to look at as well. So I wanted to bring that to your attention.

BREWER: All right. Thank you for this documentation.

CONNIE REINKE: You're welcome.

BREWER: Questions for Connie? Questions? Questions? All right. Thank you for your time,--

CONNIE REINKE: Thank you.

BREWER: --for your testimony. All right. Still looking at proponents to LB541. Seeing none, we'll go to opponents to LB541. OK. And if you're here as an opponent, go ahead and move forward so we kind of get a head count on who all we got to go here. All right. Go ahead, whenever you're ready.

JAMES DUKESHERER: Good afternoon, Chairman, members of the committee. My name is James Dukesherer, J-a-m-e-s D-u-k-e-s-h-e-r-e-r. I'm the director of government relations for the Nebraska Rural Electric Association. The NREA represents 34 rural public power districts and electric cooperatives throughout the state. We're here today in opposition to LB541. We'd like to break our opposition of the bill into two separate issues. First, on the issue of requiring NPPD to hold a primary election. And second, we'll comment on the issue of party identification for candidates running for rural public power district boards. First, state law uses districts grossing less than \$40 million in revenue to delineate between large and small public power districts. LB541 eliminates this distinction in this section of statute. The power districts grossing less than \$40 million in revenue are rural PPDs. They do not own large generation, they're distribution

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

utilities. In the rural areas that these power districts serve, we're not seeing a flood of candidates that are seeking to serve on these boards. In fact, it's often difficult to replace a retiring board member. These races do not draw the political attention that the large public power districts may attract, nor do they attract some of the campaign expenses that we may see in the larger power district seats. Often on down ballot races, candidates don't make a decision to run a year in advance of the general election. Requiring a primary election moves up the date to file for these board seats. Currently, nonincumbents can file to run on a PPD board up until August 1 of the election year. LB541 would move that date back to March 1. Not only would that put a burden on the candidates to file, it would also put an additional financial burden on the PPDs to pay for the two elections with no added benefit. It's also important to note that the power districts may have the boundaries for their board seats set up in different ways. Some PPDs have at-large seats, some have districts, and some even have regions. I can envision a case where two Republicans run for one seat and no Democrats run, then the election is decided in the primary. In this example, neither Democrats, Independents, or those that did not vote in the low-turnout primary have a say in who will represent them. Public power has a proud nonpartisan history. Most of the rural power districts I'm here to represent reside in one of the nation's most conservative congressional districts. There's no denying it that if polled, I would suspect that the vast majority of rural public power district board members belong to the Republican Party. With that said, our members are concerned with allowing a partisan element to enter into the selection of their board members and into their business operations. Rural electrification was born out of President Roosevelt's New Deal. Lyndon Johnson was a staunch supporter of the development of REAs as he had seen their impact on rural Texas. Even our national organization, the National Rural Electric Cooperative Association has been run in recent years by both Republican and Democrat CEOs who served in Congress. This bipartisan influence exists today, and we see it in the balanced discussions that my members have in their board meetings and at the committee meetings in my association. Everyone wants low-cost, reliable electricity and the board members I represent don't have a lot of partisan issues facing them as they make board decisions. They just want to run a power district, a business. They want to keep the lights on and the rates low. It's for these reasons that we do not see the benefit the partisan election process would, would bring to the rural public power districts. Thank you for your time.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

BREWER: Thank you. And if this was just public power in the big three, LES, OPPD, and NPPD, would that change how you come in on this?

JAMES DUKESHERER: I, I think that would be a completely different bill. It'd be a new conversation by, by our board. But, yes, it'd be, it'd be a, a whole new issue.

BREWER: I kind of understand what you're saying because the same thing up by Hays Springs, I believe, that it is a bit of a struggle just to find folks to fill the seats that have the time to do it, because there are just so many taskers out there, especially if you're running a ranch or a farm. All right. Let's see if we got some questions for you. Questions? Questions? All right. Thank you for the testimony. OK. Now we're looking at opponents to LB541. Welcome to the Government Committee.

AL DAVIS: Good afternoon, Senator Brewer, members of the Government, Military and Veterans Affairs Committee. My name is Al Davis, A-l D-a-v-i-s, and I'm the registered lobbyist for the 3,000 members of the Nebraska Chapter of the Sierra Club. And we're here today speaking in opposition to LB541. LB541 revokes the nonpartisan electoral process for our public power boards making these positions subject to a variety of unintended consequences which will result in electioneering and areas of public policy which have largely been exempt from that plague. The bill seems poorly constructed, leaving many unanswered questions. If my understanding of the statutes is correct, we are bringing many rural power districts under election laws which were exempt from certain procedures earlier because they fell below minimum cash receipts. And if I am correct, moving these positions to partisan ballots will require the election commissioners to add public power boards to the partisan ballots at the primary. Many of the rural public power districts targeted in this field are districts where elections are dominated by Republicans. What that means, as James said earlier, is that the power district boards will be decided only by Republican voters in the primary, since these candidates will not be on the ballot for independent or Democratic voters, with only one Republican and one Democrat advancing to the November ballot. That's not Democratic. Nebraska's public power industry has been working well for decades. The objective to provide inexpensive power to all Nebraskans has been achieved by this innovative model, which has largely been exempt from the vicissitudes of politics until recently. Public power is an area which should never be partisan, but should be guided by science, industry, and long-held statutory goals and not by political gamesmanship. The last election

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

cycle saw a massive amount of money employed against candidates for the public power boards by oil, coal, and gas industries whose objective is to elect individuals who are friendly to their business model. But the carbon-based industries are not Nebraska industries with Nebraska values. They are national and international businesses whose objective is to protect these shareholders from the reality that these industries are reaching the end of their relevance and driving the U.S. economy. LB541 is the solution looking for a problem. One public power system is a national-- our public policy power system is a national model for innovation, providing dependable energy at low rates to as many people as possible. Changing the model by promoting part-- model by promoting partisan politics, partisan national energy issues, and partisan loyalty will ossify the industry and amplify the voices of those with the most to lose by the transitions to new energy models. Please do not advance the bill to the floor. And just if I could say one other thing, the-- called here-- the Nebraskans for Reliable and Affordable Electricity pumped a lot of money into this last election supporting the candidate who spoke earlier and he did defeat the person he was running against so I don't think he has really much to complain about. Thank you.

BREWER: All right. Questions? Questions? Yes, Senator Halloran.

HALLORAN: Thank you. Thank you, Mr. Chairman. Welcome. Glad you're here.

AL DAVIS: Thank you.

HALLORAN: So in spite of all that, do you think there's not national energy issues that are being funded by interest outside of the state?

AL DAVIS: I think you have the industries on the right doing the same thing as the industries on the left, if you want to call it that. The green energy people are trying to steer policy the way they want it to go. The carbon-based industries are steering policy the way they want it to go. You see it here every day.

HALLORAN: And you think it's pretty proportional?

AL DAVIS: I do.

HALLORAN: OK.

AL DAVIS: And I think if you look at the data, you'll see that most Nebraskans seem to support, you know, going to a more green energy

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

model. Most of the surveys I've ever seen have indicated it's pretty overwhelming, Senator.

HALLORAN: And I'm really very cynical and it's just an opinion and I shouldn't state it that but I'm very cynical of polls and surveys because whoever creates the poll or survey, whatever bias they may have, and it could be on both sides, can create a survey or a poll that by the nature of leading questions can get the results they want.

AL DAVIS: Well, that's certainly true, Senator. I think, you know, this was done by the university so I have a lot of faith in the work they do.

HALLORAN: I rest my case.

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

AL DAVIS: Thank you.

BREWER: All right. Additional opponents to the LB541? 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, testifying on behalf of the League of Women Voters of Nebraska as an opponent to LB541. When the Unicameral Legislature was established in 1934, the intent was to shield Nebraska from the political forces of the national parties. Leadership is to be based on quality rather than political affiliation. The League supports electoral methods that encourage voter participation while maximizing the effectiveness of every vote. When voters are able to look at the qualifications and records of those running for office rather than their political party, more effective leaders and representation will emerge. This allows voters to vote for the candidate who aligns best with their individual beliefs rather than political affiliations that can fall prey to national interests that may not be in Nebraska's best interest. Like the Unicameral, public power districts and public power and irrigation directors should be elected on a nonpartisan basis. Decisions made should be in the best interest of the citizenry, not the party. As a result, the League opposes LB541 and recommends indefinite postponement.

BREWER: All right. Thank you for your testimony.

SHERI ST. CLAIR: Brief.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

BREWER: Questions for Sheri?

CONRAD: Thanks, Sheri.

BREWER: Yes, Senator Halloran.

HALLORAN: Thank you. Thank you, Mr. Chairman. Thanks for being here.

SHERI ST. CLAIR: Yes, Senator.

HALLORAN: So a previous testifier, a proponent, made some comments about their opponent that made some very misleading statements on their, on their promotional material. And any side can do that I understand that, but that misleading information implying that they were conservative when they weren't that is clearly misleading the public. Right?

SHERI ST. CLAIR: Right.

HALLORAN: So having a partisan, do you think that having a partisan R or D, and partisan has got a bad-- part of-- the term partisan has got a bad rap. I'd almost rather we would refer in terms of regis-- registrant to Democrat Party, registrant to the Marijuana Party, or registrant to the Republican Party just to inform. Do you think that wouldn't help inform the public generally about what their views are?

SHERI ST. CLAIR: I think we should also look at the fact that there are increasing numbers of Nebraskans that consider themselves Independent voters. You know, and the R and D certainly get at people that are willing to vote in a straight party line or don't do, you know, in-depth research on the candidates and it kind of ignores the Independent voter. But in all fairness, you are correct that both sides left, right do slant issues, slant testimony, slant materials to their benefit. It's a lot of work for the voter.

HALLORAN: Individually, right, but the parties do have clear definitions of what, whatever their platform is,--

SHERI ST. CLAIR: Right.

HALLORAN: --be it conservative or liberal or whatever it might be. Doesn't that give the voter some kind of at least a litmus test about what, what that candidate leans towards?

SHERI ST. CLAIR: It should. Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

HALLORAN: OK. Thank you.

BREWER: OK. Any additional questions? Thanks, Sheri.

SHERI ST. CLAIR: Thank you.

BREWER: All right. We're still on opponents to LB541. Welcome to the Government Committee.

MIA PERALES: Good afternoon, Chairman Brewer and members of the committee. My name is Mia Perales, M-i-a P-e-r-a-l-e-s, and I am from Omaha Students for Sustainability. We are a multi high school organization composed of students all over Nebraska and we work to create sustainable solutions for our schools and communities and provide students with the resources they need to get involved. Even as a youth nonprofit, we are nonpartisan. This is because our greater goal of improving Omaha through the normalization of sustainability can only be complicated by partisanship. Public services also share the goal of improving community so why not share the bipartisanship. In the United States, I'm sure you are all very familiar with the great issue that we face of the party versus party or the great political divide. To me, it does not make sense why we would want to create more division, which is I personally believe that is what this bill will entail. Almost every politician runs on the basis of wanting to unite, but now, Senator Lowe, it appears your goal is to create division. While the intent of efficiency is valid, overall it does not seem this will be the outcome. So that is why I ask you to vote no on this bill. Thank you.

BREWER: All right. Thank you for your testimony. Let's see if I have questions for you. Questions? Questions? All right. Thank you for your testimony. OK. Next opponent to LB541. Welcome to the Government Committee.

SHIRLEY NIEMEYER: Thank you, Honorable Senators. Shirley Niemeyer, S-h-i-r-l-e-y N-i-e-m-e-y-e-r, and I oppose this bill and I want to think about contemplating some points and I'm thinking about will the best candidate that is qualified win? Why is this being proposed? Will this mean that the predominant party in Nebraska will win almost every board position? I really like our nonpartisan elections because I can look-- I have to look at their qualifications and I do. I look them up on Facebook, I look them up here. I really try, it's hard, but I really try because I want the best qualified person there. And does money come from wealthy donors? Yes, it comes to the Republican Party,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

it comes to the Democratic Party, not so much Independent. I also want to think about why-- what are we really talking about here because we are opposed to greening energy sources? We have a massive climate change. We need our public power entities to address that. For now, we have solar, we have wind, we're looking at other energy sources. We need to do that. We have to do that for our children. We have to do that for the young people. Climate change is real. And, yes, you can look after poll after poll, but they are consistently showing more Americans than ever believe climate change is real. And if you look at what's happening in Nebraska and to some of the Nebraska farmers to the flooding, to the snow events, that should be a clue that it's really happening here. It's going to be very difficult for our agricultural communities and the Sandhills. Very difficult. And so I think this is about a couple of people who don't like the direction of moving towards green energy. And we have to do the right thing. We have to look at the facts, not the platform, because honestly, I don't know what the platform is anymore for the Republicans, the Democrats, or the Independents. I'd rather look at the person and I vote across parties because I want the best person in there. And I have one example what happened this last year. Oh my gosh this candidate was good, female, Independent, had all these meetings, [INAUDIBLE], almost all the money was from Nebraska in small amounts. And out comes this massive postcard campaign about what she was doing with Hillary Clinton and what she was doing with Nancy Pelosi. What does that have to do with the State Board of Education? Nothing. It was bad. It was almost libelous. So I feel so bad about what's happening in politics that money is buying elections and I don't think that should happen. But the issue here is climate change. And I thank you very much for listening. You can tell I'm passionate about this because I want our children and our youth to be able to address these issues.

BREWER: OK. Let's see if we have any questions. Questions? Questions? Senator Halloran.

HALLORAN: Thank you, Senator Brewer. Thanks for your testimony. What do you think about nuclear power?

SHIRLEY NIEMEYER: I think that's a potential. I read Warren Buffett invested in some other countries in small nuclear reactors, not like the ones-- some of them are being put underground. They're much safer than what we're thinking of because I'd go [GASP], you know, from the past. But they are safer, they are smaller, not for, you know, for a farm or something, but they are for communities, maybe 10, 20, 30,000 as I understand it, you'd have to look more into the research, but I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

think that's a good alternative, but can't go with one. We can't go with all solar, all wind, all nuclear. We have to combine them. We're still going to have some coal, some gas, but we also are looking at cellular and wave action. We have that. And there are some things with small plants and things in the ocean that create energy and their researching that, it is fascinating if you read some of the research and what can come. But we have to-- in between, we have to go with what we have now that's less polluting. We've got to stop carbon pollution as much as possible. That's my answer.

HALLORAN: So what, what do we do about the issue of when if we, if we become, if we become mostly reliable upon wind and solar?

SHIRLEY NIEMEYER: The batteries in Australia are being researched and they are four times more efficient.

HALLORAN: And that brings up another issue, most of them are lithium batteries, I would suppose.

SHIRLEY NIEMEYER: Yes, and that is a toxic product, but they're using salt-- ocean salt and something else and I can send you the information if you would like, but everything we do, I can step outdoors and I will affect our environment.

HALLORAN: Oh, stay inside.

SHIRLEY NIEMEYER: Everything we do. In fact, you know, it affects our environment. We have to do less.

HALLORAN: Well, even breathing affects our environment.

SHIRLEY NIEMEYER: It certainly does. We take in oxygen.

HALLORAN: And we're emitting, emitting, what?

SHIRLEY NIEMEYER: Carbon dioxide.

HALLORAN: Carbon dioxide.

SHIRLEY NIEMEYER: Um-hum.

HALLORAN: And as I recall, and this was just, you know, high school biology class, botany, botany class, it was, it was the relationship of plants taking in carbon dioxide. And we're all for a greener

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

environment with more plants, right, they breathe in carbon dioxide.
Is that, that your understanding?

SHIRLEY NIEMEYER: Um-hum. And, and trees are also [INAUDIBLE], but we're wiping out some of the Brazilian forest. We're taking out a lot of trees. I even see some of the windbreaks in the farm area being decimated. We've got to plant more. But I don't think they take in-- they give off oxygen until they're growing about eight or ten years. They have to be growing quite a bit before they're able to do that in their system.

HALLORAN: So I'm part of a new movement, let the trees live.

SHIRLEY NIEMEYER: Pardon?

HALLORAN: I'm part of a new movement, let the trees live.

SHIRLEY NIEMEYER: Yeah, good for you.

HALLORAN: And I'm just kidding, there is no such movement, I don't think, but, but--

SHIRLEY NIEMEYER: There isn't?

HALLORAN: --but--

SHIRLEY NIEMEYER: Well, Arbor Day Foundation has a great million-- one million trees.

HALLORAN: Yeah, and that's great. My point is, we're starving trees of carbon dioxide by shutting down carbon-based power plants. Right? They--

SHIRLEY NIEMEYER: We are also melting glaciers. We are also raising the ocean level. We're warming the ocean. It's changing the composition, the temperature. The birds are coming earlier, the seals on San Francisco have moved north because of the temperature change in the water. We could debate this for a long time.

HALLORAN: Well, I'm getting, I'm getting--

BREWER: Yeah, and I think we've debated enough.

HALLORAN: --I'm getting looks from my fellow committee members.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

BREWER: Yeah, you are getting the look. All right. Any other questions?

RAYBOULD: Very perceptive.

BREWER: All right. Thank you for your testimony.

SHIRLEY NIEMEYER: Yeah, thank you.

BREWER: I have, I have a young man who has, who has drove all the way from Alliance to meet me, I'm going to hand the gavel over, step out real quick. I'll be right back.

SANDERS: Any other opponents? Welcome.

JENNIFER GLAZER: Thank you for the opportunity to comment today in opposition of LB541. My name is Jennifer Glazer. It's J-e-n-n-i-f-e-r G-l-a-z-e-r, and I'm a resident of District 6 in Omaha. I volunteer for and represent a nonpartisan organization in which we value nonpartisanship in the management of energy systems. This organization represents four chapters across the state and over 1,800 members, again across the whole state of Nebraska. Having a nonpartisan ballot really encourages people to more diligently seek information and become better informed about the candidates and ensures that the best candidate is voted in. We need our boards to run on how they address the issue of energy, not based on their political party. We also don't want candidates to be limited by a party platform. I would also ask what problem are you trying to address or fix with this bill? According to the electric utility performance, a state-by-state review of the Citizens Utility Board, Nebraska utilities rank in the top ten overall of the 51 states, including the District of Columbia. Nebraska is in the top ten for affordability, top five for reliability, and this demonstrates that our system of governance is working well. Thank you.

SANDERS: Thank you. Let's check if there is any questions. Are there any questions? Seeing none, thank you for your testimony. Are there any other opponents? Welcome.

KAY CARNE: Thank you, Senator Sanders and committee for this opportunity to testify today. My name is Kay Carne, K-a-y C-a-r-n-e. I'm a resident of District 13 in Omaha. Electricity is critical to our way of life. When the power is out, it's hard for our society to function. Schools are closed. Businesses are disrupted. Healthcare is disrupted. Food spoils. We all know that when we lose power, we can't

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

use our electronic devices. It's very disruptive. Nebraska utilities are succeeding. As a prior testifier said, we're ranked in the top ten overall for affordability and reliability. And this system of governance is working well. Currently, we choose our board members on a nonpartisan ballot. This allows the two candidates the voters believe are best qualified for the position and who best represent those-- each voter's personal views as they relate to public power to advance to the general election regardless of party affiliation. When I ran for county assessor, I had to take a test to make sure I understood the duties of the job with enough precision that I could pass that test. The test proctors told me that day that about half of the people failed the test. This tells me that there's a process to weed out people without the expertise to serve as a county assessor. There's no test for those running for public power boards. The voters are the ones who need to weed out those who do not have the expertise to lead extremely complex, critical infrastructure businesses with annual revenue of over \$1 billion a year, such as OPPD. This analysis is up to the voters. If each party only sends one candidate to the general election, Nebraska will not be getting a choice between the two most qualified individuals because certain parties are stronger in different areas of the state. For example, on a nonpartisan ballot, two Republicans will likely advance in many areas, and that will give voters a choice between the best two candidates in the general. Others have also commented that it would allow for Democrats and Independents to vote on those, those two individuals who will represent them. I've seen public power elections with at least six, maybe eight candidates to start in the primary. If there's not a process to advance the two most viable candidates with the most expertise and the views of public desires, our public power utilities will suffer and it will weaken our critical infrastructure. All of you are elected on nonpartisan ballots and you likely appreciate the quality of state senators serving in this body. With nonpartisan elections, we get state senators who are extremely qualified and who work to know and represent their constituents well. This makes Nebraska unique and it makes Nebraska strong and this is the way we should continue to run our public power utility elections.

SANDERS: Thank you. Let's check to see if there are any questions. Seeing none, thank you--

KAY CARNE: Thank you.

SANDERS: --for your testimony. Are there any other opponents? Welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

CHLOE JOHNSON: Hello, Councilman. I'm Chloe Johnson, C-h-l-o-e J-o-h-n-s-o-n. I am also a director from Omaha Students for Sustainability and like we said we are a nonpartisan student group. When we are looking at-- when we started looking at this bill we were honestly quite confused because it just seems irrational for a time when many politicians are running on the basis of uniting and nonpartisanship to be introducing new partisanship to the government. It was especially confusing to us to why we would be adding partisanship to the public power districts as this seems especially dangerous. Historically, Republicans have championed environmental and conservation issues. They've supported public parks. They've been a huge part of bringing recycling to much of the country. And unfortunately now the Republican Party is somewhat taking a stance of anti-renewables, anti-clean energy and being a-- especially in some districts more than others, having heavy Republican like-- I guess, like political majority would put-- give those-- it would erase the, the qualifications and it would essentially just allow Republicans in the platform of anti-renewable to become the majority in these areas. And this actually let us down a little bit of a, like, a research rabbit hole because we started thinking, well, why, why is this, why is this a partisan issue? Why are Republicans now in opposed to, like, past and historically against renewables? And some reasons we came up with and after talking to Republican relatives and politicians were they were worried about jobs, which is interesting in our state as we do not have any fossil fuel resources here, we don't have a stake in the coal production. If that comes from-- so if they're worried about those type of jobs, coal jobs, which, by the way, make up in this country less than the amount of employees that are at Arby's is the amount of coal employees that we have in our nation. If they're worried about that, that is another state's issue, meaning that worry comes from a worry about lobbying and outside state money, which is what I believe this bill is against. And then the other big worry that we found rather irrelevant to our state was the worry about-- can I just finish my sentence?

SANDERS: Your time is up, but go ahead and finish your sentence or paragraph there.

CHLOE JOHNSON: OK-- was our worry about, the worry about instability in having renewables that are, you know, run on these batteries sometimes. But actually what we're seeing happening, and at least I can only speak in Omaha, so we're transitioning to full clean energy by 2050, and we're doing that by building gas plants that are also running off of wind and solar. So they're moving-- as the technology

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

develops, we're moving more and more towards wind and solar. But they're both being built alongside natural gas plants so we will never have a time where we have-- where we are out of power because the wind is not blowing or something. So that is largely an invalid argument, meaning that the real reason that Republicans would want partisanship the Republicans are even largely have taken a stance by fossil fuels is because big national corporations and companies that fund Republican campaigns and even state companies that fund Republican campaigns are receiving money or directly are fossil fuel companies, meaning that the, the purpose of this bill to help with the dark money issue, it, it-- this is just perpetuating it.

SANDERS: Thank you for your testimony. Check to see if there are any questions. Seeing none, thank you for your testimony. Are there any other opponents? Seeing none, in the neutral? Seeing none, we'll go ahead and close, closing LB541. Senator Lowe, while you make your way up here, we do have 57 proponents, 34 opponents, and zero in the neutral.

LOWE: Thank you, Vice Chair Sanders. I think a point was made during the discussion of the opponents, I believe it was Shirley Niemeyer that mentioned that this is all about green energy and how do we buy elections to support green energy. And that's what's happened, the amount of money that's coming in to do that from out-of-state Nebraska not in-state Nebraska. Two groups that were funded by the Nebraska Conservation Voters D.C. money from Washington, D.C. were the Nebraskans for Common Ground PAC in the 2021 cycle, but Conservation Nebraska in this last cycle. Large amounts of money coming in. Why would you want to do that? Why would you want to spend \$100,000 in a \$5,000 race? Is it to elect the best person or is the one that wants to push your agenda? That's what we're looking at here. I appreciate the students coming in today to testify, but we do have carbon-based fuels that come out of Nebraska, oil wells that line the Kansas-Nebraska border. They're there. All the way from south of Hastings to the-- to down by McCook, there are oil wells out in the Panhandle. So we do have carbon based. And prior to Mr. Rusher getting on the board, NPPD board, there was a vote for net carbon neutral by 2050 may put our reliable energy in jeopardy. I kind of like my refrigerator and my freezer because it is full of good Nebraska beef. I'd hate to see that power go out waiting for the next 20-mile-an-hour wind to generate the power to put it back on. I want the best person, local person, to win that race with money that's based out of, out of our local communities not brought in from out of state. And so I don't want our elections being bought by large money. And to see \$100,000

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

come into a race from out of state to support an agenda I just don't believe is right. And that's why I brought LB541 so that we here in Nebraska can decide our races and so we don't have to run a \$5,000 race by generating \$60,000. You, you have 100-- you have a campaign of \$100,000 or contribution of \$100,000 coming in to your campaign, you can afford people to go out and knock doors for you. You can afford an army of people to do that before the primary and before the general. Can't do that on \$5,000. Can't do it on \$10,000. So that's why I brought LB541. We'll look at excluding the NREA so that they could come aboard with this. We'll see what we can do to do that and get them on our side. With that, I close LB541.

BREWER: All right. Thank you. Let's see if we got any questions. Questions? I apologize for stepping out. I had an eighth grader who came all the way from Alliance, it's a long drive to not get to see your, your senator when you come here so I, I ducked out to see him. So I apologize for that, but--

LOWE: Was, was he driving on a school permit?

BREWER: No, no, he has a teacher with him so he's-- they're, they're here testifying, obviously, in, in another committee, but I didn't want to leave him hanging he came too far to not, not be there.

LOWE: And I'm glad we have The Lorax with us. Save the trees.

BREWER: All right. Let's see, did we read in letters? All right. All right. Thank you. Thank you for the testimonies. Let's take a second to reset. The next bill will be LB764 and we will invite Senator Lippincott to the chair. Good afternoon, sir. Welcome to the Government Committee.

LIPPINCOTT: Thank you, sir. Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. I'm Senator Loren Lippincott, Loren, L-o-r-e-n, Lippincott is L-i-p-p-i-n-c-o-t-t, and I represent District 34 in the Nebraska Legislature. I'm here to introduce LB764 to return Nebraska to the winner-take-all system for electing the President and Vice President of the United States. I'm sure everyone in the room is aware that only Nebraska and Maine split their electoral votes. LB1206 was introduced in 1990 to end Nebraska's long practice of awarding our electoral votes by the winner-take-all system and change to the congressional or district plan. LB1206 did not advance and it was reintroduced as LB115 a year later in 1991. LB115 did advance to General File and was

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

debated at length. It passed with 25 minimum vote requirement on each round of voting, including Final Reading. It was signed into law by Governor Ben Nelson and in 1992 Nebraska fell under the district plan. A year later, in 1993, two bills were introduced to return Nebraska to the winner-take-all system, with one of the bills advancing to General File. In 1995 and 1997, LB65 and LB103 were passed by the body returning Nebraska to winner-take-all system. However, both were vetoed by then Governor Ben Nelson. Since that time, the Government Committee has sent similar legislation to the floor six times for full debate. In the year 2000, LB1179; 2001, LB454; in 2003, LB2563 [SIC]; 2006, LB864; and in 2014, LB382; and finally in 2015, LB10. The full Legislature did not have the opportunity to debate the first four of the bills. LB382 was bracketed by the introducer on General File, and LB10 failed on a 32-17 cloture vote on Final Reading. Reading through past transcripts, there are a few running arguments against Nebraska returning to the winner-take-all system and I would like to address that-- those items. Argument number one, the district plan, which we have now, is a compromise between winner take all and abolishing the electoral system. However, the district plan is still the electoral system and it puts Nebraska at a disadvantage until we play by the same set of rules as the rest of the nation. Argument number two, the district plan, which we have now, is it trend. No, no state has changed to the district plan in the past 32 years. Argument number three, my vote doesn't count or voters need to feel like their vote counts. Well, one of the best quotes from the LR423 roundtable in 2010 on the issue was, quote, Votes count as long as your vote is cast. And that was made by Vince Powers, who was at the time the Nebraska Democratic Party chairman. Another item is how do you evaluate a feeling? Do they mean that they feel like their vote counts only if who they voted for wins? Argument number four, this is an experiment worth trying. This is a policy decision, it's not an experiment. We have used the district plan for 32 years and the experiment is over. Argument number five, the district plan, what we have now, increases grassroots participation and encourages more people to vote. However, campaigning 101, it is the candidate and the campaign structure that drives volunteer support. And finally, argument number six, in the 2010 committee hearing, it was mentioned that in passing LB115, the hope was more presidential candidates would come to Nebraska. However, we're a small state with only five electoral votes and we are no longer one of the few states to hold a primary. And when a presidential candidate does come to Nebraska, it's to Omaha generally, which is a high-population center and across the river from Iowa. So no one state has adopted our congressional district plan that we have

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

in, in place right now. And here's the crux of this whole bill, the district plan, what we have now, discourages candidates from addressing issues that appeal to the state as a whole by rewarding candidates who visit our congressional districts with higher population and income levels to the exclusion of rural Nebraska. The district plan also encourages third-party candidates to capture their share of electoral votes, increasing the likelihood that no one candidate receives the needed 270 votes required. This means that the U.S. House of Representatives would decide who is the next President of the United States. Next handout we're giving you, in researching the district plan, what we have now, it's interesting to note that if the entire country used the district plan, the 2012 election would have had a different outcome. You will see in the handout that Romney would have won the Electoral College with 277 votes to President Obama's 260 votes. Finally, my last point is Nebraska votes for our Governor as a state that is winner take all. We vote for U.S. Senator and constitutional offices, such as our Secretary of State, the Attorney General, the State Auditor, and our Treasurer as a whole state which is winner take all. The best policy decision for Nebraska is to return to voting for President and Vice President of the United States as a whole state. Thank you for your time and I'd be happy to answer any questions.

BREWER: All right. Thank you for your testimony. Let's see if we got any questions for you. Yes, Senator Hunt.

HUNT: Thank you, Chairman Brewer. Good to see you in Government Committee, Senator Lippincott. Do you think it would be-- how would you feel if every state did what Nebraska does?

LIPPINCOTT: Well, the handout that you have received, as we saw in the election in a few years ago, if all the states did as we do, Romney would have been the President. So, again, my, my, my, my, my, my, my point here is that what we have right now the person running for President would just go to the high-population centers of the state and exclude, in our case, the western portion of Nebraska and that would be true for all 50 states.

HUNT: What you said-- you were going through the different reasons of proponents and opponents in the past and that was a really helpful list. I was struck by the point you made about how people talked about that this was an experiment. And it's a policy decision, it's not an experiment. And you said after 32 years, the experiment is over. Why do you think the experiment is over? What do you mean?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

LIPPINCOTT: Well, for the reason I, I stated. You know, again, the crux of the whole argument is what we have right now, the district plan, is actually compilation of both the Electoral College and also then by population. So in essence, and I'm sure you know this already, but just for the record, we've got five electoral votes, so two of them are for the senatorial, and that is statewide, and then the other three are by congressional district. So three plus two is five. And so it's, it's, yeah, it's a compilation of both the Electoral College that we have now and then doing it by district. And I believe that Maine does it the same way. And they, they, they started back in 1972, so 30 years ago before we did.

HUNT: You also talked about-- well, do you think it would be a bad thing if a third-party candidate got some electoral votes from Nebraska or from Maine?

LIPPINCOTT: Well, no, not necessarily, I think what John Anderson and Ross Perot, some of the latest third-party candidates. But the point there is, if all the states had, like, what we have here then it could prevent one person from getting 270 votes, electoral votes. And so your question is, would that be a bad thing? Is that it?

HUNT: Yeah, my question is would that be-- why do you think that's a bad thing?

LIPPINCOTT: Well, the market elections are a marketplace of ideas. And right now we've got a two-party system, seems to work well.

HUNT: Do you think that it should just stay two parties and perhaps third-party candidates shouldn't be running?

LIPPINCOTT: That argument is made repeatedly. It has some valid points to it.

HUNT: People, people do make that argument. I'm saying is that your argument?

LIPPINCOTT: Correct.

HUNT: OK. OK. I was-- and then finally, I think finally, I don't think I have more, but why do you want this?

LIPPINCOTT: Well, the reason, the reason I just said I'm a rural guy, come from 100 miles west of here.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

HUNT: Is it because you, you want presidential candidates to come out there?

LIPPINCOTT: Well, the last time a presidential candidate came out to Grand Island was Jimmy Carter just a few weeks after the first part of June in 1980. But that was because of a tornado went through Grand Island and ripped the city apart. So, yeah, we want our voice to be heard out in rural Nebraska and I believe that returning it back to what the other 48 states have would help that.

HUNT: Do you think that passing LB764 would result in more presidential candidates visiting Nebraska?

LIPPINCOTT: Perhaps.

HUNT: Do you think that, though?

LIPPINCOTT: It's very possible.

HUNT: Do you think that more candidates will be coming out to rural Nebraska under this bill?

LIPPINCOTT: They could very well.

HUNT: OK.

LIPPINCOTT: Actually, Ronald Reagan also came to Grand Island. I forgot about that.

HUNT: Did you ever see any of the candidates that came to Nebraska?

LIPPINCOTT: I'm sorry?

HUNT: Have you ever seen any presidential candidates in Nebraska personally?

LIPPINCOTT: Me, personally? I have, Richard Nixon when I was a, a kid.

HUNT: And he came to Nebraska?

LIPPINCOTT: He did.

HUNT: Where was that?

LIPPINCOTT: Omaha. I think it was in the Ak-Sar-Ben arena. I was just a kid.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

HUNT: OK. OK. Thank you.

LIPPINCOTT: You're welcome.

BREWER: All right. Additional questions? Senator Raybould.

RAYBOULD: Thank you, Senator Lippincott. Can you tell us how many times since we have gone to the district plan that one of the districts did not go towards Republican candidates?

LIPPINCOTT: I think it's happened once. I'll probably rephrase your question in that if one district split off from the other districts in terms of who they elected as President and, I believe, that's happened one time with Nebraska and that was also one time in Maine so it is a rare entity, a rare occurrence.

RAYBOULD: And, and like Senator Hunt, I'm trying to figure out why is that a bad thing? I mean, how many states have a Unicameral?

LIPPINCOTT: Personally, I don't know if this is so much a Unicameral question.

RAYBOULD: Well, it's uniqueness of who we are as Nebraskans, and I, I always think that we are somewhat unique having a Unicameral for one of two states that does do the presidential elections by, by district so one of two. So that makes us pretty unique and independent, I think Nebraskans are pretty darn independent minded and--

LIPPINCOTT: It is. But again, that same logic then would say why don't we do the Secretary of State that way and all the other state offices in the same way? So this-- that logic would be applied then to all those other races as well.

RAYBOULD: Well, I know with the federal races for congressional districts, they are set up that way, which makes sense because they want to have that representation from that specific congressional district so that make sense.

LIPPINCOTT: That is correct and that's a good thing, but the President is over everybody in the state, the Secretary of State is over everybody in the state, along with Mike Hilgers, the Attorney General, and all the state offices.

RAYBOULD: And so I think when you referenced the one case, I think that was probably in 2008 with the 2nd Congressional District going

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

for President Obama and, you know, what I hear a lot as a state senator that, you know, we want our rural voices heard, we want our rural voices heard, well, I'm going to just spin it and say, you know, we want our urban voices heard too for certain candidates that more closely align with our Nebraska values, so. I think there's good and bad and it, it seems like the Electoral College process that we have adopted in our state in Nebraska seems to work just fine.

LIPPINCOTT: Yeah, not to get into a contest here, but, you know, we've had this for 30-some years, there's some validity to what you say. But again, I go back to why do we not do that with the other individuals and why do the other 48 states then not come over to our way of doing things?

RAYBOULD: Well, they haven't come over to our way of doing a Unicameral either so I don't think--

LIPPINCOTT: That's true.

RAYBOULD: --that's necessarily a good or bad thing. That's who we are as Nebraskans so I'm, I'm pretty proud of it.

LIPPINCOTT: Yeah.

BREWER: OK. Additional questions? Senator Lowe.

LOWE: Thank you, Chairman, and thank you, Senator Lippincott, for bringing the bill. As I recall, the last campaign stop while they were running for office was probably, and out in western Nebraska, was probably Bobby Kennedy on a whistle stop--

RAYBOULD: Yes.

LOWE: --as he went through on a train.

RAYBOULD: That is true.

LOWE: But other than that, they don't come outside Lincoln and Omaha.

LIPPINCOTT: True.

LOWE: So it's been a while, it's been a while. Thank you.

LIPPINCOTT: Um-hum.

BREWER: Yes, Senator Hunt.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

HUNT: Sorry, one more question occurred to me. You talked about how elections are-- what did you say elections are a marketplace of ideas? So there's nothing that would prevent every electoral vote in Nebraska from going to the same candidate, right? In fact, typically it does. I mean, typically, all, all of the electoral votes go to the same candidate. And you talked about how candidates don't often come to more rural parts of the state. Is that not also part of the market? Is there anything that, that other congressional districts can do to perhaps market themselves to persuade more presidential candidates to come out there?

LIPPINCOTT: Well, that's a valid point. However, you know, in marketing, whether it's business, you go to numbers.

HUNT: Go on.

LIPPINCOTT: So if we-- so the-- what we have right now is a candidate will go to the area that provides the most numbers.

HUNT: The most populous part, you're saying.

LIPPINCOTT: Correct. Yeah.

HUNT: OK. Is this in any way Nebraska government affecting the market as it affects today for candidates in Nebraska? It's, it's-- I'll let that thought form a little bit more. I'll, I'll be finished. Thank you.

LIPPINCOTT: OK.

BREWER: All right. Thank you. Additional questions? I was trying to look it up, it looks like the Electoral College votes were split both in 2008 and 2020.

LIPPINCOTT: Yes. Yes, sir.

BREWER: If my, if my little research here was right. OK, just double-checking on that. All right, one more time. You'll stick around for close?

LIPPINCOTT: Yes, sir.

BREWER: Good. All right. Thank you.

LIPPINCOTT: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

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

BOB EVNEN: Thank you, Mr. Chair, members of the committee. My name is Bob Evnen, B-o-b E-v-n-e-n. I have the honor and privilege of serving as Nebraska's Secretary of State. I'm here this afternoon in support of LB764. I admire the historical background that Senator Lippincott has provided for this. Most recently, this proposal got all the way to Final Reading where there was a filibuster and it, and it lost by one vote. That was a rather odd thing. You don't see that very often, a filibuster on Final Reading. Nebraska as-- Nebraska, as Senator Lippincott indicated, was a winner-take-all state until 1991. The only other state that does this is Maine. We are not playing by the same rules as the other states in the Union, and we ought to because our failure to do so dilutes Nebraska's Electoral College presence. And the, the idea that Electoral College votes should be distributed by congressional district, if we did that nationally, what impact would that have? And the answer to the impact would be it would guarantee massive gerrymandering. It's just not a good idea from a policy standpoint. So you, you recall, I'm sure, that there were complaints about the, the lines that were drawn between Congressional Districts 1 and 2 in Nebraska and there were some complaints about whether those lines were fairly drawn. If you would like to see a picture of congressional districts, take a look at the congressional districts in the Chicago metropolitan area. The congressional districts in California were drawn in, in such a wildly bizarre way that a number of years ago California voters actually put forward an initiative in which every single congressional district in the state was described inside the initiative in order to reform the gerrymandering that had developed in the state of California. They succeeded in getting enough signatures to be able to put it on the ballot, and it succeeded overwhelmingly on the ballot. However, the California Supreme Court, in a decision that we could discuss at another time, ruled it unconstitutional under California's Constitution. That sort of gerrymandering would be-- this is like-- this would be pikers compared to what would happen if Electoral College votes were cast by congressional district. So it is, in my view, a bad policy not to be adopted by the country, hasn't been. And we ought to, we ought to end this in our state as well and return to a winner-take-all system that we had for so long prior to this and not play by rules that nobody else plays by and not dilute our Electoral College presence. Thank you, Mr. Chair.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

BREWER: Thank you, Mr. Secretary. Let's run through questions. Senator Raybould.

RAYBOULD: Thank you, Secretary Evnen. Could you go into it a little bit more, how does it dilute the electoral process in the state of Nebraska?

BOB EVNEN: Because-- well, the, the-- in the last election, the winning candidate in Nebraska won by 182,000 votes, but lost one of the Electoral College votes. That dilutes our presence compared to everybody else who does this on a winner-take-all process. So the winner in a winner-take-all process lost the Electoral College vote. That split dilutes the effectiveness of our votes.

RAYBOULD: I kind of find it difficult to follow along that reasoning when it seems in all but two of the presidential races in the last 30 years, we've had one of the district votes go towards the Democratic candidate. I don't, I don't, I don't see the logical reasoning in how it really diluted the effectiveness and results from the state of Nebraska when it's still four of the five went towards a presidential candidate.

BOB EVNEN: Well, I guess, Senator, I could just-- I would-- I could take that and turn that on its head and say, well, why not then? Because it almost always happens that way anyhow. So why don't we go back to winner take all? It sort of cuts the other way as well.

BREWER: Yes, Senator Raybould.

RAYBOULD: Yes, and so how likely do you think it is for the other 48 states to switch to our way of doing by districts? You know, I--

BOB EVNEN: I don't think--

RAYBOULD: --I know the handout we received said that would have changed the election of 2012. But, you know, we're-- we've been talking about this for 30 years, can you imagine all the other states trying to talk about, hey, we want to change from winner take all to going by districts? It's sort of like a, a hypothetical that is highly unlikely to happen. So what are your thoughts about the other states going to the way that we do it in Nebraska?

BOB EVNEN: Well, that, that was my discussion earlier, Senator, when I talked about massive guaranteed gerrymandering in order to effect presidential results.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

RAYBOULD: So do you see that in our state of Nebraska massive gerrymandering?

BOB EVNEN: I, I, I, I see that there are other states that are more than willing to engage in gerrymandering to accomplish whatever ends the, the people who draw the lines are seeking. And I infer from that history that if the presidential election were at stake we would see lots more of that.

BREWER: OK. Additional questions? Senator Lowe.

LOWE: I'm just a simple guy. So we got three--

LIPPINCOTT: I get very concerned when I hear you say that, Senator.

LOWE: Well, thank you. Thank you. So we have three votes, correct, in our--

LIPPINCOTT: Well, we have five votes.

RAYBOULD: Five.

LOWE: --or five votes, excuse me, so we split our votes, right, and so we don't then send the full five votes one way. So that means we're diluting those five votes, is what you're saying?

LIPPINCOTT: Yes.

LOWE: Thank you.

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

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

BREWER: All right. We will now go to proponents of LB764. Those in support of LB764 come on up. Welcome back to the Government Committee.

STEVE DAVIES: Thank you, Senator Brewer and other senators on the committee. I'm more prepared. I have a statement with this one, a written statement. My name is Steve Davies, S-t-e-v-e D-a-v-i-e-s, and I testify in support of LB764. Forty-eight states use the winner-take-all principle in selecting delegates to Electoral College. It is time for Nebraska to do the same. It will level the playing field for our state. Electoral College is our republic idea of our founding. And if we have an opportunity to split off part of our

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

electoral votes, we are less valuable to any candidate. If they win Nebraska, they may not get all of our votes where in every other state they do. So we're, we're playing hardball with softball rules. Thank you, Senators.

BREWER: All right. Thank you for your testimony. Hang on, let me see if we got any questions. Questions for Steve? All right. Thank you for your testimony. All right. Additional proponents to LB764? Connie, welcome back to Government Committee.

CONNIE REINKE: Thank you. Connie Reinke, C-o-n-n-i-e R-e-n-k-e, R-e-i-n-k-e. I'm sorry. You know, I hear this debate back and forth of Republicans and Democrats and I-- it's so difficult to listen to this. And I think about what if it's not Democrats taking advantage or Republicans taking advantage? What if it's an outside source, another country, another power, a, a globalist agenda that's taking over our state of Nebraska? And I'm very concerned about that. And so the bickering between Democrat and Republican on a lot of this, this stuff, it's just I-- you know, I, I saw COVID happen and it scared people to death. My brother-in-law passed away from it at 48 years old. It was horrible. It scared everyone. Everyone wanted to stay home and, and do mail-in ballots. I, I went and listened to Dr. Frank and he spoke about the algorithms in Nebraska, that every single county has that same algorithm. We are being duped. We are being taken over by another power and it's not a matter of Republicans and Democrats. It's about a source, an outside source trying to take over and take down Nebraska and, and our nation. And I listened to Dr. Frank on the algorithm. I went out myself and went to 3,000 homes in Nebraska, and I found people that went to vote and they were told they already voted. I was told people received four ballots; one family, eight ballots, all of these things. At the first couple, I thought this is just an odd, odd thing that happened. But when you see it over and over and over again, there is corruption. There is election corruption. And so, yes, I, I am a proponent of this because what's happened in the last ten years with, with our elections is horrendous. And I believe the, the people of Nebraska have conservative values. And, and that's what we're seeing with our elections is gradually they're being taken over. And that's why I support this bill, because I believe we're conservatives and this should be passed.

BREWER: Thank you.

CONNIE REINKE: I forgot to hand out this. Can I still do that?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

BREWER: Give it to the pages.

CONNIE REINKE: This has the multiple ballots and each county where it was recorded, they had them so it was not just in Lincoln. And this is such a huge concern.

BREWER: All right. Any questions for Connie? All right. Thank you for your testimony.

CONNIE REINKE: You're welcome.

BREWER: All right. Next proponent.

RICHARD JOST: Hi.

BREWER: Hello. Welcome to the Government Committee.

RICHARD JOST: Good afternoon, everyone. Yeah, my name is Richard Jost, R-i-c-h-a-r-d J-o-s-t, from Bellevue. Came a long ways here today just to state my opinion. So when it comes to national elections, Nebraska should speak with a single voice. While searching for some of those election results, I came across an interesting clip from CBS News that serves as a reminder and a warning. That single Electoral College vote that hangs out there puts a huge target squarely on District 2, inviting every sort of corruption to take that vote. Well, why? it's only a single vote. Well, CBS News was very well aware of this. I have a clip called Presidential Election Could Come Down to a Congressional District in Nebraska. May I play that? It's about-- it's just over a minute. It's-- I just recorded this. It's from CBS News. It's, it's Major Garrett.

BREWER: No. That would-- that would be like a demonstration. We can't do that.

RICHARD JOST: OK. That's what I [INAUDIBLE]

BREWER: You can talk away. You still got your time.

RICHARD JOST: OK. So basically and I wish you could hear it because and I also put this online so it's on the record, the URL for this particular video--

BREWER: OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

RICHARD JOST: --and it's at a minute and 21 second-- a minute and 20 seconds is where they start talking about Nebraska. It's only a three-minute clip, but I had it down to a minute for you guys. Basically, it's after midnight, you know, CBS News, the 2020 election is going on, and they had the map of the U.S. up there and they're choosing between, well, if Wisconsin goes, well, what if Pennsylvania goes or what if North Carolina goes, you know, the whole nine-- what if Arizona goes? There was a scenario that was-- that should be scary to everyone here in that it was 269 to 269. And they said, and there's Nebraska out there, Nebraska, NE2 or it's not-- it's not from the periodic tables, you know, whatever, you know, whatever. I was just trying to be fun. But basically that one vote put Biden at 270 to 269 while they were still talking about all the different-- all the different scenarios that could come out once the voting was, you know, once they stopped counting on all the votes. But that was something that could have-- that could have happened. So basically, my only real point about all this is that's pretty scary. And secondly, you know, Trump won by 19 points in 2020, and here we are. So that disenfranchises, in my mind, 60 percent of the voters in Nebraska to allow that one Electoral College vote to go the other way. So I am absolutely in favor of LB764.

BREWER: All right. So if we have any questions. Questions? Questions?

RICHARD JOST: Please.

BREWER: You have one?

HUNT: No, I was just pointing.

BREWER: Oh, oh. Senator Raybould.

RAYBOULD: Thank you, Mr. Jost, for, for coming to testify. But I think in 2020, I'm just-- I Googled it real quick here, President Biden won 306 electoral votes to prep-- to former President Trump's--

RICHARD JOST: Right.

RAYBOULD: --232. And I think it's, you know, I'm just gonna throw out my opinion and then you can tell me and share with yours. I think that's an exciting thing to think that our state of Nebraska was that influential with our one vote. You know, that to me, that's what democracy is, is all about. It just takes one vote in most of our elections to win a race. And so to go ahead and share with me the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

question to you is why is that not a, a good and exciting thing to be a state that could be making history?

RICHARD JOST: Because, because you're down to a smaller I mean, granted, you know, it's Omaha. It's a bigger section of Nebraska, but you're basically getting instead of having Nebraska speak as a whole, you're having Omaha speak for the entire country. I don't think that's fair. I think that disenfranchises not just the people in the western Nebraska, but pretty much everybody outside of Omaha.

RAYBOULD: So you think it's OK to have the other four votes speak for--

RICHARD JOST: Well, that's how they voted.

RAYBOULD: OK. And that's how that--

RICHARD JOST: So, yes, that's, that's definitely fair. You bet.

RAYBOULD: OK. And that's how that one district voted so.

RICHARD JOST: Well, and again, it just-- it still disenfranchises the other people. It's a national election. This is not a district election. It's not a legislative election. It's national. And so just like the Governor, just like the S.O.S., you know, it's a-- it's a winner take all. And that's-- and that's just my opinion. And I think we should go back to the way it was.

RAYBOULD: OK. Thank you so much.

RICHARD JOST: You bet.

BREWER: All right. Any additional questions? All right. Thank you for your testimony. All right. We're still on proponents to LB764. Welcome to the Government Committee.

LINDA VERMOOTEN: Good afternoon, Senators. My name is Linda Vermooten, L-i-n-d-a V-e-r-m-o-o-t-e-n. The fundamental question I want to ask us is what was the intention of our Founding Fathers when they wrote our Constitution? They wrote a constitution for a republic, not a democracy, because they had seen what could happen if we, quote, have a democracy, and how easily that can lead to a tyranny. They fled Europe for a good reason. They came here to establish a new country to be free and to exercise their rights and to allow every vote to be counted. They set up these Electoral Colleges. If we were saying,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

well, one man, one vote, then you understand what you're saying. Nebraska would never vote again, because between New York City and California, the rest of the country wouldn't matter, if you're going to go with population. So I was very upset and appalled when I saw that our electoral vote was split. Because what that said is anybody outside the Omaha metro area, anyone outside that district, their vote was lessened and we gave more power to the most populated area of our state. That then is the danger, because if you stop that trend, like I said, if you follow that trend, New York City already controls all of New York and all of New Yorkers know that. So you're saying to us, we want Omaha with more people than Lincoln, more people than the rural areas to have more of an important say. Everything and the 48 states disagree with us. Only one does what we do. All the other states have pretty much followed winner takes all. You get the votes in that state. All electoral votes go to that candidate. And I want to ask us that we would return to that. We did it for decades. We did it for a century, in fact. Why now do we think suddenly we have to split it? We have an election. Yes, we have an election. It's called into question, as the former testifier said, what, what about the algorithms? When you look in every single county, they are exactly identical for our state, which is an impossibility. It's a mathematical impossibility which says clearly that there was not-- there was some interference with the election. So it begs the question, did our election really turn out the way that we are told our election turned out? And I think as long as we have these machines, no. We have no idea how it really turned out because we can't even see the real ballots if we wish to do a hand count. And I think we need to be careful if we stay on this road. I think we need to follow what 48 states are doing. That's been an argument that's been used in many committees. Well, you know, so many states are doing this. We should do that. Well, I want to use that same argument in this committee. If 48 states are doing that, I think we should follow them and revert to winner takes all. And I thank Senator Lippincott for bringing this forward. Thank you, Senators.

BREWER: Thank you. All right. See if we got questions for you. Questions? Senator Halloran.

HALLORAN: Thank you, Chairman. You're a first generation, if I recall from previous testimonies, you're-- aren't you a first generation?

LINDA VERMOOTEN: I'm a naturalized citizen, yes, sir.

HALLORAN: And your family came from?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

LINDA VERMOOTEN: I'm originally from South Africa.

HALLORAN: South Africa.

LINDA VERMOOTEN: Yes.

HALLORAN: Well, I commend you on your understanding of the Constitution and the fact that we're a republic and the basis for what the Founding Fathers set up with the Electoral College. I wish more people understood that. So thank you.

LINDA VERMOOTEN: Thank you, Senator. You're required to study all of that stuff in detail when you do your naturalization. And when you become a citizen-- when you become a citizen, you have to pass the examination.

BREWER: OK. Additional questions. All right.

LINDA VERMOOTEN: Thank you, Senator.

BREWER: Thank you for your testimony. All right. We are still on proponents of LB764. No additional proponents. We will transition to opponents to LB764. Welcome back to the Government Committee.

JADEN PERKINS: Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Jaden Perkins, and I'm here representing myself and the thousands of voters in Omaha that would like to keep our split electoral vote. I come before you today as a grassroots community organizer who is strongly opposed to LB764 because--

BREWER: Could we have you spell your name so we get it in the record.

JADEN PERKINS: Oh, yes. J-a-d-e-n P-e-r-k-i-n-s.

BREWER: Thank you.

JADEN PERKINS: I come before you today as a grassroots community organizer who is strongly opposed to LB764 because this bill is another form of voter disenfranchisement. In 2020, during a deadly pandemic, many organizers, like myself, worked tirelessly to mobilize thousands of voters, specifically in north and south Omaha, to come out to the polls like never before, because we knew that this was perhaps the most consequential election of our lifetimes. All of that hard work resulted in President Joe Biden and Vice President Kamala

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

Harris gaining the Omaha-based Second District's electoral vote. And for the first time ever, a black woman got to cast that vote on her district's behalf. This moment in history should be honored by simply keeping the split vote the way it is, not reversed because a certain party failed to win in the last election. The split vote encourages fair competition from presidential candidates, which results in robust voter turnout on Election Day. That's what makes democracy work for the people. If you truly believe in it, then you would vote to strike down this antidemocratic and anti-American piece of legislation. Thank you.

BREWER: All right. Thank you, Jaden. Let's see if we've got questions. Questions? Questions? Thank you for your testimony. All right. Other opponents to LB764. Welcome back to the Government Committee.

AL DAVIS: Good afternoon again, Senator Brewer, members of the Government, Veterans and Military Committee. I got that a little bit backwards. Al Davis, A-l D-a-v-i-s, here appearing today as the registered lobbyist for the 3,000 members of the Nebraska Chapter of the Sierra Club in opposition to LB764. Many years ago, Nebraska began offering a more responsive electoral system when they instituted the current method of awarding electoral votes when voting for the president and vice president of the United States. I think it behooves all of us to look back in the history of the winner-take-all election system, which was not envisioned by the Founding Fathers and is a long way from being a democratic process. And I just looked that up a minute ago. The first election for winner take all took place was 1824, and James Madison said he didn't think people had-- the founders had intended that that would be the development. But what happened was the big states wanted to expand their power and so they developed the winner-take-all approach and then the other small states had to follow along. So it didn't start out as a honorable thing. Winner take all was and still is a tool which larger states and the dominant party would like to use as a weapon to drive policy. Every state should adopt a more moderate approach similar to the one Nebraska uses because winner take all really nullifies the intent of the voters and is undemocratic. Just as Iowa govern-- Iowa garners national attention as the first in the nation, the Nebraska approach drives national dollars and national attention to our state. National elections make every electoral vote important, as you said, and Nebraska has seen national attention and national dollars invested in our state to try and secure that one electoral vote. On top of ad revenue for newspapers, printers, social media, radio and television, individuals are hired in the state to coordinate a winning campaign. National

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

media attention is focused on our state, which generates interest and can lead to investment in the state. The Republican Party is the overwhelmingly dominant party in the state now, but that could change as the cities of Omaha and Lincoln grow, while the Third District continues to lose population. It is-- it is conceivable that 20 years from now, Nebraska could become a blue state. My friends in the Third District would be apoplectic about winner take all if that happened. And I would just say I just watched a news report last night about Oregon, where the western half of the state or the eastern half of the state wants to secede because they don't feel they're getting the attention from the west that they deserve. So you've got farmers in Oregon who were unhappy with the situation. I'm sure they're unhappy with the winner take all. Same thing in Illinois. Same thing in California, where small minorities are disenfranchised. Former legislators crafted a good idea when the Nebraska system was instituted. It has worked well for over two decades. There's nothing to be gained by switching away from the existing procedure, and the ultimate loser will be good public policy and the voters. Thank you.

BREWER: Thank you for your testimony. see if we have any questions. Questions? Senator Lowe.

LOWE: Thank you, Senator Brewer. And thank you, Al, for coming to testify.

AL DAVIS: Thank you.

LOWE: When you were a senator, did you vote for winner take all?

AL DAVIS: I did.

LOWE: And now you're opposed.

AL DAVIS: Yes, I am. I thought-- I thought it through. In fact, Senator [INAUDIBLE] made reference to that. I was going to mention it. That-- the filibuster that he referenced was my last year in the Legislature. And the thing failed because there was a dispute about some exchanging of votes over a marijuana piece. So that's what happened to that one. But, I think the more I thought about, the more I think that we are better served if the power that we have as a voter can be-- can be recognized. And, you know, I think that it's important to recognize that we have had people visit Nebraska and, you know, you heard-- you heard reference and the last testifier talked about how

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

they talked about that one vote in Nebraska. So that was good. I mean, I thought that was a good thing for our state.

LOWE: All right. Thank you.

BREWER: Yes, Senator Raybould.

RAYBOULD: Senator, did you ever feel disenfranchised representing your district in Nebraska in a rural community from the electoral process--

AL DAVIS: No.

RAYBOULD: --in our state? OK. Thank you.

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

AL DAVIS: Thank you.

BREWER: All right. Next opponent to LB764. Welcome back.

SHERI ST. CLAIR: Good afternoon again, Senators. Thank you. I'm Sheri St. Clair, S-h-e-r-i S-t. C-l-a-i-r, testifying on my own behalf this time in opposition to LB764. Nebraska adopted the split vote system in hopes of attracting presidential candidates to a state that's usually ignored because it's reliably conservative. Unfortunately, since implementing the Congressional District method in 1992, Nebraska Republicans have repeatedly attempted to overturn the voting framework in favor of a winner-take-all system. I really appreciate the work that many of our senators have done over the years to keep the split vote system. You know, Ernie Chambers said every person who cast a ballot should have the assurance that vote is going to count. So, you know, in reality, in all likelihood, the presidential race is not going to be so close that a single electoral vote is going to decide the outcome. But it's important for campaigns to be-- to compete everywhere that's competitive. The split vote system does keep Nebraska from being a completely flyover state, which I, as a voter appreciate. So, you know, although it's my preference that the Electoral College be eliminated, you know, second best is to maintain the split votes system that we have. And I would hope that LB674 doesn't advance.

BREWER: All right. Thank you.

SHERI ST. CLAIR: [INAUDIBLE]

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

BREWER: Any questions for Sheri? All right. Thanks again for your testimony.

SHERI ST. CLAIR: Thank you.

BREWER: OK. Any other opponents to LB764?

SHIRLEY NIEMEYER: Thank you. Shirley Niemeyer, S-h-i-r-l-e-y N-i-e-m-e-y-e-r, and I oppose LB764 for the following reasons. We have a represented-- a representative democracy. A representative democracy stands out in sharp contrast to other forms of government, such as totalitarianism, author-- authoritarianism and fascism, which allow the people little or no representation. When a presidential or vice president election is held and if one third are not represented in their vote for the supported candidate in their district, then we take away their voice and their representation. If the congressional district population votes for one candidate, but then the total statewide vote goes to another candidate, is that representation? Is that representation government? I want to feel that my vote counts in my district and for the state and federal governments. We in the U.S. have a very strong support for winner takes all. First. But I value those who come in second and third or last. We must have a difference of backgrounds and experiences and beliefs to have the best government in Nebraska. Diversity of ideas is what makes a strong outcome and a strong Nebraska. Diversity is essential for a democracy along with an educated voter. We need diversity, integrity and honesty, but without dissension and attacks. And I quote, Diversity is a key ingredient for better decision making among teams. Homogenous groups may be susceptible to groupthink, while diverse teams can leverage a greater variety of perspectives and are likely to consider information more thoroughly and accurately. According to McKinsey, companies ranking in the top quartile of executive board diversity were 35 percent likelier to financially outperform the industry medians. Other research finds the inclusive teams make better decisions-- make better business decisions 87 percent of the time. Diversity is an action, inclusivity is cultural, and belonging is a feeling. And I sourced that. But I feel strongly and I've been a Republican, a Democrat, and an Independent, and I vote across party lines and I'm extremely conservative. But I feel sometimes my vote doesn't matter. And I noticed in-- when Saunders County was made part of the, the district in Omaha, you know, mostly Saunders County is Republican. So I looked at that, you know, with questions what-- why did that happen? You know, and I just thought maybe they wanted to dilute them, that district in Omaha. I don't know. I don't have any idea of what

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

happened and I wasn't a part of it. But I, I did have questions about that. So I really don't want my vote taken away from me if I'm voting different than the predominant party in Nebraska. And I agree that young people are voting Independent more and more-- and more in the Democratic Party and older people vote more Republican. So in 10, 20, 30 years, it may be a completely different majority. And so keep that in mind as you think about this. And I really appreciate you listening. Thank you.

BREWER: Thank you. Any questions? All right. Thank you for your testimony. OK. Any additional opponents? Welcome back.

HEIDI UHING: Hello, Chairman Brewer and committee members. My name is Heidi Uhing, H-e-i-d-i U-h-i-n-g. I'm the public policy director for Civic Nebraska, and I'll be speaking in opposition to LB764. We think Maine and Nebraska got it right. The argument for our congressional district method is that it provides more localized representation for all Nebraska voters. A district's vote cannot be overridden by the statewide popular vote. This also puts districts in play that otherwise would be ignored on a presidential campaign. Because Nebraska's Second District can swing either way, it has brought more presidential candidates on the campaign trail and thus more opportunity for voters to engage with them directly. For these reasons, we support the current method of awarding electoral votes and oppose LB764.

BREWER: All right. Thank you. All right. Questions for Heidi? All right. Thank you. OK. Any additional opponents? Welcome to the Government Committee.

JANE SEU: Thank you. Afternoon. My name is Jane Seu, J-a-n-e S-e-u, and I'm testifying on behalf of the ACLU of Nebraska in opposition to LB764. Voting is the cornerstone of our democracy and the fundamental right upon which all of our civil liberties rest. Nebraska is a vastly diverse state in terms of our geographical politics. In order to respect and honor the diversity inherent within our state, our electors to select the president and vice president are divided along congressional lines. While many other states operate a winner-take-all system for these electors, Nebraska is not and should not be one of them. In the 2016 presidential election, it did not matter if we voted for Democratic, Republican, or Independent candidates. Forty-six percent of our votes did not count. With the winner-take-all strategy, it made certain that anyone not agreeing with the majority of the voters in their home state would not have-- would have their votes

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

discarded before-- before the Electoral College convening. So out of those-- out of 100-- approximately 136 million votes cast, more than 64 million votes were not represented by their electors. To be clear, the Electoral College system is not the problem here. The problem lies in systematically disenfranchising the minority votes through a winner-take-all system. The system would allow electors to disregard the will of Nebraskans. Nebraska has correctly chosen to let the will of the people to be reflected in our electoral votes by splitting electors along the congressional district lines. This will should be respected and supported, as Nebraska derives all of its powers according to the First Amendment of our State Constitution from the consent of the governed. And I should mention that, you know, the origin really, I think some other testifiers said this, was to bring presidential candidates to our state and to pay attention to the voters of our state. And I think we've-- our state has been, you know, been able to benefit from that over the years. So with that, we urge you to indefinitely postpone this bill. I'm happy to answer any questions.

BREWER: All right. Thank you. See if we have questions. Questions?
Senator Lowe.

LOWE: Thank you, Ms. Seu. Since ACLU is a national organization, are they trying to switch the Electoral College across the country, then too? I mean, since you're trying to keep us from going to the way the rest of the country is going, has gone.

JANE SEU: Sure. I think the ACLU's interest is really that in, in terms of the voting context is that all those who are voters had access to the right to the vote and that those votes matter so or, you know, are counted and reflected accurately. I can't say for certain whether the national ACLU has taken a position on the Electoral College system.

LOWE: Are you saying the other 48 states don't offer the person the vote as being balanced? I mean, because they don't split up their Electoral College votes so people don't-- what do you think about that?

JANE SEU: So just, you know, really from like a mathematical perspective, this is, you know, what I can offer is that, you know, winner-take-all system kind of favors or at least it kind of what I talked about is that it does not really reflect every voter if, if that vote is not in line with the majority of their state. Because

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

once that state has reached a certain threshold, all their electoral college votes go towards that candidate. Even if a number of the voters in that state, perhaps in a certain congressional district, voted for a different candidate, those votes won't be reflected.

LOWE: Thank you.

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

JANE SEU: Thank you.

BREWER: OK. Additional opponents. Welcome back to the Government Committee.

GAVIN GEIS: Chairman Brewer, members of the committee, again, my name is Gavin Geis, spelled G-a-v-i-n G-e-i-s. I'll be very, very brief. Most of the comments made today we would agree with. In opposition, we oppose LB764 as well. The only thing I would-- argument I would make is that if we return to winner take all, we will certainly have less of a stake in presidential elections. We-- looking at-- looking at the 2020 elections and the states surrounding us, only Iowa received any visits or real attention from presidential candidates. Looking at Kansas, Missouri, Colorado, Wyoming, and South Dakota, none of them received visits from presidential candidates and received very little attention overall in terms of-- in terms of focus. And if we return to a system of winner take all, I think we'd be on par with them. We will be ignored by candidates, and that should be explained. Most, most of the Plains states are ignored by candidates. But because we do it differently, because there's something they can fight over, they pay attention to us. And for that reason alone, I think it's worth keeping the system we have. It brings them here and makes them sell themselves to us. That's what they should be doing. They should be doing it to all the states. But because of how the Electoral College works, that's not how it turns out. And so the Plains states get ignored. And so merely from the stake of pay attention to Nebraska, sell yourselves to us, I think it's worth keeping the system we have. That is all I want to share. Thank you.

BREWER: Thanks, Gavin. Let's see if we have questions. Questions? Senator Raybould.

RAYBOULD: Thank you, Mr. Geis. Do you happen to know or do you recall how many times former President Trump came to visit Nebraska?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

GAVIN GEIS: In 2020, he came as-- at an airport stop in Omaha. So, yes, he for sure did that. In other outside of the electoral process, I'm not sure. But I do know he did make one stop here in Nebraska.

RAYBOULD: So can you share with us how are-- how were the three congressional districts divided? What-- are they divided by--

GAVIN GEIS: Population.

RAYBOULD: And so the population is even-steven?

GAVIN GEIS: As equally or as equally as possible. Right? There are margins of error between the three districts. But we allow-- we allow for some leeway, but we try to keep it very low. So, yes, population equally as possible.

RAYBOULD: And so currently we have two votes that are winner take all. Is that correct?

GAVIN GEIS: Correct, yes.

RAYBOULD: Representing--

GAVIN GEIS: Right. We look at the statewide count and we distribute those according to the winner-take-all system.

RAYBOULD: So those are winner take all. And then the other three districts are by--

GAVIN GEIS: Majority of those districts.

RAYBOULD: --majority of the vote in those districts.

GAVIN GEIS: Correct.

RAYBOULD: Which I'm going to follow through, represent the majority opinion of that specific district.

GAVIN GEIS: That's the goal, right? Yes.

RAYBOULD: And so I know that we've heard from representatives from Omaha that were arguing, well, we want our voices heard for any candidate. And so I think their argument is, you know, we're not diluting it. We're just having our voices heard and our votes counted.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

GAVIN GEIS: Absolutely. I would-- I would agree with that. I think that's the argument everyone's making on both sides of this. We want our voices heard. Right? We're failing to see each other's agency and having our voices heard a little.

RAYBOULD: And I don't know if you happen to know this because we heard some folks talk about Oregon is, is unhappy with the eastern half is out of-- they feel that they're not on the same page with the western half. Is, is the state of Oregon talking about going our route, perhaps doing it by district?

GAVIN GEIS: There are not many states that have really looked at going our route. There have been bills introduced throughout the country over the last 20 years that-- propose it but never really gains traction. So no, not seriously. We're kind of alone still.

RAYBOULD: OK. Well, thank you very much.

GAVIN GEIS: You're welcome.

BREWER: And if I remember right the plan, they want to lop off the eastern part and become part of Idaho.

GAVIN GEIS: I'll leave that up to them.

BREWER: That's a tough road to hoe there. All right. Thank you. Any other questions for Gavin? All right. Thank you.

GAVIN GEIS: Thank you.

BREWER: OK. Any additional opponents to LB764? Anybody here neutral? We will welcome Senator Lippincott back. Oh, I got to read the letters in before we let anybody go on this one. Proponents, 57; opponents 34; and zero in the neutral. And Senator Lippincott waives close. So we will reset for LB364.

HUNT: Oh, that's me.

HALLORAN: That's you.

BREWER: You're up.

LOWE: I hope you're prepared.

BREWER: We're going to let a few more people move out here before we get started so we don't have as much noise for you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

LOWE: Not much noise at all.

BREWER: I was holding up because at the rate they were leaving, I thought they were all going to leave and we'd be done but I don't know. We still got a ways to go. All right. Senator Hunt, welcome to your committee, whenever you're ready.

HUNT: Good afternoon, Chairman Brewer and my colleagues on the Government, Military and Veterans Affairs Committee. I'm Megan Hunt, M-e-g-a-n H-u-n-t, and I represent District 8 in midtown Omaha. I'm here to introduce LB364, which would require that all county election commissioners be elected rather than appointed. I'm carrying this bill forward after a few previous bills from Senator Matt Hansen. When Senator Hansen last brought the bill in 2021, he asked the committee not to take any action on the bill because there were court proceedings unfolding at the time that could have affected the bill. Since then, that has all been settled so I wanted to revisit the issue. In 2019, Civic Nebraska approached senators about what appeared to be a conflict between our statutes and the Nebraska Constitution when it comes to the appointment of county election commissioners. Article IX, Section 4 of the Nebraska Constitution states that all county officers must be elected while the statute provides for county election commissioners to be appointed, either by the Governor or by the county board, depending on the county size. So the question at hand was whether county election commissioners were indeed county officers and thus subject to that constitutional election requirement that we have for other county offices or not and is subject to the statutes. Senator Hansen requested and received in 2019 an Attorney General's Opinion on that matter, and the Attorney General said that our statutes authorizing the appointment of election commissioners were, quote, constitutionally suspect and predicted that the statutes would be overturned if brought to the state Supreme Court. After that, a case was brought in Lancaster County District Court on behalf of a voter who challenged our statutes. The district court judge in that case ruled that our statutes are constitutional, contrary to the interpretation in the Attorney General's Opinion. The AG's office appealed that decision, sending it to the higher Nebraska state Supreme Court. The Supreme Court affirmed the lower court's ruling upholding the constitutionality of the statutes. The court's conclusion was that the Constitution gives broad authority to the Legislature to determine the necessity of choosing county officers by election, and that the Legislature has determined by passing laws that election commissioners and their deputies are not county officers. Basically, the court said that the Legislature has made it clear that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

it does not intend to consider county election commissioners as county officers that must be elected because of the statutes we've enacted. That brings me to where things stand with LB364. Excuse me. Just because the court did not find our statutes unconstitutional does not mean that we don't have a good reason to change them or clarify them. In Nebraska, all of our other county officers are elected pursuant to that constitutional provision. The Attorney General Opinion described how county election commissioners meet the definition of county officers in that they take oaths, they have a set term of four years, they are responsible for enforcing the Election Act and promulgating rules and regulations under the act. The Supreme Court's reasoning for upholding the statutes was largely based on the Legislature's authority to make and enact laws about the Election Act and enforcement thereof. So nothing is saying that we can't change it, and they affirmed that the Legislature has the full authority to do so. The fact that in our largest and some of our mid-sized counties, the people in charge of objectively and neutrally administering the Election Act are appointed by a Governor or county board and not the people of that county seems wrong. For Nebraskans to have faith in the integrity of their county's election systems, they must have a voice in selecting the most appropriate person to lead them. I think the communities know best, and it is they who should get to choose their election commissioner. LB364 provides that county election commissioners are elected and it eliminates the appointment of their deputies. They can still hire staff to support the work of their office. In the vast majority of counties, an elected county clerk is already handling election duties. Why should the citizens in some counties get to elect their elections official but not others? It makes sense that the person in charge of a county's elections should be accountable to its voters, just like all other county officers are. With that, I would be happy to take any questions.

BREWER: All right. Thank you. See if we don't have some questions for you. Questions for Senator Hunt? Yes, Senator Raybould.

RAYBOULD: Thank you, Senator Hunt. In some of the rulings or I guess the Opinion of the AG, how far back did they check the history? How long have we kind of carved out the election commissioners in the county are appointed? Did it say how long back that--

HUNT: Can you restate the question? I'm not sure I understood.

RAYBOULD: The question is how, how long have we in Nebraska been having our election commissioners appointed? Is it for like 30, 40, 50

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

years? I know as a county commissioner, he had to run for office so-- as, as did the county sheriff, as the county attorney. You know, they all have to run for office. And so I always wondered why the election commissioner was appointed, each county election commissioner.

HUNT: I'm skimming the Opinion right now.

RAYBOULD: OK. I'm just curious.

HUNT: And it looks like maybe 1937--

RAYBOULD: 1937.

HUNT: --but I should be careful about saying that on the record without reading it more carefully.

RAYBOULD: OK. I'm just kind of curious because I, you know, as a county commissioner, I thought it was odd.

HUNT: This is definitely notable information. So I wish I could say it on the record right now, but we'll get it on the record at some point.

RAYBOULD: Thank you.

BREWER: All right. Any additional questions? Yes, Senator Halloran.

HALLORAN: Thank you, Chairman Brewer. Thanks for this bill. So you made a comment that having the election commissioners appointed feels wrong.

HUNT: Forget I said feels. I know you hate that word. Pretend I said that I think we should do it a different way.

HALLORAN: You're asking me to erase something from my memory bank.

HUNT: Just delete the hard drive. Yeah.

HALLORAN: Well, I think sometimes first impressions are the best impressions.

HUNT: They're hard to forget, aren't they?

HALLORAN: They are hard to forget. So I'm have-- I'm having some difficulty wrapping my arms around the reason why the benefit for the election versus appointment or what's the harm of the appointment process?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

HUNT: I might have said seems wrong. That's what my notes say anyway. But I think, as I said, we elect our county officers. There are some election commissioners who are elected and some who are appointed, and I think we should do it the same way. And I think we can trust the people in these counties to select the person who's going to administer the Elections Act in that county. I would-- I would give it to the voters. I'm not afraid of letting the voters select their election commissioner.

HALLORAN: Part of the process we're looking at here, I think and I'm going to draw a parallel with the Legislature. We make elections of certain-- certain people, committee chairs, for example, within the Legislature, the body. The voters vet us as legislators to represent them. And then we carry on with duties from that point on in the Legislature according to the rules. And, and so with the Legislature, we don't allow for the voters to vote for committee Chairs, for example. It's done by us as a body to appoint those as Chairs. How is that-- to me, there's a strong parallel between that and what we're doing with appointing election commissioners.

HUNT: I have to think about that. I feel like we don't let the voters, you know, we don't let all of our constituents vote on the bills that we vote on. We don't let them vote on if bills are coming out of committee. Obviously, I'm saying obvious things, but this is just a question of representation. I mean, what if-- what if the President of the United States appointed all the state senators? What if, I mean, what if-- because the Governor can appoint the election commissioner. So to me, it's just a question of who is this county official accountable to? Is accountable to the executive branch? Are they accountable to whoever appointed them? Or are they accountable to the voters that they're actually representing? And I just don't think there's ever harm in more accountability to voters.

HALLORAN: Will we run into the same situation with electing commissioners that we discussed previously on having a primary in the election process and the politics involved in that process if we elect them?

HUNT: Probably.

HALLORAN: OK. Thank you.

BREWER: All right. Senator Raybould.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

RAYBOULD: Thank you, Senator Hunt. Just jumping back to what the AG's Office said, I think the AG's Office thought that it was unusual that the election commissioners were-- they're county officers, but the AG's Office thought it was unusual. I think it's unusual too. However, having served in county government, I think it's also unusual that we elect our county engineer, our sheriff, and some of these other offices. It just seems like a very antiquated form of government. But having said that, when I think of an election commission-- commissioner, their office is, is quite important. And just like in some of the counties, it becomes the responsibility of the county clerk to manage and be in charge of the elections, which is a very important, I mean, here we are talking about elections quite a bit in this committee and it's so important. And so I do think it's, it's unusual, particularly when the AG flags something like this and writes an Opinion. But, Senator Hunt, what else did the AG's Office say? I know you read something in their Opinion that-- about them being treated as county officers or I don't remember, sorry.

HUNT: Yes. And to answer your previous question, in the AG Opinion it says: Nebraska has had a statute requiring the Governor to appoint an election commissioner in a county of a certain population since 1913. And I think all of us have learned in our short time as lawmakers that sometimes the reason for laws is weird and it doesn't mean it's bad or not working, but it doesn't mean it's-- it might not necessarily be consistent. And this is certainly not consistent like the way we appoint or elect all kinds of county officials. And again, it doesn't mean it's not working. I mean, elections are happening. It's all going well. We have a secure election system in Nebraska, but I still think that it would be improved with more accountability to the voters in those counties.

RAYBOULD: Thank you.

BREWER: Any additional questions for Senator Hunt? All right. Thank you. You'll stick around to close?

HUNT: Um-hum. Thank you.

BREWER: All right. OK. We're going to begin with proponents of LB364. Welcome back to the Government Committee.

HEIDI UHING: Thank you, Chairman Brewer and committee members. My name is Heidi Uhing, H-e-i-d-i U-h-i- n-g. I'm the public policy director for Civic Nebraska and I'm here in strong support of LB364. Election

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

commissioners in three counties, Douglas, Lancaster and Sarpy, are currently appointed by the Governor, while county commissioners do the appointing in Buffalo, Cass, Hall, and Platte Counties. All told, these seven counties make up more than 60 percent of the state's voting population. Civic Nebraska has maintained that all county election commissioners, including those in the state's most populous counties, should be accountable to the voters and be elected in accordance with the Nebraska Constitution. This has been our position since at least 2012 when we first brought it to legislators' and state officials' attention. The statutes in question require counties that reach certain population thresholds to allow the Governor or county board to appoint county election commissioners. Civic Nebraska has asserted that these statutes are in violation of Article IX, Section 4 of the Nebraska Constitution, which defines necessary county officers and plainly states that those officers are to be chosen by voters. In 2019, Nebraska Attorney General Doug Peterson was on the side of our legal action, but the Nebraska Secretary of State sided with the current law. The AG asked the Nebraska Supreme Court to, one, claim jurisdiction over the matter; and, two, rule that the state statutes are in fact a violation of our state constitution. The Supreme Court agreed to hear the case in 2019, but then moved it to Lancaster County District Court after the two sides could not agree upon a common set of facts by a November deadline. On January 14, 2021, Judge Lori Maret ruled the statute was constitutional. The Attorney General's Office then appealed the ruling, putting it back in the hands of the Nebraska Supreme Court. And on August 20, 2021, the court affirmed Judge Maret's ruling sailing-- saying that the Legislature has determined that election commissioners and chief deputies are not county officers. So that basically puts it back in the Legislature's court, where you folks can decide yourselves whether or not you want to consider them to be official county officials and could pass statute accordingly so this would be more unified statewide, which is what we are encouraging you to do. I've included a timeline here that does confirm what Senator Hunt said, that this change was made in 1913. And then to your question, Senator Halloran, I think you were asking, you know, what's the downside of the current system, aside from our concerns about representation, is that when these officials are appointed, they're a known member of a political party. And in order to create balance in those offices, they're required to also provide a deputy commissioner of the opposing party or a different party. So we can see the expense of having to have these deputy commissioners if, if these were elected positions.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

BREWER: All right. Any additional questions? Questions? All right.
Thank you, Heidi.

HEIDI UHING: Thanks so much.

BREWER: OK. Next proponent. Welcome back to the Government Committee.

SHERI ST. CLAIR: Thank you, Senators. And thank you for letting me go four for four today, my home run time. Sheri St. Clair, S-h-e-r-i S-t. C-l-a-i-r, testifying on behalf of the League of Women voters in-- as a proponent of LB364. This would give the counties of Douglas, Lancaster, and Sarpy the right to elect their own election commissioner. The past 110 years, particularly Douglas County, voters have been denied the right to do this. This goes back to the Honest Election Law of 1913, which was passed by the Legislature because of questionable election methods at that time. Once corrections were made in the procedures, that law was never repealed. It was, however, amended so that any county with a population greater than 100,000 would no longer be able to elect their county election commissioner, who would instead be appointed by the Governor. So this impacts the three counties, as mentioned. Lancaster County reached this population threshold in 1930. Sarpy reached it in 1990. So we feel that since the reasons behind this whole Honest Election Law of 1913 no longer exists, the voters of these counties should have, you know, [INAUDIBLE] still lost the right to vote for their election commissioners because of their size, you know, not because of election fraud that's ongoing. So we urge the committee to advance LB364 for full floor debate.

BREWER: All right. Thank you. See if we don't have some questions. Questions for Sheri? All right. Thank you for your testimony.

SHERI ST. CLAIR: Thank you, Senators.

BREWER: All right. Any additional proponents? Anybody here in opposition? Beth, welcome back to the Government Committee.

BETH BAZYN FERRELL: Thank you. Good afternoon, Chairman Brewer, 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. I'm appearing in opposition to LB364. You've heard about the history of how this got to be to this point with the AG's Opinion, the Lancaster County District Court case, the Nebraska Supreme Court case. I just want to let you know NACO filed an

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

amicus brief with the district court and with the Nebraska Supreme Court on the side of the election commissioners. We looked at the issue of whether they were officers, the elected officials were officers, and whether they had to be elected. As you've heard, the Supreme Court said that they would not have to be elected, but the Legislature has the authority to determine whether they should be elected. We have no, no issue with that, but we would respectfully disagree that they need to be elected. We think the system that's in place right now is working just fine. Each election commissioner has a deputy that is of a different party than they are, and we think that that's an appropriate check and balance so that election doesn't necessarily need to be done for election commissioners. Election commissioners were first put into office in 1913. What was happening was in Omaha at that time, there was a real political machine that was sort of taking control of things. Ballots ended up in the river, those kinds of things. And so the Legislature enacted the Honest Election Act to try and tamp that down. And that included putting election commissioners in place to, to handle that. As you've heard, the process now is sort of a three-tiered process. In counties over 100,000, the election commissioner is appointed by the Governor. In counties of 20,000 to 100,000, the county board can make a decision of whether they want to have an appointed election commissioner or not. There are three counties where that's the case. Buffalo, Hall, and Platte County have appointed election commissioners. Cass County used to, but they changed that last fall. So this bill would affect not only the counties over 100,000, but would also affect those three counties. In this case, Platte County, their population is under 40,000 so they would have to go to an ex-officio for an election commissioner. In Buffalo and Hall County, those election commissioners would have to be elected. So those are the practical impacts of this bill. Again, we think the system is working fine and we would just prefer to leave it as is. I would be happy to answer questions.

BREWER: All right. Thank you for your testimony, leave it as is.

BETH BAZYN FERRELL: Yes.

BREWER: OK. Questions? Questions? All right. Thank you, Beth. All right. Any additional opposition to-- yeah, opposed to LB364? Yes, but obviously there's. Connie, welcome back to the Government Committee.

CONNIE REINKE: Thank you. Connie Reinke, C-o-n-n-i-e R-e-i-n-k-e. I am in opposition to this. You know, I did think about the concerns that we've had with, with voting and elections and that type of thing. I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

did give a handout to you that says it's named Why We Should Get Rid of the Rigged Election Machines and Mail-in Voting. These has had-- this has some of the top reasons why we believe that the election was fraudulent. We are concerned with the Secretary of State and his role and, and not looking into these issues. But the opposite of that is that as our elections continue to not be stopped--the election fraud being stopped, this, this continues to, to go more and more to the-- in the wrong direction. And so I, I do not believe that this is a good bill. I'm just concerned about that. I believe, as I said before, that, that the state of Nebraska is conservative. And, and so I believe that there are good judgments being made in those areas, even though there has been concern with looking at some of these issues. As we go forward, I just-- I believe that there is corruption in our elections and that we do need to deal with this. And you, as a body, have a big responsibility to do that. As we've talked with counties, they, they say, well, we want to hear what the legislators have to say and their control that they've given to Bob Evnen. So I'm asking all of you to stand and support the election integrity bills and enforce the things that need to be enforced. So thank you.

BREWER: All right. Thank you, Connie. Let's see if we have questions. OK. Any questions for Connie? Questions? All right.

CONNIE REINKE: Thank you.

BREWER: Thank you again for your testimony. All right. Looking for any additional opponents to LB364. Welcome back to the Government Committee.

LINDA VERMOOTEN: Good afternoon again.

BREWER: Yes.

LINDA VERMOOTEN: Linda Vermooten, L-i-n-d-a V-e-r-m-o-o-t-e-n. I'm in opposition to this bill. As I'm listening to the bill and the senator presented it and some of the questions that I had is if the AG and if the courts are saying that our county commissioners are not considered to be-- what is the word?

RAYBOULD: Officer.

LINDA VERMOOTEN: Officer. Thank you. I was thinking officer of the court, it's not a court. So that's [INAUDIBLE] but to considered officers, it's the officers that represent us. It's those ones that we elect. And if they're not considered to be officers, then I don't see

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee March 15, 2023
Rough Draft

why we would need to elect them if we've had this working county fairly well, over 100 years in our state, in our counties and it's going to impact different counties differently if we go to electing, why do we want to say now all of a sudden we're not going to trust the Governor that we have elected, whoever that might be? That's where we have the say. We have a say in who we choose to be our Governor, because from my understanding it's the Governor that then appoints and I think there's a check and balance already in place. I know in my county, in Sarpy County, I have met both the commissioner and the deputy and they are from different parties. And they came and did their training when we were serving at the election polls. So I said if there's already a check and a balance in place, that's how we know that they're then being accountable because they're holding each other accountable. So to say not all positions necessarily have their check and balance in place, I think that's a very good, a check and balance. And then I would also kind of express a concern that we're not so sure at the moment how secure our elections are. I know that we have been told that over and over, but if you tell the same lie over and over and over, then people will eventually believe it. We saw that in Nazi Germany and we've seen that in Russia. We've seen that lots of parts of history. So, you know, the question is, as long as we have the machines and we can see these ballots, then we don't really know how the elections are going. I'd be more concerned about trying to bring about some change in that area than in a commissioner. Thank you for your time.

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

LINDA VERMOOTEN: Thank you.

BREWER: OK. Any additional opponents to LB364? Anybody here in the neutral? All right. We will welcome Senator Hunt back up. Waive close. Got some letters to read in. Boy, I'm slow today. Proponents, we have 3; opponents, we have 21; and we have zero in the neutral. That will complete our hearing on LB364 and complete our Government hearings for the day.