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Government, Military and Veterans Affairs Committee
February 16, 2011

[LB186 LB214 LB449 LB503]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, February 16, 2011, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB503, LB449, LB214, and LB186. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Lydia Brasch; Charlie Janssen; Russ Karpisek; Rich Pahls; Paul Schumacher; and Kate Sullivan. Senators absent: None.

SENATOR AVERY: Welcome to the committee on Government, Military and Veterans Affairs. My name is Bill Avery and I chair this committee. I'm from District 28 here in Lincoln. I will start by introducing the members of the committee, and then I'll talk about some housekeeping rules. We have with us today over here at the very end, Senator Rich Pahls from Millard; and seated next to him is Senator Lydia Brasch from Bancroft; Senator Charlie Janssen from Fremont will be here in a few minutes; and next to him is Senator Scott Price, the Vice Chair of the committee from Bellevue; seated next to me is Christy Abraham, the legal counsel for the committee; and to my left will be Senator Russ Karpisek from Wilber; and seated next to him is Senator Kate Sullivan from Cedar Rapids; and next to her is Senator Paul Schumacher of Columbus. Our committee clerk is Sherry Shaffer. When you come to testify, you will give her a copy of this. This is for testifiers only. It's just basic information on who you are, what bill you are testifying about, and if you represent any organization, there's a spot here for that. These are available at each entrance to the room. We ask that you fill this out clearly and that you give a copy to the clerk. If you are here and wish to record your support or opposition to any of the bills that we'll be hearing, but you do not wish to testify, we'd ask you to fill out this form. That also is available at each entrance to the room. And just leave it at the desk there and we'll pick them up as things end today. The rules are this: when you come up to testify we want you to, first, submit this form, and then second, state your name very clearly for the record and spell it. We ask you to observe the lights. The green light means you have four minutes, and it is followed by an amber light which gives you one more minute to bring your testimony to an end. When the red light comes on, you should be finished. Do not feel obligated to take all five minutes. If you wish to do less than that, that would be appreciated. We have a couple of other things that we'd like for you to be aware of and that is that we ask the questions and you provide the answers. It's not a dialogue, so if you can refrain from asking us questions, we would like for you to do that. Introducers are allowed to make initial statements followed by proponents, then those who are opposed, and then anyone who wishes to provide neutral testimony. That is then followed by closing remarks by the introducer, if the introducer so chooses. We ask that you pay attention to the previous testimony so that you do not repeat what's already been said. We also ask you to turn off all of your electronic devices, particularly if they have audible signals or beeps. And I think that you can silence your phones, if you need to keep it on to stay in contact with the rest of the world. We have with us today, Kyle Johnson, from Sutton, who is our page. If you have

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any exhibits that you would like to distribute to the committee for our edification, we would ask that you give them to the page and he will distribute them. We will follow the order as posted outside the room, starting with Senator Pirsch and LB503. That will be followed by Senator Nelson and LB449; then LB214 by Senator Pankonin; and then LB186 by Senator Sullivan. So we'll start with Senator Pirsch. Welcome. LB503.

SENATOR PIRSCH: Good afternoon, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. I know that you have a...I'm State Senator Pete Pirsch, Legislative District 4. I am the sponsor of LB503. I know that you have a great number of bills that you have planned to hear here today, so I'm going to try to confine my remarks to no more than a couple of hours here. (Laughter) But let me start off with the underlying purpose here of LB503, and it's pretty simple here. It's just to correct the possible conflict of two statute sections that address the filling of vacancies on the ballot for partisan races. Current law for filling a vacancy differs on whether a candidate has technically declined the partisan nomination, or withdrawn for other reasons. LB503 would treat both situations the same using the political party structure to fill the vacancy on the ballot. With that, there are going to be others from the Secretary of State Office who testify after me and kind of flush out the problem that exists today and why this is the answer. [LB503]

SENATOR AVERY: Thank you, Senator. Any questions from the committee? I don't see any. Are you going to stay around to close? [LB503]

SENATOR PIRSCH: Chairman, I actually have a Revenue Committee meeting now and so, with your indulgence, I'm going to waive my close. [LB503]

SENATOR AVERY: We understand. Thank you. Proponent testimony. Welcome, Mr. Erickson. [LB503]

NEAL ERICKSON: Thank you. Chairman Avery and members of the committee, my name is Neal Erickson, N-e-a-l E-r-i-c-k-s-o-n, and I'm deputy secretary of state for elections, here to testify on behalf of the Secretary of State's Office in support of LB503. Basically, I think...and I'd like to thank Senator Pirsch for introducing this piece of legislation. Currently in our statutes, we've got two different sections that deal with declinations or withdrawals or candidates die, and they have two different methods of the way they fill those partisan vacancies. If a candidate "declines" the nomination, then the process is to notify three members of the party, or if there's no party structure, if they're at the county level, to find three prominent people in that...of that political party, and they will fill the vacancy. We've got a section...three sections later that talks about withdrawal or dying, moving out of the district, resignations, whatever, that uses a system where you notify the political party and they can either fill it through their appropriate party structure, their appropriate party committee, or through a convention. And neither section really defines what a declination of a party nomination is, or it does

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lift a few things for what a withdrawal is...or that are included with withdrawal. What LB503 will do is just combine these two sections and say, yes, you can decline a nomination, but what it is going to do is create a vacancy and that vacancy will be filled according to the provisions that are currently in place for withdrawal, dying, etcetera. We've had situations in the past where a candidate has "declined" a nomination and that three-day time period becomes a little tight to try and make sure you've got somebody to fill that slot. So we use the provisions in 32-627 as a mechanism to fill the vacancy. Just call it a vacancy on the ballot, allow the political party structure to fill it, or if they so choose, they can actually have a convention fill that. And so it's just to correct a possible conflict between 32-623 and 32-627. We have actually had this pop up last year and we had to try and time everything, the paperwork. So we had it filled within the three days, but it was still notifying the party and the party had time to put it in the convention and it did work out last year, but we would like to avoid that in the future if at all possible. And with that, I'd answer any questions you might have. [LB503]

SENATOR AVERY: Would this also apply to statewide offices? [LB503]

NEAL ERICKSON: Well, if they're partisan races, yes. And the situation last year, it did apply. The situation I was talking about, was a statewide office last year. [LB503]

SENATOR AVERY: Okay. Questions from the committee? Senator Sullivan. [LB503]

SENATOR SULLIVAN: So, we're removing the three-day limit that you have to deal with? [LB503]

NEAL ERICKSON: Right. [LB503]

SENATOR SULLIVAN: What other time constraints do we have with the recommended... [LB503]

NEAL ERICKSON: There's no other time constraints other than the substitute nomination has to be done by September 1. [LB503]

SENATOR SULLIVAN: I see. Okay. [LB503]

SENATOR AVERY: Senator Schumacher. [LB503]

SENATOR SCHUMACHER: Thank you, Senator Avery. Mr. Erickson, then, as I gather it, if such a vacancy would occur, the chairperson and secretary of the executive committee of the party's...or of the person's political party would fill it? [LB503]

NEAL ERICKSON: They would be notified. It's actually...it would be filled under 32-627. It is filled by the appropriate committee or proper committee of the political party.

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[LB503]

SENATOR SCHUMACHER: And how is that ascertained? [LB503]

NEAL ERICKSON: That's done by their bylaws. [LB503]

SENATOR SCHUMACHER: And so the party doesn't have bylaws on this subject then? [LB503]

NEAL ERICKSON: The parties have to have bylaws in order to be a recognized party. [LB503]

SENATOR SCHUMACHER: So in that case, who actually according to, say, the Republican or the Democrat bylaws, would nominate somebody for mayor of Timbuktu? [LB503]

NEAL ERICKSON: Well, it wouldn't be...unless it was the mayor of Fremont, the mayor's races are not partisan races. It is...you're only going to have it in the partisan races now. If you had it, let's say in a county, it would be the county central committee. If it was on a statewide basis, it would be the state central committee under most bylaws that I've seen. [LB503]

SENATOR SCHUMACHER: Okay. So, basically, what we're saying is that if somebody of the Republican Party drops out, it's the county Republican central committee that would fill the position if we make this change. [LB503]

NEAL ERICKSON: Right. [LB503]

SENATOR SCHUMACHER: And what's the time frame in which somebody can drop out? [LB503]

NEAL ERICKSON: They can drop out up until September 1. [LB503]

SENATOR SCHUMACHER: I don't have any further questions. [LB503]

SENATOR AVERY: Senator Janssen. [LB503]

SENATOR JANSSEN: Thank you, Chairman Avery. Thank you, Deputy Director. Try to put, I guess, of note, not notification because you're absolutely correct on Fremont. It's actually considering an ordinance right now. We have a Fremont city councilman in the...present city councilman in the audience today but they're considering an ordinance change to that exact provision. But before that...so in a nonpartisan race, which is how we were elected, that as we all know, parties still do play a certain part in that, and so if

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I were to perish while I was running in the primary, so then is there a means for that...and I'm getting outside the scope, I think, of where we're at here, I'm just curious. [LB503]

NEAL ERICKSON: Yeah. No, and in a nonpartisan situation where a vacancy on the ballot exists, the only way to fill that is via the petition process. Now in a partisan situation you have somebody that in the primary election received the party nomination and, you know, when that vacancy is created, we need to fill the nominee for that political party, and it's best to have a political party make that determination. [LB503]

SENATOR JANSSEN: So in my case where it was a Republican versus a Democrat, in that case the Republicans could probably say, hey, you need to get on this ballot. You need to assist them with that but they couldn't do it. [LB503]

NEAL ERICKSON: Right. Right. [LB503]

SENATOR JANSSEN: I gotcha. Thank you very much. [LB503]

SENATOR AVERY: Any more questions? I don't see any. Thank you for your testimony. [LB503]

NEAL ERICKSON: Thank you. [LB503]

SENATOR AVERY: Any more proponent testimony on LB503? Anyone in opposition to LB503? Anyone wish to testify in a neutral position? All right. Seeing no more people interested in testifying, we'll close the hearing on LB503, and we'll now move to LB449 and invite Senator Nelson to the table. Welcome, Senator. [LB503]

SENATOR NELSON: Thank you. Thank you, Chairman Avery. Thank you, Mr. Chairman and members of the Government, Military and Veterans Affairs Committee. For the record, my name is John Nelson, spelled J-o-h-n N-e-l-s-o-n. I represent District 6 in midtown Omaha and I am here today to introduce LB449. Before I begin, I would like to thank Douglas County Election Commissioner, Dave Phipps; Sarpy County Election Commissioner, Wayne Bena; and Lancaster County Election Commissioner, Dave Shively, for their work on this legislation. I would also like to thank Neal Erickson of the Secretary of State's Office for providing valuable input into LB449. LB449, before you, makes several technical changes to the Election Act. Sections 1 and 2 of the bill permit county election commissioners to seek public office. The purpose of this change is to provide a consistent state policy throughout all 93 counties. Currently, the vast majority of county election officials have the ability to run for office. In fact, the vast majority of county election officials must run for office to retain or achieve their position. It is only in the largest counties which have election commissioners, that state law prohibits their running for office. When I introduced LB646 to this committee in 2007, we

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worked together to establish statewide standards in election law. LB646 was passed and signed by the Governor because we understood the importance of treating all counties and county officials equally. Section 3 makes a simple change removing notification deadlines regarding the training of election workers, and requires deputy registrars to complete a training session at least once every three years. Section 4 adds a blank in the voter registration form for e-mail addresses. Section 5 and 6 make December 15, before the primary election, the earliest date a candidate can file for office. The purpose of these sections is to prevent candidates from filing for an office which won't be on the ballot for years. Section 7 prohibits members of a political party from bypassing their party's partisan primary in order to run for partisan office as a by petition candidate. Partisan primaries have meaning and partisan primary voters should not have their wills subverted by candidates who avoid primaries only to run by petition in the general election. Under this section then, only those registered as nonpartisan would be allowed to run as a by petition candidate in the general election for a partisan office. Section 8 adds classified school districts for the list of offices which do not require names to be listed on the primary ballot if all candidates automatically advance in the general election. Section 9 increases the maximum amount of voters living in a precinct from 1,000 to 3,000. This change will give county election commissioners and clerks more latitude to draw precincts. Sections 10 and 11 make the list of registered voters and the register open for public inspection at the polling place. These sections increase transparency in the election process. Section 12 makes technical changes to absentee ballot request forms. Section 13 clarifies when the record of early voters and request forms are open for public inspection. And this section is a continuation of the policy in Sections 10 and 11 which will make the election process more transparent. Section 14 adds the Learning Community Coordinating Council to the list of offices that must pay the cost of nominating and electing its officers. Numerous other offices already pay these costs in Section 14. It simply adds the Learning Community to this list. Section 15 requires the principal circulator of a recall petition to collect the petition forms from the election commissioner or clerk within 20 days after receipt of the official's defense statement. This section places a reasonable deadline for the principal circulator of a recall petition to begin the process of recall. Finally, Section 16 increases the time a political subdivision must hold a recall election from 45 days to 75 days after notification of the official to be recalled that an election must be held. This increase in flexibility will make the process of recalling...of scheduling, rather, a recall election easier, and could increase voter turnout in recall elections since it would be easier to avoid major holidays with the wider window. The foregoing is a brief overview of the many components of LB449. Several testifiers who will speak after me are experts in the election process. I will entertain any questions you may have and I would be pleased to work with the committee in addressing any concerns it may have. I thank the committee for its consideration and ask that you advance LB449 to General File. [LB449]

SENATOR AVERY: Thank you, Senator. Senator Price, you have a question. [LB449]

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SENATOR PRICE: Thank you, Chairman Avery. I was just wondering, Senator Nelson, could you add a couple more sections to this, please? [LB449]

SENATOR NELSON: Section 4? [LB449]

SENATOR PRICE: No, I just wanted you to add more to it. [LB449]

SENATOR NELSON: Oh, you want me to add more sections to this. (Laughter) [LB449]

SENATOR PRICE: I don't think there are quite enough sections on this. Thank you. [LB449]

SENATOR AVERY: Do we have any serious questions? (Laughter) Senator Sullivan. [LB449]

SENATOR SULLIVAN: Thank you, Senator Avery. And Senator Nelson, thank you for your testimony...introduction. If you'd rather defer some of these questions, just feel free to say so. With regard to the training session of the deputy registrars, who do you anticipate doing that training? [LB449]

SENATOR NELSON: Well, I think either the election commissioner or the chief deputy election commissioner. That was my experience in Douglas County. They did the training of the registrars. But I suppose someone could be designated, someone with experience in the department could do that. [LB449]

SENATOR SULLIVAN: Yeah, I'm just wondering what sort of hurdles that might cause for some of the rural counties in terms of providing that training, so I didn't know if the Secretary of State was going to have a role in providing that. [LB449]

SENATOR NELSON: Well, it's my understanding the Secretary of State provides the guidelines for the training. I think I recall seeing that and so it would go out to the county clerk. And in the case of all the other counties that don't have election commissioners, I think the clerk would provide that training unless the Secretary of State sees fit to send someone out to do that. [LB449]

SENATOR SULLIVAN: Okay. And why adding the e-mail addresses? [LB449]

SENATOR NELSON: E-mail? That's...I think that was a suggestion of the Secretary of State to just put the e-mail there on that particular form as an additional way of contacting. You have to put your telephone number, your name, address, and everything. And it's not...it provides in there, if you will notice, that you can designate that you don't want that put out for public information, just as you can do that with your telephone number even though you're asked to put it on the form. [LB449]

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SENATOR SULLIVAN: And are we running into any constitutional issues with respect to a person who is registered with a political party not being able to petition on to the ballot for the general because we're limiting an individual's opportunity? [LB449]

SENATOR NELSON: I would not think so. I think we have the authority as a Legislature to control the political process and how the representatives of the parties if they're registered or if they're nonpartisan, how they would proceed to general election. I just...from my standpoint, it's disruptive and not right to have people bypass...one way or another, find a way to bypass the primary and then go on by petition for the general election. But maybe if Mr. Erickson testifies a little later that he might answer that question about the constitutionality better than I. [LB449]

SENATOR SULLIVAN: Okay. Thank you. [LB449]

SENATOR AVERY: Any more questions? Let me ask you about...I don't remember which provision it is or the number, but this would be allowing the record of early voters and applications to be open to public inspection prior to the election. Is that...could that be construed as electioneering activity that might be prohibited by the 200 foot requirement or restriction that we now have in law? [LB449]

SENATOR NELSON: Can you identify which section that is, Senator? Is that Section 10 and 11 makes the list of registered voters? [LB449]

SENATOR AVERY: Yes. [LB449]

SENATOR NELSON: Now that particular... [LB449]

SENATOR AVERY: For public inspection. [LB449]

SENATOR NELSON: Yeah, those refer to public inspection at the polling place where you're not supposed to get within eight feet of the ballot box unless you are specified, and that says that if I go into my polling place and I want to take a look at who signed in in the register, I'm entitled to do that. That's at the polling place. And I think then there's another place here, Section 13, that the record of early voters and request forms are open for public inspection. I think it's only before...my recollection is after the election, for some reason, it's not open and that has not been changed. If that makes sense. [LB449]

SENATOR AVERY: But you're actually specifying that these be open for inspection on election day, right? [LB449]

SENATOR NELSON: Let's take a look at Section 13 here and make sure. It just says,

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shall be open to public inspection prior to the election. So I would read that to say that they're not open on election day. [LB449]

SENATOR AVERY: Okay. So then the 200-foot restriction on electioneering would not come into play? [LB449]

SENATOR NELSON: No, that's correct. [LB449]

SENATOR AVERY: Okay. Any questions from anyone else? Okay, don't see any. Will you stay for closing or you going to go? [LB449]

SENATOR NELSON: Yes, I will stay. Thank you. [LB449]

SENATOR AVERY: Okay. Proponent testimony. Good afternoon. Welcome. [LB449]

DAVE PHIPPS: (Exhibit 1) Good afternoon, Mr. Chairman and members of the committee. My name is Dave Phipps, D-a-v-e P-h-i-p-p-s. I'm the Douglas County Election Commissioner and I'm here in support of LB449 and I do want to thank, first of all, Senator Nelson for introducing this legislation. Really it, as we've seen, covers quite a number of different subjects within the election act. You know, and most of them, are frankly just things that will make our lives as election officials a little bit easier, define some things that I think needed further definition, and just make some necessary changes. And I think really Senator Nelson covered the major points. Some of the questions that have kind of come up, Senator Avery that you had with regard to whether the public inspection of the early voting returned ballots had enough people voting on election day. Essentially what that would do, right now the law pretty much defines that you can't find out who voted until after the election is over. This would allow for us as election officials...we already provide the information on who has requested an early voting ballot, but we can't tell them if they've returned that ballot or not, and in this case the law would change so that we could do that. And basically our reasoning for that is, you know, we get dozens of complaints every year about, well, I've already returned my ballots but the party has called me, the campaign has called me, and the candidate has called me and they won't leave me alone. So this would, basically, you know, be a way for candidates to know this person has already voted, stop contacting them. And then at the polls, there would be kind of the same idea. You know, if you went and voted first thing in the morning, you wouldn't get ten phone calls on election day from the campaigns to remind you to go and vote that day. So that's kind of the reasoning for that. The other sections bring the law into kind of the same for Douglas County, Lancaster, and Sarpy with all the other election officials, the county clerks across the state being able to run or be appointed to political office. I think this would be a consistency issue and frankly, it's a matter of fairness. I don't have any plans on running for anything anytime soon. My job is stressful enough, I don't want yours. But, you know, it's one of those things where, you know, county clerks run for office, we should

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have the opportunity, too, as well. The deputy registrar training really came about because there was a county, I'll just say near Douglas County, that the county clerk just basically refused to provide training for deputy registrars. The law basically says, there has to be training...there has to be training, but it doesn't actually say anywhere that the clerk has to provide it. And so this would require the clerk or the election commissioner to actually provide training. What we actually did, that voter came to Douglas County and we actually trained them because once you're a registrar you can do it at any Nebraska county. So that would do that. And then it would...the one, basically, it would be a term of three years. That's just more of a housecleaning issue. Right now in Douglas County we have over 1,200 people designated as deputy registrars, but obviously those folks they get their training for maybe one event, and then, basically, we never hear from them again. So we'd like to remove them from the list after a certain period of time. The candidate filing period is another topic that really would make our lives a little bit easier. We've had where somebody has come in and, you know, basically filed for an office four years from that date. And, you know, it's just...it's confusing. There's the possibility that we lose the paperwork which would be absolutely horrible, you know, but it would also make sure that if a filing fee is involved that we would be able to get that information before they filed. So it wouldn't actually prevent anyone from filing or from running a campaign. They just wouldn't be able to file for office until then. I see I'm running short on time so, you know, I'm happy to answer any questions that you may have, and I really appreciate the opportunity for coming in and speaking with you today. [LB449]

SENATOR AVERY: Thank you. I have one very fundamental question. This is the kind of bill we usually get from the Secretary of State, but we don't...this doesn't seem to be the origin of it, right? [LB449]

DAVE PHIPPS: Yeah, I would say that I was probably the original initiator of it. I know that Senator Nelson's office spoke with Sarpy and Lancaster as well. I know that they probably talked with the Secretary of State, but I don't think it was their initiation of anything in this bill. [LB449]

SENATOR AVERY: So these are problems that you have identified in your office? [LB449]

DAVE PHIPPS: Yeah, you know, and sometimes it's just a practical matter of, you know, we're involved in sort of a nuts and bolts sometimes. The Secretary of State, obviously, has to deal with much greater issues and more of a macro level than sometimes we do. [LB449]

SENATOR AVERY: Well, what kind of problem were you having with the size of precincts that...where you need to change the maximum size to 3,000? [LB449]

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DAVE PHIPPS: You know, really, it's a matter of kind of the trends that we're seeing throughout...well, really, elections throughout Nebraska. Currently, the law says 1,000 voters or you can take turnout into consideration. We'd like to do the 3,000 because, frankly, less and less people are voting at polling places. You know, ten years ago when the law was changed so you didn't have to have an excuse to vote early, you know, in Douglas County we'd see 2,000 or 3,000 people vote early. In 2008 for the presidential election, we had over 60,000 people that voted early. So, you know, the percentage of people that are voting early continues to increase, so really it makes sense to consolidate the number of precincts we have because not as many people are showing up at the polling places, that means we don't have to replace some equipment that we have to have out there that came about with HAVA, the Help America Vote Act, so it would be a money saving issue. We wouldn't have to have as many poll workers, as many polling places, those sorts of things. So that's where that idea came from. [LB449]

SENATOR AVERY: More work for candidates, though? [LB449]

DAVE PHIPPS: Not really. I don't think, I mean, because they're...you know, really they're having to contact those people regardless of where they live. And I've never liked to increase your amount of work, but...(laugh) [LB449]

SENATOR AVERY: Well, I was thinking of all the precincts we walk, you know, and... [LB449]

DAVE PHIPPS: It will just take you longer. (laugh) [LB449]

SENATOR AVERY: Yeah, it will just take longer to cover a precinct. Senator Price. [LB449]

SENATOR PRICE: Thank you very much. Thank you, Mr. Phipps, for coming down today. My question comes in on Sections 10 and 11. When you open up the books for anybody to inspect and you're saying on one hand, it will stop, maybe, because the parties will know who has already voted. But won't it also conversely tell who hasn't voted and that will have people standing up on our doorsteps. I'm reminded of in Chicago, you know, things like that, they can tell down to the person who voted and hasn't voted and they have whoever is interested in people voting, they'll pick people up from the airport to bring them to the poll and do a lot of things so we have voter turnout, but what you really have is, now we have a magnifying glass on who has and hasn't and the (inaudible) would be more focused on those, perhaps, who haven't. [LB449]

DAVE PHIPPS: Yeah, I would agree with you that that certainly could be the result of that as well, yes. [LB449]

SENATOR PRICE: Okay. Thank you. [LB449]

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SENATOR AVERY: Why did you want to change the amount of time when a recall election can be held from 45 days to 75 days after notification? Does it give you more time to count them, the signatures? [LB449]

DAVE PHIPPS: More time to get ready for the election. And I can tell you (laugh) a little bit about recalls from some, you know, personal experience. Really, if 30 to 45 days is the current time frame that's set in statute, and I think that probably works perfectly for every office other than Omaha mayor. For a citywide election for the city of Omaha, it just takes a lot of time to get all the poll workers, all the polling places, all those things ready. And, frankly, you know, I think most jurisdictions want to get these recall elections done as quickly as possible. And if it were any other jurisdiction, if it were a school board or the city of Bennington mayor, or something like that, we'd say, yeah, 30 days is perfectly fine. It's just when it gets to the city of Omaha that that 30 to 45 days just is very difficult sometimes to do. And, you know, so we have a great deal of overtime, a great deal of, you know, weekends, and evenings, and those sorts of things that, you know, we probably wouldn't have had happened if we'd had 75 days. [LB449]

SENATOR AVERY: Senator Schumacher. [LB449]

SENATOR SCHUMACHER: Thank you, Senator Avery. Currently, I think the Secretary of State's Office each day mails out a list of those who applied for...e-mails on a list of those who applied for an early ballot. Would this change that at all? [LB449]

DAVE PHIPPS: No, that wouldn't change at all. And our office does the same thing. We put our local county list on our Web site. But, yeah, we would continue to do that. This would just allow for us to also additionally put a list up of who has returned them as well. [LB449]

SENATOR SCHUMACHER: Okay. That's the difference then? [LB449]

DAVE PHIPPS: Yeah. [LB449]

SENATOR SCHUMACHER: I have no further questions. [LB449]

SENATOR AVERY: Anybody else? Don't see any. Thank you. [LB449]

DAVE PHIPPS: Thank you, Mr. Chairman. [LB449]

SENATOR AVERY: Any other proponent testimony? Good afternoon. [LB449]

WAYNE BENA: Good afternoon, Chairman Avery. My name is Wayne Bena, W-a-y-n-e B-e-n-a. I currently serve as election commissioner for the county of Sarpy County. This

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is my first opportunity to speak before this committee after taking office in January of 2010. So I just wanted to first introduce myself, and if I can be a resource to any of you in your offices in regards to election matters in Sarpy County, I would be more than willing to help out. I just came here today. I know Senator Nelson and Commissioner Phipps will take most of the heavy lifting on this, but I just wanted to share my support on many of the sections of this bill that would make my life as an election commissioner much easier. I'd share the experience just in my first month in office I had to call two candidates back to refile because the filing fee had changed since they had filed so early into the process. Having a minimum date of December 15 would allow the salaries to be set so that's...again we, hopefully, wouldn't lose the paperwork and we would know exactly how much they would have to pay for a filing fee. I also get a lot of complaints in my office in regards to candidates and campaigns contacting voters after they've return an absentee ballot. Our office does send out a list daily of people that are requesting an absentee ballot, and it would also be nice to be able to send a list of those who have returned a ballot so they can be removed from the list. And with that, I'll conclude my testimony and answer any questions that you might have. [LB449]

SENATOR AVERY: Thank you, Mr. Bena. Questions from the committee? Senator Price. [LB449]

SENATOR PRICE: Thank you very much, Chairman Avery. In that first section, Mr. Bena, can you tell me about your feelings about, you know, being allowed to seek an elected office there or...and that limitation of six months and how that plays out for you? [LB449]

WAYNE BENA: Yeah. Currently, you know, there are 93 people in the state that count ballots for either a parcel of their living or all of their living. And 90 of those people can run for or be appointed to an elected office. Only in statute that the commissioners in Lancaster, Douglas and Sarpy are limited to have to either resign six months for filing for an office, or not being able to be appointed to an office at all. There are some folks, I believe the Secretary of State's Office will talk about this after me, about concerns about us running for office. And if you do have those concerns, I probably wouldn't be able to weigh those concerns. But what I would tell you is, any concerns you would have about us being able to run for office while being an election commissioner, don't really apply to even be appointed for office, because if we were to receive an appointment for office, we would have to resign and then a new commissioner would be appointed to that position prior to us ever having to rerun for that office after being appointed. So again I think it's fairest. I mean, we just saw, while many clerks have to run for office because they're clerks, even your standalone commissioner between the 50,000 and 100,000 population limit, for example, in Cass County, their election commissioner ran for county clerk in this last election. So again, as Commissioner Phipps put it, this is an issue of fairness to allow an equal playing field for all the election commissioners throughout the state. [LB449]

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SENATOR PRICE: Thank you. [LB449]

SENATOR AVERY: Senator Janssen. [LB449]

SENATOR JANSSEN: Thank you, Chairman Avery. I'm sorry I missed your name when you... [LB449]

WAYNE BENA: It's Wayne Bena. [LB449]

SENATOR JANSSEN: Oh, nice meeting you. Congratulations on your new appointment. And thanks for clarifying this section about seeking public office. I am confused. I'm from Dodge County. Our clerk is our election commissioner as well. And I brought this up, so I'm kind of curious, why not the opposite way, because if it's a thing of fairness, what if someone runs against the clerk, then he's actually in charge of the election as the election commissioner. I always thought that kind of was crossways and I was contemplating a law that would not allow that. I wasn't aware that Douglas County was currently under that. So can you see a conflict there? I mean, I know it's happening, but... [LB449]

WAYNE BENA: Well, I mean, in a majority of your counties your election commissioner is your county clerk because that's the way to combine the offices, and it's probably not practical to have a separate election commissioner in each one of those counties, especially your smallest of counties. And so the statute allows for those folks to run, you know, fund raise for their own campaigns, what have you. It's just for the three of us, in the biggest three over 100,000, that are not. So it would be difficult if you go the other way. You'd have to find some way that that...some other official would have to be the election commissioner and count the ballots in those counties in which there's a county clerk who does the job. [LB449]

SENATOR JANSSEN: How about though...my question...I'm not picking on you. I would have asked Mr. Phipps this too if I'd kind of registered with me at the time, is, you know, what if you're the county clerk and I want to compete against you but you're also the election commissioner now. Now there's...now you really get into a fairness issue because I don't feel comfortable maybe even wanting to run because you're the one counting the votes. [LB449]

WAYNE BENA: Well, I would say that, you know, that can be a concern but there's a lot of checks and balances within the system of, of...you know, in my office, you know, I have a deputy that's a different party than I am, as well as, you know, a staff of different political parties that oversee the process. And I would say, just in my experience, in my first two election cycles, it's very...it would be very, very difficult to have anything be...go wrong in regards to that concern because there's a lot of checks and balances in the

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process. [LB449]

SENATOR JANSSEN: Well, right. And maybe there's some in Dodge County but maybe there's fewer in these smaller counties with these checks and balances where a clerk does a pretty nice job in some of these smaller counties comparatively and a person wants to hold on to that. And I'm not saying small counties can't get the job done, but I believe sometimes there's fewer checks and balances, so. It's just interesting. I just want to point that out. I think it lends itself a little bit to, I guess, confusion. Thank you. [LB449]

WAYNE BENA: And I guess for me, if coming down to brass tacks, I would prefer to be allowed to be able to be appointed for an office more than the election portion of it, if it comes down to brass tacks, because being appointed to a position has nothing to do with the county and the votes. So under this proposal, I would have to resign and six months would pass before I could even be appointed. So I don't think there would be a job that comes open that would wait for six months that I could get...that, you know, you could get, so. [LB449]

SENATOR JANSSEN: I appreciate that. Thank you. [LB449]

SENATOR AVERY: Any other questions? Senator Schumacher. [LB449]

SENATOR SCHUMACHER: Thank you, Senator Avery. Senator Janssen triggered some thought in my mind. Now a lot of people now go to the election commissioner's office to vote early. Is that a fair statement? [LB449]

WAYNE BENA: Correct. It's increasing every election. [LB449]

SENATOR SCHUMACHER: Is it fair then that, let's say you were running for another political office and a lot of people go to your office and to vote for maybe a presidential candidate or something, but you're still on the ballot and they see your name on the door as they walk in, and, you know, your business card...oh, I suppose not the business card in that particular case, but you're right there. Isn't that a bit unfair? [LB449]

WAYNE BENA: I think that far ahead I'd probably put things in motion to make it...the office as neutral as possible. I'd probably cover my name, remove business cards, and do everything to keep it on par to make sure there would be any nonperception of that. I mean, I...if that were to occur, I hadn't thought that far down the line, but I think that's what I would do to help alleviate that perception. [LB449]

SENATOR SCHUMACHER: But the law doesn't require somebody to... [LB449]

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WAYNE BENA: The law requires no electioneering within 200 feet, so if you could consider my name being electioneering, I would, if not required to, I think I would actually go beyond that step and cover my name up and remove any instances of that to make sure there wouldn't be any type of electioneering. [LB449]

SENATOR SCHUMACHER: I have no further questions. [LB449]

SENATOR AVERY: Senator Janssen. [LB449]

SENATOR JANSSEN: A comment...I'm sorry to go back and forth, but there is electioneering going on now because I went to Dodge County to vote. Dodge County Clerk, Fred Mytty, I'm not throwing the bus, I mean, he ran for clerk. And I went there to vote early and stood right there, voted, and his business card and everything was right there, and he was on the ballot and I could or could not vote for him, so we might be in...we might have uncovered something we're doing... [LB449]

WAYNE BENA: I will pass that on to Neal Erickson of the Secretary of State whether or not that would claim to be actual electioneering. But, you know, I've had, you know, in my county a situation occurred where we have a polling site in the administrative wing of our county courthouse which was right across from the county assessor. And the county assessor's, you know, name was right there. We just had the assessor's office just cover over the name because we received a complaint. And again, I don't know if it was actual electioneering but I was just, you know, being a little more cautious in my first election to make sure I was making everybody happy and that's what we did in that situation. [LB449]

SENATOR JANSSEN: Thank you. [LB449]

SENATOR AVERY: But the point needs to be underlined that there's nothing in current statute to require you to do that. So you do have the ability to present yourself in a very favorable light before a voter that's come in there to vote early, as Senator Schumacher pointed out. There's nothing in the law that requires you not to reveal your name or have your name out on the desk or even on the door. [LB449]

WAYNE BENA: Again, I will defer that to the Secretary of State's Office but, you know, electioneering can mean a whole lot of different things, and so I'll go with his experience on whether or not a name on the door would constitute electioneering. [LB449]

SENATOR AVERY: Okay. Any other questions? I don't see any. Thank you. [LB449]

WAYNE BENA: Thank you. [LB449]

SENATOR AVERY: Any other proponent testimony? Proponent testimony? Then,

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opponent testimony? No opponent testimony. Neutral? I figured you were coming up sometime. I just couldn't figure on what side. (Laughter) [LB449]

NEAL ERICKSON: Well, with this one with so many different pieces, it's kind of a case of, yeah, some are okay, some we don't like, some we're neutral on, so where do you go, but. For the record, Mr. Chairman, my name is Neal Erickson. I'm deputy secretary of state for elections here in behalf of Secretary of State John Gale, testifying in neutral capacity on LB449. And with a number of pieces in here and the time limitations, I'll run through them fairly quickly. There's not a lot of discussion about Section 1 which allows the three gubernatorial appointed election commissioners to run for office while they're serving. And we would oppose that situation. After talking to commissioner Bena, I think there might be some middle ground in terms of the appointment. I'm not sure there's anything magical about six months, but even with our 86 elected county clerks, we do get complaints all the time about, you know, you need to have somebody come out here and monitor this and quite honestly, we do not have the staff to be able to do that. And, you know, that with the current structure that is something we have to live with because that is just the way our election system works this time. We do have 86 elected county officials. If anything, we would actually support expanding this to cover the four county appointed election commissioners. Historically, we have not seen a whole lot of election commissioners run for office certainly at the time they've held office, or even after that, the one exception being Douglas County. Douglas County has a long track history of former election commissioners eventually holding public office. On Section 3, we would support those changes in the deputy registrar. The three-year renewal we think is a good idea. The current statute just says once you're trained as a deputy registrar of one county, you're eligible to be a deputy registrar in any other county. Section 4, adding e-mail to the registration form, we would support. It's just adding another way of contacting a voter should the election commissioner or county clerk need to do so. It is something that is already on our database. I will point out, this would not be a required field. If they did not place an e-mail on there, their registration application would not be rejected. It is just an additional piece of information that's on there. Section 5, establishes the filing period for home rule charter cities. This one I think we'd probably be neutral on. I'm not completely up on my municipal corporation law, but I think this may violate home rule charter provisions. In order for a state to be able to regulate a home rule charter, they need to occupy the field on this, and occasionally we see in statute magic words that say, yes, the state is occupying the field on this, and that allows the state rule to control over the home rule charter. Section 6, creates a filing period between December 15 and March 1. We would oppose that. We do occasionally get filings that are two, three, four years in advance of the election and that is something that we just have to deal with. I do understand the argument about filing fees, but even if you use a December 15 deadline, counties don't send their...set their salaries until January anyway. So we're always going to be in that situation. Similarly, Congress has the same problem too. We don't actually get their most current salary until January. The way there's works is unless they pass something in December saying they're not getting

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a raise, then they do. So we have to wait until January to find out what that salary level is anyway. Section 7, this is one that says that if your affiliated with a party on March 1, you cannot petition on. Actually, I believe this is probably unconstitutional. I think it probably violates freedom of association. Basically what you're saying is, if you have a political party affiliation, you have to associate and run for the Republican Party or political party nomination, which I don't think you can force that. Section 8, was classed by schools into automatic advancement. We're neutral on that. We know we've advanced most of those types of political subdivisions anyway, so I don't think this would be a major change. Section 9, increasing the polling place to 3,000. First off, I'd say, this is probably actually a good time to look at the size of the polling places, but we would oppose this because we feel the 3,000 is too large. You know, we are...we do recognize that we are seeing more early vote, we're recognizing this is a redistricting year, and it would be nice to be able to adjust those at this time. However, we are cognizant of the fact that both in Douglas and Sarpy County in 2004, we had rather long lines in certain locations. And so, we'd probably be looking at something a little more reasonable in the 1,750 to possibly 2,000 range. And I don't know, Senator, if you want me to continue going through these sections or not. [LB449]

SENATOR AVERY: I do. [LB449]

NEAL ERICKSON: Okay. The Section 10 and 11 allowing polling place sign-in registers to be inspected. This is actually contrary to an AG Opinion that was issued in 1994, and they did call that electioneering. While personally I didn't agree with that AG Opinion, it has been one that has been enforced since that point in time. They base that on some previous AG Opinions and I want to say like 1955 and 1944, something like that, but there's an AG Opinion that says, providing those access to those names that have signed in at the polling register is electioneering. Section 12 removes the name and...or excuse me, the printed name and address from the outside envelope on early voting return ballots. This is something we do hear about. People don't like having that information on there. Personally, I don't think it's that much different than having a return address on the envelope, but with our bar coding technology, all we really need there is a signature so could...we're neutral on that, and I can give you a policy decision for you. Section 13, is actually kind of a tough one. What this does is allow those that have voted early, and I think this situation was explained correctly. Early voting requests are, under current law, public record. Whether that person has returned the ballot or not is not a public record until after the election. This...and I think Senator Price in your comments, you're right. If campaigns had access to that what it would do was focus more material on those that have not returned that ballot yet. But it also gets wrapped up with the bill, Senator Sullivan's bill, you're going to hear next week. There are some implications with the MOVE Act that under the MOVE Act we have to allow military and overseas voters to determine through a Web site their status of their absence...of their early voting ballot. And we use...this will be in the bill next week, we use voter ID as a way to do that. But we see three real choices here in terms of having this committee

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address this issue. Number one is open up the process entirely as this bill does. Early voting requests or public record, whose vote is the public record. The other option is to close it down completely. Early voting requests are not a public record, and who has returned a ballot is not a public record. And then the third approach which is in the bill next week which is to protect certain data features that allows us to incorporate the MOVE Act. Yeah, I think this is probably a policy consideration for you all. What you have is kind of a tension between the public out there who sometimes doesn't like getting bombarded with these campaign materials as soon as they request an early voting ballot versus the campaigns that see it as a legitimate and needed tool to actually conduct their campaigns. And I think that's the balancing act you all get to try and balance out. I do recall one incident where I got a call from a senior citizen, a female senior citizen who had gone out to her mail box and had picked up...in there had been her early voting ballot. She had requested it the day before and it got to the next day and when she got inside there was a robocall saying, we know you've received an early voting ballot. And she honestly thought somebody was watching her, and I was trying to explain to her with this computer technology, these things can happen very quickly. They're, I think Senator...or commissioner Bena is right. I mean we send this stuff out every day and these campaigns have this stuff turned around into their mail houses and their phone operations immediately. And so it's...there's a tension there that I think needs to be balanced and addressed. Whether the current system is the best way or not, I think is open to interpretation. Section 14, had a Learning Community billing list. I think that was an oversight when the Learning Community was adopted and not including them in paying for their own elections. Section 15, time frame for picking up recall petitions. And what this does is say that when the clerk or local officials says, your recall petitions are ready, you got to pick them up within 20 days. On occasion we see are some petitioners that want to play games with the date and they will wait until they feel that it's appropriate time, and we've had a couple of situations where they haven't picked them up within a month and a half. So I think the 20 day deadline is not a bad one. Section 16, increases the election period from 30 to 40...well, the current 30 to 45 days to 30 to 75 days. This is a more realistic expectation. Doing an election in 30 days is actually very tough for local officials. Most special elections require at least 50 days. One caveat I would put on that is, you know, if you change the 30 to 75 days, you're probably going to be lengthening the recall process another month. And is that what you really want to do? And so, it is a little more difficult for us to get elections done in that 30 to 45 day time line. As I said, at least 50 days is usually the norm, but, you know, that's a policy consideration for you all. And I think that goes through those 16 Sections in there. I'd answer any questions if you have them. [LB449]

SENATOR AVERY: Thank you for your very thorough testimony. Any questions from the committee? You do? [LB449]

SENATOR SULLIVAN: Thank you, Senator Avery. Have we covered that question that we had with respect to, okay, is it electioneering or not? [LB449]

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NEAL ERICKSON: I actually think probably having the name on the door probably would be electioneering. I mean, we've never really been asked that. And I can't recall...I'm trying to picture Fremont's office and I can't. But most of the other counties, they will have a county clerk label on the door, but not necessarily an individual's name. When you get in Douglas, Sarpy, yeah, you see, they're a little more affluent counties and have those kind of things on their doors. We've never really had that pop up, but my guess is, we probably would side on the side, that is electioneering. [LB449]

SENATOR SULLIVAN: Okay. [LB449]

SENATOR AVERY: Any more questions? Don't see any. Thank you. [LB449]

NEAL ERICKSON: Thank you. [LB449]

SENATOR AVERY: Any other neutral testimony? [LB449]

LARRY DIX: Senator Avery and members of the committee, for the record my name is Larry Dix. I'm here today in a neutral capacity on LB449. I had to double-check to see what the bill was because I wasn't planning on testifying, but... [LB449]

SENATOR AVERY: Spell your name. [LB449]

LARRY DIX: My name is spelled L-a-r-r-y, last name is D-i-x. [LB449]

SENATOR AVERY: Thank you. [LB449]

LARRY DIX: Thank you. The only comment that I would want to make and it does go to this name on the office issue. And I have the opportunity to travel around to really pretty much all the counties. And I would tell you there are some counties that do have that name there, some that do not. I would just ask that before we go too far in saying, remove the name, that we at least provide some provision to cover up the name as opposed to remove it because when we do get into some of the courthouses, you do have some pretty permanent items that are up on the walls. And I certainly understand your thoughts and it doesn't make any difference to us what you decide only that we just want to be cautious in some of the historic buildings of what we can do to cover up names and those types of things. So with that, I'll certainly leave that to you, and happy to answer any questions that you may have. [LB449]

SENATOR AVERY: Thank you, sir. Questions? Don't see any. Thank you. Any other neutral testimony? I don't see any more testifiers. Senator Nelson, you are ready to close. [LB449]

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SENATOR NELSON: Thank you, Senator Avery and members of the committee. Again I want to thank the persons that came to testify and, in part, information, traveled here for that purpose. We have some differences of interpretation as you can tell, and I would just offer to work with you and your committee counsel if there are any possible issues of constitutionality, I would hate that you not put the bill out on the floor just because of one or two things, but that's up to the committee. So I, again, will make that offer and I want to thank you for your consideration and your time, and with that, that's all I have to say. Thank you. [LB449]

SENATOR AVERY: (Exhibit 2) Thank you, Senator. I don't see any more questions. I have one letter of opposition here from Nebraskans for Civic Reform signed by Adam Morfeld, the executive director. And I read that into the record and with that we close the hearing on LB449, and we open the hearing on LB214. Senator Pankonin, welcome, sir. [LB449]

SENATOR PANKONIN: (Exhibit 1) Thank you. Good afternoon, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. I'm Dave Pankonin, P-a-n-k-o-n-i-n, and I represent the 2nd Legislative District. I am here to introduce LB214. The bill would require nonpartisan ballots for nomination and election of county and city officials. The issue that prompted the introduction of LB214 was first brought to my attention by constituents in my legislative district. These individuals would prefer to vote in a reelection, and most would enjoy the opportunity to vote for the person whom they believe to be the best candidate. The use of nonpartisan ballots for local elections would be the most effective way to accomplish this objective. After some of my constituents expressed their desire for nonpartisan election of all local officials in Nebraska, others, including some county officials, especially election commissioners, echoed the desire for change as well. The following observations support their positions. First, political party affiliation has little or no bearing on local offices which are largely administrative or ministerial. Secondly, political party affiliation tells voters nothing about the qualifications of a candidate for office that has little or no political policymaking responsibility. Thirdly, in counties and communities where one party has an overwhelming registration advantage, the primary becomes the only election that matters. One candidate for one party advances to the general election so the outcome is already known. This puts many people in dependence of members of the other party, in the position of having no real voice in the election process or being required to change party affiliation in order to vote. This actually makes party affiliation a meaningless designation, creates work for election offices, and inconveniences the affected voters. This disingenuous change in party affiliation is not based on political philosophy, but rather on getting around an election law, simply be able to vote. Eliminating partisan affiliation from these offices would force candidates to show voters why they should be elected. Certainly in Nebraska this should be acceptable if not desirable. Since many of our city offices and even our unique policymaking legislative branch of state government are filled by individuals like it on nonpartisan basis.

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Nonpartisan ballots work well for the local and state offices in the state for which they are already in use. I believe it is time for this nonpartisan body to consider their use for all local elections. These changes would better ensure the opportunity for all Nebraskans to vote in every election for the candidates they choose to support. On a personal note, I have been on the ballot nine times, winning primary and general elections for school board, city council, mayor, and the Legislature. In every case my name was on a nonpartisan ballot. I would like to offer AM371 to LB214 for the committee's consideration and that was passed out today. The amendment resulted from collaboration among committee counsel, Christy Abraham, my office, and the Revisor who drafted the green copy of the bill, AM371. First, it would strike Section 1 as unnecessary to the changes proposed in LB214. The remaining sections would be renumbered. Secondly, on page 17 it would restore provisions related to candidate filing requirements for partisan offices. And thirdly, on pages 18 and 19 it would make (b) applicable only to counties and would leave existing provisions unchanged for elected offices filled at a political subdivision or district level. Examples of such offices are on the State Board of Education, the Board of Regents, and the Public Service Commission. I would be happy to answer questions, and I believe others will follow me to describe their belief in the need for the changes proposed by LB214. Thank you.
[LB214]

SENATOR AVERY: Thank you, Senator. Questions from the committee? Senator Janssen. [LB214]

SENATOR JANSSEN: Thank you. Senator Pankonin, with this bill, and this is just city and county and again as noted earlier (inaudible) I actually, Fremont where they still do have partisan will affect them and they're going to change that I think. But could there be a provision here that...there could be or might be, that's why I'm asking is...something I'd love to see at the state level is when I ran for this office, I ran just like you and I only had one opponent, happened to be a Democrat but that doesn't matter. And we had to face off in the primary and spend tens of thousands of dollars, basically, for a poll to find out where we were at, and then face off again in general election and spend tens of thousands of more dollars to do that and that's for us, which I'd like to see changed, but it could happen here especially in some of these races where at least some money is spent. I'd almost like some way that we could forego the primary in that case and they both just automatically advance to the general. And I think they do have that capacity in some cases and maybe somebody following could answer, but...
[LB214]

SENATOR PANKONIN: Senator Janssen, I'm not positive about that. I mean, I think there's some...it does make sense in my situation as a legislative candidate. I think there was six or seven in my first race and then in my second race just one other, and you're exactly right, I think. And if you were going to say that whoever won the primary, there wouldn't be a general election, I wouldn't agree with that. But I think the concept if

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there's just two candidates could be a possibility. We didn't explore that about whether that's done in some jurisdictions, but, you know, I'd be open to hearing more about it. I think it does make some sense. [LB214]

SENATOR JANSSEN: I'd just be interested in my particular case. It would change like 3 percentage points, it didn't dramatically...the voters did, but it didn't dramatically change the outcome so that was a pretty good straw poll but very expensive one. I could have probably had a little bit better poll. Thank you. [LB214]

SENATOR PANKONIN: Done without. Okay. [LB214]

SENATOR AVERY: Any other questions from the committee? [LB214]

SENATOR PANKONIN: Thank you. [LB214]

SENATOR AVERY: Yeah. Are you going to stay around to close? [LB214]

SENATOR PANKONIN: I am going to stay for close. [LB214]

SENATOR AVERY: Proponent testimony. Anyone here wish to support LB214? Come forward, sir. [LB214]

J.D. SCHLUNTZ: (Exhibits 2 and 3) Good afternoon. My name is J.D. Schluntz, S-c-h-l-u-n-t-z. I'm here to support LB214. I believe one of the biggest faults of the system is it disenfranchises a great number of people. Since I'm from Harlan County and he's handing out a little deal on Harlan County, I'll use that as an example of how this happened. Gary Dunse decided to file for supervisor from District 7. He went to the clerk and said he would like to run. She asked, which party and he says, he's independent. She informed him you cannot run in the primary except as a Democrat or Republican. So he asked, what's the incumbent, was told she was Republican. He says I'll be a Republican too. We might as well get this over with. He won by four votes. One hundred forty eligible voters had no say on who would represent them as a supervisor the next four years. I ran in District 1. Although I had token opposition in general election, it was pretty much decided in the primary, there was no campaigning in the general. I'd faired worst if it would have been in the general because sometimes people vote against people rather than for the other one. And it says on that preliminary I got...I won by 32 votes, but three days later I got a call from the clerk and there was 11 early votes to my opponent zero and due to computer error or operator error, those votes were counted three times. I asked what I was supposed to do with my new hat that didn't fit no more, but. (Laughter) Other examples of disenfranchised voters can be found throughout the state. Merrick County decided their new sheriff by drawing cards rather than a Democrat's vote. York County's entire county election was decided in the primary. Another reason for nonpartisan ballots is the county jobs are nonpartisan in

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nature. In Harlan County the former clerk decided to retire. Five people filed for the job, three Republicans and two Democrats. I'm convinced if the primary had been nonpartisan, the same two would advance to a general election. All the registered Republicans outnumbered the registered Democrats by more than two to one. The Democrats got 994 votes, Republicans 574. So I can't see that party affiliation really made a lot of difference. We also had a sheriff race, two Republicans and two Democrats. In my opinion, the top two candidates were both Democrats. One withdrew after some intensive campaigning to take a position with the State Patrol. Again the Democrat won by almost two to one. We had competition in three supervisor districts. We elected one Republican, one Democrat, and one former Independent. And we now have three Democrats, three Republicans, and one former Independent on the board, and I had to find out yesterday what two of them were because I didn't know. Another thing, in the '80s and '90s there were two gentlemen from Alma on the board--one Republican, one Democrat. My observation, they always voted the same on every issue and there were a lot of four to three votes. Well, they were number four to three votes. Another minor reason might be, be a little cheaper on the ballot and you won't have to print quite so many ballots in the paper. I mean, maybe it's not so minor this year. Expenses are kind of important. And my daughter told me one last night. A person serving on a board eight months after they've been defeated, guess not the best for the board or for the person. And there is a possibility of some mischief being done, because, you know, found out they don't like me but I'm still here. And I know that NACO is going to testify against this bill. They've still got to put up with me for a while. I did talk to the workshop in county board of Kearney last week. I talked to a few people and most of them were in favor of the nonpartisan election. One person, he liked the partisan because it would cost more to campaign twice. The anchor board gives Larry Dix direction and that consists of 18 members. I talked to one of them and he said some issues are decided eight to ten. He didn't know about this one, but all 18 of them were elected on a partisan ballot. And with that I'd like to thank you, this committee. I don't know how we should do it giving the counties the opportunity to eliminate township government. Thank you very much. [LB214]

SENATOR AVERY: Thank you, sir. Any questions from the committee? I don't see any questions. Thank you for your testimony. [LB214]

J.D. SCHLUNTZ: Can I come back after Larry talks and talk on the other bill? [LB214]

SENATOR AVERY: On the other bill? Sure. You can testify on as many bills as you want, but you can only testify once on one bill, each bill. All right, any other support? Any more proponent testimony? Good afternoon. [LB214]

DORIS ROYAL: (Exhibits 4 and 5) My name is Doris Royal, D-o-r-i-s R-o-y-a-l. I live at 16202 Buffalo Road in Springfield, Nebraska. I want to thank Senator Pankonin and Senator Sullivan for introducing LB214 and LB186 and the committee for hearing them.

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I am very much for nonpartisan voting. Whoever gets the most votes wins. To me that is the American way. Let majority rule. Many people do not realize that if they want to vote for someone in the opposite party, they have to change party long enough to vote, and then change back to their party after the election. I know some people vote straight party lines. This bill would not stop that. I feel there are good Republicans, but there are also bad Republicans. There are good Democrats and bad Democrats. At times there is a good Republican running for one job, and a good Democrat running for another. Nonpartisan would allow you to vote for both of them. As it is now, you have to pick which one to vote for. I believe nonpartisan would let the best person win. Hopefully, we would have better elected officials. Nonpartisan seems to be working in the Legislature and the NRD. It would work even better at the local level. I often do not know the people...I didn't get this typed right. I often do not know the people like the Legislature, is what I'm trying to say. But I usually know or know someone who does know who is at my local level. I wish there was just one party, the American Party. Then officials would vote for what is good for the United States and not worry about getting their party's vote at the next election. There are people who said I was right, but wouldn't help because they didn't want their party members to be mad at them. There are many agreed that we should have just one party, the American Party. I have never worked in an election commissioners office. I think nonpartisan would make their job easier if they didn't have to sort ballots along party lines. If we cannot have nonpartisan voting, the election commissioner should have to publish that people have to reregister in order to vote for someone on a different party. This should be done for several weeks before the election. We would have had more people here today but as you know, Nebraskans head south for the winter. And in closing, I want to thank you for having this hearing and hope you'll vote this bill out of committee for the whole Legislature to vote on. [LB214]

SENATOR AVERY: Thank you. Questions from the committee? I don't see any questions. Thank you for your testimony. [LB214]

DORIS ROYAL: Okay. Now do you want me to stay and testify again for LB156? [LB214]

SENATOR AVERY: LB186. We'll open that up in a moment. [LB214]

DORIS ROYAL: Oh, LB186. Because the only thing I would check... [LB214]

SENATOR AVERY: We'll call you back. [LB214]

DORIS ROYAL: Pardon? [LB214]

SENATOR AVERY: You can come back to the table then. [LB214]

DORIS ROYAL: The only thing I would change would be I prefer Senator Pankonin's

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bill, but Senator Sullivan's would be a step in the right direction. [LB214]

SENATOR AVERY: Okay. Thank you. Any more support? Any opposition testimony? Any opposition to LB214? Come forward, sir. Welcome. [LB214]

GENE SIADEK: (Exhibit 6) Good afternoon. Gene Siadek, G-e-n-e S-i-a-d-e-k, I represent the Libertarian Party of Nebraska. Thank you for allowing me to testify today. Again I represent the Libertarian Party of Nebraska. I'm the state chair for the party. I speak respectfully in opposition to LB214, and I have to apologize because I'm not familiar with the current amendment that's been proposed that the senator spoke of earlier, so. But I believe from what I've heard, it doesn't impact what I'm going to say here today because I speak specifically to the proposed changes made to Section 32-610. The Libertarian Party is the third largest political party in the nation and only the third political party recognized in the state of Nebraska. We were officially recognized as a party in the entire state in August of 2010 after a successful petition campaign. State law requires political parties to get 5 percent in a statewide election in each two-year election cycle to remain on the ballot for the ensuing election. Our candidate for state auditor won 20 percent in the previous election and so Libertarian Party is officially recognized through 2012. This is where the current law becomes problematic or restrictive for us in 2012. The only statewide races in Nebraska will be for U.S. Senate and the president of the United States. The proposed changes to 32-610 would not only maintain that restrictive nature but aggravate it as well because it would eliminate the opportunity to organize at a county or district level. While we oppose the current changes to 32-610 in the bill, we would like to offer, perhaps, a compromise. Our desire would be to make the two-year cycle a four-year cycle. This option would potentially save taxpayer dollars since counties would not be burdened with the administration of keeping track of third parties without changing the intent of the bill, we believe. This will allow Nebraskans the ability to remain registered as Libertarians over a longer term and we feel would enable a more representative system of governance. For these reasons, we respectfully request the following changes or similar language be included in the bill and the final paragraph there shows what we would propose: 32-610, Section 2, states...currently states, at the last election. What we would propose, at either of the two previous elections. I'm not sure if I'm making myself clear there, but I thank you for your time, and I'm open for questions at this time. [LB214]

SENATOR AVERY: Thank you, sir. Questions from the committee? Senator Janssen. [LB214]

SENATOR JANSSEN: Thank you, Chairman Avery. This is just for clarification purposes. The changes that you're talking about, would that be...if I recall, correct me if I'm wrong. You guys...because I know you were becoming extinct or had been removed as a party, and then or were close to or in order to get back, you had to get so much statewide and basically recruited a candidate to run for the auditor because...which was

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a wise move to get both, and probably knew they weren't going to win. But is that what the difference would be for four years to two years? Is that...so you would have a chance to... [LB214]

GENE SIADEK: Right. Correct. The issue at hand is, if the question is the nature of the four-year cycle to two-year versus four-year cycle, what will happen in 2012 is we'll have to recruit a...hopefully, recruit a candidate for the U.S. Senate and we'll have a presidential candidate, but typically the presidential candidate doesn't pull 5 percent in this state. So we'll have to recruit a senatorial candidate and, you know, obviously the race may be competitive and obviously they're quite expensive. And in the likelihood that, you know, we could poll a candidate and raise the type of money that you need to compete, and get the 5 percent, then is...is, perhaps, is a big challenge for us. Now what the current state law allows is for perhaps an option to that would be recruiting candidates at the smaller political subdivisions and if we get 5 percent at that level, we can retain our ballot status at that time. So we wouldn't have to, for example, try to petition the entire state again to get ballot access to the entire state. Does that...am I answering your question? [LB214]

SENATOR JANSSEN: Yeah, I just wanted to make sure I was...and I didn't mean to say your auditor candidate didn't have a chance or anything like that. I just recall reading an article... [LB214]

GENE SIADEK: No, we understand the nature of the...we understand. [LB214]

SENATOR JANSSEN: So, thank you. [LB214]

GENE SIADEK: Thank you. [LB214]

SENATOR AVERY: Any more questions? I don't see any. Thank you, sir, for your testimony. [LB214]

GENE SIADEK: Thank you. [LB214]

SENATOR AVERY: Any more opposition testimony? Good afternoon. [LB214]

LARRY DIX: Good afternoon, Senator Avery and members of the committee. For the record, my name is Larry Dix, L-a-r-r-y D-i-x. I'm here representing the Nebraska Association of County Officials and I'm here testifying in opposition to LB214. When both of these bills, and for the most part, my comments will be the same on both bills and so I'll let you decide if you want to have me reiterate it on the next bill or not. But when both of these bills came up in front of the NACO board, we did have a pretty in-depth conversation really about these. And, you know, as the discussion went around the room there was a lot of discussion and I think everybody would agree that no matter

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if you have a county clerk or a county assessor or a county treasurer, whether they're Republican, Democrat, Independent, Libertarian, for the most part, the job that they're going to do of issuing titles and assessing taxes, it makes no difference. I've used the analogy to many of our folks saying that regardless if you are Democrat, Republican, Catholic, or Lutheran, male or female, I think you would do the same job. And so I think that's certainly a given. During that conversation, you know, we, on our board, as which the previous testifier testified, there's eighteen members, and on the NACO board we don't really make any definition as to who is Republican or who is Democrat. And I would tell you as I sat here today, I wouldn't be able to tell you every political party on the NACO board. I would also be able to tell you there are some that are clear to this side and there are some that are definitely to this side. But at the end of the discussion, the...one of the things that they wanted to have some information on was, are we seeing a lack of folks run for these positions? That was one of their discussion points. And are we seeing where people just are retained in office year after year after year because they are of such a political party? And this last election, I would tell you there are 92 county board members, 92 new county board members. So there was a significant turnover of county board members in the state. Normally that runs, in my experience in the years I've been here, in the thirties. There were 12 new assessors, 11 attorneys, 5 clerks, 9 clerks of the district court, 2 public defenders, 6 register of deeds, 23 sheriffs, 2 surveyors, and 13 treasurers. So it was...so when you look at that, there was some turnover certainly. Also when you look at it of the 92 board members, the ones that were defeated, 31 were defeated in the primary, and 20 of them were defeated in the general. So that sort of spreads that out over the general and the primary. When we really got down to the end of the day and said, well, where do you think we ought to be on this? It was pretty much the consensus of the NACO board that they didn't see this as rising...as a problem, that it rose to the level of the problem that we needed change at this point in time. They felt that the system was working fine, didn't feel that there really needed to be a change, and that was the direction that they gave me as far as their position on it. And so that's pretty much the discussion that we had as our legislative committee, and that's where they came to the conclusion to oppose both of these bills, simply the fact that they didn't feel that there was a overriding problem across the state as far as county officials were concerned and, therefore, they oppose the legislation. So with that, I'll be happy to answer any questions...try to answer any questions you have. [LB214]

SENATOR AVERY: Thank you, Mr. Dix. Questions from the committee? Senator Janssen. [LB214]

SENATOR JANSSEN: Thank you, Chairman Avery. Mr. Dix, I may be embarrassed to ask this, but right now, can cities, counties decide on their own if they want to hold nonpartisan or partisan or are they...they're limited? [LB214]

LARRY DIX: I think it's pretty well spelled out in statute that, you know, it will talk about

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the county clerks and it will say the county clerks shall be elected in a partisan election. [LB214]

SENATOR JANSSEN: Okay. And then the cities, though, with their own, they can choose. [LB214]

LARRY DIX: Yeah, I'm certainly not an authority on cities, but I do know there are cities that are nonpartisan. [LB214]

SENATOR JANSSEN: That's where I was kind of getting blurred between Fremont, Dodge County, playing in my own backyard there. Thank you. [LB214]

LARRY DIX: Sure. Sure. [LB214]

SENATOR AVERY: Any more questions? Senator Karpisek. [LB214]

SENATOR KARPISEK: Thank you, Senator Avery. Thank you, Mr. Dix. Do you know what the vote was on this bill...on this...? [LB214]

LARRY DIX: Yeah, in fact, I assumed that would come back with one pack and actually listened to the tape of it. And it was a voice vote unanimous to oppose. [LB214]

SENATOR AVERY: You had no negative votes at all? [LB214]

LARRY DIX: No, there weren't. [LB214]

SENATOR KARPISEK: I don't think it's going to come out of here all one way or another, I'll tell you that. (Laughter) Thank you, Mr. Dix. [LB214]

LARRY DIX: Yes. [LB214]

SENATOR AVERY: Senator Sullivan. [LB214]

SENATOR SULLIVAN: Thank you, Senator Avery, and thank you, Larry, for your testimony. Aside from the fact that change doesn't come easily, why change it if, you know, if we don't see a need or we don't see a problem? Did you have a discussion as to, would there be a problem if we went this route? [LB214]

LARRY DIX: Yeah, we did talk about that. And I think some of the comments...I'm glad you brought that up. Some of the comments that came out, and I know when we sort of break down the NACO board, we typically will break it down of affiliates versus county board members. And affiliates are your clerks, assessors, treasurers, sheriffs, public defenders, attorneys, and this and that. And a number of them said, yeah, it's fine the

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way it is. A number of them also said, but if it were a nonpartisan, we believe we would do exactly the same job that we're doing today. I would give you that. When it went into the board, more on the board side, there were a few folks that said, I am running based on the policies of my party, and where they actually say, I make decisions based on some of the policies that I believe in as far as either being a Democrat or Republican. So there were a few comments like that, but I think at the end of the day I don't know that anybody...I don't know that anybody of a county board member or an affiliate would come up in this chair and say, I have to have a party affiliation to do my job. I don't think you would have somebody...I think you would have some folks say, I enjoy having a party position when I'm running for election, but I don't think you would hear them say, I must be of a certain party to do my job. [LB214]

SENATOR SULLIVAN: Thank you. [LB214]

LARRY DIX: Sure. [LB214]

SENATOR AVERY: Any more questions? I don't see any. Thank you, Mr. Dix. [LB214]

LARRY DIX: Thank you. [LB214]

SENATOR AVERY: Any more opposition testimony? Any neutral testimony? Okay. Senator Pankonin. [LB214]

SENATOR PANKONIN: I had some prepared remarks but really I enjoyed the discussion and I was sitting here musing about the fact that I've been here five years and there's some folks from my class like Senator Karpisek, Senator Pahls has been here a little longer, so the entire five years has been that. But I think we have to look at how our body works in this nonpartisan and we've got, I can tell Doris Royal, we've got good Democrats and good Republicans around this table, but mainly we've got good people that I've enjoyed working with. And I think we make it work. I think it's very unique in Nebraska. I think Mr. Dix said that from the discussions in NACO, they didn't think it was a difference in how people would function, so I think that's an argument actually in favor of this concept. And the other thing that he didn't bring up is, they didn't ask the voters. They asked the elected officials that aren't running in this partisan system. And I think if you go back and think about the voters who oftentimes the election is over at the primary, or as the other gentleman stated who has had county board experience, a lot of times the candidates considered to be the best candidates, you know, will come to the forefront because in these local races, and I think even in our legislative races, people usually have had, even though our districts are 35-plus thousand people, they usually have a good feel for folks and know them. And I think that's an outstanding attribute of the nonpartisan system that we have here. So I just hope you give this strong consideration. I'm kind of like Doris Royal, if the default provision is Senator Sullivan's, I can go for that too. But I think from my experience and

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in my district in Plattsmouth they have partisan city elections and I think that's been a problem too of people not sometimes, you know, not having a general election choice, so. Thanks for your attention today on a warm afternoon. [LB214]

SENATOR AVERY: Thank you. Any more questions? Yes, Senator Schumacher. [LB214]

SENATOR SCHUMACHER: Thank you, Senator Avery. In preparing to bring this bill, did you do any research, particularly in the outstate areas, outside of Omaha and Lincoln, about how active the political parties really are anymore? Many of them, I understand in some of the counties, even the larger size counties have next to no people showing up for their county conventions and they're pretty much defunct anyway. Have you looked at any of that? [LB214]

SENATOR PANKONIN: Senator, we didn't do research on it. I think from just anecdotal, I think that's probably a fair statement and...but I think that's another argument for nonpartisan then, if the...and I think it's a function of history where local parties were more important in decades past. I think that's a fair and honest statement just from my observations, and I think this even would be another idea that why this concept is important. [LB214]

SENATOR SCHUMACHER: I have no further questions. [LB214]

SENATOR AVERY: I don't see any more. Thank you, sir. [LB214]

SENATOR PANKONIN: Thank you. [LB214]

SENATOR AVERY: (Exhibits 7-10) I have three letters of support to read into the record, one from a citizen in Springfield, and one from the county clerk's office in Otoe County, and one from Cass County Election Office in support. One letter of opposition from the Secretary of State. That ends the hearing on LB214. We'll now open the hearing on LB186. Senator Sullivan. [LB214]

SENATOR SULLIVAN: Thank you, Senator Avery. Good afternoon, colleagues and members of the Government, Military and Veterans Affairs Committee. I'm Senator Kate Sullivan, representing Legislative District 41. That's K-a-t-e S-u-l-l-i-v-a-n. I could say ditto, but I won't. You're going to hear my testimony. (Laughter) LB186 would require nonpartisan ballots for the nomination and election of county officers. In defense of the nonpartisan Unicameral, George W. Norris once said, legislators' duties have nothing to do with the federal administration or the success of any political party. Well, I'd like to co-op Senator Norris' comment and say that county officers' duties have nothing to do with federal and state administration or the success of any political party. County officials should answer to the voters in their county, all voters. I introduced LB186 as a

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result of what happened in the 2010 primary in a county in my legislative district. Both county office candidates were from the same party. The primary election determined the winner. Slightly more than one-third of this county's registered voters decided the outcome of the race. Almost two-thirds of this county's registered voters were disenfranchised in this particular primary election because they were registered as Independents or members of the other political party. I'm certain that the same situation occurs in the primary all over the state, particularly in rural counties. LB186 would allow all registered voters to vote for county offices in both the primary and the general election. No county voter would be disenfranchised in the primary. Last fall I made an official visit to each county board in my legislative district, eight different counties, and talked to them about my intent to introduce this bill. Each and every board thought it was a good idea. And you've heard that NACO has taken a formal position against this bill, but I've still been contacted by county officials from across the state that disagree with this official position of NACO. These county officials believe that nonpartisan elections would be good for county government as a whole. The business of a county is not partisan. I don't believe the nomination and election processes for county offices should be partisan either. LB186 is a simple change that will bring more voters to the polls in the primary. I encourage you to advance LB186 to General File. [LB186]

SENATOR AVERY: Thank you for your testimony, Senator. Questions from the committee? Senator Price. [LB186]

SENATOR PRICE: Chairman Avery, thank you. Senator Sullivan, thank you for bringing this forward. I have a question for you. In listening to both of the bills, when we say that something disenfranchises voters, do you think that that's the intent of the structure or is that an outcome of voter apathy? [LB186]

SENATOR SULLIVAN: It's an outcome of the structure. How...I don't see how it would be necessarily an outcome of voter apathy when you actually...this is one of the reasons that I'm bringing this bill is that because people want to be engaged, and they haven't had the opportunity to be so because of the structure that we have right now. [LB186]

SENATOR PRICE: Okay, because I was thinking more about if there had been candidates when we had the structure we talked about, the historic nature of the structure, you know when you had candidates who were running for all of these offices and you had multiples of them, I mean, part of that voter apathy participation, if you don't have people who run for the other offices so you can have that, I guess...I don't know, full competition. You know if you only have two people run and they only run from one party, okay, then you get into a structural part. But there could people who run for another part, for the other parties, so I sometimes wonder when I hear what we're proposing here, is it's an outcome of people just not participating in the political process both as candidates and voters, and that's how it's resolved down to this now, and... [LB186]

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SENATOR SULLIVAN: And I don't necessarily disagree with you, Senator Price. However, and I think I've said this several times, in fact, I said it earlier today in another committee hearing that we have, in fact, quite an engaged citizenry in rural Nebraska. But what we also have happening is fewer and fewer people out there carrying and wearing lots of different hats. And, in fact, you know, whether it's the rural fire board or being a village board member or a school board member, you know, there's just fewer and fewer people out there to fill the slots. And I think you would know as well as I do that there is a toll to be taken and a commitment made when you run for office that takes you away from, it might be your business or your family obligations, and that's...so bottom line is, when there are fewer people, take those restrictions, you've got fewer people, not necessarily that are engaged, but just fewer people to draw from. [LB186]

SENATOR PRICE: And if you don't mind, one quick follow on to that is, I've seen a couple of elections that were in a nonpartisan race where people were able to...they were able to hide what their fundamental philosophy or what they identify with. You know, when voters go out to vote for someone, if someone doesn't have to say, I identify with a party, you know, a lot of voters get a lot of information. They glean a lot of information about a person then that way. Now in our races, I think it makes a bigger impact than it would at the county. But I think that there's some value to a party by a person saying, I identify with this party, you know. And if we go nonpartisan what we're going to do is, we're going to leave all the discovery up to the voter because the candidate will not be encumbered to say how they feel about things, and how they would vote on things, and what their perspective is on things. And perhaps as some little down ballot, as I like to call it, race is, is not as big an issue but as you get to a county board it can become quite a large issue. [LB186]

SENATOR SULLIVAN: I agree with you, but I would also say that it's been my experience out in the counties in my district that the environment is such that whether it's through county forums or election forums, there is ample opportunity for the citizenry to hear how those running for those elected offices feel about their positions in the work that they will be doing. [LB186]

SENATOR PRICE: Oh, I appreciate that. Thank you. [LB186]

SENATOR AVERY: Thank you. Senator Janssen. [LB186]

SENATOR JANSSEN: Thank you, Chairman Avery, Senator Sullivan. I got a good reason for this question and I'll tell you the reason after I get the answer, but...(laughter) [LB186]

SENATOR SULLIVAN: Oh, you're setting me up, huh? [LB186]

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SENATOR JANSSEN: A little bit. No, not really. Most people don't realize I'm a Republican, (laughter) but there is a little bit of a Libertarian streak in me and I recall a time when...I don't recall it, but there was a time when the Republican Party was a third party, if you will, and I don't see if...and, of course, that's more of a national thing, but do you see how this could maybe quash or hold down...we used to have a Nebraska Party here that no longer exists. You know, the Libertarian Party kind of had to use some...I mean, it wasn't a manipulation, I mean, they wisely found a race that they could get 5 percent of the statewide vote, almost an unintended consequence of keeping new parties from forming and rising at the state level with this...with your... [LB186]

SENATOR SULLIVAN: Well, first of all, I'm not going to go down that path because my bill deals with county officials, and I really don't feel that this limits their being at the table as individuals irrespective of their party membership. [LB186]

SENATOR JANSSEN: I just think sometimes we're...you start out you get somebody that's, you know, elected to a city council or a county board as...you know, now that you've got an elected, partisan elected Libertarian or Nebraska Party, or any other third party, and that's the way they really get their start at the lower levels of government, and party building starts at the lower level, so that's where I'm coming down from. It's just something that kind of came up here. And the reason for asking that question is because I wasn't going to ask any questions but my lovely wife slipped into the back of the room and I wanted to make it look like I really work all day at these hearings, so. (Laughter) Thank you. [LB186]

SENATOR AVERY: Any other...Senator Karpisek. [LB186]

SENATOR KARPISEK: Thank you, Senator Avery. Thank you, Senator Sullivan, for bringing this. I just...what do you think...why didn't you bring...put city officers on it too? [LB186]

SENATOR SULLIVAN: Well, number one, because I have 34 villages and municipalities in my district and I felt, I guess, like I needed to poll them to see how they felt about it and I had my hands full going to eight county boards. (Laugh) [LB186]

SENATOR KARPISEK: And that's fine...I just wanted to know if there was a real reason that you didn't think that was... [LB186]

SENATOR SULLIVAN: No, no. [LB186]

SENATOR KARPISEK: Very good. Thank you again. Thank you, Senator Avery. [LB186]

SENATOR AVERY: Okay. Senator Schumacher. [LB186]

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SENATOR SCHUMACHER: Thank you, Senator Avery. I'm really quite surprised that the political parties on here having a calendar day, and I'm sure there's an explanation. (Laugh) But I would think that perhaps in the two or three larger counties they might argue that this is a way that they groom their gubernatorial or senatorial candidates and it was just, in their case, one big pool of nonlabeled people who were serving in city and county government that people would not begin to identify with the party label, and they would have a difficult time maintaining some type of party structure or discipline or whatever they think they have, and in picking senatorial and congressional and gubernatorial candidates and the constitutional officers also. Do you sense that that's probably where the resistance of this would be coming from? [LB186]

SENATOR SULLIVAN: Well, I, like you, expected that perhaps there might have been some public resistance along those lines from parties. I don't know, maybe it is forthcoming. But perhaps also, there may have been some indication of that being made as we see what NACO's stance is, although I don't know. [LB186]

SENATOR SCHUMACHER: Okay. I have no further questions. [LB186]

SENATOR AVERY: I don't see any more questions. Thank you. Proponent testimony to LB186? Welcome again, Ms. Royal. [LB186]

DORIS ROYAL: I'm Doris Royal, D-o-r-i-s R-o-y-a-l. And I apologize, I should have brought two copies, I guess, I didn't realize I should have. My testimony is pretty much what I gave you on the other bill. And if it's permissible, I'd like to add a little bit that isn't written down. I'd like to respond to what senator said and some of the questions, one of the questions being on voter apathy. In my area, the Democrats just stay home because they're so outnumbered, there's never a Democrat on the ballot, or very few, if any, so they just don't bother to go. So, yes, it's not voter apathy. It's, why waste my time to go when I know that candidate cannot win. They stay home. And so I think, you know, really you should take that into consideration, you will get more people involved. And as far as talking about people knowing what the party stands for, as I said in my testimony, when it comes to you folks, we, most generally, don't know you. But when you get back home, I know who is running or I know someone who does know, who does know what that person stands for, what that person has done in his life to make him a good candidate. Thank you. [LB186]

SENATOR AVERY: Thank you. Any questions for Ms. Royal? I don't see any. Thank you very much. More proponent testimony? Welcome back, Mr. Schluntz. [LB186]

J.D. SCHLUNTZ: Thank you. J.D. Schluntz, S-c-h-l-u-n-t-z. I'm not supposed to ask questions but if you remember what I said before you can say, yeah, and I won't have to say it again. (Laughter) [LB186]

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SENATOR AVERY: Okay. [LB186]

J.D. SCHLUNTZ: You asked a question about parties, and I talked to our county treasurer yesterday because she's Republican. I asked, how much help did you get from the party? She said we didn't have any money, there was only two of us that went to the convention. And you asked about the parties so they would know about me. I'll guarantee you everybody in my district knew who in the hell I was and what I stood for. (Laughter) And the only thing I would like to add to...right now, the city has got the option and if...the big counties don't want to give us the small counties the option of doing it. And thank you. [LB186]

SENATOR AVERY: Thank you, sir. Any questions? Thank you, Mr. Schluntz. Any more proponent testimony to LB186? Any opposition testimony? Welcome back, Mr. Siadek. [LB186]

GENE SIADEK: Gene Siadek, G-e-n-e S-i-a-d-e-k. I'm state chair of the Libertarian Party. To be quite honest, I wasn't quite prepared to speak to this particular bill but given some of the conversation in the committee, previous committee discussions, I can't help myself. There was some discussion as to party building. The current state laws for new parties, in my opinion, are fairly tough. Okay. As Senator Janssen mentioned a few times, we gain ballot access and we lose it. We've done that three times in the last decade or so. This time around we chose to organize on a statewide level for a number of purposes, but it was a difficult process. The elimination of...and I would agree to the fact that the elimination of the county designations for partisan offices would certainly discourage the grass-roots party building of third parties. In the past there's been the Nebraska Party, the Green Party, there's been others. And it's difficult to maintain that because of...where I said before, you get to a certain...you get to a certain point in an election cycle and it's difficult to get to that 5 percent threshold that you have to get in order to maintain ballot access. So I just...as I mentioned before, I wasn't necessarily prepared to talk to this bill, but I will state that there are elements of truth in the fact that there's opportunity to build their grass-roots level based on that partisan nature of those smaller...in smaller political subdivision offices. And thank you again for letting me speak here today. [LB186]

SENATOR AVERY: Thank you, sir. Questions from the committee? I don't see any. Thank you very much. [LB186]

GENE SIADEK: Thank you. Thank you. [LB186]

SENATOR AVERY: More opposition testimony? [LB186]

LARRY DIX: Good afternoon, Senator Avery. For the record, my name is Larry Dix,

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L-a-r-r-y D-i-x. I'm executive director of the Nebraska Association of County Officials appearing today in opposition to LB186. Certainly the remarks that I passed on to you in the previous testimony would really mirror what I would say here. A couple of things that I would like to put on the record for this one. Senator Sullivan, I went back and I sort of looked through our directory just trying to figure out because I know Senator Sullivan did contact a number of county board members and a number of those folks had talked to me. But, unfortunately, I don't know if any of the counties that Senator Sullivan represents, I don't know if any of those board members happen to sit on the NACO board, but the process really of that, any of the county board members or affiliates they do have representation on the NACO board by districts and so they can contact their district representative to share their position with it. One of the comments that were made about, well, I was surprised that the parties didn't show up today. I think over the years that I've been here testifying, I think one of the things I've noticed with the proliferation of the Internet and the ability to watch these on the Internet, I've seen many times where the opposition no longer necessarily shows up at this table because they sort of want to hear what is said, and then they start crafting the e-mails that all of you get behind the scenes. And I know today, there's a number of county officials that are watching, you know, what's going on here today, and you may be hearing from some of them. Certainly, will. But at the end of the day, as you all know, where...whatever direction the NACO board has decided to vote is the direction that I will run with that information. So with that, I'll be happy to answer any further questions anybody would have. [LB186]

SENATOR AVERY: Thank you, Mr. Dix. Any questions from the committee? I don't see any. Thank you. [LB186]

LARRY DIX: Thanks. [LB186]

SENATOR AVERY: Any more opposition testimony? We're on LB186. Any neutral testimony? I don't see any. Senator Sullivan. [LB186]

SENATOR SULLIVAN: Thank you very much, Senator Avery, and members of the committee. You already know how I feel. You already have seen the differences of opinion with the NACO board, but I would also remind you that not only have I brought you indications but you've heard today that there is strong grass-roots sentiment in favor of moving county official elections to be nonpartisan, so I would just urge your consideration. Thank you. [LB186]

SENATOR AVERY: (Exhibits 1 and 2) Thank you. No more questions? All right. I have to be read into the record a letter of support from a citizen in Springfield, and a letter of opposition from the Secretary of State. That ends the hearing on LB186 and the hearings for today. Thank you all for coming. [LB186]