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Transcriber's Office

Government, Military and Veterans Affairs Committee  
January 17, 2007

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[LB17 LB39 LB40 LB44]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, January 17, 2007, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB17, LB39, LB40, and LB44. Senators present: Ray Aguilar, Chairperson; Mick Mines, Vice Chairperson; Greg Adams; Bill Avery; Mike Friend; Russ Karpisek; Rich Pahls; and Kent Rogert. Senators absent: None.

SENATOR AGUILAR: (Recorder malfunction)...Government, Military and Veterans Affairs Committee this afternoon. We'll try to get started as quickly as possible. I'm trying to stay on schedule. My name is Ray Aguilar. I represent Grand Island. I'm the Chair of this committee. I'll introduce the committee members that are here. On the far right is Senator Kent Rogert from Tekamah, Nebraska; next to him is Senator Russ "Karpichek" from Wilber, Nebraska. []

SENATOR KARPISEK: Karpisek, sorry, Senator. []

SENATOR AGUILAR: Close enough. (Laughter) And then next to me is the legal counsel for the committee, Christy Abraham; on my left, Sherry Shaffer, the committee clerk; next to her is Senator Mike Friend from Omaha; followed by Senator Rich Pahls from Omaha; and Senator Greg Adams from York. Just to let you know that committee members will be coming and going throughout the day; they're introducing bills in other committees. It has nothing to do with not wanting to listen to you or anything like that. So that's why you'll see them get up, and don't be offended by that. We'll be taking the bills in the order that they're posted outside the door, starting with LB17, LB39, LB40, and LB44. There are sign-in sheets at both entrances. Sign in only if you are going to testify on the bill and put it in the box that you see at the corner of the table here. The testifiers sheet looks just like that one. Print your name and indicate who you are representing. Before testifying, please spell your name for the record, even if it's simple, easy to spell. Introducers will make initial statements, followed by proponents, opponents and neutral testimony. Closing remarks are reserved for the introducing senator only. Listen carefully and please try to not be repetitive. If you have a prepared statement or an exhibit, give it to the page, and he will distribute and/or make copies to distribute. Everyone, please turn off your cell phones. Our page for today is Adam Morfeld. Adam comes to us from Sioux Falls, South Dakota, where ever he is. And at that point, we're ready to open testimony on LB17, Senator Mick Mines.

SENATOR MINES: Mr. Chairman, members of the committee, this is a tough looking group. It's nice to be here. Nice to be number one. My name is, for the record, Senator Mick Mines, M-i-n-e-s. I represent the 18th Legislative District, and I'm here to introduce LB17. LB17 amends Section 32-603 and 32-604 relating to multiple office holdings. Right now under 32-604, high elective office, and that's what we'll be talking about is

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high elective office, means a member of the Legislature. An elective office described in Article IV, Section 1 or 20, or Article VII, Section 3 or 10, of the Constitution, or a county, city, or school district elected member. So we've got the Legislature, a county, city, or school board member. This definition states those included within this definition are members of the Legislature, and I just repeated that. So 32-604 also states that no person serving in a high elective office shall simultaneously serve in another high elective office, except county attorneys. You can be a county attorney for two different counties simultaneously. LB17 would also add natural resource district board members to the definition of high elective office. This would bar natural resource district board members from serving on other high elective offices. When you look at that definition I, frankly, was surprised to see that natural resource board members were not included. Take, for example, your county board of supervisors, or county commission, whichever form of government you have. You could serve as a natural resource board member, natural resource district board member, you could also serve as a county board member, or a city council member. And for those of you that have served in local government, you understand that that does constitute a conflict of interest. Many times you both have power of eminent domain, you both discuss water issues that affect your area, so you do have conflicts of interest. And that's it. I have...that's really, I mean, it's not that hard a bill to really understand. It simply says that if you're a member of a natural resource district, you are also a member...a high elected office, and as such you can't serve on a city or county or the Legislature simultaneously. [LB17]

SENATOR AGUILAR: Thank you, Senator Mines. Before we go to questions, I'd like to introduce Senator Bill Avery from Lincoln, who's joined us. [LB17]

SENATOR AVERY: I apologize for being late. I won't do that every day. [LB17]

SENATOR AGUILAR: Questions for the Senator? You're getting off easy. Senator Avery. [LB17]

SENATOR MINES: You were late, Senator; I can't respond, I'm sorry. (Laughter) [LB17]

SENATOR AGUILAR: His hand was late, too. [LB17]

SENATOR AVERY: We're just learning here, you know. Are you motivated by the conflict of interest that might appear? [LB17]

SENATOR MINES: I am. [LB17]

SENATOR AVERY: And that's the principal reason for this? [LB17]

SENATOR MINES: I am. The fact that I could also serve on my local natural resource district and serve in this body is a clear conflict of interest, in many cases. And it was

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about the only conflict that I could yet find of that level. And particularly, that's a local elected office, so you've got city or county board members can also serve on a natural resource board. And in today's environment, particularly with the water issues that we have, and erosion issues we have, I don't believe the same person should represent two public bodies simultaneously. [LB17]

SENATOR AVERY: I know that applies to me in my formal role at the university. Supreme Court rules in the Conway case that the university faculty are part of the executive branch of government. [LB17]

SENATOR MINES: That's correct. [LB17]

SENATOR AVERY: Which is, you know, a stretch, if you ask me. [LB17]

SENATOR MINES: Yeah, that is right. [LB17]

SENATOR AVERY: But nonetheless that's the same principal. Thank you. [LB17]

SENATOR MINES: That's right, that's right. [LB17]

SENATOR AGUILAR: Any other questions for Senator Mines? Thank you. [LB17]

SENATOR MINES: Thank you. [LB17]

SENATOR AGUILAR: Will you be waiting around to close? [LB17]

SENATOR MINES: I will waive closing. [LB17]

SENATOR AGUILAR: Okay. Can I get a show of hands on how many want to testify either for or against this bill or neutral? All that? Senator Mines, to close. Senator Mines waives closing. That closes the hearing on LB17. We're now ready to open the hearing on LB39. Is Senator Schimek available? Now joining us on this side of the table is, of course, is Senator Mines, who is Vice Chair of the committee. Senator Schimek is on her way, so there will just be a short break here. [LB17]

BREAK

SENATOR AGUILAR: Senator Schimek is here now. Welcome.

SENATOR SCHIMEK: Thank you, Mr. Chairman. []

SENATOR AGUILAR: Senator Schimek, to open on LB39.

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SENATOR SCHIMEK: (Exhibits 1, 2, and 3) Mr. Chairman and members of the Government, Military and Veterans Affairs Committee, it is my pleasure to be with you today. For the record, my name is DiAnna Schimek, and I am here to introduce LB39. Most of you are probably aware of the complaints about last year's petition drive. In fact, some of you sat through the hearings this last fall. For most of the people who called our office, the concerns were about the age of some of the circulators, about circulators being paid from outside the state, about the conduct of petition blockers, and whether circulators were fairly representing their petition proposals to potential signers. Because of the number of calls we received and the amount of news coverage on the issue, the Government Committee decided to hold a hearing on the issue in September. And many testified at that hearing, a range of people from university professors, to political consultants, to private citizens. And they had a number of recommendations. The Secretary of State also made several proposals, including requiring circulators to be of a certain age, have minimum English language skills, and no felony record. Some of the suggestions made at the hearing have already been ruled unconstitutional by courts either of the United States or of the state of Nebraska. One of the biggest complaints has been about paid circulators. Many people feel that only volunteer circulators should be allowed. And, of course, that's the way our whole petition process started in the beginning. However, the United States Supreme Court struck down the paid circulator prohibition in 1988. Some of the other things they have declared unconstitutional are requiring circulators to be registered voters, requiring circulators to wear name badges, requiring circulators to register with the Secretary of State if they circulate petitions outside of their county of residence. After the hearing, the Government committee counsel and I, and the Secretary of State, and the deputy sat down and considered some proposals which are incorporated into this bill and LB40. First, requiring...and these are the provisions of LB39. First, requiring petition circulators to be qualified electors takes care of several issues. To be a qualified elector means the person is eligible to register to vote in Nebraska, they have to be 18 years of age at the time of the election, and they have to be a resident of the state. And requiring residency is a little bit different than requiring circulators be registered. The Eighth Circuit Court of Appeals upheld North Dakota's law requiring petition circulators to be residents of the state. Finally, circulators would be required to have some grasp of the English language, since they would need to be citizens. Also, circulators could not be on parole or probation for a felony. As you remember, felons only can register to vote two years after completing their sentence, including probation and parole. Secondly, many of the problems raised at the hearing dealt with the issue of paid circulators. The Secretary of State stated that was the number one complaint at his office. Testimony at the hearing included stories of petitions being left unattended, of circulators telling potential signers they didn't have time to explain the petition since there were a lot of people who would sign without lengthy explanation and so forth. One possible way to avoid these issues is to prohibit the payment per signature and require an hourly wage or salary instead. The Eighth Circuit Court of Appeals, of which Nebraska is a part, upheld the prohibition on commission payments for circulators in North Dakota. In other words, the court allowed

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North Dakota to prohibit payment on a per signature basis. The third and final provision of LB39 regards campaign spending. And it simply stipulates that the total amount paid to a circulator be reported, but that the principal circulator would not have to report the name or address or any personal information about that circulator in keeping with the court's feeling that circulators had a right to free speech without being identified publicly. There was one other provision that was discussed with the Secretary of State, but that was incorporated in LB40, and will be explained when that is introduced. Thank you. [LB39]

SENATOR AGUILAR: Thank you, Senator Schimek. Questions for Senator Schimek. Senator Mines. [LB39]

SENATOR MINES: Thank you, Mr. Chairman. Senator, I may have missed this. All of the recommendations that you're offering have been found constitutional in other states and/or the Supreme Court? [LB39]

SENATOR SCHIMEK: I believe so, Senator. Definitely, we know that requiring them to be electors, at least, has passed muster in North Dakota, requiring them to be eligible to be electors. We also know that other states have provisions regarding whether you can do the pay per...or prohibit the pay per signature. [LB39]

SENATOR MINES: I might be able to help. [LB39]

SENATOR SCHIMEK: And incidentally, I brought some handouts with me, which I probably should distribute at this time. And it tells you... [LB39]

SENATOR MINES: You know, committee counsel just handed me requirements for petition circulators in other states. And I'm going to estimate there are 20 that have different provisions, which are included in your bill. [LB39]

SENATOR SCHIMEK: And that's the handout that I was just going to share with you. I forgot to do that, sorry. And, Mr. Chairman, if I may, I also meant to suggest an amendment to the bill. And that was brought to us by Frank Daley, who's head of Accountability. And he would like for us to go through and strike certain provisions in the bill that talk about individual or entity and insert "person", because person is consistent with statutory language elsewhere. And I honestly don't know if that's new language or old language. But he's recommending that we do that and refer to every entity as "person." [LB39]

SENATOR AGUILAR: Thank you. Any further questions? Senator Friend. [LB39]

SENATOR FRIEND: Thank you, Chairman Aguilar. Senator Schimek, I...LB39 and LB40, LB39 specifically, both interesting subject matter. And I wasn't part of the

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committee when you went through a lot of the information. I signed onto both of these bills, mostly because you smiled at me and fluttered your eyes. (Laughter) [LB39]

SENATOR SCHIMEK: Thank you, Senator Friend. My reputation has just shot up by miles. [LB39]

SENATOR FRIEND: No, actually, the...you're welcome. But I do have a question. Are you...during those hearings and the information you gathered, are you, I guess, personally, and did the committee feel a little bit concerned about the idea that we could be infringing upon, since we are the only Unicameral in the nation, that we're infringing on the second house's ability to do its...which, I might add, it could be argued, we've done in the past, we've infringed on that second house's ability to do its job. Did that come up? I mean is it...it's clearly a concern of yours. And, I guess, I just wanted your viewpoint on that subject matter. [LB39]

SENATOR SCHIMEK: That's a legitimate, Senator Friend. But if you recall, when initiative and referendum was passed by the voters of Nebraska we were a two house Legislature. So I don't think initiative and referendum really has much to do with the one house Legislature. It's more just a process that a lot of two house legislative states used, and it simply carried over to the time when we did adopt a Unicameral Legislature. [LB39]

SENATOR FRIEND: I think my only point, and I think you probably share it, is the concern to me is a lot of the other states...Senator Mines aptly brought up the ideas that a lot of other states are analyzing these things from the standpoint...from a different standpoint. We're analyzing them from a unique standpoint. And I know that's come into the discussions in the past. More than likely some of the testifiers will come up here and speak to that subject matter. I guess, notwithstanding those points, which are valid, it would occur to me that if I were out here saying, look, this is my right, your...you know, some of these things could be considered maybe an encroachment on those rights. Since we're so unique, it probably puts you...the committee and yourself in particular in a kind of a box, where you had to be really careful about framing this stuff. And the Secretary of State, I'm assuming I guess, was involved in that question being, did you take special care with these things to make sure that maybe because we're in a unique position that we're not going to be dealing with those types of issues or concerns? [LB39]

SENATOR SCHIMEK: Yes. And, Senator, I think you're right to be concerned about those issues. And again I have to say, I don't think they're any different for a one house Legislature than they are for a two house Legislature. I could be wrong about that. But I think... [LB39]

SENATOR FRIEND: We can talk about that for a long, long time. [LB39]

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SENATOR SCHIMEK: I think the... [LB39]

SENATOR FRIEND: (Laugh) Not here. I'm kidding. [LB39]

SENATOR SCHIMEK: No, good. I think the initiative process is in the Constitution of other states as well as our state. We have certain provisions in our Constitution which provide that our one house Legislature has lots of safeguards that other two house Legislatures don't have. So I'm not sure that's a big factor. But the point you raise about being careful, yes, I think we have to be very careful. And committee counsel spent a lot of time looking at the historical record on court decisions and so forth. You have to be able, as I understand it, to prove that you have compelling interest in trying to change the petition process, or you have to be able to meet the court tests that other courts have established for some of these things. For instance, just the ID badge itself, the courts, I believe, have said, it's been a long time since I've actually read these decisions, but I believe the courts have said that you have to be able to protect the person who's circulating the petition; that they have a right to free speech. And they don't have a right to be harassed and harangued because they're out circulating a petition. So that's, I think, the reasons that the court said you can't require a name badge. But if you don't have the name and the telephone number and the address on that badge then perhaps that would pass constitutional muster. And I'll talk about that a little bit when we get into LB40. But, yes, you've got to be very careful. And I think committee counsel is well schooled on this so that that could be part of your discussion in Exec Committee. [LB39]

SENATOR FRIEND: Thanks. [LB39]

SENATOR SCHIMEK: You're welcome. [LB39]

SENATOR AGUILAR: Further questions? Seeing none, thank you. We'll next take testifiers who are proponents of the bill. [LB39]

SENATOR SCHIMEK: May I get a page to distribute the suggested amendment as well? [LB39]

SENATOR AGUILAR: Adam, you want to take care of that? Are there no testifiers in favor of this? Welcome. [LB39]

LYNN REX: Senator Aguilar, members of the committee, my name is Lynn Rex, R-e-x, representing the League of Nebraska Municipalities. We strongly support LB39. I think that some recent experiences make it abundantly clear why it's important for individuals in the state not only to have the right, obviously, to amend their constitution and our Constitution, but also to protect the integrity of the constitution and the process itself.

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For example, I think one of the most important elements of this bill, on page 3, on lines 14 and 15, talks about basically that you will not pay a circulator based on the number of signatures collected. In some recent efforts across the state of Nebraska, you would go to, whether it's a HyVee store, or Super Target, or Super Wal-Mart, you can name the place, or a DMV, and instead of having basically a petition there and would you like to sign the petition or not, stacks and stacks of petitions, and sign, and people were just asked to sign and sign and sign. And at the interim study hearing, those of you on this committee that were there during the interim study hearing, will recall, as you did, Senator Aguilar, that in fact what occurred is there were people that testified at the interim study hearing that individuals signed affidavits thinking they were signing one thing, when in fact it was something else. I think that one thing, as the committee looks at advancing this bill, that we would encourage you to do is to have an express statement that, not just saying what the object of the petition is, but reading the object statement, like you do on a recall petition. Right now, in the recall laws, and many of you have been on this committee for a number of years, you know that if you're recalling an elected official you actually have to say, I'm recalling Mayor Jones because I don't like the color of his tie. And that...you don't have to have a substantive reason, it can be that. And, frankly, we've had mayors subjected to recall for less than that. So bottom line is, but you have to state what the reason is. And then when I ask you to sign that petition I have to say, you have to sign this, I now need to read you the object statement, and I read you that, we're recalling Mayor Jones because we don't like the color of his tie, because we didn't like his position on zoning, whatever it is, we have to read it. The same thing needs to apply here. There were individuals that testified at the interim study hearing that they were asked to sign an...they found out later, when they went back, that they had signed petitions that were not on the subject matter that they thought they were signing. And part of that is because people were being paid, basically, on a signature basis. They were getting as many signatures as they could get. Individuals, I actually had some family members in town at one event, and they were told, well, there's not time for them to check now, I'm just getting paid on a per signature basis, they're not checking, sign, sign, sign. And they didn't sign, of course, because they were with me. (Laugh) But all I'm suggesting to you is that this is very important. It's an important public policy. This is important when you're changing the Constitution of the state of Nebraska. So I think it is extremely important that you...that everyone know the rules. And we want these rules to be reasonable. The League of Nebraska Municipalities represents cities and villages across the state of Nebraska, which there are 532. It certainly occurs to us, as it has other major organizations representing counties, NRDs and others, that at some point we might be basically doing an initiative petition. We might be doing a referendum. These laws would apply to us. We want them reasonable. We think what is in this bill is reasonable. We think certainly making it clear to folks that they're going to take the time, there will be no incentive to see how fast they can get signatures because they're being paid on an hourly basis, they would have no reason to try to rush people through it. They would have no reason to chase people down in parking lots and, as the film on Channel 7 has, basically has a mother who is

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trying to drag two kids to get into their car and try to get away from somebody, and he puts his hand on her car door so she can't get in, you don't have that when you're getting paid on an hourly basis would be my thought. I would hope not, I certainly would hope not. So I think that's a compelling reason for doing it. I think the other requirements in this bill are also important. And I'd be happy to respond to any questions that you might have. [LB39]

SENATOR AGUILAR: Questions? Seeing none, thank you. [LB39]

LYNN REX: Thank you very much. [LB39]

SENATOR AGUILAR: Next proponent. [LB39]

FRANK DALEY: Good afternoon, Senator Aguilar, members of the Government, Military and Veterans Affairs Committee. My name is Frank Daley, D-a-l-e-y. I serve as the executive director of the Nebraska Accountability and Disclosure Commission, and I'm here today to express the commission's support of LB39. And actually, more specifically, I want to express the commission's support of Sections 5 and 6 of LB39. Current statute in the Accountability and Disclosure Act, requires that ballot question committees and other campaign committees involved in ballot questions disclose the names, addresses, and so forth of petition circulators, as well as the amounts paid or owed to those circulators. And I know you heard a little bit earlier about the...some of the court cases that have been floating around. In 1999, the U.S. Supreme Court issued its opinion in the Colorado case of Buckley vs. American Constitutional Law Foundation. And in that case, the court considered a number of issues related to petition circulators and initiative petitions. And one of the issues, which was addressed by the court, was the identification of petition circulators. And I think part of that will be a key factor in LB40, which is coming up. But it also addressed the concept of identifying petition circulators in monthly campaign reports that in Colorado were required to be filed. And those types of reports are almost identical to the types of reports that are required to be filed in Nebraska. So what Sections 5 and 6 of LB39 do is they remove the unconstitutional provisions that require ballot question committees to disclose the names, temporary addresses, permanent addresses of petition circulators, as well as the amounts paid to specific circulators. And instead it replaces that with a provision that those committees keep records of those transactions. It has that information available, if it's needed for law enforcement purposes. But it instead replaces the reporting requirement with the requirement that the committee report the amount of money paid to circulators in total during the reporting period. And that, to me, seems like a good, common sense response to the U.S. Supreme Court's decision. In other words, you get the information that I think the public really wants, not how much John Smith received for circulating a petition, but how much did the sponsors pay in total to petition circulators. That may be more useful information. So I do want to thank Senator Schimek for including this language in LB39. And by the way, I do want to express my

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support for the proposed amendment that Senator Schimek submitted to you. Essentially, what we're trying to achieve with that is harmonization of the language throughout the Accountability and Disclosure Act. The bill uses the term "individual and entity", and occasionally uses the word "person", and we'd like to move to using the word "person" because that is a defined term under the Accountability and Disclosure Act, which includes individuals and most types of entities that you could think of. So thank you very much for your attention today. [LB39]

SENATOR AGUILAR: Questions for Mr. Daley? Senator Mines. [LB39]

SENATOR MINES: Thank you, Mr. Chairman. Frank, the change, actually the responsibility of tracking the petitioners, I think that's...I agree with you that it makes sense that the petition organizers keep track. If they don't, so what? What penalties are there if the petition circulator, not the circulator but the organization, if they don't keep good records, what happens? What recourse does Accountability and Disclosure have? [LB39]

FRANK DALEY: Well, I think there are a variety of recourses. First of all, there are several places in the Accountability Act, including within this bill, that establish an affirmative requirement to keep certain types of records. And so any failure to keep those records could result in civil penalties of up to \$2,000 per violation. [LB39]

SENATOR MINES: Oh, great. [LB39]

FRANK DALEY: And I guess I'd have to look to see, it may... [LB39]

SENATOR MINES: I guess my point is, there are provisions that your department can enact, and you can penalize them, fine them. And so there is reason for the organization to keep good records? [LB39]

FRANK DALEY: Yes, there is. [LB39]

SENATOR MINES: Thank you. [LB39]

SENATOR AGUILAR: Further questions? Seeing none, thank you, Mr. Daley. [LB39]

FRANK DALEY: Thank you very much. [LB39]

SENATOR AGUILAR: Any other proponents? [LB39]

PAT LOONTJER: Good afternoon. I'm Pat Loontjer and I'm the executive director of Gambling With The Good Life. We were established in 1995, to oppose expanded gambling. And since that time, we've faced three major petition drives; one was in '96,

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one was in 2004, and then the last one... [LB39]

SENATOR AGUILAR: Excuse me just a minute. Ms. Loontjer, would you spell your name for us, please. [LB39]

PAT LOONTJER: I'm sorry. L-o-o-n-t-j-e-r, it's pronounced Loontjer. [LB39]

SENATOR AGUILAR: Thank you. Proceed. [LB39]

PAT LOONTJER: The last petition drive was just recently, the 2006. And we've seen the distortion and the misrepresentation and blatantly fraud that happened in all three of those. Our opponent, in those cases, was, of course, usually Nevada. They came in and for \$1 million it is sad to say you can almost buy your way onto a Nebraska ballot. That is certainly not what our founding fathers wanted when they initiated the petition process. It's been so distorted that it ties the hands of the average citizens. This has been done by the court, it's already been mentioned, where they've restricted that it does not have to be Nebraska citizens, like it once was, and now they can be paid. So much has happened that has distorted the process. Sad to say what this caused by the three petitions that succeeded to get on the ballot was that this caused us, as ordinary citizens, to have to mount huge campaigns in order to get the truth out, because so many of those people had signed and put that on the ballot not knowing what they were doing as far as slot machines and casinos. Many times they were approached and said, sign here for lower taxes. I mean, who's not going to sign something for lower taxes. And had no idea what, you know...then we're faced with how do we get the truth out to such a large state with volunteer effort? We were very successful. We've been successful for 11 years. And in the last campaign we won 92 out of 93 counties. But it was exhausting to do that. We support LB39 and LB40 for the very reason that something needs to be done to put the process back to the way it was intended, which was to give the people a voice, and not have the big money outsiders come in, hire what we call the carpetbaggers, put them out on the street, house them and harass the citizens to the point of almost criminal activity. So we would certainly support this. I wish that more could be done, but we're...our hands are tied by the courts on a lot of this. But I do appreciate that Senator Schimek is doing what she can to try to improve the process. And I would entertain any questions. [LB39]

SENATOR AGUILAR: Questions? Seeing none, thank you. [LB39]

PAT LOONTJER: Thank you. [LB39]

SENATOR AGUILAR: Next proponent. [LB39]

NEAL ERICKSON: (Exhibit 4) Senator Aguilar, members of the committee, my name is Neal Erickson. I'm Deputy Secretary of State for Elections, here on behalf of Secretary

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of State John Gale. Unfortunately, he wasn't able to be here today because of some scheduling conflicts, but did want me to provide a letter that the pages are passing out and indicate his support for both LB39 and LB40 and to answer any questions you might have. I think Senator Schimek has provided a good background in terms of the genesis of this legislation and some of the background on it. I think there are some comments contained in the Secretary of State's letter, so I would encourage you to read it. One suggested change that we had on LB39 was to include a statement that the circulators are electors within the circulators oath that appears on the petition. That was not in the original bill, and that will help provide some teeth to the provisions itself. And with that, in the interest of brevity, I'd answer any questions you might have. [LB39]

SENATOR AGUILAR: Questions for Mr. Erickson? Seeing none, thank you. [LB39]

NEAL ERICKSON: Thank you. [LB39]

SENATOR AGUILAR: Anymore proponents? Welcome. [LB39]

RUTH LIENEMANN: (Exhibit 5) My name is Ruth Lienemann, spelled L-i-e-n-e-m-a-n-n. I'm from Papillion. I'm old enough to vote. (Laugh) I've circulated a lot of petitions. And at first I used to go door to door and freeze a lot, then I got smart, and went up to the courthouse, kept a certain distance and circulated there. And I saw people holding three clip boards in their hand and getting three a minute, so you can imagine how much money they made circulating three petitions at once and how much explaining they did. And I heard people representing the NSEA misrepresent their petitions, and I challenged them on it. Went up to the post office, when they still allowed us to do it, and I saw one lady circulate a petition and tell people, would you like to sign a petition that will lower your property taxes? And I acted like I was going to sign it, and I said, what did you say? And she said, I said that isn't what that says, it was the gambling petition. And I argued with her a little bit and she went over to a van and said, didn't I tell them this? And I said, no, you didn't say that. And she said, well, why don't you mind your own business. I said, good government is my business, and proceeded to circulate petitions. We're talking a lot today about making the circulators accountable. And certainly I've always been very opposed to paying people anything. I never took a penny for circulating petitions. It's a sacred privilege for people, especially as with the second house of the Legislature, and put that in quotation marks, because we don't get very far passing laws, and when we do, the Supreme Court or the Legislature scratches them off anyway. Sorry about that. But I have here some...there are only seven copies of these, which I put together, which show that there is infringement of the people's initiative, the second house of the Legislature. And it's very clear, and I have a chronological history of it, which will not take very long. In 1988, Senators Hall and Chambers had a legislative petition to change the word...the Constitution to say "registered voters" in place of "electors." There was not a word in there about changing the number of signatures people had to collect on a petition. That was it, period. And I

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have a copy here of the ballot. It's very hard to read, but it's from the World-Herald. And so the term limits then...that was in 1988, it passed. In 1992, the term limits passed by 70 percent by the people. That was an initiative petition. And somebody brought a lawsuit to the Secretary of State and said he put that amendment on the ballot with insufficient signatures, according to the Hall-Chambers amendment, which didn't mention change of signatures. The people never voted on changing signatures. That's not fair. Then in 1994, the Supreme Court in 1994 ruled in favor of that lawsuit and said, yes, you didn't have enough signatures on your petitions; term limits is null and void. The Constitution was amended right there by the Supreme Court. But the Supreme Court didn't do its homework, it didn't read the Constitution to see that Section 3,...Article III, Section 4, which has the formula printed, doesn't have the word "elector" in there, it specifically says, a formula, the exact number of votes cast, now that may mean elector, but it doesn't say elector, votes cast in the prior election for Governor shall be the number on which we compute the signatures. Okay. The law was plain in there. The people followed that law when they circulated their term limits amendment. They didn't know the signatures had been changed. They followed the law, they complied. Yet the Supreme Court vetoed...scratched their term limits. Okay. So the people were really angry and the news...I have a collection in my file of all the newspaper articles and the discussion of this fiasco. In 1996, the people decided that they would file another petition to return the signatures to what they were. Well, that's an oxymoron, we never left the signatures. How can you return to home, if you've never gone out the door? The Constitution still said the same thing it did before 1988. So that's an oxymoron. But we did it, and of course it failed in the election, because by that time, four years, people were really confused. And we're sick of the whole mess. So the article...so then when the people voted, it failed, the Supreme Court ruled, in 1988, well the people had a chance to change it and the miffed it, they rejected it, so therefore the Constitution is amended to say that the signature rule shall depend upon 10 percent of the registered voters, which is a big list, as you know. They register them very fast, but they might not vote. But we're taking 10 percent of the registered voters, which is meaningless. The original Constitution said, take 10 percent of the people that care enough to vote and go vote. And that's the number of signatures we should have to compute on right now. And I think if our signature requirement were lowered we wouldn't have all of these other situations, like paying the circulators and all this other stuff. Just following the Constitution the way it's written would take care of it. And by the way, if you look at the law books, and I called the Clerk of the Legislature and I said, has Article III, Section 4 ever been amended, and she said, no, it hasn't been amended since 1920. So the formula is still on there, why don't we enforce that? So I'm just as worried about the accountability of the Supreme Court and our lawmakers as I am about these little people that are out stomping the streets getting signatures. Thank you. Are there any questions? [LB39]

SENATOR AGUILAR: Questions? [LB39]

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RUTH LIENEMANN: I'm pretty passionate about this. [LB39]

SENATOR AGUILAR: Thank you for being passionate, and thank you for being here today. Any other proponents? [LB39]

LYLE JAPP: My name is Lyle Japp, J-a-p-p. I live at 1505 South 97 Street in Omaha, Nebraska, and I, too, have been a part of Gambling With The Good Life since 1995. And as Pat Loontjer has testified, it's brought about a lot of work, a distortion of the system. A good share of the petitions are outside interests; they don't come from the state, but outside interests wanting to come in to fleece the state. And so I appreciate Senator Schimek introducing this bill. I also appreciate hearing all the work, the hearings that were held following the last election and on the petition process, all the work that has gone into this, I really do appreciate everyone who's taken a part in it to help us to have good government. And I think the things that are sought in this bill would help clean up the process. So I'd like to go on record as supporting this. And I thank you for hearing it. [LB39]

SENATOR AGUILAR: Thank you, Mr. Japp. Questions for Mr. Japp? Seeing one, thank you. [LB39]

LYLE JAPP: Thank you. [LB39]

SENATOR AGUILAR: Anymore testifiers or proponents? Welcome. [LB39]

KATHY HOLKEBOER: My name is Kathy Holkeboer, that's H-o-l-k-e-b-o-e-r, and I'm representing myself, I'm a private citizen. And I'm glad to hear Mrs. Lienemann speak because she was someone who has actually been out there collecting signatures. I want to speak from that perspective a little bit. As Senator Friend pointed out, it is the responsibility of the citizens to be the second house. And if we don't get out there and do something, we let only one group decide a great deal of what happens in the government. Mr. Karpisek, if I'm correct, has entered some legislation concerning the Class I schools. Certainly I lived on that land for a little bit. I live in Bellevue. I am not anywhere near a Class I school. But I served as a petitioner for that. Now I am in favor of LB39 for getting rid of the bad guys. Honestly, I consider some of the stuff that was done in the gambling petition issue an atrocity. And what it did was hinder the freedom of the good guys, who of course I thought I was one of them, to be doing the petition for...supporting small schools. Now my job as a petitioner, I took very seriously. I read exactly what it said on there. If they had questions, I explained what we were doing. It took me a long time to get one signature. But I was a volunteer, I wasn't being paid. And I really do want to get rid of paying for volunteers, because that will cut down on the money that comes in from out of state. But on the other hand, I really agree with what Mrs. Lienemann brought up about this number of signatures necessary. It is...7.7 percent of the registered voters signed on to say they wanted to repeal LB126, and that

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was done in 70 days. That means there were a lot of people who felt that was an important, important issue. But that didn't meet this funny little 10 percent rule of the number of registered voters. So I am in favor of LB39, if we can put an amendment on it that would change...get back to what it really does say in the Constitution, that we can stick with what the Constitution says, that the number of signatures required is 10 percent of those who voted in the previous election. That's a far greater statement. That's what I have to say. [LB39]

SENATOR AGUILAR: Questions? Thank you for coming down today. [LB39]

KATHY HOLKEBOER: You're welcome. [LB39]

SENATOR AGUILAR: Any other proponents? We'll now hear from the opponents. [LB39]

KENT BERNBECK: I'll need a sheet to sign in. [LB39]

SENATOR AGUILAR: Anybody else who wants to testify that hasn't filled out a sheet, please do so now. And you can fill that out as soon as you're done. [LB39]

KENT BERNBECK: (Exhibit 6) My name is Kent Bernbeck, B-e-r-n-b-e-c-k. First of all, I have never met Ruth Lienemann, but she is my hero. I got involved with volunteer petition circulating back in the early nineties, and I would read what she would write in the newspapers and I'd hear about her. And she truly is my hero. But beyond that, what I'm having passed out to the committee here is the 1997 Eighth Circuit Court of Appeals Bernbeck v. Moore case, overturning the states law on registered voter requirement for circulators. It flies in the face of what these good people are talking about. I helped allow bring in paid circulators from out of state, not the paid part, but that was already precast before I got there. I think it's...before I go into that, I think it's real important that, just a short history lesson. And once again, Ruth really did speak volumes with where this thing has come. In 1988, when Senator Hall was able to get an amendment passed, a housekeeping amendment, that changed the word "elector" to "registered voter", and then when that was used in 1994, to throw out the term limits petition by doubling signature requirements, it changed the face of petitioning in Nebraska completely. No longer were volunteers allowed to circulate petitions. I mean, they could circulate them, but to no avail. There was no way a volunteer group, and there never has been since then, has garnished enough signatures to place an issue for a statewide vote. And keep in mind, too, that once again this is only gathering signatures to put an issue in front of the voters. I think we all recognize the voters were pretty discerning this last election with all the issues on the ballot. So that decision, the Duggan v. Beermann decision that doubled the signature requirements, not only did that change the number of signatures, it changed the landscape for petitioners, it also resulted in the campaign to remove the Supreme Court justice, the first time in Nebraska history, one of the first times in United

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States history that a judge was removed from the Supreme Court. And not because he was a drunk, Judge Lanphier was a hard working attorney. He was removed for political reasons. It was in retaliation. I led the campaign, so I know. It was in retaliation for the doubling of signature of requirements. Not because of term limits, not because of the secondary murder issue, it was because the court doubled signature requirements. Now what we did after that is that we went ahead and joined up with term limits and whoever else we could join up with, because we had no money of course, to be able to allow us access to the paid circulators, so we could find our way onto the ballot. And as Ruth did mention, the issue did make it on the ballot, in 1996. The voters obviously, in my opinion, were confused, they turned down the issue. But at the same token, what that did is that left Nebraska's petition process really in disarray. We determined early on in our petition campaign that we were not going to make the ballot unless we used out of state circulators. There simply was not enough people in Nebraska, and I'm a veteran of several campaigns, of finding the volunteers or even paid people that had enough wherewithal and enough gumption to go out there and collect the 140,000 signatures needed instead of the original 57,000. So we made that decision knowing that we were going to have to go to federal court to defend ourselves, and that's what we did in 1996. Then we won in district court. Secretary of State Moore appealed that to the Eighth Circuit, and then the Eighth Circuit decision is what you have in front of you. If I may, I don't want to go into a bunch of legal ease, because you certainly have staff and the ability to do that on your own, so I will draw attention that I highlighted a couple areas in there. And once again, I mean certainly you guys are all capable of going through the materials. So I think it's important to bring this up to Senator Schimek's testimony of the Eighth Circuit, the same Eighth Circuit, although probably a couple of different members, upholding a North Dakota case on elector and then also pay by the hour instead of paid by the signature. What she is leaving out here is plain as day is that Nebraska is different than North Dakota because we had our signature threshold doubled. The Legislature refused to reinstate it, and it wasn't approved by the people. Although it was shown in later polling that the people simply had no clue what that amendment meant. So what I'm proposing here is that if enacted, if this...to where we have to have residency requirement for petition circulators, even though that would be great to go back to the old days, but I don't think that's possible, that this will be challenged again. Simply find an attorney that will do it pro bono, wants his name out there. It will get challenged again and the thing is what's important to know from that is, not only would the effort, in my estimation, win, but there's costs associated with that; not the cost of me missing work today, you know, driving two hours to get here, etcetera, but the cost to the state. Because if we were to win, if this is enacted and it gets appealed or it gets put into the federal court, because of Nebraska's doubling of signature requirements, because we are different than North Dakota, because we have a one house system the cost to the state is there will be a decision that comes out that states, like Nebraska it had the petition process, can then use that to further their own cause. Just as Bernbeck vs. Moore was used in the '99 Buckley decision. The U.S. Supreme Court referred to this case in a U.S. Supreme Court case. So that is the cost

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to the state of Nebraska is that if we keep putting out there legislation that ultimately is held unconstitutional, just like Senator Schimek has before, I mean, this is...she doesn't have just one law that was found unconstitutional, she has a history of introducing and then, of course, getting laws passed that are...that have been found unconstitutional, both on the state and federal level. And there is a cost to the state of Nebraska because it really does outline the fact that we are different. We have a higher signature threshold than any other state. And it all does get back to that Duggan vs. Beermann decision in '94 that the Legislature did refuse to correct. [LB39]

SENATOR AGUILAR: Thank you. Questions for Mr. Bernbeck? Seeing none, thank you for coming today. [LB39]

KENT BERNBECK: Thank you. [LB39]

DAVID NABITY: (Exhibit 7) Good afternoon, senators. My name is David Nability. I live at 1642 South 152 Street, and I have a handout. I have exactly ten, so hopefully that will get the job done. I'm representing myself. And I was also involved in the campaign for Initiative 423. I worked with the Committee for State Stewardship. And the reason that I got on board the campaign is because I saw this as democracy in action, and I felt it was very important that the citizens be able to step up and be able to, not only circulate an initiative, but get something on the ballot, and then compete, to fight, to pass legislation that they thought were in the best interests of the state. And one thing we've got to remember here with this whole process is there's a great deal of propaganda and spin that goes on when the fight begins. And it really started early on with Initiative 423 in that we saw something that was brand new to Nebraska and it was the fact that the opposition mounted a huge campaign to hire blockers and pay people to go out and stop and impede a person's ability to get to a circulator to sign a petition. So if you look at what I just handed out, we are already the most difficult state in the United States as far as gathering enough signatures. And you can see it based on the numbers that I put out there. Most states require anywhere from 8 to 10 percent, they get as high as 15 percent of those that voted in a gubernatorial election. And we're 10 percent of registered voters, which makes the job doubly difficult for Nebraska. And one of the reasons why that's a big deal is because we are a Unicameral. The second house is the people. And if organizations that are sympathetic to big government do everything they can to make it more and more difficult on the average citizen to circulate a petition to put something up for a vote, we've destroyed the democracy of the state. And keep in mind, we're not changing law here, all we're doing is we're asking a question to be put on the ballot for the citizens to vote. So one of the first things that I would suggest is that we seriously drop the number of signatures that are required. When the blocking started and you'd have five people on the scene, one calling a manager of a store saying that person's harassing me, two people flanking somebody circulating a petition, and in some cases we believe that they even picked a fight with somebody to get them to punch them so they could quickly arrest and showcase them as the evil person from the

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outside. I mean the propaganda campaign on this initiative was beyond anything we've ever seen. It required three or four times the manpower on the ground to get the number of signatures that we needed because of the blocking that was going on. And so if you're going to make it more difficult, take the market away from what you can pay a circulator and put it on an hourly wage. You need to do something to counter the opposition's ability to raise money and have a machine on the ground to stop the initiative process. And you know, what we know, and I have a lot of respect for everybody on both sides of the issue, so I'm not trying to say anybody's evil. But if you talk about outside influence, \$1,100,000 came into Nebraska from Washington, D.C., from big government pacts to fight against the initiative. The education establishment in Nebraska put in \$740,000 through all the different pacts they have. How in the world are the citizens ever going to be able compete against that? They never will. And if you make it more difficult, most people in the twenty-first century, you know, they've got two jobs; mom and dad are working and it is very difficult for them to take time off to go out and circulate a petition. If you don't have an incentive package in place to allow people to get paid based on the number of signatures they get, you're doing a couple things. One, government is telling the marketplace how to function. Number two, you're preventing an incentive in place for people that are successful at getting signatures versus those that aren't. So what have you done? You've reduced the potential success of anything making it on the ballot. So I would suggest that you take this legislation and you don't even let it out of committee. And then you go back and you say, okay, what can we do to make this process easier on the citizens of Nebraska? So that you don't need as much manpower. And if you're going to put more restrictions on people circulating petitions, you need to put more restrictions on blocking, and all the actions that go on by the opposition. Virtually 100 percent of the money, with the exception of the AARP, that fought against Initiative 423 were pro-big government pacts. And we wouldn't even be here today if Initiative 423 was going to guarantee an increase in funding for schools. You wouldn't even be here talking about it. So I want you to think about the politics. Those that support this type of legislation want to stop the citizen's ability to get anything on the ballot that might hurt their political cause. And my friends that are against the gambling initiatives, if you pass legislation like this, you know who's going to only be able to succeed with the initiative process? The big gambling organizations, because the average citizens, like Mike Roney (phonetic) and the people out of North Platte that started Initiative 423, they'll have no prayer at being able to pull the manpower together and raise the money necessary to be able to successfully get the signatures required. So let's make it simple. Let's reduce the number of signatures that are required. Let's make it as easy as possible on the citizens to get something on the ballot. And then let the democracy do...run its course, let people decide based on what the question is whether or not they want to support it or not. With that, I'll open it up for any questions. [LB39]

SENATOR AGUILAR: Questions for Mr. Nabity? I see none. Thank you. [LB39]

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DAVID NABITY: Thank you very much. [LB39]

SENATOR AGUILAR: Further opponents? [LB39]

SUSAN SMITH: Susan Smith, S-m-i-t-h. Hello, senators. Mr. Nabity really covered a wide range of concerns in regard to LB39. There's just a couple of things that I'd like to touch on. And I'm going off of Senator Schimek's comments that one of those said that a person must have a grasp or a minimal grasp of the English language. Well, I would really like to have some have a proficient command of the English language if they are going to be having to explain the petitions and the intention of the petitions to the signers; I think that it's necessary that they understand the English language and can speak it. A person...the language would be changed to read a "person" instead of "people or entity." And I'm just wondering if that shouldn't be a citizen, changed to a citizen? And I'm just trying to keep any door closed that would allow an illegal alien to be able to circulate petitions or sign the petitions. And I don't know that that is what...that changed there from "people and entity" to a "person." I'm not sure that that's what would happen, but I thought I would throw that out there. And then dropping the number of signatures required down to the 10 percent, as was the original intent. And as far as paying circulators, you know, I agree that it's each of our responsibilities and civic duty to become involved in the legislative process. And to pay a person, if an entity has the money and the deep pockets to pay circulators, and I'm just a grass roots person with a low grass roots organization, I don't have that money to go out and pay people to go out and get those signatures. We've got to count on interested citizens who have an investment in it to not only go out and spend the time and effort in getting these signatures, but to also take the time to explain what is in the petition, make sure that the person who is signing it has a good understanding of what it is that they are signing. And that's it. I appreciate your time. Are there any questions? [LB39]

SENATOR AGUILAR: Questions for Ms. Smith? I just have one. I want to be clear, you are an opponent of the bill? [LB39]

SUSAN SMITH: I am opposing it. [LB39]

SENATOR AGUILAR: Okay. Thank you. [LB39]

MIKE GROENE: (Exhibit 8) I have a handout. My name is Mike Groene, from North Platte, Nebraska. I have a personal experience with the petition process this last year. I was just an average citizen and got involved with Initiative 423 as a sponsor. I don't know any guy named Howard Rich (phonetic), by the way. I'm a native Nebraskan. I moved to Colorado for eight years. I got out of the hot water and then I moved back, and that's why I got involved in the tax issues, folks. But that's not why we're here. The handout is repetitive a little bit, so I won't...I was originally going to read from it. And some of the comments I'll make on the next...on LB42. But for one thing, to address

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some of the comments that Senator Schimek made, I testified at the hearing this summer. By far the majority of the people there were asking for relief for the obstruction and impeding legal...that the Legislature has put upon the petition process. Most of the people there were looking for relief. Most of them there testified, including myself, asking the Legislature to give our right back to make it easier for us to petition our government, the vast majority. The people who testified against this were lobbyists representing government agencies, lobbyists representing government employees. The vast majority wanted relief of the restrictive petition process since 1994. So I wanted to clarify that. The second question is I've always thought legislation should relieve or fix some harm or injustice that has taken place. What harm or injustice has taken place in the petition process in this last cycle? People worked hard to get initiatives on the ballot. The people debated it. There was 12 initiatives on the ballot, 9, 6 by the Legislature, 3 by the people. Which three got all the debate? Which three were the people more knowledgeable at election time? It was the three that were put on by the people. No harm was done. So what is Mrs. Schimek trying to fix? When you've got two sides, opposing sides, there's going to be people who are going to complain because they don't want the other side to even have a say. I talked to Neal Erickson; they has 12 written complaints in the entire petition process. Listening to Senator Schimek and some of the others you would have thought they'd had hundreds. They had maybe 75 phone calls. Now if I'm against something, just to cause a ruckus for the other side, I might just pick up the phone and make a complaint. That doesn't sound like a problem we need to fix does it, folks? Do we have a problem to fix? I don't see it. And this is America. I mean, I survive and I make a very good living on commissions. We afford these buildings, folks, not because our government process is great, it's because we have a free enterprise system that creates wealth that pays for all of this through taxation. To tell somebody that they cannot be paid by the signature or by a commission basis, then we're going to tell you it's a reverse minimum wage. It's telling them, you can only make this much, to tell people you can't pay them by the signature. And I've been an employer, too. If you tell me I got to pay them a certain amount, I'm going to put a quota on them, I'm going to say, you're going to dig this many feet of ditch or you're not going to be here tomorrow. It's going to happen. People are going to be told how many signatures to get a day. And that's not been a problem. It's trying to discourage people from taking part. Most of the people we hired were handicapped people, college students, individuals. We had one young man who had a criminal record. He wanted to set his life straight, take an honorable profession. The opposition entrapped him. They found out that he had a criminal record, they set a blocker up with a wire to record and then harass him until he tried to defend himself trying to make a living getting signatures. Within two hours they had a press conference, knew the guys criminal record and that's what happens out there. So you going to tell some guy...what do we do with people who have a criminal record? Can they have no job at all? Are we going to say they're going to have to be registered voters to even get a job? That's what Senator Schimek said, that you can't change your life. But that fella and a few others that have a criminal record that's the only kind of job they can get sometimes. But

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anyway...and if, as a supporter of an initiative, I want to hire a surrogate to go out and get signatures for me, what's wrong with that? I mean when you look at the petition process all the petitioner is, is a conduit to the people so that the citizens have a chance to sign that petition. So to restrict it in any way, to keep a petitioner in front of the people, that people have access to a petitioner is against our Constitution. You can pass no law that obstructs or impedes the petition process. LB39 will obstruct and impede the petition process, folks. So if I want to hire somebody, who cares? And if they're from another state, what's the difference? They are just a conduit; they are just somebody to get it in front of the individual for them to have a chance to sign it, that's all the petitioner is. I'm the sponsor of LB...the person (inaudible) getting the petition agrees, or maybe he's just a hired, but he's out there as a surrogate for me to get that in front of my fellow citizens. That's all a petitioner is. I took note, and it was the same this summer. Four people opposed, stood up here, four organizations opposed...were proponents for this bill, three of them were government bureaucrats. The tendency of government is to control and restrict, it's natural for government to do that. What's great about this country, we have the people who protect their freedoms against the tendency of government bureaucrats and government officials to control and restrict. There was only one organization that came up here against the gambling that said they were for it, the other three were government people. It was the same this summer. It was two-thirds to one-third individuals up here looking for relief from the petition process versus every other group had their hand in the government pocket, in the taxpayers pocket. So keep that in mind when you look at the testimony here today. I want to correct Senator Schimek, too, about the grass roots efforts of the petition history. George Norris, in 1936, took \$1,000 of his own pay, his \$12,000 Senate pay, and gathered another \$2,000 in donations and paid college kids to go out and get signatures to put the Unicameral on the ballot, issue on the ballot. We've had paid petitioners way back. Another issue Senator Norris made the point, when he was out selling the Unicameral idea, one of his main points was that you can't...with the checks and balances, he used the petition process as one of the major checks and balances of the Unicameral system. So those...I wanted to clarify that that we've been doing this for a long time. And back then, Senator Norris had to only get 10 percent of who voted in the last governor's election; and he did it barely. And now we have a Unicameral system. I'll save my other comments for LB40. Any questions? [LB39]

SENATOR AGUILAR: Questions? Seeing none...oh, I'm sorry. Senator Mines. [LB39]

SENATOR MINES: Thank you, Mr. Chairman. Mr. Groene, it's obvious you've read the bill. And I'm...and you're opposed to paying...the part of the statute that would pay circulators or restrict paying by signature. You're opposed to that. What else are you opposed to in this bill? [LB39]

MIKE GROENE: I believe the first part is on having registered voters, electors do it. And that would...Nebraska elector, that would not allow me my free speech rights to have

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any surrogate I want out there gathering signatures for me. Now do I think it's a nice thing and it's a pretty thing to have outsiders in the state of Nebraska doing this? I will guarantee you if you go back to 10 percent of who voted in the last governor's election, that will come to an end. [LB39]

SENATOR MINES: Why would you oppose having electorates? I mean is we are in fact the second house of the...of our state, why would you support bringing others into the state to assist in a process that you believe in? [LB39]

MIKE GROENE: Because I'm in sales and I've seen a lot of guys believe in a product but didn't have the skills to present it. It's a very small minority of people who have the ability, have the self-confidence to go in front of a stranger and ask them for a signature, even if they believe in it passionately. [LB39]

SENATOR MINES: But isn't this about our state? [LB39]

MIKE GROENE: Yes, it is. [LB39]

SENATOR MINES: And isn't this about our own population? [LB39]

MIKE GROENE : Um-hum. [LB39]

SENATOR MINES: And I believe in the initiative process, I do. But there are some things that are intrinsically wrong with the process. And I would...I take exception with the electorate. Are you also opposed to the change with the campaign statement that makes it more efficient for the Accountability and Disclosure Commission? [LB39]

MIKE GROENE: What I don't understand is we already report that. [LB39]

SENATOR MINES: No, but you would keep that information. You wouldn't be required to report that information. [LB39]

MIKE GROENE: Are you talking about the individuals paying individuals? [LB39]

SENATOR MINES: Yeah. [LB39]

MIKE GROENE: We already report, when we paid Validation Services out of Omaha, we already report that we paid Validation Services so much money. Accountability and Disclosure Commission knows what Validation, and the Secretary of State's Office knows what Validation... [LB39]

SENATOR MINES: So you're not opposed necessarily to the third part? [LB39]

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MIKE GROENE: I am opposed to any...the part that says that any...if this committee would account...the Secretary of State asks for information about how much an individual got paid, that they can do it, I'm against that. That individual should never be exposed to government finding out how much income they make or... [LB39]

SENATOR MINES: On the flip side, those of us that run for office fall under those. I mean it's...I see a nexus between the two. Elected officials have to report where their...how much they have received. Shouldn't... [LB39]

MIKE GROENE: I've had...I've been at parades where somebody comes up and slaps a sticker on my chest, and it's not the candidate, it's some surrogate that's out pushing it. They don't...they don't...I don't know who that person is. [LB39]

SENATOR MINES: But the candidate, you understand, is subject. Why wouldn't petitioners be subject? [LB39]

MIKE GROENE: I'm subject as a sponsor to report where my money is spent; it's already covered. [LB39]

SENATOR MINES: Okay. So you oppose the three conditions in this bill, specifically? [LB39]

MIKE GROENE: Yes, because there's a lot...I'll tell you what, you talked about...well, that's more in LB40. But... [LB39]

SENATOR MINES: Yeah. I'm just interested in this bill right now. [LB39]

MIKE GROENE: Yes, as I am. You know, our history is...we're a federation of states. Without the ability of people to cross state lines, we wouldn't have civil rights. [LB39]

SENATOR MINES: I'm not arguing that. I'm just asking... [LB39]

MIKE GROENE: Without the ability to cross civil lights (sic) womens' suffrage would have never took place. [LB39]

SENATOR MINES: Why... [LB39]

MIKE GROENE: If somebody believes in an issue... [LB39]

SENATOR MINES: I'm done. [LB39]

MIKE GROENE: ...in another state and they want to cross state lines to help me gather signatures, they ought to be allowed to do it. [LB39]

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SENATOR MINES: Thank you. [LB39]

SENATOR AGUILAR: Any other questions? Senator Friend. [LB39]

SENATOR FRIEND: Thank you. Thank you, Mr. Chairman. Mr. Groene, I...not to necessarily follow up on what Senator Mines...the point he was trying to make, but let me clarify a little bit of this and try to get my hands around it. If it's my contention or at least I would submit to you that in Section 2 of this bill, line 14, on page 3, if you remove "pay a circulator based on the number of signatures collected," the trail of opponents to this legislation seems to slip away, including yours. Because...and the reason that I say that is because I don't believe in Section 1 that that new language would have really affected the effort in Initiative 423 anyway, based on the...some of the comments that Mr. Nabity and yourself have put forward. My question then, I guess, is this, what we've...we've been going down a road here that clearly indicates, and I would agree with it, that we've infringed upon the rights of our second house over the years to affect legislation. I would submit to you that I don't see much in here, except for potentially, even based on all the testimony I'm hearing, except for potentially subsection (g). What we're doing is testifying on what...what I'm hearing is opponent testimony on the unfairness of what we've done in the past, not so much about what this bill deals with, Mr. Groene. So I think, if there's any frustration by me it's that...and that's why I signed the bill, it wasn't just because Senator Schimek smiled at me, I was joking. I looked at this and I saw it as fairly innocuous and I saw it as a reporting tool. If this is the second house, you should have a responsibility to report, too. [LB39]

MIKE GROENE: We do. [LB39]

SENATOR FRIEND: You do. So why would this hurt at all, any of this, except for subsection (g)? That's my question to you. [LB39]

MIKE GROENE: As I said, in Section 1, "only an electorate of the state of Nebraska shall qualify." [LB39]

SENATOR FRIEND: I'm an elector. [LB39]

MIKE GROENE: Yeah. [LB39]

SENATOR FRIEND: I ran for this office, I had to be a registered voter. [LB39]

MIKE GROENE: Yeah. I understand that. [LB39]

SENATOR FRIEND: Here's my point, we're unique. We're the only one in the country that does it this way. Okay? [LB39]

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MIKE GROENE: Um-hum. [LB39]

SENATOR FRIEND: These laws, I think, could protect us because of the nature of the business that we do in this state, the only state that does it. Now what you're saying is you want your cake and you want to eat it, too. Not only do you not want a bicameral, you want the power to do what you can do, and then you want free reign to do it. [LB39]

MIKE GROENE: Wait a second, I'm for a bicameral, by the way. What you... [LB39]

SENATOR FRIEND: We're not talking about that. I just brought it...I... [LB39]

MIKE GROENE: You said, not only... [LB39]

SENATOR FRIEND: I didn't ask you the question about a bicameral. That was a rhetorical statement. What I'm saying is you have responsibilities as a legislator, which is what you're telling me you are, that you don't want to adhere to. And that's... [LB39]

MIKE GROENE: I'm adhering to the law as it. [LB39]

SENATOR FRIEND: And to me...and to me that's all this legislation promotes. [LB39]

MIKE GROENE: I'm adhering to the law as is. We followed every rule. These are additional... [LB39]

SENATOR FRIEND: And you're saying you wouldn't follow these rules and that they would hinder you. [LB39]

MIKE GROENE: Yes, I would. If you pass a law, I always follow the law. [LB39]

SENATOR FRIEND: But they would hinder you. [LB39]

MIKE GROENE: Yes. [LB39]

SENATOR FRIEND: How would subsection (2) have hindered you in your last effort? [LB39]

MIKE GROENE: Because we did bring in people from out of state to help us, like-minded people, to gather signatures. [LB39]

SENATOR FRIEND: I would submit to you that I don't think that that's fair. [LB39]

MIKE GROENE: And I'll go back to the rock and the hard place,... [LB39]

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SENATOR FRIEND: That's...that's...thanks, Mr. Groene, that's all I have. [LB39]

MIKE GROENE: Well, the people... [LB39]

SENATOR FRIEND: No, I'm done with questions. [LB39]

MIKE GROENE: Yeah, but these people don't vote, these people don't vote. Well, you didn't ask me...you want me to answer your question? You can't... [LB39]

SENATOR FRIEND: No, I don't. I'm done asking questions. [LB39]

MIKE GROENE: Oh. [LB39]

SENATOR FRIEND: Thank you. [LB39]

SENATOR MINES: Committee members, any other questions for Mr. Groene? Thank you for your testimony. [LB39]

MIKE GROENE: Thank you. [LB39]

SENATOR MINES: How many more are testifying in opposition to this bill? Could I see a show of hands? I see two, three? Okay. I might explain that Chairman Aguilar had to leave and introduce other legislation, as we all frequently have to do. No disrespect is intended. So we have three more testifiers in opposition. Would the...would some one come forward and testify, please. And would you state your name and spell it for us, please. [LB39]

STEVE WILLEY: (Exhibit 9) My name is Steve Willey, W-i-l-l-e-y, of 13704 South 127 Street, Springfield, Nebraska 68059. I'm here today as a citizen, life-long citizen of Nebraska and a principal of Validation Services, Inc. Over the past eight years, I have had the opportunity to participate in about a dozen different ballot question issues by various interests. I've been personally involved in the administration, staffing, hiring, everything to sorting petitions and prevalidating signatures. Throughout this period we've maintained a good work relationship with both the Secretary of State and Accountability and Disclosure. Therefore, I feel I'm somewhat qualified to address the proposals being suggested in LB39 and LB40. We've divided out LB39 and LB40, I thought they'd be together. But many of the changes in LB39 are issues as, and I guess I might as well start off I will not, following the chairman's instructions about repetition. Mr. Bernbeck, Nabity and Groene have covered a lot of my territory, so I will be short. As Mr. Bernbeck said, the requirement for voter registration and residency was struck in the court case Bernbeck v. Moore, of which I was also a participant. As a matter of fact, the state even ended up paying the legal fees on that case. Paid circulators, they made

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the case and I believe it, that as long as the number of signatures is as high as it is, paid petitions are the only way that you're going to succeed to get an issue to the ballot. Now I've been on both sides of the sponsor as an administrator of petitions, and that's just the way it is. I'm here as a citizen because I believe in the initiative process. It was guaranteed to us under the Constitution when we adopted the Unicameral. And as was pointed out earlier, the comment about volunteer...meant to be a volunteer process is bunk as far as I'm concerned because George Norris himself ran a paid petition. The issue of...we were contacted regarding volunteers...and paid and how they're paid. We were contacted by the Class I school people to circulate towards the end because they realized they weren't going to get there on a volunteer basis. Unfortunately, they didn't have the means and using paid circulators. We put it out there, but again they weren't able to pay the going rates and they didn't have much success with us, unfortunately. What concerns me in looking at these bills, and I know that there is always room for improvement in any process. And I'm sure there is room for that here also. When it gets to LB40, I think the idea of an ID badge is a good idea. I've dealt with it. But I wonder, in looking at this, what is the genesis, as I mentioned earlier, behind it? What is it we're trying...what problem is it we're trying to address? Is it fraud? I hear the fraud issue, the fraud card has been played over the years. Everything is supposed to be to prevent fraud. I have always been cooperative. Our company, every petition I've ever been involved with, when we are asked or approached by law enforcement officials throughout the state, mostly the State Patrol, that might be investigating an instance that was reported to the Secretary of State or Accountability and Disclosure, whatever, we have always been forthright in providing whatever information necessary, including the name and address of the circulator to do whatever is necessary to see that that fraud or whatever wrongdoing that is going on is investigated to its fullest. I do not believe, and I think this was the question that got a little mixed up here in this last questioning session here, I do not believe that information should be made publicly available to the Secretary of State's Office just upon request, or to NADC, law enforcement for investigative purposes, you bet. And there certainly, only a responsible petition sponsor or circulating company, every responsible company is certainly going to keep track of records. I can tell you where every dime went and who it went to. There's an outfit out there called the IRS that likes to know that stuff. So we do keep those records. And certainly they're available to the right people for the right purposes. In regards to that, I'm all for that. There are a couple of issues that I wish would have been addressed in here but didn't get addressed, and that's one thing I wanted to bring up, and one of those is public access. The last petition we had circulators that would go out there, whether they were volunteer or paid, that tried to approach people in front of a courthouse, a city hall, a DMV, what have you, not only in Douglas County and Lancaster County, but in Dodge County. These are government owned premises, of which public access is a day-to-day event, and yet circulators aren't allowed under the threat of arrest? That's not right. I think the ballot access issue should be addressed. The other issue which Mr. Groene raised I'm...my first experience this last session and what really raised all the press and the controversy was this idea of blockers, hired

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thugs coming in from mostly Michigan and Ohio, being hired to come in here and disrupt the initiative process by getting between circulators and the people that they're approaching. No where here do I see anybody asking about ID on them. But they were on someone's payroll. They weren't here as volunteers. Nebraska may be a nice place, but they didn't come here to visit. They came here because they were paid. I guess that's what I understand, and I am not a professional circulator or professional petition company. I kind of got in it by happenstance, and now I've got eight years of experience. But these blockers did create a lot of havoc, and they should be regulated also. I think that the petition process is precious to every citizen, especially those of us who call Nebraska home, home of the Unicameral, irregardless of the subject matter because we know there will always be people on both sides. The initiative should be protected and preserved. It shouldn't take the highest court in the land to tell us to facilitate it and not hinder it. That's it. Questions? [LB39]

SENATOR MINES: Yeah, go ahead. I'll turn the chair back to Senator Aguilar. [LB39]

SENATOR AGUILAR: Questions? Seeing none, thank you. [LB39]

STEVE WILLEY: Pardon me? [LB39]

SENATOR AGUILAR: No questions. [LB39]

STEVE WILLEY: Thank you. [LB39]

SENATOR AGUILAR: Any more opponents? I'm going to ask that we just get as brief as possible. We're running way over on time. I want everybody to have their say. [LB39]

PAUL SCHUMACHER: My name is Paul Schumacher. I am an attorney in Columbus. Gosh, Senator, asking an attorney to be brief is just really a penance. But basically, I want to make a few comments. (RECORDER MALFUNCTION - SOME TESTIMONY LOST)...several petition drives. In 1996 we opposed the gambling petition that was running at that time; in 2002 we supported it; in 2004 we supported it, and then in 2006 we had the good common sense to stay out of it. Having been involved in the petition process, I can say that I have to agree with the spirit of this legislation. The petition process is a...really a precious process and it's precious because it is an indicator of something that needs to be addressed by your side of the table. It is an indicator of public concern. Nobody goes into a petition effort unless they've first polled it and found out it's got a pretty good chance of passing with at least 50-some percent of the vote. That's something, the first thing that cleaning up the petition mess is responsibly addressing the major issues on your side of the table. But secondly, look at the way we do petitions. All the petition process is, is a nominating process. It says, I nominate this issue to be on the ballot, and here's how I propose to solve it. It doesn't pass it, in fact most of them go down in defeat. Of the ones that I was a proponent of we passed two

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and lost two; the lowest one got 47 percent, the highest one 55 percent. But it's a nominating process, and we do it in a really backward way. I mean we get people out on the streets with these big clip boards and the law says the petition form has got to be as big as three tablets. And we ask them to put down their name, their address, their birth date. All that can be photo copied and public information once it's turned over to the Secretary of State. Only thing we don't do for identity theft is ask them to put down their social security number. It's kind of a backward way of doing it. And because now we got this tremendous number of signatures either for a statute or for a constitutional amendment, you got to...you know volunteers run out at some point and you got to finish it up, if not do it entirely with paid circulators. And that precludes a lot of issues from being brought that probably are worthy of being brought. So instead of trying to fix it here and then say, well, only electors can circulate it, I think on that particular issue, Senator Mines, there should be a distinction between volunteer circulators and paid circulators. If Boyd (phonetic) Casinos wants to come in here and pay circulators, let them pay Nebraskans. I mean, why do we have to pay somebody else? If a volunteer from Ohio who really believes in an issue wants to come in here and circulate a petition, why shouldn't they be allowed to? I mean our political parties send, in the last Senatorial race, the Republican party sent a bunch of people to I think it was Virginia to ring bells and knock on doors. So I think there should be a distinction made between volunteer and paid. That's one thing. Secondly, the mechanism, I think, really should in a more comprehensive way be addressed. If we can file financing statements and liens using the Internet and our identification is good enough for that and for credit cards and a lot of other big transactions, why do we have people having to go, in order to access their right to sign a petition, having to be bothered by somebody, a petition circulator? Why not make it electric? We can identify those people, or at least with sufficient certainty to know that they are who they are. And if they submit an electric signature, send them a post card saying, our records show you signed; if you didn't, let us know and we'll search down the guy who forged you. And there's...and I'm told from the people in Nebraska Online, there's any number of ways that you can pretty well identify who you're dealing with on those transactions. Let's address it that way. This is an important process, and it's important...helpful for letting you know what the big issues are, it's also important because it is the people's first right in Nebraska. So I...this is not a way to fix the problem. Fix the problem by making the necessity for paid circulators a lot less than what it is now. And I think we've got the answer laying in the electronics, just laying around here. [LB39]

SENATOR AGUILAR: Questions for Mr. Schumacher? Senator Mines. [LB39]

SENATOR MINES: I hate to be the one that keeps popping my hand up, I'm sorry. But you've raised some really good points and I appreciate your testimony. What you didn't talk about that interests me that I heard from Mr. Willey and Mr. Groene are blockers. Are you familiar with the blocking process? [LB39]

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PAUL SCHUMACHER: Yes, I am. And, first of all, dirty tricks is always part of any political campaign. [LB39]

SENATOR MINES: Either side, yeah. [LB39]

PAUL SCHUMACHER: On either side. I mean in '96, when we opposed the gambling petitions there was...(inaudible) there were other dirty tricks when I played the other side. But in 2002 and 2004, even the World-Herald who was adamantly antigambling had a hard time scrounging up a story about any petition abuse. I think the Secretary of State publicly made comments that it was all pretty darn clean. And there was like in one of those 600,000 signatures gathered, another one 178,000 signatures gathered, pretty clean. The whole commotion started when you had the blockers come into play. [LB39]

SENATOR MINES: What would you do with it? I mean how do you equalize blockers? How do you identify blockers? I don't know...I understand and I think that we need more discussion and/or a solution. I just don't know where to go for it. [LB39]

PAUL SCHUMACHER: The blocking phenomenon, first of all, if you don't have the...if you have the old fashioned mechanism, there's no blocking you at your computer screen, saying...but if you have people out there, if you're going to require the paid circulator to be identified, then have the paid blocker under the same kind of rules. Hopefully, that intensity doesn't quite happen again, but it very well might. [LB39]

SENATOR MINES: It could. [LB39]

PAUL SCHUMACHER: The paid blocker should be under the same kind of rules and the organization under the same kind of rules as the other side, because the other side, I think, really makes it...the proponents of anything, whether it's the tax people, or gambling, or whatever, or death rights, whatever that thing was, are genuinely trying to abide by the law, in most cases. [LB39]

SENATOR MINES: Thank you. [LB39]

PAUL SCHUMACHER: That's what I would try to do. And the blockers caused the problem this last time around. [LB39]

SENATOR MINES: Thank you. [LB39]

SENATOR AGUILAR: Further questions? Seeing none, thank you. [LB39]

PAUL SCHUMACHER: Thank you. [LB39]

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JOHN HASSETT: Hello. My name is John Hassett, it's H-a-s-s-e-t-t. I've worked in the Validation Services in the office each day of the petition. And I'd like to address a couple of these things just operationally. The idea of the registered voters, personally I think an age requirement is good and that would get an age requirement by requiring them to be electors. We actually did have an age requirement that everybody was at least to be 18 years of age to circulate. So from that standpoint I think it's good. I do think the registered voter part has been thrown out in a couple of Supreme Court cases, which I won't go into because they've already been touched upon. So that was the caveat there. I mainly wanted to talk about the pay per hour. And I just don't think from an operational standpoint I don't know...to me, I don't see how it will work. It's basically unsupervised work from this standpoint, more like sales work or if you're going to pay somebody by the hour, I mean, you're going to have supervisors required to go out and make sure people are working. I mean I don't see how you could pay this type of activity per hour. I think really what you're doing is...this will add more cost. Of course, the better circulators, they won't work per hour, they'll go to the states where they can get paid per signature. And we've heard testimony on the costs of the petitions. And the higher number of signatures are making it prohibitive for some people to even reach the ballot. The per hour is just going to make that gap even farther. You're just adding cost to the petition process, and really you're pushing the good circulators to other areas. So I just bring that up as a point to think...try to think of some of these things operationally how you really think, you know, that they could work. I read that campaign statement, I think that's fine. I think most of that information was submitted this year or, if we didn't submit it, it was available. We could get your a list what was spent by each company for circulators and for different expenses. I know that's available. And it was good the way they wrote without the people's names, addresses and things. When you get to the ID badges I think the numbers are fine. ID badges were fine. Some have even talked about using them. But I wouldn't put the names of the petitioners on them. You'll have people start a petition drive and then they'll stop it, we'll have...people don't...none of the petitions start at the same time. And we had over 1,000 circulators out in Nebraska. So at that time, if we had to go back and reissue all the ID badges, I think all that really needs to be on it is who they're getting paid from. I think it should have the number and if they're being paid from Validation Services, that's what you'd need to know, because really that's...you need to contact the supervisory company and who's ultimately responsible. I'll keep my comments short. And I just would also like to say one last thing. I thought the petition process worked. Even though it got voted down, they made it to the ballot. Yes, there was always cases where, you know, things could have been done better. The people voted them down, they didn't want them. But the people were able to express their things and get them to the ballot. And probably the last thing, when you hear of cases where guys don't read object statements, don't do things technically to the letter of the petition, any time I think we get this sum of money involved, I'm sure you have some of those instances. But we do submit well over the minimum number of signatures. And I hope you take that into account. All of the petitions had sufficient signatures, even if you subtract out a few; I think most of them had 10,000 to 30,000

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additional signatures. So all of the...I guess the point I'm trying to make is the petitions that did make it to the ballot made it with the required number of valid signatures, even if you subtract out a few that, you know, are going to take liberties. Yes. [LB39]

SENATOR AGUILAR: Questions? Senator Friend. [LB39]

SENATOR FRIEND: Thank you, Mr. Chairman. Mr. Hassett, I was just curious. If you (inaudible) one of the points that you brought up in your testimony is that it would be tough to manage the whole...the pay situation, paid circulator situation. If that language were actually removed from a bill like this, would you still...do you think you'd still be here testifying in an opponent capacity? Just... [LB39]

JOHN HASSETT: I think that's my biggest concern. And I've heard testimony that I agree with on the blockers should be IDed, too, and required to report, too. I think that's fair. [LB39]

SENATOR FRIEND: Okay, thanks. [LB39]

JOHN HASSETT: Yeah. [LB39]

SENATOR AGUILAR: Senator Karpisek. [LB39]

SENATOR KARPISEK: Thank you, Mr. Chairman. I just want to say that I don't think the paying per hour is legitimate when you said, how would you control that? Many of us own businesses. We don't pay on a per rate...per piece. So, yes, I mean if it's your business and you do that, I think then you have to do that, and if you need supervisors. I just wanted to comment that I don't think that that is a legitimate excuse why we can't go to this. [LB39]

JOHN HASSETT: I don't know that it's an excuse. I don't know if it's intended...if you're going to get the intended effect. It's going to add cost to the petition process and it's going to widen that gap that people talked about how...since the number of signatures have shot way up that a lot of things don't reach the ballot just strictly for financial reasons. And it won't affect the bigger guys; they'll just hire more circulators, spend more money. But it is, in my opinion, it's just adding cost. I mean, you're going to pay people and basically when you send workers out to a location you won't know if they're out there or not. [LB39]

SENATOR KARPISEK: But a lot of other businesses do that also. And the proof is in the pudding, if they don't bring back signatures, they're fired. [LB39]

JOHN HASSETT: Yeah. And that will just add cost. You'll pay a guy 50 bucks and he'll be out there all day, and he won't bring back anything. Then you'll have to go get more

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people. [LB39]

SENATOR KARPISEK: I guess, to me that's a cost of doing business. Thank you.  
[LB39]

JOHN HASSETT: Yeah. [LB39]

SENATOR AGUILAR: Senator Avery. [LB39]

SENATOR AVERY: I appreciate your testimony. But I have one question. Do you agree that the initiative process is and should be for ordinary citizens to petition their government, organizing at the local level, that, as the Constitution states, that is the...that we all have the right to petition our government, separate and apart from the legislative process? [LB39]

JOHN HASSETT: I do, Senator. In fact, I was involved in one of the petitions besides the fact of, you know, carrying all of them, I was involved in one of them, yes. [LB39]

SENATOR AVERY: Do you think though that when paid petitioners come in from outside and a lot of outside money comes in to fund that that it in a sense kind of tilts the playing field so that the ordinary citizen effort can't compete and the big money interests on the outside really have an advantage in what I see often as meddling in our own business that really has nothing to do with the outside interest? [LB39]

JOHN HASSETT: And part of that is a product of raising the signatures, which you've heard about, have significantly raised the cost of doing a petition. It made it pretty tough for the average citizen to get it done. [LB39]

SENATOR AVERY: So you would support legislation that would lower the number of signatures needed to pass a law by petition? [LB39]

JOHN HASSETT: I believe that's needed. [LB39]

SENATOR AVERY: But would you then also support legislation that would raise the number of signatures required to amend the Constitution? [LB39]

JOHN HASSETT: I would, speaking as a citizen, I would...that makes sense to me. I always hold the Constitution as more sacred than...not that the laws aren't, but the laws are easily changed. I would agree with that statement, yes. [LB39]

SENATOR AVERY: I would invite you back here next week, Thursday; I have a bill to do that. [LB39]

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JOHN HASSETT: Oh, there's another hearing? Oh, okay. (Laughter) [LB39]

SENATOR AGUILAR: No further questions? Thank you. Next. [LB39]

JOHN COPENHAVER: My name is Copenhaver, John H. I'm a private citizen of Omaha, Nebraska. And I'll just make a general statement and a specific could of short ones. [LB39]

SENATOR AGUILAR: Would you spell your last name, please. [LB39]

JOHN COPENHAVER: I think that what I heard here today really illustrates...could be illustrated by a story. [LB39]

SENATOR AGUILAR: Would you spell your last name, please. [LB39]

JOHN COPENHAVER: I'm sorry, sir? [LB39]

SENATOR AGUILAR: Spell your last name for us, please. [LB39]

JOHN COPENHAVER: I was in third grade before I could spell it, and I had a tough time then. It's C-o-p-e-n-h-a-v-e-r. A gentleman is walking down a street late at night and sees another person at the street corner, underneath the street light on his knees. And he thought this was rather peculiar. And he walked over and he said, sir, are you all right? And he said, yes. He says, what are you doing? He says, I'm looking for my half dollar which I lost. Oh, he says, I'll be happy to help you; where did you lose it? He said, I lost it down the street about a block away. And he says, well, that's rather strange, why are you looking for it here? He said, because the light is better. (Laugh) Now this committee here has heard from people here, very eloquently tell you effectively that what has happened is that the processes have been eliminated, for the most part, for the common populace. That is not right. And really what this gentleman here and the lady here who very eloquently, earlier today, in the (inaudible) indicated this to us. [LB39]

SENATOR AGUILAR: We need you to face the microphone, please. [LB39]

JOHN COPENHAVER: I'm sorry? [LB39]

SENATOR AGUILAR: We need you to face the microphone, so the transcriber can pick this up. [LB39]

JOHN COPENHAVER: Very well. Then for a couple of specific questions here or statements rather. These kind of bills do nothing but just add burden and impede the natural process or the proper processes. You're not addressing the problem. And finally,

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I personally don't care how many referendums you have up, the people are wise enough to vote for or against them; they're not stupid. The Constitution says, of, for and by the people, not somebody who keeps restricting things. Thank you very much. [LB39]

SENATOR AGUILAR: Questions? Thank you. Any more opponents? [LB39]

JIM TIERNEY: My name is Jim Tierney, from North Platte, it's T-i-e-r-n-e-y. I've been listening to this and I was out in Nebraska, we would leave North Platte, go to Hyannis or go to Grant, you would have to drive two hours before you even had a chance to knock on a door and get somebody's signature. And we were all volunteers. Part of your restrictions are you have to have a certain amount of counties, the percentage in that county of the electorate. And we would go to all of these counties and we would do this. And we've heard a lot of people today talking about somebody sitting in front of a Wal-Mart or somewhere and just ripping them off. Well, that is the other side of it is what I did. I'm a 72-year-old man. And we got out in 101 degree weather and beat on doors and got things. And to make it more restrictive is counter to our First Amendment rights. And I just want you to hear that side of the story here. And that was when it was \$3 a gallon for gas to drive that two hours to go up to Hyannis, or go out to Grant, or go down to Trenton, or wherever we went. That's what we did. That's the other side of the story on this petition process. And it isn't all people getting paid, it's people working damn hard to get things done and to get all of the requirement. It took a lot to get 160,000 signatures to bring in here to get 40,000 of them thrown out for no real good reason; 40,000 got thrown out. And I just feel that this is wrong. And there's...while I'm up here I do want to say something about badges. Badges can be misused as well as used. Somebody finds out your number on a badge, they can put your name on it and get you worked over, like Mr. Groene said about that guy that they harassed him until they had a case and made a...got the publicity there. That's what badges are going to do. When you...that's redundant to what you do. When you have a petition, it's been gone over by a lawyer and the Secretary of the State and everybody to make sure the legal language and all of the rules are followed. And you have to sign your name and address on the bottom of that. And you show that when you put that...will you sign here, your name is right there. So having a badge is redundant to what's already in the rules. And the...\$2.5 million that AARP, and I'm a retired teacher and I'm ashamed to say I was a teacher because the teachers contribute all kinds of money. We're turning into a socialistic state, because most of the people that vote are at the public trough. And that is very sad. And you, Mr. Aguilar, Senator Aguilar, you...there's 300 miles of Nebraska west of you. You're the furthest west geographically of all the people sitting on this. When I talked about driving two hours to go up to get a signature, I want you folks to know about it; it isn't just sitting in front of Wal-Mart and collecting money. Those are the points I want to make. And I don't think I have anything...because everything else is there. But distortion, fraud, harass, that isn't what happened out there. It was damn hard work. Thank you. [LB39]

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SENATOR AGUILAR: (Exhibit 10) Thank you. Any questions for Mr. Tierney? Thanks for coming today. Anymore opponents? How about neutral testifiers? Seeing none, Senator Schimek, to close, please. I'd also like to read into the record a letter of support for LB39 and LB40 from the Nebraska State Education Association. [LB39]

SENATOR SCHIMEK: Thank you, Mr. Chairman and members. I need to take just a little time to close, I think. As you can tell, feelings run high about the petition process. People in Nebraska care about the petition process. But it isn't just those people who are circulating petitions that care about the process, it's the average Nebraskan who is approached at Wal-Mart, or who is approached out at Gateway Shopping Center, or who is approached at the Stapleton Courthouse, whatever for their signatures. And I heard the question asked several times during testimony is, what is the genesis of this bill? Well, the genesis was that the public was feeling frustrated and irritated, in some cases, about the way signatures were being gathered this time, and the news media started reporting it. And when the news media started reporting it then the Government Committee, whose purview is the petition process, decided that there needed to be some kind of a hearing on it. I think that on...well, I can tell you at least two occasions that I, personally, was asked to sign a petition. And on neither occasion did the person carrying that petition have the foggiest notion of what that petition was about. I did, I knew, and I asked, and they couldn't answer even the most elementary questions. And I think it's that kind of thing that got people thinking about the process. Now I also think we have to remember, and, Senator Friend, I'm looking at you; I'm not going to address you specifically, but there are only about 22 states that have the petition process; it's either 22 or 27, and I can't remember that figure exactly. There are many states where people don't have the privilege of circulating petitions. And among those various states there are many different signature requirements, they're not all the same. So I don't think there's any gold standard for the number of signatures that we have. Having said that, I, too, believe that the volunteer process is just about extinct anymore and that's the regrettable part. And we've tried to work on it before. Once upon a time, I suggested that we try a bifurcated system whereby the volunteer circulators got credit for one signature for every signature that they gathered so they would have to gather fewer signatures than the paid petition drive would have to. People were afraid of that because it had never been tested in court, and they were afraid that the courts would throw it out, and they may have been right. I don't know, we'll never know because we didn't try it. The point is it's a very, very difficult problem. If we lower the signatures too much, then we have made it so easy that you could buy a petition drive for a very small amount of money. So as my good friend, David Landis, used to say, it's a conundrum. And if anybody can figure out how to address it, that's great. Now having said all that, that's not what this bill is about. This bill doesn't have anything to do with the signatures. This bill doesn't really change some of the outward parameters of the petition process. For instance, the gentleman who was just here and mentioned the requirement for signatures from so many counties. Well, he needs to be careful what he wishes for,

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because I don't think he wants Lincoln and Omaha to be able to raise all the signatures and have any kind of a petition that might be suitable to their particular part of the state. That was deliberately put in so that the petition signature gathering would happen statewide, and so that different areas of the state could be protected. It is not true that no petition drive has succeeded in recent years with only volunteers. Secretary of State's Office reminded me that in 1996 the Defense of Marriage Act passed or succeeded with 180,000 signatures gathered in six weeks. It is not impossible at all. If the issue is right it can be done, but it is more difficult, I will grant you that. There are two other things that I'd just like to mention. And the word "blockers" has come up several times in this hearing. It also came up in the hearing that we had. And I don't remember that there was as much testimony about that as was being stated here, but it did come up. The problem is it's a totally new phenomenon and nobody in any state, I don't think, has addressed it yet. I think we need to keep an eye on it. I think that the Secretary of State, in the last petition drive, was able to say to everybody, you know, cool your jets, calm down, be ladies and gentlemen about this. And I think he succeeded in calming the waters a bit, and maybe that's all it takes. But I do think it probably is something that we need to keep an eye on. And maybe it will be a simple matter of having reporting requirements. But I don't think that you could possibly prohibit blockers, because that is also a free speech right. So I think this committee should think about that. But at this point, it might be a little premature to try to address that. And the final thing is public access was mentioned. And I don't know that it's the same kind of public access. I didn't hear all of his comments. But one of the things that we heard about and considered was trying to solve this whole issue about, where can petitioners go to gather signatures? Can they go on private property? And I think our conclusion was that this is probably going to be decided by the courts, ultimately. And trying to define what...where you can go and where you can't go might be a very difficult job for this Legislature. So we left that particular issue out of this bill. With that, I'd be happy to answer any final questions you might have. [LB39]

SENATOR AGUILAR: Thank you. Any questions for Senator Schimek? I'd just like to comment. You did answer one of the questions in your close that was going through my mind somewhat, and that was, what rights do blockers have? Aren't they allowed to participate in the process? [LB39]

SENATOR SCHIMEK: Free speech, they have free speech rights, just like petitioners do. I mean that's never been litigated, but I'm assuming that the same thing would apply to them. [LB39]

SENATOR AGUILAR: No further questions? That closes the hearing on LB39. We'll now move to Senator Schimek and LB40. [LB40]

SENATOR SCHIMEK: And thank you, Mr. Chairman and members of the committee. I will be briefer this time because I don't have to do as much background on this issue.

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LB40 takes up the one issue that the Government, Military and Veterans Affairs Committee did hear at the September hearing, and for the record, my name is DiAnna Schimek. I represent the 27th Legislative District. LB40 would require the principal circulator of a petition to provide each circulator with an ID badge with a number and a brief description of the petition he or she is circulating. Each circulator would be required to wear that badge. And, for example, one badge might say, number 16, casino gambling. It would be very simple, just tell people what you're actually circulating. So there would be no confusion. As mentioned in the introduction of LB39, the courts ruled regarding name badges. The Supreme Court, in Buckley v. American Constitutional Law Foundation, said that name ID badges for petition circulators are unconstitutional, and I believe they called it a freedom of speech issue. However, a strong argument could be made that LB40 is consistent with the ruling because a petition circulator's name and contact information is treated as confidential in this bill. The only people who would ever know the name of that circulator would be the Secretary of State's Office, or law enforcement, or Accountability and Disclosure if some kind of a charge would have to be investigated. So that the potential signer wouldn't have a clue as to who this person was; they'd only be known by number. I believe that the reason this issue...I mean I don't believe, I know the reason this issue is treated separately from the issues in LB39 is because the courts have not directly ruled on numerical badges. So I can't tell you what the courts would say, but I feel that they wouldn't have the hesitation they did with the name badges, because you're keeping records confidential. And it does allow the state to track down somebody who may have allegedly violated the law. At least it allows investigation. It's very difficult now to investigate any of these allegations. So with that, I would just suggest that this would not be a huge burden on anybody, I don't believe. I will be interested to hear what the testimony is. Thank you. [LB40]

SENATOR AGUILAR: Questions for Senator Schimek? Senator Mines. [LB40]

SENATOR MINES: Thank you. Senator, a testifier earlier suggested that we might, rather than put on a brief description of the subject matter, put on the companies name or who that petitioner is representing. And I'm just curious about your view? [LB40]

SENATOR SCHIMEK: I don't know if I have any strong feelings about that one way or the other. [LB40]

SENATOR MINES: Yeah. [LB40]

SENATOR SCHIMEK: It doesn't tell the signer much. It doesn't tell the signer what that particular person is circulating. Now somebody else suggested to me at a point that you might allow a circulator to have more than one petition listed on that badge. [LB40]

SENATOR MINES: Yeah, exactly. And you could end up with a badge this long, if they were carrying half a dozen of them. [LB40]

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SENATOR SCHIMEK: Yeah, well, hopefully not. [LB40]

SENATOR MINES: Yeah, it was interesting. [LB40]

SENATOR SCHIMEK: But it would be possible to do that. [LB40]

SENATOR MINES: Yeah, it was interesting. [LB40]

SENATOR SCHIMEK: But the voter, knowing the companies name, that wouldn't tell the voter much. [LB40]

SENATOR MINES: It would allow them to identify to the Secretary of State if they had a complaint, here's the number, here's the company, I need your help. [LB40]

SENATOR SCHIMEK: Yeah, that's true. [LB40]

SENATOR MINES: It was interesting. [LB40]

SENATOR AGUILAR: Further questions? Senator Avery. [LB40]

SENATOR AVERY: That was my question, too. That was my thought, that once we identify or determine why it is we want to put a badge on somebody, is it to know what petition they're circulating or, if there's wrongdoing or a problem, be able to identify that person? I'm wondering, too, if the organization that's funding that wouldn't be a more valuable piece of information rather than the petition if...to meet the goal that you're after? [LB40]

SENATOR SCHIMEK: That very well could be, very definitely. [LB40]

SENATOR AGUILAR: Senator Avery. [LB40]

SENATOR AVERY: I don't think that you address it in this bill. But shouldn't there be some information to the general public that...how to use this number? Like a phone number that you can call if you have a complaint. If you feel like you've been abused by a circulator you'd be able to call this number. It could be in the Secretary of State's Office or somewhere else, and you'd say, I was abused by circulator of petition X, number 16. [LB40]

SENATOR SCHIMEK: I don't know if you want that much detail. But I don't...I wouldn't have any huge objection to it. [LB40]

SENATOR AVERY: Well, as it is now, if I'm a private citizen and I'm being abused by or

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harassed by a circulator, and I see a number, what do I do with it? [LB40]

SENATOR SCHIMEK: I would probably call the county attorney is what I'd probably do, and then the county attorney would know how to refer you. But I agree, maybe it would be...I mean, I at least think it would... [LB40]

SENATOR AVERY: We'd want to have...maybe we could just...there could be literature passed out with the circulator, here's what you do, if you are uncomfortable with what happens at this encounter where I'm asking you for your signature, these are what your rights are, you can call this number, you can register your complaint with my badge number. [LB40]

SENATOR SCHIMEK: I don't want to presuppose that all circulators are not doing the job correctly. I mean that makes me a little nervous, because some circulators, probably most, are doing a good job. We did hear a lot of stories during the hearing about people who weren't following the law. And technically, if they're not following the law, there is no way we can do anything about it because we don't know how to track them down. So perhaps that's a possibility. [LB40]

SENATOR AVERY: I'm suggesting you make it easier... [LB40]

SENATOR SCHIMEK: Or maybe you have public service announcements or something. Maybe the Secretary of State's Office does public service announcements. I don't know if you want to... [LB40]

SENATOR AVERY: I agree with the intent. The intent is to make the circulators more accountable... [LB40]

SENATOR SCHIMEK: Right. [LB40]

SENATOR AVERY: ...for following the law. [LB40]

SENATOR SCHIMEK: Exactly. [LB40]

SENATOR AVERY: And no abusing the general public who might be willing to sign or not. [LB40]

SENATOR SCHIMEK: This...I mean, in a way this is good economic development. I mean these petition circulators do make money. If they are from the state, they spend money here. We, you know, but we don't want economic development at the price of the petition process. I think we need to make certain that the process...that the law is followed in the process. And there are number of laws on the books that say that you are to explain what is in the petition. That's one of the things that's very clear, but yet it

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isn't happening. And that's, I think, peoples frustration is that the law isn't always being followed. And I say that, even though I know that many people are genuinely conscientious about doing it, there are people who aren't. And one of the things about the last bill was that pay per signature was...it was thought that that was probably one of the reasons that signature gatherers were going so fast that they weren't really taking time to explain. But that's off the subject. I don't have any objection. I think that's up to the committee. [LB40]

SENATOR AVERY: Would you be opposed say to an amendment where we would have mandatory...make the principal circulators submit the records to the Secretary of State or to law enforcement or whatever agency we decide, and rather than have it optional or based upon request... [LB40]

SENATOR SCHIMEK: No, I think you need to do it optional. I don't...there's no reason for the...there's no reason for law enforcement or Secretary of State or to have those names, unless, unless there is an allegation that needs to be investigated, and then it's legitimate. [LB40]

SENATOR AVERY: What I was thinking is perhaps you'd have them on record, and then when a citizen called in and said, I have a complaint to file, you'd be able to go straight to those records without having to go through a lengthy process. [LB40]

SENATOR SCHIMEK: But the citizen doesn't ever need to know that person's name,... [LB40]

SENATOR AVERY: But law enforcement would. [LB40]

SENATOR SCHIMEK: ...unless there are charges brought. And then, of course, that persons' name would be made public. [LB40]

SENATOR AGUILAR: Further questions? Seeing none,... [LB40]

SENATOR SCHIMEK: Thank you very much. [LB40]

SENATOR AGUILAR: Next we'll take the proponents. Could I have a show of hands, how many are going to testify for? And I'll ask you to please be brief. Move to the front of the room so we can expedite this process, please. [LB40]

PAT LOONTJER: I'm Pat Loontjer, executive director of Gambling With the Good Life, L-o-o-n-t-j-e-r. I filled out the form and put both the numbers on the last time. I'll be very brief. Many of us have personally been accosted by the petition solicitors who were doing it in a very illegal manner. And we had no recourse as to who they were and how to report them, other than to say, it happened at this time of day at this corner, or at this

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parade, and there was no way. So I think this is a way with the badge number which would not interfere with their personal security. I think it would also benefit the companies that are hiring these people, that they would know who is in their employ that is violating the principles that they have set out for them. So it would be a check and balance there. So I would just recommend that this would be considered as an appropriate recourse to try and to fix a problem that's currently existing. [LB40]

SENATOR AGUILAR: Questions for Ms. Loontjer? Senator Rogert. [LB40]

SENATOR ROBERT: Pat, in your organization over the past few years, have you used...have you paid anybody to do what you do? Or is all your work volunteer? [LB40]

PAT LOONTJER: No. We have a small staff during the campaign. We have never used blockers, I know that was one of the questions that came up before. We've never used blockers, paid or unpaid. And we don't solicit signatures, so we're on the other side, that once they're submitted and accepted and on the ballot, then we have to organize the campaign and fund it. [LB40]

SENATOR ROBERT: Right, but you have a huge force of people. And nobody is paid, is that right? [LB40]

PAT LOONTJER: No, the staff... [LB40]

SENATOR ROBERT: Other than the staff? Yeah, but I mean... [LB40]

PAT LOONTJER: Yeah, oh yes, oh no. Uh-uh, uh-uh. [LB40]

SENATOR ROBERT: Okay, that's fine. Thank you. [LB40]

PAT LOONTJER: No, we're totally volunteer. Any other questions? [LB40]

SENATOR AGUILAR: No more questions? Thank you. Next. [LB40]

RUTH LIENEMANN: Just one thing that I left out with my testimony before, when I complained to the Secretary of State's Office about... [LB40]

SENATOR AGUILAR: Could I have your name, please. [LB40]

RUTH LIENEMANN: Ruth Lienemann, L-i-e-n-e-m-a-n-n, about the signature increase, I said, it's still in the Constitution the way it originally was, how can you do this? And he said, the Constitution was amended by implication. I don't think any constitution (sic) amends things by implications, they have to be voted on, they have to be stated directly on the ballot so people know what they're doing. That was never done on the signature

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requirement. It should be returned to that just automatically, there shouldn't even have to be a court case on that. It hasn't been amended. And on paying, I don't know what's the right answer on paying. I think it's a more clean process if volunteers come. And I think more people would be willing to volunteer if they knew that it was a clean process. All these options we have for paying people and keeping records, I don't see how it's going to work out, it's too complex. Thank you. [LB40]

SENATOR AGUILAR: Questions? Thank you. [LB40]

LYLE JAPP: My name is Lyle Japp. And I am for this. I was thinking, as we were discussing it, all of us have license plates on our cars to identify who owns the car, and that person would have to track down who actually was the driver. But it serves a great purpose that we can identify people who are particularly involved in something that is wrong. And so identifying the petition gatherer would seem to be similar. I do have a couple of thoughts. One, is there any provision as to size of print? And also I think the idea of a company or the petition, what it's for would be on the badge because there may be different petition gatherers representing different companies might have a similar number. So I think it needs to be such that they can make sure that they track down the person. Those are the only comments I have. Thank you. [LB40]

SENATOR AGUILAR: Thank you. Questions? See none. [LB40]

BRIAN MIKKELSEN: (Exhibit 1) Senator Aguilar, members of the Government Committee, my name is Brian Mikkelsen, that's M-i-k-k-e-l-s-e-n. I'm testifying today on behalf of the 26,000 members of the Nebraska State Education Association. And I have to apologize first, because we did write in our letter that we weren't going to testify today. But I did want to come up and address just a couple of issues that have come up throughout the hearing. One, we are in support of LB39 and LB40. And, specifically, I was personally involved in running the operation which we called the education effort regulated to the petition circulation process; others referred to it as the blocking effort. But through that process I do want to address, clarify one issue that was mentioned by a previous testifier that we hired thugs from Michigan and Ohio to come in and do blocking. I feel I need to testify on this to say that is absolutely, 100 percent not true. We hired Nebraska college students, Nebraska teachers, and Nebraska retired citizens, AARP members, NSEA members, and college students to do that effort. We did not hire thugs from Michigan and Ohio or any other state, to be quite honest. Secondly, I do want to address another comment which was made, that the goal of the, quote, unquote, blockers, again we called them educators, was to impede or block citizens from getting to a circulator. Again, nothing could be farther from the truth. Our goal in placing people where circulators were was to engage in a conversation, and to make sure that voters knew what they were signing, which, in many cases, our experience showed that they did not know what they were signing. And when they were provided both sides of the story, they made up their mind and either signed the petition or they

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didn't. And so I wanted to just clarify those two issues, and that we remain in support of LB39 and LB40. And I apologize for having to testify, but I do feel the fact that teachers and retired citizens were called thugs from Michigan and Ohio did need to be addressed. Thank you. And I'm open to any questions you have about that issue or any other. [LB40]

SENATOR AGUILAR: Questions for Brian? Thank you, Senator Mines. [LB40]

SENATOR MINES: Brian, did you pay your blockers? Were they paid by the hour? [LB40]

BRIAN MIKKELSEN: We paid them by the hour, yeah. [LB40]

SENATOR MINES: Paid by the hour. [LB40]

BRIAN MIKKELSEN: Um-hum. [LB40]

SENATOR MINES: And did, just out of curiosity, was this a statewide effort or was it in certain parts of the state? Do you happen to recall? [LB40]

BRIAN MIKKELSEN: It was statewide, but it was mainly in the three counties of Douglas, Lancaster, and Hall. [LB40]

SENATOR MINES: Okay. In the hearing that we, or the interim study that we had, we did hear about blockers a bit. And I think just through the course of conversation blockers have become part of this whole process. And it's different, and we don't know how to deal with it. Educators are...it's a nice way of putting it. But there were instances where they did, in fact, get in the way of the petition process. And I understand the anxiousness of your members or of those that you hired. But I think we need to pay attention and need to, as a committee, talk about that particular part of this process. Because I can see it getting significantly worse. Next time you folks have something you want to run a petition on,... [LB40]

BRIAN MIKKELSEN: Right. [LB40]

SENATOR MINES: ...there very well may be a group like Mr. Groene's that comes in and blocks what you're doing as well. I'm just...it's a problem that we need to talk about. [LB40]

BRIAN MIKKELSEN: Yep. And we come at it from a dual perspective. We've both run petition drives and been opposed to petition drives. [LB40]

SENATOR MINES: Right. [LB40]

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BRIAN MIKKELSEN: And to be quite honest, unlike some of the other testifiers, you lay out the rules for how you want blockers to operate and I'm going to follow them. You want them to wear name badges, you want them to follow anything else you're requiring the circulators to do, I don't think...I, personally, don't have a problem with that. The reason I have a problem with the word blockers is our best worker was a 20-year librarian from Papillion. I just don't see her out throwing chop blocks. You know, I mean, I just don't...that's not the demeanor of a 20-year librarian from Papillion. But I'm open to that. [LB40]

SENATOR MINES: Were you required to keep a list of those people that you paid to educate? [LB40]

BRIAN MIKKELSEN: We have that as well, yes. [LB40]

SENATOR MINES: But...and is it available, just like the names of petition circulators is available? [LB40]

BRIAN MIKKELSEN: You know, I don't...I don't do the filings in there, so I don't know the answer to that. [LB40]

SENATOR MINES: Okay. [LB40]

SENATOR AGUILAR: I'm going to interrupt here and ask that we stay on point, we're talking about badges here. [LB40]

SENATOR MINES: I'm sorry. I'm sorry. You're right, you're right. [LB40]

BRIAN MIKKELSEN: Yeah, I'm going to find out the answer to those questions. [LB40]

SENATOR AGUILAR: Any more questions? Thank you. [LB40]

NEAL ERICKSON: (Exhibit 2) Senator Aguilar, members of the committee, once again, my name is Neal Erickson. I'm Deputy Secretary of State for Elections, here on behalf of Secretary of State, John Gale, testifying in support of LB40. As I mentioned previously, he submitted a letter that contained some information on LB40. Concerning some of the testimony previously, you know, I think there are some things in this bill that could be tweaked a little bit. You know, I think that it's been mentioned there is a potential, somebody carrying multiple petitions to have multiple badges. One way to address that might be to say if a sponsor is sponsoring more than one petition, they'd only have to wear one badge. I mean, keep in mind what the purpose of the badge is. The purpose of the badge is to be able to identify the circulator if there is a situation where they may have committed fraud or other illegal activities, at the same time, in compliance with the

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Buckley case, maintaining the anonymity of that circulator at the time he's circulating the petition. LB40, I think, accomplishes that. And I would be careful about maybe getting too complex with the buttons and information at the get-go. One thing that we generally do is when we start a project is start them small, make them work, and then you can go on and expand them if necessary. Whether you put a line on there, like budget lid, or humane care, or whatever, or put the sponsor's name, you know, I think is up to this committee. One thing I would note, I'm not sure that the member of the general public would be able to know that Thomas Mann was the sponsor of the humane care petition, whether Mike Groene was the sponsor of the budget lid. But the key thing, I think, there is that number, once we have that number, if there is an allegation we should be able to track it down. Currently, with our situation, we get allegations all the time. And Senator Avery mentioned, you know, talking where they call, quite a few of them manage to call our office (laugh). And I know they've called other places as well, whether it be the press or county attorneys or whatever. But the badge system in LB40 provides an identification issue that helps us to investigate allegations of fraud, or abuse, or illegal activity without, at least we believe, violating the anonymity of that circulator and subjecting them to derision or whatever because of the issue that Buckley, the U.S. Supreme Court decision in Buckley announced. So with that, I'd answer any questions you might have. [LB40]

SENATOR AGUILAR: Questions from the committee? Seeing none, thank you, Neal. [LB40]

NEAL ERICKSON: Thank you. [LB40]

SENATOR AGUILAR: Any other proponents? [LB40]

LYNN REX: Senator Aguilar, members of the committee, my name is Lynn Rex, representing the League of Nebraska Municipalities. We're here today in strong support of LB40. These two bills, LB39 and LB40, are entwined, so some of the issues that were being discussed, I think, are very relevant for both bills. First of all, let me indicate to you that in terms of some of the comments made previously about propaganda, it is because of that by what we view as proponents of Initiative 423 that our group, in opposing Initiative 423, and our coalition felt very strongly that it was important that people understand what that petition did. And so we basically had an 8.5-by-11 sheet that retired teachers and others, librarians and some volunteers, too, actually handed out and talked to people, and then tried to educate them in terms of what it would do. And my staff, as I said before, I was asked three times to sign it, not once did anybody read the object statement. Of the women in my office that go to the bank two or three times a day, not once were they told what the object statement was, and they were asked to sign it every time. It was not only retail stores and others, banks, other institutions contacting local governments about what could be done to try to put...have these people not block the entrance so that the only way to get in was to basically least

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have to deal with them in order to enter the building. And that resulted in an access issue, just very briefly. I'd be happy to give you copies of all the court cases and briefs and everything, if you have an interest in this. But in terms of the access issue, the week before July 4 there was, basically, a temporary restraining order that was put in place dealing with Lincoln, Omaha, Douglas County and Grand Island. Those cities were very concerned because in order to get into the Grand Island library at that time, Senator Aguilar, as you know was under construction, there was a real concern. The librarian in Grand Island and others were asking them to move down to what's called the perimeter sidewalk. Forever the law in this state has been that you can always exercise your First Amendment rights, I'm going to give you the analogy, on the sidewalk squaring, around the State Capitol as opposed to going up to the State Capitol. Same thing when you go into the City-County Building, or any public building, the law has been that the interior sidewalk going up to the building, that's not a place where you do it because you're not blocking people, literally, you're not precluding people from doing their business with the public, but that you can do whatever you want to do, as long as you're not blocking the public's right to access those buildings on perimeter sidewalks. That was the issue. That also evolved with retail stores calling one to know what they could do because folks were setting up card tables right in front of their stores and they couldn't deal with it. Let me indicate to you that with respect to this goal specifically, first of all, the same requirements that apply to folks that are circulating petitions should require to those folks that are involved in educating others on what the other side is; you want to fall them blockers, we call them educators. And I think they are educators, because there are a lot of people that, once we started telling people what it did, that they basically went and asked to take their signature off of a petition when they found out that they really hadn't signed something to protect children from child molestation. They had card tables set up at Wright Park in Lincoln, Nebraska where thousands of kids were going for soccer games, baseball games, and they were told if you sign up here, you can stop child molestation. And there was a vice principal from one of the middle schools that went over and looked at it and said, that doesn't do that, that's that 423 thing. So basically, when you're dealing with those kinds of issues, we think this is a public safety issue. Those of you that have been in local government know that if you're going to have someone circulating magazines, selling vacuums, they register, they get permits, you just don't go walking around, knocking on people's doors doing things. It's a public safety issue. It's a public safety issue when people open the door and somebody puts their foot in the door and they can't get it shut. Those were the things that happened. These are the kinds of things that occur. And so from a public safety standpoint, the name badge is a great idea. It ought to apply to both sides equally. Again, we understand the rules that apply to them on the other side this time are going to apply to us the next time around. We understand that, and they should. So bottom line is, we think that's very important. In terms of other issues relative to this, I think that it's very important, as indicated at the interim study hearing, that there was fundamentally a different campaign going on, if you will, in western Nebraska versus other parts of the state. Senator Pam Brown, a former member of this committee,

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indicated during the interim study hearing and, Senator Friend, you may want to talk to Pam about this, she actually stated, in response to some of these activities, that in Omaha, Nebraska she changed when she went to the grocery store, the time she went to the grocery store, and she changed what she did so she wouldn't have to have a confrontation to even go into a HyVee store or whatever store she was going to in Omaha, Nebraska because people were right up against the doors and you couldn't get in. So the court case is ongoing, that's not over. This is going to continue. We obviously want to have restored the historical distinction between a perimeter sidewalk and an interior sidewalk. I can assure you retail operations do not believe that it's there for First Amendment rights so just to have everybody access and block the way into their stores. So I'd be happy to answer any questions you have. We think this...both bills are great bills, and we are prepared to live by it, whether we're supporting a petition or opposing it. Thank you very much, and I'd be happy to respond to your questions. [LB40]

SENATOR AGUILAR: Questions for Lynn? Seeing none, thank you. [LB40]

LYNN REX: Thank you, Senator. [LB40]

SENATOR AGUILAR: (Exhibits 3, 4, and 5) Any more proponents of the bill? Could I have the opponents move forward, please. While he's coming up, I would read into the record, I have three letters of opposition: one from Mary Beth Rommelfanger, Dennis Murphy, and Jan Ream. Please go ahead. [LB40]

DIMITRIJ KRYNSKY: Mr. Chairman, members of the committee, my name is Krynsky, K-r-y-n-s-k-y. And I am here on the behalf of a Minuteman Group of Lincoln. As you see, my English is not still very good. I came to this country 25 years ago. When I heard of these presentations over here, I have a feeling that we are trying to...we, not we, this legislation are trying to solve problem which shouldn't exist. This problem, according to my opinion, was created by unnecessary rules and regulations. I am coming from the position that petitions are actually our constitutional rights, this is federal Constitution, Constitution of United States. Because of this, I don't see that this is maybe special Nebraska's problem. This right to petition applied to whole territory of United States. And according to my understanding, no other restriction is put on the right to petition other than petitioner should be citizen of United States. So every other restriction which over here was talking about, according to my opinion, is not only unnecessary, but is against Constitution. If I am restricted when, how, and under which condition I can present petition, I feel that my right for petition is somehow constricted so that I cannot really present petition. I should present petition on my own interest and on my own time, on my own place and not that somebody can tell me, you can present petition here, and you cannot present petition there. At least nothing in this sense is in the Constitution. Now, over a year ago, presented several so called reasons why some restriction should be applied for presenting petition. One of these was that some circulators are not behaved properly. You know, it happened in every human endeavor, in every business,

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in every time that somebody is not behaving properly. But it doesn't mean that we should change the basic rules. We can eventually go after these guys who doesn't behave properly and maybe punish them, which is okay. But to very quiet person to have badges and to have places and to have conditions under which he can gather a signature seems to me something is completely wrong over here. According to my understanding, this condition to block petitions, this is not protected by Constitution. So we should talk about these so called blockers and try to find remedy how to prevent them, what we should do with them, because this is something which is not protected. But present petition, this is protected in our Constitution. So this is actually my position, I feel that petition should have minimum restriction, if any, and blockers should have maximum restriction everywhere, and not in the state of Nebraska but actually through all territory of United States. [LB40]

SENATOR AGUILAR: Thank you. Questions for Mr. Krynsky? Seeing none, thank you. [LB40]

DIMITRIJ KRYNSKY: Thank you. [LB40]

SENATOR AGUILAR: Next opponents, please. [LB40]

SUSAN SMITH: My name is Susan Smith, and that's S-m-i-t-h. Yeah, I understand some of these issues that are being discussed and why they are because it sounds like there is a lot of big business in this. And really, I'm just looking at this as from the average citizen that would like to see an initiative or referendum put through, and I don't have a lot of money to work with, and I'm just working with fellow citizens. And so that's where I'm coming from on this. And my concern is that by adding the requirement of principal circulators to provide identification badges, each with unique numbers and petition description, would cause a financial hardship that may prevent citizens from participating in Nebraska's lawmaking process. Just for example, let's say a badge costs \$10, and there are 50 circulators, well that's \$500 I've got to come out of my pocket, in addition to the money I've already spent for an attorney to draft the initiative or the referendum. And so again that's where my concern is at. Thank you. [LB40]

SENATOR AGUILAR: Questions for Ms. Smith? Seeing none, thank you. [LB40]

LARRY WRIGHT: My name is Larry Wright, and that's spelled W-r-i-g-h-t. I'm here as a private citizen. And any amount of money that the state would have to collect for these unique badges, seeing as I'm on disability, it would harm my concern where I wouldn't be able to go pay for this badge in order to circulate any kind of petitions. [LB40]

SENATOR AGUILAR: Okay. Questions for Mr. Wright? Seeing none, thank you. [LB40]

LARRY WRIGHT: Thank you. [LB40]

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KATHY HOLKEBOER: Hi. Again, I'm Kathy Holkeboer, that's H-o-l-k-e-b-o-e-r. You notice this time I'm coming on the opponents side, and that's because of what has just been said. I saw with the...both the defense of marriage amendment, which I also worked as a petitioner for that, and the Class I schools issue, it is only volunteers that have the passion for the situation. The person who comes as a paid circulator might have some passion, but their passion is for their pocketbook, they're there to earn the money. So my recommendation, and Senator Schimek brought this up as an issue, how do we do this? My recommendation is that you do badges for paid circulators and volunteers would not have to have the badges. That way the paid circulators, who have the money to be paid, can get their badges; the volunteers would not have to pay. So I am opposed to this bill, unless it's amended to allow volunteer petitioners to be excused or exempted from having the name badge. Also, I would like to say that the name badge could be clarified because the Secretary of State requires that the petition be filed with them, so they get a number. So that's number 1 dash, and then that particular person's badge number for that particular petition. So if somebody is a paid petitioner and they're working for one company that's covering three or four petitions, then their badge would say 1 dash 15, 2 dash 13, whatever that needs to be, so that would be a way to identify it. Also, speaking of educators, petition carriers should be educators. They shouldn't be just trying to get petitions signed, they should be there as part of the education process. So a name badge does need to say what the petition is about, not who has been hiring them to do it. That's all. [LB40]

SENATOR AGUILAR: Thank you. Any questions? Seeing none, thank you. [LB40]

KATHY HOLKEBOER: Thank you. [LB40]

SENATOR AGUILAR: Next opponent. [LB40]

MIKE GROENE: Again, I'm Mike Groene, G-r-o-e-n-e. I've, personally, gathered over 1,200 signatures myself in the pursuit of getting Initiative 423 on the ballot. I always started out by saying, my name is Mike Groene, have you heard about the Initiative 423 petition? I would point at the object statement and read it. I was very successful at getting signatures. I had no problem with that. The lady here alluded to it, everybody has been talking about paid petitioners, but most of the people that we had circulating were volunteers. Because of my name being out there, I would have an awful lot of people call me and say, I want to...I don't want to get out and take...but I want to get my wife and my kids and a couple of neighbors, could you send me a petition? And all they would do is get five or six names, get it notarized and send it back in. Right now we don't have to keep track of who all has the petition. This includes a lot of bookwork, and that's going to discourage a lot of people who just want to get five or six, or just sign it themselves. We had people sign it just themselves. They'd be out in the rural area, get it notarized, and send it in. You're going to have a huge...keeping track of all these

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people, you're going to discourage these people from doing it if they have to register. And as far as the paid ones, already a person who's passing a petition around, it says in big red letters, paid petitioner on that petition. And everybody...you have to sign it by law. You have to print your name and by law print your name before you start circulating it. Anybody can ask, can I read that, and see your name on the bottom. And then they can call the Secretary of State and say, Mike Groene did this to me, or pushed me around or something. But also we got to remember...I'm not a lawyer, but we also have civil laws and criminal laws on the books. If somebody, I don't care if they're passing a petition, if they're aggressive and stick their foot in your door selling vacuum cleaners, or pushing a petition, or harass somebody in a parking lot, there's already criminal laws and civil laws to address that. But anyway, you're really going to make it complicated for the person who just wants to get three or four signatures. I'd like to address Senator Friend. I finally figured out what he was trying to tell me. Yes, I'm opposing LB39 in whole on principle. I would...if you gave me back 10 percent of the people who voted in the last Governor's election, I agree, it should be Nebraskans gathering signatures. But in principle what... [LB40]

SENATOR AGUILAR: Could we stay on LB40. [LB40]

MIKE GROENE: But on principle what these laws are doing or trying to address a symptom. And the symptom is it's gotten way out of hand because of the number of signatures you folks make us get. The whole process is out of hand because of that. And also, maybe the real comment on all this hearing is this, what really bothers me is that the reason these laws are being put forward is apparently some of our fellow American's are inconvenienced by other people pursuing the practice of participating in democracy. You got to be inconvenienced a little bit, folks. I mean so somebody walks up to you and asks you to sign a petition, or follows you a little ways, that's the price of a democracy. To no longer want to be inconvenienced, half of us don't vote, now the same people and others are saying, I don't feel comfortable with a petitioner coming up to me, I want to know his badge, I want him to be...I want him to be registered, I want him to be this, I don't want him doing this and that, you got to be inconvenienced in a democracy a little bit in the pursuit of it, folks. And to, Mr. Mines, I would never, ever block anybody. I would never do that. I would never support anybody ever doing that. And as far as that goes, we already have laws on the books that I can't go to a voting booth and within 100 yards or 200 yards and interfere with somebody's practice of voting. The right to petition your government is just as sacred. You could get a law that a blocker has to stay within 100...you do have a voting booth. You take people's free speech rights away every day and on election day. I can't go wear a sign or put anything up around an election booth. You can tell blockers that they have to stay 100 yards away from a petitioner, it's that simple. But anyway, I understand where you were coming from, Senator. I just proved it on principle. [LB40]

SENATOR AGUILAR: I'd just like to point out that there will be situations where a

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woman is by herself or maybe with a small child, and if she feels threatened because somebody is following her and coming up to her, that's a little more than being inconvenienced. [LB40]

MIKE GROENE: Yeah, I'm saying that's going to happen. But... [LB40]

SENATOR AGUILAR: I'd just like to make that point. Sure. [LB40]

MIKE GROENE: ...all she has to do is look at that petition. [LB40]

SENATOR AGUILAR: Nobody should have to fear, nobody should be forced to look at anything. [LB40]

MIKE GROENE: Yeah, no, nobody should. But what's a badge going to make a difference? [LB40]

SENATOR AGUILAR: You know, if she says, no, that should be enough. [LB40]

MIKE GROENE: I understand. We're all civil. [LB40]

SENATOR AGUILAR: Thank you. [LB40]

MIKE GROENE: Yeah, nobody is defending that, Senator. Nobody is defending that behavior. But this doesn't fix any of that. If somebody is rude, they're going to be rude. We have speeding limits. If somebody is going to speed, let them speed. You can't pass another law on top, another speeding limit, to try to stop speeders from speeding. We already have regulations on the books. [LB40]

SENATOR AGUILAR: Any more questions? Thank you, Mr. Groene. [LB40]

MIKE GROENE: Thank you for having me. [LB40]

SENATOR AGUILAR: Any more opponents? Would you please move to the front, if you intend to testify. [LB40]

LINDA AERNI: Good afternoon, senators. I'll be very brief. My name is Linda Aerni, Columbus, Nebraska. [LB40]

SENATOR AGUILAR: Would you spell your last name, please. [LB40]

LINDA AERNI: A-e-r-n-i. Over the course of the history, Nebraska people have been giving themselves the tools of democracy. And one of those tools is the petition process, a process that we can voice our desires in the legislative function. I'm here

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today simply as a mother, a small business owner, and a proud citizen of Nebraska who has currently sponsorship of a grass roots petition effort. I want this committee to know that I've been contacted by hundreds of people, in state and out of state, who want to be a part of this petition. To ask each of them to wear a badge will be unrealistic. I'm sponsoring a petition that is very popular, and recent polls show it has wide support throughout the state. The people who plan to circulate among their friends and families, their customers, their club members, their businesses and their congregation were asking...this bill is asking each one of those people to put on a badge. So my family, as they're sitting around a dinner table, before they can ask the people at that dinner table, will have to say, wait, I have to put on a badge before you can sign this petition. I would propose that if petition circulators are required to wear number badges, which will be easily replicated, duplicated, misused, then all political activists should wear numbered badges. As a matter of fact, I would propose that all of our lobbyists wear a badge so that I can identify who they are and so can the senators. We've just participated in a great election. And when campaign workers came to my door, some of these were very aggressive. They were very rude, and some of them did put their foot in the door so that they could continue to talk to me. But we don't require any of them to wear a number badge, nor do we require any of them to say that they are Nebraska electorate or Nebraska citizens. Our Constitution says that the petition right is the first, the very, very first right of the people. And as that first right, I think that you have an obligation to facilitate that process, not to restrict it. My trade is in the technology field. And so while I heard a few minutes ago about doing something online, I often wonder why the state isn't moving that way? We have online government, we have online tele-health, we have online banking, we have a host of technical opportunities in front of us. Perhaps as a government we should be looking at invoking or innovative ways of letting the public participate in this great petition process that we have in our state. And we may also look at maybe raising some revenue for this state by every petition online requiring, as Nebraska Online does with their records, a fee. Those are my comments. But I just want to tell you that some of these restrictive things that are in LB39 and LB40 are going to have an effect on the common person, whether that common person is a signer of a circulator of a petition, or a circulator of a petition. And by doing that, you are hurting my rights as a Nebraska citizen. Any questions? [LB40]

SENATOR AGUILAR: Thank you. Questions? Seeing none, thank you. [LB40]

LINDA AERNI: Thanks. [LB40]

GARY HEINZLE: My name is Gary Heinzle from North Platte. I want to thank Senator Aguilar and the committee to give me this opportunity to make a few brief comments. Senator Friend opened the early discussion with a comment that he was concerned about... [LB40]

SENATOR AGUILAR: Would you spell your name, sir. [LB40]

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GARY HEINZLE: Pardon? [LB40]

SENATOR AGUILAR: Spell your last name. [LB40]

GARY HEINZLE: Oh, I'm sorry. H-e-i-n-z-l-e. [LB40]

SENATOR AGUILAR: Thank you. [LB40]

GARY HEINZLE: Senator Friend opened the debate here earlier this afternoon with his concern about we are losing the effectiveness of our petitioning process and how important it is to a Unicameral Legislature. And the comments have been made by several people how our rights have been usurped by the Legislature and by the courts, and in the process our petitioning process has diminished in its ability to cope with situations. And I would encourage you to, and again the comment has been made several times about reducing the number of signatures to what the Constitution states. And I think this is a very important thing we do. Also, the comment was alluded to a little earlier about increasing the signatures to 15, 15 percent. And I think this exacerbates our problem. I think from the little bit I've seen of that I shouldn't diverse about this bill, but I think suggesting to reduce the number of signatures for a law but increasing the number of signatures for a constitutional amendment, the law can be changed by the Legislature. We go ahead and pass a petition for a law, it's passed, that can be changed by the Legislature, a constitutional amendment cannot be. And this is very important, I think, we have to get that...keep that number down to what the original Constitution stated. Also, Senator Mines made the comment, and I agree with him, contrary to what Senator Schimek said, that we're going to see how the blocker thing progresses, and then we'll address it. I think this needs to be addressed along with the problem right now. I, personally, circulated in western Nebraska. And it was amazing talking to people. And I was an educator. I also met some great people and I talked to them for a half hour about stuff, about politics. It's amazing how many of them have lost confidence in the petitioning process. They would say to me, why are you doing this? Why am I signing this? You know it's for no good, I mean it's for naught, because things won't happen, and because they've lost confidence in our state Legislature. And I think this has to be changed, it has to be rectified. People say, why are we getting such a low turnout in our voters? This is why, people have an apathy because they have no confidence in the procedures. I think that covers the general points I'd like to make. And I do appreciate your time, and I hope you consider these serious...these matters very seriously. Thank you very much. [LB40]

SENATOR AGUILAR: Questions? Seeing none, thank you for coming so far today for your testimony, appreciate it. [LB40]

GARY HEINZLE: Well, it's a good place to come and eat. (Laughter) [LB40]

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SENATOR AGUILAR: You're the first one that I heard say that. [LB40]

\_\_\_\_\_ : You don't mean here, in the cafeteria? [LB40]

GARY HEINZLE: It's not in the cafeteria here; it wasn't in the cafeteria. [LB40]

SENATOR AGUILAR: Anymore opponents? I ask if there's anymore, would you please come forward now. Thank you. [LB40]

PAUL SCHUMACHER: Paul Schumacher, 1765 26th Avenue, Columbus, Nebraska, S-c-h-u-m-a-c-h-e-r. I incorporate and reference my earlier testimony and would say that I think in listening to Senator Schimek's opening, she senses this may be on a little different basis, if it ever gets to the federal courts, than maybe the things in the other bill. And one thing, if you put yourselves in higher paying federal court judge offices, rather than state senators' offices, and you look at this issue, you can draw a distinction which might strengthen this bill if, in fact, you find it necessary for circulators to somehow identify themselves with a number someplace. Really, the problems you've heard have come about because supposedly of the paid circulators. And as a federal judge, if you were sitting there, you probably wouldn't get too uptight about saying somebody has got to wear a number if they're a paid circulator. Firemen wear numbers, policemen wear numbers, all kinds of people wear numbers. And you probably aren't going to be a little upset about that. However, for the volunteer circulator, that person circulating that petition that says volunteer on it, who's going to circulate it maybe to their clients, in their office, or their shop, or around the dinner table, for those people to have to say, wait a minute, I can't do that, let me run, go get my number, either that or I get a year in the pokey, which is a Class I misdemeanor, which is what the bill says, that, I can see, a federal judge saying, wait a minute, that's a chilling burdensome thing that really doesn't have any compelling state interest behind it. You know, draw a distinction here, or at least I would encourage you to draw a distinction here between the paid circulator again and the unpaid circulator. The paid circulator, the mechanism is in place to identify them. You heard Mr. Willey say that probably wouldn't be a bad idea anyway. But boy, for a common citizen asking my clients, hey, I think this is kind of a good idea, would you like to sign it? For me to have to say, excuse me, I can't do that, I got to run in the other room and get my number, and then put my number on and...that's not right. Thank you. [LB40]

SENATOR AGUILAR: Questions? Thank you. Is there any neutral testimony on this? Any other neutral, after this gentleman? [LB40]

STEVE WILLEY: (Exhibit 6) My name is Steve Willey. Address again? 13704 South 127 Street, Springfield. I came up...I testified earlier and what I said was I didn't know that it was a good or bad idea. I said it may have had some merit. But I see it's full of pitfalls in

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listening to this testimony. I don't know who's going to wear these badges? Paid volunteers, out of state, in state, all campaign? Why do we pick out paid circulators? Are they being villainized because some people are calling and making complaints that they're being accosted or confronted by aggressive circulators? It's been my experience that most of those calls, whether they're to the Secretary of State's Office or to our office, are almost always, or to a manager of a HyVee store, almost always from an opponent, someone that opposes the issue. It's a common practice. And so, of course, they get all the press. I just don't see where...how you can apply it to the petitioners, particularly just paid petitioners and not apply it to the people that are against the issue that are out there, such as the NSEA blockers that they admit they hired, or to the Gambling with the Good Life group. Where do you stop? How do you enforce it? And as Mr. Schumacher just said, how do you...you got to have your badge on to take a signature? When I first thought about this and earlier when I said it had some merit, I thought, you know, a badge with an ID number, maybe even a photo ID so that it couldn't be handed off and tossed around might not be a bad idea. The name of the company that pays them, Validation Services, or RVO, whoever, maybe not a bad idea. But the more I heard, the more pitfalls. It just seems like it's an unenforceable deal, unless you're going to make everybody in the state wear a badge for one reason or another. What makes petition circulators be required to have a badge and no one else? I guess I find it...and then even if they wore it, how do you enforce it? As far as the information being kept on file, not a problem. As I mentioned earlier, we were certain and we do and we have made that information available to law enforcement agencies for investigative purposes--name, address, social security number, how much they've been paid, where they're circulating at, whatever information we have, drivers' license number--we keep all that stuff. I don't believe that it should be made available just at will to Accountability and Disclosure, particularly during the circulating process, because that information can be used against the campaign also, regardless of what the issue is. And someone...can you imagine what it would be like if all you got to do is go to Accountability and Disclosure's web site and find out which circulators are producing the most signatures. And here come the phone calls and the picketing or what have you. So I just don't see that, I don't see it going anywhere, except to perhaps, I believe, the Secretary of State, when they get a complaint, they don't send out an investigator, they call the Nebraska State Patrol; that's who's called us in the past, and we give them the information they want. It's as simple as that. I guess, that's all I really had to say about it. I just don't know that...one thing I'd like to address perhaps, and it's a question about if there were to be adopted a rule that would require a badge is this thing about petition statements, object statements. As you mentioned earlier, Senator, about the badges could get long with all these different things. One of the things that we have always done, or at least in the last couple petition drives, couple of general elections that we've conducted drives, we do run into people that have trouble communicating. We have trouble with people that maybe don't speak English that well or approach people that are registered voters that they don't speak English too well. We print all of the object statements onto a small card, and we hand those out by the thousands and thousands.

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They go to all our circulators. And we say, look, you're required to state...read it, recite it, give them a card. If anyone has a question, if you give it to them in a card, they've got the object statement right there in front of them. And perhaps that would be something that would suffice instead of having it printed on your badge here. And with that, I guess I'm... [LB40]

SENATOR AGUILAR: Questions for Mr. Willey? Seeing none, thank you. [LB40]

STEVE WILLEY: Thank you. [LB40]

SENATOR AGUILAR: Anymore neutral? Senator Schimek, to close. [LB40]

SENATOR SCHIMEK: Thank you, Mr. Chairman and members. I'll be very brief this time. Just a couple of points. First of all, the signatures do not have to go at the bottom the petition until those petitions are actually turned into the Secretary of State. So the person signing them doesn't necessarily know or is able to see who that person is. So I just wanted to clear up that. There is no way for the voter to know who's...who to complain about or who to talk to if things go wrong. It would be possible under this scenario for a circulator, a principal circulator to be called by the Secretary of State's Office. And the Secretary of State's Office could say, we have a complaint about circulator number ten, they're screwing up, get it taken care of. You know, it doesn't necessarily have to be an investigation, but to be able to tell that company who might be not doing it correctly would be helpful to everybody, I think. And the badge cost, that again would be paid by the principal circulator; it wouldn't necessarily have to be an expensive thing at all. You could have those numbers in a little plastic container that are relatively cheap and easy to do. I don't want to prolong this discussion. I think it's been a good discussion, and I think some legitimate points have been raised. And I thank the committee for its time today. [LB40]

SENATOR AGUILAR: Thank you, Senator Schimek. Any follow up questions for Senator Schimek? Seeing none, thank you. And that closes the hearing on LB40. We're now ready to open on LB44. Senator Gay, please. We'll have to clear the room first, Senator, so we can hear you. Could you clear the room, so we could go on with our next hearing, please. Take your conversations outside. Fire away, Senator. [LB40 LB44]

SENATOR GAY: Okay. Good afternoon, Senator Aguilar, members of the committee. For the record, my name is Tim Gay. I represent District 14. I'm here to introduce LB44. [LB44]

SENATOR AGUILAR: Would you spell your last name, Senator. (Laughter) [LB44]

SENATOR GAY: This will be short and sweet. The bill would clarify that election commissioners have the authority to combine the sign-in register and the list of the

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precinct's registered voters. Currently, both documents are maintained at each polling place during an election. However, by allowing voters to sign the voter registration list as opposed to a separate sign-in register, counties could save money and time by decreasing the number of duplicate records. This minor change would also help the receiving boards at the various polling places by having less paperwork to manage. LB44 does not require election commissioners to change their current practice, but merely gives them the discretion of combining these two lists. LB44...I am introducing LB44 at the request of the Nebraska Association of County Officials, and I believe there will be testimony following mine that will further explain the need for this measure. It is also my understanding that the Secretary of State's Office may be proposing an amendment to this bill, and I have no objection to its adoption. Thank you. And I'll waive my closing. [LB44]

SENATOR AGUILAR: Thank you, Senator. Questions for the senator? Senator Friend. [LB44]

SENATOR FRIEND: Real quickly. Senator Gay, I was just wondering how heavy your workload is with bills and stuff? Just curious. After we kill this for you, you'll be (inaudible) just fine. I'm just kidding. (Laughter). You don't have to answer that. [LB44]

SENATOR GAY: I'm swamped, although, yes, I'm swamped. Although...All right. Well, I would clarify one thing on this. It is a bill for some of the smaller counties where the clerk is acting as the election commissioner, and keeping duplicate records just doesn't make any sense. [LB44]

SENATOR FRIEND: It makes sense. I was just messing with you. [LB44]

SENATOR GAY: But you always are, so... [LB44]

SENATOR AGUILAR: Senator Mines, question. [LB44]

SENATOR MINES: Thank you, Mr. Chairman. Senator Gay, thanks for being with us today. Could you tell me how many people are affected by this and how many counties are affected by this directly? [LB44]

SENATOR GAY: How many counties, I'm not sure. NACO is following me, they may know that answer. But I think more than you think, as the clerks act as the election commissioners. Some are currently, I think, doing this. In my county, Sarpy county, we have two. And we want to do that to maintain...it's a checks and balance system. So we do have two. But I can't...I don't know the answer to that. [LB44]

SENATOR MINES: Thank you, nice try. [LB44]

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SENATOR GAY: Yeah, thank you. [LB44]

SENATOR AGUILAR: Further questions? Senator Pahls. [LB44]

SENATOR PAHLS: Senator, having two, wouldn't that be excessive use of money? [LB44]

SENATOR GAY: It's excessive use of paper, so you could look at it as a conservation bill as well. [LB44]

SENATOR PAHLS: Okay. [LB44]

SENATOR AGUILAR: Any further questions? Thank you, Senator. How many are testifying as proponents to this bill? Please move forward. [LB44]

SHERRY SCHWEITZER: (Exhibits 1, 2) Good afternoon. My name is Sherry Schweitzer. I'm the Seward County Clerk, Election Commissioner, and Register of Deeds. One of the handouts he is giving you is the amendment that Senator Gay alluded to before. We have talked with the Secretary of State's Office and they are okay with it. I will start just a real short little preparation that I have here. And first of all, I want to tell you this is law that's being changed that does not have anything to do with petitions or blockers. Actually, it would utilize a lot of the new technology that we have with our new statewide voter registration system. And it would help create some voter confidence in it, since we have had some questions about it. According to law, we must give election boards training before each election. Most of the county clerks and election commissioners try to hold their training sessions as close to the election as they can, but I must be honest, when a person is trained for that event, it's only held two times, every two years and, honestly, there are some errors. This legislation would help, hopefully, eliminate some of those errors. LB44 gives the county clerks and election commissioners some clarification so that we can combine the voter list and the sign-in register and still maintain a reputable election in the eyes of the voter. Currently, most counties have a book that shows the signature of the voter, which is separate from the voter registration list. In LB44, we are simply allowed to combine these two into one. Current law also states that when a voter signs in, it should be after the previous voter's signature. That would not be able to be done if I'm using a list and I have, you know, different names and people coming in, not in alphabetical order, of course, to vote. So I'm not sure why that was so important, but that is the only thing that would be eliminated. We would still have the signatures there, we would still have the names, it was just a combined effort. That's pretty much the gist of it all. I will be happy to answer any questions, if you have. [LB44]

SENATOR MINES: Thank you. Any questions by the committee? I see none. Thanks for your testimony. [LB44]

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SHERRY SCHWEITZER: Thank you. [LB44]

SENATOR MINES: Next testifier. It's nice to see you two back again. Please state your name and spell it, please. [LB44]

SANDRA STELLING: (Exhibit 3) Thank you. I'm Sandra Stelling, S-t-e-l-l-i-n-g, Jefferson County Clerk, Register of Deeds, and Election Commissioner. And I'm here in support of this bill. And what he's passing out right now is a letter from Diane Mohr, Dixon County Clerk, Register of Deeds, and Election Commissioner. She was unable to be here today. So we're submitting that on her behalf. I'm also the cochair of our Legislative Committee. So I feel that this will improve our process, and it will simplify and help the procedures and our election workers to simplify their work for them. That's it. [LB44]

SENATOR MINES: Fair enough. Any questions? Thanks a lot, Sandra. Next testifier. Mr. Dix. I've been waiting for this all afternoon. [LB44]

LARRY DIX: All right. I've been waiting all afternoon for this. For the record, my name is Larry Dix. I'm executive director of the Nebraska Association of County Officials. I am here for one purpose, so that the committee statement shows that NACO is here to support their own bill, so that we are on record. I would be happy to answer any questions. [LB44]

SENATOR MINES: Great testimony. Questions for Mr. Dix? Seeing none, next testifier. Neal, are you going to talk? [LB44]

NEAL ERICKSON: Not unless you want me to. [LB44]

SENATOR MINES: Any other proponents? How about opponents? Do we have opponents to the bill? Any of those wishing to testify in a neutral capacity? Seeing none, I'll close the committee hearing and entertain a motion to adjourn. [LB44]

SENATOR KARPISEK: So moved. [LB44]

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Disposition of Bills:

LB17 - Advanced to General File.  
LB39 - Advanced to General File, as amended.  
LB40 - Indefinitely postponed.  
LB44 - Advanced to General File, as amended.

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Chairperson

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Committee Clerk