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Transcriber's Office

Government, Military and Veterans Affairs Committee
March 03, 2017

[LB252 LB309 LB433]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Friday, March 3, 2017, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB433, LB309, and LB252. Senators present: John Murante, Chairperson; Tom Brewer, Vice Chairperson; Carol Blood; Tom Briese; Joni Craighead; Mike Hilgers; John Lowe; and Justin Wayne. Senators absent: None.

SENATOR MURANTE: Welcome to the Government, Military and Veteran Affairs Committee. My name is John Murante; I'm the state senator for District 49 which includes Gretna and northwest Sarpy County; and I'm the Chairman of this committee. We are here today for the purposes of conducting three public hearings. We'll be taking those bills up in the order in which they appear on the agenda outside of this room. If you wish to testify on any of the matters before us, we ask that you fill out one of these green sheets of paper. The green sheets are located on either side of the room. If you're here and you do not wish to testify, but you do wish to state your support or opposition for any of the matters before us, we ask that you fill in one of these sign-in sheets. Again, the sign-in sheets are located on either side of the room. If you do testify, we ask you begin your testimony by stating and spelling your name for the record which is very important for our Transcribers Office. The order of proceedings is that the introducers will be given an opportunity to open on their bills. Then we will listen to proponent testimony, followed by opponent testimony, and then neutral testimony, and the introducer will be given an opportunity to close. We ask that you listen very carefully to try not to be repetitive. We do use the light system in the Government Committee. Each testifier is afforded four minutes to testify. When the yellow light comes on you have one minute remaining and we ask that you begin concluding your remarks. When the red light comes on, your time is expired and we will open up the committee to any questions that they may have of you. At this time, I'd like to encourage everyone to turn off or silence any cell phones or electronic devices, anything that makes noise. The Government Committee is a committee that is equipped for electronics, so you may see members referencing their iPads, iPhones, or other electronic devices. I can assure you they're just researching the matters before us. If you have a prepared statement, an exhibit, or anything you would like distributed to the committee members, we ask that you provide 12 copies to our page. If you don't have 12 copies, don't worry, provide what you have to the page, he'll make copies for you. And our page for the day, who I don't see at the moment, but will be with us, is Joe Gruber from Omaha. With that we'll proceed to the introduction of members. On the far left is Sherry Shaffer; Sherry Shaffer is the Government Committee clerk. To her right is State Senator Carol Blood; Senator Blood represents Bellevue, Nebraska. To Senator Blood's right is State Senator Joni Craighead. Senator Craighead represents Omaha, and I do believe she'll be with us today. To my immediate left is State Senator Justin Wayne. Senator Wayne also represents Omaha and has informed me that he will be with us shortly, maybe in ten minutes or so. To my immediate right is Andrew La Grone. Mr. La Grone is the Government Committee's

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legal counsel. To his right is State Senator Tom Brewer. Senator Brewer is from Gordon, Nebraska, and is the Vice Chairman of this committee. To his right is Senator Mike Hilgers. Senator Hilgers represents Lincoln. To his right is Senator Tom Briese. Senator Briese represents Albion. And on the far right is Senator John Lowe. Senator Lowe represents Kearney. And with our formalities having been dispensed with, Senator Ebke, welcome back to your Committee on Government, Military and Veterans Affairs.

SENATOR EBKE: Thank you, Chairman Murante and members of the Government Committee. My name is Senator Laura Ebke, L-a-u-r-a E-b-k-e; I represent the 32nd District in the Nebraska Legislature. I'm here today to introduce LB433 on behalf of the Nebraska State Patrol. LB433 provides that any state agency that obtains federal tax information as authorized under 26 U.S. Code 6103(d) shall require a criminal history record information check of any agency employee who has been identified by the agency as being authorized to have direct access to federal tax information. Any such employee shall submit a complete set of his or her fingerprints to the Nebraska State Patrol. The Nebraska State Patrol shall transmit a copy of the employee's fingerprints to the FBI for a national criminal history record information check. Criminal history record information subject to federal confidentiality requirements may only be used for the purpose of making, supporting, or defending decisions regarding the appointment, hiring, or retention of employees or for complying with any requirements of the Internal Revenue Service regarding federal tax information. Our administration is still having conversations with the national folks at the IRS and the FBI to try to anticipate the actions of the new federal administration. The guidance, recommendations given to states are vague, and many states have questions regarding how to implement this federal mandate. However, to show good faith in complying with the IRS, this legislation is being introduced as a work-in-progress as we move it forward. The Nebraska State Patrol will be testifying after me and will be able to address any questions on the bill you might have. I will defer to them. I will also waive my close as I have a committee hearing...some committee hearings of my own to be at. My aide will stay to write down any questions and concerns that might come up. And if you have any questions, I will try to answer them now, or I will defer to the State Patrol. [LB433]

SENATOR MURANTE: Okay. Are there any questions? Senator Blood. [LB433]

SENATOR BLOOD: Thank you, Chairman Murante. Just a quick question, I'm looking at the background cost that's been quoted. And the cost per person, \$45.25, you may have remembered that we had a bill in front of your committee in reference to handgun fees. [LB433]

SENATOR EBKE: Right. [LB433]

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SENATOR BLOOD: The Nebraska Patrol for background check go up from \$5 to \$25, and many people thought that was excessive. So are you pretty confident that the average background check is \$45.25? [LB433]

SENATOR EBKE: I'm confident of nothing. I'll defer to the State Patrol to answer that question. [LB433]

SENATOR BLOOD: Okay, thank you. [LB433]

SENATOR MURANTE: Thank you. [LB433]

SENATOR EBKE: This is a little more...this is a full background check with all of the...done by the State Patrol though, as I understand it, where you go in and do your fingerprints. They submit it to the federal government, that sort of stuff. So it's a little bit different than the one... [LB433]

SENATOR BLOOD: For a handgun? [LB433]

SENATOR EBKE: ...for the handgun permit done by the sheriff. [LB433]

SENATOR BLOOD: So the one for the sheriff is only done in the state, not done federally? [LB433]

SENATOR EBKE: Yep. Well, they run a background check, but they don't do the fingerprints at the sheriff's office or they haven't in the past. I don't...I can't...I can't speak to whether they do now or not, but I don't believe they do. [LB433]

SENATOR BLOOD: Yeah, I certainly don't want to take it off task here. So I just...am seeing the difference and I want to know what the difference is for the difference in cost. Thank you. [LB433]

SENATOR MURANTE: Any final questions for Senator Ebke? Seeing none, thank you for your opening. [LB433]

SENATOR EBKE: Thank you very much. [LB433]

SENATOR MURANTE: And we'll proceed to proponent testimony on LB433. Proponents? Welcome. [LB433]

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KEVIN KNORR: Good afternoon, Senator Murante and members of the Government, Military and Veterans Affairs Committee. Should I wait until the... [LB433]

SENATOR MURANTE: Nope, please proceed. [LB433]

KEVIN KNORR: (Exhibit 1) Okay. I'm Captain Kevin Knorr, K-e-v-i-n K-n-o-r-r. I'm a Commander with the Criminal Identification Division within the Nebraska State Patrol and I'd like to thank the committee for giving me the opportunity to appear before you today for my testimony in support of LB433. The Nebraska State Patrol has been part of several discussions regarding LB433. These discussions have included the Department of Health and Human Services, the Department of Labor, and the Department of Revenue. We look forward to continuing these beneficial discussions moving forward. As stated earlier by Senator Ebke, federal regulations require fingerprint-based criminal background checks for those persons whose jobs require access to federal income tax returns. LB433 would authorize the Nebraska State Patrol to conduct fingerprint-based criminal background checks. Without legislative authority from the state of Nebraska, the Federal Bureau of Investigation would prohibit a search of the national criminal history database. Fingerprinting involves obtaining and handling sensitive biometric information which is unique to each individual. Current law requires the Nebraska State Patrol to perform fingerprint-based background checks for over 20 individual and unique purposes. These include but not limited to requiring fingerprinting for criminal history background checks for certain types of government employment, licensure and permitting for jobs in police work, licenses for foster care providers, teachers, and licenses within the medical and legal professions as well, and as well as carry concealed weapon permits. The Nebraska State Patrol is the point of contact to the FBI criminal justice system. The agency has fingerprint locations from Scottsbluff to Omaha. Therefore, the agency is uniquely qualified to meet the requirements of this legislation on a statewide basis. We appreciate the information received from the Department of Health and Human Services, the Department of Labor, and the Department of Revenue in estimating the number of employees with access to federal tax returns. Based on these estimates, a fiscal note regarding LB433 has been completed and submitted estimating no fiscal impact. We are working with our federal partners at the FBI and IRS as we discuss how we formalize this mandate as we move forward, considering the new administration. In closing, I want to thank Senator Ebke for bringing this bill forward. With the authority granted by LB433, the Nebraska State Patrol can work together with other stakeholders to achieve the goals of this legislation. I'm happy to answer any questions you may have at this time. [LB433]

SENATOR MURANTE: And to be clear, I think...believe Senator Ebke had stated her intent to have us hold this bill so that you can work with your partners at the federal level, was that your understanding as well? [LB433]

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KEVIN KNORR: That is. [LB433]

SENATOR MURANTE: (Exhibit 2) Okay, thank you. Are there any questions? Seeing none, thank you for your testimony, much appreciate it. Additional proponent testimony to LB433? Are there any additional proponents? Is there any opposition to LB433? Is there any neutral testimony to LB433? I do have a letter of support from Douglas Weinberg of the Department of Health and Human Services. And that closes our public hearing on LB433. And we will proceed to LB309 and Senator Brasch arrives. Senator Brasch, welcome. [LB433]

SENATOR BRASCH: Thank you very much and good afternoon. Chairman Murante and members of the Government Committee, my name is Lydia Brasch, spelled L-y-d-i-a B-r-a-s-c-h and I represent the 16th District in the Nebraska Legislature. I'm here today to introduce LB309, a bill that would exempt Nebraska from participating in daylight saving time, which is allowed under 15 U.S. Code, subsection 260a, or the advancement of time or changeover dates. The history of daylight saving time: Daylight saving time was first implemented in the United States during World War I. It was started in 1918, but it was so unpopular that Congress repealed it the very next year, overriding a veto by President Woodrow Wilson. During World War II, President Franklin Roosevelt initiated what he called, and I quote, "wartime" from 1942 through 1945. But following the end of the war in 1945, the sovereignty over the time question was left up to the individual states to decide for themselves. In 1960, in the 60s, Congress was lobbied hard by the transportation industry who wanted more uniform time zones throughout the country, since many states and localities had complete control over what time zone they wanted to be in. Farmers had lobbied hard against the time change and for the most part have always been against daylight saving time. Congress passed the Uniform Time Act in 1966 which organized the country into time zones and implemented daylight saving time, but the act contains a provision that does allow states to exempt themselves from daylight saving time if they so desire. The grill and charcoal industries successfully campaigned to extend daylight saving time from an additional six to seven months in 1986 claiming that they would gain \$200 million in sales. In 2005, when the increase came to eight months came up for a vote, it was the National Association of Convenience Stores that lobbied hardest since they believe there would be more time for kids to be out trick-o-treating which meant more candy sales. Why I introduced this bill? During my six-plus years here in the Legislature, many individuals, not just from District 16, but individuals from here in Lincoln, from individuals in Omaha and elsewhere statewide have expressed to me their desire to see daylight saving time abolished, or at the very least seriously debated at a public committee hearing. Since I introduced LB309 this year, my office has received abundant e-mails and phone calls from constituents expressing their support, with some expressing opposition. There are compelling arguments on both sides of this issue which is why, as all of you know, when it comes to determining policies which will best serve the common good of our state there is a balancing effect that we as legislators must take into account. Now, daylight saving time, though a luxury for some, presents problems for others. On the health aspect,

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strokes: a study done by the American Academy of Neurology that was published on February 29, 2016, found that the first two days immediately following the beginning of daylight saving time in the spring, there are increases for the risk of ischemic stroke and that is increased by 8 percent in the general population. People with cancer were shown to have 25 percent more likely to have a stroke. And people over age 65 were 20 percent more likely to have a stroke following the time change in the spring. The study's lead author was Jori Ruuskanen, an MD, PhD, of the University of Turku in Turku, Finland, said that previous studies have shown that disruptions in the person's circadian rhythm, also known as your internal clock, increases the chance of these strokes so we wanted to find out if daylight saving time was putting people at risk. Well, it turns out, according to that study, it is. Heart attacks: another paper released March 29, 2014, from the American College of Cardiology stated that the hour of sleep lost or gained may play a bigger, perhaps more dangerous role in our body's natural rhythm than we think. It seems moving the clock forward or backward may alter the timing of when heart attacks occur in the week following these time changes. This was the largest study of its kind in the United States. It revealed a 25 percent jump in the number of heart attacks occurring the Monday after we spring forward compared to other Mondays during the year that a trend that remained, even after accounting for seasonal variations in these events, the study showed the opposite effect is also true. Researchers found that a 21 percent drop in the number of heart attacks on the Tuesday after the weekend we fall back an hour to standard time. Dr. Sandhu, M.D., a cardiology fellow at the University of Colorado in Denver was the lead investigator of the study. These results were presented at the American College of Cardiology's 63rd annual scientific session. And lastly, the personal and public safety issues remain. There are sleep-related problems--traffic accidents. A study published in the New England Journal of Medicine in 1996 stated that it has become increasingly clear that insufficient sleep and disrupted circadian rhythms are a major public health problem. For example, in 1988 the cost of sleep-related accidents exceeds \$56 billion, and that's with a "b", and included 24,318 deaths, and 2,474,430 disabling injuries. Major disasters including the nuclear accident at Chernobyl, the Exxon Valdez oil spill, and the destruction of the space shuttle Challenger have been linked to insufficient sleep, disrupted circadian rhythms, or both...or one or the other involved supervisors and staff. It has been suggested that as a society we are chronically sleep deprived and that small additional losses of sleep may have consequences for public and individual safety. This study found that the spring shift to daylight saving time, which results in the loss of one hour of sleep, resulted in an average increase in traffic accidents of approximately 8 percent. Whereas, the fall shift resulted in a decrease in accidents of approximately the same magnitude immediately after the time shift. Also what we should take into consideration is family, our children and some of our elderly. With our elderly there is a condition known as a sundown syndrome. "Sundowning" or sundown syndrome is a neurological phenomena associated with increased confusion and restlessness in patients with delirium or some form of dementia. It is most commonly associated with Alzheimer's disease, but also found in those with other forms of dementia or the term "sundowning" was coined due to the timing of the patient's confusion. For patients with a "sundowning" syndrome, a multitude

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of behavioral problems begin to occur in the evening or while the sun is setting. "Sundowning" seems to occur more frequently during the middle stages of the Alzheimer's disease and mixed dementia. Patients are generally able to understand that this behavioral pattern is abnormal. "Sundowning" seems to subside with the progression of a patient's dementia. Research shows that 20 to 45 percent of Alzheimer's patients will experience some sort of "sundowning" confusion. One of the most effective treatments for people struggling with this condition is to keep them on a regular schedule. Changing the clocks on these individuals exacerbates their condition and makes it difficult for them to function as normally as possible for a period of time. Furthermore, I've heard from multiple moms and dads, families with small children have an extremely difficult time with this time change getting children to go to bed when it's still light outside is a huge challenge. Also consider the negative effect that springtime has on the ability of kids to focus in schools after their circadian rhythms are distorted and they get one less hour of sleep. This also affects meal time. And the time change negatively impacts the teachers who are trying to teach their lessons. When we talk about business and agribusiness, daylight saving time is not good for all business. Dairy farmers face some challenges when switching to and from daylight saving time. And how is that possible you may ask? Don't farmers just rise with the rooster's crow no matter what time it is. Well, first of all, most dairy farmers could wake the rooster up on their way back from the house from the morning milking which on some farms starts as early as 3:00 a.m. Secondly, farms have to stay on the same time schedule as the rest of us. Say the milk truck comes at 9:00 a.m. every day and takes about an hour to collect the milk. That means that between 9:00 and 10:00 the farm cannot be milking cows. Farms cannot put milk into the tank that is being loaded and unloaded; it's the law. After the tank is empty, it has to be cleaned; that's the law. But it's difficult to explain the theories of time to a cow who pretty much expects to be fed and milked at the exact same time every day no matter what time we tell them it is. So farmers have to ease cows into daylight saving time changes, maybe by feeding and milking ten minutes earlier or later every day until that full hour is reached. Cows are creatures of habit and if anything is different in their minds, it's a very bad thing, so switching cold turkey to daylight saving time will stress the cows. Cows who are stressed, just like stressed-out people, are more likely to get a cold and less likely to do a good job, and their job is making milk. We have more information available on that. Furthermore, a study in 2012 found that office workers are more likely to what is called cyberloafing. Cyberloafing means doing nonwork-related things on their computers during the day on the Monday after the time has changed in the spring, they're coasting into their new hours. Study participants ended up wasting 20 percent of their time. Energy conservation--many people believe that daylight saving time actually saves energy and saves consumers' money on their energy bills. An early goal of daylight saving time was to reduce evening usage of incandescent lighting, once primary use of electricity. But although energy conservation remains an important goal, energy usage patterns have greatly changed since 1918 and recent research shows its limited change is...produces contradictory results. Electricity is greatly affected by geography, climate, and economics, making it hard to generalize from any single study. A study done in October 2008 from the

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University of California at Santa Barbara for the National Bureau of Economic Research found that in 2006 daylight saving adoption in India increased...Indiana increased energy consumption by an average of 1 percent, although energy consumption for lighting dropped as a result. The growing momentum is across the country to change from daylight saving time. There's a growing unpopularity for the twice-a-year clock-changing ritual. In 2014, a Rassmussen poll found that only 33 percent of American adults think that daylight saving time is worth the hassle. That number is down from 37 percent in 2013 and 45 percent in 2012. It's dropping every year. Moreover, in 2015, 12 states introduced legislation to abolish daylight saving time. And again, this year, 15 states have introduced legislation to abolish daylight saving time. Of those 15 states, many have bills that have been introduced in both houses, including in our neighboring states of Wyoming and Iowa. In the Colorado House, the bill was introduced to abolish daylight saving time. Since I introduced LB309, my office has been contacted by representatives in Kansas and South Dakota asking for information, expressing a desire to see this bill succeed so their states can follow suit. Right now, the only two states that exempt themselves from daylight saving time are Arizona and Hawaii, and every United States territory does too. If Nebraska becomes the only state in the Midwest to exempt itself from daylight saving time, it could potentially add confusion to transporting goods through Nebraska and the Midwest, but probably no more so than the confusion individuals experience when traveling between Mountain Time and Central Time. Basically, it's very doable. This occurs in Nebraska on a daily basis. The question came up of recreation. How are we going to have any fun? I received an e-mail from an owner of a golf course who does not want to see this bill pass because he believes that may harm the golfing industry in Nebraska. On the other hand, in a brief comparison of sunset times, if you look at the sunset time of June in 2016 in Phoenix and look at the time in Lincoln, perhaps this bill has very little impact on the golfing industry. In June of 2016 in Phoenix, Arizona, the sun set occurred around 7:38 p.m. They have less daylight. In Lincoln, Nebraska, during the same year, same month, the sunset occurred around 8:56 p.m. But yet golf ranks Arizona's second highest best state for golfing. I'm guessing whether the weather...whatever the weather, and it's not the sunset time, it is the weather that has an awful lot to do with the fact that Arizona is one of the best states for the golfing industry. Nebraska is ranked number 20 for golfing. I don't think it will matter if the sun is shining 24 hours a day in Nebraska, the golfers will not budge; those who desire to golf will find the time to golf, even if Nebraska has one less hour of daylight in the evening. And also, most golf leagues that are played in the evenings, that was one of their concerns, they only play 18 holes (sic-9 holes). I've been told by some avid golfers that it only takes a couple of hours to get through the 9 holes. The sun setting at about 8:00 p.m. would still provide enough time to play a round of golf before the sun goes down, or a golf course could offer early bird specials for those who want to get a round of golf in before work. In conclusion, I've discussed the history of daylight saving time with you. The growing movement across the country ending the twice-a-year clock change and how the negatively aspects of impacting health, personal safety, business, agribusiness, family life, and student learning. Due to the way time controls our lives and the impact it can have as demonstrated by these studies that I quoted,

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I think it's important for this issue to be discussed by your committee and by the whole Legislature. I do ask that this committee pass this bill forward. And I thank you for your time and my extended time in reading you this lengthy introduction. Thank you. I have others here to testify, I believe, today. And I'll take any questions. [LB309]

SENATOR MURANTE: Thank you, Senator Brasch. Are there any questions? Senator Blood. [LB309]

SENATOR BLOOD: Thank you, Chairman Murante. And thank you for sharing that interesting history. I do have some questions because you shared so much information though. Do you remember what Missouri what happened with them in 2013 when they tried to do daylight saving time? [LB309]

SENATOR BRASCH: I can't specifically quote the Missouri...I do have...my staff is presenting another bill; I'm in two committees at the same time this afternoon... [LB309]

SENATOR BLOOD: Good job. [LB309]

SENATOR BRASCH: ...when you moved me to number two here. But I can find you information, unless you know specifically. [LB309]

SENATOR BLOOD: Well, Missouri had tried to do it in 2013 and they based it on the fact that they would do it dependent on other states' participating, and that was in 2013, and no other states wanted to participate at the time. And part of that is because of a...there's something called suboptimal equilibrium, basically when you travel from state to state and there's different factors like one follows daylight saving time, the other does not, basically, nobody knows what time it is. That's what the phenomenon is called. Just a fancy word for saying we don't know what time it is. And so I did a little research and some of the questions I was concerned about is that daylight saving time originally they allowed states to decide how it was going to go. And it created so much confusion that the federal government then had to step in. But Congress made it an issue. So if this is such an important issue that you really feel all these health issues pertain and there's all this research that says it's a bad thing, why are we not talking to Congress about this instead of trying to change it state by state, because it doesn't then create that secondary problem of nobody ever knowing what truly time it is? [LB309]

SENATOR BRASCH: Congress has given the states the decision to use standard time or to use daylight saving time. When they tried to force daylight saving time on the country for a short period of time,... [LB309]

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SENATOR BLOOD: Right. [LB309]

SENATOR BRASCH: ...it was negatively impacting individuals in many ways--the hours. But at this point, and I had mentioned that year after year the number is increasing of individual states that do want to make this move rather than taking the time for Congress to have it done in Congress. And I have someone that will be testifying behind me who is following this across the country, very interesting testimony. And I hope you ask him lots of questions because he has a...as a good citizen, an interest; not a lobbyist, just a person who thinks it's the right thing to do that we tend to be such creatures of habit because we're creatures of habit that to do this moving forward for the benefits that I mentioned--your health, your...basically, the lack of confusion, the more time; you know, animals, children, meal time, grogginess, you know, other...that we are self inflicting on ourself the time change. And I believe if we were all on daylight saving time, that increases the darkness in the morning. And a practice I've been doing, and I encourage you to do it is every day the last several months I follow that...you know, it's getting lighter and lighter in the morning as you leave the home, and then you think, okay, they're going to push the clock forward another hour so I'm going to be in the dark longer. And then when you're sitting here at 5:00 p.m., you're going to be still sitting here at 6:00 p.m., but this will not...if passed in the Legislature, if passed out of committee and then the Legislature, it will not take place this year, but the following year so we can start a calendar year on standard time. [LB309]

SENATOR BLOOD: So I know that a lot of states have brought forth bills; I think Wisconsin was the most recent one, how many have actually passed it? [LB309]

SENATOR BRASCH: I'm not certain of the...what the status is, but I believe the person that follows me, they're using a bill tracker to track this. [LB309]

SENATOR BLOOD: Okay. [LB309]

SENATOR BRASCH: And again, it's just a citizen, not a lobbyist, not a...and they found us through bill tracker, too, and have driven here a distance to testify. [LB309]

SENATOR BLOOD: And then one last question, and then...you had talked a little about economic development referring specifically to the golf industry. Do you know what city in the United States has more golf courses per capita than any other city? [LB309]

SENATOR BRASCH: I know Florida is number one, but as far a city...municipality... [LB309]

SENATOR BLOOD: Most golf courses? [LB309]

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SENATOR BRASCH: They are ranked number one for golfing, Arizona is number two. [LB309]

SENATOR BLOOD: But specifically how many...what city in Nebraska... [LB309]

SENATOR BRASCH: Oh, what city in Nebraska has the most golf courses... [LB309]

SENATOR BLOOD: We'll say Nebraska to help you out, but it's in the whole country actually, has the most golf courses per capita than any city in the United States? [LB309]

SENATOR BRASCH: That never came up in our research. [LB309]

SENATOR BLOOD: That would be Omaha. [LB309]

SENATOR BRASCH: Okay. [LB309]

SENATOR BLOOD: Nebraskans take golfing really seriously. And the 9 holes, they don't do those couples at night until after all the regular golfers are gone. [LB309]

SENATOR BRASCH: Um-hum. Okay. [LB309]

SENATOR BLOOD: I think that you're going to find that indeed that there are industries, especially in Nebraska, the golf industry being one of them, that it will affect negatively and I'd be interested in actually seeing some development numbers, maybe from the person that follows you. But I don't disagree that there's all these health issues or that their cow doesn't want to give milk or whatever else it was that was on the list, it was very interesting, but I see us having issues when we piecemeal laws that pertain to things that affect people by not knowing what time it is when they're trying to travel to get to a place. I think that's going to create some confusion. I think it has created confusion in other states. I had a lot of people e-mail me in reference to Arizona in the negative fashion. I received by far more negative e-mails than I did positive e-mails on daylight saving, and maybe it is because of the part of the state that I'm from. [LB309]

SENATOR BRASCH: Okay. [LB309]

SENATOR BLOOD: So thank you. [LB309]

SENATOR BRASCH: Very good. Thank you. [LB309]

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SENATOR MURANTE: All right, any additional questions? Senator Brewer. [LB309]

SENATOR BREWER: Thank you, Mr. Chairman. Well first off, that was a very informative opening; you covered a lot so it's kind of nice to have it all wrapped together to so you understand the issues. I did get a lot of e-mails from mothers, evidently, it is a bigger deal than I realized about kids getting back into some type of rhythm when you...I just yanked them out and I didn't give them a choice, but evidently for the mothers who are kinder and gentler to children it's a bigger issue. (Laughter). But, of course, the other issue that came up was the golf one, and just as a side note, do you know how many people per capita per golf course, or whatever this ratio is that you're using for... [LB309]

SENATOR BLOOD: What the actual amount of people per... [LB309]

SENATOR BREWER: Yeah. [LB309]

SENATOR BLOOD: I do not. I just remember it because I like trivia, and that was one of the trivia questions that I remember. [LB309]

SENATOR BREWER: Well, when you looking at trivia, look at Mullen, Nebraska; there's not very many people there and they've got one really big golf course. So we'll see if that number is right or not. But the other issue was, I did...from a number of different folks in agriculture community bring up some of the same issues, so I thought that was very informative. And for those of us that are lousy golfers, in nine holes we can use way over two hours because half of it is spent finding the balls we hit. That's all I got. [LB309]

SENATOR MURANTE: Are there any additional questions? Senator Lowe. [LB309]

SENATOR LOWE: Probably the most serious question about this...thank you, Chairman, and thank you, Senator Brasch, for bringing this...how am I going to know when to change my fire alarm battery if we do not have these time changes? [LB309]

SENATOR BRASCH: We will have a declaration for claiming Ground Hog Day the official fire alarm and other battery day. [LB309]

SENATOR LOWE: Okay, thank you. [LB309]

SENATOR BRASCH: We pay attention to Ground Hog Day here. [LB309]

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SENATOR LOWE: Yes, we do. [LB309]

SENATOR BRASCH: Maybe more than daylight saving time, I'd guess. [LB309]

SENATOR MURANTE: All right, any final questions? Seeing none, thank you for your opening. [LB309]

SENATOR BRASCH: Thank you. [LB309]

SENATOR MURANTE: And we will listen to proponent testimony on LB309. Proponents, all those in favor, come forward. Welcome. [LB309]

BECKY FAUSETT: Thank you. Good afternoon, my name is Becky Fausett, it's B-e-c-k-y F-a-u-s-e-t-t. Have you ever noticed the complaints from your family, coworkers, and friends the week leading up to and following daylight saving time? I know I have. Usually it goes something like this: I'm sure not looking forward to the time change; or I know it's only an hour difference, but I'm so tired this week. Well, it turns out those complaints are valid. In a 2016 article from CNN, the author reviews various studies that have shown several negative health impacts from daylight saving time. And you've already heard about the studies that reflected the stroke rate, as well as the heart attack rates, so I'll skip over that. But the article further went on to explain that additional studies show how the annual removal of an hour has been linked to more workplace injuries, auto accidents, and even hinders moral decision making. It's quite scary to me that we can potentially chose to continue to increase risk for several health conditions and accidents when this is something that's within our power to change. So what's causing all this harm? It's the disruption to our circadian rhythms. As Christopher Barnes, associate professor at the University of Washington, and a person who researches the impact of sleep deprivation explains--human beings aren't built for 25-hour days. It throws people off because we're working against our natural process. So those benign complaints we hear twice a year are actually quite telling of something more. If this is the impact that daylight saving time has on society as a whole, imagine the impact it has on those with sleeping disorders or other health conditions. Fifty percent of the people in my household alone have health conditions that are greatly affected by the time change. My stepson is here today to talk about his, so I'll just focus on mine. I have narcolepsy which is a condition that is characterized by excessive daytime sleepiness. With medications and a routine schedule, I am able to lead a relatively normal life. I really like how Monica Gow, executive director of Wake Up Narcolepsy describes the impact I endure. For many people, losing even an hour of sleep disrupts our body clock. Imagine an even more significant disruption of sleep/wake cycles every day for persons with narcolepsy. Having narcolepsy feels like trying to stay awake for 48 hours. I do my best to mitigate the disruptions to my sleep/wake cycles in the spring and fall, but it takes me weeks to return to feeling like a

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healthy productive member of society again, and that's only if I don't catch a bug because this disruption also weakens my immune system. I realize that narcolepsy is a relative rare condition, but the time changes effect people with all types of sleeping disorders. According to the National Sleep Awareness round tables, 50 to 70 million Americans have a sleep disorder. That breaks down to somewhere between 301,000 and 414,000 Nebraskans. I can't imagine how high that number gets when we add in other health conditions as well. I thank you for taking the time to listen to me and to consider this issue, as well as Senator Brasch for proposing the bill. Now I urge you to advance and then pass LB309 in order to improve the health of the citizens of this great state. Thank you, and if you have any questions I'd be happy to answer them. [LB309]

SENATOR MURANTE: And thank you for your testimony. Are there any questions? Seeing none, thank you for coming down today, much appreciate it. Additional proponent testimony to LB309? Welcome. [LB309]

ISAAC FAUSETT: Hello. My name is Isaac Fausett, I-s-a-a-c F-a-u-s-e-t-t. I'm a teenage resident from Grand Island. I've lived with epilepsy since I was diagnosed with complex partial seizure disorder at 8. My seizures are commonly caused by lack of sleep. And most of the grand mal seizures I've had in my life are during the week after the spring time change. My epilepsy is well controlled by medication, to a certain extent. I still have one to two breakthrough seizures on occasion. While not all of them are directly caused by daylight saving, it definitely contributes to a lot of them. The number of people who are affected by seizures in their lifetime is 1 in 26. That means I'm similar to approximately 75,000 people in the state of Nebraska alone. Some people have got to be kids just like me. The reasoning behind why seizures can be caused by daylight saving time is the change of sleep rhythm. My neurologist, Dr. Ivan Pavkovic said people have circadian rhythms, or in other words, sleep and wake up time schedules that run on daylight and a few other factors. He suggested there may be a link between daylight saving time and seizures. Epilepsy isn't the only condition affected by daylight saving time. Narcolepsy, blindness, and multiple other disorders, handicaps or conditions are affected. That's why I have to be careful around daylight saving or other instances where I'll get less sleep than usual. Eliminating daylight saving would be one less time I need to worry about my condition. Thank you. [LB309]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? Senator Hilgers. [LB309]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you for coming down. Not a question, I just wanted to comment and say I think you're the youngest testifier that's been here. You might have been nervous, you didn't appear. You did a great job; really appreciate you coming down today. [LB309]

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ISAAC FAUSETT: Thank you. [LB309]

SENATOR MURANTE: Any additional...seeing none, thank you very much for your testimony, much appreciate it. [LB309]

ISAAC FAUSETT: Thank you. [LB309]

SENATOR MURANTE: Additional proponent testimony to LB309? Welcome. [LB309]

SCOTT YATES: (Exhibit 1) Thank you, Senator. My name is Scott Yates, S-c-o-t-t Y-a-t-e-s. I'm actually a visitor to Nebraska from the neighboring state of Colorado and I appreciate very much being here. Senator...I have some prepared comments and just to respect the time limit, I will let you read all these prepared comments as I'm talking or on your own, but I want to use my time to summarize them just a little bit and to say thanks and to say how wonderful it was to hear that family speak about their personal experience that they have because of the change of daylight saving time. And what I would say is that there is also a lot of families who don't know that they're going to have a problem coming up a week from Monday when we do the spring-forward time change. The research that we saw was about the dramatic increase in heart attacks and dramatic increase in strokes. And I've got the research actually in the packet for you to see, so you can look at the New England Journal of Medicine and some of the others to be able to see that actual research. So if there was a family here that knew that they were going to be in a traffic accident a week from Monday, they would be here to say please make sure that we're not going to have that so that I'm not in that traffic accident; please make sure that I'm not going to have that heart attack next Monday. And so that's why it's so terrific to see a family. I've been working on this issue for a few years, just as a volunteer. It started as something with...around the dinner table with me and my wife. We had just read the book The Complete Free World, and I was complaining about daylight saving time and my wife said to me, hey, it's in the book, we're not supposed to be complaining about this, why don't you do something about it. And I said, well, I've made several very pointed Facebook posts, which she found to be unconvincing. And so I started thinking about it. I thought--what can I do? And because I'm in a position in my life I can do something, I decided to really dive in on this issue. So I'm working on it in Colorado. There's another bill that's going to be going and I'll be testifying on that one, actually on the Monday right after the spring change in Colorado. A couple of quick notes about Nebraska, and this is referenced in here, but Nebraska is in a particular great spot to be able to do something about this. And when I say great spot, I'm not speaking metaphorically, I'm talking geographically. Nebraska is at the far western edge of the Central Time Zone. And so whereas most of the country is very excited about being on year-round daylight saving time, Nebraska, essentially, gets that with being on Standard Time. So that is, it's light until almost 10:00 here in the summer. And if we made this change, it would be light until almost 9:00. Well, that's what most people in

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the country have under daylight saving time. That's not something they want to give up. You don't have to give that up because of where you are geographically. And so that's a terrific advantage. That's also allowed under the federal law, the 1966 Uniform Time Act. And so that's a terrific advantage for the state of Nebraska. And so that's why I'm so much in favor of this bill. Senator Blood, I'd be happy to entertain any more specific questions, but to get to kind of a couple of the questions that you had in the earlier testimony...let's see, should I wait to do that as a question? [LB309]

SENATOR MURANTE: (Inaudible) you have and then we'll open up to any questions. [LB309]

SCOTT YATES: Oh okay. So just in conclusion, I'm very excited to pass this bill. I'm very excited to keep working on this issue. And I'm very excited to work with other states and then to also work with the Department of Transportation at the federal level to be able to get it so we can get the whole country switched to not doing the maddening, deadly clock changing twice a year and have each state pick the time zone that is most appropriate for that state. And thank you very much for allowing me to testify today. [LB309]

SENATOR MURANTE: All right. Thank you for your testimony. Any questions? Senator Blood. [LB309]

SENATOR BLOOD: Thank you, Chairman Murante. Since you said, do you want to talk to me, I just went ahead and lift my hand up for you. [LB309]

SCOTT YATES: I can speak to all of those points that you brought up. Missouri, I think, was one of the points. [LB309]

SENATOR BLOOD: Yeah, let's talk about Missouri in 2013. [LB309]

SCOTT YATES: So I talked to the sponsor of that bill, and it turns out it was just kind of an internal political thing that it didn't pass. There was a...and I don't exactly understand what it was, but Nebraska is so great because you don't have the play between the two chambers. And I think there was some politics between the two chambers that was going on. [LB309]

SENATOR BLOOD: It actually was my understanding that they did it on...with the foundation that Missouri would do it if a certain number of other states would participate. [LB309]

SCOTT YATES: Right, but then... [LB309]

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SENATOR BLOOD: And then, of course, no other states did it, because they didn't agree with it, and so then they let it...it had a sunset on it and it was no longer applicable after a certain window of time several years. [LB309]

SCOTT YATES: My understanding is that bill actually did not pass. That the bill that would have put it into place, that it would have made it the case that Missouri would have changed if some set of neighboring states had passed. My understanding is that bill did not pass. [LB309]

SENATOR BLOOD: Did not pass? [LB309]

SCOTT YATES: Did not pass. But it wasn't on the merits, it was on some internal politics. I will say there are lots of states that have proposed bills. The reason that most of those bills don't pass is that what the citizens really want is year-round daylight saving time. They want to get rid of the clock changing, but they don't want to give up the sunlight in the evening hours. And so that's why Nebraska is in this unique spot is because you still have the sunlight even in Standard Time. But it is something. I've been watching this for several years now and a couple of years ago there was a handful of bills. Last year there were a lot more bills. This year there's 15 states where it's still active. And I think there are another nine that are considering it. So I think we're up to 24 states this year that are looking at it much more closely. And so as a person who has watched it pretty closely for three or four years now, it seems like this year is becoming a little bit of a tipping point in something actually being able to move forward. [LB309]

SENATOR BLOOD: And I think it's admirable that you stand behind this cause and you do all this work, you drive down as a volunteer, good for you. [LB309]

SCOTT YATES: Thank you. [LB309]

SENATOR BLOOD: However, I still see some concerns, and some of them are concerns that pertain to economic development. And I see a lot of information in reference to health, and, of course, I certainly don't want to minimize the wonderful and brave people that were up here earlier speaking and their feelings and their concerns, but Nebraska already has financial issues and if we do things that tip our apple cart and make us take in less income because they can't golf late at night, and you know golfers like to eat and drink and spend money. [LB309]

SCOTT YATES: Right. [LB309]

SENATOR BLOOD: More than any other sport, I think maybe; even maybe more than Husker football. I see concerns, but what I'm not seeing in any of the information, except for the research

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that I've done, is economic development, the impact it will have when it comes to how much income Nebraska takes in. [LB309]

SCOTT YATES: Yeah, I mean, it's a pretty difficult thing to figure out in exact economic impact number. And it's...you know, I don't envy the job of any senator, of any representative of the people, that has to weigh the economic impact of the golf industry versus the health of every citizen, and that's a tricky balance. I will say that it seems like we are making progress on a national level. And if we can get a couple of states to pass a bill, luckily we had good action, actually, later in the year, last year, where a Republican assemblyman from California, and we all know how liberal California is in general, so I thought it was instructive that a Republican assemblyman was able to get a resolution in front of the California Assembly and pass it with a wide margin in a Democratic-controlled assembly and then in the Democratic-controlled senate. And that resolution called for the federal Department of Transportation to end the mandate to have the time change once a year. California would want to be in daylight saving time year round. So if we can keep making progress on that, then I think we'll be in a spot to where Nebraska, if it chooses to, can be in daylight saving time year round. So that would be a great option. But as, you know, we got to walk before we can run. So I think a great intermediate step is to have Nebraska get rid of the thing, because of the health issues, and then say loud and clear at the same time we want to get rid of the clock changing because of the health issues and at the same time we want to have the ability to choose to be in daylight saving time if we want to be able to do that. So, you know, that's a totally legitimate step, it's a totally legitimate concern. There are other concerns, I think, about western Nebraska and areas that are in the Mountain Time Zone and I'm happy to talk about those too. But I don't want to let...what's the expression...don't let the perfect be the enemy of the good; like this is a good step, this is a good thing to do for the citizenry as overall and if we can take this step we should, and then the next step, then we can talk about what some of the next steps are. Some of those next steps are talking about western Nebraska. Also talking about bell times for schools. What happens in schools is very complicated. Like the decision of when we start school and when we end school, and when sports starts and when sports ends, those are all very complicated decisions and those should be made by the school districts locally. A lot of times, those decisions are made, just like the daylight saving time decision, because that's the way it's always been done. And I think that if you guys...if the state of Nebraska can take this step and pass daylight saving time, it will be a perfect time to say it to the school districts--hey, maybe this is the time to have a rational, science-based examination of what are the appropriate times to start school? What is the research say about what's best for our high school? What is the best way to have learning? So I think passing this bill, in spite of the fact that it's not perfect, is a good step that allows those other kinds of conversations to move forward. [LB309]

SENATOR BLOOD: So again, how many of the state have passed this? [LB309]

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SCOTT YATES: This particular bill, Arizona and Hawaii are the only two. [LB309]

SENATOR BLOOD: Because you had said that multiple states have these bills, that you've been tracking the bills, both you and Senator Brasch had said that. [LB309]

SCOTT YATES: Right. [LB309]

SENATOR BLOOD: I know that Wisconsin was probably the most recent. Have they passed it? [LB309]

SCOTT YATES: No, no, none of the...the only bill that passed last year was the California resolution. [LB309]

SENATOR BLOOD: Okay. [LB309]

SCOTT YATES: There's about 24 states, I believe, that are looking at bills this year, but we're still relatively early in the legislative calendar for all of the states. A couple of the bills have died already, including one in Colorado; but then there's another one that's going to be coming up next month. [LB309]

SENATOR BLOOD: And then how long have you been tracking these bills? Because the next question will depend on that answer. [LB309]

SCOTT YATES: Well, I've been using the tracking service for three years, I believe, three legislative session. [LB309]

SENATOR BLOOD: So in the last three years, how many states have had these bills that have not passed? You can "guesstimate." [LB309]

SCOTT YATES: I can get you those numbers. I mean, my estimate would be 12 in 2015, and then probably 15 or 16 last year, and then I believe the number is 24 so far this year. So, you know, the...my sense of it...my sense of it is two things: one is, it used to be seen as sort of a odd niche issue that was something that was kind of quirky and kind of fun to talk about, but there's really nothing that we can do about it. And this year it feels like a pretty legitimate policy issue. And part of that is because of the mountains of research that have come out. I mean, I won't go over the research again, you've got the links to it here and you can look it all up, the one new one I will just mention that hasn't been mentioned and it was because the research just came out this

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year is, and I thought it was fascinating, was somebody had took a look at all of the sentences issued in criminal cases on Mondays and found that if you are a criminal who gets sentenced on a Monday right after the spring-forward time change, your sentence is going to be 5 percent longer than if you were sentenced on any other Monday. So where if you asked any particular judge--is the sentence you're giving going to be different because you got an hour less sleep over the weekend, I'm sure every single one of them would say no. But the statistics are very clear that that is not the case, that their judgement was affected. So there are people spending time in prison right now that wouldn't be there if it wasn't for the fact that daylight saving time was in place. [LB309]

SENATOR MURANTE: Senator Briese. [LB309]

SENATOR BRIESE: Thank you, Senator. And thank you, Mr. Gates (sic-Yates), for being here. Senator Brasch pointed out survey data that you probably have in this information, but without looking through that, I think Senator Brasch referred to an increase in heart attack risk following the spring implementation of daylight saving time, are those studies that show those results, do they show those results consistently? [LB309]

SCOTT YATES: Yes. Yes. The studies are all very clear...the studies are all done as not political research but as academic studies that are published in, for instance, you know, the heart attack one and the stroke one are from the New England Journal of Medicine. The traffic accident spike is from the American Economics Association. The workplace injuries is from the Journal of Applied Psychology, you know, the Journal of Behavioral Nutrition and Physical Activity these are academic, double-blind, blah, blah, blah studies. [LB309]

SENATOR BRIESE: Okay. Not really any studies out there that don't show that? [LB309]

SCOTT YATES: Oh, I see. Are you saying are there studies that don't show any negative health effects... [LB309]

SENATOR BRIESE: Right. [LB309]

SCOTT YATES: ...of the...I mean I...it's hard for me to say conclusively that there's something that doesn't exist. [LB309]

SENATOR BRIESE: Not that you know of though. [LB309]

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SCOTT YATES: Not that I know of. All the research I've seen has been pretty clear. I did see one study...I will say the studies on energy are decidedly mixed. The Department of Energy came out...the best study I saw on energy was from the U.S. Department of Energy and it said that for a lot of areas the shoulder seasons, the, sort of, November and March saw significant drops in electricity usage during those shoulder seasons, but it's a small amount and it's just for a small portion of the year and so it's not...and then there are other studies that show that it's not significant use. The whole thing started because of fuel oil...potential fuel oil savings by the Germans during World War I. The science, of course, in the middle of war time was probably not the best it could be. And there's some theory that it was actually politically motivated. For fans of history, they know about the "turnip winter" when there was nothing for the Germans to eat except for turnips. And so there's a theory that they started the war time in Germany to distract the people from the fact that that they didn't have anything to eat but turnips. And then Great Britain followed shortly after that, and the U.S. after that. So I would say the health studies are all pretty conclusive; the energy studies are not as conclusive. [LB309]

SENATOR BRIESE: Okay. And if I understood Senator Brasch's testimony correctly, there is some corresponding decrease in the heart attack rate in the fall when daylight saving time ends. Is that... [LB309]

SCOTT YATES: I don't want to not follow the rules, but I think what she was saying was that the heart attacks go down on the...a week later on the Monday after... [LB309]

SENATOR BRIESE: Okay, okay. [LB309]

SCOTT YATES: ...but anyway...the only week with the spike is the week that...is the Monday immediately after the spring-forward time change. [LB309]

SENATOR BRIESE: Okay, very good. Thank you. [LB309]

SENATOR MURANTE: Thank you. Any final questions? Senator Wayne. [LB309]

SENATOR WAYNE: So you're from Colorado? [LB309]

SCOTT YATES: Yes. [LB309]

SENATOR WAYNE: So how do you manage coming to Nebraska and staying in a different time zone change? Like the reason I ask that is it the studies you presented, does it have to do with

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people just not going to sleep, (inaudible) educating themselves on maybe some things to do differently? I compare that to driving to different time zones. What's the difference? [LB309]

SCOTT YATES: Yeah, it's a very good question. It's something I've thought a lot about because, you know, like I, for instance, I flew to Australia last year for business and I was messed up for a month after that, it was terrible...I mean, that was so many time zones. And so some people are affected by jet lag and some people aren't. The thing that happens...luckily I drove, and so there's a natural...like when...with the natural flow of my circadian rhythm changed because I moved with the curvature of the earth and saw the sun go down as I was driving here and then the sun came up at a, somewhat, regular time and anyway I didn't have to be here super early. So you're right, it doesn't affect everybody a lot. It does affect some people hugely. And so the question is, why...we need to have, I would think, as a society, a very good reason to impose jet lag on the entire society because it...you're right, it's not going to affect everybody, but it is going to affect a lot of people. And so if that's the case, if we are going to do a massive imposition of jet lag on society, we need to have a pretty good reason to do that. So what is the reason that we have to change the clocks twice a year? Well, we don't. Right? It's a tradition that goes back to World War I. Right? Like there are reasons to want to have enough sunlight after work and after school so that kids can have enough time to play and so that the golf industry isn't affected, all of those things are true, there's plenty of time for that. The in-standard time, people in Omaha and in Lincoln and in the parts of Nebraska that are in Central Time have, essentially, the same time of sunlight that much of the rest of the country has after work and after school. And so the question is, what's the reason we're imposing that time change? And I (inaudible) that we don't have a very good one. [LB309]

SENATOR MURANTE: Thank you, Senator Wayne. Senator Blood. [LB309]

SENATOR BLOOD: Thank you, Chairman Murante. I remember reading an article, and I think it was on CNN.com was that your article, Mr. Yates? [LB309]

SCOTT YATES: Probably. I mean, I've written for CNN.com, yes. [LB309]

SENATOR BLOOD: In reference to daylight savings? [LB309]

SCOTT YATES: Yes. [LB309]

SENATOR BLOOD: So what do you see as kind of the...I don't know if this is the right terminology, but the end game for all of this? You're actively promoting it. What is your final goal? [LB309]

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SCOTT YATES: The final goal is to not have a mandate to change the clocks twice a year and to have each state pick the time zone that is most appropriate for that state. And so, you know, I would leave it up to the people of Nebraska. It sounds like from your testimony that your preference would be that we stay on daylight saving time year round. And that's a...I have no argument with that whatsoever. That's a discussion for the people of the state of Nebraska and for everybody... [LB309]

SENATOR BLOOD: I actually have no testimony. We only hear testimony from you. I just question it. [LB309]

SCOTT YATES: Right. Sorry, sorry, I didn't mean to imply something out of order. But what I'm saying is it's a perfectly valid point of view that we stay...that Nebraska stays in daylight saving time year round. It's a perfectly valid point of view that Nebraska stays in Central Time year round. The point is that getting rid of the changing and then having a legitimate discussion among all the parties about what's the best time zone for each state. The change itself is the thing that is creating havoc...creates havoc in business, markets. One just sort of political note that I would be remiss to not mention, Arizona doesn't change clocks twice a year. They have to deal with the fact that interstate commerce is slightly more complicated because part of the year they're in the same time zone as Denver, and part of the year they're in the same time zone as LA. So it's a thing that they have to deal with. And there was a state representative from there who thought this is something we shouldn't have. We should be changing clocks twice a year just like the rest of the country. So he presented a bill to say that. He was so overwhelmed with response, negative response, from his constituents that he actually held a press conference to announce that he was killing his own bill. I think he got more attention from any state legislature in history for killing his own bill. And it was because the people of Arizona have the life that the rest of the country would like to have of not changing the clocks twice a year. And they don't care about the fact that it's a slight hassle for interstate commerce. The hassle for interstate commerce is legitimate and I...working to fix that, and so that is the end game. But...but, as I said before, we need to walk before we can run. [LB309]

SENATOR MURANTE: Seeing no additional questions, thank you much for your testimony. [LB309]

SCOTT YATES: Thank you much. It's an honor to be here. [LB309]

SENATOR MURANTE: Is there additional proponent testimony? Welcome back. [LB309]

ROY CHRISTENSEN: Thanks, I enjoy it so much. It's better to be on this side than that side. My name is Roy Christensen, R-o-y C-h-r-i-s-t-e-n-s-e-n. And I just wanted to share my personal

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observations about daylight saving time with you and throughout my life. I have lived in Arizona and it's better as far as that goes, not as far as the "Good Life" goes though. First of all, animals don't get it. We're going to have a...once a year, you know, first of all, my family gets up at 5:30 every morning to do our daily routines, to begin our day. And once a year the animals get up at 4:30 in the morning and want to be fed. They don't get daylight saving time, messes things up for my family. I'm father of seven children and I can tell you little kids don't get it and it really messes up parents' sleep schedules, school schedules, everything that goes on when you have the daylight saving time change. Little kids just don't get it. Personally, I'm a big fan of a good night's sleep. And for you younger folks, you might not understand this, but the older I get, the more elusive that good night's sleep becomes. And twice a year my sleep schedule gets screwed up for about three weeks by daylight saving time. I wish that we could get rid of this. Please take a look at it, just for me. (Laughter) So two other...those are the main points I wanted to make, but two other observations: one, I wouldn't be making any decisions based on what goes on with golf. Golf is a declining sport, and this is something I know something about because of the issues I've dealt with in my city council job. Golf is declining across the country. And this is a decades-long decline and you may see have seen blips in it, but it's a continuing downward trend. Younger generations aren't picking up the sport at the rate the older generations have. I wouldn't make any decisions based on golf. And finally, I would be reluctant to make any decisions on anything that does or does not happen in the state of Missouri. (Laughter) Thanks. [LB309]

SENATOR MURANTE: All right, thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down, much appreciate it. Additional proponent testimony to LB309? Is there opposition to LB309? Welcome. [LB309]

GWENDOLEN HINES: Good afternoon, Chairman Murante and members of the Government, Military and Veterans Affairs Committee. My name is Gwendolen Hines, G-w-e-n-d-o-l-e-n H-i-n-e-s, and I love daylight saving time. I have a really hard time springing forward in the spring because I have troubles sleeping because of a chronic illness and I have to take medication to sleep and I have to be on a strict bedtime routine, so it really does mess me up in the spring. But in the summer it's wonderful because it's light out until 9:00 and you get to be outside and do anything until 9:00. And if we didn't have daylight saving time, it will be so depressing if the sun went away at 8:00. So I would propose that instead of switching to...instead of getting rid of daylight saving time, I would propose that we stay on daylight saving time all year round and then we wouldn't have to worry about the changes in time and we would reap all the benefits of daylight saving time. So one benefit is there's more traffic in the evening than there is in the morning; there's people going, like, out to eat and other things like that in the evening, where in the morning they're mostly just going to work. So it makes sense to have the evening be the time when there's more light. And it was estimated that we would have 380 fewer traffic deaths if we stayed on daylight saving time all year round. And people are out and about more in the evening than they are in the morning so it would be nice for them to have daylight when they are out and

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about. And daylight saving time, I guess we've heard this isn't necessarily a big factor, they'll save some money on electricity because people won't be using their lights as late as they would be if we didn't have daylight saving time. So I think we should stay in daylight saving time all the time. It would save money, it would save lives, it would get people out of the house more in the spring, summer, and fall, and it would just make people happier because people like sunlight, people like daylight, and they like to be out until 9:00 in the summer, especially me. Thank you. [LB309]

SENATOR MURANTE: All right, thank you very much for your testimony. Are there any questions? Seeing none, thank you for coming down today, much appreciate it. Is there additional opposition testimony? How many more opponents do we have on this bill? All right. Oh, if you're going to oppose, please come forward, we have some open seats in the front. Welcome. [LB309]

DAVID HONNENS: How are you, sir? [LB309]

SENATOR MURANTE: Very well. [LB309]

DAVID HONNENS: (Exhibit 2) Good afternoon, Chairman Murante, members of the Government, Military and Veterans Affairs Committee. My name is David Honnens, D-a-v-i-d H-o-n-n-e-n-s, and I appear before you today on behalf of the Nebraska Golf Alliance, which is an organization comprised of several statewide golf affiliated businesses including the Nebraska PGA, the Nebraska Club Managers Association, and the Nebraska Golf Course Superintendents Association in opposition of LB309 though could potentially impact the golf industry in adverse way. As the committee is aware, LB309 would eliminate daylight saving time resulting in it becoming darker sooner and impacting industries that rely upon evening activities outdoors. The golf industry is no different and in Nebraska there are a total of 286 golf courses that make up being a combination of 9- and 18-hole facilities. The dedicated men and women who operate these courses rely heavily upon members, customers, and guests who play golf after 4:00 p.m. Many of these golfers take part in golf leagues across the state. The following are just a few examples of how these courses could be impacted in a negative way: A multi-municipal golf course system that hosts over 40 evening leagues with over 1,300 golfers from mid-March through Labor Day derived \$762,000 in revenue from 4:30 p.m. to dark in 2016. Losing an hour of sunlight is estimated to impact not only these golf leagues but twilight golf resulting in losing hundreds of thousand of dollars. A prominent daily fee course in Omaha stated that based upon 2016, twilight golf accounted for \$70,000 per year which included a round of golf, golf car rental, food and beverage. The same facility said the driving range sales would be affected by \$18,000 and possible more. Besides getting rid of twilight rounds, you would also make it difficult for golfers to play 18 holes of golf after work. We could argue that it's just an hour, but

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in my industry it's just not the economic impact we're concerned about but the overall loss of inactivity of those who golf as their outlet for physical exercise. In October of 2016, the World Golf Foundation announced the launch of Golf & Health Project in cooperation with the University of Edinburgh, the physical benefits included improved cardiovascular risk-factor profiles, improved blood glucose levels, and increased life expectancy of up to five years. Psychological benefits included improved self-esteem, improved confidence, and reduced anxiety. Golf also provides a great opportunity in developing interpersonal skills, emotional control, and enhancing social connections. The Nebraska Golf Alliance urges you to indefinitely postpone LB309. I appreciate your attention, Chairman Murante and members, and will try to answer any questions that you may have. [LB309]

SENATOR MURANTE: Thank you very much for your testimony. Senator Blood. [LB309]

SENATOR BLOOD: Thank you, Chairman Murante. Do you work at a particular course in Nebraska? [LB309]

DAVID HONNENS: I'm actually the CEO of the Nebraska Section PGA. [LB309]

SENATOR BLOOD: Oh, that's why you look familiar to me. Okay. So what do you know about golfing demographics? [LB309]

DAVID HONNENS: I do know, Senator Blood, to your question earlier, there's 51 golf courses in Omaha. [LB309]

SENATOR BLOOD: And Omaha has more golf courses per capita than any city in the United States, right? [LB309]

DAVID HONNENS: To address that statement earlier, yes. [LB309]

SENATOR BLOOD: Thank you. I tried to give them the answer, they didn't... [LB309]

DAVID HONNENS: No, that's okay. [LB309]

SENATOR BLOOD: So...that part was a joke...so here's a question that I have. And I agree, younger people aren't golfing, just like younger people aren't playing Keno, they're doing virtual sports on their phones. But, with that said, what is the average age of the golfers in Nebraska? [LB309]

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DAVID HONNENS: You know what, I'm going to address your first statement. I'm proud, it was addressed that Nebraska is number 20 in the country. We have one of the most successful junior golf tours in the country going on currently in the state of Nebraska since 2013. Rounds are up hundreds of percent, and, in fact, we're going to have over 1,300 young men and women this summer play. Golf is up. And since 2014, rounds of golf being played are up over 5 percent. So, yes, nationwide we're struggling, but I'm proud of our industry and what's happening. [LB309]

SENATOR BLOOD: But what is the average age of the golfers in Nebraska? [LB309]

DAVID HONNENS: You know what, I can follow up with that information, Senator. [LB309]

SENATOR BLOOD: Don't we have a substantial amount of Baby Boomers that play golf? I'll help you out with the answer...that play golf in Nebraska? [LB309]

DAVID HONNENS: I apologize, Senator Blood, I don't have that. I do know that about 2.3 million rounds were being played last year. [LB309]

SENATOR BLOOD: We do have a substantial number of Baby Boomers that play golf in Nebraska. [LB309]

DAVID HONNENS: Yes. [LB309]

SENATOR BLOOD: And they play rain, they play snow...as long as the course... [LB309]

DAVID HONNENS: Correct. [LB309]

SENATOR BLOOD: ...is open they let them play. [LB309]

DAVID HONNENS: Yes. [LB309]

SENATOR BLOOD: And because we have an aging demographic, that means that you have a nice foundation of golfers, at least right now, in this decade in Nebraska... [LB309]

DAVID HONNENS: Correct. [LB309]

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SENATOR BLOOD: ...if you get asked that question again. So I guess I knew the answer, I just wanted to hear it from you. [LB309]

SENATOR MURANTE: All right. Are there any additional questions? Senator Brewer. [LB309]

SENATOR BREWER: Well, since we have golfing experts here--for clarification, I did some quick math here, because I think we need to resolve this now, if you were to look at just Bellevue, you have 55,510 in the last census. Does that sound about right? [LB309]

SENATOR BLOOD: Yep. [LB309]

SENATOR BREWER: You have five golf courses. The combined holes are 72 holes. You divide the two, you get 770 people per hole. If you should go to Mullen, Nebraska, you have 499 people and 36 holes which comes out to 13.8...just for clarification. [LB309]

SENATOR BLOOD: But I have to clarify, it's golf courses per capita; so Omaha still beats both of us. Although both of our communities... [LB309]

SENATOR BREWER: I'll have the results for you at the end of the day. (Laughter) [LB309]

SENATOR BLOOD: Although both of our communities are probably more awesome. [LB309]

SENATOR BREWER: Thank you. [LB309]

SENATOR MURANTE: Statistics are fun. All right. Senator Briese. [LB309]

SENATOR BRIESE: Thank you, Chairman Murante. And thank you for being here, thanks for your testimony. I assume from your testimony you have no estimate of the overall impact in dollars to the golf industry in Nebraska that this would create? [LB309]

DAVID HONNENS: Senator, at this time that's an economic study that we need to do and update. In 2011, at Nebraska Golf Day, Governor Heineman recognized the golf industry being worth over \$260 million to the state of Nebraska. And since then, I can tell you, it has substantially increased in rounds, revenue, and food and beverage. [LB309]

SENATOR BRIESE: Okay, very good. But as far as the impact of this particular measure, we don't have a good overall number on that? [LB309]

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DAVID HONNENS: We're working on it as we speak. [LB309]

SENATOR BRIESE: Thank you. [LB309]

SENATOR MURANTE: All right. Senator Lowe. [LB309]

SENATOR LOWE: If the country was to decide to go daylight saving time year round, you would be in favor of that though? [LB309]

DAVID HONNENS: Yes, sir. [LB309]

SENATOR LOWE: Okay. [LB309]

SENATOR MURANTE: All right. Seeing no additional questions, thank you for your testimony... [LB309]

DAVID HONNENS: Senator Murante, thank you. [LB309]

SENATOR MURANTE: ...much appreciate it. Additional opposition testimony. Welcome. [LB309]

STACEY HELGET: Hi. My name is Stacey Helget, S-t-a-c-e-y H-e-l-g-e-t. And I'm just, basically, here to give my personal, strong feelings to keep daylight saving time because like a lot of people have complained about their health, I feel like it's a mental health for me, it's very helpful. I'm one of those strange people in the world, I never change my time, I keep it daylight saving time all year round. And for people like me who work 8 to 5, it's really important for me to start my day earlier, get done with my work earlier so I have that daylight to enjoy. I don't play golf, but I play softball, and I like to ride motorcycles, garden, spend more time outside, and I feel like it gives us, people like me, more time to do that. I feel like people who work like outside if they're construction people, they would probably like to start their day a little earlier when it's cooler in the summertime. Overall, I just really feel like my mental health is much better and my favorite times of the year is to change the clock. So I'm really excited for two weeks from now. And I just felt like daylight saving time needed somebody to stick up for it, so that's why I'm here. [LB309]

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SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? Seeing none, thank you for coming down. Additional opposition testimony? Mr. Young, welcome to the Government Committee. [LB309]

PHILIP YOUNG: Used to be a very familiar place for me, but not as of late. Thank you, Chairman Murante, members of the Government Committee. My name is Philip Young, P-h-i-l-i-p Y-o-u-n-g. I'm here today representing myself, although I'm here today to talk from the standpoint of youth sports. I'm a resident of the city of Omaha, proud member of Senator Craighead's district. And I'm also on the board of a youth's sports organization that represents about a thousand families who play baseball, softball in central and west Omaha. There's, obviously, thousands of other families who are involved, and tens of thousands of kids, but ours is strictly logistical. We start our games on April 15th. A softball game takes about an hour and a half. Baseball takes anywhere from an hour and a half to two hours to play. And the fact of the matter is, for us to be able to start then end by July 4, which we try and do for the convenience of families, and it's been that way for decades, it's impossible to do, it would be impossible to play those games starting in April. We'd have to move things back, but we try and get done by July 4 so families can then take the months of July and early August for vacations or do whatever. Many of our families intentionally schedule their vacations for that period to do that for their summer vacations knowing that we'll be done by July 4. People have said, why don't you just get lights? Our facility is eight fields located just south of 114th and Dodge in a park in Omaha. It's a great facility and we've invested a whole lot of money in it, but it's in the middle of a neighborhood. And for us to put lights on our fields...we've thought about it and we've looked at it, the economic impact is \$90,000 per field, which is very significant. And for the most part, it's out of our financial scope. But secondly, it also would be a huge fight with neighbors. Thirdly, we really don't want necessarily, during school, have kids playing games too late at night. However, after Memorial Day, because of daylight saving time, and when daylight saving time is kicked in, from late May through June, we have doubleheaders; we're able to do that with natural light, even with baseball two-hour games. And you can say, well, why don't you just start earlier? We already start games at 5:30. Starting games any earlier doesn't allow parents a chance to get off of work, get home, get their kids together, make sure they have their glove, their bat, their helmet, and they have their cleats or their uniform out of the laundry or whatever, and get them to the game on time. Most teams try and show up a half hour early to stretch and warm up and so you're talking if at 5:30 it's already 5:00 when you're asking some parents to have kids there, and even that's impossible. Lastly, at a time when...and the orange light is appropriate...lastly, at a time when people are really worried about childhood obesity issues, spring softball and baseball is an opportunity to get kids out of their home, away from a screen, and outdoors on grass and dirt running around playing a sport. It also teaches teamwork and a lot of other...and very important elements of social development that video games don't. We think it makes for stronger youth, stronger people, not necessarily stronger thumbs on the video games, but we think it's really important. It might be trivial to some, by it's not really a financial thing for us, it's just...it

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would be logistically impossible if daylight saving went away. We probably would...or I would be supportive of daylight saving time year round from that standpoint, if you want to get consistent with it, if we had to pick one or the other, I'd go with daylight saving time year round. But not having it would be impossible for our organization and many others throughout Nebraska. I'd be happy to answer any questions. [LB309]

SENATOR MURANTE: All right. Thank you for your testimony. Are there any questions? Seeing none, thanks for coming down today, much appreciate it. [LB309]

PHILIP YOUNG: Thanks. [LB309]

SENATOR MURANTE: Is there any additional opposition testimony to LB309? Seeing none, is there any neutral testimony on LB309? Senator Brasch. [LB309]

SENATOR BRASCH: Members of the committee, and to all of those who came here and traveled some distance, I want to thank them for their testimony on all positions. I was pleasantly surprised at the families that did come forward here. And I'll be the first to say I was wrong, I thought no one would come testify. I thought who would take time off work, who would make the trip? I was sure I was going to be here with no one behind me that would take the time to come here. So I thank them, regardless of what their position is. And I do want to assure you that I respect the golfing industry and the sports industry, they are very important to our state. Go Big Red. We know we love our sports. And I think it's important to note that the time change is problematic. It's problematic on our health, that we talked about the health, we talked about the animals, we talked about our families, public safety, you know, we have to take all of that into consideration. And I do not fear being the only state to step forward. We're the only state that has a unicameral. Oh my gosh, are we strange for that? You probably heard that, but we're proud of that. And oh my goodness, we're the only state with public power; we take pride in that. We're the only state with NRDs. Nebraska is unique. We are in the center of the country and we're proud to stand within our own realms. If there is a need for a sunset clause that we're afraid to step forward, that should two years go by and no other states will step forward, we could introduce an amendment of a sunset. The other is that we could also put in an amendment to pass a resolution if it's, indeed, that we are looking for daylight saving time on a year-round basis, that resolution needs to be sent forward to Congress; Congress needs to make that exception and that allowance. No, that is a possibility. We see golfers in the spring before we see our first robin in many cases. I believe that the golfers...you know, they're very competitive. I can hear it from Senator Brewer on his pride and his golfing community and I do believe that the time allowance is important, that this is something that you'll need to visit with your constituents about. I've heard from many of your constituents on this, not just mine, not wanting to look for that manual they threw away years ago on how to change that clock radio, in an older vehicle, and going

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through your whole house setting the clocks back. How do we change our batteries? I think Groundhog Day is a good idea. But I would like your consideration. You have a lot of information to read. I'm happy to answer any questions now or after this hearing. Thank you again. [LB309]

SENATOR MURANTE: Thank you, Senator Brasch. And I just want to be clear on one point as it relates to the federal law on this, my understanding...and this goes back to when Senator Schilz introduced this, is that we have the legal authority to fall back and stay there, but we do not have the legal authority to spring forward and stay there. Is that accurate? [LB309]

SENATOR BRASCH: I will... [LB309]

SENATOR MURANTE: We can participate in daylight saving time which goes from spring to fall... [LB309]

SENATOR BRASCH: Let me verify that. [LB309]

SENATOR MURANTE: ...but we cannot...and we can opt out, which case... [LB309]

SENATOR BRASCH: All right. [LB309]

SENATOR MURANTE: But that's my understanding. [LB309]

SENATOR BRASCH: So that would be our resolution? [LB309]

SENATOR MURANTE: Right. What the other states have done is introduced a resolution encouraging Congress to change that federal law. [LB309]

SENATOR BRASCH: Correct. To spring...to stay in spring forward. Yes, but we don't need Congress if we choose to opt out. But if we want to go, as some had said, permanent daylight saving time, we do resolution encouraging Congress to do so. [LB309]

SENATOR MURANTE: (Exhibits 3 and 4) Okay. All right. Any final questions? Seeing none, thank you very much. We do have letters of support from Doris Royal from Springfield and Joyce Schram of the Nebraska Agri-Women. And that closes our public hearing on LB309. We'll proceed to our final item on the agenda, LB252. Senator Crawford. Senator Crawford, welcome back to your Committee on Government, Military and Veterans Affairs. [LB309]

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SENATOR CRAWFORD: I haven't spent near enough time in this committee this year. Good afternoon, Chairman Murante and members of the Government, Military and Veterans Affairs Committee. My name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th Legislative District in Bellevue, Offutt, and eastern Sarpy County, and honored to be here today to introduce LB252 for your consideration. LB252 requires the reporting and disclosure of electioneering communication. In 2012, Senator Avery introduced a similar bill, LB754, to address this issue. LB252 does not restrict what can be said in electioneering communication or limit free speech in any way. Instead, LB252 simply provides for reporting mechanism that creates more accountability in our state's elections. If outside groups or organizations are pouring money into Nebraska to shape campaigns in our state, the campaigns and citizens have a right to know who they are. LB252 requires that any corporation or person who makes an electioneering communication in an amount of more than \$250 file a report of such communication with the Nebraska Accountability and Disclosure Commission. The bill narrowly defines electioneering communication as any communication that refers to a clearly identified candidate, is publicly distributed in the 30 days immediately preceding an election, and is directed to the electorate of the office being sought by the clearly identified candidate. Under current law, groups and individuals are not required to report communications that are intended to be educational. Unfortunately, what is "educational" has been misconstrued by various groups who use this exception as a loophole to distribute communication and avoid reporting for ads that are obviously directed at or elude to a candidate and advocate or are against said candidate. Some of these ads identify or name the candidate, but not explicitly mention the upcoming election. These ads use creative language to encourage the electorate without saying outright vote for or against X candidate. Creative evasion of explicit statements does not make a persuasive electioneering mailer an educational communication. There's no doubt that distributing these types of communications is a constitutional right. They should, however, be reported in a manner similar to how other communications in our state that work to influence elections are reported. By requiring disclosure for electioneering communications we ensure transparency and give candidates the opportunity to publicly respond to groups and organizations that may have...and what is included in their ads including if they consider that they have misleading ads. It is important to note that communications that are truly educational in nature are excluded from the reporting requirement outlined in LB252. Exclusions include voter guides, a communication while the Legislature is in session about specifically named pending legislation, a candidate debate, a communication for any news story, editorial, or communication by a membership organization to its members. Electioneering communication in this bill does not include a contribution or an expenditure. The reporting requirements in LB252 mirror those required for independent expenditures in Nebraska already as outlined in 49-1467. These reporting requirements provide transparency so that constituents can better understanding who is communicating with them during the course of an election and hold those influencing our elections accountable to the statements that they make about candidates. Recent Supreme Court cases have ruled on electioneering communications. In 2010, the U.S. Supreme Court ruled in

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Citizens United v. FEC that corporations and labor organizations are allowed to make independent expenditures and to fund electioneering communications. This ruling did not affect the reporting requirements for independent expenditures or reporting requirements for electioneering communications. In fact, the court upheld in this ruling that reporting requirements for these types of expenditures are, in fact, constitutional. The federal government requires reporting and disclosure for electioneering communications like those outlined in LB252 in federal elections. LB252 though is not as strict in some ways as the federal reporting requirements which define the electioneering period as 60 days before the election and do not exclude voter guides. This helps to bring some, again, transparency and accountability to the state level. LB252 does not infringe upon free speech because the negative campaigning or spending during the election season can still continue. However, these organizations and groups working to influence our elections will need to identify themselves. And LB252 is an important step the committee can take to uphold the integrity of elections across our state. And I want to turn to one other issue before I close my opening and that is I had some communication from people who were concerned about the...their concern was that the bill would eliminate...would make any contribution they made to an organization reportable; and their concern was--can I belong to an organization and contribute to an organization that we should not be interfering with that ability to do that. So what I want to point out is on page 3 in the bill language...page 5 in the bill language, the section of the bill that discusses the contributions of individuals to an organization engaging this behavior is on page 5, starts on line 20. And this language, it comes from...is similar to the language we already have in our statutes on independent expenditures, which is when an organization is spending money not coordinating with the candidates. And again, the purpose of...a key purpose and intent of LB252 is to really close a loophole in independent expenditures that exists because the communication it happens in a way they're not saying vote for or vote against. So just like federal law has electioneering rules to close independent expenditures and the federal level does provide that at the state level. And so the language indicates that the name, address, and the principle place of business that the person who contributed more than \$250 to the electioneering communication. And so it's a pretty narrow focus on reporting if someone is specifically contributing to the organization for that said electioneering communication. And Mr. Daley from the NADC Commission is here and perhaps if you would like to ask questions about how that works or what that looks like for independent expenditures you can do so. But I just wanted to point out it's not any contribution to organization, it's narrowly construed and it would be implemented, regulated in the same way that we do currently on independent expenditures and he may be able to tell you a little more about what that looks like for independent expenditures. There was also a good question before the hearing from the Chair about commercial communications, if someone owns a business or there's a communication that mentions a candidate selling pizza or law services or something else, so that's an interesting exception that could be considered in terms of how to carefully craft it so that would not be considered electioneering communication, even though it goes to the same market and mentions the candidate. I think that's perfectly understandable as something

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that could be avoided in terms of falling under this law. An interesting question if there's any federal statute, regulation, or case that explains that commercial exception at that level. So with that I'm going to go ahead and close my opening. And I appreciate your attention to this issue. And I intend and hope to be here to close, to answer questions, again, at that point as well. Thank you. [LB252]

SENATOR MURANTE: All right. Thank you for your opening. Are there any questions?
Senator Hilgers. [LB252]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Senator Crawford, for being here today, for your opening. I probably have a lot of questions for Mr. Gould when he comes up on the point that you raised, but one question I have, I mean, you raise...I mean, you say there's an important principle here of transparency, and I take that and I understand that. But isn't there an equally...or another principle that we want to protect people's ability to speak with unpopular political opinions, and I think this has gone on throughout the founding...since the founding of our country, but even today, especially today, where you see people using economic leverage to silence those who might have unpopular opinions. And if you...my concern is that by having...under the rubric of transparency by forcing people to put their names on it, they won't speak at all for fear of being punished economically or otherwise for their unpopular political views. So could you speak to that...that concern and how that plays within LB252? [LB252]

SENATOR CRAWFORD: Sure. As an important deliberation in terms of the balance of all the principles we're trying to uphold, and in this case because it's narrowly construed to electioneering campaigning the focus is on the integrity of the election as a key principle, and again, not limiting the ability of someone to contribute to organizations that may speak on popular messages, but only narrowly providing transparency on the communications that organization may provide that directly communicate about candidates for an election. And so I think that the argument would be that that content that is directly influencing an election and speaking about a candidate is speech that disclosure is appropriate. And so far the constitution has continued to say that disclosure is appropriate in content that is about a candidate and directed toward voters. [LB252]

SENATOR HILGERS: So would you say...and I don't know, and I haven't looked, although my initial sense is a disclosure law would not be unconstitutional, but I haven't done that research and it very well might be, so would you say...if someone were to say this might silence political speech would you say--Senator Hilgers, I disagree with your premise and I don't think it will silence speech or will you say I think that it might silence some speech, but that does not outweigh the transparency...the value of having additional transparency or do you say something else? [LB252]

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SENATOR CRAWFORD: I think that part of the purpose of transparency and accountability for election communication, one, is so that there is, like, a responsibility behind speech and so people know that if there is a...what message is given that there is a record and understanding of who contributed to that speech. So and...I think that it is the case that there may be some people who might speak if they didn't have to make known their view on a particular candidate. Or there might be types of messages that someone would be willing to make if it was anonymous, but uncomfortable making if their name is on it. And it is true that this law stresses the importance of accountable speech. And so...and that principle outweighs the emphasis on any kind of speech, and I think that's part of our principle. The free speech is always a balance, it's not an absolute right. And so you're weighing those principles. [LB252]

SENATOR HILGERS: Okay, thank you. One of the questions that has been raised to me and I've heard it about as I was thinking about LB252, sort of thinking about how it applies, is that this could be construed to be sort of an incumbent protection bill, and because probably the most unpopular type of speech are the ones going after incumbents because they have votes and they have political power they can wield against their political adversary. And so how would you address...how would you answer those who would bring that as a concern and say--you know what, this is just really an effort to...I mean, I'm sorry, I don't mean to suggest that...this is your...I mean, I understand you're not taking (inaudible). I want to be very clear, I'm not suggesting that. [LB252]

SENATOR CRAWFORD: I hear you. Right. Right. [LB252]

SENATOR HILGERS: But from...for someone who would raise an argument that LB252 would act as, really, additional audit would just really primarily protect incumbents, how would you respond to that concern? [LB252]

SENATOR CRAWFORD: So again, I would say it is not in any way limiting the amount of speech that can be communicated nor the content that can be communicated. I don't see on its face any reason why it would be more burdensome to a challenger's campaign than an incumbent's campaign. In general, challengers face a more uphill battle on all fronts. And I don't think this poses an additional challenge in terms of more burdensome...that the regulation itself is more burdensome on a challenger's campaign. [LB252]

SENATOR MURANTE: I have a follow-up for you, Senator Crawford. I see where you're coming from, because in the world of political speech, when we get into NADC, there's sort of two different pots that are being treated differently, express advocacy--vote for Senator Jones or Senator Jones voted for X so vote for Senator Jones. Then there's indirect advocacy which...my term which is you're not saying vote for a candidate, you're saying Senator Jones did something,

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call Senator Jones and tell him how terrible of a person he is; and that is supposed to not actually be electioneering, even though it's done the week before the election. And I see where you're coming from where the intent of both communication is the same, it's to influence the outcome of an election. But your bill applies how you define electioneering communication is simply referring to a candidate in any form or fashion. So you (inaudible) the example that was brought up in 2012 that I brought up to you of Hauptman, O'Brien, Wolf, and Lathrop runs a commercial like they always run a commercial, but it refers to Senator Lathrop who might be running for an office and therefore that is now deemed electioneering communication, even though it's not...clearly not intended to influence the outcome of any election. And I don't know how they would comply with this, like so they would have to report all their clients and how much money they received so that they could report how they were able to pay for...so my problem is with what I view to be a broad language. And I'm curious as to if you have any suggestions on how to narrowly tailor it to focus on that second pot of communication which is, I think, most reasonable people would agree is simply exist for the purposes of influence the outcome of an election. [LB252]

SENATOR CRAWFORD: Right. My understanding is that the broader definition is similar to the federal definition. And so there, again, there may be federal regulation or federal case law that helps with that distinction. I think that the challenge of figuring out how to narrow it is to not do so in a way that just creates another loophole. I think the emphasize is if an organization is sending out communication to people through the voters in a campaign in that immediate window before that there is a concern about that...trying to keep track of that kind of communication. And so, again, we could look at any regulation or case law if this has come up as an issue in federal cases. But I think that...or it would be an issue of some kind of commercial exclusion. (Inaudible.) [LB252]

SENATOR MURANTE: Sure. And I'm not sure what the federal law is, but I do think that...let me ask you this question, do you think that there are means of communication which might refer to a clearly identified candidate which are not for the purposes of influencing an election? And I think maybe you and I could probably agree, it's not electioneering in the broad sense... [LB252]

SENATOR CRAWFORD: Right. [LB252]

SENATOR MURANTE: ...but it would qualify under this statute, would you at least (inaudible) to this? [LB252]

SENATOR CRAWFORD: So...and actually, let me come back, because another reason that...another important factor to consider, as you're considering how the bill is carried out, is

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that you do have the Accountability and Disclosure Commission and you have people who are directed to carry out and implement and interpret this law. And so... [LB252]

SENATOR MURANTE: But we're not asking to... [LB252]

SENATOR CRAWFORD: ...their job is to understand the intent of the law. Our job is to be as careful as we can be and be careful about our intent and clarifying things that make sense to clarify in law. But their job is also to take complaints and to...in their job of enforcing the law to be clear that they're following the intent of the law. And so I think if there are communications that somehow include a candidate's name that aren't in...recognized as what we're trying to enforce as electioneering communication. Part of that is also going to be managed by the interpretation and the implementation of the law by the people we're asking to carry this out. [LB252]

SENATOR MURANTE: Sure. I just...if that's the case, then I think we're putting NADC in a really tough spot because they would look at that Hauptman, O'Brien commercial and say, well, the Legislature gave us...told us what electioneering communication means and it means three things: one, it refers to a clearly identified candidate--check, it does that; two, is it publicly distributed in the last 30 days immediately proceeding an election? Check, it did that. Three, is it directed towards the electorate of the office sought by the clearly identified candidate? Check, it did that. So they're going to look at this law and say it met all the definitions of what the Legislature told us electioneering communication is, but now they're supposed to make the interpretation--well, but it wasn't really intended to be...so I don't know how we can craft this to make it such that we're not putting NADC in an impossible situation. [LB252]

SENATOR CRAWFORD: And that is the wonderful benefit of a public hearing of laws. And when our government agencies and commissions are willing to come and testify so that we can get their feedback and ask that same question to them and have their feedback to see what clarification might be essential or how they have interpreted that in other cases where there may be questions. So I think it's an excellent question and I'm delighted that they're here to help build public record on that question. [LB252]

SENATOR MURANTE: Okay, perfect. Thank you very much. Senator Craighead. [LB252]

SENATOR CRAIGHEAD: Thank you, Mr. Chairman. Thank you for introducing this. Now, would this bill increase the transparency of what I refer to as dummy PACs, those organizations who have a name and a treasurer, but they have no money, and money is funneled in from other organizations and then mailings, or whatever, goes out with that? Would that require those dummy PACs to...would there be more transparency? [LB252]

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SENATOR CRAWFORD: So this focuses on the identity of the organization that purchases that communication, so the one that is responsible for the communication. And then, again, it will be...you can ask how this gets interpreted or implemented in terms of independent expenditure. And then when money is coming in for the expressed purposes of electioneering communication, that entity...those sources of money would need to be reported. You may raise an interesting issue of organizations giving organizations and that's an interesting question of figuring out how that plays into the dynamic and the importance of recognizing that that is a situation that happens and how the law will apply. [LB252]

SENATOR CRAIGHEAD: It sounds like from just what you answered though, that if there was, say, dummy PAC A and organizations B, C, and D gave to that dummy PAC A then B, C, and D would have to be listed under dummy PAC A, right? [LB252]

SENATOR CRAWFORD: As it's written, if they're giving for the express purposes of this electioneering communication, so it's a...that's still a pretty big loophole as I understand it. [LB252]

SENATOR CRAIGHEAD: Okay. [LB252]

SENATOR MURANTE: Are there additional questions? Senator Hilgers. [LB252]

SENATOR HILGERS: Thank you, Mr. Chairman. One more, I think one more question, Senator Crawford, I really appreciate the back and forth. So I think, when I hear a lot of the public...or the news reports about this type of legislation, they usually talk about Trees of Liberty, I think is the most recent group du jour, although for record purposes I'll note Competence Nebraska is a group that's spent, I don't know how much money, but a lot, lots against my good friend, Colonel Brewer here. Those are, as I understand it, those are C(4), they're not corporations, they're not labor unions, and I understand that. Those are the types of groups that would be largely impacted by your bill, but let me ask you, probably the largest...the entity that spends the most amount of money, and I think it's probably not even close to any other entity or person in Nebraska politics and particular legislative races is the Nebraska Teachers Union. How would your bill impact, if at all, the spending and disclosure for the teachers union? [LB252]

SENATOR CRAWFORD: So what it does is any communications that the NSEA engages in that, again, mentions the candidate and are directed to the electorate in the 30-day window, right now those would be regulated as independent expenditures if they did it themselves if they were the more traditional vote for candidate Smith. But this says even if the NSEA spends money and sends out fliers that says Senator Hilgers hates teachers, call him and tell him how terrible that is

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in that window, that would be considered electioneering communication and would be regulated. [LB252]

SENATOR HILGERS: So the union would be...the donors to the union...individual teachers would not, they would not be disclosed, but in this case...in that case the...we would know who the organization behind it but not the donors behind it by name or address, those would not be disclosed, correct? [LB252]

SENATOR CRAWFORD: Correct. It is indicated if NSEA had a special...that's the part that I think is going to be interesting to hear as we hear how that is carried out--independent expenditures. It is intended to be narrowly construed so it's not anyone who has ever contributed to NSEA is pulled in. And the federal law, they actually have like a window in which contributions to an organization are considered contributions towards electoral communication, so there is a precedent, as I understand it, federally for tracking individual contributions when they're in a way that is directly related to that flyer that gets sent, but it, again, is to be narrowly construed, not anyone who is ever given to the NSEA, or Trees of Liberty, or whatever the organization, but instead if there is a drive or a focus to pull contributions just for that. Now one argument is that one way that that can be understood or interpreted is when there are groups that do a lot of communication, people are giving for lots of reasons to those groups, if there is a group that through its reporting and reports pretty much the only thing they do is independent expenditures and electoral communication, that then may raise a red flag that they are really asking for money for people that is really directly related to electioneering communication as opposed to broader educational purposes. [LB252]

SENATOR HILGERS: Okay, thank you. [LB252]

SENATOR MURANTE: Thank you. Senator Lowe. [LB252]

SENATOR LOWE: Thank you, Chairman; and thank you, Senator, for bringing this. Would this allow inference say...I'll use me as an example. If somebody was coming after me and they would say a certain person from the city of Kearney who's running for a state office that has started businesses has done this and this and this in their past life. Would this do anything for that organization that was coming after me, without ever mentioning my name or the office? [LB252]

SENATOR CRAWFORD: So the language is that it refers to a clearly identified candidate. And part of that is the interpretation of the clearly identified candidate and is the infer...what people can infer really clearly identifying with you even though it does not say your specific name? [LB252]

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SENATOR LOWE: Or the office or anything else. [LB252]

SENATOR CRAWFORD: So it focuses on clearly identified candidate as a key in terms of who the target is. [LB252]

SENATOR LOWE: So it still could happen? [LB252]

SENATOR CRAWFORD: It still could, then yes. If it doesn't say your name, but everything else about the communication is clearly identifying you, but just not with your name, that would still be covered, yes. [LB252]

SENATOR LOWE: Okay. [LB252]

SENATOR MURANTE: Senator Blood. [LB252]

SENATOR BLOOD: Thank you, Chairman Murante. Senator Crawford, two questions: Did you work with Mr. Daley in the crafting of this bill or to talk to him a little bit about what concerns, maybe, he had and then try to partner with his concerns? [LB252]

SENATOR CRAWFORD: So, yes, we did have conversations with their office and part of that is the bill was crafted a little different than 2012, we crafted it to have more of its separate section as opposed to just adding electioneering communication to independent expenditures, I think, was how it was crafted earlier, after some of those conversations. And so...and that...I believe that also Senator Avery had conversations with communications as well, so there is...these bills have both been constructed in communication with the people who would be carrying them out. [LB252]

SENATOR BLOOD: And then I found it to be narrow so I'm not...I hear some others that it sounds broad to them; to me it sounds narrow and to me it sounds like...I mean, you say "candidate." I don't see how the commercial for attorneys and a candidate promotion are (inaudible)... [LB252]

SENATOR CRAWFORD: But that's an interesting... [LB252]

SENATOR BLOOD: I think it's a really interesting concept, but for me, but maybe that's just how my mind works, I can't see them blurring the lines. How did...can you give me examples of why this bill is necessary? [LB252]

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SENATOR CRAWFORD: So I think it is necessary because there is such a clear loophole in independent expenditures. Independent expenditures is our effort to keep track of money that people are spending and communicating in our races that's not coordinated by the candidate. And sometimes as candidates we really don't like what they say, even if it's supposed to be on our side, supposedly. And so we...and so the clear loophole is that there is speech that's clearly designed to influence the election. And that's, I think, where it gets...it's not designed to sell pizza, it's designed to influence the election and... [LB252]

SENATOR BLOOD: Right. [LB252]

SENATOR CRAWFORD: ...but because it includes language that allows it to...because it includes language that seeks to be construed as educational by not referring to the election that it is then not included or regulated by our election laws in terms of disclosure. [LB252]

SENATOR BLOOD: Do you have, not to put you on the spot, I certainly wouldn't want you to use your own campaign, because I'm sure that that happened to you and to many, many, many candidates, be they incumbents or not, can you give me an example, maybe, something that happened without using names that would cause one... [LB252]

SENATOR CRAWFORD: So the example...so...and I...there are a couple of testifiers that are coming where they did personally see it in their campaigns, so they'll be able to talk a little about bit more what the content looked like in their own races and what the ads looked like. In my race personally, the communications that I saw or heard were independent expenditures so I did not see a lot of this kind...type of communication in my race specifically. And that's, I thought, one reason why I wanted to be a person to carry it because I didn't...I wanted to make sure somebody...it was good to have somebody carry it that wouldn't be seen as a vendetta... [LB252]

SENATOR BLOOD: A vendetta. [LB252]

SENATOR CRAWFORD: ...or something of that nature. But it really is the content looks just like another negative ad except it says contact Senator X or contact Sam Smith instead of vote for or... [LB252]

SENATOR BLOOD: So if I hear you correctly, and maybe I'm not, so correct me if not, I hear you saying this is more about integrity, ethics, making sure that if people put this negative information forward that we truly know where the information comes from so we know its true intent? [LB252]

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SENATOR CRAWFORD: So it is, again, about integrity because I guess by its nature a...pursuing loopholes are...when we see something and we call it a loophole it's generally because we think there's a way around what's considered to be the acceptable practice and principles. So it is about the integrity of the election communication that is influencing a race. And if there is communication influencing a race that...and is being funded, we have as a principle the importance of disclosure of communication that influences elections. And this happens to be an element of communication that influences elections that's funded in a race that currently is not being...does not have those disclosure rules and so it happens without disclosure. And again, understanding who is trying to influence the race is part of it, as well as simply the accountability of if someone is influencing the race being held accountable for the fact that they are influencing the race and not controlling what they say but saying if there is speech that may influence the race there is someone who stands behind that speech and is accountable for that speech. [LB252]

SENATOR BLOOD: Thank you. [LB252]

SENATOR MURANTE: Thank you, Senator Blood. Is there any additional questions? Seeing none, thank you for your testimony. [LB252]

SENATOR CRAWFORD: Thank you. [LB252]

SENATOR MURANTE: We will proceed to proponent testimony. Welcome. [LB252]

JACK GOULD: (Exhibit 1) Senator Murante, members of the committee, my name is Jack Gould, that's J-a-c-k G-o-u-l-d, and I'm here representing Common Cause Nebraska. Before I get into my actual testimony, I just want to preface it by saying that when I wrote this I was pretty angry. I was angry because I saw a lot of good people trying to do a good job here in the Legislature who were attacked late in their campaigns by anonymous sources who told lies, outright lied. And the concern that I had was this is our democracy going down the drain, because if we allow groups like that to attack people, how do we get good candidates to run for office? That's what it comes down to. Now again, keep in mind I was angry when I wrote this, but...and I need my glasses as well because I can't see worth a darn here. LB252 is an effort to gain financial information about secret money organizations that chose to issue political propaganda that attacks active candidates to public office. Our current laws protect anonymity of donors and allow tax exemptions. On the surface these organizations appear harmless, but in reality many deal in lies and character assassination. Their attacks often disrupt the election process and discourage citizens from running for office. Trees of Liberty is an example. The organization was active in 2014 in Iowa running attack ads against Mark Jacobs, a conservative Republican running for the United States Senate. His opponent, Joni Ernst, also a conservative

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Republican, had the support of the Koch brothers went with Ernst. It has been reported that Trees of Liberty spent \$257,000 on television ads alone and a total of \$347,000 on the entire campaign. And I bring that up because it's been pretty well reported that the Koch brothers created Americans for Prosperity and have been supporting organizations, including Trees of Liberty, as a second organization. The Koch brothers have unlimited funds and so do these organizations. So for a candidate in Nebraska to try to bring and counter the kinds of attacks when you're dealing with people with deep pockets, it's extremely difficult. Attack ads from shadowy organizations force candidates to divert their campaigns in an effort to correct the accusations. The amount of money needed to counter TV ads, robocalls, colorful mailings, handouts is often beyond the resources of the attack candidate. It is interesting that Trees of Liberty vanished from Iowa shortly after 2014 election only to reappear in Colorado in 2016 to launch ads against Nebraskans. This time it seemed to focus its attacks on Republicans that had voted to override the Governor's veto. Currently, individuals who fund organizations like Trees of Liberty and Americans for Prosperity are able to hide their identity. That means that lies can be told without being held responsible. It is a cowardly act. Everyone has the right to speak, but those who don't have the courage to stand behind their words are less than honorable. LB252 will require disclosure of those who donate and direct funds to specific ads that identify candidates by name. It will also require the disclosure of the amount spent. In Nebraska in 2016 election, Trees of Liberty was able to hide in Colorado, launch attack ads against named candidates, and reveal nothing about their expenditures. It is time to start holding these groups responsible. Am I done? [LB252]

SENATOR MURANTE: All right. Thank you very much for your testimony. I'd like to ask you to comment on Section 7 of this bill; and Senator Crawford, I probably ask you to maybe note this and reference it in your closing as well. It explicitly exempts from the bill corporations, labor organizations, industry trade or professional associations, limited liability companies, limited liability partnerships. [LB252]

JACK GOULD: Correct. [LB252]

SENATOR MURANTE: So the only thing anyone would have to do to get out of the confines of this bill is to incorporate. I'm wondering... [LB252]

JACK GOULD: You know, there isn't a law that people can't get around. I mean, people continue to rob banks even though we have a law against it. And there will always be people trying to get around the law. I think that the intent of this bill is something that the public wants. I think they're tired of the attack ads. And I truly feel sorry for people. I mean, think...you guys are sitting here now, there's nothing to stop an organization creating a name and attacking you and telling lies about you when you try to run for office and you're trying to do the right thing. I think

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this bill...and I know Frank Daley will address a lot of the details better than I, but I am concerned that if we allow this sort of thing to go on, it's simply going to take our democracy down the drain. And there's no way of countering these kind of lies if you don't have the resources to go back after them. And anonymous people are impossible to sue. [LB252]

SENATOR MURANTE: All right, thank you. Senator Blood. [LB252]

SENATOR BLOOD: Thank you, Chairman Murante. So now sometimes I think my brain works different, because when I read that, I see something else. So my question would be, it says a corporation, labor organization, industry, trade, or professional association, limited liability company, or limited liability partnership, which is organized under the laws of the state of Nebraska or doing business in the state and which is not a committee may go ahead and do these things. In your professional opinion, would that be because we already know who they are? I mean, when you're a limited liability company, you file the name of your business with the Secretary of State. When you're a labor organization, you file with NADC. [LB252]

JACK GOULD: Yes. Correct. Correct. [LB252]

SENATOR BLOOD: So would that maybe be the circumstances, because that's maybe how I'm reading it. [LB252]

JACK GOULD: Most of those organizations are identifiable. [LB252]

SENATOR BLOOD: Okay. [LB252]

JACK GOULD: I mean, the organizations that we're talking about generally are invisible. Even Americans for Prosperity was pretty much invisible about four years ago, six years ago. They appeared in Nebraska attacking a lot of candidates. And at the time we saw a lot of discussion among that organization with senators. And we, at that time, filed a complaint against Americans for Prosperity for lobbying without registering. [LB252]

SENATOR BLOOD: Right. [LB252]

JACK GOULD: And there was a huge amount of legal material that came flooding in. And in the end, they won. But the next year they registered as lobbyists. Now, I think it's important that groups like that be held responsible; and that's what we were trying to do at that time. [LB252]

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SENATOR BLOOD: So if I hear you correctly, these organizations are already identifiable for those that lobby if, indeed, they're following Nebraska's laws... [LB252]

JACK GOULD: Yes. [LB252]

SENATOR BLOOD: ...they are registering with Mr. Daley's office, because you have to be registered to lobby, and your concerns, as a proponent of this bill, is that there are people who do not have their name, necessarily, public and are allowed to be, basically, in stealth mode and say whatever they want about a candidate. [LB252]

JACK GOULD: Correct. The only thing we could find out about Trees of Liberty was to go to the Public Service Commission and ask to see what they had to disclose there. And all they had to do was say that they were Trees of Liberty, that a man by the name Mike Davis was the person who filed it. And then they had a phone number which I called and got no response. So we don't know who Mike Davis was. We don't know anything about who is involved with Trees of Liberty. And I think the thing that you have to understand is that these organizations are untrackable. And that makes it irresponsible when they go and make these accusations. [LB252]

SENATOR MURANTE: It's the stated intent of the bill, Mr. Gould, that it's not...the purpose is not singly to find a single contact name, the purpose is to, as stated plainly in the language, to do among other things identify the number of people who have contributed more than \$250 to these organizations for the purposes of electioneering communications. So are you aware of any corporation, limited liability, or otherwise that has to list their donors with the Secretary of State? [LB252]

JACK GOULD: Well, let me just clarify what you just said. [LB252]

SENATOR MURANTE: Simple question, yes or no. [LB252]

JACK GOULD: No, it's not a yes or no because in reality the only people that are going to be disclosed are the people who donate directly to that ad. It doesn't say that if you donate to the organization that you're necessarily going to be disclosed. There are a lot of 501(c)(4)s... [LB252]

SENATOR MURANTE: My point is, we're exempting corporations and the assertion was implied that we're exempting corporations from reporting...filing reports of electioneering communications (inaudible) and if the stated purpose is to find the contributors to these

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organizations, and I'm looking...Senator Crawford seems to be disputing it, but I'm looking at lines...subsection (2), lines 11 through 19 on page 6. [LB252]

JACK GOULD: It's not donations to the organization, it's donations to the ads. [LB252]

SENATOR MURANTE: Either way, they're exempted in the bill, as long as you're a corporation, labor organization, industry, trade, or professional organization...Section 7(2)... [LB252]

JACK GOULD: I don't have the bill. [LB252]

SENATOR MURANTE: Okay. [LB252]

JACK GOULD: Let me say, I will...I would say that Frank Daley can really answer that better than I can. I'm dodging the question, I feel like... [LB252]

SENATOR MURANTE: Okay. Fair enough. Fair enough, I'll ask...(inaudible). Senator Hilgers. [LB252]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Mr. Gould. I always like when you're here and your perspective and knowledge on these issues. I think one of the reasons, by the way, why you wouldn't just incorporate is because most of these entities operate as nonprofits, and if you incorporate and you don't want to pay taxes on the contribution, you want to be a nonprofit. [LB252]

JACK GOULD: Right. [LB252]

SENATOR HILGERS: Now, with nonprofits, typically they're 501(c)(4)s, maybe a (c)(3), but donors to those organizations are listed on a Form B or a Schedule B to the IRS. That form is confidential, cannot be disclosed. And so I've got a couple of questions relating to that form. The first one is, because you're dealing with...you're dealing with the subject area of disclosure of donors to nonprofits, because really I think this bill applies to nonprofits. [LB252]

JACK GOULD: Correct. [LB252]

SENATOR HILGERS: It doesn't apply to corporations. [LB252]

JACK GOULD: It does. [LB252]

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SENATOR HILGERS: Is that not preempted by federal regulations already relating to the 4(b) the IRS (inaudible) that says these have to be confidential? So now you're saying they don't have to be confidential. How would you respond to that? [LB252]

JACK GOULD: Well, let me put it this way. I think, you know, I am part of a 501(c)(4) and we do disclose our donors, we choose to. We don't get involved in electioneering, period. So we're going to narrow this down to those organizations that choose to be involved in electioneering first of all. [LB252]

SENATOR HILGERS: Well, let me tell...well, I won't ask you about that, but my first question is, why is this not preempted by federal statute? [LB252]

JACK GOULD: I don't know. Okay, I really don't. [LB252]

SENATOR HILGERS: Fair enough. [LB252]

JACK GOULD: I'm relying on him. (Laughter) [LB252]

SENATOR HILGERS: He does know all the answers. So on your point though, I take that it's described as being limited and I do take on its face the language is limited, it's not contributions per se, but I find this language in subsection (f) highly ambiguous and I think it would be uncertain...if I was on a (c)(4), I would find this very...I would be very uncertain about how this would be applied. Because suppose you gave a contribution to an organization four days before they actually ran an electioneer, but you had no knowledge of it. Would that be contributing to...if you had no knowledge of the electioneering...I have to go to Judiciary Committee (inaudible) (laughter). [LB252]

SENATOR MURANTE: That is a clean break. I've never... [LB252]

JACK GOULD: I'll talk to you later. [LB252]

SENATOR MURANTE: Honestly say I've never seen that before. All right. Well, without Senator Hilgers, I see no additional questions. Thank you for your testimony. [LB252]

JACK GOULD: Thank you. [LB252]

SENATOR MURANTE: Senator, welcome back. [LB252]

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JERRY JOHNSON: Thank you. Senator Murante and members of the committee, my name is Jerry Johnson, J-e-r-r-y J-o-h-n-s-o-n. Senator Crawford, I appreciate bringing this bill and I'm going to speak from my personal standpoint. You know, what we're talking about today can affect campaigns, some of it negative and some of it some people can benefit from these types of activities. When you start talking about flyers, TV ads, radio ads, phone calls, you know, goes a lot of different places. I'm not going to...I know you're not...we can't use charts and stuff like that, people have, but I'm just going to go through three of the flyers. I got about 20 of them. And you take \$3,500, that's what it cost me to run a flyer and you take that...it adds up to dollars and it gets pretty expensive to have a campaign. The first one I'm going to read, it's short, but it's one that I received that was in the mail four years ago when I ran for...the first time for the Legislature and it just reads: A proven record of leadership Jerry Johnson has the right priorities. It talked about supporting agriculture, protecting taxpayers, committed to family and community. It says Jerry Johnson is working hard to improve our quality of life. Mayor of Wahoo, call Jerry Johnson and thank him for his service to community. The phone number was city hall. It didn't reflect anything that I was running for an elected office. Okay? So that's what that one looked like. This year, there was another ad that...and this was produced by Nebraska Leadership Forum. Here I'll go back, my opponent said I can't find this anywhere in the records and I said I'm looking for it too, because I didn't know where it came from. I still don't know where it came from. We had people look and they found out a box number on one of these was a drop box for UPS. That's all we could find out about how to identify. This one here was an...supposed to be in favor of me, it talked about my opponent and had been quoted in a questionnaire that he was against property tax relief and it came out. I didn't like it. This was made by Commonsense Nebraska. We found out, because they reacted to that, that that was a misquote in the media, but it did damage to him and it didn't help me because they'd made a mistake. Here's another one that came out that gets pretty close to what I think some of this issue is and this one was by Americans for Prosperity: Our senator, Jerry Johnson, voted yes on a 23 percent gas tax increase. Tell Senator Johnson to stop raising taxes. Call his office. That was my legislative office. That gets pretty close to identifying not that I'm running, but that I am a senator and you put it together, to me that's kind of on the edge. Some of the flyers, you can't see this very well, but it has a picture of somebody in red that we see around the Capitol every once in awhile, in the corner office. Just...things kind of slanted that way. People need to know, I think, where...be able to identify these people that are spending this money, and whether it's positive or negative I think it needs to be clarified. I think we need to know somehow. I don't think it will ever clear up...or take away freedom of speech because you can say what you want, but identify what...where you get your money and I think they need to play with the same rules that all of us have had to play with with our own money that we receive from the lobbyists and where we get our money, anybody over \$250. I just think the playing floor should be leveled. And I'll close with that. It's getting the latter part of the day, and it's Friday, I know that. [LB252]

SENATOR MURANTE: Thank you, Senator. Are there any questions? Senator Blood. [LB252]

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SENATOR BLOOD: Thank you, Chairman Murante. So if I hear you correctly, the goal that you see of this bill is just to create an even playing field that's what is good for the goose is good for the gander? [LB252]

JERRY JOHNSON: Yeah. [LB252]

SENATOR BLOOD: To make it really short. [LB252]

JERRY JOHNSON: Yeah, really, yeah. [LB252]

SENATOR BLOOD: All right. Thank you. [LB252]

SENATOR MURANTE: All right. Seeing no additional questions, thank you for your testimony. [LB252]

JERRY JOHNSON: Thank you. [LB252]

SHERRY MILLER: (Exhibit 2) Well, I have a date with my husband later and I don't want to be here too much longer. Okay, I am Sherry Miller, S-h-e-r-r-y M-i-l-l-e-r, speaking on behalf of the League of Women Voters, of course. See, here's my badge. The League strongly supports Senator Crawford's LB252 which would clarify and strengthen campaign finance report reform. The League's position has been developing over the years since 1972 and we continue to work to advance total transparency in campaign finance reporting. Specifically, we believe that the methods of financing political campaigns should enhance political equality for all citizens; ensure maximum participation by citizens in the political process; protect representative democracy from being distorted by big spending in election campaigns; provide voters sufficient information about candidates and campaign issues to make informed choices; and finally, **bolded and underlined**, ensure transparency and the public's right to know who is using money to influence elections. As voters, we have all been subjected to fast and furious electioneering efforts to sway our votes to a particular candidate. And I'm really glad I don't get any of the Omaha stations, from last's years presidential...oh, golly, I'm glad I didn't get those. This is particularly true in the 30 days prior to an election. For some this means avoiding TV commercials as much as possible. For others it means wondering who is promoting or demeaning this particular candidate. LB252 can help answer that question. We also appreciate that LB252 would shorten the requirement to file a report of spending of more than \$250 down to two days rather than ten, as it is now. In short, for full transparency, we really do urge you to advance LB252 to General File for full debate. [LB252]

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SENATOR MURANTE: All right, thank you for your testimony. Are there any questions?
[LB252]

SHERRY MILLER: Good. [LB252]

SENATOR MURANTE: Seeing none, thank you for coming down. [LB252]

SENATOR _____: Enjoy your date. [LB252]

SHERRY MILLER: Thank you. I do appreciate your questions, Senator Blood. [LB252]

SENATOR MURANTE: Welcome. [LB252]

STUART KREJCI: Good afternoon. Stuart Krejci, S-t-u-a-r-t K-r-e-j-c-i, I am the past treasurer for the Jerry Johnson for Legislature campaign. I have two points to make; I'll make them brief. The Nebraska Accountability and Disclosure Commission is wonderful to work with. There is a steep learning curve to campaign statements when you first get involved. They were a wonderful resource to work with. They're very knowledgeable and incredibly helpful. I took a lot of pride in making a very accurate statement, everything that is \$250 or more is fully disclosed. Every ad that was run that had Jerry Johnson for Legislature on it, you knew exactly...if you wanted to go look for it, you knew you could find information of who is contributing. And with that, I just ask that with LB252 you have a level field for everybody that's trying to make an election campaign question or some type of an influence on it. That's all I have. [LB252]

SENATOR MURANTE: All right. Thank you very much for your testimony. [LB252]

STUART KREJCI: Thank you. [LB252]

SENATOR MURANTE: Are there any questions? Seeing none, thanks for coming down. Senator Seiler, welcome back. [LB252]

LES SEILER: Thank you. It's a pleasure to be back. This was the first committee I served on, sitting in Senator Brewer's chair. My name is Les Seiler, L-e-s S-e-i-l-e-r, and I represented District 33. I was beaten in this last election and I have no qualms about it. I was never a politician. I told the Governor that just before the electioneering started. I said, I'm not a politician, I'm 75 years old. He said, well, you don't probably have a very good future. And I said, hell, I never had a good past. (Laughter) And it's not my ambition to be a politician. But I

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do take an interest in this bill to a certain degree. And I try...my comments are to try and make this bill a little better. I think there's some small points, but I think they're intentionally. If you turn to page 4, line 20, you'll see that the report of an independent expenditure has to be made within two days. Well, with as many holidays as we have on Monday, if you made the expenditure on Friday, you're going to be in default because you're going to have three days or more before that report can get to that...to the commission. I think that ought to be a minimum of ten and maybe more. And that kind of is going against what the bill says, but I think it improves the bill and improves the compliance with the bill. And there's a couple of places, if you look on page 16 and 17, page 6 you'll see a very similar two days there. Oops, page 6, no, page 5, excuse me, I can't read my own writing, on line 11 talks about within two days a report of the electioneering communication within two days. I think that's unreasonable. I just think you've got to expand that a little bit more if you're going to advance this bill. You'll notice on page 4, 5...4 and 5 are the most prominent, it talks about addresses. And what you and I think about addresses, we think of street numbers and suit numbers and things like that, the Trees for Liberty and Americans for Prosperity use a box number and it's totally...you cannot find. And especially if you're in the last days and you get three or four of these mailings sent from Lincoln, Nebraska; post office box such-and-such for the Trees of Liberty. And the next day you get two more and they're sent from the Trees of Liberty from Denver, Colorado, and both of them have box numbers. I think that ought to be street addresses so you've got some kind of a location to even figure out who is doing what to you. One bill made me mad. They said that I was Chairman of the Judiciary Committee and that 75 percent of the time I was not present during the hearings. Well, the Journal and the World-Herald did a back fact check and they found where one day I was missing. And I will tell you I was in Kearney, Nebraska, as a lawyer representing some people. So I was gone one day out of that whole time that I was Chairman of the Judiciary. They checked the telecommunications and the road committee (Transportation and Telecommunications Committee) and I had never missed a day. I was at all the committees for the full time. And some of the new people probably don't...haven't heard, but we used to run on the Judiciary from 1:30 in the afternoon till 11:30 that night. And it wasn't uncommon to be 10:30. So we gave everybody a chance to talk, and everybody a chance to be heard. So I believe those two would help this bill considerably. I think that on page 5, you have a \$25 a day for a failure to report up to \$750. I think you ought to take a solid look at that and say that's too light. And there's an answer to that, whether you're going to pick on the little guy and fine him a whole lot. Now the commission, Frank Daley, still has power to reduce that penalty. But I think with the people that you're dealing with, \$750 is a drop in the bucket. There's a great book out, if you want to read it, it's called Dark Money by Mayer, it's near the top. And it goes through just exactly what we're talking about here of how huge sums are run through what they call 501(c)(4) trusts and they're...I don't understand how this gets through unless a lot of influence, if Senator Murante makes a donation to Senator Brewer, he gets no tax deduction. But if you run that through the Trees of Liberty, you get a full tax deduction. Now who is getting the benefit of this? I wanted Senator Hilgers to be here because he's worried about the little guy. It's the big guy

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that's the elephant in the room is because he gets the tax deduction. You as taxpayers are paying for it, and it's a showdown. [LB252]

SENATOR MURANTE: All right, thank you for your testimony. Senator Blood. [LB252]

SENATOR BLOOD: Thank you, Chairman Murante. Senator, do you know how many days you have before you can do a robocall to file with the Public Service Commission? [LB252]

LES SEILER: I do not. I have to admit I... [LB252]

SENATOR BLOOD: I believe it's got to be called within 48 hours. So you have two business days. [LB252]

LES SEILER: I probably voted against that when I was on that Transportation Committee. [LB252]

SENATOR BLOOD: Well, having had to file with them before, I can tell you I think it's 48 hours. [LB252]

LES SEILER: I think that's wrong, that's too short of time in today's world. [LB252]

SENATOR BLOOD: Oh, okay. Here's my concern with your two-day suggestion. I could understand changing it to two business days, that way if it was a holiday... [LB252]

LES SEILER: That's better, that improves it some. [LB252]

SENATOR BLOOD: But my concern is that we're really talking about the last 30 days of an election cycle. [LB252]

LES SEILER: Correct. [LB252]

SENATOR BLOOD: Which, as you know, is when it gets down and dirty because they truly believe people have not made their minds up and if you throw enough mud, eventually some of it is going to stick. So...which I hate that expression, but I heard it a lot during my campaigns...not that I sent out anything dirty by the way. So my concern is that if you extend that period of time, if people truly want to know who these bad guys are, and I do refer to them as bad guys because if they were good guys they wouldn't be scared to let you know who they are. Extending it to ten

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days might help cloud it all over again. If we could do two business days, so we could get the information soon enough to the public...sooner to the public, I mean, would you still have the same concerns? [LB252]

LES SEILER: My problem is, is that I'm just here to point out the problem, you're here to fix it. (Laughter) I have no problem with your two business days. [LB252]

SENATOR BLOOD: Okay, yeah, I'm just trying to identify your concerns and see if it could be addressed with maybe just adding those words. [LB252]

LES SEILER: Yeah, because you could get hit on the last one or two days of the...before the election. And we did, we did, there were three of us got hit hard. [LB252]

SENATOR BLOOD: Right. I'm sure you did. [LB252]

LES SEILER: As Senator Davis, Senator Johnson, and myself, and that gives you two days you could get busy. The biggest problem is finding out who you're fighting. [LB252]

SENATOR BLOOD: Right. [LB252]

LES SEILER: And Jane Mayer's book tells you pretty good insight that they had to first...had ability and success in Pennsylvania and then moved to Iowa last year. And then this year they hit us. So it's the same people. So, she wrote a good book, it's fun to read. I think it's something that this bill needs to take a look at. I was talking about you earlier. I don't think the little guy is the problem. I think it's the monster in the room, which is the 501(c)(4) people that have huge amounts of money. And that book lays out the amount of money they're spending. My god, you could run some of the countries in the nation...you could sure run Nebraska's entire budget system off what they donate each year to those trust funds. And so I don't know of any way we can handle that at this level. But we sure could find out who they are and what they're standing for. And right now they're the invisible person on the block. [LB252]

SENATOR MURANTE: All right. Senator Brewer. [LB252]

SENATOR BREWER: Well, since you brought it up, let's just jump into this a little bit more. I agree that there's probably some issues. How we shape that will be determined here. But the 800-pound gorilla in the room are the ones we do know. When you're outspent 50 to 1... [LB252]

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LES SEILER: Right. I can associate with that. [LB252]

SENATOR BREWER: Well, since you threw out some names there, because I had seven unions working against me, primarily Teachers Union. But that doesn't even include Commonsense Nebraska and the dozens that they sent out--fliers. So we can address this all we want, but it's still a fact that there's tons of money out there that's being pumped in and how that's...how is that going to affect the big picture in the end here because we still got to...for me and I think there's campaign reform that has to limit the amount that's being spent or else eventually we're going to have a situation where it's unmanageable for a regular person to run for office. [LB252]

LES SEILER: I agree with you. [LB252]

SENATOR BREWER: Because you're never going to have the resources to be competitive. [LB252]

LES SEILER: I agree with you. Do you really believe...and maybe the public does believe this that senators...and I've never known one in the six years I served, to sell out for a dinner, a football ticket, like you for...even that much money spent on you, would you sell out your vote for that? And if you would, you shouldn't be here because you don't have the moral ability to be here. So I...but I don't have a great plan off the top of my head to solve what you're talking about unless you've put a restriction on the total amount that each senator can spend or any organization on behalf of him. [LB252]

SENATOR BREWER: Well, I appreciate what you're saying though, because you brought up some good points, but I think at some point that's going to be the issue that has to be addressed or else money will always own the elections. [LB252]

LES SEILER: Well, they sure got the communications ability, that's for sure. [LB252]

SENATOR BREWER: All right, thank you. [LB252]

LES SEILER: You bet. [LB252]

SENATOR MURANTE: Any final questions? Seeing none... [LB252]

LES SEILER: Thank you very much for giving me the opportunity to come back to the committee. [LB252]

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SENATOR MURANTE: Thank you. And thank you for being here, much appreciate it. How are you? [LB252]

FRANK DALEY: I am fine, Senator Murante. [LB252]

SENATOR MURANTE: Welcome back. [LB252]

FRANK DALEY: Thank you very much. Senator and members of the (Government) Military and Veterans Affairs Committee, my name is Frank Daley, D-a-l-e-y. I serve as executive director of the Nebraska Accountability and Disclosure Commission and I'm appearing in support of LB252. LB252 is not a panacea, obviously, that solves all problems in the area of the financing of campaigns. But it does one thing, and that one thing is that it ensures that activity which is identical in purpose and substantially similar in form is treated the same way under the accountability and disclosure laws that we have in our state. So, of course, we're talking about the so-called electioneering ads. It seems to me that maybe my time is best spent by just sort of tracking back and responding to the questions that you have all asked while others were testifying. So let's take up the preemption question that you asked. Filings with the IRS are confidential unless there is a specific law that says they're not. The information in those filings is not necessarily confidential because there's nothing that prohibits states and other political subdivisions and governmental entities from requiring some of that same information and making that public. So I don't think the preemption argument really applies there. Next, there was a discussion by Senator Murante and Senator Blood about Section 7 of the bill which appears to exempt corporations, unions, and other types of entities from these filings. It doesn't. It does just the opposite. Currently, under the accountability and disclosure law, corporations, unions, and other types of entities are required to report their campaign activity on what is called a B-7 form. And there's a process by which they're filed; there's a time limit...or their times when they have to file, so it would be contributions to candidates of cash; contributions to candidates which are in kind; independent expenditures that are not coordinated with any candidate which support or oppose a candidate. Other types of entities that make independent expenditures are required to file something different. That's under current law. What LB252 does is it adds to those two different filings an obligation to report electioneering expenses. So if you were to look at page 6 of the bill, starting at line 13, well, let's start at line 11: Any such entity shall not be required to file reports of independent expenditures or electioneering expenses pursuant to Section 6 of the act. But if it makes a contribution or expenditure or electioneering expense, it files this other report. So there is a reporting obligation in there; it's simply a little bit different and it is in a different section of the Accountability and Disclosure Act. There was a question about whether or not the NADC assisted with the crafting of this. We've been involved in legislation of this type for several years, and Senator Crawford has been very kind to consult with us about this. Let's see what else do we have here. Oh, Senator Lowe, you were asking about how clearly identified you have to be. You are...the bill calls for a clearly identified

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candidate. So if they use your name, you're clearly identified. If they refer to the senator from the 37th District, you're clearly identified. If they use your photo or some sort of caricature that people recognize you by, you're clearly identified. Now, clearly also, if the identification is more and more vague, we could get to the point where we would have to say you're not clearly identified. But the upside to that is, the less clearly identified you are, the less useful the whole ad is if no one knows who they're talking about. So there is that; there is a line in there somewhere. I see my time is up. [LB252]

SENATOR MURANTE: Thank you. Thank you very much for clearing that up. It was very, very informative. So when I read Section 7, I thought that it might have bailed us out of the concern that I had that I addressed to Senator Crawford in my opening which is there may be ways that candidates are identified, but that aren't...clearly aren't electioneering in any meaningful sense. So let's take that Hauptman, O'Brien. [LB252]

FRANK DALEY: Sure. [LB252]

SENATOR MURANTE: Would they, under this bill, be subject to reporting requirements? [LB252]

FRANK DALEY: Okay, first of all I will tell you, with regard to Hauptman, O'Brien, that I know that Steve Lathrop switched the commercials featuring Tim O'Brien during the times he was running for office just to avoid some of these types of things. [LB252]

SENATOR MURANTE: But it still...they all identified his name. [LB252]

FRANK DALEY: Yes. Yes. And theoretically something like that could potentially fall within this law. And...but on the other hand I will tell you that we have other laws to ensure that things...well, we have rules and regulations, we have laws in other sections of the statute not involving the Accountability and Disclosure Act which during the election year prohibit public funds for being used for public service announcements that feature state officials that are running for office. So I mean, we do things like that and people adjust their behavior during certain election times. The other factor is that this law is narrow in the time of application, that is the 30 days prior to the election; with the federal government, it's 60 days prior to the election. This provision is even narrower. So I don't think it is a big sacrifice if someone has some sort of commercial business and they're also running for office to refrain from certain types of advertising during that 30-day period. That's just one of the trade-offs that occurs when you're trying to regulate campaign finances. [LB252]

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SENATOR MURANTE: So it's that...now, I've heard a couple of different defenses on the concern. First of all it's not a concern, because the bill...Hauptman, O'Brien, Wolf and Lathrop isn't a candidate by any meaningful sense of the bill, wouldn't apply to it at all. It sounds like you're saying that is not accurate, but that the bill would apply to them, but it just applies to them in just a limited way that it's really not that big of a deal that they were just reporting. [LB252]

FRANK DALEY: That's exactly right. Here's the other part, let's say it does apply to them. [LB252]

SENATOR MURANTE: Okay. [LB252]

FRANK DALEY: There's nothing in the bill that requires donors to an organization or clients of an organization to be identified. The only thing that's required is to identify those contributing more than \$250 to the electioneering communication. [LB252]

SENATOR MURANTE: And that gets to Senator Hilgers' question. How can you possibly know that? [LB252]

FRANK DALEY: In most cases we will not. Just as with reports by candidates of contributions received from individuals, there's only one place where it shows up and that's on the candidate's form. And so if the candidate wants to lie, we may find out, we may never find out, that's unfortunate, but that's just the way it is. [LB252]

SENATOR MURANTE: And they may not be lying, right? There may be nobody lying. [LB252]

FRANK DALEY: And they may not. And they may not. [LB252]

SENATOR MURANTE: They just got a bunch of contributions from some people and they spent it however they want to and nobody is lying, they just didn't know...nobody knew what the money was going for. [LB252]

FRANK DALEY: Typically...it is very common for people making contributions to organizations to make contributions for the general purposes of the organization, not for a specific function within the organization. So what we will see is that...on occasion we will see donors on these reports; on other occasions we will not see donors on these reports. By the way, if I could get back to the Hauptman, O'Brien thing, here's the solution for Hauptman, O'Brien, if they really

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want to run Steve Lathrop's version of their ad, they just file the report showing this is what they spent. [LB252]

SENATOR MURANTE: But they have to do more than that, right? They have to file...I mean, it does more than just how much money they spent. There's a lot of information (inaudible)... [LB252]

FRANK DALEY: What they spent and who the vendor was, that's the essence of it. [LB252]

SENATOR MURANTE: And how do they...I still don't know how a person, even if they wanted to comply, let's assume a person was willingly...an entity was willingly trying to comply with this law, how they would know who gave the money for that explicit purpose. I don't know how they...for the explicit purpose of the electioneering communication. [LB252]

FRANK DALEY: All they...in the case of Hauptman, O'Brien no one is giving them money for the electioneering communication. Hauptman, O'Brien is paying for the ad. That's all we would see, what they paid for the ad and who they paid. [LB252]

SENATOR MURANTE: Okay. [LB252]

FRANK DALEY: So it's a relatively low threshold. [LB252]

SENATOR MURANTE: So in the case of a (c)(4) who might have 10,000 contributors, and like you said, most people don't donate to campaigns for specific...I mean, you may go out and say I need a week's worth of mail, can you help me fund it or something like that,... [LB252]

FRANK DALEY: Sure. [LB252]

SENATOR MURANTE: ...but that's very, very uncommon. For the most part we're running for office or we're trying to do something; we're trying to raise money, can you help us out? It's not for a specific purpose. So how are they supposed to comply with this section? [LB252]

FRANK DALEY: Most of the time, with other organizations and with other types of filings that come in, such as major out-of-state contributors who also file with us, it's simply based upon what their solicitation is. If money just came in and they're using the money, there may be no donors to report. On the other hand, if they sent out a solicitation--member alert, we need money

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for an ad that's going to do this in Nebraska against incumbent senator so-and-so, that's reportable. [LB252]

SENATOR MURANTE: Well, I think...I won't go much beyond what I already have. I would sort of impart upon you the same thing. I believe that we...the conversation we had with Senator Blood's campaign finance bill earlier this year which is, to me the two concerns I have are it's overly broad, we're applying a law that does...to campaign...to communication that is clearly not campaign focused, and I don't think we ought to be dealing with that world. And second, how the reporting of the contributions are coming in. Because if the purpose of the bill is what Senator Johnson and Senator Seiler, they want to know who is attacking them; they want to know where the money is coming from. And we're saying, well, that's...the bill will do that in a minimal way, but not really in any material way because nobody really knows the answer to that question, then we're not even satisfying that goal. So if we can do...sort of deal with those two issues that I have, I would love to work with your office to try and make that happen. [LB252]

FRANK DALEY: Very well. Let me just mention that the essential purpose of the bill is to disclose who is talking and how much they spent, may get donors, may not, but that's the essential purpose of the bill. Who is talking and how much is spent, because at the very least that's what every other player in the campaign finance system is reporting. I'm the one talking, here's my name, here's my address, here's what I spent, here's the candidate or ballot question I spent it on. And that's what we get with this bill, even if we never get the name of a single donor. And that seems to me to be a good thing. [LB252]

SENATOR MURANTE: Okay, fair enough. Senator Hilgers and Senator Briese. [LB252]

SENATOR HILGERS: I do want to let Senator Briese go first since I just rudely jumped up last time. [LB252]

SENATOR MURANTE: Plus his question will probably be more interesting. So Senator Briese, you're recognized. (Laughter) [LB252]

SENATOR BRIESE: Thank you. Thank you, Chairman Murante, I appreciate that. [LB252]

SENATOR HILGERS: I don't. [LB252]

SENATOR BRIESE: Thank you, Mr. Daley, for being here. You probably heard the discussion earlier about the two-day... [LB252]

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FRANK DALEY: Yes. [LB252]

SENATOR BRIESE: ...window there. Is that reasonable in your opinion or should we... [LB252]

FRANK DALEY: I'm glad you asked that question because there is a general statute that applies to all filings from Nebraska state agencies. Two days means two business days. So if the filing date falls on a weekend or state holiday, it is due the next business day. So even all of your filings that you do now with the Accountability and Disclosure Commission, if it just so happens that the filing date is a weekend or a state holiday, it becomes due on the next business day. There's also the other factors. Number one, if you have a report that's postmarked on or before the due date, it's considered timely filed regardless of when it arrives. Number two, you can file electronically, you can file by fax, you can file as an e-mail attachment, as long as we can determine that it arrived by 11:59 p.m. on the date that it's due, it's considered timely filed, whether we were there to receive it or not at that point. [LB252]

SENATOR BRIESE: Okay. So you think the two business days is reasonable? [LB252]

FRANK DALEY: It's reasonable and I think it's already there, even though it's not stated, because it's stated in general provisions which apply to all filings with state agencies. I think it's there. [LB252]

SENATOR BRIESE: And this particular bill, two business days within an electioneering communication, when does electioneering communication occur in your view? When you drop the flyers in the mail or when they're received or...how do you interpret that? [LB252]

FRANK DALEY: I think that will require some interpretation. It seems to me when it is directed to the electorate. So probably when you drop it in the mail or...because you can't predict when it's going to show up in the mail in this day and age. [LB252]

SENATOR BRIESE: True. [LB252]

FRANK DALEY: I think that's the operative date, the date of posting. If you are talking about things such as robocalls, the date the calls are transmitted, if you are talking about TV or radio, the earliest date of broadcast. [LB252]

SENATOR BRIESE: Okay, very good. And the current statute, the \$250 threshold for independent expenditures, how long has that standard been \$250? [LB252]

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FRANK DALEY: Probably at least 15 years. [LB252]

SENATOR BRIESE: Fifteen years, is that an appropriate threshold; \$250 or should it be higher? [LB252]

FRANK DALEY: I think that's up for debate. There was a bill several years ago to reduce that to \$100; and that didn't fly. It was changed in committee back up to more than \$250. [LB252]

SENATOR BRIESE: Okay. [LB252]

FRANK DALEY: I'm kind of in the disclosure business, so it seems to me the more disclosure the better. I wouldn't endorse raising that more than \$250. I'd be more inclined to go the other way, so maybe that's where it should stay. [LB252]

SENATOR BRIESE: Okay. Okay, very good. Thank you. Now on to more interesting (inaudible). [LB252]

SENATOR MURANTE: Senator Hilgers. [LB252]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Mr. Daley, for being here. I always enjoy the back-and-forth and the information you provide. So, on Senator Murante's last question, if it was only...didn't have the donor piece, and I agree with Senator Murante, there's some serious issues with, in my view, the breadth of what it encompasses, but if it didn't have the donor piece, would it still...all you reported is what you said, which is...how much...what entity is doing the spending and what they spent it on, would that still be something that NADC would support? [LB252]

FRANK DALEY: Yes. I'm not going to say take out the donor piece, but it seems to me that if you only had the name of the entity and how much they spent, we're in better position. Because then at least...at least you would have an address, you would have the candidate who is the subject of the advertising be able to say--look at this, this is an out-of-state entity that's spending X-number of dollars trying to get me out of office; what is it they're hiding, you know, what's their secret. Or, this is a shadowy organization that is spending this much money and they're nothing but a post office box at the downtown station at Omaha...I mean, it provides a little bit of something that allows the candidate who is the subject of these to react. And it also gives members of the public the opportunity to, on their own, try to find out what the source of all this is. If you go on the Internet and you're looking up an organization that's involved in the campaign system and you look at the organization and you can see the mission statement of the

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organization, you can see the names of the members of the board of directors, you can see information about some of their major donors, and some of the other things they do, you kind of go--okay, I get this organization, they're probably a legitimate organization and I understand what they're about and now I can make an informed decision as to whether or not to believe them, what they state. On the other hand, if you're going on the Internet and you find the name of an organization and it's got a very, very vague Web site with a mission statement, there are no names and addresses really associated with it; that might make you think another way. It doesn't necessarily make them illegitimate, it doesn't necessarily mean their message is wrong or a lie or anything like that, it may be very valid. But it's part of the process of evaluating the message. It's kind of like if I'm in small-town Nebraska and I'm looking at the weekly newspaper and there's a letter to the editor talking about police brutality by the local police force, it matters to me who is talking. If it's signed by the near-do-well-drunk who is trouble all the time, it gives me the opportunity to make a decision on its credibility. I may judge, okay, this guy, he doesn't know what he's talking about, he's never...he's always intoxicated, he never has breathed a straight breath in years and I just don't believe him. On the other hand if the letter is from the local minister with a reputation for honesty and integrity, I look at it a different way. And that's part of the purpose behind all of these disclosure laws to disclose who is playing in the system, how much they're spending, and that way members of the public can make an evaluation as to whether or not to believe what it is that they're talking about. [LB252]

SENATOR HILGERS: I appreciate that. Let me ask you a question I asked Senator Crawford. This is what, maybe, is most troubling to me which is this notion that by forcing disclosure you take away people's realistic functionality to speak on unpopular issues. [LB252]

FRANK DALEY: Okay. [LB252]

SENATOR HILGERS: Well, hold on, let me pose the question before you answer. I'm sure you already know what the question is, but let me pose it because I think it's important. We do have a long history of people being able to speak anonymously on politically unpopular positions. Those positions do change from air to air and from day to day. And I'll tell you...and I want to make this about President Trump, but there were a lot of people that I...when I went door to door who were very cautious about who they said they would support. So let's not make it about any individual, any issue, but let's make it about a particular class of individuals who are incumbents. [LB252]

FRANK DALEY: Sure. [LB252]

SENATOR HILGERS: That's pretty consistent across elections. There is a group of people who have...who could have pretty unpopular speech that could be punished economically and those

are people who challenge incumbents. And so by having this, the question I have is, do you just think that that is not an issue at all; that really, Senator Hilgers, there's no real concern of chilling speech...unpopular speech. Or do you say, you know what, I get that there could be, but it's far outweighed, or just slightly outweighed, by the value of having additional transparency or having what you said, which is the ability to judge who the speaker is. [LB252]

FRANK DALEY: I think knowing who the speaker is, is crucial. I just do. I recognize that there's some history of anonymous leafleting and things like that dating back to the federalists papers and so forth and so on. But I get back to my letter to the editor, that helps me judge who is speaking. Here's the other part, let me give you... [LB252]

SENATOR HILGERS: (Inaudible) so you think it happens. I mean, you just think that there's a concern of chilling speech. [LB252]

FRANK DALEY: I do. It has happened in a number of things. You may remember during the days of desegregation there were states that were passing laws requiring certain organizations to disclose their membership. And the idea was that...to try and identify these people so they could be threatened. And there were court cases that said, as applied, it's unconstitutional because it has the effect of chilling speech. [LB252]

SENATOR HILGERS: Read my mind. [LB252]

FRANK DALEY: Okay. All right. But the U.S. Supreme Court has considered the specific matter. It has considered it over and over and over again, dating back to the Buckley v. Valeo case in the 1970s, and McConnell v. Federal Election Commission in about 2003, 2004; and more recently in the famous or infamous Citizens United case. And the Supreme Court looked specifically at the concept of disclosure because Citizens United was making the case or making the argument that this law should not apply to us because we have a bona fide fear that it will chill free speech and so forth and so on. And let me quote from the official syllabus of the U.S. Supreme Court in Citizens United: "Disclosure is the less restrictive alternative to more comprehensive speech regulations. Such requirements have been upheld in Buckley and McConnell. Citizens United's argument that no informational interest justify applying Section 201 to its ads is similar to the argument this court has rejected with regard to disclaimers. Citizens United finally claims that disclosure requirements can chill donations by exposing donors to retaliation, but offers no evidence that its members face the type of threats, harassment, or reprisals that might make Section 201 unconstitutional as applied." So I think what the court is saying is that if there is an entity that believes that disclosure will have a real detrimental effect on its members or its donors or something of that nature they have the opportunity to challenge

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the law as being unconstitutional as applied to them because of peculiar or specific circumstances. [LB252]

SENATOR HILGERS: Let me stop you right there because I think that's a excellent recitation of Buckley. But I have two follow-up questions. The first is, when you deal with Buckley and its prodigy, isn't the real concern, this notion of bribery, like quid pro quo corruption, you see it throughout the cases? [LB252]

FRANK DALEY: Yes. Yes. [LB252]

SENATOR HILGERS: And that implies some connection between the donor and the elected official. And that's when we're dealing with election communications, you see that. And I think the Buckley court and those following would say, yes, there's a concern of disclosure and chilling of speech, but it's really important for the public to know there's not bribery, right? But we're not dealing with election-related communications, where you're actually saying vote for or against. We're dealing with this...and I can see that it's a nebulous, sort of social interest, education piece, but nevertheless, we're not dealing strictly with the what the Supreme Court would say is for or against advocacy. So we are dealing with it separate. So would you agree that the balance is different. And I have a second question. But would you agree balance is different...or at least distinguishable from Buckley, because here we're dealing with...we don't have the same quid pro quo corruption because they're not coordinating. And secondly, we're dealing with a much wider swath than speech. You're saying people can't...that you can't talk about issues that talk about, maybe, people who are prominently for or against those issues without putting yourself out for disclosure. That's my first question and I've got a second one. [LB252]

FRANK DALEY: Okay. First issue is, number one, I think it's naive, even though the Supreme Court believes it, to believe that money that comes in the form of independent expenditures or electioneering is not corrupting. Because there's no doubt about it, that there are communications that take place, or understandings that take place, that, you know, if you vote this way, there's going to be a swath of money coming in, you're going to be primary and so forth and so on. And I think most people understand that. But the other fact is that the Supreme Court has considered that question over and over and over again about disclosures. And it's considered them with regard to independent expenditures, and it's upheld disclosure of who that is, even though in the Supreme Court's mind it's not corrupting. It has upheld disclosure in the area of electioneering expenses, even though theoretically nothing is going directly to the candidate, so it's not corrupting. So I think that question has been asked and answered by the courts. And it gets back to the idea, people make better decisions if they know who is talking, and this is part of the process of letting them know who is talking. [LB252]

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SENATOR HILGERS: So my second question is...dovetails off that last point which is, as you read the syllabus from Buckley, it said "as applied." So in that case they didn't have evidence showing that there was chilled speech. But don't we as policymakers have to consider the people who might not sue, but who, nevertheless, won't speak because of the restriction of the law that we put forward? [LB252]

FRANK DALEY: I'm not seeing that there's a lack of speech going on. I just do not. And the fact is that even under this law, there are ways for donors to hide who they are, all we get is the organization. [LB252]

SENATOR HILGERS: But that doesn't...but...I'm countering...I'm not countering, I'm just discussing your point that you made, which is in Buckley they didn't have...they didn't win an as applied challenge because they didn't have specific facts, and I'm asking as policymakers we have to consider the broader impact of our laws, one of which might be people who might not bring a challenge...it's not...we shouldn't say I don't believe...well, we'll just pass unconstitutional laws and it will be up to someone else if they can prove that as a applied it's unconstitutional. I mean we have to take a different...we have to analyze this differently, don't we? [LB252]

FRANK DALEY: Perhaps. On the other hand...again, there are different avenues that you can approach. Number one is the at-applied challenges. The other is that very, very early in its history, the Accountability and Disclosure Commission was asked to use its authority to modify the filing requirements of the act because there was a group out there that thought that their members were going to be harassed if they spoke. I'd have to admit, I do not remember the facts; it's way before even my time. But the commission considered that; that law still exists so someone can, not necessarily file the whole ball in federal lawsuit, but actually bring something before the commission and show why they believe that there would be unreasonable hardship and therefore could ask for modification of the filing requirements. The other fact is, it just gets right down to it, Senator. We're talking about our elections. We're talking about a situation where our citizens have put on uniforms; they've gone out to wars to fight and die for the right to vote, the right to participate in elections; do you think it's too much for a citizen to stand up or an organization to stand to up and say, yeah, I'm the one that said that. [LB252]

SENATOR HILGERS: When their job is at risk? Yeah. I mean, I think that there's room for anonymous speech, I mean, I do. I think you see it today, people raise their hand and they get their economic livelihoods threatened, so, yeah, I do think that in some...I think...I think...not...I don't believe in a broad principle, I think it's valuable to discuss this, so maybe you and... [LB252]

FRANK DALEY: Sure. [LB252]

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SENATOR HILGERS: We can have coffee sometime and have a broad...we won't bore everyone with this discussion. I mean I don't...I do think it's a...I don't think anonymous speech will stop is the right answer. But I do think that you would chill...you could have the capacity of chilling significant amount of speech if you don't allow some ability to speak anonymously on the issues. And I do think where it intersects with electioneering there's...the closer you get to saying vote for or against, the closer that you're within those disclosure laws, right? So I do...where is it in the balance? I think it's a good question and that's why I appreciate the dialogue. But I do think that there is...I truly think that there is a significance of concern for people who can be economically threatened by taking up unpopular positions. [LB252]

FRANK DALEY: And I think what you're recognizing is that whenever we talk about campaign finance disclosure laws or contributions or any of those things, we're always dancing around the First Amendment trying to stay within its parameters and trying not to step outside of those parameters. [LB252]

SENATOR HILGERS: I think that's right. I think that's exactly right. I appreciate it very much. Thank you. [LB252]

FRANK DALEY: Not at all. [LB252]

SENATOR MURANTE: That was a fun course in the First Amendment from the lawyers (inaudible). [LB252]

FRANK DALEY: Kind of lengthy one, I'm sorry, Senators. [LB252]

SENATOR WAYNE: I just got a CLE credit. (Laughter) [LB252]

SENATOR MURANTE: All right. Is there any additional questions? Seeing none, thank you very much for your testimony. [LB252]

FRANK DALEY: Thank you very much, my pleasure as always. [LB252]

SENATOR MURANTE: Is there any additional proponent testimony on LB252? Seeing none, is there opposition testimony to LB252? [LB252]

MATT LITT: Chairman Murante, members of the committee, my name is Matt Litt, M-a-t-t L-i-t-t, and I am the Nebraska director of Americans for Prosperity. And on behalf of the

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organization and our activists across the state, I urge you to oppose LB252, which in our opinion would chill free speech rights for everyday Nebraskans and open them up to intimidation and harassment. The First Amendment protects the right of all of us to stand up and speak out about issues that affect us in our everyday lives. But many individuals who want to support causes they believe in might not want to speak out publicly on these issues. For instance, they might feel that speaking out by themselves may not have the desired effect, so they contribute to a nonprofit who works on the issue instead. Or perhaps the cause they are advocating for is controversial and they fear reprisals from strangers, their coworkers, friends, and even sometimes their family members if the causes they support were public knowledge. These are some of the many reasons individuals may face...excuse me, just some of the reasons individuals may financially support a nonprofit that advocates for issues of public policy. For years, individuals could support causes such as advocating for things of the nature of American energy independence or an environmental causes, Second Amendment rights or gun control, pro-life/pro-choice issues, lower taxes, expanding services and higher taxes, and things of that nature without fear of the government invading their privacy. LB252, however, would change this. It would require that organizations report the names, addresses, occupations, and employers for all those who contribute more than \$250 to groups that use their First Amendment rights to educate citizens on issues 30 days before an election. Quite simply, this bill proposes to put private citizens on government lists for supporting the issues they care about. This information isn't to provide transparency to the public as supporters of the bill claim. It is intended to reveal personal information about supporters of organizations for a variety of reasons; and sometimes those are people being targeted for harassment, can be threatened or intimidated for supporting the causes they find disagreeable. This intimidation isn't theoretical. At our organization across the country, we have seen our staff, activists, and supporters being subject to property damage, threats of bodily harm, and even death threats in some cases. What public good is served by subjecting so many of our supporters and supporters of other organizations across the board and those that we disagree with on policy issues, what public good is served in these threats? Just a few points now that have been discussed during the questioning. There is no financial benefit to supporting a 501(c)(4). You are able to give privately, but you have no tax benefit to do so. The vast majority of our donors are low-dollar donors. So this, you know, figure in the background, there are far more people who would be affected by this. Someone brought up about P.O. boxes. So, one, we're guided by our legal counsel to list a P.O. box in our mailings. But also we fluctuate office space; sometimes because we're donation driven, there are times when we have office space in one place or another and it's more effective to list something constant. Also our contact information is always listed on the Web site. So the truth is that proposals like LB252 are popping up all over the country and not to serve the public good, but to shut down organizations from educating the public in causes they believe in. Our (inaudible) reject this bill and any other attempts to chill free speech of Nebraska citizens. And I'll do my best to answer any questions I can. I am not a lawyer and so any legal questions I will definitely take back to our legal counsel or connect you with them. [LB252]

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SENATOR MURANTE: Okay, thank you for your testimony. Senator Blood. [LB252]

SENATOR BLOOD: Thank you, Chairman Murante. Don't worry, I'm not a lawyer either. Do you feel that having a First Amendment right brings responsibility to you when you choose to exercise that right? [LB252]

MATT LITT: Yes. [LB252]

SENATOR BLOOD: What responsibilities would that be? [LB252]

MATT LITT: And what is the situation? [LB252]

SENATOR BLOOD: Well, you're being very broad, so if I exercise my First Amendment rights, what responsibilities do I have as an American? In your personal opinion. [LB252]

MATT LITT: My personal opinion. [LB252]

SENATOR BLOOD: It's not a trick question. [LB252]

MATT LITT: No, I just... I think you have a personal responsibility to, you know, in my...the way I was brought up, to be truthful, to...you can express opinions, why people may find disagreeable, but you are allowed to express those opinions. I guess I'm not sure what you're exactly asking. [LB252]

SENATOR BLOOD: Well, you had made a...and I don't want to...I'm not quoting you directly, because I'm not sure how you said it. [LB252]

MATT LITT: No, that's fine. Yeah. [LB252]

SENATOR BLOOD: But it was my interpretation in listening to that that you said people have the right to exercise their First Amendment and not be known who they are that are saying it. [LB252]

MATT LITT: Right. Yeah, you could exercise your First Amendment right through an organization such as ours or others by donating privately and remaining private. [LB252]

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SENATOR BLOOD: But you said most of your donors are small donors so this bill really wouldn't even apply to them, would it? [LB252]

MATT LITT: Well, they go across the board in their giving. I don't have a specific number for you. [LB252]

SENATOR BLOOD: What do you mean across the board? [LB252]

MATT LITT: We have people who give anywhere from \$1 to, I don't know, whatever the top dollar is across the country, I don't have that exact number, but across the country we have over 100,000 people who have donated to our organization. And the vast, vast majority of them are not millionaires and billionaires and being affected by this. [LB252]

SENATOR BLOOD: So they're really not the ones trying to influence the voice then are they? [LB252]

MATT LITT: They are...so they give to organizations like us to expand their voice in one aspect. Also, to speak about issues they care about and remain private. [LB252]

SENATOR BLOOD: And I do think there's a difference between expanding your voice and influencing a voice. What you're talking about are people that are getting together for a common cause whether I personally would agree or disagree with them, I would protect their right to be able to do that very thing. And I think that there's strength in numbers and that's a positive thing. But what I see this bill as doing is talking to the last 30 days of an election where big donors come in and say let's help a certain candidate, let's help a certain cause, I'm not sure how this would take away those people's First Amendment rights when you said yourself it was...they were small donors and that a lot of these people maybe donated because they feared that if they came out publicly that there might be repercussions, which again, that's what we have to fear when we're talking about being honest and having integrity and speaking in reference to the causes that we support. I mean, unfortunately, that's part of your First Amendment's right is that if you speak up, you will be heard and the whole world, unfortunately, is not going to agree with you, is that true? [LB252]

MATT LITT: Not everyone is going to agree with you, but you can exercise your free speech right in a private manner through other organizations. [LB252]

SENATOR BLOOD: And I don't think this bill prevents that from doing that. How does it (inaudible)? [LB252]

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MATT LITT: It has a...it can have a chilling effect of the fact that people are going to be listed on a government list. I mean, we've seen it...just recently our Phoenix office, they had a window broken out. In Iowa during a recent...a bill on collective bargaining, activists were harassed. Folks have been physically assaulted in other states. So we started listing people on...publicly listing people about whatever the issue is, it's not even just Americans for Prosperity issues, but it could be groups across the board of all sorts of political spectrum. They should be able to, if they so choose, be able to give privately and have their voice expanded through that organization or voice through that organization if they so choose. If they want to be public, there's nothing to stop them from going to Facebook, telling their friends and neighbors that they donate to the cause and ask other people to do so. But if you want to remain private, our free speech rights protect you in doing so. [LB252]

SENATOR BLOOD: This bill doesn't really change any of that. Right? [LB252]

MATT LITT: How does it not? [LB252]

SENATOR BLOOD: Well, what you just said is that people have the right to be private about it. The vast majority of your donors are small donors, so they...this bill doesn't note who they are as individuals and put their name out there. And for those that do, they're going...it is an even playing field, they're in the \$250 (inaudible) donors that I would have on my report, or the lobbyist would have on their report, so really would be consistent.... [LB252]

MATT LITT: But it's not... [LB252]

SENATOR BLOOD: ...and when you say government list, you make it sound like we're putting out a hit list. And what it truly is, is just documenting people who have done this. [LB252]

MATT LITT: No, I'm saying it's a list from the government that lists people's names, addresses, occupations, things of that nature. Also, they're not electioneering communications. We never say to vote for or against anybody. Their topics are on issues on things we worked on for years, in many, many cases. They happen to come throughout the year in preparation for the upcoming legislative session and all other times. This bill would, essentially, corral our activities into this new definition of electioneering communications, when what we're doing is not electioneering. We're advocating for issues that we've advocated for years on. [LB252]

SENATOR BLOOD: Can you share with me in the last election cycle what issues you advocated for? Give me...as a freshman senator, (inaudible) verification. [LB252]

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MATT LITT: I'll give you the perfect example: Senator Jerry Johnson just talked about a mailing we sent out on the gas tax. That was an issue we worked on back in 2015. That was an issue we hosted a variety of events for, did a variety of grassroots spreading the message on...and something we continue the message on, on raising taxes. It's also something we informed all senators that we were concerned about. [LB252]

SENATOR BLOOD: And what is that message? I'm still not clear on it. I'm sincerely trying to understand this, the message on the gas tax. [LB252]

MATT LITT: The message of opposing the gas tax hike and that it was a tax hike. [LB252]

SENATOR BLOOD: So all the message says is that we oppose the gas tax hike, not we oppose this candidate because they supported the gas tax hike. [LB252]

MATT LITT: Correct. Correct. It says nothing about a candidate. It directs them to the legislative office, their legislative officeholder, so it's the... [LB252]

SENATOR BLOOD: So the legislative officeholder who happens to be that candidate or that public official? [LB252]

MATT LITT: No, they're...we do it on a variety of state senators. We're trying to push our message. We have limited funds and so we're trying to do our best to get our message out. [LB252]

SENATOR BLOOD: So what legislative office are you directing that to? [LB252]

MATT LITT: Their office, they're the current officeholder. They are the senator for that district. We want their constituents to contact them. We also cite the bill that we're discussing. You can go back through our Web site and find our...the different points that we've talked about it in social media, the points that we've talked about it, we use the official picture from the Legislature, the legislative Web site because we're not trying to like granulate a picture to make anybody look bad. And like I said, these are issues...we let senators know were concerning right off the bat and things we've talked about for years and continue to talk about. [LB252]

SENATOR BLOOD: So, and again, I'm truly trying to get clarification; I'm not trying to put you on the spot. [LB252]

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MATT LITT: No, yeah, I understand. [LB252]

SENATOR BLOOD: So then you don't do it during election cycle, it really truly is just get the bill out there and bring people the information, it's not used to influence the... [LB252]

MATT LITT: Our intent is not to influence elections. That would be electioneering... [LB252]

SENATOR BLOOD: So you don't send it out during the election cycle, you send it out maybe when it doesn't get lost in the shuffle and people can truly understand what it's about? [LB252]

MATT LITT: We send information out in a variety of forms throughout the year. [LB252]

SENATOR BLOOD: Is that a yes or a no? [LB252]

MATT LITT: I think it was an answer to an open-ended question. [LB252]

SENATOR BLOOD: Okay, so you send them out year round--contact your senator, whoever the sitting senator is, not just during the election cycle? [LB252]

MATT LITT: Correct, on a variety of issues. [LB252]

SENATOR BLOOD: Okay, thank you very much. [LB252]

MATT LITT: Yeah. [LB252]

SENATOR MURANTE: Thank you. Are there any additional questions? Seeing none, thank you for your testimony. [LB252]

MATT LITT: Thank you. [LB252]

SENATOR MURANTE: (Exhibits 3, 4, and 5) Is there additional opposition testimony to LB252? Any additional opponents? Seeing none, is there any neutral testimony? Seeing none, I do have letters of opposition from Sean Parnell, the vice president for public policy of the Philanthropy Roundtable; and Spike Eickholt, ACLU of Nebraska. I do have a letter in neutral from Matt Nese, the director of external relations of the Center for Competitive Politics. Senator Crawford. [LB252]

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SENATOR CRAWFORD: Thank you. Thank you, committee, and thank you for your great questions and attention to this issue...Friday afternoon. So I'll just come back to a few of the issues that were raised. And what I do want to emphasize, I think that the discussion about individual contributors has been a major part of the conversation and concern of some members. And I want to note that that language was included because our existing statutes on independent expenditures has that same language. So the initial thought of crafting it was to make it...to close the loophole by making the same conditions apply to this that applies to independent expenditures. So that language was not crafted because of any event that happened in the last election or any personalities, it was because that's the same language that is in independent expenditures. I understand the policy questions about whether or not that's an important standard. Again, it was in there because it's currently in our statutes for independent expenditures. And I understand some of the concerns about that language which is a very fair policy debate about that. And that...my focus on the bill, for the most part, was much more about the organizational entity and making sure there's someone to contact, someone to hold accountable for the speech itself. And so that conversation about whether or not contributions specifically for a piece of speech applies...is an interesting policy debate for us to continue to wrestle with. If we're just going to close a loophole, it stays in as it applies; if we think it's something that needs to be wrestled with more, that's, I think, an issue to consider. I do want to also note...so it is not any contributor to organization. And it is only if there was some specific way in which those people were targeted to recruit money for some specific communication that meets the standards. So that's really what you're trying to do; you're trying to avoid if that's just a way for people to participate in an election communication under a cover and an election communication specifically, not the other things the organization is doing. So it's also...I want to clarify the...Mr. Litt indicated that this would get in the way of their efforts to educate the public on the gas tax. And again, I want to remind you that any communication about the gas tax that occurs outside those 30 days is not covered. And again, any people who are giving money to an organization for that communication or other communications is not directly being solicited or for the purpose of election communication would not be covered. And also, if we're in session and we're voting on the gas tax, that's very clearly identified as an exception. And so they...and that's on page 2, when we're specifically in Legislature and they're talking about specific legislation, that's a clear exception because there is clear reason to be sending that kind of ad at that time. So we tried to address those concerns in the bill itself. This is also focused on state races and that's where we do have the right to regulate; someone asked the question about federal preemption. So I think another interesting question that got raised was the issue about the amount of money that Senator Brewer raised. And currently, there are constitutional restrictions against limiting the amount of money. So it's just not something that we're able to do, Senator Brewer, and so that's not an issue with the bill because it's not an option at this point. I thought one of the important issues that got raised was one about the playing field for a candidate. And because candidates are raising money, spending money. If a candidate spends money, they report their spending and having other organizations that are influencing that race reporting their spending is part of that leveling

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the playing field. And that's an important point that got raised by some proponents that I didn't talk about as much in my opening because I was focusing more on the transparency and accountability components. So with that I will urge you to consider the importance of accountability on this specific narrow kind of election participation and the value of addressing that in the sense of holding someone responsible for speech that influences a specific race in that narrow window before the election that that's a tight enough narrowing in terms of it's overall intent that it's a worthwhile objective to pursue. Thank you. [LB252]

SENATOR MURANTE: Thank you, Senator Crawford. Senator Wayne. [LB252]

SENATOR WAYNE: I just have a question. Are we treating the individual who is communicating this differently based off of Section 7? So if they're a corporation, labor organization, industry, trade, or professional... [LB252]

SENATOR CRAWFORD: My understand...what Section 7, my understanding is that it's...that they're not filing reports unless...the word is "but" they make contributions or communications that value more than \$250. [LB252]

SENATOR WAYNE: But in the other sections it has to be disclosed within two days. But for all those organizations under Section 7, they have ten days and they have a less requirement as it's just a nature-date value of the communication with the name of the candidate identified. [LB252]

SENATOR CRAWFORD: So it could be that that part of the...we were...again, trying to make the election communication the same as independent expenditures, except when we had conversations about the days, there was discussion about the number of days moving from ten to two, and I'll check, that could have been a...one of the "tens" that didn't get caught. [LB252]

SENATOR WAYNE: Okay. I just want to make sure we treat everybody the same, whoever. To me, my opinion doesn't matter who they are if they're disclosing it, we should treat them all the same regardless of what they are, if that's the intent of the bill. Sorry to ask that (inaudible) last question. [LB252]

SENATOR CRAWFORD: And Mr. Daley also explained, again, in terms of different kind of report that... [LB252]

SENATOR WAYNE: Yeah, but when we start treating different entities differently and consider under Supreme Court that a corporation is considered a person, I guess the analysis would be

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that we're treating people differently based off of who they are, not necessarily what they're saying. I think we just need to be careful of how we're going to do that. But I don't want to be...it's 5:00 and I don't want to ask the last question and be the one that's on the record to ask the last question. (Laughter) [LB252]

SENATOR MURANTE: That's fine, Senator Wayne, I'll take that for you. So my question is simply, as you've heard several times, I may have asked the question over and over again, it is the question as it relates to overly broadening this to things that are not clearly unintended. I'm wondering what you would think about adding a subsection (d) on Section 3, page 2, simply say--communication that...and I'm not going to use lawyerese because I'm not a lawyer, but...exist for the purposes of influence the outcome of an election. And then the Nebraska Accountability and Disclosure Commission can have the discretion about whether that communication was trying to influence the outcome of an election or not rather than just making a wholesale...a person who is running for office can't even appear...their image can't even appear in a commercial on a completely unrelated matter. I'm wondering what you would think of that? Because right now they don't have the discretion, everything is reportable, as I read it. [LB252]

SENATOR CRAWFORD: I think that's an interesting point. It was interesting to hear the director indicate from their office, their sense of the policy is the importance of noting that any kind of communication is more sensitive in this window...that 30-day window. And... [LB252]

SENATOR MURANTE: And I get it, my problem was I just simply can't agree with Mr. Daley's assessment that Hauptman, O'Brien should just stop running commercials in the last 30 days of an election because what difference does it make. [LB252]

SENATOR CRAWFORD: Right. [LB252]

SENATOR MURANTE: To me that serves no public purpose whatsoever. [LB252]

SENATOR CRAWFORD: Right. [LB252]

SENATOR MURANTE: So to me saying, well, you guys figure, you're the experts on what campaign speech is, why don't you...if someone makes a complaint, we'll give you the authority to determine what is and what not... [LB252]

SENATOR CRAWFORD: Whether influences the election? [LB252]

SENATOR MURANTE: Yes, whether it's going to do it or not. [LB252]

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SENATOR CRAWFORD: Well, I think that's an interesting debate in terms of the main issue is making sure that you don't just create inside the bill the same loophole you're trying to close. [LB252]

SENATOR MURANTE: Understood. I'm not trying to do that. [LB252]

SENATOR CRAWFORD: So that is the concern is to find a way to make it clear. [LB252]

SENATOR MURANTE: It could be a relatively ambiguous language that they could kind of judge whether it's the call your senator about the gas tax two days before the election, that's one thing. [LB252]

SENATOR CRAWFORD: Right. Um-hum. [LB252]

SENATOR MURANTE: But we can figure that out. And I hope somewhere Senator Lathrop is listening and writes me a commission check for the number of references that his law firm has received today. (Laughter) Are there any final questions? Senator Lowe. [LB252]

SENATOR LOWE: I hate to leave you hanging out there and being the last one. So a large union would also be involved with this bill then? [LB252]

SENATOR CRAWFORD: Sure. In terms...you mean be required to follow and comply with it. Yes. [LB252]

SENATOR LOWE: And would their dues be involved in this if they were given in the last 30 days? [LB252]

SENATOR CRAWFORD: So if they are dues, they would not be...if they were just dues to belong as a member, so membership dues would not be considered because it's narrowly construed to be that you gave this money for the purposes of an election communication and not...so that is on page 5, lines 20 through 22. And again, that language is the exact...the language we have right now in our independent expenditures statute, that is why it is stated the way it is stated. And the understanding is that it would only be if the union sent something out saying we need your support to educate the voters about Senator Lowe. So something where it was clearly connected to that specific education piece, to that specific...excuse me, that specific strategy of sending information out. I...and so that is, again, the language is the same as the language as independent expenditures. And as I acknowledged, I understand that I think probably it's intended to try to make people who are careful about soliciting for that specific

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communication specifically. But I understand that...I can understand the questions about how that language is interpreted and applied. And in my sense of the important concerns of the bill, that language is less critical than the importance of "disensuring" that there is accountability for election communication more broadly. [LB252]

SENATOR LOWE: All right, thank you. And one more question, if I may, just to finish the day off. [LB252]

SENATOR MURANTE: We shall see. [LB252]

SENATOR LOWE: We're concerned about accountability here. And I truly appreciate that. I think we all need to be held accountable. But in our own Legislature we don't require it. What's your feeling toward that because even in our own Legislature we have a "no vote," that I'm not voting. [LB252]

SENATOR CRAWFORD: Right. [LB252]

SENATOR LOWE: So why are we requiring everybody else to do this, but we're not requiring ourselves to do this? [LB252]

SENATOR CRAWFORD: It's a very interesting question for a parallel. So let me talk about the difference between a "present, not voting" and an anonymous speech. So a "present, not voting" is accountable and it is transparent because the public record of the vote has your name by "present, not voting." And news accounts of a vote will usually list "not voting" and your name will be listed there. And so...and I'm...in the case of, say, the gun bill recently that lost cloture by one vote, the people who were "present, not voting" were clearly listed and listed in the paper...and actually even people who were absent are listed on the record and listed in the paper. And so people are accountable for that choice with their name by that choice. So it is transparent because...and it is transparent because it is listed and your name is listed there. A "present, not voting" is not anonymous, it is listed. And people know and people can ask you; boy, it only failed by one vote, why didn't you vote? So you are held accountable for that. And people can ask you about it and you have to stand behind it. And so it is...there is accountability and transparency on a "present, not voting" because of all of those ways in which it is disclosed and able to be communicated and people are able to ask you about that, you know, voters can ask you about that or make an issue about it; they can run ads against you for being present and not voting. [LB252]

SENATOR LOWE: Only if you know who they are. [LB252]

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SENATOR CRAWFORD: No, but you do know who they are, because it is on public record. [LB252]

SENATOR LOWE: I mean, the people that are running ads against you. [LB252]

SENATOR CRAWFORD: Oh, well, if it's in the last 30 days, (laughter) we do want to know who is doing that, yes. [LB252]

SENATOR MURANTE: So this would be a really good time to bring up secret ballots for leadership elections and have that being (inaudible) (laughter). We'll leave that where it is, we'll leave that lie. Any final questions? Seeing none, we already read the letters into the record. That closes the hearing on LB252 and ends our public hearings for the day. Thank you, Senator Crawford. [LB252]