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Government, Military and Veterans Affairs Committee
February 23, 2011

[LB21 LB367 LB501 LB583]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, February 23, 2011, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB21, LB367, LB583, and LB501. 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: We're going to wait for just a few minutes until the committee members get here, or at least one more. Take a moment. Okay. Welcome to the Government Committee. My name is Bill Avery. I am Chair of the committee. I'm from District 28 here in the heart of Lincoln. Before we start, I will welcome all of you here and introduce you to each of the members of the committee starting with Senator Pahls from Millard on the end down here. He is seated next to Senator Lydia Brasch from Bancroft. She is a new senator, elected last year, and in her first session. Soon to join us will be Senator Charlie Janssen from Fremont. Next to him is Senator Scott Price from Bellevue. He is Vice Chair of the committee. And seated next to me on my right is Christy Abraham, who is the legal counsel for the committee. Senator Karpisek has two bills in another committee. He is from Wilber and will be joining us later on in the afternoon. Senator Kate Sullivan will be here soon. She is from Cedar Rapids. Senator Paul Schumacher from Columbus is at the end there. On the very end is Sherry Shaffer, who is the committee clerk. A few items about procedures. We try to run an open hearing here and give everybody a fair chance to have their say, and we ask only that you follow a few rules. One, we use the light system. The light system means that when the green light is on, you have four minutes. And when the amber light comes on, you should be winding up your testimony, you will have one more minute when the amber light is on. And when the red light comes on, you should be finished. We have found that that makes it possible for everybody to have ample time to say what they want to say and helps us move things along, so that we're not here until 6:00 or 7:00 at night, which we have been from time to time even with the light system. But the open hearing is an important part of what we do. We value it, and we value your comments, and we will stay here as long as necessary until everybody is heard. If you wish to testify on a bill, when you come up we want you to take one of these forms and fill them out. They're available at each door. Fill in the information requested in legible print and hand it to the clerk. We ask that when you take your seat at the table that you clearly state your name for the record and spell it, and then proceed with your testimony. If you have an opinion about a bill and wish to be recorded for or against a bill, but do not wish to testify, there is another form that you can use to register your position on a bill. They're also available at each entrance to the room, and you're free to sign that. If you have any electronic devices, please turn them off, or if they make noise, silence them. You're not allowed to take photographs or video of these proceedings. And when you testify, we ask the questions. This is not really a debate. We ask you questions in order to get

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things on the record to clarify the issues, and we ask that you not ask us questions. If you have exhibits that you want us to examine, we will need 12 copies. If you do not have copies, and you still want us to examine the exhibits, give them to the clerk and she'll have the pages get copies. The pages are...do we have two pages today? Kyle Johnson from Sutton. Is Danielle with us today? No. Just Kyle Johnson is with us today. With that said, we have a full agenda. You will note that the agenda is posted outside the room. We will follow the order as presented here. Four bills, all dealing with presidential electors. Today is the day for the electoral college. We'll start with LB21 and invite Senator McCoy to the table to introduce that bill, and then we'll go from that one to another of Senator McCoy's bills, LB367, and then a bill numbered LB583 and, finally, LB501 in that order. So, let's get started, Senator. Welcome to the committee.

SENATOR McCOY: (Exhibit 1) Thank you, Chairman Avery and members. For the record, my name is Beau McCoy, B-e-a-u M-c-C-o-y, and I represent the 39th District, and I'm here to introduce LB21 to you, which reinstates the winner-take-all system for electing presidential and vice presidential candidates. Currently, 48 states award their electoral votes by the winner-take-all system. The top sheet that you should see in front of you that was a handout, and I don't know if that's been passed out...okay, good...yet. Should be a list of electoral college legislation that's been introduced in Nebraska. The first bill, LB1206, was introduced in 1990 to end Nebraska's long practice of awarding our electoral votes by the winner-take-all system and changed to the congressional or otherwise known as the district plan. LB1206 did not advance, and it was reintroduced as LB115 in 1991. LB115 did advance to General File and was debated at length. It squeaked by with the minimum 25 votes required on General, Select, and Final Reading. Interesting note, as a matter of history, LB115 was passed in redistricting year, as we obviously are in this year. In 1993, two bills were introduced to return Nebraska to the winner-take-all system with one of the bills advancing General File. In 1995 and 1997, LB65 and LB103, respectively, passed the Nebraska Legislature, returning Nebraska to the winner-take-all system. Both were vetoed by then Governor Ben Nelson. Since that time, the Government Committee has sent similar legislation to the floor for debate four other times. In 2000, with LB1179; 2001 with LB454; 2003 with LB2563 (sic); and 2006 LB864. The full Legislature did not have the opportunity to debate any of those bills. In 2007, LB433 was held by the Government Committee, and last year I requested my bill that I introduced on the same subject matter, LB777 be held as I planned to introduce an interim study on the issue which took place this past September. Many of you were in attendance for that. The committee, your committee, liked the idea of the interim study so much that you promptly killed LB777 within a matter of days. And this brings us where we are today, and why I believe Nebraska should finally return to the winner-take-all system once again. First, we need to define what voter turnout is or rather, what it's not. Voter turnout is not the percentage of registered voters who cast ballots. For a true picture, we need to use the percentage of eligible citizens who voted. Second, we need to look at voter turnout over a number of years, not just one specific election cycle. When the 2008 presidential election is

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discussed, record voter turnout is mentioned, but does the data for Nebraska back up the claim? The second sheet that you'll see in your stack of handouts is a graph titled Voter Turnout Percentage, Nebraska Versus National. And it shows voter turnout percentages for presidential elections from 1952 to 2008. Nebraska's percentage, shown in red, is included in the national number, which is shown in blue. You'll notice that 1952, 1956, and 1960 had the highest voter turnout. The 2008 election is actually fourth in voter turnout with 1992 being less than 1 percent behind in fifth place. The lines representing Nebraska versus the nation follow similar paths from 1988 to 1996, where you see the national voter turnout percentage close the gap on Nebraska. And I would contend that if the district plan is having such a positive effect on voter turnout, the data would show the red line pulling farther away from the blue line, meaning Nebraska increasing its voter turnout over the national trend. The third handout that you'll see, which is a ranked order, 2008, you'll see that Nebraska's voter turnout ranked 28th in the nation for the 2008 presidential election. The fourth and final handout before you shows how the electoral college map would have looked for the 2000, 2004, and 2008 elections--national elections--if every state used the system we currently have, the district plan. And for those who think that LB21 is a response to somehow sour grapes from the 2008 presidential election, the facts before you show that the Republican presidential candidate would have received more electoral votes if the nation operated on the district plan that we have than they received on the winner-take-all system that the other 48 states employ, other than Maine and, of course, us here in Nebraska. Reading the transcripts for LB1206 in 1990 to LB433 in 2007, there have been a number of arguments against Nebraska returning the winner-take-all system, and I'm sure there will probably be those behind me that will talk about some of those arguments here in a short time. You know, in the past, it was mentioned, going clear back to when this legislation and the district plan was being put in place, the hope was in passing LB115 that more presidential candidates would come to Nebraska. You know, ironically enough, or coincidentally enough, I don't know, but no presidential candidate or president campaigning for reelection has been to anywhere in Nebraska since the current legislation that we have in place except for the second district that I'm aware of or we've been aware of as we researched. Obviously, as we all know, we're a small state with only five electoral votes, and no longer one of the few states to hold a primary. Yes, President Obama and vice presidential candidate, Sarah Palin, did visit the state in 2008, but it was in Omaha and not in rural Nebraska. And rural Nebraska was excluded, as I mentioned, and has been in the 20 years since this legislation was enacted. The district plan, I believe, discourages candidates from addressing issues that appeal to the entire state, as a whole, by rewarding candidates who visit districts' higher population income levels to the exclusion of rural districts. And I might stop for a minute to think about, and I know this is something that's fresh on all of our minds, particularly those of folks who are going to be on...or I should say, going to be on, but are on the redistricting committee, and this is an issue that we'll take up later on this session, is that we are looking at the very real possibility of a third congressional district in Nebraska that will be, for the first time, border to border. So as it already is, a huge

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percentage of our state will be in the third district and even a larger percentage geographically will be in the third district. State boundaries also have a significant advantage over congressional district boundaries as they are reasonably permanent and cannot be changed by an incumbent class of officials. Congressional districts are usually safe for one candidate over the other which can actually lower voter turnout. The district plan can raise the redistricting process to a whole new level of what I believe to be high (inaudible) partisanship. You know, Nebraska votes for the Governor as a body which, of course, is winner take all, and we vote for United States Senate in constitutional offices as a body which are, of course, both winner take all. And I really and truly believe the best policy, so that Nebraska matters with all five electoral votes and not just one or two, is for us to return to voting with winner take all for President of the United States. And with that, I'd close, Mr. Chairman. [LB21]

SENATOR AVERY: Thank you, Senator McCoy. I'm going to ask one question. Do you think the electoral college might need to be reformed? [LB21]

SENATOR McCOY: Well, I personally believe that it's a system that we operate under currently, and if that is the case, and it doesn't appear that we're going to change from that any time soon, and there's those who would disagree with that, and you'll hear a piece of legislation later on this afternoon that will talk about broad sweeping changes to the concept of the electoral college. But with 48 states that currently operate under the system as we know it with winner take all, I believe that, unless there's a ground swell of support from Americans to change away from that, it doesn't appear that that's the case now, that we should stay with that. [LB21]

SENATOR AVERY: Any questions from the committee? Senator Pahls. [LB21]

SENATOR PAHLS: Thank you, Chairman. As I look at the list that you gave us, looks like you're fighting an uphill battle here with eight to ten times this thing has been turned back. Does that tell you anything? [LB21]

SENATOR McCOY: Well, I...no, to be quite honest, Senator Pahls, it does not. It has been introduced a number of times, as I mentioned. Twice it was passed by the Legislature and vetoed by then Governor Nelson. So the Legislature has spoken numerous times on this issue. [LB21]

SENATOR PAHLS: Thank you. [LB21]

SENATOR AVERY: Any more questions? Senator Schumacher. [LB21]

SENATOR SCHUMACHER: Thank you, Senator Avery. You mentioned the oddness of the 3rd District getting so large, and Omaha being the only district that's visited by any candidates of interest. Have you looked at the situation which will likely exist ten years

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from now, in which we will have two congressional districts? Do you think that same situation would exist then, that only one of the two districts would be visited? [LB21]

SENATOR McCOY: Well, yes, and I think that is probably equally problematic, if not more so, in my mind, because you're even going to further dilute what I assume then, of course, we would have four electoral votes under such a scenario if we were to lose a congressional seat. And you would further, then, dilute our electoral votes. You know, I believe that we have such broad and diverse interest and subject matter from border to border. I grew up on a cattle ranch three miles from the Nebraska border near the 3rd District or on the Nebraska-Colorado border, and the issues there, as all of you all know, are vastly different than the 2nd Congressional District where I currently reside. And 500 miles wide, you know, I believe that presidential candidates should have to campaign for the entire state of Nebraska, not just for one congressional district. And that's how we make Nebraska be relevant, well into the 21st century, in my view. [LB21]

SENATOR SCHUMACHER: I don't have any further questions. Thank you. [LB21]

SENATOR AVERY: Any other questions? Thank you, Senator. Are you going to stay around and close? [LB21]

SENATOR McCOY: I will. [LB21]

SENATOR AVERY: Okay. Proponent testimony. The first proponent. Welcome, sir. [LB21]

MARK QUANDAHL: Chairman Avery, members of the committee, my name is Mark Quandahl. It's Mark with a k, Q-u-a-n-d-a-h-l, and I'm here in support of LB21. And I had a chance to reminisce just a little bit with Senator Schimek before this, too. I used to be on the Government Committee, and I told her it was one of my favorite committees, and it really was. I learned a lot from the way that she chaired the committee and a lot from the public policy issues that came up before the committee at the time that I was on it, and I really enjoyed my service. But I'm from Omaha; I'm from District 31. Rich Pahls is my senator--he's my favorite state senator. All the rest of you are going to have to take second chair to that, for now. But I want to tell you why I'm here. And I'm not here as a former state senator from Omaha. I'm not here as a former introducer of legislation that's similar to LB21. I'm not here as a lawyer. I'm not here as a lobbyist. I'm not here as a representative of any particular political party. I'm here as a Nebraskan. And I say that I'm a lifelong Nebraskan, and over my life I've become kind of a student of history and public policy, both in Nebraska and in the United States. I got that...I'm a graduate of Ralston High School in Ralston, and then also the University of Nebraska in its College of Law. I believe that LB21 reflects a policy change that's in the best interests of all Nebraskans. I support LB21 and urge you to advance it to General File and ultimate passage, because I truly believe that passage of LB21 would strengthen Nebraskans'

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voice in national politics and, in particular, the selection of our president. Let me give you a couple of facts. Article II, Section 1 of the United States Constitution sets forth the parameters of the electoral college, and so it's in the U.S. Constitution. Now, that provision of the Constitution does leave it to state legislatures to direct the selection of their electors. And, as we know, 48 states have a winner-take-all system, and two states, including Nebraska and Maine, have the district system. I've heard of no credible efforts afoot, and maybe I'll learn otherwise, to amend the United States Constitution to eliminate the electoral college or substantially reform it. It's the system that we've had for about the last 223 years to select our President, and I expect the electoral college will be the system that we use to elect and select our President going into the future. A couple more facts. As we all know, Nebraska is a relatively small state, population of around 1.7, 1.8 million residents. The framers of the Constitution built in several safeguards into the Constitution or checks and balances to protect minority interests of smaller states. I'll give you an example, would be like the U.S. Senate where each state gets two senators regardless of their population. Another one of those safeguards, the electoral college. The district plan, as adopted in Nebraska, has the potential to minimize the impact to Nebraska in the presidential election and fractures the ability of a smaller state, such as Nebraska, to have and to make an impact on our choice for President. Forty-eight states have the winner-take-all model, and there's been no rush or concerted effort in those 48 states to adopt the Nebraska and Maine model in the past 20 years. Nebraska has had the district model for about 20 years now, and there's been no rush for the other 48 states to adopt that. Let me dispel just a couple of rumors. LB21 is sour grapes for 2008 presidential election. That's not true. If that was the case, why is a bill to return Nebraska to a winner-take-all electoral system been introduced no less than ten times in the last 20 years by seven different senators? LB21 is just the most recent offering, and its origin state-backed to 1991 and before, not 2008. And so, in closing, I'd ask you to support and advance LB21 to the full Legislature, because it's good public policy for the state of Nebraska. If population was the only factor to take into consideration in electing a president, we would leave our election of a president to New York and California and Florida and Ohio and Texas. And we wouldn't agree to that. And, likewise, if population is the only factor, in the state of Nebraska, we'd leave it to Omaha, and we wouldn't do that either. And so, I'd urge you to advance LB21. Thank you very much for your time. And I'd... [LB21]

SENATOR AVERY: Thank you. Thank you for your testimony. [LB21]

MARK QUANDAHL: ...I'd respond to any questions. [LB21]

SENATOR AVERY: Questions from the committee? Senator Sullivan. [LB21]

SENATOR SULLIVAN: Thank you, Senator Avery, and thank you, Senator Quandahl. [LB21]

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MARK QUANDAHL: Sure. [LB21]

SENATOR SULLIVAN: I've heard from quite a few people in my district on this issue, and most of them bring up the issue that they'd like to see their votes stay closer to home, and that they feel that keeping this current situation actually feels like they have more of a voice. I'd like you to respond to that in terms of why you think that's not the case. [LB21]

MARK QUANDAHL: And I understand that, too, and there's a couple of different responses to that. If every single state...if a majority of the states were on the district scheme, that would probably be true. But one thing that I was just thinking, you know, it's often said that, you know, a cord of three strands is not easily broken. Well, in my mind, a cord of five strands or five electoral votes is even stronger, too. And by weeding away any of those cords, it weakens our position. And so, basically, we're all Nebraskans, and it behooves us as a smaller state to stick together as Nebraskans. [LB21]

SENATOR SULLIVAN: Thank you. [LB21]

SENATOR AVERY: Senator Schumacher. [LB21]

SENATOR SCHUMACHER: Thank you, Senator Avery. Mr. Quandahl, just a couple of questions. [LB21]

MARK QUANDAHL: Shoot. [LB21]

SENATOR SCHUMACHER: Has there ever been only a one-vote spread in the electoral college? [LB21]

MARK QUANDAHL: What do you mean by that? [LB21]

SENATOR SCHUMACHER: One vote between the winner and the loser. [LB21]

MARK QUANDAHL: Oh, you mean one popular vote? [LB21]

SENATOR SCHUMACHER: No, no, no. One electoral vote. [LB21]

MARK QUANDAHL: I don't know. I couldn't tell you. [LB21]

SENATOR SCHUMACHER: Has any other state gone to the system that Nebraska now has and then backed off from it? [LB21]

MARK QUANDAHL: Not that I know of. You know, Maine, obviously, is the other state

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that has the district system, but I don't know of any other that have adopted it and then backed off, no. [LB21]

SENATOR SCHUMACHER: So, if we were to back off from the system, we would be the first to back off. [LB21]

MARK QUANDAHL: I don't know that for sure, but I wouldn't doubt if that's the case. [LB21]

SENATOR SCHUMACHER: Okay. Then the electoral college was in the original Constitution. [LB21]

MARK QUANDAHL: That's correct. [LB21]

SENATOR SCHUMACHER: Right. Later on, and it...the original Constitution, in order to favor the rural states, and we've created the imbalance by adding the number of senators to the number of representatives, thus giving the rural...more...the least populated states extra votes, so to speak. Okay? Then we come along back in the mid-1800s, and we introduce the Fourteenth Amendment, (inaudible)... [LB21]

MARK QUANDAHL: I wasn't around for that, but I'll... [LB21]

SENATOR SCHUMACHER: But...okay. [LB21]

SENATOR AVERY: (Laugh) Can you prove that? [LB21]

SENATOR SCHUMACHER: The Fourteenth Amendment then is where we get the idea of one man, one vote. Okay? Now, currently, if we look at the electoral college and just pick up one of the bigger states that you mentioned, New York. There is one electoral vote for every 636,000, approximately, people. In Nebraska, there is one electoral vote for one out of every 360,000 people, pretty big imbalance even if we just had four electoral votes, we would still have one per 450,000 people which is considerably more vote per person than the state of New York. Now, my question is this, if we were to adopt this measure, we would be more unequalizing than we are now, because we have the option to split the votes. Do you think that that runs into Fourteenth Amendment problems that we don't have the authority to back up? [LB21]

MARK QUANDAHL: No, and here's why is that...Senator Avery asked the question, do you think that the electoral college needs reformation, I believe was the question. I don't think so. If it needs reformation, we need a constitutional amendment to change the electoral college system and our method of electing the United States of America. And so, if we actually want to reform or change the electoral college, we can do that, and there's a method for doing that, but it's amending the Constitution of the United States.

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Now, the Constitution does, as I said, it does allow for the states to determine how they allocate their individual electors as we have done. But all I'm saying is, is that the way that Nebraska and Maine have allocated their electors for the last 20 years is out of step with most of the rest of the country, with 48 other states. [LB21]

SENATOR SCHUMACHER: But we have had a constitutional amendment since the electoral college was adopted, and that was the Fourteenth Amendment. We chose in Nebraska to begin a process of equalization by...we moved away, as did Maine, from winner take all. Now, with that in place, to whatever extent the old system was grandfathered, us now backing up...my question is, do you see an argument that that is state action contrary to one man, one vote? [LB21]

MARK QUANDAHL: With all due respect, I see the argument, but I don't agree with it, and I don't think that would be successful in a court challenge. [LB21]

SENATOR SCHUMACHER: Okay. Thank you very much. [LB21]

SENATOR AVERY: Thank you. Senator Pahls. [LB21]

SENATOR PAHLS: Thank you, Senator. I noticed in 2003, when you introduced this bill, it did make it to General File, and it died. Is it just because of time? Was that...can you recall? [LB21]

MARK QUANDAHL: I don't recall, but I believe it was just because of time, and then I think we're all familiar with the vagaries of how things get on the agenda once it does hit General File, too. And there's a lot of things to get done in a legislative session, and sometimes things get pushed to the back, and it just didn't make it forward at the time. [LB21]

SENATOR PAHLS: Right. But it did get to the...on the floor, it just didn't... [LB21]

MARK QUANDAHL: Right. Yeah, just didn't make it for... [LB21]

SENATOR PAHLS: ...probably because of time or other reasons. [LB21]

MARK QUANDAHL: Correct, correct. [LB21]

SENATOR PAHLS: Okay. Thank you. [LB21]

SENATOR AVERY: I don't see any more questions. Thank you, Mr. Quandahl. [LB21]

MARK QUANDAHL: Thank you. Thank you very much. [LB21]

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SENATOR AVERY: Any other proponent testimony? Welcome, sir. [LB21]

FRANK TURCO: Hi. Frank Turco with Douglas County. Actually, my middle...Frank Jay Turco, T-u-r-c-o. Many people know me by my middle name, Jay, so. Anyway, I'd just like to thank you, Chairman, and all the other senators on the committee for having the hearing and allowing us to come speak today, so start with that. Just like to say as an Omaha resident and a small business owner, I'm very concerned about the state, concerned about the out-of-state special interest coming in for the current system, the way it is with the split bill. I don't want outside groups and 501(c)(3)'s influencing what happens here. You know, I want Nebraskans to decide what happens here in Nebraska. Nebraska already has some inherent issues between population centers on the east and the rural areas on the west in regards to schools, budgets, and the courts, and many items that you guys deal with on pretty much a daily basis. It seems to me that splitting the electoral vote just amplifies a split in Nebraska, so that it amplifies a split between the east and the west and the rural areas that Mr. Quandahl had talked about. I think we should just join all the 48 other states with a winner-takes-all system. And that's all I have. [LB21]

SENATOR AVERY: Thank you for your testimony. [LB21]

FRANK TURCO: Thanks. [LB21]

SENATOR AVERY: Questions from the committee? No? I don't see any. Thank you. [LB21]

FRANK TURCO: Thank you. Thank you very much. [LB21]

SENATOR AVERY: Any other proponents? Anyone wish to speak in opposition? Let me see a show of hands, the number of people who are opposing. Okay. Keep in mind, we have a light system. There were about...looked like ten hands. [LB21]

SENATOR PAHLS: I'd say more. [LB21]

SENATOR AVERY: Maybe more. All right, welcome, sir. [LB21]

KRIS PIERCE: Welcome. My name is Kris, K-r-i-s Pierce, P-i-e-r-c-e. I'd like to thank Senator Avery and the members of the committee for this time. Just a little bit of who I am, and who I was. I consider myself a recent retired campaign worker of 15 years. I've campaigned on behalf of Democrats and Republicans and issue campaigns. Most recently, from 2007 to 2008, I was executive director of the Douglas County Democratic party. I come before you today, not as a Democrat or as a Republican, but as a Nebraskan voter who values his vote and wants to ensure that my voice, my choice, matters. I'm before you in opposition of LB21, a bill, in my opinion, that will negate

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Nebraska's forward-thinking approach to the election of the highest office in our nation. Nebraska should be looked upon by these other 48 states as a beacon, as an example, not as an exception. We hear time and time again about voter apathy, because they feel that their vote will not mean anything. It is Nebraska's ability to split its electoral college vote that allows for hope that their vote can mean something, and we did see that in 2008. I would have to disagree, with all due respect, with Senator McCoy. The ability to split its electoral college vote is not about voter turnout. It's about voter representation. Since 1992, each candidate for President has had to earn each and every electoral college vote in our great state. My good friends in the Republican party have done an outstanding job collecting those electoral college votes since 1992. But in 2008, Nebraska's Democrats had to go to tremendous efforts to earn just one of those electoral college votes in all that time to include the first ever Nebraska presidential caucus. The reason for the caucus? Traditionally, our primary has been in May. By then, both Republicans and Democrats, their candidate for the office of President has already been decided, so, again, we wanted to make sure their vote counted. So, therefore, we held a February 9 caucus. In order to earn that one single vote, it started out with a perfect storm. First, the decision to implement the caucus was in very early of 2007. Fortunately, on the Democratic side, we had a highly competitive race for primary. We had an early caucus on February 9. This, what I call the super-duper Tuesday on February 5 clearly did not leave a front runner yet between, at that time, Senator Clinton or Senator Obama. And then just four days later, on the following Thursday, candidate Obama visited Omaha. On that Saturday, over 2,000 caucus participants and one closed-down highway made history in the 2nd Congressional District. And for that, electoral college vote was in play for the first time in Nebraska on its own. All these items had to take place in order for there to be a success. I'm a firm believer that if just one of these elements, just one, were not in this perfect storm, then the outcome for the 2008 presidential election for Nebraska would be different. This bill, in my opinion, hints to some parlorship in its purpose, and I would challenge the need to protect our turf that I hear when talking about this. Let's take a look at some facts. The Democratic party held a successful caucus. The national parties and the candidates took notice of this caucus and the potential that the Nebraska vote could be. In the general election, we had visits by both Sarah Palin and Hillary Rodham Clinton. The 2nd Congressional District itself became a target for the race for Congress. Hundreds of thousands of dollars on both sides of the aisle were introduced into our local economy. The results: candidate Obama won a very slim margin in the 2nd Congressional District, and secondly, Congressman Lee Terry actually was reelected to his current post. My conclusion: Nebraskans are not a partisan population. We look at the candidates, what they stand for, what are their credentials? We cast our vote. If every vote that went for President Obama went for Jim Esch, we would have a different congressman. Now, let me provide a simple suggestion about even. If 500,000 voters voted, 225,001 voted one way and one less on the other side, the winner take all, the one that got one vote more would get all five. Is that truly representation for our voters? I ask that you not advance this bill to ensure that Nebraska becomes a beacon for the other 48 states on how we

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ensure our voters are truly represented by their votes to the highest office in the land. I thank you, and I would answer any questions you may have. [LB21]

SENATOR AVERY: Thank you for your testimony. Questions for the committee? Senator Karpisek. [LB21]

SENATOR KARPISEK: Thank you, Senator Avery. Thank you for being here. You said you were involved with races. Was it just in Nebraska or was it other states? [LB21]

KRIS PIERCE: No, sir, I've been involved in races across the country from Alaska...in fact, I was there when Sarah Palin was running for Governor, but in Indiana, Ohio, Georgia, Florida, and Virginia, at all levels. [LB21]

SENATOR KARPISEK: Thank you. In some of those states, is there clamoring to be like Nebraska and Maine? [LB21]

KRIS PIERCE: There were statements that there is no real effort. I can tell you, there actually is an effort going on right now where states are signing on to a new way of doing it, to where they will elect their electoral college votes based on the popular vote. And that is something that actually came out of the 2000 election that has been an ongoing process. Will it get anywhere? I'm not sure, but that actually has been an effort that has been going on for a number of years now. [LB21]

SENATOR KARPISEK: Okay. Thank you. Thank you, Senator Avery. [LB21]

SENATOR AVERY: We do have a bill on that very issue coming up later today. Senator Schumacher. [LB21]

SENATOR SCHUMACHER: Thank you, Senator Avery. Are you aware of...has there ever in history been only a one vote spread in the electoral college between the winner and the loser? [LB21]

KRIS PIERCE: I was trying to think about, when you asked that question further. I know there have been very, very close ones, but whether there's been a one-vote spread, I cannot tell you. Of course, we do have examples where the losing candidate actually won the popular vote, not just in 2000, but there's been two other examples in there, and there's been questions about the electoral college. [LB21]

SENATOR AVERY: Any other questions? Thank you, Mr. Pierce. [LB21]

KRIS PIERCE: I thank you for the committee's time. [LB21]

SENATOR AVERY: Other opponents? Welcome, Senator Schimek. [LB21]

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DiANNA SCHIMEK: Thank you, Mr. Chairman. It's a delight to be back. You already have a time line, so I won't give you my time line, because I suspect it's the same. [LB21]

SENATOR AVERY: Only if your facts are different. [LB21]

DiANNA SCHIMEK: (Laugh) Well, we could check. My time hasn't started yet, has it? (Laughter) I was going to say, this is...I'm never going to make it. [LB21]

SENATOR AVERY: You started when you first moved from your chair (laughter). [LB21]

DiANNA SCHIMEK: (Exhibits 2, 3) Okay. Thank you, Mr. Chairman and members of the Government, Military and Veterans Affairs Committee. It is a pleasure to be with you this afternoon, and I...for the record, my name is DiAnna Schimek spelled D-i-A-n-n-a S-c-h-i-m-e-k. I'm here to testify in opposition to LB21. You have before you my testimony which is basically the same as it was last year and probably the year before that and the year before that. But I'm not going to read it to you. I'm going to just hit some highlights, and then I want to go over some economic impact issues with you. So first of all, the bill was introduced, because I did believe it was proportional representation that would be the fairest of all. And I also thought that the system that was devised by LB115 would be a nice compromise between doing away with electoral college and continuing with the winner-take-all system. I was a little nervous about a popular vote, because I thought this might lead to court fights over close contests in each state, and that actually did come true in 2000. I also believe that a change in the electoral system might prevent the unfortunate results of somebody winning the popular vote, but losing the election in the electoral college. I'm not going to go into the history of the electoral college. You already know something about that, but I would like to say that in the early years in our country, there were, indeed, district elections in the states. In fact, that was probably predominate for a while, and then, gradually, the states moved away from it. There were other reasons for introduction of the bill. Nebraska had lost its advantage in presidential primaries. And also, there was language in the bill that said that you...an elector had to vote the way the people in that district or statewide, actually, voted. There had been nothing in law before that. Ours is a state that's very small, but has a diverse population, and it is important that citizens feel they have a chance to make their voices heard. The most important reason for enacting the bill, and the reason we should not undo the previous legislation is it encourages grass-roots activity, and I said that over and over and over again on the floor of the Legislature. It encourages more people to vote. One side effect of all activity, of course, has been a modest economic impact in 2008, particularly, and another was that on election night, commentators were watching to see what happened in Nebraska. Since Nebraska passed this legislation, there have been 11 bills introduced, if you have already heard. I hope that someday this issue puts to rest, but that may be when I'm carried out (laugh),

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I don't know. But Nebraska should continue its populace tradition of allocating the votes in this way. You know, just because no other state does it, it's not a good argument with Nebraskans, I don't think. They like the Unicameral, and there have been a lot of states that have looked at it, and nobody else has ever done it. And the same goes for public power. I don't think that, by and large, I don't think any other state has public power. So the next thing I'd like to address with you is the economic impact of the 2008 presidential election. And you will look at...there's a lot of information in here. It's all documented and footnoted. I'm just going to hit the highlights of it, and to tell you what did happen in our state in 2008. The staffers...in the state, there was a total of \$128,945 spent on offices and staffers in Nebraska. In media, there was a total of at least \$625,000 that was spent on television advertising, and that doesn't include any cable advertising. This is by candidates, brought in at least \$37,000 that was spent on candidates. Visits by surrogates...over \$12,000 spent on different rallies and events. Unofficial rallies, there were probably many of them. There were two of them...or a few more than that documented here for about \$2,000 worth. So, if you add all those together, it's about \$808,000 plus during that campaign. And if you take into account the multiplier effect, you get the 5.6 plus million dollars which is quite a bit of money. One of the things that's not quantifiable is all the money that was spent by staffers in Nebraska for food and lodging and beer and whatever. They (laugh)...yeah. That isn't quantifiable, and neither is the media attention that was drawn to the state. There's no dollar amount on it, but it couldn't have been bad for Nebraska. So I see the red light is on. I just had a few little closing thoughts, but I'll take your questions. [LB21]

SENATOR AVERY: All right. Maybe you can work those into your answers. [LB21]

DiANNA SCHIMEK: Maybe I can. [LB21]

SENATOR AVERY: Questions from the committee? Senator Sullivan. [LB21]

SENATOR SULLIVAN: Thank you, Senator Avery. Thank you, Senator Schimek. You mentioned that early on, maybe a century or plus ago, that there was, in fact, voting on the district level. Why do you suppose they moved away from that? Any speculation? [LB21]

DiANNA SCHIMEK: I don't know. It actually, I think about the last district elections, if my memory is serving me right, was in about 1836. And these states went back and forth. They'd have some district and some at-large, and at that time, of course, some of them were done by state legislatures. A lot of the electors were picked that way. And they kind of tried out all the different ways of doing it. And I think after 1836, there wasn't...I don't think there were any district elections again until Maine adopted its system in 1969. And, of course, the next election after that was '72, and Maine has never split their vote. And think about it. Nebraska never did either even after the bill went into effect. Had it been in effect before in 1992, there were, I think, three elections since

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1940 that there actually would have been a split vote. And that works both ways, incidentally, across party lines. When Lyndon Johnson carried the state in 1964, you would have seen Barry Goldwater get one electoral vote out of the third district if that system had been in place. So this really isn't a partisan matter. It is really more about how you think citizens' votes should be represented, and I tend to fall on the side of making as proportional as possible, and maybe a proportional vote would be even better where if 80 percent of the vote went to one candidate in Nebraska, maybe that candidate should get, you know, 80 percent of the electoral vote which would be four of them. But this seemed to be the way that most people had tried and used before. [LB21]

SENATOR SULLIVAN: In your final comments, you talked about the economic impact of the 2008 election, but a previous testifier said, the current arrangement opens the door for more out-of-state special interest coming in. How do you respond to that? [LB21]

DIANNA SCHIMEK: I'm not quite sure what that person meant. You know, in any election, there are campaigns waged via the media, primarily, and a lot of those are paid for by outside interests. And, of course, we can't control that. But I don't know exactly why they were referencing out-of-state special interests coming in, in the presidential election. I think it was the presidential campaigns that were coming in. [LB21]

SENATOR SULLIVAN: Okay. Thank you. [LB21]

SENATOR AVERY: Senator Pahls. [LB21]

SENATOR PAHLS: Senator Schimek,... [LB21]

DIANNA SCHIMEK: Yes. [LB21]

SENATOR PAHLS: I'm reading that the economic development or impact was pretty good. [LB21]

DIANNA SCHIMEK: Um-hum. [LB21]

SENATOR PAHLS: But then I go back and look at the information on the turnout. Just between 2004, 2008 was just a little over 1 percent. So the point of economic impact really didn't do a lot if it just raised the percentage of votes, as I see it. [LB21]

DIANNA SCHIMEK: And I haven't studied the statistics of figures, but I would accept it that they're, you know, accurate. I don't have any reason to doubt them. [LB21]

SENATOR PAHLS: Yeah, right. I mean, yeah. [LB21]

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DiANNA SCHIMEK: But, you know, you always have to consider, would it have been lower? I don't know. The voter turnout over the last four years has just consecutively gone down. And so, I don't...no, I'd have to take a good look at those figures. [LB21]

SENATOR PAHLS: I mean, it did go up a little over a percent. [LB21]

DiANNA SCHIMEK: Yeah, that's not great (laugh). [LB21]

SENATOR PAHLS: Not for that kind of money. [LB21]

DiANNA SCHIMEK: No (laugh). You know, the thing that I think is so important about this is that people feel as if their vote counts, and whether they go vote or not, that's entirely up to them. But I think it's important. [LB21]

SENATOR PAHLS: Sort of similar to the recall, the number of people who signed the recall petition in Omaha, and then they did not vote? [LB21]

DiANNA SCHIMEK: Um-hum, I suppose you can play it with that. [LB21]

SENATOR PAHLS: Yeah. Okay, thank you. [LB21]

SENATOR AVERY: Senator Brasch. [LB21]

SENATOR BRASCH: Thank you, Chairman Avery. Thank you, Senator Schimek. [LB21]

DiANNA SCHIMEK: Um-hum, thank you. [LB21]

SENATOR BRASCH: I just heard two things, I believe, within the five-minute window. The words, grass roots, was I correct? [LB21]

DiANNA SCHIMEK: Correct. [LB21]

SENATOR BRASCH: Okay, and then I also hear economic development impact... [LB21]

DiANNA SCHIMEK: Impact. [LB21]

SENATOR BRASCH: ...and so I think they're almost the opposite. Grass roots is word of mouth and my world, and not dollars. It's by a voice of the people. And then when I see this large number here on money spent, I'm thinking it would be more difficult for a grass-roots candidate to be a piece of a grass-roots campaign. So I'm just a little bit

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concerned where the teetertotter, you know, how the benefit of, you know, it's not growing our economy to grow political candidates...you know, political. I don't know. I guess I need just a little bit more...because I'm totally in favor of the grass-roots concept, but trying to take this as justification on how this helps grass roots. [LB21]

DiANNA SCHIMEK: I don't think the money really has anything to do with it. I think they're really two separate issues. [LB21]

SENATOR BRASCH: Okay. [LB21]

DiANNA SCHIMEK: And I really wasn't part of the presidential campaign in 2008. In fact, I have to tell you, that President Obama is the first President I've never gotten a Christmas card from since Lyndon B. Johnson (laugh), Democrat or Republican. I don't know what happened, but (laughter) I...but I did go up to Omaha one day, and I visited the Obama headquarters, just to see what was going on. There was fabulous grass-roots activity going on, and, of course, I read all the news stories about both of the campaigns all the time. There really was a lot of energy in the 2nd Congressional District last year, and I think there was a lot of energy in the 1st Congressional District last year, because even though it may not have been quite as competitive as the 2nd Congressional District, I think people still thought that there was some competitiveness in the 1st district. So, I remember presidential campaigns in which not only did you never see a candidate, but you couldn't get a yard sign or you couldn't get a bumper sticker or anything like that, because there just wasn't any interest in coming to Nebraska. And that's on the part of both parties' candidates--the Democrats, because they don't see any hope, and the Republicans, because they don't see any need. And so, all I'm pointing out with economic activity is that there was a side benefit to all of this, and... [LB21]

SENATOR BRASCH: And is this money from outside of Nebraska coming here, or is it money spent in...? [LB21]

DiANNA SCHIMEK: No...a great...well, yes, in a sense, because a great deal of it was spent by presidential campaigns in hiring staffers and buying TV ads, and that kind of thing. So, yes, some...it's from the campaign, but naturally, the campaign's monies are collected from all over. [LB21]

SENATOR BRASCH: Thank you, Senator Schimek. Thank you, Chairman Avery. [LB21]

SENATOR AVERY: Thank you. For what it's worth, I didn't get a card either (laughter). [LB21]

DiANNA SCHIMEK: Oh, good (laugh). Now I don't feel so bad. [LB21]

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SENATOR AVERY: Senator Schumacher. [LB21]

SENATOR SCHUMACHER: Thank you, Senator Avery. For what it's worth, I didn't get a card either. [LB21]

DiANNA SCHIMEK: Oh, okay (laugh). [LB21]

SENATOR SCHUMACHER: Senator Schimek, I'll ask you the question of...my question of the day, at least, has there ever been only a one-vote spread that you know of in the electoral college? [LB21]

DiANNA SCHIMEK: I don't think so, but I'm not positive about that. I know that there was a vote...remember when Jefferson...was it Jefferson or Adams? That was a...oh, it was Jefferson and Burr, wasn't it, the president and vice presidential candidates, and they weren't voted for separately, and they both got the same number of votes in that election, and got tossed into the House of Representatives? I don't know if I'm remembering the right election, but it was a tied vote, and so it had to go to the House of Representatives. And after that, of course, we later changed the Constitution, so that we voted for president and vice president separately. [LB21]

SENATOR SCHUMACHER: In 1824, I think it also went into the House, but that wasn't because of (inaudible) votes, but... [LB21]

DiANNA SCHIMEK: No...yeah, that was a different... [LB21]

SENATOR SCHUMACHER: Since the adoption of the Fourteenth Amendment right after the Civil War, has any state backed off from the representation mechanism by taking into account congressional districts like we have. Maybe that... [LB21]

DiANNA SCHIMEK: No, because I don't believe any other state except Maine and Nebraska have had that system. [LB21]

SENATOR SCHUMACHER: So, we would be the first since the adoption of the idea behind one man, one vote to... [LB21]

DiANNA SCHIMEK: One person, one vote (laughter). [LB21]

SENATOR SCHUMACHER: One voter, one vote. Actually, it's one person, one vote. So we would be the first to back away from the...and actually make it lesser than one person, one vote. [LB21]

DiANNA SCHIMEK: We would be the first to back away, I believe, and I believe you

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could make that argument. Whether it would go anywhere or not, I don't know, because I'm not an attorney. [LB21]

SENATOR SCHUMACHER: Well, now, one of the criticisms of term limits has been that we newbies don't have a good institutional memory, and so, can we borrow yours for a second? (Laugh) [LB21]

DiANNA SCHIMEK: My memory is getting a little bit more faded every year, but you can try. Okay. [LB21]

SENATOR SCHUMACHER: Okay. Apparently, no one seems to know, and if it has happened, it's been a long, long time ago that one vote has made a difference in the electoral college. And yet, since and Nebraska has adopted this, there has been, apparently, six, seven, eight times that this thing has come back to review it. That would suggest that there's something more behind the dynamic of this thing than just the chance that Nebraska's one vote could be changed and could make a difference. It seems like that's an almost zero probability. What's the dynamic that's involved here? [LB21]

DiANNA SCHIMEK: I don't know. You'll have to tell me, I guess (laugh). I'm not sure. [LB21]

SENATOR SCHUMACHER: Okay. Well, then, I don't have any further questions. [LB21]

SENATOR AVERY: Any more questions from the committee? I don't see any. Thank you for your testimony. [LB21]

DiANNA SCHIMEK: Okay. Thank you very much. [LB21]

SENATOR AVERY: Additional opponent testimony, please come forward. If you want to come on up and take a front row seat, so you can get in the queue, it would be good. Welcome. [LB21]

CHARLENE LIGON: Well, good afternoon. My name is Charlene Ligon. Usually, I don't do this type of thing, but I thought I had something to say is the reason I attended. [LB21]

SENATOR AVERY: Can you spell your name for us? [LB21]

CHARLENE LIGON: My name...okay, Charlene, C-h-a-r-l-e-n-e Ligon, L-i-g-o-n. I'm from Sarpy County, LD3. Senator Price is my senator. I'm retired from the U.S. Air Force, weather forecaster, and something Senator Price and I have in common. I retired in 1995. My husband is also retired Air Force, and I'm originally from Norfolk, Virginia,

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and found Nebraska and Sarpy County a welcome place to retire also. The reason I was energized or...it was really great to find out that Nebraska had more...say, a fair system in allocating their electoral votes. And so, I was...of course, I'm a proponent of keeping the system the way it is now. And I think a lot of people...and, of course, in the 2nd Congressional District are really hoping that this does not get changed either. From a financial point of view, I think it would be great for Nebraska to keep it the way it is. We have more money coming in the state during that time. Employment as far as staff members...real estate...Obama had three staff offices in the 2nd Congressional District. And also, there were also rentals, I would think for staff members that came in from out of town for the campaigns. And then, also, we had the...you know, the rallies, Sarah Palin coming to town which Nebraska usually doesn't get it, because no one considers us as, you know, competition or no one considered it before 2008. That it was winnable. I think that the revenue for advertisement went up. I'm sure it did for TV, radio, and also print ads. I'm sure World-Herald had more ads, and so did the local TV stations and radio stations. I think that the electoral vote process protects small estates, and I think it actually made Nebraska more relevant during this last election, and I think it will in the future elections, also. And with the urban areas growing, I think that we'll see that, you know, this time it might be in favor of one party, but we could see that flip in favor of the other party as the population shifts in Nebraska. I also...I read a recent poll, and they said 16 percent of the population of Nebraska favors the stand the way it is. They do not want change, and I'm sorry...I did not say that correctly. It's only 16 percent of the population favor going back to the way it was. Sorry. Didn't say that correctly. So, I'm just asking the committee to vote no and not change the way we do business here in Nebraska. Actually, it was really refreshing to have it different, so. [LB21]

SENATOR AVERY: Thank you for your testimony. [LB21]

CHARLENE LIGON: Okay, any questions? No. Thanks. [LB21]

SENATOR AVERY: Questions from the committee? Wait, we have one. Senator Janssen. [LB21]

SENATOR JANSSEN: This is not a question. I'm answering a question before you get asked a question. In 1876, Rutherford B. Hayes had 185 electoral votes to Samuel Tilden's 184, so. Now we know the... [LB21]

SENATOR AVERY: But he lost the popular vote. [LB21]

SENATOR JANSSEN: It was the popular vote, but they...it's quite a history lesson there (laughter) and Al Gore and Bush, more recently, was 271-266 in 2000, so we've got... [LB21]

SENATOR AVERY: We have another historian that wants to get in on this. Senator

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Price. [LB21]

SENATOR PRICE: Actually, if we want to talk about obscure things, but I'm sure we could talk about some weather phenomena (laughter). But I'll spare the audience of that. Thank you for your service and for coming down today. [LB21]

CHARLENE LIGON: Okay. Thank you. [LB21]

SENATOR AVERY: Thank you for your testimony. Any other opponent testimony? Mr. Gray, this must be the week for the Gray's to come to town. Your wife was here yesterday (laugh). [LB21]

BEN GRAY: My wife was here yesterday, yes, sir. She was trying to push in one direction; I'm trying to push you, maybe in the same direction, I don't know. Sometimes we agree; sometimes we don't (laugh). Anyway, first of all, Mr. Chairman, members of the committee, my name is Ben Gray. I reside in Omaha, Nebraska at 5425 Fort Street. [LB21]

SENATOR AVERY: Spell your name for us. [LB21]

BEN GRAY: Yes. And I have been a...and currently, I am the 2nd District City Councilman for the city of Omaha as well as the emergency team director for an organization called Impact One, and it is... [LB21]

SENATOR AVERY: Excuse me. [LB21]

BEN GRAY: Yes, sir. [LB21]

SENATOR AVERY: Do you spell your name G-r-a-y or e-y? [LB21]

BEN GRAY: G-r-a-y. [LB21]

SENATOR AVERY: a-y. [LB21]

BEN GRAY: Yes, sir. [LB21]

SENATOR AVERY: Thank you. [LB21]

BEN GRAY: Yes, sir. And it is in both of those capacities that I would like to address this group here today. The question that I see it is not about...I think the question here is about access and about having an opportunity to be heard. In the last race, in 2008, there was more energy in my district than I had seen since I have been here which has been over 40 years. And part of the reason, I think, is because the possibility exists

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that...to split the electoral vote. When we talk about...and when we sit and talk about voter turnout, I think there are a couple of dynamics that you need to know about that are having an effect in Omaha that I think have a bearing on this issue. One is, we have a high concentration of individuals who are ex-felons. You all passed the bill a number of years ago that created an opportunity for people who have been off paper for two years to be eligible to vote. That was not made aware...I mean, there was not a lot of big fanfare about it, so there were a lot of folks who didn't know about it. So when that was recognized, and the number of people that we became aware of, who could register and could be a part of the voting process once they found out about it, they became energized. I want to tell you all something that happened in the 2nd city council district. We had a number of...in 2008, we had a number of young men that would be described as gang members, who we actually trained as voter registrars to go out and engage in the electoral process. They did a marvelous job. They registered 13,000 new voters. It also has been an indicator that crime in our city is starting to go down and is starting to trend downward, and has been doing so since 2008. Part of that, I think, is an effort as relates to Impact One, and the things that we're doing to address intervention with gang members and others. But I think it's also an opportunity for people to recognize that they can be part of this process, and that they can actually have some impact on this process. They have seen it on two occasions now. One, they saw it when the President was elected. The other was, as you mentioned, Senator Pahls, the recall. District 2 came through for Mayor Jim Suttle. But for District 2, we would probably be talking about looking at who the next mayor is going to be in Omaha, Nebraska. So we have a community that is beginning to recognize that they have a voice, and that they want to use that voice. This is an opportunity, I think. I think if we were to go back to the old way of winner take all, that we would have less individuals in the state who would come in with national races, and it would be less, because when was the last time this state voted for a Democrat for President of the United States? I think you'd have to go back to at least 1964. So, you have a situation where, if we went back to the winner-take-all process, you would have Democratic candidates that would not come, because they've seen the history of the state. You would have Republicans who would not come, because, again, they've seen the history of the state. So, I think it's imperative that we recognize that the main issue here is one of individuals feeling as though they have a voice, wanting to be heard, wanting to exercise that voice. I think that if we did the opposite, it would send a message that we are trying to silence a certain population from having a voice in national politics, and, in some cases, even local politics. But certainly, in national politics, we would send a wrong message to people who are, in a lot of cases, disparate...a lot of people who have not had the opportunity to participate before. I think the elections are...and I think voter turnout is a process. I think we're starting to begin that process. I think, at the end of the day, when we have finished working with people, and we're just starting to break that mold now, where we're starting to work with people and talk to them about the importance of voting, and what it means, and the fact that if you don't vote, that also sends a message. I think people are starting to buy into that. People are starting to get it, and if

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we take this process away from them now, that would send a clear message in my judgment that they are people that this Legislature and this state does not want to be heard. And I think that would be the wrong message to send. Thank you all. [LB21]

SENATOR AVERY: Good timing. Thank you for your... [LB21]

BEN GRAY: I'm in politics, so I know a little bit about timing (laugh). [LB21]

SENATOR AVERY: Questions from the committee. [LB21]

BEN GRAY: Thank you all, appreciate your time. [LB21]

SENATOR AVERY: Thank you, thank you. Next opponent. Welcome. [LB21]

JESSALYN HOLDCRAFT: Thank you. My name is Jessalyn Holdcraft, J-e-s-s-a-l-y-n H-o-l-d-c-r-a-f-t. I'm from Saline County, so represented in District 32 by Senator Russ Karpisek, and I'm here today to oppose and urge you all to oppose LB21. In 2008, was the first time that any state with the congressional district method ever actually split its votes, and so I think that showed the entire nation that the 2nd Congressional District of Nebraska and the entire state can be up for grabs. The last election, as I said, was the first time any state ever split its votes in the history of the United States, and because of this reality, I think in 2012, we may find more citizens at the polls in order to make sure that their voices are heard. Additionally, in Nebraska, local elections will gain more voters, because of our current district system of voting, is because independent districts must be one, in order to gain electoral votes whereas in the other 48 states with winner-take-all systems, what you see happening a lot is voters completely bypass the polls, especially later in the day and bypass the local elections, because their state is Republican or Democratic status is predicted by preelection censuses and exit polls. Thus, more Nebraskans will vote in local elections if we retain our congressional district method for the electoral college, because their vote is better represented in the presidential election by our congressional district method. In addition, earlier, I think Senator McCoy talked about how, yes, we did have Sarah Palin, President Obama, and Hillary Rodham Clinton all visited Nebraska, and it was in Omaha. And I think you said that...kind of alluded to the fact that Omaha is not where most of...or it is where most of the state is, population wise, but there are people out in western Nebraska who never get visited by other political figures. But I think one thing that should be noted is that Omaha is accessible to the entire state. I had friends who went up to Omaha from Crete, Nebraska...people all across the state go up there for state wrestling, so it's clearly not inaccessible to anyone in the state. In addition, I think Nebraska's state color should be red, number one, because of the Huskers; number two, because of our historical Republican voting trend. Before 2008, I wasn't even alive when the state voted for a Democratic presidential...or the electoral college votes went to a Democratic presidential candidate. In the grand scheme of electoral college voting, for one vote to

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determine the president is highly unlikely as, I think, it was Senator Janssen who pointed out, it's been one time that there was actually one vote margin. And then in 1800 was the last time, I think we had a tie. So, simply put, the congressional district method in Nebraska is one of our state's most powerful political tools. It helps us gain notoriety in election through the media, and I think that it'd be best to vote against LB21 in order to keep the best interests of Nebraska and its voters in mind. [LB21]

SENATOR AVERY: Thank you. Let me ask you. Did you work in the campaign in '08 in Omaha? [LB21]

JESSALYN HOLDCRAFT: I did not. I was not old enough yet, because I just turned 18. So I just missed out on voting the last election, so 2012 will be my first presidential election or any election. [LB21]

SENATOR AVERY: Oh, good. Get registered. [LB21]

JESSALYN HOLDCRAFT: I am. [LB21]

SENATOR AVERY: You have. [LB21]

JESSALYN HOLDCRAFT: Yes. [LB21]

SENATOR AVERY: Good. Good for you. [LB21]

SENATOR AVERY: Anybody have a question? Senator Karpisek. [LB21]

SENATOR KARPISEK: Thank you, Ms. Holdcraft. Thank you, Senator Avery. Glad you showed up to show these people that you're not all like me back in the district (laughter) which I'm sure they all... [LB21]

SENATOR PRICE: That's a resounding endorsement. [LB21]

SENATOR KARPISEK: ...appreciate. I wasn't alive...born at that time yet either. So I think we can see that that was a very long time. I just want to say, I appreciate you coming up and talking about it, because Saline County is a very different animal in the state. And we very much appreciate being put in the 3rd District in the last redistricting. That was very sarcastically said (laughter). So that was a real good way to get a lot of Democratic voters out where it didn't matter. So I do appreciate that. I know a lot of us feel that way, and thank you for coming. [LB21]

SENATOR AVERY: Any other questions? Senator Brasch. [LB21]

SENATOR BRASCH: Thank you, Chairman, and thank you. I could not hear your last

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name. [LB21]

JESSALYN HOLDCRAFT: Oh, Holdcraft. [LB21]

SENATOR BRASCH: Holdcraft. Okay. [LB21]

JESSALYN HOLDCRAFT: Um-hum. [LB21]

SENATOR BRASCH: Thank you, Ms. Holdcraft. You just made the comment about Omaha being accessible. I'm curious, have you been out to Ogallala or north... [LB21]

JESSALYN HOLDCRAFT: Oh, yeah. [LB21]

SENATOR BRASCH: ...several times, so there's no problem with sending people that way rather than sending everyone to Omaha? [LB21]

JESSALYN HOLDCRAFT: I think that I've been to Ogallala. It's a four-hour journey...it's a four-hour ride, but it's really not that bad at all. I went out there, because we held a Senior Council state convention a couple of years ago out there, and it wasn't that bad. And I think that one thing that the state is doing with the State Fair going to Grand Island...I know it's not necessarily really, really western Nebraska, but people still go out there for the State Fair. So I think that kind of does show that it goes both ways. [LB21]

SENATOR BRASCH: Yeah, and I believe the earlier comment was saying that, you know, and I talk with people. I'm in rural northeast Nebraska,... [LB21]

JESSALYN HOLDCRAFT: Um-hum. [LB21]

SENATOR BRASCH: ...but people from western Nebraska, who have made the trip to Omaha or Lincoln so often that, you know, four hours is half a day each way. So, on behalf of rural Nebraska, it would be good to see a better representation, you know, of national candidates coming to places other than Omaha or Lincoln. But you have an excellent testimony. Thank you very much. Thank you, Chairman. [LB21]

SENATOR AVERY: Thank you. Any other questions? Thank you very much for your testimony. [LB21]

JESSALYN HOLDCRAFT: Um-hum. [LB21]

SENATOR AVERY: Additional opponents. How many more people wish to testify? Welcome. [LB21]

VICKEY PARKS: Thank you. Thank you, Senator Chairman and members of the

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committee. My name is Vickey Parks, V-i-c-k-e-y. I live in Omaha, Nebraska. I've lived there all my life. I can tell you that I have had the pleasure of working on my master's degree in library science here in Lincoln. It wasn't based on population; it was based on the best place that we could have our classes held, and they were here in Lincoln. And I always objected to coming to Lincoln, because we had more people in Omaha. But I recognize that sometimes it has to be a matter of not just what's convenient for people, but what is right. When Ben Gray sat here, I can tell you, growing up in Omaha, that we never had representation from the black community until we got district elections. So, it was a winner-take-all system, and we were never the winner. The fact that, I've had people talk about the grass roots, I can tell you, I've been one of those grass-roots voters. I volunteered--I did not get paid--I volunteered to recall Mayor Boyle, because I had issues with his leadership. The assumption that Democrats are always loyal--we know that that isn't true, and there were many Democrats who were involved in the recall of Mayor Boyle, and we worked hundreds of hours to get that job done. We successfully did it, and none of us got paid a dime. I also worked on the Obama campaign. From the standpoint of being a voter-registrar, which my husband and I have been for more than 30 years, we have registered people in public housing, standing in 100-degree weather to get people who were waiting for cheese commodities, we've registered them there. We've registered them at concerts, and even during the Obama campaign, we were standing outside in the cold weather, registering people to vote. And we weren't telling them to vote for Obama. We were telling them the smart thing to do is to get registered and exercise your right. And I think that there's an assumption that, because Obama is black that black folks will always vote for him. That is not true. Black folks will dump him just as quickly as anybody else, like we've dumped them in Omaha. We've dumped them for the Housing Board; we've dumped them for other committees if they don't meet the needs of the voters. I hope that you do not have this bill go forward. As a person who was raised in Omaha, I can tell you that I felt there was something being taken away from this large population center, because the State Capitol and access to the Legislature was a day's drive away if you had to come by bus. And it certainly isn't going to be accessible when gas gets over \$3 a gallon. I hope you don't forward this bill, because when I look at the ban on affirmative action, that was voted by others and certainly not by people in my community, I wonder what's the motive behind that? When I look at the vote to end term limits, and people in my community were not for term limits, I wonder, what is the motive for that? I hope that you maintain this legislation, so that when we who are in the grass roots are talking to people about the importance of voting. One of the things that I heard from people who are not politically savvy, who are not politically active, is we have an opportunity to split the electoral vote. People, grass-roots people, people who have not been actively involved, they knew that fact even if they didn't know what the electoral college was, what its history was, and what it meant. They understood that we had an opportunity to have one electoral vote in the state of Nebraska for this President. So, I want to give other people time, but I can tell you that I'm one of those grass-roots people that they keep referring to. I've been out here in the trenches. When we had three offices for Obama in Omaha, it wasn't

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because his campaign people came to Omaha and liked us. We had to fight for those offices. We had to fight for local people to be hired, and be involved, and that's what raised the energy and activism was knowing that you were dealing with people who were from your community, and who had the same interests in your community as you did. Thank you. [LB21]

SENATOR AVERY: Thank you, Ms. Parks. Questions from the committee? Senator Schumacher. [LB21]

SENATOR SCHUMACHER: Thank you, Senator Avery. Now, it seems that some of the testimony for the winner-take-all proposition is that well, it would give Nebraska the capacity to deliver five electoral votes to the tally for President, whereas, in a rare occasion where something happens like in 2008, we have one electoral vote cancelling out one of the others, and the most we can deliver is a net of three, making Nebraska weaker. What's your thoughts with regard to that? [LB21]

VICKEY PARKS: My thoughts on that is it may make the system weaker, but it may make the people stronger in seeing that they...even though they don't represent everybody, that they have an impact by exercising their right to vote. So I don't think it makes us weaker. I think it makes us stronger when we recognize our differences and our diversity. [LB21]

SENATOR SCHUMACHER: Thank you. [LB21]

SENATOR PRICE: Thank you, Senator Schumacher. Are there any questions? Seeing none, thank you for your testimony, ma'am. The next opponent, please. Welcome. [LB21]

NICK BATTER: Thanks, sir. My name is Nick Batter. In keeping with the flavor of this committee, that's bravo, alpha, tango, tango, echo, romeo (laughter). I think that everyone else that speaks and probably a lot of the people that will speak after me will cover the ideological reasons for why this is a good idea to block this bill...why it is bad for our state, why it's bad for the country, as a whole. So I think the only thing that I can offer to this committee is a personal experience I had. Six years ago I was starting my first year at Harvard University, and as a lot of first-year students, you're eager to get a competitive research position with members of the faculty. And I was ambitious. I tried to apply for one of the most competitive ones between members of the faculty at Harvard and MIT. And I had a lot of self-doubt, because I thought I was just some country kid from Nebraska, from, you know, a small, poor family, and that they're clearly going to go for some, you know, some kid from New York that was competing with me. And when I went in for my interview, they looked over my resume briefly, and told me I had the position. And afterwards, all the professors that were part of this decided they wanted to go out for coffee. And I asked them, I was, why did you choose me so fast?

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And they told me very quickly, it's because you're from Nebraska. You're from a state that is incredibly unique, that has led the nation in how it splits and balances its electoral votes, how it balances its state Legislature, and that stuck with me a long time. I think I made that as my decision in that room right there to someday come home to Nebraska, and that this is the place where I wanted to raise my family someday. So I worked with these professors for a long time, for the rest of my time in my undergraduate career. After I graduated, I was the first Harvard graduate in almost ten years to earn my commission through the United States Army Infantry School, and I also believe I'm the only member of my Harvard class to have returned home to Nebraska. And when I reflect at why I've returned home, it's obviously not for a glamorous New York City job, it's because I love my home. It's because I deeply respect you on the Unicameral. I respect the unique flavor of our state, and most of all, I respect the fact that our country is a beacon of democracy for the rest of the nation. And I urge you not to extinguish that beacon with this bill. Thank you very much. [LB21]

SENATOR PRICE: Thank you. Just one moment. Are there any questions from the committee? Seeing none, thank you very much for your testimony and your service. [LB21]

NICK BATTER: Thanks, sir. [LB21]

SENATOR PRICE: Next opponent, please. Good afternoon. [LB21]

JOE ADLER: (Exhibit 4) Good afternoon, Senator Price, members of the committee. My name is Joe Adler, J-o-e A-d-l-e-r, and I'm here on behalf of the Nebraska Democratic Party. The Nebraska Democratic Party opposes LB21. The allocation of electoral votes by congressional district under existing law is uniquely intelligent. It is an empowerment of the voters. It makes Nebraska relevant and important in the presidential politics. It helps Nebraska have a voice on national issues. It is also very good for Nebraska's economy. The attached report by the NDP staff shows that at least \$800,000 of hard dollars were spent in Nebraska in the 2008 presidential campaign. What was the real economic gain from the split electoral vote in 2008? This \$800,000 does not include dollars spent on hotels, meals, telephones, computers, Internet, and transportation. Much of the money was immediately respent by the staffers, landlords, and restaurant employees. State and local taxes were collected on every additional dollar spent. How much did Nebraskans make because the 2nd District was "in play"? Two million dollars, maybe three million dollars, maybe more. Nebraska was relevant for a 2008 presidential race because of split electoral votes. LB21 would simply make Nebraska irrelevant again, and much poorer. There is empirical evidence to validate the fact that splitting the state's electoral votes increases the national relevancy of that state's presidential politics. We can compare Nebraska to two states--Oklahoma and Maine. From an outsider's perspective, Oklahoma is a very similar state to Nebraska, an agriculturally strong state with Midwestern values. Oklahoma has two major media markets in

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Oklahoma City and Tulsa. Much like Nebraska, McCain carried Oklahoma by a very solid margin. Oklahoma even has two more electoral votes than Nebraska, but they did not split their votes. Despite the similarities during the 2008 campaign, not a single presidential or vice presidential candidate visited Oklahoma. Now shift your focus to Maine, the only other state to split electoral votes like Nebraska. They had never split the electoral votes prior to 2008. Traditionally, a blue state, Maine was carried by Obama by a healthy 17 percentage points. Maine has one fewer electoral vote than Nebraska with four delegates. Despite polling that indicated the state would go to Obama with ease, Obama, Palin, and McCain all visited Maine. Palin and McCain's visits to Maine came during the final weeks of the election. When a state is relevant enough for the candidates to visit during the election cycle, it forces those candidates to listen to the concerns of the people of that state. Despite their small population bases, and polling showing that both states were not in play, the people of Nebraska and Maine had their voices heard in 2008. Conversely, the candidates ignored the people of Oklahoma throughout their entire election cycle. I ask the state senators to keep Nebraska relevant by opposing LB21. And by splitting our electoral votes, it provides an economic boon for Nebraska every four years and also allows our voices to be heard in the realm of presidential politics. Thank you. [LB21]

SENATOR AVERY: Thank you for your testimony. Questions from the committee?
Senator Schumacher. [LB21]

SENATOR SCHUMACHER: Thank you, Senator Avery. We rarely hear from either of the political parties at these hearings in an official capacity. I take it you're speaking in a rather official capacity for the Democrat Party? [LB21]

JOE ADLER: Um-hum. [LB21]

SENATOR SCHUMACHER: Tell me, does the Democrat Party have a mechanism by which it elects which issues, if any, to take positions on in these committee hearings? [LB21]

JOE ADLER: Sometimes our state central committee meeting does that and sometimes it's our executive committee. It just kind of depends on what's going on at the time and how urgent it is that we take care of that, I suppose would be the answer to that. [LB21]

SENATOR SCHUMACHER: And which of the committees authorized your appearance today? [LB21]

JOE ADLER: It would be...I don't know which committees authorized my appearance. My boss, Vic Covalt, who's our chair, wrote up a letter and asked me to deliver it to you, so I can ask him which one...committee authorized me to be here and get back to you when I have that answer. [LB21]

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SENATOR SCHUMACHER: Have...did the Democrat Party appear in behalf of any other bills in recent history? [LB21]

JOE ADLER: As far as I know, I do not know, but I can do some research and get back to you when I find that out for you. [LB21]

SENATOR SCHUMACHER: I don't have anything further. [LB21]

SENATOR AVERY: Any other questions? I don't see any. Thank you for your testimony. [LB21]

JOE ADLER: Thank you, Senators. [LB21]

SENATOR AVERY: Any other opponent testimony? [LB21]

SENATOR PRICE: Could you hand your yellow sheet in, so she can get that on the record? [LB21]

MASON ROTH: Oh, yes. Mason Roth from Crete, Nebraska. For the record, that's M-a-s-o-n R-o-t-h. [LB21]

SENATOR AVERY: Proceed. [LB21]

MASON ROTH: I'm here to oppose LB21. Firstly, LB21 is very partisan. In fact, the Lincoln Journal Star --Senator McCoy, who is the sponsor of this bill, was even quoted saying that we wouldn't want President Obama to become reelected in 2012, based on one vote from Omaha. And the Lincoln Journal Star further elaborated that the Republican Party leadership wanted to hold our Republican state senators accountable. In fact,...and even though that it was aforementioned by Senator McCoy that this bill has been similarly introduced many times, that since first being in 1991, that the bill...that Omaha has been increasingly becoming more liberal throughout the years, and that it's been fairly obvious that this bill has...that the idea behind this bill is as, Senator (sic) Ben Gray mentioned earlier would be sending the wrong message that we do not want Omaha's more democratically lenient voice to be heard. Secondly, this has been also mentioned a lot of times, is the political attention that this brings to Nebraska's (inaudible). In fact, Senator Palin and Hillary Clinton, if it were not for this district plan, I can...they would not come to Nebraska, because Nebraska is neither a swing state nor does it have the votes necessary to make a candidate come here. In fact, Nebraska's five electoral votes account for less than 1 percent of the total votes of the entire nation. And voter turnout in the 2008 election was increased somewhat marginally, but it still increased. And I, for one, can speak for...I know our generation was not going to go out and do something unless they feel that it's important, and with the district plan, that we

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can feel that our votes count as more. And if you ask the average youth in our generation why they're not involved in politics, they're going to answer you, I don't care. And the reason because they don't feel like that it's important because...and this district plan helps. I mean, I love Senator (sic) Ben Gray's testimony. He was telling us about the...getting involved youth that went out and got people registered to vote, and that there's no way that would have happened without the district plan. And I'm sure that their lives were changed for the better. Thirdly, one thing I wanted to mention is that despite Nebraska's very marginally small voting population, and the fact that we account for less than 1 percent of the total electoral college votes, is that we are...it's somewhat ridiculous that we're trying to fight so hard against this bill when we have many other issues to address such as the \$966 million deficit that is...that budget deficit that Nebraska is currently facing. And if we...by opposing LB21, we can create a more partisan...I mean, bipartisan environment within our political atmosphere within Nebraska, and by creating a more bipartisan atmosphere, we can help, as you can see, in Washington, where the more partisan atmosphere they're having serious issues with the budget, and they're even talking about closing down the government office. But by blocking LB21, we can keep a bipartisan attitude within...and help address these even larger issues. [LB21]

SENATOR AVERY: Thank you for your testimony. [LB21]

MASON ROTH: You're welcome. [LB21]

SENATOR AVERY: Questions from the committee. Don't see any. Thank you. Other opponent testimony. Welcome, sir. [LB21]

SHANE STRONG: Thank you. Good afternoon, Senators. My name is Shane Strong, S-h-a-n-e S-t-r-o-n-g. I'm a voter in the 2nd Congressional District, and I wish to raise my voice in opposition to LB21. I have lived in Nebraska for four years. Like so many other people who have testified today, my wife and I are both veterans, and we decided to stay in Nebraska after we separated from the military. As an outsider looking in, Nebraska possesses a history of political maturity which is both enviable and inspiring. I grew up in western Maryland. Maryland is notorious for its politicalization of the presidential election. The Legislature gerrymanders and proportions all or nothing votes at the expense of we, the people. Being a conservative in Maryland is beyond frustrating. Imagine, if you will, being from my hometown in western Maryland. Our congressional district, MD7 votes consistently Republican, but never has its vote been cast for the Republican presidential candidate since 1988 because of the all or nothing proportioning. Those in power in Maryland do not respect the right of the people to decide the election, but we in Nebraska understand the importance of letting the people choose. I feel that the proponents of this bill are missing the mark. It is not about the economic impact, the voter turnout, or presidential interest in our state. It is about something that is not quantifiable. It is about the right of the people to vote. I'd like to

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explain something very quickly about how the LB21 will affect our current standard, based on the 2008 election. We have five electoral college votes. Two of those are Senate seats, and those are awarded based on the majority of districts in our state. Now, if you were to change the results, one vote for Obama and four for Senator McCain, under the all or nothing proportioning, what would happen? You lose one vote for the Democratic president minus one Democratic (inaudible), and then you'd have one vote to the Republican Party. Now that's a difference of two votes, so when you take away our current district proportioning, you're not disenfranchising the district of one vote, but actually, two votes, because you're reversing our vote based upon the other districts. So the people in the second district of Omaha and the other districts may potentially have less of a vote based upon the majorities of the other districts. So, that actually concludes my statements. Thank you very much for your time, and I hope that you'll stand in opposition of this bill. [LB21]

SENATOR AVERY: Thank you for your testimony. Questions from the committee? Senator Schumacher. [LB21]

SENATOR SCHUMACHER: Thank you, Senator Avery. The situation you described in Maryland is sometimes taken by the proponents of this measure as being the big reason why we should undo this, what's been thought of as a progressive move, because, you know, the...Maryland which, I think, if I remember right is a blue state. [LB21]

SHANE STRONG: Yes, it is. Yes, sir. [LB21]

SENATOR SCHUMACHER: Does not allow any of its congressional districts to end up in the Republican column, because of winner take all. [LB21]

SHANE STRONG: That is correct. [LB21]

SENATOR SCHUMACHER: And yet Nebraska will allow, which is traditionally a red state, one of its electoral votes to end up in the Democrat column. So, is that fair? Are we weakening ourselves? [LB21]

SHANE STRONG: I don't believe so, no, sir, because the proponents are talking about strengthening the state. And I believe in strengthening of the people. This is not a partisan issue. When a legislature gerrymanders or overcomes the will of the people with...that as a shift under LB21 would, we're weakening ourselves, because the voice of the people is no longer being heard. We are no longer a more perfect union. As it concerns the quantifiable, the economic boons in presidential interests, I can tell you that no presidential candidate has ever visited MD7 when I was a voter there. So, it's because of its foregone conclusion on both sides that it was going to be taken by the all or nothing apportioning. [LB21]

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SENATOR SCHUMACHER: But Nebraska main signed on to the program which is intellectually pleasing. Why, if we're a country that believes in representation by the people, has not there been an upswell in the other 48 states or at least a couple of them? [LB21]

SHANE STRONG: That actually brings up a point that I would like to correct. When we say that there's not apportioning, split proportioning 48 states, there's actually 41, because seven of our states only have a single district, so it's really a moot point. They're not going to split a single district vote. As opposed to the reasoning, I'm not sure, but as a former Marylander, I do envy what Nebraska has here, and through Facebook and other connections with my friends, who we're organizing, trying to move people back where I grew up to have better representation like we have in Nebraska. There's just not a lot of knowledge out there about how other states run, at least in my generation. But having been a veteran and coming here, I was also astounded by learning about the district proportioning, and it's something that I deeply respect, and I wish that more people around the U.S. would look at it. As far as...but we, in Nebraska, we have several political institutions that other states...we don't look to them for an example. We lead...we lead with a single-chambered Legislature; we lead with a nonpartisan Legislature, and we're leading with the split. So, honestly, it's good to realize, and I'm glad I can give you how I feel disenfranchised as a Maryland citizen. But now, as a Nebraskan citizen, what they do doesn't concern me as much as how we're going to progress forward. And if they decide to adopt it, then I would absolutely support that. Otherwise, I don't think it should be any weather post, signpost of how we should act. We should treat our citizens with the respect that they deserve, not how other states treat their citizens. [LB21]

SENATOR SCHUMACHER: Thank you. [LB21]

SENATOR AVERY: Any more questions? I don't see any. Thank you for your testimony. [LB21]

SHANE STRONG: Thank you (inaudible). [LB21]

SENATOR AVERY: Additional opponent testimony? Welcome. [LB21]

CALEB WHITE: My name is Caleb White. That's C-a-l-e-b W-h-i-t-e, just like the color. Okay, LB21 has...yes, it has some positive things that will come with it, and it will also have some negatives, but there seems to be a few more negatives than there are positives. Turning Nebraska into a winner-take-all system instead of keeping it a district plan will bring consequences that many people do not want. One of them is much less recognition to the state. As you all know, in 2008, Sarah Palin and Hillary Clinton came to Omaha to speak and try and win votes for McCain and Obama. With the

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winner-take-all system and the history of Nebraska voting, I do not believe that any big political figures are going to come to Omaha or anywhere else in Nebraska and try to win votes, because Nebraska, for the most part, is always going to vote Republican. The winner-take-all system is not nearly as representative as the district plan, because a candidate may only win by one vote, but still get all of the votes for that state. Voters will be less likely to vote, because their vote, to them, won't seem like it means as much. Our government was built to be a representative government, and that the people elect the President and not half of the people elect the President. In the district plan, voters represent a part of the state where their votes make a bigger difference. Voter turnout is already low, especially among the youth, and we cannot afford to lose that, because we need to keep people interested in government, and they need to be interested in controlling who will be elected president and understand that that really matters. Nebraska is a special place where people can live in a big town or go live out in the country where there's literally not a house within a hundred miles. It's a place where the government is set up different with the Unicameral instead of a Bicameral, and Nebraska doesn't, I don't believe, we follow the bandwagon when it passes by, because well, we have the district plan, and there's only one other state--Maine, that does that. This is a government for the people, by the people, and of the people, and I believe we need to keep it that way by not passing LB21. If one Nebraska vote chooses Democrat, then the people have spoken. [LB21]

SENATOR AVERY: Thank you for your testimony. Any questions from the committee? I don't see any. Thank you. [LB21]

CALEB WHITE: Thank you. [LB21]

SENATOR AVERY: Any more opponent testimony? Do you need that computer to...? [LB21]

MARK WELSCH: I do. I was typing up my testimony. [LB21]

SENATOR AVERY: All right. [LB21]

MARK WELSCH: My name is Mark Welsch... [LB21]

SENATOR AVERY: We're not allowed to use them here. That's why I was raising the issue. [LB21]

MARK WELSCH: Oh, oh, I'm sorry. I didn't realize that I couldn't use it here. [LB21]

SENATOR AVERY: I haven't said you can't use it. I just want to make sure there's a good reason for it. [LB21]

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MARK WELSCH: Okay, yes. [LB21]

SENATOR AVERY: Okay. [LB21]

MARK WELSCH: My name is Mark Welsch. It's Mark with a k, Welsch is spelled W-e-l-s-c-h. I live at 5611 Howard Street in Senator Gwen district's (sic) area. And I think I heard former Senator Quandahl say earlier that if all states had our electoral vote law, a Republican President would have gotten more electoral votes previously. And I'm going to spin that just a little bit. I think what he meant to say, was our country would have a policy that is closer to what I think is the ideal of having one person be worth one vote when we vote for President. And I hope you will not advance this bill, and instead of advancing this bill, maybe you could consider amending it. Maybe you could tell the Speaker of our Unicameral to write a letter explaining our system of how we apportion our electoral votes and send that letter to both Houses, since they are not also enlightened on that issue--enlighten them on this by sending a letter to the head of both Houses of all of the other states, explaining why our system is better than theirs and urge them to take action to change their system, so it is like ours. And when you do that, maybe the letter could also talk about the benefits of our Unicameral system to them, because they could save a lot more money if they had our system, and they are in a budget crunch, and they would have a more representative form of government like we have in Nebraska. You know, we have great ideas here. I think we should share them. Thank you. [LB21]

SENATOR AVERY: Thank you. Questions from the committee. I don't see any. Thank you for your testimony. Any other opponent testimony? Do we have any more who want to testify in opposition? Okay. Welcome, sir. [LB21]

MATT SCHOLZ: Thank you, Councilman and councilors. My name is Matt Scholz, M-a-t-t S-c-h-o-l-z. I'm from Crete High School, and I oppose LB21 with three main points. As you know, LB21 will change the district voting plan to a winner take all. First, if the majority moves to Omaha, and we are a winner take all, Nebraska will basically be represented by one city which is Omaha. And Nebraska, as stated earlier, is about 500 miles wide, and Omaha is just this little piece over here by the Platte River (laughter). Second, I'd like to say, like...it represents the people, because the districts are populated almost the same, and third, this brings politicians to Nebraska, because just like stated earlier, the Palin and Hillary Clinton came, because they knew that the 2nd District was up for grabs, depending on how it was treated and stuff. I say the district plan keeps us unique, and we are pretty unique, because we invented the Reuben sandwich, the strobe light, Spam, and Kool-Aid (laughter), and we were the first to paint school buses yellow, so thank you. [LB21]

SENATOR AVERY: I didn't know all that. (Laughter) Are you high school or college? [LB21]

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MATT SCHOLZ: High school. [LB21]

SENATOR AVERY: High school. Was this part of a class project? [LB21]

MATT SCHOLZ: Sort of, yeah. It was...yeah. [LB21]

SENATOR AVERY: Yeah. Well, thank you for coming. Let me see if we have questions. We do have one. Senator Brasch. [LB21]

SENATOR BRASCH: Thank you. Thank you, Chairman, and thank you, Mr. Scholz. I also had almost the same question. A couple of your classmates were here before you... [LB21]

MATT SCHOLZ: Yes. [LB21]

SENATOR BRASCH: ...also in opposition. Do you have any classmates here that are proponents? Did they come, or is your whole class in opposition, would you say? How many are in your class? [LB21]

MATT SCHOLZ: There's a good handful. I know there's about ten in our period, and there's another 18 in the other period. Last I had talked, I think most of us were in opposition except for one was neutral so. [LB21]

SENATOR BRASCH: And are you a registered voter, sir? [LB21]

MATT SCHOLZ: No. [LB21]

SENATOR BRASCH: No? Okay. Well, I do admire you and your classmates for thinking this through very thoroughly, and thank you for coming here today. [LB21]

MATT SCHOLZ: All right, thank you. [LB21]

SENATOR BRASCH: Thank you. [LB21]

SENATOR AVERY: And we assume you're not registered, because you're not quite old enough. [LB21]

MATT SCHOLZ: Yes. [LB21]

SENATOR AVERY: Good. Senator Schumacher. [LB21]

SENATOR SCHUMACHER: Thank you, Senator Avery. So, am I given to understand

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that, of your...what is it, about 28 kids in your class, that there are no proponents of this measure? [LB21]

MATT SCHOLZ: I believe there are no proponents. Correct. [LB21]

SENATOR SCHUMACHER: Thank you. [LB21]

MATT SCHOLZ: I think it's just...we ended up writing a letter to our senators in the state of Nebraska. Most of them are with Senator Karpisek, and a few of us are with Senator Wallman. And I think it kind of helped us pick a side, as we decided how to write our letters, and thinking it through, so...and then we were brought on this trip to testify...(inaudible) testimony. [LB21]

SENATOR AVERY: Good civic lesson. [LB21]

MATT SCHOLZ: Yes. [LB21]

SENATOR AVERY: Either side you take, it's still a good civic lesson. Any other questions? I don't see any. Thank you, Mr. Scholz. [LB21]

MATT SCHOLZ: All right. Thank you. [LB21]

SENATOR AVERY: Any other opposition testimony? Welcome. [LB21]

ELAINE WELLS: My name is Elaine Wells. I'm from Omaha, Nebraska, and I'm only going to take a moment of your time, because most of the points that I wanted to make have already been made several times, but I would...did you have a question? [LB21]

SENATOR PRICE: Can you spell your name, please? [LB21]

ELAINE WELLS: W-e-l-l-s is the last name. Elaine, E-l-a-i-n-e. Most of my points have already been made several times, but I think they're important to be repeated, because so many people feel the same way as I do. The first point is that I do truly believe in the principle of one person, one vote, and being able to split the electoral college vote in this way comes closer to that ideal than the other system. And, second, I attended a caucus last year, and I cannot tell you how much energy and enthusiasm there was. People were lined up around the building in freezing cold weather to get inside that caucus, and make their vote, because they knew that they had a chance to be counted this time. And so I totally support your holding this bill out from the floor vote. Any questions? [LB21]

SENATOR PRICE: Thank you. [LB21]

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SENATOR AVERY: Hold on. Questions from the committee. Okay. Thank you. [LB21]

ELAINE WELLS: Thank you. [LB21]

SENATOR AVERY: Any other opposition testimony? Do we have any more who wish to testify in opposition? Okay. Welcome, sir. [LB21]

ROGER HOLMES: Hello. My name is Roger Holmes, R-o-g-e-r H-o-l-m-e-s. But I'm actually testifying for a friend, Dick Herman, D-i-c-k H-e-r-m-a-n. Dick was a member of the state Constitutional Commission and a former editorial editor at the Lincoln Journal Star. So, I'll read Dick's statement here. "Mr. Chairman and members of the Government Committee, my name is Dick Herman, and I live at 1635 Euclid in Lincoln. Because of my Parkinson's Disease, these comments are being read by Roger Holmes, a fellow member of Common Cause of Nebraska, board of directors. I oppose LB21. The functioning of the electoral college every four years as prescribed by Article II, Section 1 of the U.S. Constitution, state legislatures have a free hand in how they arrange their electors. Returning to the previous winner-take-all system of apportioning our electoral college votes would, I believe, have two unwelcome effects. First, it would reduce the expression of voter preference. Nebraska's three districts differ distinctly. By casting our state's electoral votes according to district majorities, the diversity of our state is reflected, and citizens in each district have a greater say in choosing their President. Second, as one of only two states enabling split electoral college voting, Nebraska has gained a more prominent role in the election process. Candidates now find it worth their while to campaign personally in our state. This is a decided benefit to our citizens. Finally, this year, the political districts in Nebraska need to be adjusted to conform to the new census. This is a complicated and often contentious exercise. I believe it would be wiser not to initiate the changes called for in LB21 while the Legislature is involved in the larger task of redistricting." Thank you. [LB21]

SENATOR AVERY: Would you tell us a little bit about Mr. Hernan (sic)? [LB21]

ROGER HOLMES: Mr. Herman? [LB21]

SENATOR AVERY: Yes. [LB21]

ROGER HOLMES: Dick is 82. He has been a lifelong journalist, worked for many, many years at the Lincoln Journal Star toward the end of his career as the editorial page editor. During his time as the editor, he was a strong supporter of the original bill, Senator Schimek's bill, and wrote editorials in favor of it. He has been retired for a number of years, and is unwell, but still very feisty, and... [LB21]

SENATOR AVERY: I recall he used to cover the Legislature as a reporter. [LB21]

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ROGER HOLMES: He did that as well, yeah. Yeah, when I was talking to him about this, he said, well, you know, this dates actually from 1920, and went on to tell me about the first constitutional brouhaha about the electoral college in Nebraska so. [LB21]

SENATOR AVERY: Any questions from the committee? Thank you, Mr. Holmes. [LB21]

ROGER HOLMES: Thank you. I'll pass that along to Dick. [LB21]

SENATOR AVERY: Any more opponent testimony? Anyone wish to testify in a neutral position? Okay, Senator McCoy. You have been a very patient man. [LB21]

SENATOR McCOY: Well, thank you. Thank you, Chairman. Thank you, members, for your patience. I know it's a (inaudible) number of bills in front of the committee including another one of mine in a moment, so I will be brief. As far as many things, I suppose I could add to what's been said, for the sake of brevity, I won't, but for a few things. I'd like to go back, because I think it is an interesting history lesson. It was brought up in 1964 presidential election in which I believe it was the last time that Nebraska went as a state for a Democrat for President. That would be Lyndon B. Johnson. I know there's a picture somewhere, I believe. I know I've seen it. In fact, if I'm not mistaken, I believe it may be in Senator Utter's office of President Johnson at a parade in Hastings in 1964 and...campaigning. And I would submit to you, and it was mentioned by Senator Schimek that had we had the district plan that we have today, that Senator Barry Goldwater would have secured an electoral vote in the 3rd District. Now, as all of you, as I'm sitting there this afternoon, I remembered something that I hadn't thought of until that was brought up, and that is, that what would have been the reason for President Johnson to have been campaigning in Hastings, had it not been for winner take all. He was campaigning in Hastings, because he desired to get all of the electoral votes in the state of Nebraska, not just one, which highlights for me the need of why we should pass LB21. Because as all of you, I know, believe, we are elected to serve not just our individual legislative districts, but the state of Nebraska as a whole, not one congressional district over another. And as I try to note in my opening, as all of us know, are the needs and the interests and the subject matter, what's important to our constituents are very different across the state from legislative district to legislative district. But what is good for Omaha, and as much as I love Omaha, and the 2nd Congressional District, may not be what's best for the state as a whole. And I would submit to you that Nebraskans feeling that their votes count are just as important in Ogallala as it is in Omaha, and just as important in Valentine as it is in Crete. And that is why I believe LB21 should be advanced if you would so desire to do so as a committee. Thank you, Mr. Chairman. [LB21]

SENATOR AVERY: Thank you, Senator McCoy. Any questions? I think we have exhausted the subject. I do have to read into the record here, one letter of support for LB21 and five letters of opposition. Thank you, Senator McCoy. That ends the hearing

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on LB21. No need to get up (laugh). We'll move right into LB367, also by Senator McCoy. (See also Exhibits 5, 6, 7, 8, 9, and 10) [LB21]

SENATOR McCOY: Thank you, again, Mr. Chairman and members. For the record, my name is Beau McCoy, B-e-a-u M-c-C-o-y, and I represent the 39th District in the Legislature. And I'm here before you, again, this afternoon to introduce LB367 to you which comes from the Uniform Law Commission and was adjusted to fit within our current state statutes. LB367 seeks to ensure Nebraska's electors remain faithful when they cast their ballot for president and vice president of the United States. And I might add, obviously, this was touched on a couple of times earlier in the conversation on a previous piece of legislation this afternoon. When we vote in a general election for president and vice president, we're actually voting for electors who represent us by formally casting their ballots to the electoral college, and we had some great testimony on that earlier today, and so I won't belabor that point. Almost all electors vote for their party's candidates, but there have been rare occasions in our nation's history when a faithless elector has not. LB367 would ensure Nebraska's electors remain faithful. As currently required by state statute 32-713, Nebraska's presidential electors can be in at 2 p.m. on the first Monday after the second Wednesday in December in the Governor's Office here at the State Capitol. LB367 will require each presidential elector to execute a pledge that, at that time, where they agree to serve and mark their ballots for the president and vice president, presidential nominees of the party that selected them. In short, they promise to mark their ballot as the voters of Nebraska have chosen. Each presidential elector then presents their completed ballot to the Secretary of State who examines and accepts as cast, if marked, according to the elector's pledge. An elector who refuses to present a ballot attempts to present an unmarked ballot or who attempts to present a ballot marked in violation of his or her pledge vacates the office of presidential elector. Nebraska Rev. Stat. 32-714 is then followed to fill the elector's vacancy. The intent of LB367 is to prevent the problem of faithless electors from occurring in the state of Nebraska. And with that, I'd close. [LB367]

SENATOR AVERY: Thank you, Senator. Any questions from the committee? Senator Schumacher. [LB367]

SENATOR SCHUMACHER: Thank you, Senator Avery. The folks who called to my attention the potential Fourteenth Amendment issue with the prior bill said that that problem was somewhat mitigated by the fact that we did not compel the electors to file the vote, that we followed the vote. And the weakness in that argument was that we didn't have this bill. Do you see a conflict between these two measures? [LB367]

SENATOR McCOY: I do not, and as it's been explained to me, and I don't believe he was able to be here today; I believe he's traveling. But one of our Uniform Law Commissioners, Mr. Larry Ruth, who was instrumental in drafting this legislation,...he and I have had a number of conversations, Senator, about the issue that you just

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raised. And the consensus is amongst the esteemed members of the Uniform Law Commission here in the state...Harvey Perlman, among others, that they have Joanne Pepperl here at the Capitol, among others, that that issue is not a concern whatsoever. It was talked about at their Uniform Law Convention in Chicago. I believe that was in August or September of 2010, as I recall, and was deemed to not be an issue. And legislation similar to LB367 is moving forward in, it's my understanding several dozen states, as we speak. [LB367]

SENATOR SCHUMACHER: Was that discussion in the context of a state backing away from the Congressional District representation system? [LB367]

SENATOR McCOY: It was. [LB367]

SENATOR SCHUMACHER: Thank you. [LB367]

SENATOR AVERY: Any additional questions? Oh, okay, Senator Sullivan. [LB367]

SENATOR SULLIVAN: Thank you, Senator Avery. Thank you, Senator McCoy. Just from a practical standpoint with respect to the pledge, how...does that have to be witnessed or what's the practical process of following that? [LB367]

SENATOR McCOY: Not that I'm aware of, Senator. Much of the discussion here and the discussion I've had with Mr. Ruth and others as we put this together, this legislation...and Senator Avery, who has been involved as well in these discussions along with the Secretary of State, Mr. Gale. Many of the discussions have centered around, Senator, the fact that we've, in the past, left much of this whole process up to just the, for lack of a better term, the honor system. Just it's been tradition, it's...very little of it is in statute. And, thankfully, it really has not been a problem, although you can go back to 1912, talk about another presidential election when it actually was a court case and went to the Nebraska State Supreme Court, involving presidential electors from here in Nebraska that were pledged to President Taft, who desired to switch their allegiance to Theodore Roosevelt, who as you recall, started the Progressive Party or the Bull Moose Party, so we do have some precedent in our state, albeit 99 years ago, on this issue. But this would merely, in a very simple manner, seek to put in place some amount of statute to follow that clarifies how this process should operate. [LB367]

SENATOR SULLIVAN: Thank you. [LB367]

SENATOR AVERY: Thank you. Any other questions? Thank you, Senator McCoy. That ends the...no, we have to go to proponent. I'm in a hurry (laughter). Proponent testimony. Professor Wellman (sic), welcome. [LB367]

STEVE WILLBORN: (Exhibit 1) Good afternoon, Chairman Avery, senators. My name is

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Steve Willborn, S-t-e-v-e-n W-i-l-l-b-o-r-n. I'm a faculty member at the University of Nebraska College of Law, but I'm here today in my role as one of Nebraska's commissioners on the Uniform Law Commission. It's been quite a long day. The Uniform Law Commission...many of its acts have been promulgated by the Unicameral...something, over 40 of them. I think this is the first one that's ever been before your committee, because they tend to be business-related and property-related. In addition to myself, as Senator mentioned, Nebraska...some of them at least, Nebraska's current commissioners are the Honorable C. Arlen Beam, Amy Longo, Joanne Pepperl, Harvey Perlman, and Larry Ruth. Mr. Ruth was on the drafting committee for this bill. You'll see his name in the materials I submitted, but he was unable to be here, and I'm the pinch hitter. In the folder I've forwarded to you...on the left side is the proposed Uniform Act from which LB367 was drawn. It has a good discussion of the legal issues involved, and a comment on each section. The right side of the folder contains a summary of the proposed law, a paper saying why you should adopt it, and a copy of the interesting case that the senator just mentioned from the Nebraska Supreme Court. Senator McCoy explained the problem. The U.S. Constitution provides for the selection of the president and vice president by the electoral college. Those electors are chosen in a manner determined by state law, and that means all states now select their electors by popular election. When Nebraskans select their elector, they expect that the elector will vote for the parties' nominee, who is the winner of the popular vote count. Currently, as you heard, so far this afternoon, with two electoral votes for the winner of the statewide popular vote, and the remaining electors for the winner in each of the congressional districts. Nebraska law tells electors to vote for the winner statewide or in the congressional district, but the U.S. Constitution doesn't have any requirement that the elector follow the popular vote. In fact, presidential electors, as contemplated by the drafters of the Constitution were expected to exercise independent judgment in selecting someone best suited for the presidency. What would happen if one of the presidential electors decided not to follow Nebraska statutory law and the expectations of Nebraskans to not be faithful to the Nebraska voters, and to vote for someone who did not win the popular vote in the state or congressional district? We don't know of this happening in Nebraska, although I'll mention the case where we came very close to that in a minute. This has happened in other states and, in fact, presidential campaigns have been known to prepare for the possibility of wooing an elector to be faithless if it becomes very important. This bill prevents the possibility of a faithless elector. As the senator mentioned, it requires the elector to submit his or her ballot to the Secretary of State who will accept it as cast only if it's faithful to the pledge that was made. As the senator mentioned, Nebraska is somewhat fortunate to have an old case to provide support for this kind of procedure. As he said, in 1912 the presidential elector selected by the Republican Party in its primary, where Teddy Roosevelt supporters...but then Mr. Roosevelt lost in the Republican National Convention to Howard Taft. At that point, these electors indicated that they were...even though they were Republican electors, were going to vote for Mr. Roosevelt. At that point, the Republican Party became somewhat upset. They filed an action in the

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Supreme Court, and, very interestingly, when the Supreme Court heard that case challenging those electors, it said that they were deemed to have forfeited their position as if they had resigned, and they allowed the Republican Party to replace them. This is very close to what we have in this bill, so it's ironic we may be one of the few states that has some judicial background to support this law. Most other people are operating not knowing much about the...not having any judicial support for it. One last point, just last week at its mid-year meeting, the House of Delegates of the American Bar Association approved this act as appropriate for enactment in the states. This is just one more indication of the soundness of the bill. Senator Schumacher, if I could, the chief drafter of this law was Professor Bennett from Northwestern, a very highly regarded constitutional scholar. He did submit a memo to us on the constitutional issues, finding that this was in compliance with federal law, and I could supply that to you later. I didn't include it in the (inaudible) few like that. Thank you so much. [LB367]

SENATOR AVERY: Thank you. I apologize for mispronouncing your name earlier. [LB367]

STEVE WILLBORN: Yeah. [LB367]

SENATOR AVERY: Any questions from the committee? Senator Schumacher. [LB367]

SENATOR SCHUMACHER: Thank you, Senator Avery. The memo that the gentleman from Northwestern submitted, did that cover the issue of one vote, one rule or one person, one vote, Fourteenth Amendment issue in a state that is changing and making it less so? [LB367]

STEVE WILLBORN: Senator, I'm sorry, I just don't recall if it did or not. I'll get it and report back to the committee on that. I'm sorry. [LB367]

SENATOR SCHUMACHER: And then really, this does not...I mean, the rule that we have by virtue of the case law is really restated by LB367. Is that what we're saying? [LB367]

STEVE WILLBORN: It's very close to it. The context was slightly different right...the case involved a challenge to them before the election, right. And they were replaced before the election, so the people who were elected as electors at the election were people who are properly pledged. And this one involves people being faithless after they have been elected. [LB367]

SENATOR SCHUMACHER: Is there any practical difference? [LB367]

STEVE WILLBORN: I think it's very close, yeah. I think it's very close, and it is interesting that they deem them to have resigned. I'm going to ask Professor Bennett if

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he relied, in part, on this case in coming up with his idea for addressing the problem, because it's a complicated problem to deal with. Thank you. [LB367]

SENATOR SCHUMACHER: Thank you very much, and I would appreciate it if there is a comment as to that Fourteenth Amendment issue as to... [LB367]

STEVE WILLBORN: I will relay it to you personally and to the committee, Senator. [LB367]

SENATOR SCHUMACHER: Okay. Thank you. [LB367]

SENATOR AVERY: Any additional questions? I don't see any. Thank you. [LB367]

SENATOR McCOY: Thank you, Senator. [LB367]

SENATOR AVERY: Any more proponent testimony? Any opponent testimony? Anyone wish to testify in a neutral position? Senator McCoy. [LB367]

SENATOR McCOY: Thank you, Chairman. I would just very briefly close by saying I did misspeak on Senator Sullivan's question, and if you look at page 2 of the bill, starting on line 23, your question about whether or not, I believe, if I'm remembering correctly the question, Senator, of whether a pledge would be...there would be witnesses present. That would be part of the bill in that starting on line 23 of page 2, including in line 3 of page 3 of the bill, the green copy, that, obviously, that pledge is outlined. And, of course, being in the Governor's Office with the other electors present, that pledge would be witnessed. I hope that answers your question and clarifies it a little better than what I did earlier. I apologize. With that, I would conclude unless there are other questions. [LB367]

SENATOR AVERY: Thank you very much, sir. We have a letter of support from the Secretary of State of Nebraska to enter into the record. With that, we'll end the hearing on LB367, and now we'll move to LB583 and invite Senator Haar to come forward. Welcome, sir. (See also Exhibit 2) [LB367]

SENATOR HAAR: Chairman Avery, members of the committee, thanks for moving my time. I have a doctor's appointment at 4:15, and... [LB583]

SENATOR AVERY: Oh, well, you're barely going to get out of here in time (laugh). [LB583]

SENATOR HAAR: (Laugh) So, okay. [LB583]

SENATOR AVERY: So you have to speak fast. [LB583]

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SENATOR HAAR: (Exhibit 1 and 2) I have to speak fast. Well, I want to just start by reading the Constitution. It's so amazing. This is the Declaration of Independence and the Constitution in this little booklet. "Each state shall appoint in such manner as the Legislature thereof may direct a number of electors equal to the whole number of senators and representatives to which the state may be entitled in the Congress." So, the way we deal with electoral college is totally up to the state legislature of each state. The vast majority of Americans, I believe, believe in one person, one vote, and every vote is equal. Yet in 4 of 56 presidential elections, these basic principles have been violated when the candidate with the most popular votes was not elected. The National Popular Vote Bill would guarantee the presidency to the candidate who receives the most popular votes in all 50 states without changing the Constitution. Again, national popular vote would guarantee the presidency to the candidate who receives the most popular votes in all 50 states. Shortcomings of the current system of electing the president stem from the winner-take-all rule which is used by 48 states, but awards all of the states' electoral votes to the presidential candidate who receives the most popular votes in each separate state. Now, let's see, could you hand these out for me, please? Under the winner-take-all candidate rule, candidates have no reason to poll, visit, advertise, organize, or pay attention to the issues of states where they are comfortably ahead or hopelessly behind. And this handout, by the way, is from Wikipedia, which is such a great source of information. If you look on electoral college, the top one, as it says here, this is the number of...and this is the 2004 Bush-Kerry campaign, but at the top, each waving hand represents a visit from a presidential or vice presidential candidate during the final five weeks. Look at that. Now, one interesting thing here is that if you look at Nebraska and New Mexico, the same number of electoral votes, and look at the difference of presidential visits. We got none. If you look at the dollars spent, again, what is so obvious is that campaigns spend their money and their time in those states that may go one way or the other. The other interesting thing that happens, of course, is that the campaigns then concentrate on those issues which are important to those states. So, and in the 2000...so this handout is for the 2004 election. Also, very interesting, if you notice that the amount of dollars spent in the two biggest states, Texas and California, is almost nothing. Now, candidates went to those states to get money for their campaigns, but they didn't spend those times in those states, because California is a soon-to-be a blue state, and Texas is a soon-to-be a red state, so why waste your time there? And that's the way campaigns are run. You'll hear a little bit more about that later. In 2008, candidates concentrated over two-thirds of their campaign events and had money in six closely divided battleground states, and 98 percent of all the campaign spending in 2008 went to just 15 battleground states. And most importantly, though, I think that under the current system of winner take all, it does not honor this one person, one vote and every vote is equal principle that most Americans agree to. Now, the national popular vote plan just works like this. It doesn't require a change to the Constitution, because the states have exclusive and complete power to decide the method of awarding their electoral votes. But under the NPV plan,

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the National Popular Vote bill, all electoral votes from the enacting states would be awarded to the presidential candidate who receives the most votes in all 50 states and D.C. So, at such a point that enough states have passed the national popular vote, all of their votes will go to the candidate that gets the most popular votes. And the trigger for this bill would be, the bill would take effect only when enacted by states possessing a majority of the electoral votes, in other words, 270 of the electoral votes. So if we pass this this year, it would not take effect until and if states with a majority of electoral votes passed the same bill. And what we would be agreeing to is a compact, and the compact would be in place for a year. So, no state that has agreed to the compact could just back out of it, because the tides are changing or whatever, but a year later, any of the states could withdraw from the compact unlike some of the compacts we have with Kansas and Colorado. So, again, returning...the vast majority of Americans believe one person, one vote, and every vote is equal. That's the idea of the national popular vote. Thank you very much, and I will... [LB583]

SENATOR AVERY: Thank you, Senator. Questions...you have something for us? [LB583]

SENATOR HAAR: Yeah, one more handout here. You can sort of look at these at your leisure. It contains a map of the states and where national popular vote is already in place, and that, where it's being considered. It also contains the results of a January 2011 survey that was taken of Nebraskans. And the question that was asked, how do you think we should elect a president? Should it be the candidates who gets the most votes in all 50 states or the current electoral college system? And 67 percent of Nebraskans in January of this year, said they think it ought to be the person who gets the most electoral...or I'm sorry, the person who gets...the candidate who gets the most vote in all 50 states. And then there's some other things you can read in here at your leisure. And now I would be open to questions. [LB583]

SENATOR AVERY: Questions from the committee? Senator Sullivan. [LB583]

SENATOR SULLIVAN: Thank you, Senator Avery. Thank you, Senator Haar. [LB583]

SENATOR HAAR: You bet. [LB583]

SENATOR SULLIVAN: It takes me awhile to kind of wrap my head around this concept. [LB583]

SENATOR HAAR: Sure. [LB583]

SENATOR SULLIVAN: So, we really, in this legislation, you're proposing not getting rid of electoral college. [LB583]

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SENATOR HAAR: No, not at all. [LB583]

SENATOR SULLIVAN: Okay. But we're changing our impact on it. So, what are we giving up? I mean, you know, if we assume that electoral college, as it now stands, is sort of a protection for small states. Is this an advantage for us? [LB583]

SENATOR HAAR: Well, again, I don't agree with that argument. I think it's a false argument, because...on a number of points. First of all, the votes don't count the same, and that's what most people want. But on the other hand, if candidates really don't have to look at Nebraska, they're not going to care about our issues as much. And, again, a very interesting thing when you looked at the George Bush and Kerry race, both campaigns spent a lot of time in Ohio where things like foreign trade are the big issue. And both candidates were trying to get that state, and so they had to have issues that were, you know, appealed to the Ohio voters whereas in the national campaign, we didn't hear much about specific Nebraska issues. So I think we lose more...that we lose, I'm sorry, we gain more, much more than we lose by the current system. [LB583]

SENATOR SULLIVAN: You said that if a state joins the compact, they can change their mind after a year? Is that right? [LB583]

SENATOR HAAR: Yes. What the compact would be...my understanding of the compact is that they would agree to...when enough states got in the compact to make national popular vote happen, then they agree to stay in for one election cycle. And then after that, again, unlike our water compacts which we can't get out of this...any state could withdraw. And kind of a neat benefit of that, in a way, is this is actually a system that can be tried out, and it doesn't work for the states, then the state legislatures can come up with another way. [LB583]

SENATOR SULLIVAN: So it's up...in terms of making the decision to not only participate in the compact, but also then to get out of it, it revolves around the state Legislature. [LB583]

SENATOR HAAR: Every state legislature has that authority from the U.S. Constitution to decide how to apply its electors. [LB583]

SENATOR SULLIVAN: And how many states have decided to join the compact thus far? [LB583]

SENATOR HAAR: Well, right now, my understanding is that, okay, and you need 270...the national popular vote is 28 percent of the way there, a little over a quarter of the way to 270 electoral votes. And then if you look at the map that's in your packet, it's also showing up in the houses of many legislatures, so, you know, that number could be changing quickly. [LB583]

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SENATOR SULLIVAN: Thank you. [LB583]

SENATOR HAAR: Um-hum. [LB583]

SENATOR AVERY: Oh, how do you reconcile this proposal with the testimony that we heard on the previous bill about faithless electors? [LB583]

SENATOR HAAR: I'm sorry, I didn't hear that (laugh)... [LB583]

SENATOR AVERY: Oh, you weren't here. I'm sorry. [LB583]

SENATOR HAAR: ...that testimony. [LB583]

SENATOR AVERY: Well, there is a proposal that we tighten up our laws to make it more difficult for electors to deviate from the pledge they make to their party and to the voters. So if...the way this would work, as I understand it, is once you get enough people in the compact to equal 270 electoral votes, then whoever wins the popular vote, those 270 electors would have to vote with the winner. [LB583]

SENATOR HAAR: Exactly. [LB583]

SENATOR AVERY: Okay. Let's say Nebraska would have joined this compact... [LB583]

SENATOR HAAR: Um-hum, um-hum. [LB583]

SENATOR AVERY: ...and just for the sake of argument, let's say that the Democrat wins the national popular vote, but the Republican wins the Nebraska popular vote. [LB583]

SENATOR HAAR: Um-hum. [LB583]

SENATOR AVERY: Our electors would become faithless electors. [LB583]

SENATOR HAAR: No, according to the compact then, because the compact is with the Legislature, then Nebraska's electors would go to whichever candidate gets the most popular votes in all 50 states and the District of Columbia. So, I think the... [LB583]

SENATOR AVERY: Right, but it could still...they could still have...it would be a faithless elector...electors in Nebraska, because Nebraska, we're assuming, goes Republican and the national popular votes goes Democrat. [LB583]

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SENATOR HAAR: Well, I don't see that those would be faithless electors, because it's up to the Legislature to decide how they're going to do it, so I assume that through some legislative process, the electors would be appointed. And so, I'm sorry, I don't see that as a faithless elector situation. [LB583]

SENATOR AVERY: Well, I know the answer to it is probably going to be, you have two sets of electors. You have Democratic electors and Republican electors, and instead of having the Republican electors go to the electoral college to cast their vote, the Democratic electors go. But they would be represented minority in the popular vote in their own state. That's the point I'm getting to. [LB583]

SENATOR HAAR: They might be (laugh). They probably would be in this case, but again... [LB583]

SENATOR AVERY: I think I finally figured out this national popular vote and proposal. It may not sound like I do, but I think I figured it out (laughter). [LB583]

SENATOR HAAR: But then, again, basically, the person elected would be the person getting the most popular votes nationally and in D.C., not in Nebraska or California, whatever. [LB583]

SENATOR AVERY: Well, we have other people waiting to testify. [LB583]

SENATOR HAAR: Yes, yeah. [LB583]

SENATOR AVERY: We'd rather listen to so (laughter), and... [LB583]

SENATOR HAAR: I hope you have another bill in front of my committee (laugh). [LB583]

SENATOR AVERY: And you have a doctor's appointment in 15 minutes. [LB583]

SENATOR HAAR: Yeah. I can stay a little while, but thank you very much. [LB583]

SENATOR AVERY: Okay. Thank you, sir. All right, proponent testimony. Anyone wish to speak in support? A guest from Minneapolis, right? Welcome. [LB583]

LAURA BROD: Thank you, Mr. Chairman and members of the committee. I'm Laura Brod, L-a-u-r-a B-r-o-d. And I'm not sure Minneapolis would claim me. I'm a rural kid. But thank you so much for allowing me to be here with you today to talk about the national popular vote and, again, the bill will guarantee the presidency to the candidate who wins the most popular votes in all 50 states. The bill has passed 31 chambers in over 21 states. The bill has been enacted by seven states equaling 28 percent of the

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electoral votes that are required to actually trigger the compact into effect, and that number is 270 electoral votes, which is effectively the number it takes to elect the president. The movement is growing across this nation in a...not only a bipartisan way, but what I would dub to be a nonpartisan way. We have seen Republican sponsors, Democratic sponsors, Independent sponsors, and people who don't really want to belong to either one of them. Yesterday, in fact, there was a national news conference announcing another strong participant in this effort. I've seen CNN and Fox News, and there's all sorts of people picking up on this very exciting and very important issue. As Senator Haar mentioned, one of the shortcomings of our current state-by-state winner-take-all statutes that we see in 48 of the 50 states. That was an exciting hearing that we heard earlier, is that candidates actually...not...they ignore a majority of states in this country. And even more importantly to me, they ignore a majority of the people in this country, and the policies and the concerns and the issues that they care about, because they don't have to go out there and seek votes in places where they're reliably ahead or hopelessly behind. And, unfortunately, that means that two-thirds of our country are effectively disenfranchised during presidential elections. There's a number of policy distortions that also are occurring as candidates seek out their electoral votes. And candidates...not just candidates, but also presidents, once they govern, we're starting to see policies actually being put in place and talked about that are relative to such few states at the expense of the many, and I'll give you just a couple of examples. And, by the way, they hit both sides of the aisle, so it's not that you can go after one or the other. For example, you have a gentleman, a free trade president in President Bush, who talks a lot about free trade across the borders, but he institutes steel tariffs. Steel tariffs which harm the agriculture economies in this country significantly and put them on their heels, and he did so because he needed to make sure that he could secure those Pennsylvania votes, because that was a swing state, a battleground state. On the other side, you have President Obama really not paying a lot of attention to the oil spill when it washed up on the shores of Mississippi or Louisiana, but boy, he was paying attention when it washed up on the shores of Florida. And bipartisanly, you know, we have a significant issue in this country in immigration. Immigration is one of those things that we've been talking about and talking about and talking about, but there's not been the political will to actually solve this big issue. And I will tell you this, we've got some folks on the south side of this country, Republicans and Democrats, who are joining the effort, because they believe that the focus on battleground states is focusing on issues that are not necessarily important to the broader public. Immigration is one of those issues. Their argument is, if border issues were important to Ohio and Pennsylvania, we would have solved this problem long ago and we wouldn't be in the divisive situation where we see we're at today. Under a national popular vote bill, all the electoral votes from the enacting states would be awarded to the presidential candidate who receives the most popular votes in all 50 states. The bill only takes effect when enacted by states possessing a majority of electoral votes. Again, that's 270 electoral votes. The bill preserves the electoral college and assures that every vote matters in every state in every election. Across the country, people want their vote to count toward electing the

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president, and Nebraskans agree. As Senator Haar talked about, the 67 percent number of Nebraskans who think that...who favor a national popular vote, and that's actually a pretty consistent number across the nation. I told you a little bit about what the bill does, but oftentimes there's a lot of misconceptions about this bill, so let me tell you a little bit about what it doesn't do. This bill does not abolish or render irrelevant the electoral college. This bill specifically preserves the electoral college and preserves a state's right that was set forth in Article II, Section 1 of the Constitution. It's not an end run around the Constitution, as you might hear. What this is, is a utilization of that state's power that 17 words describe in plain language within that Constitution. Now, a lot of things that we learned as we grew up, and I think are very relevant here in Nebraska are the small states. You know, we want to make sure that the small states have the voice that they were intended by the founders. And the founders absolutely intended small states to have that voice. But, unfortunately, the winner-take-all rules have negated that voice, because influence comes from battleground status, not from electoral votes. And so, Mr. Chairman, I see my time is up. I look forward to answering any questions you might have. This is not an easy issue. It's not a simple issue, but I tell you, the concept is very simple, that every person's vote in every election should count toward electing the candidate that they believe represents their viewpoints. [LB583]

SENATOR AVERY: Oh, I'm glad you ended on that note, because I can ask my question again. [LB583]

LAURA BROD: Great. [LB583]

SENATOR AVERY: If you believe that every person's vote ought to go toward helping elect the person they wanted to be President, why then, if you haven't the development that I explained to Senator Haar, why then would you set up a system whereby the minority vote would be the ones represented in the electoral college or in the compact? [LB583]

LAURA BROD: Well, the difference, I think, is that when we're talking about the people's vote, there's two votes that we're talking about. One is my personal individual vote, and your personal individual vote that you cast for the candidate that you believe best represents your viewpoints. The secondary thing is then the electoral college votes, which, by the way, occur a month or so after the date that we go to the polls. And so, when you're talking about people, want to make sure that their votes count. When people wake up the day after the election, they're not really talking...worried about what the electors are going to do a month to a month and a half later. What they want to know is, who's going to get sworn into the presidency? Did their guy/gal win? They want to know if their candidate won, and they also want to make sure that their vote was cast and counted for the candidate that they believe represents them. And so, what we're really talking about and actually, the people recognize when you talk to the Nebraskans about a popular vote, do they think that the candidate who gets the most popular votes

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ought to win? What they're talking about is their vote that they cast, they want that vote to be cast and counted. That's the vote that I'm talking about. [LB583]

SENATOR AVERY: But that could be a minority in the state of Nebraska. [LB583]

LAURA BROD: What happens, though, Mr. Chairman, under a national popular vote, that all of the votes in Nebraska, whether they're Republican votes or Democratic votes, will actually be counted in the total votes that it takes to elect the president in the 120 or so million votes that it takes to elect the president. Right now in Nebraska, the Democratic votes are not being effectively used to elect a president in terms of their own personal vote, and to be perfectly honest, 253,000 Republican votes are not being used, because those are excess votes. You only need 50 percent plus one to award your slate of electors in whichever system you guys end up with. It takes 50 percent plus one, whether it's a congressional system or a winner-take-all system. Under a national popular vote, those excess Republican votes will be used for a Republican candidate, and those Democratic votes will be used for a Democratic candidate. That doesn't happen currently under the winner-take-all rules in state statutes that we see across this country. And so, that's what I mean. Your vote will be counted in that full total. [LB583]

SENATOR AVERY: When was the last time you had a state sign into this compact? [LB583]

LAURA BROD: The most recent state, actually, that has signed...or that has enacted this, was...I want to say it was actually D.C., and they're not a state. But, you know, for the purposes of elections, they operate similarly. The state previous to that was...I think it was Massachusetts, so there's seven states that have been enacting, and it's something that didn't happen a long time ago. That was the most recent, within the past year or so. But what you're starting to see on this bill is that it's being moved in both Republican bodies and Democratic bodies, and actually is being voted on in Alaska right now (laugh), in fact. So it's moving across the nation in big states and in small states and in Republican states and Democratic states. [LB583]

SENATOR AVERY: Thank you. Questions from Senator Sullivan? I'll come to you. [LB583]

SENATOR SULLIVAN: Okay, (inaudible). Thank you, Senator Avery. Thank you, Laura, for your comments. I need a little help with the logistics of the compact. There's a certain threshold that needs to be met, and then it takes effect at the next presidential election? [LB583]

LAURA BROD: That's exactly right, Senator. [LB583]

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SENATOR SULLIVAN: And states have to stay in a year. [LB583]

LAURA BROD: Here's the mechanism, and I wanted to clarify that, and I thank you for the opportunity. Here's the thing. States enter the compact just like they pass any other law. They pass a law, 888 words to say that we want to participate in this compact, and at the time that it triggers, that 270 electoral votes, we then agree to award our electors in block with the other compacting states to the candidate who wins the most popular votes in all 50 states. So it's not just the compacting states that actually have their votes counted. It's all 50 states, and so, the state then...because it's a state's right that is retained with the state, and I think it's an important state's right to make sure that there's a withdrawal provision in this compact. There's no requirement that you stay in for a year in terms of the compact. The only thing the compact states is that you cannot withdraw within six-month blackout period in a presidential election. And the purposes of that is making sure that people aren't withdrawing to manipulate the outcome of an election. So the blackout period, in terms of the withdrawal, is actually from July 20 to January 20. Other than that, in a four-year election cycle, you can withdraw out of the compact 3.5 out of the 4 years, so it's truly a state's right that is retained with you, provided it's not within that contracted blackout period. Does that help, Senator? [LB583]

SENATOR SULLIVAN: I think so. And then, is there the opportunity for movement back and forth? I mean, okay, I'm in now, then I'm out. Then I decide I want to go back in. [LB583]

LAURA BROD: Yeah. What happens, Mr. Chairman and Senator, what will happen is that the compact is in effect at such time that there's 270 electoral votes that have enacted that compact. At such time that the compact drops underneath 270 electoral votes, it is clearly not in effect. [LB583]

SENATOR SULLIVAN: Okay. Thank you. [LB583]

SENATOR AVERY: Senator Price. [LB583]

SENATOR PRICE: Thank you, Chairman Avery. Thank you for testifying today. In listening, though, we had a testimony a little earlier today about our going back to a winner take all versus an allocation methodology we have now. And it seems to me that this would be like a winner take all on steroids in that it nearly assumes that there's a homogenous spread across states on votes, you know. Now, there isn't a large diversity where one state may vote heavily in one direction and another state in this one, and then we glum it all together, we add it all together, and we allocate our electoral votes. We show a lot of passion (inaudible) within one district within our state. Can you imagine a whole state and what they're going to do when their vote doesn't trip the wire their way? See, there are going to be a winner and a loser, and everybody who loses is

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going to...particularly, if that state had voted...if the state had voted for the losing side. I mean, majority, and they lose, we're creating an environment that will be toxic. And how are we going to deal with those? I mean, how is that beneficial for the relationship of the people to their elected officials in their state? [LB583]

LAURA BROD: Right. Right. Thank you, Mr. Chairman and Senator Price. I was listening very careful to that conversation, because one of the things that I heard very clear from both sides, actually, on that bill was the desire to ensure that every person in the state was engaged in the presidential election. For those who were opposed, they wanted to make sure that one part of the state continued to be engaged and have that engagement. And for the proponents of the bill, you know what? They said, right now the west side of the state of Nebraska is being ignored, and we want to make sure that all of Nebraska is engaged. So some of it is a trade-off and what you see...I don't think you would see an actual...a negative blowing up, if you will, of the issue. I think what you would see is the understanding that under a national popular vote, every single person's vote will be sought after, because every state actually will matter again, not just the urban areas, but all of the states. And let me give you some demographic information that I think might help. You know, when I first came to this, I thought, you know, those big cities--they're going to kind of drive the bus, if you will, and they're going to make the decision or those big states are going to make the decision for the small states. And I had some of those concerns. But the demographic reality of our country is that there is a heck of a lot more people in this country that live in places like yours than there is that live in places like on the coast in terms of the large metro populations. The top 50 cities in this country only equal 18 percent of our nation's population. That means that there's a lot of people out there that the candidates would need to and want to reach out and grab their votes. You have a significant number of votes here in Nebraska, not just Omaha, but across your great state. And the candidates would want to run up the votes and turn out the votes, because they need every single one of them. Now, if you think about what does that mean in terms of well, wouldn't the citizens and the Legislature be upset with each other if it went the other way? Well, you know what? The citizens, actually, when they wake up the morning after the election...are the citizens of Nebraska more excited that they voted for McCain even though Obama actually got sworn into the Oval Office, or would the majority in the state prefer to have their vote actually cast and counted toward their Republican candidate and have that vote actually totaled, a full vote? Right now, 253,000 Republicans here in Nebraska don't have their vote actually count to add to the tally of the Republican, and there's a heck of a lot of Democrats who don't have their vote actually count and add to the tally of the Democrats. So what you would see is actually the voters understand, and the voters seem to get this. The voters would understand that their vote actually counts in that full 120-130 million person total, because the candidates are talking about the things that they care about, because they have to, and they're reaching out to states that right now they're not; 98 percent of all campaign spending, attention, and focus is on 15 states. That effectively leaves 35 others but for one congressional district...that

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effectively leaves 35 others as fly-over for the purposes of not just campaign spending, but also attention and focus on the issues that they care about. So I don't think, actually, it would be a negative relationship at all. I think it would be a very positive relationship, because the people of this country are less tied in to who actually cast that electoral ballot than they are who wins the presidency, and wanting to make sure that they had a hand in making that happen. [LB583]

SENATOR PRICE: Thank you. [LB583]

LAURA BROD: Um-hum. [LB583]

SENATOR AVERY: Any other questions? Senator Schumacher. [LB583]

SENATOR SCHUMACHER: Thank you, Senator Avery. Because of our quirky history, you know, Nebraska ends up with one electoral vote for about every 360,000 people, and New York ends up with one electoral vote for every 636,000 people. Why would one want to dilute oneself back to just one on one? I mean, when we were endowed by the creator (laugh) with extra rights. [LB583]

LAURA BROD: Well, you are endowed...Mr. Chairman and Senator, and by the way, you're talking to a Minnesotan, so I know all about quirky election politics (laugh). But you were absolutely intended by the founders to have that additional influence. But what we've seen over time as the evolution of state laws have changed...now keep in mind, only three states actually used a winner-take-all system in the first presidential election. Only three states. So this has been a change in state laws. What the founders actually originally intended, if you look at some of the Federalist Papers, is that the founders intended a group of people who were well reasoned and well read and capable of making a decision over who would become electors would actually sit in a room and make that determination. So it...the system we have today evolved, because states wanted to change how things happened in their state. So, the founders intended you had that influence. The state-by-state, winner-take-all system that we've seen kind of driving things in this country has negated the influence that you were intended, because influence today is not a derivative of the number of your electoral votes. No matter what the statistics might say, influence actually comes from battleground status and how close your elections are. So, your influence, even though you're supposed to have one in 600,000 to New York's one in 300,000, was it? [LB583]

SENATOR SCHUMACHER: The other way around. [LB583]

LAURA BROD: Do I have it backward? But your influence effectively, in this election, is equal. It's both minimal. It's both minimal, because the campaigns are focused on those places that they can turn votes and turn electors, and those are called battleground states. Let me just maybe address your issue from a different direction in terms of what

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you could do with your votes. So the Republicans here in this state created a 250,000 vote margin for President Bush...253,000 excess votes, if you will. You have five electoral votes. Let's take the state of New Jersey, you know, a bigger population state. They have 15 electoral votes. They created a margin for John Kerry almost equal to yours of about 250,000 votes. So your 250,000 Republican votes with the five electoral votes...your margin could have erased the population in New Jersey, which had 15 electoral votes. Now, I would suggest to you that that margin that they created for Kerry gave Kerry 15 electoral votes while your Republican margin over here only gave Bush five electoral votes, and tell me how that makes sense for you. Your votes could be used and leveraged better whether it's the Republicans or the Democrats, because they could be counted, and every single one of those votes would actually count toward electing the President whereas right now, even though New Jersey has the same margins, they run away because of the number of their electoral votes. Your margins are significant, which is why people would come to Nebraska; why candidates would care about the people in your state and talk to them about the issues that they care about. [LB583]

SENATOR AVERY: Continue. [LB583]

SENATOR SCHUMACHER: On the rules of the game, in general, let's imagine a day, Hell has frozen over; there are 45 Democrats in the Nebraska Unicameral (laughter), and a Nebraska Democrat Governor. Okay, the state votes Republican in the presidential election, and it looks like your program isn't in shape, and it looks like we're going to send five electoral votes to vote for the Republican candidate. Well, the Democratic Governor calls the Legislature in special session, and they decide that they're all term limited out, and don't really care. And so, they're going to change the rules of the game to vote five Democrat votes. Can they change the rule...is it that much power of the Legislature that they can change the rules of the game? [LB583]

LAURA BROD: Mr. Chairman and Senator, no, they cannot, and here's why. The Constitution actually...the impairments clause would actually get in the way of them being able to do that. Once they enter into the contract and... [LB583]

SENATOR SCHUMACHER: Well, this scenario that I gave you, this compact doesn't exist. [LB583]

LAURA BROD: Oh, I'm sorry, I'm sorry. I'm sorry. So, let me understand...give me your scenario. I was thinking if the compact existed. Okay. [LB583]

SENATOR SCHUMACHER: Okay. One candidate wins. The Legislature is unhappy that that candidate won, and convenes before the electors cast their vote, and instructs a different slate of electors. [LB583]

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LAURA BROD: Right. Mr. Chairman and Senator, no, they cannot do that, because federal law actually requires that the laws in place the day before the election are the laws that govern. And so, there wouldn't be an ability to change your law between the time of the election is the election date of the electors, and the time at which the electors cast their ballot. So there is not an opportunity for states currently to manipulate that process, and there certainly wouldn't be that opportunity to manipulate it under a national popular vote either. [LB583]

SENATOR SCHUMACHER: And that is a federal law rather than the Constitution. [LB583]

LAURA BROD: That's correct. The Constitution actually dictates when the electors meet. The federal law actually will require that the laws are in place, are in place before the date of the electors. Now, the federal laws also require that the...you know, the appointment of the electors occurs on one date certain, and that is the date of the election. So currently, that wouldn't be allowed... [LB583]

SENATOR SCHUMACHER: So, it's the day...the day or before or the day of the election that we...any rule changes we would...we might make have to be in place. We can change the rules of the game. The whole campaign can be run, and we can change the rules of the game the day before the election. [LB583]

LAURA BROD: Mr. Chairman and Senator, under federal law, the states have the authority to pretty much run the elections how they wish within the parameters that are set forth through the federal laws. And so, you would be able to change your laws just like you can change any other laws at any point, as long as they're not in conflict with those federal laws. So the answer would be yes, but. [LB583]

SENATOR SCHUMACHER: Okay. Thank you. [LB583]

SENATOR AVERY: Any additional questions? Thank you for coming from Minnesota to help us out. [LB583]

LAURA BROD: Thank you, Mr. Chairman. We Midwesterners need to stick together. [LB583]

SENATOR AVERY: We do. Thank you very much. Any other proponent testimony? Welcome, sir. [LB583]

RICHARD HEDRICK: I'm Richard Hedrick, H-e-d-r-i-c-k. And I'm for bill 583. I can't improve on what the testimony...the previous testifiers had to say. I'll second it and thank you. [LB583]

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SENATOR AVERY: She's hard to beat, isn't she? (Laughter) Any other proponent testimony? [LB583]

ADAM MORFELD: Good afternoon. My name is Adam Morfeld. That's A-d-a-m M-o-r-f-e-l-d, and I'm representing Nebraskans for Senate Reform. I won't add too much to that testimony. I think that I'm not nearly as qualified as her, but our board actually discussed this at length along with LB21. And we strongly believe that by allowing citizens to have a direct impact in the presidential election, citizens will be more motivated and engaged in our electoral system. As was noted earlier, I think there's four or five out of the 56 presidential elections where the President that won was not actually elected by the popular vote based on our current system. I think that this lowers citizens' confidence and potentially suppresses turnout. I think that people who feel as though they have more of a stake in their elections, that they have more of a say, will be more motivated to turn out and be active in the process. That being said, I think it's fairly clear that polls not just conducted in this state, but in other states, overwhelmingly supported a national popular vote system. So with that being said, I urge you to support LB583. I'd be willing to answer any questions. [LB583]

SENATOR AVERY: Thank you, sir. Questions from the committee? Don't see any. Thank you. Any other proponent testimony? And you are not from Minnesota, are you? [LB583]

JACK ST. MARTIN: Well, originally, yes, I am, actually (laughter). [LB583]

SENATOR AVERY: Oh, yes (laughter). [LB583]

JACK ST. MARTIN: My sister is the president of the state senate there, in fact, so... [LB583]

SENATOR AVERY: But now Arizona? [LB583]

JACK ST. MARTIN: Now Nevada. [LB583]

SENATOR AVERY: Nevada. [LB583]

JACK ST. MARTIN: My name is Jack St. Martin, J-a-c-k S-t. M-a-r-t-i-n, and I'm here to represent National Popular Vote. Thank you, Chairman Avery, and the committee for allowing me to testify today. I believe that I can bring a somewhat unique perspective to the question of how we select our president. That perspective is one of a campaign professional. We've heard from a few today, but not on National Popular Vote. I work for five different chairmen of the Republican National Committee in varying capacities. And, most recently, I ran campaign operations for the National Republican Senatorial Committee in the state of Nevada. One of my positions at the RNC was that of regional

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political director, and in that job I was the primary liaison to state parties in the mid-Atlantic region in the 2000 presidential election cycle. In my capacity as an RPD, I made recommendations and decisions about where resources were distributed to support the election of George W. Bush, and won my region, basically. You might think that that was simply about money, and that I just directed financial support, but national party support takes many shapes and includes things such as voter file development, training, microtargeting, surrogate visits, staff assignments, volunteer deployment, and yes, ultimately money. My region contained, arguably, two battleground states--West Virginia and Pennsylvania. And I think it goes without saying that those two states took the majority of my time, and those two states received almost all the resources that I directed. In fact, I moved to Pennsylvania for the last two months of that election at the exclusion of all the other states in my region. This is common sense for anyone that follows politics. Republicans and Democrats alike fight to win battleground states. They spend their money and expend resources to win the election, and to win the election, you go after the competitive states, not the states you know you will definitely win or lose. In fact, as Senator Haar commented earlier, 98 percent of all general election campaign spending or post-convention spending took place in only 15 percent of the states. We know that policy follows those battleground states, but I won't speak to that. I think Representative Brod did that earlier quite eloquently. I am here to talk about the implications for political parties and general campaign participation. In order to broaden my point, I will speak about another senior staff position I held at the Republican National Committee. In 2001, I was asked to build and run a new department called Grass-Roots Development. The stated goal was to develop and expand committees' volunteer and outreach programs. This was a significant effort with staff of over 15 people, and a budget of millions of dollars. As broad as my mandate was to identify, educate, and activate constituencies across the ethnic, religious, and ideological spectrum, it was clear that the mandate did not include all 50 states. The time, energy, and, yes, money that was spent was almost exclusively spent in 18 states right from the beginning. That was three years before the 2004 presidential election, and with an interim election in between the 2002 off-years that, arguably, had other races that we should worry about. Here is what we know. The single greatest expenditures in politics are made on behalf of or by the presidential nominees in each party. The RNC and the McCain campaign raised and spent a total of \$795 million in 2008 combined. The DNC and the Obama campaign raised and spent a bit over \$1 billion that year, and neither of those figures accounts for independent expenditures. We can easily anticipate that each of the major party candidates in the national committees will spend \$1 billion each in the 2012 election cycle. Now, if you go back, and you think about that in terms of 98 percent of that being spent in 15 states, it's a staggering figure. Now, practical terms, what does that mean for nontargeted and nonbattleground states? Well, all of those resources from voter follow-up development staff, volunteer identification, and mobilization simply do not take place on the same scale--on a large scale--or are given dramatically less attention than states that are nontargeted. If you believe as I do that both major priorities play an important role in motivating, educating, and turning out voters, and that

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the development of farm teams, future elected officials quite often takes place through major parties, then you must recognize that we have created a political system of states that are haves and have-nots. And it is not just state parties that are distinct minorities in their state such as Republicans in Maryland where I've cast a few ballots. It's also states that are distinct majorities such as Utah. Anyway, I'll take questions from the committee. [LB583]

SENATOR AVERY: Okay. Maybe you can get the rest of your testimony in with questions. [LB583]

JACK ST. MARTIN: Yes. Thank you, Chairman. [LB583]

SENATOR AVERY: Senator Brasch. [LB583]

SENATOR BRASCH: And thank you, Chairman, and thank you, Mr... [LB583]

JACK ST. MARTIN: St. Martin (laugh). [LB583]

SENATOR BRASCH: St. Martin. Okay. I thought it was a sentence I wrote under there (laughter). I apologize. And I had to step out earlier, and I...the feeling I got was that you were very thorough. The money can't be the benefit. I mean, it can be a benefit, but not the benefit. [LB583]

JACK ST. MARTIN: Um-hum. [LB583]

SENATOR BRASCH: Perception is...even though we're large in geography, we're small in population. Do you feel there's a benefit to this? Will Nebraska still nationally be a small state or what, you know, how will this...what's the benefit, you know? [LB583]

JACK ST. MARTIN: Well, I think...thank you, Senator. That's it...I think to echo something that Representative Brod said earlier, I think that your designation of...in terms of importance and policy and money and resources follows your status as a competitive state or a battleground state in the parlance of politics. And so, the small state versus big state argument, I think, is less important than how closely divided you are. The benefit that I see for states such as Nebraska is this. I spent 36 days in Florida during the recount in 2001, getting President Bush elected. And one thing that I remember distinctly was Karl Rove repeatedly going on television and being asked, so, you know, Mr. Rove, you're saying that you've lost the popular vote, but you're going to elect this...you know, as a...what I believe is that,...and what Karl said at the time is, is that they would have run a dramatically different race. Now, where does that...that accrues to the benefit, at least on the Republican side, to states like Nebraska. And it comes down to a cost-per-vote question. If I am running a Republican presidential campaign in 2012, I will be crazy if I advertise in the New York media market. Instead,

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I'm going to advertise in places like Lincoln, because my cost per vote won is dramatically lower for a Republican than it would be if I was advertising in Chicago or New York. So, the direct correlation will be that you will receive not just more advertising, more attention, candidates, particularly Republican candidates, I think, will spend more time here and policy the influence of Nebraska, the issues that are important to Nebraska will receive more attention. So I think that it does accrue to the benefit, particularly on the Republican side to states like Nebraska. [LB583]

SENATOR BRASCH: Thank you, Mr. St. Martin and Chairman (laugh). [LB583]

SENATOR AVERY: Senator Sullivan. [LB583]

SENATOR SULLIVAN: Thank you, Senator Avery and thank you, Mr. St. Martin. And picking up on your comment, relative to the Bush-Gore campaign,... [LB583]

JACK ST. MARTIN: Yes. [LB583]

SENATOR SULLIVAN: ...under this plan, would Al Gore have won? [LB583]

JACK ST. MARTIN: I believe that campaigns...both of those campaigns would have run those...they would have run a dramatically different kind of campaign and, again, to echo what I said earlier, maybe a little bit ineloquently. Karl, at the time, said, we would have spent a lot more time in Texas and gone and gotten 500,000 votes there. And so, I think that you would have seen a very different kind of race. I am a Republican, and when I'm not wearing my NPV hat, and I'm voting as a private citizen, I vote for Republicans. In my heart, not representing NPV in this instance, I believe more people agree with me in the country. So I like to believe as a private citizen, that we probably would have won that race under this system, because, at the end of the day, they ran a race to win under the system as it stands now with...as it stands today. And they won. They would have run a different kind of race as would have Al Gore, and so I think campaigns will change and evolve, but at the end of the day, it does not go...it does not follow that they would have necessarily...that the outcome would have been the same. [LB583]

SENATOR SULLIVAN: And I guess we'll find this out in just a little bit, but where is the resistance going to come for this idea? [LB583]

JACK ST. MARTIN: Well, I think there's just a lot of confusion about what we are, in fact, advocating. I, you know, I think that the Constitution personally is a sacred document, and that's one of the things that I love about this is it preserves your role, your constitutional role to decide how your electors are signed. It is elastic, because it allows you to get into it and get out of it as a...and I'm a little bit worried about a constitutional convention. You know, but at the end of the day, the resistance, I think is,

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that there is just some basic confusion about what we're advocating. Some people think we're advocating the abolishment of the electoral college, and we're not. So, I think that there's just...there's an education process. [LB583]

SENATOR SULLIVAN: Thank you. [LB583]

JACK ST. MARTIN: Thank you, Senator. [LB583]

SENATOR AVERY: Senator Schumacher. [LB583]

SENATOR SCHUMACHER: Thank you, Senator Avery. You mentioned that the likelihood that the next presidential campaign will cost a billion dollars for each party. A lot of that money is coming from who knows where? What impact does this program have on the amount of money that would need to be spent for a presidential race? [LB583]

JACK ST. MARTIN: Well, I think that if you...just to take a step back, I think we all have to acknowledge that there is real inflation that has set in in presidential campaigns. I don't believe that this will affect...I don't believe that it will affect, ultimately, that trend. So, I think that we will increasingly spend more and more money under any system to elect a president. I think that where that money is spent will probably be dramatically different, and I believe that the campaigns will probably go more towards their base. The Democrats you will see advertising in major cities. Republicans will be advertising in smaller, more Republican markets. And so you'll see it...the change. But I don't think the general trend, in terms of presidential spending, will change one way or the other whether this is implemented or not. That's my personal opinion. [LB583]

SENATOR SCHUMACHER: Now, in some of the earlier testimony on some of the other bills, they spoke in terms of a multiplier effect on that spending. Is there a multiplier effect? [LB583]

JACK ST. MARTIN: I'm sorry. If you could clarify that a little. [LB583]

SENATOR SCHUMACHER: That if a dollar was spent on a campaign, that it would multiply through the economy according to some formula and produce \$6 or something in economic wealth. Is that a real thing or is that just a...? [LB583]

JACK ST. MARTIN: I generally believe that when you're going out, and you're buying signs, and you're hiring people, and they're working, I do believe that there...just like any other, you know, endeavor, that when you're spending money. you're stimulating the economy to some extent. So, yeah, I do believe that that is true. I think that it is open to debate as to how much, but, yeah, I certainly would concede that point. [LB583]

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SENATOR SCHUMACHER: I don't have any further questions. [LB583]

SENATOR AVERY: More questions from the committee? Thank you, Mr. St. Martin, for your testimony... [LB583]

JACK ST. MARTIN: Thank you, Mr. Chairman, appreciate it. Thank you. [LB583]

SENATOR AVERY: ...and thanks for coming to Nebraska. Any other proponent testimony? All right, we'll move to opponent testimony. Is there anyone wishing to testify in a neutral position? All right, seeing none, Senator Haar has gone to the doctor. He cannot close, so we will end the hearing on...oh, I have some letters to read into the record. One letter of support from the League of Women Voters of Nebraska; we have one, two, three letters in opposition including one from the Secretary of State. Now, that concludes the hearing on LB583, and we'll move to LB501, and ask the page to please find Senator Cook. (See also Exhibits 3, 4, 5, 6, and 7) [LB583]

SENATOR COOK: Good afternoon, Mr. Chair. [LB501]

SENATOR AVERY: Welcome, Senator Cook. We are now ready for the opening on LB501. [LB501]

SENATOR COOK: Thank you. Honorable members of the Government, Military and Veteran Affairs Committee, I am Senator Tanya Cook. That's spelled T-a-n-y-a C-o-o-k. I'm the Nebraska State Senator representing Legislative District 13 and the introducer of LB501. I proudly introduce LB501 on behalf of Nebraska Secretary of State John Gale. A representative from the Secretary of State's Office will testify here today about the reasons they requested that I introduce this legislation, but here is a brief overview of the reasons for LB501. LB501 will amend current law to grant registered voters who voted, using a partisan presidential primary ballot or took part in a presidential caucus, eligibility to sign a petition in support of a nonpartisan presidential candidate obtaining general election ballot status. Those Nebraskans are currently barred from signing these petitions. LB501 also removes the restriction that petitions for an independent presidential candidate cannot be circulated until after the primary election date of the presidential election year. Nebraska is only one of two states with these types of restrictions on independent presidential petitions. In addition to those restrictions being removed, LB501 moves the filing date for the petition for an independent presidential candidate from September 1 of a presidential year to August 1 of a presidential year. The removal of these restrictions should make the collection of signatures a less time-consuming project and provide election commissioners and county clerks the necessary time to verify petition signatures and certify the number of valid signatures to the Secretary of State's Office. By moving the date of restriction for circulation and the ineligibility of the partisan primary voter when signing the petition, the potential candidate's concerns regarding time constraints and gathering disallowed signatures

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should be minimized or even eliminated. I appreciate your consideration and support for the advancement of LB501. Thank you. [LB501]

SENATOR AVERY: Thank you, Senator. Questions from the committee? I think they've worn us out previously (laugh). [LB501]

SENATOR COOK: All right (laugh). I can only imagine. Well, thank you for sticking in there. [LB501]

SENATOR AVERY: All right. Are you going to stay around? [LB501]

SENATOR COOK: Yes, sir. [LB501]

SENATOR AVERY: Okay. Proponent testimony. [LB501]

NEAL ERICKSON: Chairman Avery, members of the committee, my name is Neal Erickson, N-e-a-l E-r-i-c-k-s-o-n, Deputy Secretary of State for Elections, here on behalf of the Secretary of State, testifying in support of LB501. I'd like to start off by thanking Senator Cook for introducing this bill. This is one that this committee has seen previously. Basically, what it is, is kind of a trade-off. As Senator Cook mentioned, we're one of only two states that restrict our independent or nonpartisan presidential candidate petitions to those that did not vote in the primary election. And so, in removing that, it also opens up the opportunity for us to move the deadline for the petition submission a little bit earlier. Senator Cook is correct in that right now the current law says you can't start circulating till after the primary which makes sense, because you don't know who's voted in the primary until after the primary. And the September 1 deadline has, oh, caused us a few problems on occasion. There have been times where we have had to certify the ballot, and we didn't know until noon of that day whether that petition candidate has made that ballot or not. With them due the first week in September or the first of September, and Labor Day occurring during that first week with the mailing time we have in terms of distributing the petitions, it becomes difficult to do it in the seven to ten days that we have to get it done in order to certify the ballot. So, and this bill is kind of a trade-off. To a degree, it gives those third-party or nonpartisan petition candidates a little more leeway in terms of who can sign the petition, but then it also takes away a little bit of time frame forum. In talking to the national...the people that are nationally interested in third-party or independent candidate type situations, they feel is a fair trade-off. So, with that, I'd answer any questions you might have. [LB501]

SENATOR AVERY: What happened in previous years with this bill? [LB501]

NEAL ERICKSON: I think they were generally late in session and didn't move for that reason. I know there was one year where this committee decided to move the date, but

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not change the restriction on primary voters, and so. [LB501]

SENATOR AVERY: I don't remember that. [LB501]

SENATOR PAHLS: It's true (laughter). [LB501]

SENATOR AVERY: Okay. Questions for the committee? We seem to get it. [LB501]

NEAL ERICKSON: Okay (laugh). Thanks. [LB501]

SENATOR AVERY: Thank you. Any other proponent testimony? Any opponent testimony? Any neutral testimony? Senator, do you want to close? [LB501]

SENATOR COOK: I'm going to waive closing. [LB501]

SENATOR AVERY: Oh, thank you. That ends the hearing on LB501 and the hearing for today. Thank you all for coming. [LB501]