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FLOOR DEBATE

April 14, 2003 LB 444

committee amendments. (AM0856, Legislative Journal page 985.)

SPEAKER BROMM: Senator Erdman, you're recognized to open.

SENATOR ERDMAN: Thank you, Mr. Speaker. Members of the Legislature, I rise today to introduce LB 444. It's a bill that changes certain requirements for filing and circulating recall petitions under Nebraska law. The Government, Military and Veterans Affairs Committee held a hearing on the bill March 13. There was no opposition testimony at the hearing, and the committee advanced the bill, with the committee amendment, with a unanimous vote. LB 444 changes who petitions must be filed with for recall of elected officials of municipalities smaller than a metropolitan or primary class. Under current law, these petitions are filed with the city or village clerk. For metropolitan and primary class municipalities, these petitions are filed with the election commissioner or county clerk. LB 444 would require that all recall petitions be filed with the election commissioner or county clerk. This will remove the burden of keeping up on developments in recall election law from the village clerk, who usually has little, if any, staff and infrequently has to administer recalls. I brought this bill forward after becoming aware of problems related with a 2002 recall election held in Keith County, which is in my legislative district. In that case, there was a dispute over the qualifications of the circulators, which ultimately went to trial in the Nebraska District Court. In the trial, the district court judge ruled that a portion of the Nebraska statute related to qualifications for petition circulators was unconstitutional. The court's ruling was based on a 1999 United States Supreme Court case titled Buckley v. American Constitutional Law Foundation. In that case, the Supreme Court held that the circulator qualification requirements in a Colorado statute were unconstitutional as an infringement on free speech. The committee amendment to LB 444 I offered to the committee at the request of the Secretary of State's Office in response to the Buckley decision and the Keith County case. Senator Schimek will speak more on the amendment, but simply removes a requirement that a circulator be a qualified voter. This is particularly important in the Keith County case because the judge criticized the clerk for following current law rather