

HILGERS [00:00:01] Welcome to this hearing, the public hearing for the Executive Board. My name is Mike Hilgers, represent District 21 which is northwest Lincoln and Lancaster County, the Chair of this committee. To my right is legal counsel, Janice Satra. To my far right is Paige Edwards, the committee clerk. Our page today is Kent-- Kelsey Loseke from Blair. We will start with member introductions. Senator Lowe.

LOWE [00:00:22] John Lowe, District 37, Kearney, Gibbon, and Shelton, the surrounding farm area.

BOLZ [00:00:28] Senator Kate Bolz, District 29.

SCHEER [00:00:31] Jim Scheer, District 19, Madison County and a little bit of Stanton County.

KOLTERMAN [00:00:35] Mark Kolterman, District 24, Seward, York, and Polk County.

HUGHES [00:00:38] Dan Hughes, District 44, 10 counties in southwest Nebraska.

McCOLLISTER [00:00:42] John McCollister, District 20, central Omaha.

HILGERS [00:00:46] Senator Vargas is the Vice Chair of this committee. He is unable to attend today. The order of the proceedings today is slightly different from what we had on the-- on the Web site. We will begin with LB466 then which is Senator Howard's bill; then LB253; LB261; then LB467. If I could get a show of hands of those who intend to testify today on any bill. And keep your hand up if you intend to testify on more than one. OK. So this committee is unique in the Legislature in the sense that it meets over the noon hour, similarly to the Retirement Committee. We have a hard stop, unfortunately, in this committee. And several of you who've been here now are aware where we will get kicked out of this room. And so to make sure that we accommodate everyone's opportunity to be heard, we will be doing three-minute proponent, opponent, and neutral testifying times. So after two minutes, your light will go from green to yellow and then with one-- when your third minute it will be yellow and then it will go to red. So if you are wishing to testify, please fill out a green sheet in the back. If you do not wish to testify but you wish to have your name recorded in the record for support or opposition to a particular bill, you can-- there's a white sheet in the back and you can put your name on that and it will be reflected in the public testimony. So just briefly any other housekeeping matter before we get started?

SCHEER [00:02:08] Are you going to allow them to note that the supporter is on all the bills that they can do that in one testimony versus all three?

HILGERS [00:02:17] So if you wish to testify in multiple bills and there's a common theme of your testimony for-- these bills are different. But if there's a common theme that you'd like to

have, that you would like to testify on multiple bills, you can in the interest of time if you note that in your testimony we will-- that you are actually test-- wishing to testify along the same lines for multiple bills, we will make sure that that is recorded for the record. If you have different points you'd like to make, certainly, that's fine. But we're just trying to, again, try to ensure that we have an efficient hearing and that we can accommodate everyone. Before we start, the last housekeeping matter I would note is please silence your cell phones. And technology, we do have some members who have their computers out. We are a paperless committee like others in the Legislature. So if members have their phones or computers out, they're doing research or looking at the bills themselves. We also have one other scheduling issue today which is the Revenue Committee for which we have two members on this committee, it starts at 12:30 I believe. And so we may have some member-- we will have some members coming and going throughout this particular hearing. So with that, we will start with the first item of our agenda, LB466, which is Senator Howard. Welcome.

HOWARD [00:03:45] Thank you. Good afternoon, colleagues. All right. Good afternoon, Senator Hilgers and members of the Executive Board. My name is Senator Sara Howard, H-o-w-a-r-d, and I represent District 9 in midtown Omaha. Today I bring before you LB466, a Redistricting Act. I introduced this bill last year, LB975, and I'm bringing it in this year as I feel it is a fair, nonpartisan approach to the redistricting process. This bill sets forth in statute the state's redistricting process. I've crafted this legislation similar to a plan that our neighbor state, Iowa, uses. It is innovative, nonpartisan, and allows all parties to work together to create fair and even political districts. Under LB466, the process is as follows. The initial maps are to be drawn by the Legislative Research Office using state-issued computer software and politically neutral criteria including: equal population, no political affiliation, no previous voting data, data only from the U.S. Census Bureau, deference to county and municipal lines when appropriate, contiguous districts. The Director of Research delivers the maps to the Legislature to be placed directly on General File no later than 15 calendar days after the director receives the census data from the Census Bureau. However, they are not to be placed on the agenda until the Redistricting Committee-- committee delivers their report to the Legislature. The Redistricting Committee distributes the census data and the maps that have been received by the Legislature and makes them available to the public and are to conduct at least one public hearing in each congressional district to solicit input. Once this has occurred, the committee shall deliver a report of the hearings to the Legislature within 14 calendar days after the maps are delivered to the Legislature. As in the last redistricting cycle, hearings are allowed to be held via satellite due to the tight time frame. Note this bill does not address the composition of the Legislature's Redistricting Committee. It's my intent that the committee structure remain the same as it is now as set forth in our rules in Rule 3 Section 6, which is essentially there are three members from each congressional district and then there are no more than five members of one particular party. However, this changes the duties of the Redistricting Committee. Their role will now be to-- to garner public feedback on the maps that are prepared by the Legislative Research Office using the politically neutral criteria outlined in the statute. Once debate on General File begins, no changes other than corrective amendments are allowed during the initial round of debate.

After three legislative days if the Legislature fails to advance or adopt the first redistricting plan, debate stops and the Director of Research shall begin to prepare a second set of maps, but all maps will still have to follow the same parameters initially discussed. When debate ends, members of the Legislature have 48 hours to submit comments to the maps-- on the maps to the Clerk of the Legislature who will then deliver the comments to the Director of Research. This presents a uniform way to ensure that no member is exerting undue pressure on the Director of Research. The Director of Research shall deliver a second version of the maps as needed no later than 20 days after the failure to advance the first set of maps. The second version of the maps may incorporate such changes suggested by members or changes suggested in a veto message from the Governor. But again no changes other than corrective amendments are allowed on the floor. And even when they do make changes, they still have to follow the politically neutral criteria outlined in the statute. If needed, the process starts over again for a third time. Unlike the first two rounds of debate, these maps are allowed to be amended such as any other by-- bill by members of the Legislature. If the Legislature fails to adopt maps within a legislative session, the Governor is required to call a special session within 30 days after the adjournment sine die of the legislative session and begin with a new initial version of the maps and comply with the rules set forth in the Redistricting Act. While there are obviously differences between the way Nebraska would conduct the process because of our Unicameral system, the philosophy behind the Iowa system is largely the same. In Iowa, according to Ed Cook, their legal counsel, the legislature has had little issue with their redistricting plan because members of the legislature know that they have the final say ultimately. And while his office does the drafting of the maps, they are completely nonpartisan and there is a trust that the scales will be tipped one way or the other in Iowa. Since 2000, Iowa has had more competitive congressional races than Texas, California, and Florida combined. Despite having a fraction of the number of seats. Only one district has been automatic for either party over that time and every other seat has remained in play or close to for over two years. According to Mike Gronstal, a former Iowa legislator, he said we're proud of the fact that the system we have is perceived as fair by pretty much everybody and leads to very competitive races. The strength of the ideas win elections, not the strength of the people who control the map. Since the beginning of using this process in Iowa in 1980, only in 1981 did the legislators go all the way to a third plan and once asked for a second effort in 2001. Other than that, plans have passed with little trouble. The legislative service office counsel Ed Cook states: There's judgment calls everywhere. But we're constrained by the criteria. If the legislature wants another look, he doesn't mind. It just means that we have to do another plan. He said the standards don't change. Acceptance or rejection is their call, but they really can't steer what the next plan is going to look like per se because of those parameters. Iowa has really taken partisanship out of their redistricting and that's the reason why I think it would be a really good fit for Nebraska. Our nonpartisan Legislature functions best when we take politics out of it and do what's best for our state to create a fair and balanced system. I want to thank you for your time and attention to this important subject. And I'm happy to try to answer any questions you may have.

HILGERS [00:09:33] Thank you, Senator Howard. Are there questions? Speaker Scheer.

SCHEER [00:09:38] Thank you, Senator Hilgers. Thank you for bringing this. Just two questions for information. If I heard you right the public hearing is only in regards to the first-- the first go-round. If there's a second go-round, there isn't necessarily-- or third-- any additional ones does not have a public hearing. Is-- am I reading that correctly?

HOWARD [00:10:02] Yes. It would be treated like a bill.

SCHEER [00:10:03] Okay. And then secondly you talked about corrective action. Can you give me an example of what you might believe corrective action might be?

HOWARD [00:10:10] Sure. So this is something where say the maps come out and I look at it and instead of running down a street it runs down an alley. And I think, well, that doesn't make any sense because it's going down an alley instead of a street. Because I know my district very well, I would say, hey, could we move that to another street? So it really would give senators an opportunity to look at the maps, knowing our districts as intimately as and as well as we do and say wait a minute. That you're cutting up a neighborhood or you're cutting up something that maybe they don't necessarily see just based on the numbers. But still they would have to follow that politically neutral criteria-- criteria.

SCHEER [00:10:47] OK. Thank you.

HOWARD [00:10:48] Thank you.

HILGERS [00:10:50] Thank you, Speaker Scheer. Are there other questions? Senator Bolz.

BOLZ [00:10:53] Thank you, Senator Howard. One of the reasons that it-- things-- things didn't move forward or redistricting bills didn't move forward out of the Exec Board last year was a question about whether or not the time was right to address these issues. Can you just speak to the timing of these bills and-- and why moving forward this year would be constructive?

HOWARD [00:11:15] Thank you for that question. I won't be here when we redistrict again. You won't be here when we redistrict again. Nebraska has never redistricted in the same way twice, which is fascinating to me. We've had court challenges. We've had-- we've had committees where they've been sort of oddly made up. The year that my mom had her first maps was a year that Senator Chambers had been on the Redistricting Committee. And then when I had my first maps, I think it was-- it was sort of a different group of people. But I think ultimately this is the Legislature where if we do want to make any changes to redistricting now is absolutely the time. I prefer my plan over other options because it never takes away. I feel like our work is to represent the people who sent us here and be that voice of the people. And in my view, because we leave the senators committee intact, we're still garnering public impact-- input but we're definitely, definitely still representing the people who sent us here. But now is absolutely--

I would say it's very urgent that we move on some type of redistricting plan at least with the politically neutral criteria or utilizing exclusively a state-issued computer if we don't want to modify how we manage debate. But-- but I can't impress upon you more that if we don't make changes it will be awful in 2021. I've spoken with senators who were here in previous years and none of them feel good about what has happened before. Everybody walks away feeling like somebody-- things weren't fair. And at least we could put in some guardrails so that it could be fair. I think our job is to make sure that future Legislatures have some certainty about how we're going to do something as important as redistricting and what our preferences are there. Thank you, Senator Bolz.

HILGERS [00:13:22] Thank you, Senator Bolz. Any other questions? Thank you, Senator Howard.

HOWARD [00:13:26] Thank you, Senator Hilgers.

HILGERS [00:13:26] You stick around for closing?

HOWARD [00:13:27] I guess so. No, I appreciate it. Thank you.

HILGERS [00:13:30] Thank you. First proponent for LB466. And I'll say this-- this is not specific to you but to everyone here just-- when that light hits red, so it's not-- it's not personal to you, but when that light hits red, I will be-- I will be cutting you off to make sure that we have enough time for everyone else.

JOHN ELSE [00:13:56] I want to testify on both. I hope it's not just three minutes for that.

HILGERS [00:14:01] OK. Well, and I don't think I said before, please when you start your testimony, please state your name and spell it for the record. Thank you.

JOHN ELSE [00:14:07] John Else, E-I-s-e, Dr. John Else I should say. I'm a-- was a professor at UNO-- at UNO and I'm retired now. And I submitted my letter-- letters of support and so you should have those. Let me just say right up front that it's really critical that you pass it, this law this year. The redistricting happens two years from now. And so there's not going to be a chance for another legislature to pass it. This Legislature needs to do it either this year or next year. It's also important to recognize that redistricting as it affects political boundaries, so political inclusion and so forth, is a big issue in the courts right now. The North Carolina State Supreme Court has overridden the legislature's redistricting. [RECORDER MALFUNCTION] Murante-Mello bill. I've gone through the six issues that he raised in his veto message, and both of these bills address all six of those and remedy them. The first is that his concern that the bill wasn't, he didn't feel, didn't reflect the spirit and tradition of a nonpartisan Legislature. Both of these do that. This bill gives the Legislative Research Office which drafts all legislation, not just--

and not the legislative committee-- the authority to draft the maps and after-- except in the case of--

HILGERS [00:17:11] Dr. Else.

JOHN ELSE [00:17:11] Yes.

HILGERS [00:17:13] I apologize. The three minutes is up if I may interrupt you.

JOHN ELSE [00:17:18] Okay

HILGERS [00:17:19] But let me, two questions for you if I might. First, as you mentioned, you would like to testify for two bills. Is that-- the current one, LB466, and is also LB253, the next one.

JOHN ELSE [00:17:27] Yes, yes.

HILGERS [00:17:28] OK. Thank you for that. And then you were reading your six points and that is from the letter that you've submitted to the committee. Is that correct?

JOHN ELSE [00:17:34] Yes.

HILGERS [00:17:34] So we have, we will have that.

JOHN ELSE [00:17:36] You'll have--

HILGERS [00:17:36] OK, thank you.

JOHN ELSE [00:17:37] You also have an attachment that describes the study.

HILGERS [00:17:42] OK. Thank you very much, Dr. Else. Are there questions? All right.

JOHN ELSE [00:17:48] May I go on the second one?

HILGERS [00:17:49] No, I'm-- if you would like to come back up for the second, when we do the second bill, you can come back up if you would like.

JOHN ELSE [00:17:56] Oh, I thought you said we could do it at the same time.

HILGERS [00:17:57] Well, OK. So maybe I should be more-- the reason we can do them at the same time is to fit it within one three-minute period and then your time would sort of count twice to make sure we could hear everyone so. Welcome.

GAVIN GEIS [00:18:14] Chairman Hilgers, members of the committee, my name is Gavin Geis, G-a-v-i-n G-e-i-s, and I'm the executive director of Common Cause Nebraska. We are in support of LB466 because this is a good proposal to complement LB253. As counterdiscussion points for the Legislature, we would hope you would move them both out of committee for full floor debate as basically a good roundtable discussion for the entire legislature to discuss redistricting, not just one bill but both, for full floor debate. All of today's bills key into an important issue and that is that key elements of our redistricting system are broken, infallibly broken. All of our redistricting laws basically are rules. They are rules that can be changed without introduction, without public notice of hearing. They don't exist in statute. They don't really have much of a voice for the people. They don't really-- they have hearing but I don't usually get notice of that hearing. They are not really statutory rules. They need to be in statute at the very, very least. Those rules need to be moved to statute. To go to the point of why does this need to happen now beyond, as beyond the fact that redistricting is coming up, as Mr.-- Professor Else noted, Rucho v. North Carolina is an important Supreme Court case that's going to be coming up soon, hasn't been debated yet but that is going to address the issue of political gerrymandering. Political gerrymandering, we've heard about racial gerrymandering. We all know about what racial gerrymandering is. That is addressed at the federal level. We can't do that, but we have yet to have set rules on what rac-- on what political gerrymandering are. We're gonna have those soon. We're going to know how much is too much political gerrymandering. Supreme Court's going to talk about that and tell us how much is too much political gerrymandering. How much can you push that line to push out a Republican or a Democrat in your district to create a seat that you like? We don't have any statutory rules let alone do we have rules to say you can't look at those seats. You can't look at the-- the results of last year's election. You can't look at Republican and Democratic registries for-- for redistricting purposes. But both bills address that. We need to have these statutory rules now before the federal government tells us we need those rules. We need to have a statutory structure at the very least in place before we're told how to do it. So that's why we need to do it now today before that court decision comes down when we need to redistrict and we're left scrambling to figure out how to do it in 2021. [RECORDER MALFUNCTION--TESTIMONY LOST}

DANIELLE CONRAD [00:21:48] --and our written testimony in regards to all four bills before you today and to offer our full support of that-- of those pieces of legislation for a couple of primary reasons. One, we believe that each piece of legislation helps to ensure increased transparency, helps to ensure a common set of tools are available, helps to reduce partisanship, and will help to respect the voting rights of minority populations in the state. These are key hallmarks to a sound redistricting process, and we urge your favorable consideration. I'm happy to answer questions.

HILGERS [00:22:19] Thanks so much, Senator Conrad. Are there questions? Senator Bolz.

BOLZ [00:22:24] Senator, Senator Conrad, Danielle Conrad.

DANIELLE CONRAD [00:22:25] Yes. I'm in constitutional retirement now, yes. [RECORDER MALFUNCTION--TESTIMONY LOST]

BRAD CHRISTIAN-SALLIS [00:25:39] --and protections against partisan influence. I think LB466 meet these standards it's got public hearings. It makes use of state-issued computers and software to help remove those partisan and human biases that can occur. And it has things like, you know, requiring equal population, show deference to county and municipal lines, contiguous districts, and those sorts of things. So I think this would be a good move for us to have a more fair redistricting process and can make sure Nebraskans really just feel secure in the integrity of the process. And I would urge you all to support LB466 and any bill that's going to move us towards a more just form of redistricting.

HILGERS [00:26:23] All right. Thank you very much, Mr. Christian-Sallis. Are there questions? Seeing none, thanks for coming down today.

BRAD CHRISTIAN-SALLIS [00:26:30] Thank you.

HILGERS [00:26:30] Are there other proponents wishing to testify on LB46-- [RECORDER MALFUNCTION--TESTIMONY LOST]

McCOLLISTER [00:28:55] Good afternoon, Chairman Hilgers and members of the Executive Board. I'm John, J-o-h-n, McCollister, M-c-C-o-l-l-i-s-t-e-r, and I represent the 20th Legislative District in Omaha. In 2021 following the next census, the Legislature must redraw geographic boundaries for six political subdivisions. Two years ahead of the 2021 deadline, I'm offering LB253. A good starting point for us in 2019 may be LB580 which passed the Legislature in 2016 on a Final Reading by a vote of 29 to 15. However, the bill was vetoed by the Governor at the end of the session and no effort was made to override the veto. The basic concept in my LB253 are very similar to the Mello-Murante bill of 2016. LB253 would adopt the Redistricting Act and create the Independent Redistricting Citizen's Advisory Commission. The bill would authorize the commission to create maps to establish district boundaries for six policymaking boundaries: the Nebraska Legislature, the U.S. House of Representatives, the Nebraska Supreme Court, the University of Nebraska Board of Regents, the Public Service Commission, and the State Board of Education. The maps, just like Senator Howard's bill you just heard, would be developed by the Legislative, the Legislative Research Office. I want to point out some of the noteworthy features of LB253. First, the independent advisory commission will be just that, a commission with a short lifespan that exists for one purpose, to advise the Legislature on one topic: developing maps to outline the districts of the U.S.-- following the U.S. Census. Second, to ensure the commission is independent., LB253 clearly outlines its composition. Six of the seven members of the commission would be selected from three areas now represented by legislative caucuses. Each caucus would have two members on the commission. Thus, equal geographic representation would be assured. As noted in the Lincoln Journal Star editorial that I

provided, commissioners selected by a caucus to represent the caucus area would be drawn from representatives of the two major political parties: one from the party polling the highest and the most recent election for the Governor and one from the party polling second. This would assure that neither political party would have a dominant majority of the commission. The six members of the commission chosen by the caucuses to represent their geographic areas would then be-- would select a seventh member to serve as chair of the commission. The chair would not be allowed to be affiliated with any political party. To further guarantee independence of the commission, all decisions will be made by a simple majority vote. Since it's likely that six of the seven commissioners would be affiliated with one of the two political major parties, the chair, not affiliated with a party, would cast any tie-breaking vote. Finally, it's important to understand this advisory commission is just that, advisory only. It would be tasked with gathering facts. It would be required to have public hearings around the state. After gathering facts and public input, it would be required to make its rep-- recommendations. From that point on, it's important to note it's up to the Legislature to make the final decisions about the six district maps-- the Legislature. I'm also offering AM277 to address the issue that was brought up-- brought to my attention by the Accountability and Disclosure director, Frank Daley. Frank noted the language in Sections 30 and 36 would be subject to the advisory commission members on two different and not entirely consistent conflict of interest provisions of the Nebraska Political Accountability and Disclosure Act. The language would also appear to require the filing of a conflict of interest statement even when there is no conflict of interest at issue. AM277 would eliminate the language in question in order to resolve the matter. I'm grateful-- grateful to Mr. Daley for his attention to this issue and the proposed solution he provided to my office. I encourage the board to include AM277 in its consideration of LB253. Thank you.

HILGERS [00:33:51] Thank you, Senator McCollister. Are there questions? Mr. Speaker.

SCHEER [00:33:55] Thank you, Senator. Senator McCollister, in relationship to your committee makeup, the concern I have is that the electoral body, at least in Nebraska, is becoming more and more registered as an Independent or nonpartisan, whatever the term the counties prefer to utilize. And it's become a fairly large base. And by utilizing just two political parties, I mean, there are only two. Well, I shouldn't say that. There are some others but they're very minor, but those that are registered nonpartisan far outweigh those smaller ones; and in some cases probably overtake one of the other two in certain areas. So how do we not disenfranchise those individuals that choose not to be participating in a political party from this process? Because you're utilizing just the two political parties with the largest attendance and only one that I'm assuming you're terming as the Independent voter when that is such a huge portion of the state's voting population.

McCOLLISTER [00:35:04] Well, as I indicated, the bill that I'm moving was basically the Mello-Murante bill of 2016. And that's-- that's how that was composed. However, you-- you raise a good point. If we look at the three caucus areas in Nebraska, I still think that both Republicans and Democrats account for the two highest party affiliations in those three areas. I'm not aware

that the Independents out-- outnumber either Democrats or Republicans in any of those three areas. But you bring up a good point. I've been criticized in this bill by not including the Libertarian Party, some of the other bodies that-- political parties that are-- are around in Nebraska. So I think that's a good point, I mean, something we can certainly discuss.

SCHEER [00:36:03] Well, I'm just wearing and I don't know from a congressional district, but certainly in a lot of areas of the state, the Independent voter would be far in excess of 20 percent of the registered voters. And that's a significant amount of the population not to have any representation on that, regardless if they don't reach the level of that one or two political party. It's almost like we're still inherently involving the political process by dictating the two political parties have-- and I'm not sure. I don't recall looking at it if it's an even split 50/50 from both parties. That seems to ignore the rising trend of an Independent voting.

McCOLLISTER [00:36:53] Point well taken. But I still think that even with the great number of Independents in the state that they don't exceed the number of people registered as Republicans and Democrats in any of those three areas.

SCHEER [00:37:08] Thank you.

HILGERS [00:37:09] Thank you, Mr. Speaker. Are there other questions? Seeing none, thank you, Senator McCollister. Are you sticking around for closing or are you going?

McCOLLISTER [00:37:15] I certainly will.

HILGERS [00:37:16] OK. Thank you. Any proponents wishing to testify?

JOHN ELSE [00:37:18] Coming up.

HILGERS [00:37:24] Welcome back, Doctor.

JOHN ELSE [00:37:26] Actually--

_____ [00:37:27] [INAUDIBLE]

JOHN ELSE [00:37:28] --and I should say to describe League of Women Voters of Nebraska is a nonpartisan group and these letters were written with Sherry Miller, president. So let me address some of the issues that came up in this discussion.

HILGERS [00:37:45] Dr. Else, would you mind restating your name and spelling.

JOHN ELSE [00:37:47] Oh, I'm sorry. John Else, E-l-s-e, like anything else. And that's it. The comparison between the bills, the McCollister bill, LB253, involves a commission as he

described it with three, three, and one; and the one selected by the six. The-- the-- the Legislative Research Office prepares the maps in both bills, which I think is a critical thing and it's by-- with a map that they have-- with software that they've created and approved. In the McCollister bill, the third set of maps is prepared by the Executive Board by you all. You're responsible for that. In LB466, all three of them are prepared by the Legislative Research Office; and that's probably a sounder way to do it. No amendments, in both of them, no amendments in the first two rounds; amendments in the third round. The-- the nonpartisan issue I think is critical. The-- the analysis now of the presidential candidates who may go Independent really has analyzed that most Independents lean toward either the Republican or the Democratic Party. And you can actually do a survey and you can find out what percentage is each so that having a committee made up of Democrats and Republicans primarily or an equal number makes a lot of sense to me. The other thing I want to say is the League of Women Voters of the U.S. recommends including in the creation of the commission criteria such as gender and other variables that-- so that gender, we don't have all-male representative instead of representative in this commission. I think those are the main things I want to say. That's fine.

HILGERS [00:39:59] Thank you very much. Are there questions? Seeing none, thank you for coming down. Are there other proponents wishing to testify? While the testifier comes to the table, I would-- we typically have a 5:00 deadline for written testimony. If you are here today and ensuring every voice is heard, if you are here today and wish to have a letter and you don't feel like you have the time to testify, you-- if you have your name in the back, you'll be able to submit it late. We will waive that requirement. You will be able to submit a letter for the record. Please go ahead.

BRAD CHRISTIAN-SALLIS [00:40:32] For the record, name is Brad Christian-Sallis, that's B-r-a-d C-h-r-i-s-t-i-a-n-S-a-l-l-i-s. A lot of my testimony was the same so I know we're trying to go quick so I won't go over that. But I just wanted to emphasize the part about the commission that I love is that it is the people of Nebraska kind of getting a chance to work on it. And so I think that's a big thing about this bill is that they'll really feel like I had a role in it. And I think that will get a lot more people engaged in our process if they, even just knowing I, oh, I have a chance to, you know, work on the maps and do that I think would make a big difference. So I'll keep it short, just wanted to get that.

HILGERS [00:41:14] Thank you very much. Are there any questions before you go? Senator Bolz.

BOLZ [00:41:17] I do have a question and I think it's a good question to ask you. Providing an opportunity for public input is one thing. Ensuring there's equality of access to that opportunity for public input is another. What I'm trying to say is providing public input sometimes is easier for people who have access to information, you can take time off work, who speak English as their first language those kinds of things. Do you think that the-- the bill is presented adequately will

provide opportunities for diversity and feedback? And if not, do you have any input on how we can do it better?

BRAD CHRISTIAN-SALLIS [00:41:50] I think it has a good amount like we can always do more but I think just having it said that there will be that certain amount of input by people is always a good first step. And then I'd love to, you know, when we're creating who is actually going to be on the commission, I'd love there to be work going into making sure it's a diverse group of people, people from all types of different backgrounds and you know maybe even the time the commission meets being set at a time where, you know, you can have people who work a 9:00 to 5:00 still be able to partake.

BOLZ [00:42:28] Um-hum. Do you think it would be useful or appropriate to define that-- that certain hearings should be in a certain number of communities or that we should make sure that information is provided in multiple languages? Should we get into that specificity or is it appropriate--

BRAD CHRISTIAN-SALLIS [00:42:41] Yeah. I definitely think information being provided in multiple language and hearings being at times where people can make it would be great additions.

BOLZ [00:42:53] OK. Thank you.

HILGERS [00:42:53] Thank you, Senator Bolz. Are there other questions? Seeing none, thank you for coming down. Are there other proponents for LB253? Mr. Geis, welcome back.

GAVIN GEIS [00:43:11] My name is Gavin Geis, G-a-v-i-n G-e-i-s, once again I'm with Common Cause Nebraska. Be brief like the others. I just want to match-- mention a few features of LB253 that aren't present in the other comprehensive bill. Specifically mentioned here are cracking and packing. Those are ways of breaking up communities that aren't mentioned in the other comprehensive bill. Basically cracking is a way of breaking up a community to dilute. It's basically take a little bit of a community, put it on this larger community, take a little bit of this larger community to break up its interest or put it all together so it only gets one representative. Where if you spread it out, it might actually have a larger voice amongst other communities. There's lovely images I should actually share with you all that describe these terms. But I think by-- by Senator Murante, he was such a nerd about this stuff that I love this bill. He and I loved talking about this. It was great. But by mentioning those terms directly, it's important. So whatever bill is adopted, mentioning those terms directly is-- has value. The other feature that I love is the direct notice of saying creating a Web site where all of this information on redistricting will be held. And it's a long list in there of not just the maps but our history, our rules, who these commissioners or who these individuals will be. I think that's a very important part of this that we don't just say it'll be out there but that our rules include what these Web sites are. And I think, Senator Bolz, to your point that could be a place of a lot of individual engagement and could be

a place where language barriers can be broken down is through our Web site by having multiple language, just access right there. So my broader point is here I think that there-- this is a broader bill with a lot of depth that I think no matter what there are points from here that can be added and expanded in whatever system we adopt that we shouldn't lose because they're important and that through the work of Senators Murante and Mello, through the research they did, we don't want to abandon.

HILGERS [00:45:37] Thank you, Mr. Geis. Are there questions? Seeing none, thank you.

GAVIN GEIS [00:45:41] Thank you.

HILGERS [00:45:43] Are there additional proponents for LB253? Seeing none, anyone wishing to testify in opposition? Seeing none, anyone wishing to testify in neutral capa-- oh, I'm sorry. Went too fast. Welcome.

MATT MALY [00:46:01] Good afternoon. Chairman Hilgers, members of the committee, my name is Matt Maly, M-a-t-t M-a-l-y. I am the vice chair of the Libertarian Party in Nebraska and I'm here today to testify on the party's behalf. We just have one specific concern with this bill and that has to do with how the members of the commission are to be selected, which is laid out in Section 25(2). And as Senator McCollister listed in his opening, the members of-- the senators from each legislative caucus who are affiliated with the basically the largest and second-largest party would each choose one member of the commission from that area and of that party. The problem, of course, is that there aren't two parties in Nebraska; there are three parties. Senator McCollister used the term a couple of times, "major party," but that term doesn't appear anywhere in state statute. There's no such thing. And so this would automatically disqualify the entire membership of one party from serving on a commission. It would also say to any senator who happens to hold that affiliation, sorry, you have to sit this out. You don't get any role in the selection process. Forty-five, forty-six senators are going to choose who's on this important committee. The other two, three, four, or whatever the case may be, you don't-- you have to sit this out. Your constituents get no voice in this selection process. We think that's wrong for two reasons. First is that it goes against the whole idea of the bill which is to make our democracy stronger and more fair and ensure equal representation for all Nebraskans. The second reason is it goes against our nonpartisan tradition in Nebraska. My understanding is that most of the states who have enacted similar legislation have a system where the majority and minority leaders in both houses of the legislature get to fill one of the seats on that commission. Obviously, that doesn't apply to us and for good reason. Because in our system, we don't put all of the legislative authority and power in the hands of a few leaders. But all 49 of you, regardless of political affiliation, get fairly equal say in just about everything the Legislature does. So if we're adding a new responsibility to the Legislature of seating the seven people on this commission or at least six of them, it should be done the same way. The good news is that it's a fairly easy fix. As far as we're concerned, we would be very satisfied to have this bill adjusted, the wording in Section 25(2)(b) to read something along the lines of "The members of each

legislative caucus who are not affiliated with a political party polling the highest number of votes statewide." So that way rather than the largest party and the second largest, you'd be looking at the largest party and everyone else put together. Practically speaking, at least for this redistricting process, that would be Democrats, Libertarians, and nonpartisans all put together. So that would be the better way of doing it and we would still abide by the requirement listed above that no party can hold more than three of the seven seats. So it's a fairly minor change in a certain way; but four, five, six redistricting processes into the future it may play a much bigger role. And we think that's just the better way that this bill could be written should it end up on General File for the full Legislature to consider. Thanks for your time and I'd be happy to take any questions.

HILGERS [00:48:59] All right. Thank you, Mr. Maly. Are there questions? Seeing none, thank you for coming down. Are there other opponents wishing to testify? Seeing none, anyone wishing to testify in a neutral capacity? Seeing none, Senator McCollister, you're welcome to close.

McCOLLISTER [00:49:20] Thank you, Chairman Hilgers and members of the committee. I want to thank you for your attention. I think you've been given a pretty good synopsis of two bills. And as pointed out, the two bills are very similar with the difference being that the bill I'm proposing utilizes a commission and that has certain advantages I would contend. But-- and we-- we could very well fashion a bill that included the best features of both bills. And there's some advantage I think to, you know, sending both bills to the-- to the floor of the Legislature. Second point I'd like to make is, yeah, this is the year to do it. We don't want to wait until 2020 when it's a political year. That complicates our life considerably. So this is the year to move those bills. And third, the approach I'm taking with the commission, you know, that's being utilized by more and more states. You look at the states making changes in the way they conduct their-- their-- their redistricting and commissions are being utilized more often. And I think that removes the potential for partisanship to a greater extent than keeping the entire process within the Legislature itself. Once again, thank you very much. Be happy to take any questions.

HILGERS [00:50:47] Thank you, Senator McCollister. Are there last questions? Seeing none, thank you very much. We have eight letters of support, a letter in opposition, two letters in the neutral capacity. That closes the hearing on LB253. We'll start with LB261, Senator DeBoer. While you're coming forward, I'll note for the record we have some seventh and eighth-grade students from Papillion Middle, La Vista Middle, and Liberty Middle Schools here--

_____ [00:51:07] Senator, what district are they in?

HILGERS [00:51:08] So thank you all for coming and watching today. So, Senator DeBoer, please go ahead.

DeBOER [00:51:12] Good afternoon, Chair Hilgers and members of the Executive Board. My name is Wendy DeBoer, W-e-n-d-y D-e-B-o-e-r, and I am the senator representing District 10 in northwest Omaha, Bennington, and surrounding areas. Today I'm introducing to you LB261 which requires the use of state-issued computer software throughout the redistricting process. As we approach redistricting in the next few years, this bill-- this body will be asked to draw borders of many partisan and nonpartisan districts. Under the current rules of this body, the bulk of the guidelines governing the redistricting committee have been proposed and adopted each time the redistricting process has undergone. Currently Rule 3, Section 6(f) states that the Redistricting Committee shall "adopt substantive and procedural guidelines that will guide the Legislature's redistricting process." There are additionally certain constitutional guidelines which much-- must be adhered to each time. These include contiguity, compactness, equality of population, following of county lines whenever practicable. There are no specific procedural or other guidelines in place beyond the-- the composition of the Legislature's committee. One of the things that I've often heard echoing through the halls of this building, both when I was watching on television before I was here and since I have been here, is that some issues-- some issue or another is a solution in search of a problem. Let me be clear that this is not the situation we are facing here. Whether right or wrong, the question of redistricting fairness has become a hot topic on social media, in the courts, and around the Thanksgiving dinner tables in Nebraska or in other places around our country. Questions about the redistricting process have eroded voter confidence in our democratic process. Even if we believe our colleagues and future colleagues will always undertake their redistricting power with the highest levels of integrity, the popular perception that this may not be true, that our process is in any way unfair is not something we can ignore. Perceptions matter when we are talking about voter confidence in our electoral process. As we approach the 2020 census and redistricting, we need to demystify the redistricting process in order to avoid even the appearance of impropriety and increase voter confidence in the electoral process. LB261 will start to codify the process-- the best practices into state statute. It is a modest first step. Not only does this bill increase transparency of the process, but it also guarantees that any map introduced for floor debate has undergone review by the Legislative Research Office and is in compliance with constitutional guidelines related to redistricting. AutoBound, the state software used in the past, checks that maps have the correct number of legislative districts, have no unassigned blocks or precincts, are comprised of contiguous territory, and that district boundaries follow county lines whenever practicable, all constitutional requirements of legislative district maps. Without requiring the use of state-issued software like AutoBound, it is possible that future legislative redistricting committees may choose to allow maps to be drawn by other methods. This can result in maps reaching the floor that could be challenged in court, a problem that has occurred as recently as 1992 and which you will hear about in more detail from other testifiers. I should note that the money for purchasing this software is already part of the budget and this bill will not require any additional funding than what has already been the traditional practice and what is already set aside. LB261 simply codifies what we already know to be the best practice to achieve efficient and transparent redistricting. Thank you for your consideration of this re-- this legislation, and I'll be happy to answer any questions that you might have.

HILGERS [00:55:13] Thank you, Senator DeBoer. Are there questions? Seeing none, thank you. Will you be able to stick around for closing?

DeBOER [00:55:19] Yes.

HILGERS [00:55:20] OK. Are there any proponents wishing to testify on LB261? And just to remind everyone, we will get kicked out of here in about 30 minutes. And so I'd encourage anyone who wishes to testify to strongly consider putting your name down and submitting your testimony via a written letter. Welcome.

WESTIN MILLER [00:55:39] Thank you, Chairman Hilgers, members of the committee. My name is Westin Miller, W-e-s-t-i-n M-i-l-l-e-r. I'm the policy and communications associate for Civic Nebraska. Civic Nebraska is a nonpartisan, nonprofit organization. We work with the Legislature on elections and voting rights legislation. As we've kind of already seen, redistricting conversations can understandably get pretty intense because there's a lot on the line. There are a lot of advocates, a lot of nonprofits, a lot of politicians telling you what you should do based on their conception of the right thing. So I just want to start by cutting you all some slack and recognizing that this is an extremely complicated process. There's a lot going on, but we really appreciate that you're willing to take the time to do this process well. With that in mind, Civic Nebraska, we want to support legislation that will not only encourage best practices for redistricting but also make the job as easy as possible for you all. And I really believe that LB261 does both of those things. Maybe unlike some others you've heard today, this bill is decidedly not about politics. It's about the actual process of redistricting itself. So I'm going to talk quickly about a previous legal challenge the Legislature has faced and how codifying the use of state-issued computer software into statute can help us not repeat that problem. So the last time the Legislature didn't use software to draw their maps was in 1991 and not coincidentally that's also the last time that a lawsuit resulted in the Nebraska Supreme Court throwing our maps into the garbage and requiring us to draw them again. In *Day v. Nelson*, the Nebraska Supreme Court ruled the Legislature's maps were unconstitutional because they unnecessarily divided Madison County despite the fact that Madison County has about enough people to constitute its own legislative district. So when drawing political districts, the Legislature has to meet a number of goals. Some of them are numerical and some of them are not numerical. So numerically as you've heard they have to be similar in population. The U.S. Supreme Court has ruled that anything more than a 10 percent deviation between districts is not acceptable. But the Nebraska Constitution also requires the districts be compact, they must be contiguous, and when possible they must follow county lines. So what I've distributed is a Law Review article by T. Parker Schenken explaining how the wide array of goals that a map has to meet are wildly overlapping and a lot of cases they can even seem to contradict each other. The only feasible way to draw 49 legislative districts that are compact, contiguous, equal in population, anchored in a few immovable county lines, but also somehow able to answer accusations of being political or racial gerrymandering, the only way to accomplish all of those

things is to draw maps on state-issued computer software that can actively measure and report on all of those factors. Another important note this article makes is that given how much was made in Day v. Nelson of the Legislature's ability to justify its choices, the committee is going to have to have an ability to clearly demonstrate why it made certain choices and not others. And the software can make that much easier to do. I want to be respectful of time, I'm not going to have time to get to all of this. But if anybody wants to talk about it, I do have some more information about the actual software that we do use in Nebraska. So if you have any questions, I'd be happy to-- happy to answer them.

HILGERS [00:58:30] Thank you so much.

WESTIN MILLER [00:58:33] Thank you.

HILGERS [00:58:33] Are there questions? Speaker Scheer.

SCHEER [00:58:36] You do know there were other claimants in Day v. Nelson, do you not?

WESTIN MILLER [00:58:42] Yes. Yeah, actually, yeah, there is a lot going on. My understanding is that the-- the-- the primary concern that ended up in the Supreme Court's decision though was the fact that, hey, you showed us there were ways to not divide Madison County and you showed--

SCHEER [00:58:55] Way past-- sort of went over the head. I was one of the claimants. That's [INAUDIBLE].

WESTIN MILLER [00:59:02] Oh, [LAUGHTER] You did a great job.

HILGERS [00:59:04] Thank you, Mr. Speaker. Are there other questions? Seeing none, thank you for coming down.

WESTIN MILLER [00:59:09] Thank you.

HILGERS [00:59:10] Other proponents for LB261. Seeing none, anyone wishing to testify in opposition? Seeing none, anyone wishing to testify in a neutral capacity? Seeing none, Senator DeBoer, you're welcome to close. Senator DeBoer waives closing. There are six letters of support; none in opposition; and one in a neutral capacity for LB261. That closes our hearing on that bill and go-- we are now on our last bill, LB467. Senator Vargas is unable to be here today and so I believe his staff was going to introduce for him, but I do not see--

SCHEER [00:59:51] Do you want to reschedule?

JANICE SATRA [00:59:52] [INAUDIBLE] get up and leave [INAUDIBLE].

HILGERS [00:59:52] Yeah, we have to [INAUDIBLE]. I don't want to [INAUDIBLE].

JANICE SATRA [00:59:52] His AA was here a minute ago.

SCHEER [00:59:52] Nobody introduce [INAUDIBLE].

HILGERS [00:59:52] What's that?

JANICE SATRA [00:59:52] [INAUDIBLE] for the record.

HILGERS [00:59:52] We're going to have the hearing.

SCHEER [00:59:52] Just introduce it via this?

HILGERS [00:59:52] Just give it a few seconds. How many people are here to testify on LB467? Nobody. Well, after all that hustle we got, now we have a little extra. I appreciate everyone's consideration with our timing issue. We're very grateful. We apprecia-- or I'm very grateful.

MEG MANDY [01:00:30] I'm sorry.

HILGERS [01:00:32] No. No problem. We-- we all rushed.

MEG MANDY [01:00:37] All right. OK.

HILGERS [01:00:37] No, thank you.

MEG MANDY [01:00:37] Hello.

HILGERS [01:00:39] And before you start, I'll just-- for those here and also for-- this is our first committee hearing where we've had a staff introduce a bill so the ground rules are no questions during opening and no closing so.

MEG MANDY [01:00:52] OK.

HILGERS [01:00:53] So, Senator Hughes, you cannot speak anymore.

HUGHES [01:00:56] Okay.

HILGERS [01:00:59] Perfect. Thank you for being here. You're welcome to open on LB467.

MEG MANDY [01:00:59] OK. Hello. I'm Meg Mandy, M-e-g M-a-n-d-y. I'm the legislative aide for Senator Tony Vargas who represents District 7 and the communities of downtown and south Omaha. He apologizes for not being able to be here today. So you're getting the B team, and I will do my best to deliver his testimony. The intent of LB467 is to ensure that our next redistricting process is as fair and transparent as possible, which is critical to help voters build trust with their elected representatives and ensure that Nebraskans are adequately, accurately, and fairly represented. LB467 would require that political affiliation, demographic information other than population figures, and the results of previous elections be ignored when drawing district boundaries. This criteria is crucial for our next Redistricting Committee to abide by to ensure that their redistricting plan they develop will be constitutionally acceptable. I have a couple handouts here for you too. Is our page-- yeah. The language in LB467 is taken directly from LR2 [SIC], which was the Redistricting Committee's resolution on criteria and the redistricting process in 2011. This bill would essentially codify a portion of what previous practice of the Legislature's Redistricting Committee has been. One source of information about best practices and redistricting is the Brennan Center for Justice which recently published a report that includes recommendations for redistricting committees. I've brought copies of this report for each of you which you should be getting now. One of the recommendations offered is what LB467 and 2011's LR2 [SIC] offers: clear prioritized criteria for map drawing to establish ground rules that Redistricting Committees must follow when designing a map. LB467 may not be able to prevent political district boundaries from being subject to the personal, partisan, or political persuasions of those drawing the district lines. But if passed, this bill would allow voters and stakeholders in fair elections and voting rights to have recourse in holding the Legislature accountable if a map was found to have been out of compliance with the intent of the Legislature and with the statute. Transparency and fairness in drawing political district boundaries is something I believe we can all easily agree is good for the redistricting process and ultimately is good for Nebraskans. Codifying this practice in statute will ensure that elected leaders aren't choosing their voters through the redistricting process. Instead, it will continue to be the other way around with voters choosing their elected representatives. Thank you.

HILGERS [01:03:14] Thank you very much. Are there any proponents wishing to testify on LB467? Welcome back.

WESTIN MILLER [01:03:30] Thank you, sir. Chairman Hilgers, members of the committee, my name is still Westin Miller, W-e-s-t-i-n M-i-l-l-e-r. I'm the policy and communications associate with Civic Nebraska, a nonpartisan, nonprofit organization. We work with the Legislature on elections and voting rights legislation. I'm here in support of Senator Vargas' LB467, which will continue to improve both the integrity of and public trust in our redistricting process. We support LB467 for two pretty simple reasons and those reasons are consistency and integrity. So first, consistency. As Meg mentioned, LB467 should be one of the easiest decisions you make about redistricting because the Legislature has already decided this is good policy. The language of LB467 is taken directly from 2011's LR102, which is the Legislature's adopted rules regarding redistricting. And those rules passed with 40 yes votes and 0 no votes. Giving no consideration

to political affiliations or demographics beyond population is good practice that we should codify in statute. This bill is necessary to prevent future Redistricting Committees from intentionally or accidentally overlooking this very important provision. The second reason we support LB467 is integrity, specifically the positive effect this bill would have on the public's trust in the integrity of our redistricting process. And just for some-- some quick context, the consideration of race is actually not banned in all cases of redistricting. In fact, the creation of majority/minority districts has historically been one available remedy for states considered out of compliance with Section 2 of the Voting Rights Act. But for our case, it's important to know that Nebraska is not one of those states. And also the creation of these districts is not universally considered to be best or necessarily even good practice. And that's because the creation of these districts must, by definition, involve packing more voters of a certain racial group into a district than is actually necessary for that group's preferred candidate to win an election. Nothing aside from the inherent problem of assuming that all members of a certain minority group want the same candidate to win, this practice also bleaches surrounding districts making it virtually impossible for those interests to be represented in more than one district. Addition, I think for fairly obvious reasons, the use of majority/minority districts, though often well-intentioned, is a tool that can be easily abused. We also think just on principle that explicitly considering race when drawing legislative maps is never good for building public trust in the process. No one is going to feel better knowing that the Legislature is thinking about where to put people specifically based on their race. We think that the use of majority/minority districts can and does have use in other states, but it's a practice that we think is best avoided altogether in Nebraska. I think it's important in summary to solidify this rule by putting it into statute. It's gonna keep us consistent and it promotes public trust and integrity of our redistricting process. Thanks again for your time and I'd be happy to answer any questions.

HILGERS [01:06:16] Thank you, Mr. Miller. Are there questions? Seeing none, thank you for coming down. Any other proponents wishing to testify on LB467? Seeing none, anyone wishing to testify in opposition? Seeing none, anyone wishing to testify in the neutral capacity? Seeing none, there is no closing. We do have five letters of support and one in the neutral capacity for LB467. And that closes our hearing for the day. Thank you all for your consideration. I appreciate it.