

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

BREWER: Good afternoon, ladies and gentlemen. Welcome to the Government, Military and Veterans Affairs Committee, my name is Tom Brewer. I represent the 43rd Legislative District of western Nebraska and the Chair of this committee. I'd like to start by introducing the committee members starting on my right.

BLOOD: Good afternoon, I'm Senator Carol Blood and I represent District 3 which is made up of western Bellevue and southeastern Papillion, Nebraska.

LOWE: John Lowe, District 37, Kearney, Gibbon, and Shelton and the surrounding farm ground.

HANSEN: Matt Hansen, District 26, northeast Lincoln.

KOLOWSKI: Rick Kolowski, District 31, southwest Omaha.

HUNT: Megan Hunt, District 8 in midtown Omaha.

BREWER: Senator Hilgers is ill today, so he is out of the net for that and Senator La Grone, I think, is presenting in another committee. As a follow on to that, we'll introduce my legal counsel, Dick Clark; committee clerk is Julie Condon; and Kaci and Preston are our pages. I would ask at this time that you mute any electronic devices. The senators will be using their computers or iPhones-- cell phones to monitor any requirements to be in other committees or to get information so please don't be distracted by that. If you would like to record your attendance in the hearing, white sheets are at the rear at the table. If you wish to testify, be sure that you fill out a green sheet and hand that to the committee clerk when you come forward. If you have materials to hand out, we ask that you provide 12 copies. If you don't have 12 copies, please let the pages know and they will make copies for you. And now I'll be able to read what I'm doing. There we go. Let's see, we'll begin with the bill testimony with the senator introducing his opening statements followed by proponents, opponents, and finally those in the neutral capacity. The Senator will then give the closing remarks. Today we are going to have hearings on the following bills: LB415, LB447, LB375, and LB385. We'll use the light system. It will be five minutes. You'll get an amber at four, and a red when the time expires. We'd ask when you come up to please say and then spell out your name so that we get it in the record correctly and speak clearly into the microphone. With that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

said, welcome to the Government, Military and Veterans Affairs Committee. You may begin when you're ready.

FRIESEN: Thank you, Chairman Brewer. This is my first time this year to the, to the committee so I look forward to it. My name's Curt Friesen, C-u-r-t F-r-i-e-s-e-n, represent District 34, and I'm here today on LB415. A bill like this was introduced quite a few years ago. And if you go back to LB18 back when Senator Mines was here in 2007, the same thing was introduced basically. But what, what this does and what, what has happened I think over time is we-- the petition process where you can recall a government official, and there's a long list of officials that can be recalled. A state senator cannot be recalled, but there's a long list of other-- you know, government, county boards, city councils, mayors, NRD boards, and all those other subdivisions that have governing boards that are elected. There is a process to recall someone and so you, you do a petition drive and you basically do the recall and have a vote. In the past few years, it is getting more and more-- recall attempts are trying to be made because of a government official makes a decision or a board makes a decision that people disagree with and, and there's no laws have been broken. There-- generally, I think everyone that I've looked at the cases they've all been just trying to fulfill their duties as a board member and they didn't like the decision that was made. And so what happens is a recall process happens and so every time now it's getting to the point where I think it's gonna get more difficult to get elected officials to run for those offices because every time you're gonna make a decision you're gonna be looking over your shoulder at a recall because someone disagreed with your decision. The process, I think, has, has been made fairly easy. And so it's, it's again starting to be attempted more often. Some of them are successful and some of them are not. And if we would base these recalls-- if they're based on some sort of misconduct or malfeasance not showing up for meetings things like this, not doing your job it's one thing, but we've had a school board member that they attempted to recall on because he voted to lower property taxes. We've had an attempted recall on city council members because of a vote on closing a railroad crossing. It was unsuccessful. But it's, it's gone on and on, and recently we had one in Hamilton County, and this recall was successful. York just had a recall of their mayor, and that was successful. Neither one of those individuals broke any rules or laws or anything else. People were just angry with decisions that were made. And so to me the process is there if someone is still breaking the law or malfeasance, things like that, there is still a judicial process to remove them from office. So

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

there's still a process there, but it makes it a little bit more difficult. And so that-- that's the reason for the bill and that's basically what it does. There is a whole paragraph in there of officials that this would cover in statute. And with that, I'd answer any questions you have.

BREWER: All right, Senator Friesen, thank you for your testimony. Questions? Senator Blood.

BLOOD: Thank you, Chairman Brewer. And thank you, Senator Friesen, this is an interesting bill as I'm sure you know in your research that Bellevue's had multiple recalls and there's been at least one I know that was successful. So I, I guess the question I have or I know the question that I have is it seems that we frequently do get people in the office because the minority show up to vote for the majority who may not be the most qualified person for that office and does act inappropriately but not to the point of bringing them up for charges such as if they were drinking or doing other illegal activities-- drinking and driving we'll say because it's not illegal to drink. So why shouldn't they be allowed the opportunity to say that this person is not meeting the standards of, of what we feel our elected officials should hold, and they've been spoken to. They've been warned. Say it's a city council person and the mayor and the city administrator have both talked to that individual, that individual refuses to allow them to go about their normal duties because he or she is disruptive. I mean, why, why shouldn't the people have a say so in that, because I know of multiple incidents where those very things have happened?

FRIESEN: Well again-- I mean, is-- does the electorate need to do a better job of vetting their candidates that they vote for? I mean-- and again, are they, are they disruptive in the, in the chamber doing their job? Are they stopping the process from happening? There's still a-- I think if it's-- it-- there's certain qualifications that still you can have a judicial review and, and have them removed. But again, if they're just doing their job-- I mean, we have senators who are very disruptive at times and we can't remove them.

BLOOD: But they're disruptive in the-- that they're still doing their job. Sometimes--

FRIESEN: They're still doing their job.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

BLOOD: --there's people that are disruptive just for their own self-entertainment.

FRIESEN: But if, if you're not fulfilling your job, I think the judicial process would still work.

BLOOD: In what way?

FRIESEN: You can show that they're not--

BLOOD: I mean, you can't charge them with anything.

FRIESEN: But what criteria are you gonna use to judge whether or not they should be recalled? You're, you're, you're leaving a fairly broad definition of so they disagree with me. Are there reasons-- can we define those reasons better of why they should be recalled? You're, you're saying they're disruptive, they've been warned. Been warned about what? Been warned about looking into a budget things that they could do a better job on?

BLOOD: No, and there's nothing like that. I'm talking about somebody in specific behavior who for some reason can't seem to understand that you have to-- you-- you're welcome to, to speak your mind, but there's a difference between speaking your mind and being disruptive. So we know about Aurora that just recalled-- I mean, like literally just recalled a county commissioner, right?

FRIESEN: Right.

BLOOD: And you brought up the York, York mayor, and then those of us from eastern Nebraska should remember Mike Boyle back in the late 80s--

HUNT: 1987

BLOOD: --'87, thank you. I'll pretend I didn't hear that. I, I guess I, I, I worry because I think it's part of a process that people have a choice to get rid of somebody if they need to get rid of somebody. And because it does take so many signatures, I think it's hard to be used as a tool of revenge. I think smaller towns probably it's maybe easier than urban areas where we live. But why-- what, what brought you to bring this bill forward?

FRIESEN: Well, it-- the, the cases that were just popping up and then you look back and I, I remember the school board one especially. I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

mean here was a guy that was-- the school board, they, they pushed really hard to lower their taxes. And, and some, some people were upset with that, that the school wasn't gonna get as much money as they thought they should get. And they tried to do a recall. I mean those are reasons-- and the Hamilton County commissioner. To me the commissioners they were finally, I'd say, doing their job. They were looking at all their budget expenditures. They found some where they were excessive and they tried to find different ways of lowering their spending. And this is what the Governor has been telling us to do over and over, it's a-- property taxes are a local issue. It's local funding. So this board finally looked at all the expenditures and went through them and started to fix things. They, they had a long-term assisted living facility that was on the county rolls that was being subsidized to the tune of hundreds of thousands dollars. They finally got a private investment company to come in and build a brand new long-term living assisted facility, assisted living facility. They went on to the next item. They, they were going through their budget doing what I expected them to do. And because they made a decision that some people didn't like-- you do a recall. And that's not a reason for doing a recall. Now if they would have-- again, broke the law or malfeasance or something like that, that's one thing. But when you-- when you're doing it-- if, if you finally recognize that property tax complaints are, like the Governor said, a local issue and it's a spending problem. Here they tried to address it, and right away recall them. So either the Governor needs to back off on what he's claiming or else we do have a spending problem at the local level. And if you finally get a board that's willing to address those things, why do you let a small group that want to recall them? And it just sets the stage from now on for anything they want to look at-- everybody's gonna be afraid they make a decision they will get recalled.

BLOOD: But don't they have to put on their petition why they want to recall that public servant?

FRIESEN: Yes, and you can put about anything you want on there. I don't know what specific wording of this that-- it's not in my district. I didn't get to vote, but it was just claiming they didn't listen to their constituents. Well, there's a lot of constituents I sometimes don't listen to. I, I can't. I'm, I'm a state senator and I'm looking at things in a broader picture. I make decisions that don't always make everybody happy.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

BLOOD: So you feel that, that if this did not exist that there are plenty of avenues to get rid of bad players?

FRIESEN: We have an election every four years. You can run for office. Put your name on the ballot. Vote them out of office. I-- I mean, I-- when I was running for reelection I told numerous groups-- I said, you know, if you don't like what I'm doing find a candidate to run against me. I welcome an opponent. That's what this process is about.

BLOOD: But isn't it also about-- I mean, we always talk about local control. If people are unhappy it gives them yet another avenue to express their unhappiness.

FRIESEN: It does. But when you, when you start to do it just because of a decision you didn't like, it, it adds a cost to the taxpayers. It disrupts, I think, the whole process of our government when-- if, if-- like now, you're elected for a four-year term and you're expected to do your job. And part of that job is looking at expenditures and wisely spending tax dollars. And if you make a wrong decision, are you gonna get recalled for that? When somebody replaces you or if you can find a candidate that's willing to put their name out there only to be dragged through the mud because you made a decision, you're not gonna have candidates anymore. Why would anybody run for office? It's hard enough doing the reelection campaign without having to go through a process of defending yourself in the middle of a term. I mean, these aren't high paying jobs-- county commissioners maybe are, we're not. But in the end it, it, it makes it difficult, I think, for boards to do their job, whether it's a school board, NRD board, and as soon as I disagree with an NRD board decision do I start a recall?

BLOOD: It-- and, and I can respect what you're saying, but you keep referring to the same, I think, person or people and that's what concerns me. We're not doing a bill because something bad happened in your district I hope. We're doing it because it's-- you think it's for the greater good.

FRIESEN: No, you're, you're, you're, you're listening to a group already that-- I mean, this has happened in multiple communities all across the state. You, you mentioned several yourself.

BLOOD: Yeah, and I can say that--

FRIESEN: So this is not a single, single item.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

BLOOD: --with exception of one of them they were-- they should have been recalled.

FRIESEN: This has been proposed before, so others have seen it before. It just hasn't been brought back since then.

BLOOD: Fair enough, thank you.

BREWER: All right, additional questions? Senator Hunt.

HUNT: Thank you, Chairman Brewer. How long have we had this recall process in Nebraska? How long have Nebraskans been able to initiate a recall election?

FRIESEN: I, I couldn't answer that question.

HUNT: I would just say-- well, I don't know, do you suppose we've had it for at least 50 years?

FRIESEN: Well, it, it was-- they tried to repeal it back in-- was it-- in 2007. So it was in place before then. I, I couldn't answer that, I [INAUDIBLE]--

HUNT: And that was Senator Mines?

FRIESEN: Yeah, Senator Mines.

HUNT: Well, I guess my feeling is that we've had recall-- we've had people being able to be recalled for a really long time and yet still people run for office. And so I don't know if I agree that it's gonna prevent people from running for office. Have you ever been involved in a recall election?

FRIESEN: No.

HUNT: OK, thank you.

BREWER: All right, additional questions? Senator Lowe.

LOWE: Thank you, Chairman Brewer. Thank you, Senator Friesen for bringing the bill. Are you thinking about running for local office after your tenure here at the Legislature?

FRIESEN: No.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

LOWE: Just making sure. Thank you.

FRIESEN: I'd just go home if I could.

BREWER: All right, any-- Senator Kolowski.

KOLOWSKI: Thank you, Mr. Chairman. Senator, thank you for being here today and thank you for bringing this, this forward. When I reflect back on people I've known or my own experiences, I can only think of one person on a current NRD board that is having this kind of difficulty. And he or she has already racked up 30-some thousand dollars' worth of legal fees that they have to pay themselves as they fought the NRD on things. I've been on, on an NR-- NRD board, learning community boards here at the Legislature, been working with lots of different boards, different levels. I've never had a recall, never seen, seen one take place except for this one that I know of taking place in an NRD right now. I hate to take it away and lose that opportunity for a recall situation when they happen so, so little and so far between as far as the historical record. And I, I would, I would rather keep this and go through the process, even a bad election situation can be a teaching tool someone can learn from that. This is what this person did or has done and what we're going through to get to the other side of the story. So I would like to keep the recall process and work, work with anyone we need to work with to get that taken care at a different level.

FRIESEN: So are you saying then I guess that if we could clarify more of the conditions under which a recall could be made instead of just for any reason whatsoever?

KOLOWSKI: Possibly, but also the peer pressure of a group of nine or ten other members of an X, Y, or Z board also have a lot of power and a lot of sway on things. And, and I don't see this as a one person has the votes of seven other people in his hip pocket when he or she is moving forward on some issues that are absolutely foolish. And you-- you've seen those and I've seen those in our lifetimes.

FRIESEN: Well, over, over the course of all the years that I've been on boards and things like that I've, I've never ever once run across a board member who I thought of should have been recalled. I disagree vehemently with them sometimes,--

KOLOWSKI: Sure.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

FRIESEN: --and totally disagreed with their philosophy maybe. But to recall them before it-- because of that philosophy or decision, I've never once even crossed my mind that I would even want to do that. They were elected by a group of people to put there and then in four years they'll have a chance to remove them. But-- you know, numerous times I-- we, we get on boards-- you've been on-- seen enough boards. There is disagreement among boards,--

KOLOWSKI: Sure.

FRIESEN: --but you never look at someone and say, well, I-- I'm-- let's just remove them from office so that things will run smoother. You either learn to work with them or you work around them and that's the process I feel we're missing out on here now instead of trying to work together to come to a good solution. Yeah, you work on the recall and remove him from office, and to me that's the wrong reason. If, if, if we can define in statutes those reasons to where they're more-- I guess defined, rather than just one decision. I would, I would say, then we're OK. But when you open it up like this and, and to me it's too broad, it-- it's-- we would no longer have to work together, I'll just get you out of here.

KOLOWSKI: Well, your list of punishable offenses might be as different from mine as mine is from yours, so we might see things differently but we're aiming toward the same end trying to make things run smoother.

BREWER: One quick question for you before we let you go. You gave an example with York. You said there was another one with Aurora. What was the one with Aurora?

FRIESEN: Aurora was the Hamilton County Commissioner was removed from office.

BREWER: OK, and--

FRIESEN: The, the election just happened.

BREWER: And they were-- they did remove him?

FRIESEN: Yes, it was successful by a-- nine votes I think.

BREWER: Very good. Any additional questions? Seeing none, you'll stick around for closing?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

FRIESEN: Yep.

BREWER: Thank you, sir. OK, do we have any opponents?

DICK CLARK: Proponents.

BREWER: Proponents? That's why he's there, he keeps me straight. All right, seeing none, any opponents? All right, we will-- up-- come on up. Do you have a green sheet?

KENT BERNBECK: Oh, I'll get one. I don't have--

BREWER: OK.

KENT BERNBECK: --a pen. I'll get one.

BREWER: Don't, don't forget.

KENT BERNBECK: All right.

BREWER: We'll have to hunt you down.

KENT BERNBECK: My name is Kent Bernbeck, B-e-r-n-b-e-c-k. I live in Elkhorn, and I'm testifying in opposition to this bill today because I've, I've, I've been an observer of election law in Nebraska for, for going on thirty years. I've been involved in a number of statewide petition drives. I've been involved in recall efforts. And, and I've been involved in an anti-retention campaign which is probably the ultimate recall. The Supreme Court Justice Lanthier was not retained by the voters in 1996 because of a campaign I led after he and the other justices doubled our signature thresholds for statewide petitions. But getting back to the recall, when I was involved in-- I, I do this stuff as a volunteer, as a nonpaid volunteer, but I was paid in the Mayor Suttle campaign and that's been ten years ago. I was called in for the paid part of it to run the legal part of it and also the, the mechanics of the-- you know, the, the-- making sure the signatures got in. And so I was a part of the political part of it but I do remember the outcome. He wasn't recalled even though he was put on the ballot. But I do remember that it seemed to be that the media thought that he moderated his last two years of the term. So I-- in that sense, I think it was probably successful even though-- you know, the other voters didn't remove him. And I, I guess I'll finish up by saying I'm a little surprised that this bill was, was brought forward. Nobody likes a recall-- they're uncomfortable-- it makes-- especially the small towns, it makes neighbors uncomfortable around other

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

neighbors in the coffee shop. I mean, I'm from a small town. So-- but I think they're important for as some the-- for instance the chairman said that. There are time to time where either someone steps out of line or the policies, like in Mayor Suttle, where they were just so far off from what the voters-- or vote-- that group of voters thought, so they brought up a recall. Now I know I'm not allowed to ask questions of the, of the senators or the sponsor, but I guess I would be interested to see if the senator that has sponsored this measure was gonna financially benefit from the investment board that he was on for the Aurora, I think it was the ambulance board in Aurora. I know he was on-- my, my information he was on that investment board. Now granted his introduction, introduction of this bill isn't a conflict of interest, but I don't think it reflects very well upon the senator that of course now it's in front of the committee which means statewide people are gonna be hearing that there is a bill to get rid of recall. So I just hope the, the story comes out-- the full story about-- comes out about these, about these measures. And with that, if you have any questions I'd be certainly willing to ask-- answer them.

BREWER: Thank you for your testimony. Questions, questions? Seeing none,--

KENT BERNBECK: Thank you.

BREWER: --you're not gonna let me down on that green sheet are you?

KENT BERNBECK: Yep.

BREWER: OK. All right, I think we're in opposition still. Seeing none, we will go to those in the neutral capacity. Come on up. And you always have a green sheet. Welcome to the Government, Military and Veterans Affairs Committee.

CHRISTY ABRAHAM: Thank you, Senator Brewer. And thank you, Committee. My name is Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m. I'm here representing the League of Nebraska Municipalities and Senator Friesen did a great job of introducing this bill to you. I just wanted to provide a little bit of background for you. As most of you know, I was in Mr. Clark's job for 14 years with this committee and we dealt a lot with recalls. And as he mentioned in around 2006, 2007, 2008, there really was this push to really try to do something about recalls. There was a concern about the-- you know, you could just really be recalled for any reason. And so the bill that Senator Friesen is mentioning was LB-- the copy I have is LB18, and it attempted to limit

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

recall to three reasons: malfeasance, misfeasance, and nonfeasance. And I know your eyes are all glazing over what does that mean. Malfeasance is sort of what you think that you have purposely done something that's bad; nonfeasance is-- you know, you should have done something and you didn't. And how the bill goes along is it says that there's actually a court proceeding where a court determines whether or not these definitions have been met. And only when those definitions have met, can the recall go forward. There was a lot of concerns raised about the bill. The one I remember most was that if you were in favor of the recall you could say, look, the judge said you were bad. You know, sign this because I've got court approval that you've done this. You need to sign this petition. That wasn't the intent of the court proceeding. The court proceeding was just to make sure that someone couldn't just make up these reasons. Like Senator Blood, if she was council person Blood, she did blah-blah-blah. But it was a lie, it wasn't what it was supposed to be. That the judge would have some discretion to say, actually this doesn't meet the definition of malfeasance so you can't go forward with this. So that's just one example of how this committee and this Legislature did try to put some parameters on recall. Over the years, there's been a lot of additional things that have been added to recall such as the defense statement that happened about 15 years ago where the person being recalled could submit a defense statement saying, look, I disagree with the reasons you're trying to recall me and here's why. And as, Senator Blood knows, recalls are a double-edged sword for communities. Sometimes there are elected officials that probably should no longer be serving, but they also divide communities terribly and pit neighbor against neighbor. So it-- it's a very tricky situation, that's why the League is coming in neutral. But we did want to provide just a little bit of background that this is not new territory, we appreciate that this committee is grappling with this. And if the League can provide any assistance, we'd be glad to do that. Thank you, Senator.

BREWER: Thank you for your testimony. Questions? Senator La Grone.

La GRONE: Thank you, Senator Brewer. And thank you, Ms. Abraham, for being here. I do have a question to lean on your expertise as a formal-- former counsel of this committee and on the bill you mentioned. I, I thought of it, and, and I don't think this applies to the bill as it's currently drafted but just while we're grappling at these issues, I think, at some point we'll run into.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

CHRISTY ABRAHAM: Right. That's right, this-- right, LB415 is a complete-- right-- elimination.

La GRONE: Right. Yeah, but on, on the one you were mentioning.

CHRISTY ABRAHAM: Yes, yes.

La GRONE: Did the committee run into any political question doctrine issues on that bill? Because that was the-- because I don't know if, if you're gonna involve a court in something like that. That would be my initial thought is, can a court even deal with those kind of issues?

CHRISTY ABRAHAM: You know-- and I apologize, my memory is not as good as you would hope it would be from 12 years ago. But no that isn't the, that isn't the greatest concern that we've heard. But-- I mean, there was some concern about is the court going to actually look into the facts of the reason for the recall. I mean, are they going to delve into council person Jones did or did not actually steal something. We, we did deal with that. But I think what we came up with was, no, they're just going to look at what is presented and say, if this is true, if all of these allegations are absolutely true, does that meet the definition of nonfeasance, malfeasance, misfeasance? And if it does, the recall can go forward. So we didn't have any pushback in that way. What I remember is just the pushback of-- but then when you're circulating a petition you can say, this is court approved. The court said this was true. That's what I remember.

La GRONE: OK, see I, I would think that just the involvement in that, that issue, the court said X or the court said Y, I would raise some [INAUDIBLE] doctrine issues.

CHRISTY ABRAHAM: Right. No, I, I appreciate that you're raising that, but that isn't what I remember the issue was.

BREWER: I really feel bad that Senator Hilgers isn't here to chime in some more legal stuff, but--

CHRISTY ABRAHAM: I'm sure it would be a great discussion [INAUDIBLE].

BREWER: --we will, we will go to Senator Blood and you can share your legal knowledge if you have some.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

BLOOD: No, I was just counting my blessings that we didn't have to listen to more legal speak. My apologies.

CHRISTY ABRAHAM: No, it's all good.

BLOOD: So I just-- I kind of want to back up to what you said about how, -- excuse my sniffles, how in small towns it can pit neighbor against neighbor. But doesn't-- don't we already do that during our elections as well. I mean, I think like this last election cycle is probably the most divisive one that I can remember since I started voting. I mean-- so isn't that just kind of the way of the world right now--

CHRISTY ABRAHAM: Yes, I--

BLOOD: --recalls or not?

CHRISTY ABRAHAM: I, I, I agree. I think elections can be divisive. I think that's true. And, and issues can divide communities also.

BLOOD: Absolutely.

CHRISTY ABRAHAM: And my excellent director, if she was here, she would, she would tell you about the numerous examples that we have dealt with over the League. We had a mayor of Wayne who-- a recall was started against her and it was a project started by some students at Wayne State College. They thought-- the professor thought it would be fun to see if they could recall the mayor. Yikes. You know, like that's a situation that-- you know, that's, that's not good. Like re-- recalls shouldn't be part of a-- you know, an experiment by a college class. Like that's not a good, that's not a good reason to recall the mayor.

BLOOD: At the same, at the same token when someone hands you a petition, the reason should be on the petition and with all due respect people have brains. They need to use those brains when they vote, when they sign petitions no matter what the petition is for. I mean, I, I just-- I worry about this bill. I like the fact that people have an opportunity to get somebody possibly out and involved with another process because people are so apathetic nowadays. I want to see people get involved with the process, be it a recall,--

CHRISTY ABRAHAM: Sure.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

BLOOD: --they're going to the polls so I, I-- Senator Friesen's one of my favorite senators and I hate to not be in full support of this, but I do have concerns.

CHRISTY ABRAHAM: Right. Yeah, and, and I, and I think the League shares that with you. I mean, we-- you know, it's hard to see our members be recalled. At the same time, there are those rare circumstances where someone probably doesn't and shouldn't be in office anymore and they're midterm-- you know, they're a year in. So it's, it's a very delicate issue. And again, I would just offer up-- if this committee decides to look at ways to maybe limit recall, we certainly would like to be part of that conversation.

BLOOD: Thank you.

BREWER: Senator Lowe.

LOWE: Thank you, Chairman. And thank you, Ms. Abraham, for being here. You mentioned the Wayne State-- or Wayne recall.

CHRISTY ABRAHAM: Um-hum.

LOWE: Were there people that actually signed up on the petitions--

CHRISTY ABRAHAM: Yes.

LOWE: --that were regular town people that a--

CHRISTY ABRAHAM: Yes. And again, I'm sorry, Ms. Rex could provide a lot more detail for you. But yes, and I don't want to say in the end that that recall was razor thin. She did survive the recall. The mayor did survive. But yeah-- I mean, there were enough signatures that it went to an election so they collected the required number of signatures to move it forward. So-- but again, it was a very divisive issue for Wayne.

LOWE: So people could be-- did the-- a recall election could be done on the dupe of people-- on, on, on people that aren't informed. And, and I know, Senator Blood-- so the people should be informed on the way they vote and they should be, but they are not always in-- truly informed.

CHRISTY ABRAHAM: And I think-- you know, one of the things-- and I-- forgive my notes, I think it was in 2003, provisions were added to try to, I think, address that issue where the circulator had to state the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

name of the person being recalled, had to read what the reasons were for the recall, and then also read the defense statement in the hope that before someone signed-- you know, all of those things would be read to them and say, do you understand these are-- you know, these are what the issues are to sort of hope to educate the voter before they sign the petition.

LOWE: But my thought is that you could-- a, a good-- we're, we're using an instructor in a class. A good instructor in the class could come up with something probably against each and every one of us for a recall if, if we were able to be recalled because of a vote we took one way or another. And it might hit, hit a nerve on, on some of the people.

CHRISTY ABRAHAM: Yes, I, I think that's-- I, I think you're absolutely right. And I think what I heard from Senator Friesen is that sort of his concern is that people are being recalled because of policy decisions that they're making and votes that they are taking. And, and those are hard you know. And that certainly was the situation with the Wayne mayor. You know, she wasn't stealing, she wasn't publicly drunk, she-- you know, she wasn't doing anything. It was just-- you know, they picked an issue that they thought, well, maybe we could get a recalled on this and let's see how far we can take it. So yeah.

LOWE: Thank you very much.

BREWER: Senator Kolowski.

KOLOWSKI: Thank you, Mr. Chairman. This is a really fascinating topic because of the world we're in right, right now-- coming out of the last election and seeing the things that have happened that are being investigated. People are going to jail--

CHRISTY ABRAHAM: Yeah.

KOLOWSKI: --across the board on, on this topic and we're not even close to being at the bottom of what will happen as far as the results and, and where we might be. More importantly, as a consumer and as a voter, I've got to be able do wind through all this stuff to, to get the answers to the questions that I want, but also to judge those answers against a larger moral fabric of the country and, and where we're going. And those a-- if this gets so convoluted and so messy so fast just having those kids in that class, the Wayne class or wherever else, do those kind of things gets them into the mode of if we lie

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

enough about this something will happen. I have to flashback to something I saw on TV just a short time ago. It is about the Third Reich and all about Hitler's rise in 1930's in Germany. In a three-year time period, the number of radios, the typical high tech of the time as far as families are concerned, the number of radios went in three years like 36 to 39. Went from 3 million radios in the country to like 15 million.

CHRISTY ABRAHAM: Wow.

KOLOWSKI: Now you want something that people will listen to, get excited about, follow in line with, with girls and, and all the, the people in Hitler's staff that were doing the manipulation. There are lessons there. And that's 1930, mid-30s that we need to wake up to as to the handhelds or the computers or all the things that we're looking at today. I have friends that I know that will only listen to one station, not get a broad sweep of possibilities on a particular topic or try to find out the truth on something. And we could, we go on and on about this but this is-- it's, it's a really scary aspect of the world we live in where the sales people can really sell you a, a bill of goods.

CHRISTY ABRAHAM: Yes. Yeah, and I think to expand your point I think-- you know, we are exposed to so much media now. We have so much social, social media and you would think we would all be better informed because we have such access to all of it. But that sometimes isn't always the case and--

KOLOWSKI: Well, if we just asked the question, is this true? Is this the truth? Is this what's going on with this person or those around him or her and go from there. But-- you know, we live in different worlds.

CHRISTY ABRAHAM: Yes, and-- you know-- and again, going back to what Senator Friesen said-- you know, the statement could be absolutely true. You know Councilman Jones decided to discontinue the ambulance service. That's a true statement. But if it's something that divides the community and makes people upset-- you know, you, you might have a recall on a policy question. So you're, you're right, Senator Kolowski, it's, it's very complicated.

KOLOWSKI: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

CHRISTY ABRAHAM: I agree with you.

BREWER: All right, additional questions? I have one quick one for you. Well, actually maybe a couple. First off, you were the legal counsel of Government 12 years ago? Ballpark?

CHRISTY ABRAHAM: I started when I was 13 years old, Senator.
[LAUGHTER] No, I'm just-- I'm, I'm just teasing. I'm just teasing. I, I started in 2000 as legal counsel and until 2014.

BREWER: Wow. I'm sorry, I don't know that I was--

CHRISTY ABRAHAM: No, no, no, I--

BREWER: --in a faraway place, but--

CHRISTY ABRAHAM: Yeah-- no, no, it's all good.

BREWER: Now the percent of votes you have to have to have a recall varies depending on the-- like it would say school board as opposed to village as opposed to a county. Is that correct?

CHRISTY ABRAHAM: You are correct, Senator Brewer, and I'm, I'm looking at 32-1303. It says: thirty-five percent of the total vote cast for the office in the last general election is what you need, except for a village, you need forty-five percent.

BREWER: School board's like 25 percent-- hey, close enough for government work. Anyway--

CHRISTY ABRAHAM: Yeah, I-- I'm sorry it looks like most offices are at 35 percent, but you could be correct.

BREWER: That's all right, you're, you're the experienced person, we're gonna go off you. I mean, if Lynn was here we go off her because she's more experienced than you are.

CHRISTY ABRAHAM: Because she would remember, she would remember.

BREWER: She remembers everything.

CHRISTY ABRAHAM: She would remember when it was passed. And to answer, Senator Hunt's--

BREWER: She's probably there.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

CHRISTY ABRAHAM: --question-- I'm sorry, that I'm, I'm jumping around. Ms. Rex said that the recall statutes were put in place at, at the-- at her tenure as the League Director. So it's been in the last 30 years that the recall statutes have gone into effect. OK, I'm sorry, Senator.

BREWER: Well, I hope you're accurate because she's listening to you right now. All right, any other questions? Thank you for your testimony.

CHRISTY ABRAHAM: Thank you, I appreciate your time.

BREWER: All right, I think we're still in the neutral position. No more. All right, Senator Friesen, come on up and close, please.

FRIESEN: That's the beauty of this job, I get the last word. So listening to the line of questions and things like this, if, if the policy is a good policy to have in place why aren't state senators under the option of a recall? What makes us special? We're elected, four-year term, by a group of people. And obviously there's people upset with decisions we make, but we're immune from it. We can stand on the floor and say anything we want, anytime we want and we're immune. Our constituents can't recall us. Are we that much more special than a county commissioner or city council? I don't think so. If we want to maintain this struc-- structure for us, I don't see why it isn't good for everyone else. Or else put us under recall, too. So when we make decisions that citizens can recall us because of those decisions. This election cost the county \$3,500. Since somebody testified here and kind of questioned my integrity, you're gonna have to listen now to the description of what happened in Hamilton County. So the county board is a-- they're, they're a good board. They've, they've-- a number of them served for a number of years. And, and what they are is the, the person that was recalled is one of the best, nicest, honest people you will ever meet. He is the hardest working. And so this group of senators started to look at expenses and they looked at one of the things that popped up was their long-term living assistance-- assisted living facility that-- it was costing hundreds of thousands dollars. It was in disrepair. It was half empty. Nobody knew how to deal with it. And this board made a decision-- that county board made a decision to sell those hospital-- those nursing beds-- those assisted living beds to a private operation-- built a brand new \$8 million facility in Hamilton County-- took all of their patients-- no questions asked-- Medicaid patients, and will continue to do that for as long as they're around. They saved the county of the taxpayer

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

hundreds of thousands of dollars and they've got a new facility built that's now on the tax roll. It's a for-profit facility. So the county board moved on to their EMS service that they were running and the EMS service right now is an advanced life support that serves the county. But they were subsidizing it to the tune of over 500-some thousand dollars because they were overstaffed. And what they did, was they, they took a year studying staffing models, costs, how other people were doing it, and they went all over the state. They visited with all sorts of organizations. They issued a report, their EMS staff was working 17 percent of the time, they have 300-some calls a year. And it's costing way too much. So the county board have been trying to work with the city of Aurora where most of the calls originate trying to get them to pay more, and they've been working on this for years. The city of Aurora always refused to, to work with them and just say, we love the service. And so the board eventually made a decision that on a certain date they were gonna discontinue the ambulance service. And they were looking for proposals to come in to see who could do it better. And there was a group formed, it was called Rescue 28. They asked me to be a part of it as far as I know there is no official organization, I at least have not written a check. But they are asking for investors that wanted to invest money into it to start up a private ambulance service because there are some quite a few across the state already and some of them are providing a pretty good service. Midwest Medical came in and offered a contract and they would do it. They would staff it 24/7. Put, put someone in the barn there. Offer a better service and at a lot lower cost, too. The city decided to put in a proposal. They put in a proposal. So now there were-- basically, there were three good options on the table and that would take the county out of the business. It would have saved them anywhere from two to three hundred thousand dollars. And we still would have had a better staffed, quicker response time, a 24/7 service instead of 13 hours on duty and then everybody's home sleeping during the night, on-call type service. We would've had a 24/7 staffed service, but they objected to this because it's a union fight. These are union officials now and the union has three lawsuits against the county last I heard. Disputing-- they tried to change our staffing model so that they could staff it better. They took that to CIR court. They worked on pay resolution. They've been fighting that. There's three different lawsuits. They've spent well over a hundred some thousand dollars in legal fees already. Just trying to staff and so they'd be more efficient-- blocked at every turn. Here's an opportunity again to save hundreds of thousands of dollars, offer just as good or better service that's staffed 24/7 and on duty and it's constantly being blocked. And

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

when they make a decision like this and talk about it, it was ex-employees of that, that initiated this, got it started and the postcards they sent out were flat lies. They accused this person of trying to destroy the ambulance service and just stop the ambulance service and that's totally untrue. The county still had to make the decision we had no say in it-- anybody. The county could have decided anywhere to go with. They decided in the end-- I think, there's an agreement with the city. And I think of all the possible choices, that was probably the best choice. Because now the city is gonna have some more skin in the game because that's where the calls originate. They can operate the system. The county will send them a subsidy check every month-- every year. And I think both sides win. And now the county can staff it as they want but they're still gonna have to, I think, deal with the CIR and those lawsuits. And so again, yes, I was a volunteer member of this. No checks have been-- I did not invest. This group was started to offer an opportunity or an alternative method of providing a service. And I think following the-- they call it the Nebraska City model, it would have been a very efficient model that offered a better service. So with that, I'd be glad to answer any questions.

BREWER: All right, thank you. And that does help clear up or at least make it easier to understand some of the e-mail traffic that we've got on this. Questions? Senator Hunt.

HUNT: Thank you, Chairman Brewer. Thank you for that explanation, Senator Friesen. Since I have been speculating earlier that maybe recalls were going on 50 years ago or whatever. I just wanted to say on the record that Senator La Grone clarified for me that that was in 1994 when that started. So thank you for the clarification and I wanted to provide some too on the record.

FRIESEN: And so from my standpoint I just think it's starting to happen more often and I think back in the day maybe there were good reasons and maybe there still are good reasons. I, I don't question that but have we overused it now and suddenly we've crossed the line and people who, who--good people who are making decisions are being recalled now because of those decisions.

BREWER: OK, additional questions? Let me, let me throw one at you before you take off here. Now that we're in the term limits for senators and you have the opportunity for someone to-- I guess, be a particular senator the first four years and a completely different

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

senator in the next four years, should senators be able to be recalled?

FRIESEN: Well, that's what I think. If the standard is there-- if that's what we want to base it on is, is these officials are making tough-- I'd say almost tougher decisions than we make because they're at a very local level. They affect your neighbor. They affect your family. Ours are a much broader picture. But if, if, if we should be immune from that I don't know why we should subject them to that. Now maybe we can clarify some wording and, and make it a little bit more-- a little tougher to do than to just the way it is now. But again, I don't know why we shouldn't be under the same recall petition drive process for what we do. Why-- what makes us special? And so I, I, I, I've never been a fan of term limits. I've never supported it. I think it's wrong. I think the ballot box is the place to do it. We have lost a lot of good senators because of this. And I think we lose that historical knowledge that we need to make these decisions. And again, when we recall people whether we're a state senator-- I mean, when you recall people-- good people who are trying to do the right thing, you hurt the system.

BREWER: All right, thank you for your testimony.

FRIESEN: Thank you.

BREWER: That concludes our testimony on LB415. Do we have any reading? Oh, we do and it's sitting in front of me somewhere and I'm not seeing it. All right, we'll, we'll read it in later. We're gonna move on to LB447 and welcome Senator McDonnell to the Government, Military and Veterans Affairs Committee. Welcome, Senator McDonnell.

McDONNELL: Thank you, Chairman Brewer and thank you all members of the committee, my name is Mike McDonnell, M-c-D-o-n-n-e-l-l. I represent LD5, south Omaha. LB447 provides for an exception to the State Personnel System to certain employees of the Nebraska State Historical Society. Currently, it would exempt the associate director of the Conservation Division of the Nebraska State Historical Society and three personnel employed as either Conservator I's or Conservator II's of the Conservation Division of the Nebraska State Historical Society. LB447 deals with Gerald R. Ford Conservation Center located just outside my district in Omaha. The Ford Center is a public-private partnership between History Nebraska and the Nebraska State Historical Society Foundation. The Center is supported by a combination of general funds, earned income, and private support. The Ford Center

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

cares for the state's historic collections but also performs work for museums, libraries, private clients, and the county. The last time Ford Center had to hire a paper conservator the entire process took years. The loss in direct revenue was over \$70,000 per year and resulted in the clients going elsewhere for this work. Nationally, 5 percent of conservators work for the regional centers like the Ford Center which are supported by a mix of endowments, grants, and earned income. As a regional center responsible for earned income as well as having responsibility for institutional collections inside a state historical society, the Ford Center is truly one of a kind. The best part about LB447 is there is no General Fund impact, there is no General Fund impact. This is a fiscal note from the fiscal office but it only involves cash funds. Any increase in salaries for conservators would be supported by earned revenue and private philanthropic support. Sometimes government has to plow the way and sometimes government has to get out of the way. We are simply asking that these private and earned dollars would be allowed to be used to attract great talent to our state. I'd like to give you an idea of some of the salary numbers involved here. The average salary for all the conservator classes in the state of Nebraska is \$62,452. The average salary for the same classes across all 50 states in the nation is \$90,879. Nebraska's average salary is 34 to 37 percent lower than the qualified conservator can earn elsewhere. It is difficult to recruit and retain qualified conservators for many reasons. The field is small and highly specialized. There are only three comprehensive conservation graduate programs in the country. Fewer than 30 students graduate each year. Of all conservators, more than 70 percent of the conserva-- conservators works on the east or west coast. Recruitment to the Midwest is difficult especially when our salaries are not competitive. Lastly, LB447 is good public policy. The conservators are a good candidate for an exception from the Nebraska State Personnel System. The State Personnel System legislation was originally put in place to keep state agencies from competing with each other. For example, it, it makes sure DHHS and the Department of Roads are not competing against each other to hire the same accountant by offering higher wages. When it comes to conservators, there is not a competition among different state agencies. They are only employed by the State Historical Society and they have a unique set of skills and education. Thank you, committee members, for allowing me to speak today. I respectfully ask you-- the committee to vote for-- to advance LB447 to the full body for consideration. You also have a handout that tells the story of how the Ford Center preserved what is thought to be President Lincoln's last signature. Thank you to Trevor Jones from

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

Historical Society for being here today. He will testify after me, and I'm happy to try to answer any of your questions.

BREWER: Thank you for your testimony. This seems like a very easy bill. I mean, who would be in opposition. We'll find out I guess.

McDONNELL: Well, I'm starting with hopefully no one on this committee and then we'll go from there.

BREWER: All right, we'll I'm gonna-- we'll play with softball here in a moment. All right, questions for Senator McDonnell? Senator La Grone.

La GRONE: Thank you Senator-- Chairman Brewer and Senator McDonnell. I just want to ask a question and make sure everyone realizes what's at stake here. Hasn't every bill you've introduced before this committee become law?

McDONNELL: Yes. Thank you, Senator

La GRONE: So we're dealing with that streak here, we've got to keep that alive.

McDONNELL: Yes, please help me continue that.

BREWER: So I guess in essence he's saying, you're almost perfect depending on the outcome of this. All right, any other questions? You'll stick around for closing?

McDONNELL: Yes.

BREWER: Thank you for your opening.

McDONNELL: Thank you.

BREWER: All right, proponents? Come on up. Are you doing double duty today on other bills?

TREVOR JONES: I'm doing triple duty, sir.

BREWER: Well that's outstanding, I'm glad you're here then we're getting our money's worth. Welcome to Government, Military and Veterans Affairs Committee.

TREVOR JONES: Thank you very much, my name is Trevor Jones. I am director and CEO of History Nebraska, also known as the Nebraska State

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

Historical Society. My name is spelled, T-r-e-v-o-r J-o-n-e-s. This is an important bill for us for the Ford Center. We're really lucky to have the Ford Center in the state of Nebraska. Conservators-- the people that do this work they are really rare. There are five conservators in the state of Nebraska. We employ four of them. There is only one in private practice. This is the only lab between Chicago and Denver of our size and so we serve as a regional conservation center. And what the Ford Center scientists work on are private pay individuals who bring in artifacts. We work for museums across the nation and they also of course work on our own collection here in Nebraska which is the largest collection of Nebraska history anywhere in the world. So they do all of those things for us. The last time I was at the Ford Center they were working on an ancient Roman fence from a museum in Kansas City from before the birth of Christ. They were working on a painting from a military museum. They were working on a Harry Truman's World War I uniform from the-- for the National Park Service for the Truman Library. So they work on all of those kinds of things and then also for our exhibits anytime something is going on exhibit it gets reviewed and worked on by the Ford Center. Our problem is, is not-- this is not current problem. We're really trying to prevent future problems for us. Because when we have vacancies, an empty lab means for us that we're not serving our own interests but we're also not serving everybody that's in the queue and so we lose the business of people that we've already accepted their business. Because we can't-- no one can just sort of move around from lab to lab. We have a painting's conservator, that he's not an expert in paper, so he can't just fill in somebody's job and so we lose those clients that are in the queue. They're not working on our collections and then we also lose that earned revenue going forward. So an empty lab is expensive for us and it puts more of a burden on the state side. So 74 percent of the Ford Center is funded by either private money from our foundation which is the way that it was established to run or buy earned income and then only 26 percent is General Fund and that's one position and utilities. That's what, what that, that entails for us. Everything else is funded from cash or private donations for the Ford Center. So the, the biggest thing is that last time that we hired it really did take us years to hire a conservator and that was after a series of short-term stints where we had somebody who could go make \$30,000 somewhere else and did. And then when we finally got somebody we actually had to lower the requirements so that we took less experience and we got somebody straight out of school and we had to spend the time and the money to train them to do the job and they've turned out to be a great worker but that's a big risk for us

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

and it's also an added expense for that, that time in training. So I ask you that you support this bill because I think it's an important one for the state of Nebraska and will help our operations and, frankly, help us earn more income.

BREWER: All right, thank you for your testimony. Questions? Would you say it reflects tremendous character on the part of Senator McDonnell to take this bill and bring it forward?

TREVOR JONES: Always-- he's always said-- I mean, the Ford Center is a block outside of his district and he would like to annex it. That's what he, he always says.

BREWER: All right, we'll work on that bill a different time. Thank you.

TREVOR JONES: Thank you.

BREWER: OK, additional proponents? Seeing none, opponents? Seeing none, those in the neutral? Senator McDonnell, come on up. Would you care to close?

McDONNELL: Thank you. There's an old saying sometimes you don't know what's in, what's in your own backyard until you look there. And, and really until about a year and a half ago and going on the tour of the Ford Center you just don't realize all the great things that are, are going on there so I just really appreciate it. And again, that's my goal is to annex just that one block to, to bring it into my district. So thank you.

BREWER: All right, any additional questions? Seeing none, thank you for presenting LB447. And with that, I will--

BLOOD: He's in the back row. He's in the very back row.

BREWER: Oh, yeah we can do Erdman, sure. Senator Erdman, would you care to go ahead and present. It will mess up everything, but Senator Lowe wants it, so we're gonna do it. You want to switch LB375 to LB385, OK.

ERDMAN: Thank you.

BREWER: Well, there's no reason to let you waste away back there. Welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

ERDMAN: I appreciate it. Thank you very much.

BREWER: Welcome to the Government, Military, and Veterans Affairs--

ERDMAN: Julie told me you're fourth, I said OK.

BREWER: All right.

ERDMAN: So glad to be third. I'm Steve Erdman, I represent District 47, 10 counties in the Panhandle in Nebraska. Spell my name, S-t-e-v-e E-r-d-m-a-n. I'm here today to present to you LB385 at the request of the Historical Society. LB385 would allow the election of board members to the Nebraska State Historical Board of Trustees to be conducted electronically in addition to paper ballots. While currently there is nothing in the Nebraska's election statutes that explicitly prevents the state agency from conducting their elections electronically, current statutes govern that Nebraska historical site is not allowed the flexibility to conduct elections electronically. LB385 is a bill is a bill that would fix that. Numerous other associations including the Public Health Association of Nebraska allow electronic ballots for election of members. LB385 is also a cost savings to the state as it saves money on printing and mailing of paper ballots. It would also increase participation in the members in the election process. It would, it would increase the membership in the election process. What that all said, that is the opening for my bill and I hope I have the same results that Senator McDonnell had. Thank you.

BREWER: So what you're telling us is that Trevor's your backup there. All right, questions? Senator Blood.

BLOOD: Thank you. So-- thank you, Senator Erdman. So when you say electronically, what do you mean?

ERDMAN: Well, they're gonna, they're gonna vote by-- on the Internet. They'll be able to vote by-- and you have to ask the director that question, but basically what they're trying to do is save mailing costs. It's quite expensive to mail things out. If they can do it electronically, they can do it by, by electronic means and it'll save them a lot of money.

BLOOD: So again, what do you mean when you say electronic means? I mean, obviously it's through the Internet. Are you saying through e-mail where they have a secure site?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

ERDMAN: That is a question, the director will have the answer.

BLOOD: All right, thank you.

BREWER: All right, any additional questions? Senator Lowe.

LOWE: Thank you, Chairman. Thank you, Senator Erdman. I see no real fiscal note on this. I, I would think that by sending things electronically they would save money on paper and postage and everything else.

ERDMAN: Senator, I had not seen a fiscal note that came to my office so I can't answer whether there is one. When I don't get a fiscal note, I don't call them and say, how come I didn't get one. I'm just tickled to death.

LOWE: Yeah, I, I had a bill that allowed, allowed the state to send out certain pieces of paper and, and it saved quite a bit of money.

ERDMAN: Good, maybe it could happen.

LOWE: So I'm, I'm sure this is good.

ERDMAN: Maybe that's something the director can answer.

LOWE: Yeah.

BREWER: All right, any additional questions? Senator Kolowski.

KOLOWSKI: Thank you, Mr. Chairman. Senator, what, what are the safety measures on this compared to computers or handhelds or whatever you're doing the, the voting on?

ERDMAN: Well, I would assume-- and I don't know the answer to that, but I would make an assumption if the Nebraska Health Association is doing it they've figured that out. And I would assume that the Historical Society will follow their lead on how they do the precautionary security so that it's all up and up. That's a good question, though.

BREWER: All right, additional questions? I'm surprised you got that many. So anyway, you're gonna stick around to close?

ERDMAN: I would.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

BREWER: All right, thank you.

ERDMAN: Thank you.

BREWER: Those proponents, come on up. And a familiar face, welcome back to the Government, Military, and Veterans Affairs Committee.

TREVOR JONES: Thank you very much, Senator Brewer and the committee, my name is Trevor Jones. I'm director and CEO of History Nebraska, also known as the Nebraska State Historical Society. We are in favor of this bill. We're a little bit different than other state agencies. We are founded in 1878, so our board is 15 members, in our board of trustees, 12 of whom are elected by our membership and 3 of whom are appointed by the Governor, one from each district. So this bill would allow us to do electronic ballots. It doesn't specify exactly how we thought we would use a secure electronic ballot service. The provision of the bill requires that all of the ballots and other records of the election shall be retained for one year following the election and should be available for inspection to members to make sure that, that, that-- which is exactly what we do with the paper version, but we would do that with an electronic version as well. And so we would follow that security piece. We-- to speak to Senator Lowe's earlier question, I think we'd probably save about a \$1,000 a year, maybe a little bit more by doing this. But our real-- which I'm always happy for any cost savings that I can get anywhere. But the real reason is we really think this will increase voter participation and make it easier for people than the paper ballot. We've had a lot of members ask us why they have to do paper ballots because we require them to put it in a separate envelope and, and sign it and do the rest of it and they find that cumbersome and they say we vote online for all kinds of other things why don't you guys do that. And the reason is we can't, it's not in statute. So that's, that's really the primary reason behind that. And I think Senator Erdman said pretty much everything else that I had to say so that's it.

BREWER: All right, questions? I'm sure-- you maul Erdman, and there's no questions now. All right, no questions.

TREVOR JONES: All right.

BREWER: You must have done good.

TREVOR JONES: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

BREWER: Additional proponents? Any opponents? And any in the neutral position? All right, Senator Erdman, come on back up.

ERDMAN: Thank you, Senator Brewer, it's good to be back.

BREWER: Welcome back.

ERDMAN: You know, Senator Kolowski, on the bottom of page 2 of the green copy, the underlying part says the ballot shall be mailed or sent electronically. So I would assume that if they have a person that would like a vote by mail ballot that would still be available to them. I don't think it's gonna be one or the other. I think could possibly be both.

KOLOWSKI: I see that, yeah.

ERDMAN: So that would help them in that regard. In my county this last election we went all to mail-in ballots. I know that's different than the electronic ballots, but just going from voting at the polls to voting by mail in, we increased the turnout by about 45, 50 percent. And so I would assume that electronic ballots would increase the participation as well. So with that, I would appreciate you advancing it to the floor and we'll make it become law and I can be-- join that same group that McDonnell's in.

BREWER: The group of perfect.

ERDMAN: Thank you.

BREWER: OK, thank you for your closing and that completes testimony on LB-- oh, I'm sorry you had a question.

La GRONE: I just want to clar-- thank you, Chairman Brewer. And thank you, Senator Erdman. I just want to clarify something since there--

ERDMAN: OK.

La GRONE: seemed to be some discussion around it. Just to clarify this is an election for the members of the Historical Society not an election at election-- which is why you have different--

ERDMAN: That is correct, that is correct.

La GRONE: --voting requirements than a normal election.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

ERDMAN: And my example wasn't to side rail you or give you some other thought that I'm trying to do something different.

La GRONE: No, no, I know that I was trying to make sure that it was clear.

ERDMAN: OK, thank you.

BREWER: All right, one more time. Any additional questions? Seeing none, thank you for your closing.

ERDMAN: Thank you.

BREWER: That concludes LB385. And while we're here, let me go ahead and read in LB415's letters for the record. OK, again, this is on LB415. There were no proponent letters. Opponents: Terry and Pat Willis, Aurora, Nebraska; Derek Dibbern, Aurora, Nebraska; Bonnie Campbell, Aurora, Nebraska; and Tanner Greenough, of Hamilton County. And there were none in a neutral position. With that, I will hand the controls over. You have the con.

La GRONE: Thank you, Chairman Brewer. We will now move to LB375. Senator Brewer, welcome back to your committee on Government, Military and Veterans Affairs.

BREWER: Thank you, Vice Chair La Grone. Good afternoon, fellow members of the Government, Military and Veterans Affairs Committee, I'm Senator Tom Brewer. For the record, that is T-o-m B-r-e-w-e-r. I represent 13 counties of the 43rd Legislative District of western Nebraska. I'm here to introduce LB375. This bill was brought to me by the Nebraska State Historical Society. People often donate historical collections to the state, but some people do not want-- or do not want to-- some people do not want to do this without a certain condition that their donation be kept from public view for certain amounts of time. We can guess the reasons for that. Maybe a donor wants a cooling off period after a controversial political career. Maybe it is something else. But here is the problem facing the folks at the Historical Society. Do they say, no, to a gift that possibly loses those valuable historical-- and lose those valuable historical records forever. Or do they say, yes, at the expense of public transparency. This bill is an effort to balance those two interests. There is a reason why the Historical Society is asking the Legislature to act. In 2015, the Historical Society requested guidance from the Attorney General on this topic in a four-page memo dated April 20, 2015. The

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

AG's Office told the Historical Society that they did not believe that the Historical Society may withhold records requested under the Nebraska Public Records Act statutes. The longstanding rule in Nebraska is that public records are supposed to be open and transparent to the public. I believe strongly that public records do belong to the public. But in some cases, this Legislature has made exceptions to that rule. Some of those exceptions are to protect police investigations. Some are to protect individual's information, and some are to protect public safety. This bill would add one more exception. The new exception would be for those historical documents transferred from a private party to a state agency, to this state agency, for the Historical Society purposes. It would only allow those records to be withheld as long-- for as long as the donor required in order to make the transfer. I think this is an important-- I think this is important for the Nebraska State Historical Society to preserve our Nebraska history for future generations. That is what LB375 does. Subject to your questions, that concludes my testimony.

La GRONE: Thank you, Senator Brewer, Brewer. Are there any questions? Seeing none, thanks for your open-- oh, sorry, I missed you Senator Kolowski. Senator Kolowski.

KOLOWSKI: Thank you, slow on the draw. I appreciate it. I just wanted to double check with Senator Brewer on what, what kind of requests would come in for what kind of topic that someone would want to say, give this a decade, give it 10 years, give this 20 years or I don't want a, a quarter-- I want a quarter of a century to go by before we open this up. Would you give us some examples that you know of?

BREWER: Well again, this will just be some conversations with Historical Society, but an example would be Senator Nelson. He may have had things that he did during his period that he didn't have-- want to have released to the public until maybe the point that he's, he's no longer here and, and that way there's no controversy that he has to deal with in his years past being a senator. So I guess that would be the one right off the top of my head that would come to mind.

KOLOWSKI: More questions to answer to the press or anything of that nature.

BREWER: Right, dredge up something and, and-- you know, he's, he's trying to live his, his final years and, and-- you know, that's,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

that's history and it's something that-- you know, he probably doesn't want to have to be tormented with beyond that time.

KOLOWSKI: OK.

La GRONE: Thank you, Senator Kolowski. Are there any additional questions? Seeing none, thank you for your opening.

BREWER: All right, thank you.

La GRONE: We'll now move to proponent testimony, testimony. First proponent. Welcome back again to the Government Committee.

TREVOR JONES: All right, one more time. Vice Chair La Grone and members of the committee, my name is Trevor Jones, director and CEO of History Nebraska, also the Nebraska State Historical Society. So for us this is a very narrowly focused bill so this only pertains to items that have come from private individuals. This is not anything on the public record side at all. Nothing-- no impact there. These are donations from private individuals where they've put a restriction on. Our goal really is to make all of our materials accessible. We don't like accepting restrictions. We actually work with donors to not restrict things. But if it's a question of accepting restriction with a deadline versus not getting the collection or risking the destruction of that collection then we will allow for that restriction. So we've had this happen with everything from an oral history that somebody does with Grandma, and Grandma says something really terrible about Grandpa or the neighbor next door and doesn't want anybody listening to that until after she's passed. And we've had politicians who-- we get their public papers already automatically but they might have their private papers which sort of inform those public decisions but they have an aspiration for a higher office. So maybe they don't want those collections gone through yet, and maybe they want to put a restriction until they're done with public office. And these are their private papers not their public ones. But it makes a lot of sense for their private papers to be in the same place as the public papers are. It's really a lot easier for researchers. So we want those to come together. And another example that we had is we, we get a lot of corporate records and a corporation that's donating their archival records might want to seal the last 20 years of financials. And they might want to say, hey, we just don't want somebody looking through the last financials. And, and so every year-- you know, somebody can look up to 20 years and see the rest of it. But we-- but these are important papers, and so we want them to be preserved. We

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

want people to use them. So it's really narrowly focused just on, on those, those restrictions and, and only time limited ones. But it gives us that flexibility to make sure that collections don't get lost or destroyed. And that's our big-- biggest concern is if a donor comes to us which has happened since the open records law was changed and we say, well, we can't restrict it. They say, well, I'm not gonna give it to you. I may give it somewhere else, or I'm not gonna give it to you yet and I'm gonna put it in my basement. An in the meantime, they pass away or those records are destroyed and their lost and that's our big concern. So we'd rather have them with the restriction if that's the only way we can get them, but our goal is always unrestricted if we can. So that's, that's really the, the, the narrow focus of this, this bill. Private records only not-- nothing-- no impact on government generated records at all.

La GRONE: Thank you for your testimony. Are there any questions?
Senator Kolowski.

KOLOWSKI: Thank you, Mr. Chairman. I, I think it's just appropriate to thank you for your work and for the things that you do for the state of Nebraska. And as a history and political science major, I think it's extremely important that we have this history going with us throughout our, our lives and for the lives of many years of all those around us. So I, I think it's really that we-- I think we need to remember how important this is and to do this work and get it done properly. So thank you.

TREVOR JONES: Thank you very much.

KOLOWSKI: Yes.

TREVOR JONES: Yeah, I think it's a-- it's always really interesting to note that the first state Historical Society formed in Nebraska before Nebraska was a state.

KOLOWSKI: Before a [INAUDIBLE].

TREVOR JONES: And so that was seen as that important for, for the state. So thank you very much. Appreciate it.

La GRONE: Thank you, Senator Kolowski. Any additional questions? Seeing none, thanks for coming down. Next proponents? Seeing none, any opposition testimony? Seeing none, any neutral testimony? Seeing none, Senator Brewer, you're welcome to close.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 13, 2019

BREWER: They work. LB375 again is, is very narrowly focused and it is solely for the purpose of helping the Nebraska State Historical Society. So I would ask for your support and take any questions.

La GRONE: Thank you for your closing. Are there any questions? Seeing none, thank you for coming down. We do have one letter on the bill in opposition: Amy Miller, of the ACLU. And with that, that closes our hearing on LB375, and our hearings for the day.