

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 17, 2010

[LR279CA LR300CA LR301CA]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, February 17, 2010, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR300CA, LR301CA, and LR279CA. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Robert Giese; Charlie Janssen; Russ Karpisek; Bob Krist; and Kate Sullivan. Senator absent: Rich Pahls. []

SENATOR AVERY: Welcome to the Government, Military and Veterans Affairs Committee. We're going to depart a little bit from normal practice. You'll note the agenda posted outside the room. We have three bills that deal with constitutional amendments relating to initiative petitions. So we will hear these together, and then we'll have testimony following that. We'll start with LR300CA by Senator Nelson; followed by LR301CA, Senator Price; and followed then by LR279CA, which I will present. So we'll do that first, then we'll go to public testimony--proponents first, opponents, and neutral. Since they all deal with the same subject matter, that seems to be the most efficient way to do it. If you are going to testify, this is the form you need to fill out. You don't need to fill out a separate form for each of these legislative resolutions. You can if you wish; for example, if you're for one and opposed to another, you obviously will want to fill out more than one form. But if you are supporting all three or opposed to all three, you can use one form; just make sure you list them. If you do not wish to testify...and by the way, when you do fill this out, print it clearly so we can read it, and give it to the clerk. If you do not wish to testify but you wish to be recorded for or against any of these, you can fill out this. These are available at the entrances to the room. And where it says bill number--if you're supporting all three or you're opposed to all three, make sure you list all of them and indicate opposition or support. I think we've got enough people here to start. Let me introduce the members of the committee. Senator Janssen will be here soon; he is from Fremont. Senator Pahls, you probably all know, is not well and will not be with us today. Senator Robert Giese from South Sioux City. And then we have our Vice Chair, Senator Scott Price from Bellevue. Immediately to my right is Christy Abraham, the legal counsel. I'm Bill Avery; I represent District 28, and I chair the committee. This is, to my left here, Senator Russ Karpisek from Wilber. Seated next to him is Senator Kate Sullivan from Cedar Rapids. And I think Senator Krist was here and left, but he will be back, I hope--Bob Krist from Omaha. And Sherry Shaffer is the committee clerk. If you have any material that you would like for us to have--any displays or additional material to support your testimony--give it to Sherry, and she'll have the pages distribute it. Our pages are Lisa Cook from Omaha and Mark Woodbury from Oswego, Illinois. Please, if you have electronic equipment, turn off the ones that make noise. If you have cameras and videotaping equipment, put them away, because they're not allowed to be operated in the committee room. And I would ask you, in giving testimony, that you try not to repeat previous testifiers; try to be as brief as you can. We'll not use the light system today; I do not expect that we will have to. All right. We'll

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 17, 2010

start with Senator Nelson. Welcome, Senator Nelson. [LR300CA LR301CA LR279CA]

SENATOR NELSON: Thank you, Senator Avery. Thank you, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. For the record, my name is John Nelson, spelled J-o-h-n N-e-l-s-o-n. I represent Legislative District 6 in midtown Omaha. I'm here today to introduce LR300CA. LR300CA lowers the number of signatures required to place a constitutional amendment on the ballot from 10 percent of registered voters to 5 percent of registered voters and lowers the number to place a statutory change on the ballot from 7 percent of registered voters to 3 percent of registered voters. LR300CA empowers the people of Nebraska and better allows the citizens of Nebraska to enact laws and amend their constitution. This issue is of such importance that Article III, Section 2, of our state constitution recognizes that "the first power reserved by the people is the initiative, whereby laws may be enacted and constitutional amendments adopted by the people independently of the Legislature." We as legislators should appreciate the gravity of this right and aggressively act to protect the people's power. In the early 1990s, the Nebraska State Supreme Court, in a case seeking to overturn term limits enacted by the people, nearly doubled the number of signatures required to place an issue on the ballot. The decision by our state Supreme Court was found to be so egregious and repugnant to the people in Nebraska that our fellow citizens voted to remove one of the justices from the bench. Others in line for removal either resigned or retired. Yet despite the unprecedented outrage expressed by the people of Nebraska, the signature threshold remains double the amount that our fellow citizens have determined is appropriate. Today, we can return the signature standards to the amount desired by the people. In a state which utilizes a unicameral legislature, the people are the second house. This sentiment is directly expressed in our constitution. With this in mind, Nebraska should have the lowest signature threshold in the country. Paradoxically, we have one of the most burdensome signature thresholds. Only Montana places a more onerous burden on its people to affect their own lives. The vast majority of states base their signature thresholds on the number of people voting for governor in the previous election. This was the standard which Nebraska used until the state Supreme Court effectively amended the constitution without the consent of the people. To keep the signature threshold at such a high level despite the people's clear objection is wrong and should be fixed. Aside from the principal position that the people of Nebraska should determine for themselves how their constitution and statutes should be written, there are some practical reasons for placing LR300CA on the ballot. In recent years, Nebraska has seen an influx in out-of-state petitioners and out-of-state so-called blockers sent to protest the petitioners. As a result, millions of dollars have been spent, usually in a negative way, simply trying to place an issue on the ballot or keep an issue off the ballot. By keeping the signature thresholds where they are or even raising them, as proposed by other legislation, we increase the demand for the out-of-state circulators. To keep or raise the present signature standards will result in more out-of-state money being spent in Nebraska, more attack ads, more aggressive circulators, more angry blockers, more complaints from our constituents, and less

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 17, 2010

participation in the political process by the people who matter most--everyday Nebraskans. Last week this committee heard a number of bills, and the testimony was generally the same: The system is dysfunctional if not completely broken. We must do something to address the issue, and the most appropriate method of reducing all of the negatives which accompany the petition process is to reduce the signature threshold. Some have expressed a concern that the constitution should not be amended too easily. While I share that concern, the petition process does not directly deal with amending the constitution. Even if every single Nebraskan signed a petition, the constitution would remain unchanged. The constitution cannot be amended by petition. And the petitions do not exist to amend the constitution. The constitution can only be changed by a vote of the people. The purpose of the petition process is to weed out those proposals which have little popular support, so that the ballot is not cluttered with amendments which have no chance of passage. The question before you is not how difficult should it be to amend the constitution; the question before you is how easy should it be to give people the opportunity to vote on amending their constitution. I submit the people of Nebraska have already answered this question for themselves, and their judgment should be upheld. By placing LR300CA on the ballot, we will allow the people of Nebraska to affirm that which they have already accepted. The people of Nebraska and this country are growing tired and becoming angry because they do not believe government listens to them. LR300CA is a step in the right direction toward putting government back in the hands of the people. This issue is of such importance to me that I intend to designate LR300CA as my priority bill if this committee is supportive. I encourage you to advance LR300CA to the floor and allow the people to vote on this very important issue. Thank you, Mr. Chairman, and I am ready to answer questions, if any. [LR300CA LR301CA LR279CA]

SENATOR AVERY: Thank you for your testimony. Any questions from the committee? That is unusual. (Laugh) See no questions. Thank you. [LR300CA LR301CA LR279CA]

SENATOR NELSON: Thank you very much, Mr. Chair. [LR300CA LR301CA LR279CA]

SENATOR AVERY: Senator Price. [LR300CA LR301CA LR279CA]

SENATOR PRICE: Thank you, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. For the record, my name is Scott Price, spelled S-c-o-t-t P-r-i-c-e, and I represent the 3rd Legislative District. And I appear before you as the sponsor of LR301CA. And to be mindful of your time and in the interests of the thing, I believe that Senator Nelson has more than adequately articulated the reasons and the purposes that we have in our constitution, the petition and referendum process, so I will not belabor that point. But what I would like to say is that LR301CA would change the basis for calculating the number of signatures needed on a petition. Currently the basis for calculating the signatures needed is the number of registered voters as of the final date to file signatures with the Secretary of State. This bill would

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 17, 2010

change the date to January 1 of the year the signatures are filed with the Secretary of State. Now let me try to explain this in simpler terms. Before the 1994 Nebraska Supreme Court decision in Duggan v. Beermann, petition circulators knew the number of signatures they needed, because the percentage was based on the votes in the most recent gubernatorial election. For example, in 2006, 435,507 people voted in the gubernatorial election. So for the purposes of determining the number of signatures needed to place an issue on the ballot that fall, we know that you would need 30,485 signatures to enact a law, 43,551 signatures to amend the constitution, and 21,775 signatures for a referendum. Pretty straightforward. Unfortunately, because of the Duggan decision, nobody can tell you how many signatures you need to place an issue on the ballot this fall. As I mentioned before, the current basis for calculating the signatures needed is the number of registered voters on the last day signatures are due to be filed. This year that happens to be July 2. However, petition circulators will file signatures before the July 2 deadline. This creates a situation where the score needed to win is decided after the game is played. What I'm suggesting is that we tell petition circulators up-front how many signatures they will need to place an issue on the ballot. For the sake of clarity, I believe it is better policy to have a clearly established goal for petition circulators. Now since I've introduced this legislation, a concern was raised that the LR301CA could create some confusion if a group was really ambitious and files signatures in a calendar year before the election. This would create a situation where the basis for calculating the number of signatures needed would be different for initiatives on the same ballot. I have an amendment which I believe will address this concern. But in reality, we can pick any date we choose on which to calculate how many signatures are needed. It could be the year the issue is on the ballot, the date of the last gubernatorial election or statewide election, or any number of other possibilities. My intention is to give circulators a definitive number before they file with the Secretary of State. And I'll be happy to work with the committee to decide which is the best way to approach this. And I appreciate your attention to this matter and am open to questions you may have. [LR300CA LR301CA LR279CA]

SENATOR AVERY: Thank you, Mr. Price. Senator Janssen. [LR300CA LR301CA LR279CA]

SENATOR JANSSEN: Thank you, Chairman Avery, Senator Price. So at present you don't have any issues or opinions on the number of signatures needed as a percentage, as Senator Nelson's bill...and I guess we'll hear again, kind of sandwiched in between. [LR300CA LR301CA LR279CA]

SENATOR PRICE: Thank you, Senator Janssen. And that's exactly...what I'm saying is to not get in the trenches on what's the percentage numbers we need or whether we're doing electors versus registered voters. I just want the clear goal; I want the clear understanding of how many we need, because, as you well know, you could start a petition drive and someone could want to monkey with the works and move up the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 17, 2010

number of registered voters. You just don't know. So mine is purely that we'll know of a date certain. [LR300CA LR301CA LR279CA]

SENATOR JANSSEN: So either...even if all three of these...well, it'd be kind of tough, but regardless, it doesn't matter to you if it's 20 percent or 5 percent; it's that number, then. [LR300CA LR301CA LR279CA]

SENATOR PRICE: It is my intent on this legislation that we just do the number thing. [LR300CA LR301CA LR279CA]

SENATOR JANSSEN: Okay. Thank you, Senator Price. Thank you, Chairman Avery. [LR300CA LR301CA LR279CA]

SENATOR PRICE: Thank you. [LR300CA LR301CA LR279CA]

SENATOR AVERY: Any other questions from the committee? Seeing none, thank you. [LR300CA LR301CA LR279CA]

SENATOR PRICE: Thank you. [LR300CA LR301CA LR279CA]

SENATOR AVERY: It's my turn now. Senator Karpisek has agreed to chair. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: Senator Avery, welcome. [LR300CA LR301CA LR279CA]

SENATOR AVERY: Thank you. For the record, my name is Bill Avery, B-i-l-l A-v-e-r-y; I represent District 28 here in Lincoln. My proposal, LR279CA, actually takes us in a different direction than what Senator Nelson is proposing. What I'm proposing is a constitutional amendment that would increase the number of signatures required to change the constitution and reduce the number of signatures needed to change Nebraska's laws. I propose to increase the number of signatures to change the constitution from 10 percent to 15 percent and to change the number of signatures needed to propose or change a law from 7 percent to 4 percent. Increasing the petition signature requirements for a constitutional amendment, I think, would provide some protection for our constitution. Right now, we are targeted by outside interest groups because our signature requirement is so low; I believe that to be the case. We have seen time and again outside groups come in with deep pockets, spend lots of money paying for signatures, getting people to sign these petitions, and they often succeed. And what they're doing is they're trying to change our constitution to suit their interests. You don't find a whole lot of grass-roots efforts in the state of Nebraska to change the constitution. I think the constitution ought to be difficult to change; I don't think it should be easy. Now on the other hand, if we decrease the petition requirements for statutory changes, that will allow our citizens better access, easier access, to the petition process

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 17, 2010

and make it possible for truly Nebraska grass-roots efforts to have a chance to succeed. The Legislature would still have oversight in being able to repeal statutory changes; it would take a two-thirds vote. Some people will say, of course, that increasing the petition requirements for constitutional amendments will make it too difficult even for Nebraskans to propose amendments to the constitution on the ballot. And that is true; it will make it more difficult. But if you look at the history of the petition process in the state of Nebraska, I think you will see that far more grass-roots Nebraska citizen efforts have been at changing laws and not at amending the constitution; those efforts usually come from outside the state. And I want to make it more difficult for them. Some people also will say that changing these required signatures from 7 percent to 4 percent for laws makes it too easy. But I don't think so; I mean, 4 percent--I think when I brought this to the Legislature in '07 we had an amendment to raise that to 5 percent, and the amendment did pass, as I recall, although the resolution itself did not; it failed by two votes. The issue, I think, is pretty easy to understand, and that is: Do we want to have outside interests telling us what ought to be in our constitution, or should we not? And I'm...this is kind of a trade-off; I'm saying to the Nebraska citizens: We're going to make it harder to amend the constitution, but we're going to make it easier for you to propose laws. And I think that would improve the petition process itself. If you look around us, Iowa does not even have a referendum or initiative process that their people can use; any statutory or constitutional changes have to originate with the state legislature. South Dakota, like our state, has a similar percentage threshold for petition signature requirements, but South Dakota bases their signature requirements on the percent of the number of voters for governor in the previous general election. And we used to have our law written that way; I think that's been changed now so that it's total number of--it's a percentage of the number of registered voters. Colorado requires 5 percent of the votes cast for all candidates for the office of Secretary of State in the previous general election. Why do they do that? I have no idea. The big issue here for me is ending the outside meddling in our initiative process. I think that we are viewed as a state that has an easy process, and therefore we are targeted. So the question, then, is: Do we want to do something about it? Is it a big enough problem for us to consider making it tougher? I think it is big enough a problem for us to consider that. I don't have the exact number of the successful efforts with me right now, but if you want that information, I can get it for you. With that, I will end and invite any questions. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: Thank you, Senator Avery. Any questions for Senator Avery?
Senator Sullivan. [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: Thank you, Senator. Senator Avery, actually you and Senator Nelson propose to deal with the same issue but in totally opposite ways. So my question is: Are we really going to address the problem, and have there been attempts to address the problem of outside interests coming in in other ways? [LR300CA LR301CA LR279CA]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 17, 2010

SENATOR AVERY: Well, we've tinkered with the process quite a bit over the years; and I notice Mr. Bernbeck is here, and he has a lot of experience with our petition process and some opinions about it, and you'll hear those. But my own recollection is that we have never dealt directly with how to put a chill on or suppress the outside meddling. I think this would at least assist us in that. I would think, though, that when we went to a...I think it was two years ago we passed a law that says you cannot pay by the signature. That was partly an effort to deal with the outside money or attempts to buy your way onto the ballot. But we haven't done anything as significant as this would be. [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: Thank you. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: Thank you, Senator Sullivan. Any other questions? I would ask: Senator Avery, do you know of, like, what each 1 percent--how many people that is, roughly? [LR300CA LR301CA LR279CA]

SENATOR AVERY: Of registered voters? [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: Yeah. [LR300CA LR301CA LR279CA]

SENATOR AVERY: I do not know. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: Okay. Well, if someone else coming up does... [LR300CA LR301CA LR279CA]

SENATOR AVERY: Yeah. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: ...it may put it into a little context of... [LR300CA LR301CA LR279CA]

SENATOR AVERY: I could probably extrapolate from the numbers that Senator Price gave, but I don't remember those numbers. (Laugh) [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: Well, I'm sure that someone else will probably know. Back to...it's just your intent that the constitution is much harder in here to change. Well, we can't change it; it has to go to a vote of the people. [LR300CA LR301CA LR279CA]

SENATOR AVERY: Yeah, it does. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: But even to get it onto the ballot...then the statutes. Is that...? [LR300CA LR301CA LR279CA]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 17, 2010

SENATOR AVERY: Well, I think it ought to be difficult to change the constitution. I don't think we ought to be changing the constitution willy-nilly. And I think the debate we had two years ago dealt with the issue of how difficult should it be or how easy should it be. I mean, the constitution, it seems to me, is a pretty sacred document that ought to be amended only in those instances where it is absolutely necessary. And people prefer--I'm talking about outside interests--they prefer to get things in the constitution because they know that the Legislature can't undo that. And so they bring their interests to our state, and they say: This is what you ought to have in your constitution. And they spend a lot of money convincing people to support it, and they often win. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: Thank you, Senator. [LR300CA LR301CA LR279CA]

SENATOR AVERY: What I'm saying is, it ought not to be that easy. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: Senator Janssen. [LR300CA LR301CA LR279CA]

SENATOR JANSSEN: Thank you, Senator Karpisek, Chairman Avery. Kind of listening to this--listening to two respected colleagues talking about opposite sides, which certainly happens quite often but usually not on a subject matter like this, I don't think. So I'm sitting here trying to figure this out, and I agree with you that it shouldn't be so easy to change that document. But I sat in a different hearing the other day and a different committee; I said the same thing and was told by one of our colleagues: Well, it's not really that sacred; I mean, it's not like the U.S. Constitution here. But okay, so now I'm... [LR300CA LR301CA LR279CA]

SENATOR AVERY: But it's our constitution. [LR300CA LR301CA LR279CA]

SENATOR JANSSEN: So...and I'm saying...so I'm wrestling--I'm sitting here wrestling with this. I'll be very interested to hear the witnesses pro and con to this. But when you say we should make it harder...if we pass this out of committee, it takes 5 votes, correct? And then from there, it takes 25 without a filibuster--and who'd want to do a filibuster? [LR300CA LR301CA LR279CA]

SENATOR AVERY: Yeah. It would take 25 to pass on General File. [LR300CA LR301CA LR279CA]

SENATOR JANSSEN: So should we maybe look at making it...if we're going to make it tougher for the citizens to put a constitutional amendment on the ballot, should we not make it tougher for ourselves as well and maybe require 33 or 30? [LR300CA LR301CA LR279CA]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 17, 2010

SENATOR AVERY: 30 votes? I suppose you can make that argument. [LR300CA LR301CA LR279CA]

SENATOR JANSSEN: That's, I mean, something...I'm agreeable with you that it shouldn't be so easy, and maybe it shouldn't be so easy for us to throw this on there and get it through committee and push it up as well. [LR300CA LR301CA LR279CA]

SENATOR AVERY: That's a thought, you know. The argument could be made that if it's that important, I mean--and you are talking about the constitution--then 30 votes may not be unreasonable. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: On Final Reading, it is 30 votes, Senators. [LR300CA LR301CA LR279CA]

SENATOR AVERY: It is? [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: On Final Reading. [LR300CA LR301CA LR279CA]

SENATOR JANSSEN: Is it? You need 30? [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: For a constitutional amendment. [LR300CA LR301CA LR279CA]

SENATOR AVERY: Yeah, I thought that was right. [LR300CA LR301CA LR279CA]

SENATOR JANSSEN: So it is a higher level for... [LR300CA LR301CA LR279CA]

SENATOR AVERY: Because I remember we fell two votes short in '07. And that was just on General File, we needed two votes to make it to 25. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: 25 on General... [LR300CA LR301CA LR279CA]

SENATOR AVERY: 25... [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: ...Select. [LR300CA LR301CA LR279CA]

SENATOR AVERY: ...and Select... [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: And 30 on Final. [LR300CA LR301CA LR279CA]

SENATOR AVERY: ...but 30 on...yeah. I think you're right. [LR300CA LR301CA LR279CA]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 17, 2010

SENATOR JANSSEN: We should slap that to 33 and then go with this; that'd be perfect. Thank you, Chairman Avery. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: Thank you. Any other questions? Seeing none, thank you, Senator Avery. [LR300CA LR301CA LR279CA]

SENATOR AVERY: Thank you. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: This may get a little bit confusing, but we're going to try to do it. Proponents--I guess just for any of the bills--say which bill you are in favor of, and we'll go through it that way. And then we'll go through with opposition the same way, and neutral. So if we have a proponent for any of the constitutional amendments, come forward. No proponents. All right. (Laughter) I thought Jack might have been sleeping. [LR300CA LR301CA LR279CA]

JACK GOULD: Hiding in the trees. (Laugh) [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: We know that game. Welcome, Mr. Gould. [LR300CA LR301CA LR279CA]

JACK GOULD: Thank you. My name is Jack Gould, J-a-c-k G-o-u-l-d, and I'm here representing Common Cause. Senator Karpisek, members of the committee, I...probably we were one of the last organizations to attempt a completely volunteer petition effort. And during that process the Legislature raised the numbers of votes and the distribution over the counties. So it was...we felt it very...it hit us very hard. And it seemed almost as if we were the cause of the problem. In reality, I think that what Senator Avery is presenting is a reasonable compromise. We would agree with the fact that the constitution needs protection and that by raising the number of signatures it gives the people the protection that they need. On the other hand, the opportunity to make changes in law, especially in a unicameral--it's important that the public have access. And I think by lowering the number of signatures, it gives the public the opportunity to step forward. Small organizations...I know when we were trying to do this, we were looking at about 50,000 signatures. And when the Legislature passed the changes, we were looking at 90,000 signatures, and we had only volunteers. And the assumption that we've taken since that time is that unless you have \$1 million--and that would involve hiring circulators, getting the advertising that seems to be necessary out there--you're pretty much out of the ball game unless you can do that. And we don't think it should be that way. The one thing about a statute is the fact that the Legislature can always come back and make changes, and it gives the public the opportunity to express their opinion and let the Legislature know how they feel about an issue. So we would very much look at Senator Avery's bill as a solution and a reasonable compromise. I also think it's interesting and important to recognize that both Senator

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 17, 2010

Price and Senator Nelson have a firm grasp of the situation. I mean, they see the problem that the public is in. And I would also congratulate all of them for attempting to come up with a solution, because I think the public is in need of a way of expressing itself through the petition process. Thank you. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: Thank you, Mr. Gould. Any questions? Seeing...Senator Sullivan. [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: Okay. So let me...you're speaking in favor of LR279CA. [LR300CA LR301CA LR279CA]

JACK GOULD: Correct. [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: How do you feel about LR301CA, or do you have an opinion? [LR300CA LR301CA LR279CA]

JACK GOULD: Well, like I said, I think, you know, when you talk about lowering the number of signatures on the constitution, I would worry about that. I think the constitution needs to be protected, whereas--and I think Senator Avery's bill does that. But the condition for average citizens to organize and to petition--unless you lower the numbers on the statute, I don't think it's possible anymore for normal citizens groups to do that without outside money or without, you know, hiring the professionals to go out and do the job. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: Mr. Gould, have you--obviously you've been around here--have you...has there been a time you haven't had success of having a senator carry a bill for you, a statute? [LR300CA LR301CA LR279CA]

JACK GOULD: Well, when we brought that petition drive, it had a number of ethics issues in it that applied to the Legislature. And one of them was the revolving door bill. And that has been a bill that we've presented many times. And it hasn't been successful. And yet we find with the public that it's a popular idea. And so that kind of an issue is very difficult to get through the Legislature, whereas getting the signatures and getting it on the ballot--it can be done. And I think that's often true of the kinds of bills that we bring. I mean, you're kind of aware that ethics in government is our issue. And it's been difficult at times. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: And I'm glad you bring that up. I didn't think about the process of getting it through, because I think senators are pretty good about introducing bills. But, yeah, passing them is another issue. [LR300CA LR301CA LR279CA]

JACK GOULD: Well, actually, at that time--now we're going back a lot of years--we tried to get a senator to bring a revolving door bill. And we were turned down at every door.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 17, 2010

We had no...no one would bring the bill. And it...that was why we went to the petition effort. And actually, Channel 7 did an interesting story on that issue; "The Bill that No One Wanted" I think was the title of the piece. But they did a rather extensive study, where they went around and asked senators, you know: Why wouldn't you bring this bill? And we got some interesting answers. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: Very good. That puts a good perspective on it. [LR300CA LR301CA LR279CA]

JACK GOULD: Okay. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: Thank you. Any other questions? Seeing none, thank you, Mr. Gould. [LR300CA LR301CA LR279CA]

JACK GOULD: Thank you. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: Any further proponents for any of the CAs? Welcome. [LR300CA LR301CA LR279CA]

MICHAEL KELSEY: Thank you. Good afternoon, Senator Karpisek, members of the committee. My name is Michael Kelsey, M-i-c-h-a-e-l K-e-l-s-e-y; I'm the executive vice president of the Nebraska Cattlemen, here testifying on all three bills. I appreciate the efficiency with which you're handling these, in terms of the three that deal with like kind. For the record, let me spell this out quickly just for my sake more than anybody else, so I can keep track. But LR279CA...our legislative committee, our membership looked at all three of these very closely and asked a lot of questions, and we want to share with you very briefly today the questions we asked, because we think they're pretty important. But to take a stand on these three bills: LR279CA we're in opposition to; LR300CA and LR301CA we are in favor of. And so, being that there's two in favor and one against, I think that leans us towards proponent, so that's why I'm in the proponent position--understanding that all three bills are being considered. As we reviewed these...or, excuse me, these three proposals are being considered. As we reviewed these three proposals, we asked ourselves two questions. And the first is: What is the significance of the will of the people? And the second is: What is the purpose of the constitution? And let me clarify each one of those. When you consider the will of the people...we've heard that the people are the second house in Nebraska, and to do that they use the petition process. Other states have a petition process, too, and yet they have two houses in their government. And so something doesn't fit there. Now, we favor Nebraska's system, obviously. Nebraska Cattlemen--we favor our own system. So we would tend to agree that the people are the second house and that the petition process is a part of that. But then when you have other states that have a similar petition process, and yet they have two houses, it makes it very difficult to compare us to other states in that sense. And so it's...what we would ask you to do is think about our petition

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 17, 2010

process in comparison to other states'. It's almost apples and oranges, to be truthful with you, especially considering they have two houses of government. The other is concerning the will of the people. If we ask ourselves if the people were to pass a referendum that changed law, not constitution, would we observe that any differently than if they changed the constitution? If they change the constitution, we can't change that except by going back and changing the constitution. But if they change the law, and the people voted in a law that nobody in this body liked, would anybody in this body try to oppose that? And I think probably the answer is going to be no, because the people have spoken. So in that case, what's the difference in changing the constitution versus law in regard to the will of the people? If the people speak, the people speak. That comes into the second one, and that is: What's the purpose of the constitution? In our mind, the constitution is a sacred document, as you've already seen, that establishes the fundamental principles of government. It doesn't go into the specifics of how the people will be governed. The power of the constitution is the flexibility to understand that it's not always right and that people--things can change, and so it allows a system by which the people can ebb and flow and create law. So you have state statute that can be changed. If new technologies come about or if situations change or are modified based upon circumstances, whatever they may be, we can change those. When you establish it in constitution, you can't, except through a very arduous process. Outside interests know that, just as has been pointed out. And Mr. Avery I think pointed out very adequately that they know that; and so they'll put their thoughts into constitution, understanding that it's very difficult to come back when scientific or truth is discovered, and you can't change it, because it's in constitution. What would be the difference of having school buses stop at railroad crossings in state law and constitution if the people said this ought to be a good idea? Well, that's better to be in the law than it is to be in the constitution. And yet if the people spoke, the people speak and so allow it to happen. We obviously spent a little bit of time on this and really talked about this amongst ourselves, because we use the petition process. We use the referendum process in several different areas, and we also have strong feelings about the constitution itself. So, again, I would summarize by saying we need to proceed very cautiously, and we certainly want people to be active and participatory in the process. And at that, I would try to answer any questions, and I understand I've got a few bewildered looks and hope I could answer questions if they're offered. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: Thank you, Mr. Kelsey. Any questions? Senator Janssen. [LR300CA LR301CA LR279CA]

SENATOR JANSSEN: I was probably that bewildered look, and I actually just had a comment. [LR300CA LR301CA LR279CA]

MICHAEL KELSEY: Um-hum. [LR300CA LR301CA LR279CA]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 17, 2010

SENATOR JANSSEN: I want to thank you for doing one thing and actually hope that everybody else could do this, is actually when you got up here you told us exactly where you were on every bill first. It made it very easy for me to follow a little bit more. [LR300CA LR301CA LR279CA]

MICHAEL KELSEY: Okay. [LR300CA LR301CA LR279CA]

SENATOR JANSSEN: I think Senator Sullivan was kind of the same last time, not knowing where we were at. So I appreciate you doing that. [LR300CA LR301CA LR279CA]

MICHAEL KELSEY: You bet. Thank you. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: Thank you, Senator Janssen. And I was a bewildered look because I lost my place in where you were. I had two notes written down; I forgot one before I got it written down. [LR300CA LR301CA LR279CA]

MICHAEL KELSEY: Um-hum. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: But you made my point on the other. I can't think of it. (Laughter) I'll ask you later. Senator Krist. Thank you. [LR300CA LR301CA LR279CA]

SENATOR KRIST: Thank you, Chair. Thanks for your testimony. How often--you said you use the petition and the referendum process--how often do you use it and to what extent? [LR300CA LR301CA LR279CA]

MICHAEL KELSEY: The...and I should have been...thank you, Senator for that question, and I should have clarified better. We use the petition process in a number of different ways, not only for state government but also within our internal structure. Our beef checkoff is governed by a petition process, and so...that's a federal law that we--if we wanted to modify the beef checkoff, we would have to use the petition process. Again, it's a federal system. I should have been a little more clear on that, that we use the petition process in general, not necessarily only specific to the state of Nebraska. We've never participated or brought a petition for the state of Nebraska. We've been very cognizant of some other states and some petition efforts that have been there. And we're actually preparing ourselves in case one should be. We don't have anything on the docket in our mind, but, honestly, we intend to probably play defense before we play offense in this matter. [LR300CA LR301CA LR279CA]

SENATOR KRIST: It doesn't have to do with anybody touching your cash fund, does it? [LR300CA LR301CA LR279CA]

MICHAEL KELSEY: That could, but...(laugh) [LR300CA LR301CA LR279CA]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 17, 2010

SENATOR KRIST: I'm kidding; you don't have to answer that. Just a follow-up question then. When you petition, you have a known group of membership, and you know what it takes. Is it a 51 percent? Is it a quota? Is it a...? [LR300CA LR301CA LR279CA]

MICHAEL KELSEY: It's 10 percent for us. [LR300CA LR301CA LR279CA]

SENATOR KRIST: Okay. [LR300CA LR301CA LR279CA]

MICHAEL KELSEY: 10 percent. [LR300CA LR301CA LR279CA]

SENATOR KRIST: Thank you very much. [LR300CA LR301CA LR279CA]

MICHAEL KELSEY: Good question. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: Any other questions? Thank you, sir. Any other proponents of any of the bills? Okay, we'll go to opponents then. Welcome. [LR300CA LR301CA LR279CA]

JERRY HOFFMAN: (Exhibit 1) Thank you, Senator Karpisek. Committee members, my name is Jerry Hoffman, J-e-r-r-y H-o-f-f-m-a-n. I'm with the Nebraska State Education Association, and I'm here before you speaking in opposition to LR300CA. We have not taken a position on the other two bills. So to clarify our position on those other two: we do not have one. To keep this brief, I think Senator Avery and along with the question that Senator Sullivan had asked about outside petitioners coming in to change the constitution pretty much sums up the reason why we are not in favor of LR300CA. It is important to make it difficult to change the constitution for reasons already stated. It is a sacred document that spells out the inalienable rights of individuals in our state as well as the separation of powers of our government. And that what we have seen in the last decade or so is the external influence of deep-pocketed individuals and organizations coming in to create changes in the constitution that they ultimately do not live with the effects of--we do. So it is therefore important from our position that the constitution remain protected by maintaining the percentage levels required now for signature-petition initiatives and urge the committee to indefinitely postpone LR300CA. With that, I would entertain any questions that you might have. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: Thank you, Mr. Hoffman. Any questions? Seeing none, thank you. [LR300CA LR301CA LR279CA]

JERRY HOFFMAN: Thank you. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: Further opponents. Welcome. [LR300CA LR301CA LR279CA]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 17, 2010

GARY KRUMLAND: Senator Karpisek, members of the committee, my name is Gary Krumland, spelled K-r-u-m-l-a-n-d. I'm representing the League of Nebraska Municipalities, and I'm also here, I guess, in opposition to LR300CA and don't have a position on the other bills. Our concern about LR300CA is also the lowering of the signatures needed for a petition for the constitution. We do think changing the constitution is very serious business. It needs to have high standards, and we think that the proposal just lowers it too far. It should be difficult to do because we do think it's an important document that needs to be taken seriously. As has been mentioned, a constitutional provision before the Legislature takes 30 votes to put on at general election, and I think it takes 40 votes to put it on a primary election. So it does take a supermajority vote to get something through. And so for the reasons I guess others have stated, we do think that this lowers the number too far for the number of signatures. Be happy to answer any questions. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: Thank you, Mr. Krumland. Any questions? Do you have any idea what roughly 1 percent--how many signatures...? [LR300CA LR301CA LR279CA]

GARY KRUMLAND: No, I'm sorry, I don't have that number. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: Okay. That's fine. Thank you. Further opposition. Welcome to the party. [LR300CA LR301CA LR279CA]

RUTH LIENEMANN: (Exhibit 2) Mr. Chairman and members of the committee, my name is Ruth Lienemann, spelled L-i-e-n-e-m-a-n-n. Anything else? From Papillion. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: That's good. Thank you. [LR300CA LR301CA LR279CA]

RUTH LIENEMANN: First of all...I'm not ready to hand these out quite yet. I'm here not to make anybody feel bad, but--you know, I sympathize with the job you have making all these decisions. But do you know what holds a senator up? Pressure from all sides. So you're pretty safe. And that's what keeps a lot of us going. And what keeps the rest of us going? The anticipation of applying some of that pressure probably. But I'm opposed. I just have some questions about it. I think Senator Nelson's amendment is probably the best, because it at least does something to lower the people's job. The framers of the constitution wanted this job not to be so onerous that we wouldn't ever do it. And since our petition signatures have been doubled, people almost don't do petitions anymore. And most of them--from all the data I have--are put in the constitution by the Legislature, which is not hard to do; you need a, what, 30 percent vote or something like that. We have to walk the streets for months. I've circulated petitions a number of times and had a couple of hundred signatures on them. And I'd do it again if a good cause came up. I'd

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 17, 2010

take my cane and I'd go. Let's see. I'm not sure what the constitution will look like on Price's amendment--is that LR301CA? [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: Yes, ma'am. [LR300CA LR301CA LR279CA]

RUTH LIENEMANN: LR301CA? I'm not sure what that Section 4 will look like. Are you going to delete the Section 4 formula? Because it's scratched out on the bill here--on the bill it's scratched out. Does that mean you're going to just take it out? That's a question. [LR300CA LR301CA LR279CA]

SENATOR KARPISEK: We'll get back to you on that. [LR300CA LR301CA LR279CA]

RUTH LIENEMANN: Well, it looks like--if that's what you're doing, I'm very much opposed to it, because that needs to remain in there for the sake of history, and I think it's just unconscious. I think it still has a little life, as far as the people are concerned, because we never amended that. It was never placed on the ballot. The constitution shows that it was last amended in 1920. And I don't think Supreme Courts are supposed to amend the constitution. We're supposed to have a direct vote by the people--they're supposed to read it on the amendment; they're supposed to be able to vote on it. And we never had that opportunity, and I think we were robbed of our rights. So...and I'm not opposed to the January date thing; I think that's probably okay. Let's see; I think I've got these out of order here. Okay. My first sheet. Oh, I forgot to give you this too. Okay. In the packet, which you'll get a little bit later, I have a picture of Section 4 on the sheet. And I'm asking you, please, not to delete it. I think it should remain in there, as I said before, for the sake of history. And if you delete it, then are you going to put--and it passes the house, the Legislature, will you then put an amending date in there? Because if you do, you're whitewashing a terrible error that I don't think should ever be whitewashed or housecleaned. The signature increase in 1988, I think, was a scheme that was immoral, disgusting, and a crime that steals people's petition rights and wins court approval while they do it. We're not a banana republic; we should have more honor than that. And we should not propose to cover up or whitewash that awful amendment. The 1988 Hall-Chambers Amendment, in my opinion, was a creative scheme to increase the signature requirement on initiative petitions despite Senator Hall's denial of that intent. This amendment prefaced a convenient lawsuit. I don't know whether it was arranged, but it was convenient. And then the court took action, and it gave the senators what they wanted without ever asking for it on a ballot. That shameful action 22 years ago does not now or ever deserve a housecleaning or a deletion or the insertion of an amending date for the appearance of respectability and honor. The Section 4 formula, I think, was and is a monument of respect for citizens' capacity for self-governance. You need to either restore it or leave it alone, but don't ask the voters to approve this arrogant violation of our petition rights. And I don't think you should jeopardize our respect for you by offering this awful amendment. I'm very much opposed to that if that's what your plan is. Let's see. Somebody asked the question: Do

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 17, 2010

the people have a right to circulate petitions and so forth? The answer is a resounding "no," because our Legislature has beguiled us and our judiciary has usurped our power. Our Section 19, right early in the constitution--which says our rights should never be abridged--has already been violated, mocked, and rendered ridiculous by our state government. It should not be deleted. Justices ought to--at the time when they made their decision in 1994--they ought to have respected the first power reserved by the people, and they should have reprimanded the Legislature for not placing that signature rule on the ballot but instead withholding information the people deserved. It's because the court missed that point that we're now dealing with this disgraceful mess. The framers of the constitution already knew in the beginning that the eagle has two wings: One is the government, who likes to fix everything; and the other is the people, who restrain the government. And if one wing gets out of balance, then we fly the wrong direction. Okay. Then I had...this is a messy, messy sheet here. It's called, "Return to Old Days for Petition Laws Is Sought in 1996"--that was the time when we were considering putting another amendment on to regain our rights. And that amendment of 1988...I think you should be able to figure this out by logic--it was totally unnecessary, because it changed the word "elector" to "registered voters." And Tim Hall said: We didn't want to change the signatures; we just wanted to make more clear who could sign the petition. We already knew that; I was circulating petitions. In 1967 Nebraska had a law that required voters to be registered. And every circulator I know was coached by the Secretary of State to ask the signers if they had been registered. And if we goofed, the election offices checked and threw them out. It was safe; they did not need that amendment. They had another purpose for that amendment, and it was obviously to change the signature law without letting anybody know about it. It was a stealth amendment, and this sheet will all explain it. And by the way, Tim Hall denied that they had any intent to change the signatures. But in 1997, when this had proceeded further and further after court actions, Ernie Chambers said...Doug Kristensen had an amendment up, which, by the way, failed, and Ernie Chambers said: Not only would I like to make this petition process as difficult as possible, I would like to abolish it. Well, I believe he was starting to abolish it already in 1988 by going with Tim Hall's...that's a matter of opinion. Next sheet. Please look at all those little facts on there. Then this is a beautiful, beautiful...pardon? [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: Excuse me, ma'am. Are you referring to any particular bills here? [LR300CA LR301CA LR279CA]

RUTH LIENEMANN: I'm referring to, I think, Senator Price's bill--to lift the formula out; that's the bill I'm on right now. I rather favor Nelson's bill, because he at least is reducing the signatures. And as far as Avery's amendment, I believe, too, the constitutional petition should be a difficult process so people don't get crazy; we could really be silly about that. So it should be difficult, but it shouldn't be made any more difficult. In fact, the framers had their heart with the people, I believe, or they wouldn't have put Section 4 in there. It disagreed a little bit with Sections 2 and 3, but it showed that they had faith

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 17, 2010

in the people, and I admire them for that. But this is a beautiful, beautiful..."The People's Power" on the initiative; it's a history of the whole amendment from 1919, the constitution... [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: Again, ma'am, I ask you to refer to the bills in question. [LR300CA LR301CA LR279CA]

RUTH LIENEMANN: It's a beautiful thing. [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: Okay. [LR300CA LR301CA LR279CA]

RUTH LIENEMANN: Pass it around to your fellow senators. Okay. The next sheet is...well, I've just about shot my wad here--I'll bet you're glad, too. It's a silly cartoon about the motor voter law. I don't have a great love for that registered motor voter list, because dead people are there; people don't remove their names. [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: Ma'am, again, I'd really ask you to stick to the resolutions before us rather than talk about something that's not... [LR300CA LR301CA LR279CA]

RUTH LIENEMANN: Well, it has a point, because rather than fiddle around with the signature law, which you're doing...and there are always attempts to make our process harder: you have to sign a certain place; you have to turn in your signatures early. You know, there are all kinds of rules that the Legislature continually does. They're jealous of our powers. And I have an article here, also, from The Wall Street Journal talking about the war on the initiative. [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: Is that in your packet that you're going to hand out to us? [LR300CA LR301CA LR279CA]

RUTH LIENEMANN: Yes, it's in the packet. [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: Okay. Well, thank you. We'll take that into consideration. [LR300CA LR301CA LR279CA]

RUTH LIENEMANN: Um-hum. Yes. And be sure that you read what Oregon did, because Oregon had a term-limits amendment up the same year we did. Theirs failed because that state of Oregon removed any signatures of people who hadn't voted recently, even though they were registered to vote and eligible to vote. I think that's illegal. And they got by with it. I'm pointing out that the Legislature has a bad attitude toward the people. [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: Okay. [LR300CA LR301CA LR279CA]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 17, 2010

RUTH LIENEMANN: And I'm sorry about that. [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: All right. Very good. [LR300CA LR301CA LR279CA]

RUTH LIENEMANN: We sometimes have bad attitudes about you too, but nevertheless we forgive you. But the motor voter law is something that should help clean up the registration list also. [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: We're not dealing with that right now, ma'am. [LR300CA LR301CA LR279CA]

RUTH LIENEMANN: The registration list involves this because the formula deals with the registration list; we have to take a percent of the registered voters. And that list needs to be cleaned up and straightened out. They need to verify if all of these people on the registered voters list are legal or not. We're having more and more illegal immigrants come in, and they can get the right to vote with a motor vehicle license; that is crazy. And I have articles on that in there too; you need to study them. Okay. Here's another thing. And then the absentee ballot voting is another problem that you ought to straighten up before you deal with our process. A dog was registered to vote, and he got called up for jury duty. Well, that created a stink. And his owner--he was a Republican, by the way--said: Well, if I can register my dog, then anyone can register. But I want to point out holes in this voter registration system. He sent in the form through the mail. So the dog was registered, and he had to report for jury duty. So that needs to be cleaned up. There are a lot bigger problems than how many signatures...why is there a certain magic number we have to have for putting a petition on the ballot? A petition purpose is to educate enough people so that they know what's going on. And I'll bet you that more people learn something from the petition process by the time we walk the streets and explain the purpose of it than do when the Legislature...we didn't know what was going on when you passed this '88 amendment. Nobody knew anything about it till the damage was done. So I think the petition process is a good thing for the country, and you shouldn't make it any more difficult. I think I've just about finished. You have any questions, which I'll try to answer? [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: Well, first of all, would you like the pages to hand those documents out? [LR300CA LR301CA LR279CA]

RUTH LIENEMANN: Yes. How many do I need? [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: Well, that's all right. The pages...we need 12 copies. [LR300CA LR301CA LR279CA]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 17, 2010

RUTH LIENEMANN: Well, I want to keep any you don't need, because I spent a lot of time on these--like a week. Two, three, four, five; how many do you need? [LR300CA LR301CA LR279CA]

SHERRY SHAFFER: Ten is fine. [LR300CA LR301CA LR279CA]

RUTH LIENEMANN: Six? [LR300CA LR301CA LR279CA]

SHERRY SHAFFER: Just give us ten if you can do that. [LR300CA LR301CA LR279CA]

RUTH LIENEMANN: I don't see ten people, but I'll give you ten. Here they are. [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: Thank you very much. Do we have any questions for her? Thank you. Blew us all away. (Laugh) [LR300CA LR301CA LR279CA]

RUTH LIENEMANN: Thanks for your patience. [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: You bet. [LR300CA LR301CA LR279CA]

RUTH LIENEMANN: If I were a drinker, I'd go home and celebrate. Instead, I'll eat candy. [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: Thank you very much. Continuing opposition. [LR300CA LR301CA LR279CA]

KENT BERNBECK: My name is Kent Bernbeck, K-e-n-t B-e-r-n-b-e-c-k. I appreciate the opportunity to testify at the hearing. And I do need, if I may, a clarification on quorum, the number of seated senators for a hearing. [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: Well, I guess we still have the senators here in the room that are members of the committee. [LR300CA LR301CA LR279CA]

KENT BERNBECK: Is that the clarification? [LR300CA LR301CA LR279CA]

SENATOR AVERY: I'm sorry; I wasn't (inaudible) [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: If we have a quorum here. And if you're not actually sitting here at the table but still in... [LR300CA LR301CA LR279CA]

SENATOR AVERY: We had a quorum to begin with, and that's sufficient. [LR300CA LR301CA LR279CA]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 17, 2010

KENT BERNBECK: And that's sufficient. [LR300CA LR301CA LR279CA]

SENATOR AVERY: Yes. [LR300CA LR301CA LR279CA]

KENT BERNBECK: Okay. I just like to speak to bigger audiences. Okay. Well, again, thank you for the opportunity to testify, and thank you, Madame Chairman. I was there when the tanks rolled over the citizens back in 1994, when the Supreme Court ruled that a 82-year-old process was out the window, and they chose to calculate our process, the right reserved for the people. I mean, that's significant. These rights were reserved for the people. And I watched the tanks roll over the people that morning. The people didn't know it; they still don't know it. I mean--and obviously this room would be full if they did. But what I'm seeing is, you know, we've got a senator who wants to make it clear, you know, how many signatures to calculate and when to do it and all that. Well, if we want to make it clear, let's simply go back to the method that was used for 82 years before the Nebraska Supreme Court, in a very rogue decision, took away those rights from the volunteer, grass-roots groups. And I guess I question one of the earlier testifiers when he said that--and I know Jack well; he speaks from experience--that it costs \$1 million to do a petition in Nebraska. I agree, I mean I couldn't disagree with that; the signatures are so high--the requirements are so high. But Senator Avery and I guess the testifier...I guess the math doesn't make sense. I mean, if it costs \$1 million to do a petition and we're going to protect our constitution by increasing it to 170,000 instead of 120,000--I mean that's only \$50,000 out of \$1 million, because it costs about a buck a signature, maybe a little bit more for overhead. So, I mean, I don't get the math. I mean, it costs \$1 million to do a petition, and yet that \$50,000 is going to protect--or those 50,000 signatures are going to protect our sacred document. Well, I don't buy it. I mean, if the oil industry, the pharmaceutical industry, the gambling industry, you take your pick, the insurance industry--if they wanted to do a petition in the state, that 50,000 isn't going to matter to them one bit. But you'd better believe, to people like me, to people like Ruth, to people who have been in the trenches with the petition process, trying to find the volunteers, trying to do what's right, that 50,000 completely puts it out of reach. The Supreme Court decision put it out of reach for us. I mean, it used to be around 50,000 or 60,000 for a constitutional amendment. And that was tough; that was very tough. And now it's 115,000, I think; we don't really know what the number was. I mean, I can appreciate...first of all, I mean, and I should say this too: I really appreciate Senator Nelson and Senator Price for articulating what happened in 1994. I mean, I think they both really hit it on the head that this process was taken from the people by the court. And I just can't get it. I've been in front of this committee dozens of times; I can't get it why you are so afraid of putting this process back the way it was for 82 years. What makes you so afraid to acknowledge that our court crapped on us? I don't understand it. So I'm going to leave here today not understanding it again, especially with a bill that may be advanced to increase it even further. This is not going to protect our constitution from the tobacco industry or any of the industries. They're

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 17, 2010

going to come in here and do as they want, just like they do upstairs. Every one of you have seen those lobbyists out front. I mean, are they from Nebraska? You don't really know where they're from. A lot of them are, because you know them so well. Are they from Nebraska? Should they be from Nebraska? Are they being paid by the vote? Come on, guys. I'm tired of being insulted. I was there in '94 to watch this happen, and I've really grown tired of watching you guys avoid acknowledging it. So I do appreciate Senator Nelson and Senator Price for that. I oppose Senator Price's bill; it's nothing more than lipstick on a pig. I mean, if you put lipstick on something ugly enough, it's still a pig. With that, I'll answer any questions if you have any. [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: Any questions for Mr. Bernbeck? Thank you very much. [LR300CA LR301CA LR279CA]

KENT BERNBECK: Thank you. [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: Any other opposition? Anyone in a neutral position? If not, that closes the hearings on LR300CA, LR301CA... [LR300CA LR301CA LR279CA]

SENATOR JANSSEN: Closings? [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: Oh, excuse me. Closings. Excuse me. Sorry. Sorry. Senator Nelson. Didn't mean to cut you off. [LR300CA LR301CA LR279CA]

SENATOR NELSON: That's all right. [LR300CA LR301CA LR279CA]

SENATOR JANSSEN: You're my favorite chairman. (Laughter) [LR300CA LR301CA LR279CA]

SENATOR NELSON: Thank you, Senator Sullivan and members of the committee who are here. Let me give you some figures here. But just let me say first of all, Senator Price, I think it's a good idea to establish a firm number. Senator Avery and I are pretty close on lowering the number of signatures for statutory changes. He would go to 4 percent; I would go to 3 percent. Our main bone of contention seems to be as far as the constitutional amendment, of the constitution, where we go from our present 10 percent: I go down to 5 percent; he goes up to 15 percent. I'm kind of interested in...I am...I was very interested in the testimony and some of the people in opposition to LR300CA, in that they say that the petition process creates changes in our constitution. The petition process doesn't create changes; it's the vote of the electorate, of the people. And I think it's very important that in practically every case that we can, we ought to get those issues before the people for a vote. We ought to be able to get them on the ballot. I'm not certain, but we have very few times that I can recall that there have been constitutional changes proposed on the ballot. I think the last one that comes to mind is

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 17, 2010

our term limits; that required a constitutional change. Despite the efforts of the Supreme Court, for whatever reason, we eventually got that on the ballot; and whether it was good or bad...but nevertheless I think you've got this threshold, and if you place the threshold too high, nothing is ever going to get changed in the constitution; 15 percent is too high, as far as I'm concerned. If you want to jot these down or just remember them, we have about 1,132,000 registered voters here in the state of Nebraska; our present standards require 10 percent. And I'm just talking about changing--getting something, a constitutional change, on the ballot. So at present it takes 113,000--the 10 percent. That is a lot of petition signatures. And I appreciate the testimony--I don't know Ms. Lienemann, but she's been there in the trenches, as has Mr. Bernbeck--knowing how difficult it is to even reach that. My amendment would require 56,500, and that's pretty close to what we had for 82 years--61,000--just a little lower; that's the way we operated very satisfactorily for 82 years. Senator Avery's would go from 113,000 to 169,000; that's up 55,000 votes. In my mind, we'll never see enough signatures collected to get anything on the ballot, as far as changing the constitution. So you have a policy decision here. Are we going to make it impossible to get a constitutional amendment before the people so that they can vote--so that they can be educated on it and decide whether it's important enough to change the constitution? There will be in the future some--one or two or three--very important things, some changes, that should be made that we'll just never be able to get on there. So I went on at length about the right of the people--the right of our second house--to try and make changes through the petition process. We just simply, in light of our Unicameral, we cannot restrict them too much. If anything, we need to go down to a lower percentage than the 10 percent that we require now. I think the speaker who said that the high-money interests are going to prevail regardless of that probably is correct. We just recently had a United States Supreme Court ruling saying, you know, that corporations can spend unlimited amounts of money for free speech. And they can spend a lot of money here. It would seem to me, and I would still argue, that if we reduce the amount of signatures that are required, we're more likely to be able to get local volunteers, unpaid people. We can't--according to recent changes, you know, you can't pay them by the signature; you have to be, I think, residents of the state of Nebraska, not necessarily voters--we've made some changes to try and do that. I don't know that we can effectively make any changes in the number of people that go out and solicit petitions or not. I do think the overriding issue here is that we need to make it fairly easy--not too easy but fairly easy--to get constitutional amendments on the ballot; and they would be very limited so that the money can be spent to educate people as to whether it's a good idea or not. Thank you, members of the committee, for your attention. [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: Any questions for Senator Nelson? Thank you very much. Senator Price. [LR300CA LR301CA LR279CA]

SENATOR PRICE: Thank you, Senator Sullivan and members of the committee that are remaining. First and foremost, I'd like to express my appreciation for everybody who

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 17, 2010

showed up. Obviously, we have a lot of passions, and there's been a lot of time devoted to this on all sides. With respect directly to LR301CA, if I captured it correctly, what we did is we had a few testifiers who came in basically neutral with no position; we had a couple supporters; and we had two individuals who were opposed. But primarily one was opposed because there was language, as you see, struck; and as we know, there's language that is considered dead language because of the ruling of the Supreme Court. So in the process of writing the bill, Bill Drafting would like that extracted, because that is considered dead language. That is why it is extracted. It was never meant or intended to be a whitewash of the travesty as presented by the testifiers. So I just want to make sure that the committee understood that, that this is just generally what we do when we're writing bills and new language and dead language. I'd also...and, like the comment, I suspect that the last testifier, or one of the last testifiers, has elevated me to almost national-level politics and equated me with the former governor of Alaska, Sarah Palin, by putting lipstick on a pig. I don't wear lipstick, and I don't think there's a pig in the room, when you're talking about letting the people...the very same testifier said: This is the will of the people. Now why we wouldn't let the will of the people know what the benchmark is going into it...I mean, how many times have we sat around or gone to a park or fair and the petition circulators are there; and as they approach you and you read the statement--we go through the whole process, but you still don't know how many people--numbers. I mean, it would be nice that people could tell you; right away you'd know. And I appreciate Senator Nelson; I Googled the number of registered voters; it's of 2006, being 1,138,422. So there's a benchmark for you there. And I do believe that the other efforts before us are well-intentioned. I look forward to debate when we go as a committee. But again, my bill before you today is to say a date certain and doesn't deal with percentages. It just lets the will of the people and lets the people know what we're looking for. And with that, I'll close and answer any questions you may have. [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: Any questions? Thank you, Senator Price. [LR300CA LR301CA LR279CA]

SENATOR PRICE: Thank you, Senator Sullivan. [LR300CA LR301CA LR279CA]

SENATOR SULLIVAN: Senator Avery has waived closing on LR279CA, so that closes this hearing. Thank you very much. [LR300CA LR301CA LR279CA]