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Government, Military and Veterans Affairs Committee
February 24, 2011

[LB169 LB239 LB365 LB605 LB631]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Thursday, February 24, 2011, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB631, LB605, LB239, LB365, and LB169. 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: All right. Welcome to the Government, Military and Veterans Affairs Committee. My name is Bill Avery. I chair this committee and I represent District 28 here in Lincoln. Before we get started I want to introduce the members of the committee, even those who are not here. I will start with Senator Rich Pahls from Millard, over on the end here. Seated next to him is Lydia Brasch from Bancroft; and soon to join us, we expect, is Senator Charlie Janssen from Fremont; and next to him is the Vice Chair of the committee, Senator Scott Price from Bellevue. Seated to my right is Christy Abraham, the legal counsel for the committee; and coming soon to a place near you is Senator Russ Karpisek from Wilber; Senator Kate Sullivan sits next to him, from Cedar Rapids; and Senator Paul Schumacher from Columbus is the last senator there; and on the end is our committee clerk, Sherry Shaffer. If you are planning to testify on any of the bills on our agenda today, we ask that you fill out one of these testifier forms. They are available at each entrance to this room. Please print the information requested, clearly. When you arrive--and give this, by the way, to Sherry, our clerk--and when you arrive at the table, take the microphone and clearly state your name and spell your name, first and last, so that we can get it entered into the record. If you wish to be recorded for or against the bill, but do not wish to testify, there is another form to fill out. It's simple, just put your name, address, and which bill you wish to register your support for or against. These are also available at the entrance to the room. A few matters of rules of conduct in the room: We ask that if you have any electronic equipment, laptops, phones, video equipment, turn them off--anything that makes noise we would like for them to be put on a silence. The only people who are allowed to use laptops and video equipment are the press, the working press who are here with credentials, so do not come to the witness table with a laptop and expect to be allowed to use it while you testify. If you have anything that you want us to see, it is...we ask you to provide us hard copies. Make sure you have 12 copies so that each member of the committee can have a copy and we have enough for the committee clerk. Also if you do have anything that you want us to look at, give it to Sherry and she will have the pages distribute them. The pages are Kyle Johnson, who is from Sutton, and Danielle Henery. Is she here today? She is; there you are. From Battle Creek. We do use the light system. The green light means that you have four minutes to give your testimony, and then that's followed by an amber light, which means it's time to begin to end your comments--you have one more minute. So if we have a total of...you have a total of five minutes to make your presentation. When the red light comes on, you should be finished, and if you're not,

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usually we will stop you. All right. That should take care of it. We will have...the hearing will follow the order of the agenda posted outside the door. We have five bills today. It could be a long day, so we ask that you please pay attention to the testimony prior to yours so that you do not repeat what has been said already. With that, we will start with LB631, and welcome Senator Cook to the Government Committee. Welcome.

SENATOR COOK: Thank you, Mr. Chair and members of the committee. My name is 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 LB631. LB631 establishes a duty for election commissioners and county clerks to maintain a permanent early voting request list, and outlines procedures for the administration of the permanent early voting request list. A permanent early voting request list works like this: A registered voter, when applying for an early vote by mail ballot, can request to be placed on a permanent early vote request list. The voter does this by merely checking a box on the application. Election commissioners or county clerks maintain a list of voters wishing to be on a permanent early vote list. Prior to each election, the election commissioner or county clerk then mails an application to request a ballot for early voting. Again, they mail an application to request a ballot for early voting; not a ballot. The voter then must fill out the application to request a ballot for early voting. LB631 serves to strengthen and preserve our democracy. Here's how. This policy will increase voter turnout. Voter turnout is dismally low for most elections. Creating a policy that creates a permanent automatic early voter request list will increase voter turnout. Also, early voting by mail is vital to the continued participation of Nebraska's elderly population. My district has a growing elderly population, and it is my belief that creating a permanent early voting request list will help these Nebraskans continue their engagement with our democracy not only in my district but in each of yours as well. Additionally, LB631 allows for active military service persons serving overseas to request to be placed on the permanent early voting list. This provision will ensure that while serving our nation that service men and women are afforded this additional opportunity and convenience to remain vibrant citizens of Nebraska. Finally, LB631's permanent early vote request list will lead to increased voter turnout in off-cycle elections. Historically, primary elections and nonpresidential year general elections have low voter turnout. Because applications for a vote by mail ballots will be delivered for each election, a permanent early voter request list will facilitate continued engagement in any and all ballots. This is a key component to keeping Nebraska's democracy bright. Not only does LB631 encourage greater voter participation, but the legislation will also lead to greater accuracy of Nebraska's voter rolls. Because addresses are verified each election, the changes of addresses for participants of an early voter request list will be constantly updated. This will lessen confusion at the polls and the need for provisional ballots in many cases. These constant verifications will create a more accurate voter roll for Nebraska's election commissioners and county clerks. These are the reasons for the legislation and the practical effect that its passage will encourage. I appreciate your careful consideration and support for the advancement of LB631 to General File. Thank you.

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[LB631]

SENATOR AVERY: Thank you, Senator Cook. Questions from the committee? Senator Price. [LB631]

SENATOR PRICE: Chairman Avery, thank you. Senator Cook, thank you for bringing this bill. Thank you for considering the military component of it--obviously I have a deep affection for. But I have a question for you, and I started out with a question of: What's the mechanism for a returned ballot and checking the addresses? And I see that we have in here section (5), paragraph 5, it's on page 5 there, where you talk about if the application is returned undeliverable. And then you say that the election commissioner or clerk shall take the necessary steps to contact the voter. Well, I'm concerned, and how many steps are necessary steps? In other words...and honestly, is it...do I do one...do I go one time to call? I mean you have a returned...particularly with a military one. I wanted you to send it to the 1st HBN Battalion somewhere. That person is deployed; something is going on. How many times will constitute enough for checking? Because it could be quite cumbersome tracking down folks. You know you have, let's say, two years between any ballot opportunity. [LB631]

SENATOR COOK: Absolutely. [LB631]

SENATOR PRICE: So do you envision how we call enough to meet this here? [LB631]

SENATOR COOK: I always have an opinion and a vision for just about every topic that there is. In terms of this as a...including this as part of our state's policy and enacting it and promulgating rules and regs, what I would like to do is to leave that for the witness from the Secretary of State's Office to potentially expound upon as to whether or not there exists, currently in statute, a precedent or a definition for necessary steps to contact. If we were going through a kind of commonsense interpretation for someone like me, I would probably try via telephone at least twice. And if it were a small enough community, I might even get nosier than that to ask some questions about what the best way would be. But I'm certain that the witness can offer some...shed some light on that. And then I understand that another witness is going to speak to her or his direct experience in this role and may be able to talk about what they do now. But thank you. That's a very good question. [LB631]

SENATOR PRICE: Thank you. [LB631]

SENATOR AVERY: Senator Sullivan. [LB631]

SENATOR SULLIVAN: Thank you, Senator Avery. Thank you, Senator Cook. I'm not quite sure that I heard enough from you on how you think this actually does increase voter turnout. [LB631]

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SENATOR COOK: Well, I guess I'm thinking that it serves minimally as a reminder that there is an election coming up. I, as somebody who participates in every election and ballot initiative, am always surprised when people that I know don't recognize that it is an election day. So minimally, to remind people that there's an election (inaudible) sure candidate on the ballot. And by taking the action of completing the application for the early ballot, I guess I am assuming that they will complete the early ballot once it is received. [LB631]

SENATOR SULLIVAN: Some...it's been the experience of some county clerks that even when they send that application out they don't get a response. So I am not quite sure that just a reminder is enough to substantiate that they will, in fact, vote. [LB631]

SENATOR COOK: Absolutely. Nor will ads or outreach from political parties or campaigns. I guess there's...I guess what I'm attempting to do with this legislation is to provide an opportunity to cull through existing voter lists to provide an opportunity for elderly who are not able maybe to make it out to the polls to get their voices included. [LB631]

SENATOR SULLIVAN: Can you remind me again of just what...aside from not even having this list, what's the process of...how many different ways can a person request an early ballot? [LB631]

SENATOR COOK: My bill speaks to this way of requesting an early ballot. The witness behind me can enumerate the other ways in which one might procure an early ballot. [LB631]

SENATOR SULLIVAN: Okay. All right, thank you. [LB631]

SENATOR AVERY: Senator Schumacher. [LB631]

SENATOR SCHUMACHER: Thank you, Senator Avery. Senator Cook, I'm trying to visualize the process. So basically you sign up for this list, and then before an election you get a card or something from the election office saying: Hey, do you want to vote? Do you want a ballot? [LB631]

SENATOR COOK: You receive an application to receive an early voting ballot. [LB631]

SENATOR SCHUMACHER: Okay. So you get this saying: Do you want to do this? [LB631]

SENATOR COOK: Correct. [LB631]

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SENATOR SCHUMACHER: And then you sign up and you send it back. [LB631]

SENATOR COOK: Correct. [LB631]

SENATOR SCHUMACHER: Is that mailed by certified mail or is that just a postcard, or doesn't it specify? [LB631]

SENATOR COOK: It's mailed in the same manner the early ballots are mailed. [LB631]

SENATOR SCHUMACHER: The application is. [LB631]

SENATOR COOK: Correct. [LB631]

SENATOR SCHUMACHER: So we have two mailings then coming out. The first one saying: Hey, do you want to vote in this election?; if so, return this whatever. And the second one which is the actual ballot. [LB631]

SENATOR COOK: Correct. [LB631]

SENATOR SCHUMACHER: Now...and one of the things that you said concerned you, or tried to be accomplished by this, is folks who are elderly being able to continue to vote. [LB631]

SENATOR COOK: Yes, that's one example that I offered. [LB631]

SENATOR SCHUMACHER: What...I know there's some concern that at some point in nursing home institutions and things like that, particularly in cases of limited competency, that these types of procedures can be abused. Is there any check and balance on that? [LB631]

SENATOR COOK: In this proposal as it reads right now? [LB631]

SENATOR SCHUMACHER: Right. [LB631]

SENATOR COOK: No. This goes...for example, my father's voting address is still in District 3, in Senator Price's district. He primarily resides in a nursing home. And then it's up to somebody trustworthy, like me, his trustee, to ensure that he gets to participate in the election. So I'm open to considering such a check and balance as we move forward with consideration of the bill. The bill as it's drafted right now does not speak specifically to people who are not...who perhaps legally or just through their functionality cannot follow through with their own mail at their own permanent place, legal place of residence. [LB631]

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SENATOR SCHUMACHER: You know, and what concerns me is that you may have someone suffering from some form of dementia. All of sudden, in a retirement or a nursing facility or something, this card shows up. And they go and say, "Here, sign this," and they really don't realize what they're doing. It gets mailed back in. Now you've got a loose ballot out there. [LB631]

SENATOR COOK: Oh, I see. [LB631]

SENATOR SCHUMACHER: And that ballot, particularly if they're suffering from some type of dementia, may be filled out by anybody, you know, and you just don't know. And so by making this too easy, I just think we need to think about how we can stop what might be abuse there. [LB631]

SENATOR COOK: Right. Absolutely. And I would also add that that scenario could unfold in any private home. Just because the person might happen to reside in a nursing home facility, they could live in a private home and have a caregiver or a family member say, "I know this person is not going to the White House, so," and it may have absolutely nothing to do with the actual registered voter's part. What I would ask is for you to consider the language here. I've got a witness, actually on each side today, so we're all going to learn a lot. And thank you very much. [LB631]

SENATOR AVERY: Any more questions? Thank you, Senator Cook. Are you going to stay for closing? [LB631]

SENATOR COOK: Absolutely. [LB631]

SENATOR AVERY: Okay. Proponent testimony. And are you sure you are a proponent? (Laughter) I just wanted to make note of the fact that that's rare. (Laugh) [LB631]

NEAL ERICKSON: Probably the only one today, but. Senator Avery, members of the committee, for the record my name is Neal Erickson, N-e-a-l E-r-i-c-k-s-o-n. I'm Deputy Secretary of State for Elections here on behalf of Secretary of State John Gale, testifying in support of LB631. Unfortunately he could not be here today as he is in Oklahoma City at a federal Election Assistance Commission Standards Board meeting. I think Senator Cook has kind of laid out the provisions of the bill. Our interest in this type of permanent absentee request list came after we were starting to see, oh, suggestions, proposals to establish permanent absentee lists where we were automatically sending ballots out to people. There are a number of jurisdictions across the country that do that. We consider that a very bad practice because we don't know where those people are, and then you have, as Senator Schumacher mentioned, loose ballots floating around. We've advocated this is an alternative, and that is to have an absentee request list for those people that, you know, may be infirm or, just out of habit

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are going to vote by early voting every election, for the local election officials to send the request out to them. They can return it and then they will receive the ballot. That way we don't have the ballots floating out there with no address to get attached to or no person to get attached to. And so this has been a practice that we've advocated with the local officials. Not everybody has...not all counties have taken advantage of this or gone to this type of system. There are some that have. I know you'll be hearing from Lancaster County Election Commissioner. And we are cognizant that there is a cost associated with this, and particularly for the medium to large size, that may be a significant cost. But we believe this is a good policy on behalf of the state and would encourage your support of it. And with that, I'd answer any questions. [LB631]

SENATOR AVERY: Thank you, Mr. Erickson. A question from Senator Price. [LB631]

SENATOR PRICE: Chairman Avery, thank you very much. Mr. Erickson, thank you for testifying. I think you can clear this up for me a little bit. One of the questions I have, I noticed on the fiscal note it said there was no cost. We understand that the Fiscal Office note doesn't record the political subdivisions. [LB631]

NEAL ERICKSON: Correct. [LB631]

SENATOR PRICE: So what were the number of early ballots cast in the last General Election--give or take; plus or minus? [LB631]

NEAL ERICKSON: Well, it was about roughly 20 percent. So you're probably talking about 140,000. [LB631]

SENATOR PRICE: And it probably is safe to say that you had more than 140,000 that were mailed out. [LB631]

NEAL ERICKSON: Right. [LB631]

SENATOR PRICE: That was only 140,000 returned. [LB631]

NEAL ERICKSON: Yeah. There were probably more mailed out than were returned. Right. [LB631]

SENATOR PRICE: Right. So therefore we would probably have to say that there would be at least 140,000 that were paid by (inaudible) by somebody to get the application out. That's going to be paid for by somebody, correct? [LB631]

NEAL ERICKSON: Well, yeah. But when you're talking a permanent absentee list, these are people who would be habitually using the early voting process--and not everybody does that. [LB631]

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SENATOR PRICE: No, no. But I mean, like I said, this requires that you send out the early application. Each voting time you send out a letter: Do you want to vote by early? So someone has to pay for that first piece of paper to come out, correct? [LB631]

NEAL ERICKSON: Well, the first piece of paper, yeah; I mean you can get from anywhere. In fact, actually we would accept even a letter that has the required information on it. It doesn't have to be on any specific form. Now what this bill does is say, okay, if you want to become part of this permanent absentee request list, then check this box. So would everybody check that box? You know, probably not. [LB631]

SENATOR PRICE: No, but I meant, in subsequent elections, the election office would have to send out a letter to the people listed. So if I'm in Sarpy County--which by the way, I am--and I have 25,000 early people on that permanent list, Sarpy County Election Commissioner's Office would have to mail out and generate 25,000 pieces of mail. [LB631]

NEAL ERICKSON: Correct. [LB631]

SENATOR PRICE: That would have to be paid for by somebody. [LB631]

NEAL ERICKSON: Right. [LB631]

SENATOR PRICE: Okay. I just wanted that because the fiscal note says there is no impact. [LB631]

NEAL ERICKSON: Yeah. [LB631]

SENATOR PRICE: And so that was one of my questions. The other one is what would be the date it says for sending out this application? So it doesn't...is there another statute that stipulates when that letter would be generated? Two weeks prior to? One week prior to? Ten days? [LB631]

NEAL ERICKSON: Generally, you're seeing when the absentees are available. So you're talking more around the 35-day or 40-day area when you're seeing those sent out. Now, one thing about this, and one advantage that we have seen with counties that have used this, is it does allow them, in effect, an ability to kind of manage their workload, because once you send this out, within a few days after that is when you're going to start seeing those return and having to process those absentee requests or early voting requests. So there is kind of that aspect to it. But you are correct, I mean on fiscal notes. It's only the state agencies and it's not for the local subdivision. [LB631]

SENATOR PRICE: And then, finally, on that first question I asked Senator Cook on the

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mechanism and then finding out what is...how do we say necessary to validate an address? Is that in statute somewhere that articulates and defines when they've done their job? One call? One call, mail? Two calls, one mail, and a pigeon? I mean...? [LB631]

NEAL ERICKSON: Generally, it would probably be one follow-up, whether it be by phone or by mail. Now in regards to your...let's talk about military. Actually I kind of look at this bill being kind of a belt and suspenders for the military. Because, right now, with the MOVE Act, what you have is the military encouraging them to use the federal postcard application, the FPCA. And as a result of the MOVE Act, part of the MOVE Act, those were good for two election cycles, so if you received one, you would automatically send them a ballot the second cycle. The MOVE Act changed that. And so the military is now encouraging them to send that FPCA every year and...which we think is a good thing, because you're exactly right: when you're stationed overseas, you're not...your tour, you can say in some cases, yeah, you may be there for an extended period of time, but other places you may be there three, six, nine months--not the two-year cycle that we're looking at. In addition, and I think another advantage to the FPCA, is that with the MOVE Act we are communicating a lot more with our military and overseas people via e-mail. Fifteen years ago they were suggesting faxes. Well, nobody had faxes out in the field. So now that we're looking at e-mails is the way to do it, and the FPCA provides that information, and so the FPCA would probably be a better request than this, but if they forgot to do an FPCA, here's another reminder for them. [LB631]

SENATOR PRICE: Thank you so much. [LB631]

SENATOR AVERY: Any other questions? Senator Sullivan. [LB631]

SENATOR SULLIVAN: Thank you, Senator Avery. How long have you been encouraging counties to do this, Neal? [LB631]

NEAL ERICKSON: Oh, probably about the past ten years. [LB631]

SENATOR SULLIVAN: Okay. And do you have any idea how many counties are currently doing it? [LB631]

NEAL ERICKSON: Oh, I would say it's probably about a half-dozen. It's not a whole lot out of the total. [LB631]

SENATOR SULLIVAN: Okay. Thank you. [LB631]

SENATOR AVERY: Senator Schumacher. [LB631]

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SENATOR SCHUMACHER: Thank you, Senator Avery. Mr. Erickson, in the experience in other jurisdictions where this has been done, the argument apparently for this is it will increase voter turnout and try to fight the mess we have with people not showing up to vote. What's been the experience? Has it increased voter turnout? [LB631]

NEAL ERICKSON: Well, any time we...you know, any time you make a change to statute, you know, there's a potential to impact turnout, either positively or negatively. Quite honestly, our office doesn't look at it in that respect because you have so many factors going on. Whether you can say, yes, this increase in turnout this cycle was due to this factor or the decrease in turnout was due to that factor, is more conjecture than anything else. One thing this does do, that this bill does, and we see the value in it, is not necessarily increased turnout or decreased turnout, but we have a population out there or a segment of the population out there that is not capable of going to a polling site, or, you know, whether because of work, whatever, chooses not to go to that polling site to vote. And this provides a little more of a convenience for them in terms of getting their early voting ballot in a timely manner. [LB631]

SENATOR SCHUMACHER: So really it's almost speculation to say whether this (inaudible). [LB631]

NEAL ERICKSON: Generally, that's the way we've used it. I mean I recall, four years ago, when we were talking about satellite voting and, oh, I was getting: Well, this is going to make the election go one way or another. Well, it's...generally, that is speculation at that level. And even if you were to try and track it historically, it is very difficult to attribute changes in turnout to one particular factor or another. [LB631]

SENATOR SCHUMACHER: But by doing it in kind of a mass-produced assembly line kind of mechanism here, is there any savings? [LB631]

NEAL ERICKSON: Well, and what you'll see is it will be economies of scale depending on the size of the county, because when they do these mailings they can do them in mass, and depending on the size of the county, they can get different postal rates depending on the size of the mailing. [LB631]

SENATOR SCHUMACHER: Are we talking about a postcard going out? I mean that's the cheapest. [LB631]

NEAL ERICKSON: Yeah, it...a postcard is probably a little bit small to get the information necessary on the...although I have seen special interest groups squeeze it onto a postcard. The writing tends to get a little bit small at that point. Generally, the election officials will use a little bit larger type situation like that, or a type of...a forum than that. And even with, depending on the size of the county, if you are...depending on what mail code you're using and how you're sorting your mail, you can get rates that are

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almost equal to postcards. [LB631]

SENATOR SCHUMACHER: How would you handle a situation where, or is it contemplated in there, somebody who is blind? I mean are there Braille postcards or Braille things, or...? [LB631]

NEAL ERICKSON: Not for any of the typical mailings that go out at this point in time. No. [LB631]

SENATOR SCHUMACHER: Do we have a problem with that? [LB631]

NEAL ERICKSON: Well, I suppose arguably you'll see the visually impaired community, yeah, complain about it. But in terms of the election practices, the HAVA provisions I think came a long step for the visually impaired, and they're more concerned, at this point in time, in terms of making sure that works--having a voting system that's in place for them to be able to vote in private and unassisted. For example, even if they were requesting an early voting ballot, they...at that point in time they're generally using assistance to mark that ballot; whereas, the polling site, we have equipment that allows them to vote in private and unassisted. [LB631]

SENATOR SCHUMACHER: Thank you, Mr. Erickson. [LB631]

SENATOR AVERY: Thank you. Any more questions for Mr. Erickson? I don't see any. Thank you for your testimony. [LB631]

NEAL ERICKSON: Thank you. [LB631]

SENATOR AVERY: Any more proponent testimony? Welcome, Mr. Morfeld. [LB631]

ADAM MORFELD: (Exhibit 1) Good afternoon. My name is Adam Morfeld; that's A-d-a-m M-o-r-f-e-l-d, and I am here on behalf of Nebraskans for Civic Reform. I'm going to be testifying on three other bills this afternoon, so I'll make this kind of short and sweet. First off, our organization is in support of it for many of the reasons that Mr. Erickson just highlighted. First, we believe that a permanent vote by mail list is a proven method of administering elections in Nebraska. I think Lancaster County has been doing it since, I believe, '98; however, Mr. Shively may be able to shed light on that. In addition, we think that permanent vote by mail lists will likely increase voter turnout. While you're right, Senator Sullivan, there are people that can ignore it and probably do currently, we think that it will enhance other individuals' ability to know that there is an election coming up and be able to participate in the process, so I think that overall it has the ability to increase turnout. In addition, I think LB631 would also maybe increase the awareness of small or local elections or off-year elections, more so in counties and states that have all vote by mail elections. This also increases turnout among those

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communities on those off-year elections. And we think that while this isn't an all vote by mail type of election system, we think that they would have a similar increase in turnout. So with that I'd be willing to answer any questions. [LB631]

SENATOR AVERY: Thank you for your testimony. Any questions? You get off light. Thank you. Any more proponent testimony? Seeing none, any opponent testimony? Welcome, Mr. Shively. [LB631]

DAVID SHIVELY: Good afternoon. Thank you. Chairman Avery and members of the Government Committee, my name is David Shively. It's D-a-v-i-d S-h-i-v-e-l-y. I'm the Lancaster County Election Commissioner. I'm here today in opposition to LB631. Many of you might think that's a little strange since we're one of the counties that has been doing a permanent absentee list since 1998. I'd like to explain a little bit of what we do. In 1998, my predecessor who was election commissioner at that time had requested with the Secretary of State's Office to see whether she could do a permanent absentee list. And at that time, if you will remember, requests for absentee ballots, you had to provide an excuse to get an absentee ballot, and you would check off the list and there was about seven or eight different reasons. And they had gone through the preceding couple of request times and taken people that had checked off that they were physically unable to get to the polling site or they couldn't get to the polling site because of religious reasons, and they sent letters out to all those people and asked them if they would like to be on a permanent absentee list. And we had...that started at that time with about 800 names that were on our permanent absentee list. Today, we now, our list has grown to over 17,000 names. We have 17,000 people on our list. We mail that out. We usually mail out a request for an absentee ballot--I hate to say this because Neal kind of said we didn't do it--we mail it out in a small postcard, and it is actually torn off. The bottom part is torn off; it's a self-mailer. They tear this bottom part off and mail it back to our office. They sign it and say that they would like to have a permanent...to be...to receive an absentee ballot for that election. We usually do it about six weeks prior to the election. It does help us a little bit to...with our work flow, to manage our work flow a little bit better. We get the ballots out earlier, and hopefully those ballots can come back a little bit later. However, I did want to bring up, and the reason that I am opposed to this, is because of the cost that it may do to other counties. I don't intend to change this for Lancaster County, but I do know the cost for us for mailing 17,000 names--it costs us about \$7,000 each election. That's pretty significant to counties that haven't done this, but we've been doing this for awhile so we're prepared to keep it in our budget to do that. But it is very costly for us to do it. It's about 40 cents apiece it costs us to mail that postcard out. We've done it different ways over the years. When we first started, it was a letter that went out with an envelope to mail it back in, and so over the years we've tried to do things to try to reduce costs on that, and this has worked pretty well for us. I know it was mentioned that they hoped that our turnout would be higher because of this. I haven't seen a significant increase in our turnout in Lancaster County. I think what it has done is that we probably have more people that are regular

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voters that never miss an election because of this. I think all it has done, though, in some ways, for most cases, it just changes the way some people have voted. Some people are now voting by mail instead of going to their polling site. I truly feel this should be an administrative decision by the local election official whether they're going to do this, and shouldn't be a mandate from the state. Essentially what's happening with this, it's going to be an unfunded mandate to the counties. No matter what they do and how they try to do that, it's going to be a cost. And like I said, for us, the cost has grown to about \$7,000 for statewide of elections. I just would encourage you not to pass this on, but to encourage counties to do this like we've been doing it. And if they feel, the county election clerk, election official, or county clerk feels they can do it and it works for them, I think they should be able to do it, but I don't feel like it should be mandated on them to do it. And I'd be happy to answer any questions. [LB631]

SENATOR AVERY: Thank you, Mr. Shively. Questions from the committee? I'll start with you, Senator Pahls. [LB631]

SENATOR PAHLS: Thank you, Chairman. Let's go back a number of years. If you had a choice, would you do it now if the decision had not been made? [LB631]

DAVID SHIVELY: If you told me today that I would have to do it and, knowing the cost of it, I probably wouldn't, because I know what's going to be coming up on our budget hearings this summer with our county board. We're going to be asked to be cutting, and it wouldn't be something I would want to add to it. What the positive things for us, and if I would lean towards doing it, is it helps us manage our work flow. We are getting probably two-thirds of our ballots out early. Early. And then we aren't being inundated the last two weeks with requests. I know other counties get inundated sometimes the last two weeks. So particularly after a county or the political party starts sending out absentee pieces and requesting people to mail them back, a lot of counties get inundated with those. We don't get quite as many back because a lot of the...I think what happens is that a lot of the parties are focusing on different people and a lot of the people have already done it. We've actually had the political parties have used their piece to put a check mark on it, and so we've added...that's how a majority of ours have been added to our list is that they've had a little box for people to check that they could be added to our list. So short answer, I don't know what I'd do. I just know what our budget hearings are going to be like this summer and I'm not sure that we could afford it. [LB631]

SENATOR PAHLS: Okay. So we at the state level are really putting the, I think to some degree, a stranglehold on some of the local governments, then this is something we ought to be careful of if it's coming across as a mandate. [LB631]

DAVID SHIVELY: I see it as a mandate, yes. [LB631]

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SENATOR PAHLS: Okay. Thank you. [LB631]

SENATOR AVERY: Senator Janssen. [LB631]

SENATOR JANSSEN: Thank you, Chairman Avery. Thank you for coming today. That's interesting. Maybe we could sunset that perhaps and do something along those lines. But are you saying that you...obviously you guys do this already. You have...but you can stop doing that, if you want, based on budget constraints, and you want to have...and certainly voter fraud is something that you're aware of and you want to make sure that it does not happen--and the sanctity of the vote is very important. So if we were to come up with a way to make that more reliable, make sure we have the right people voting and it costs nothing, would that be...and it wasn't a mandate, would that be something you're supportive of? If we told you it's not going to cost you anything... [LB631]

DAVID SHIVELY: You mean the state is going to be paying for it? [LB631]

SENATOR JANSSEN: Nope. [LB631]

DAVID SHIVELY: Just there's no cost. [LB631]

SENATOR JANSSEN: Whoever, but not you. [LB631]

DAVID SHIVELY: I don't have a problem with that. I'd love to get that extra \$6,000 or \$7,000 that we have that wouldn't come out of my budget if the state was coming up with it. [LB631]

SENATOR JANSSEN: So it's about the election. The election. But you're still...I mean I feel that you want to have the most reliable election; make sure the people that are supposed to be voting, are voting. [LB631]

DAVID SHIVELY: Um-hum. [LB631]

SENATOR JANSSEN: And if it doesn't cost you any more and it makes it easier for people to vote, the right people, you're okay with that. [LB631]

DAVID SHIVELY: Yes. [LB631]

SENATOR JANSSEN: Thank you. [LB631]

SENATOR AVERY: I would ask what you mean by right people, but I won't. (Laugh)
[LB631]

SENATOR JANSSEN: Well, let me...actually since...let me qualify that: people that are

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actually eligible to vote in the state of Nebraska haven't voted twice. Which we actually saw some voter fraud actually in Omaha here recently--people coming to the polls a couple times. That's what I meant by the right people to vote. [LB631]

DAVID SHIVELY: Right. And I'm not sure doing this is any different than what we currently do. Whether you have a permanent list or people are requesting absentee ballots, voting in person early at the office, I mean there's a variety of different ways to do it, and I'm not sure this, you know, this changes anything than we currently have. [LB631]

SENATOR JANSSEN: Thank you. [LB631]

SENATOR AVERY: Any other questions? Senator Schumacher. [LB631]

SENATOR SCHUMACHER: Thank you, Senator Avery. If...this is a good idea except for the fact that it costs money, and this is a service being provided to the voter. They don't have to put a gallon worth of gas in their car to go drive to the poll or wear out a pair of shoes walking to the poll. (Inaudible) we can figure out how to take care of somebody really genuinely too poor to do it, why not do it on a five-year registration basis and charge them 25 bucks? Cover all their postcards they get, five bucks a year. [LB631]

DAVID SHIVELY: I...that's an interesting point. It's almost...people are paying, in a way, to have the right to vote it seems like to me. [LB631]

SENATOR SCHUMACHER: I mean nobody puts gas in their car to go to the polls for free. [LB631]

DAVID SHIVELY: Yeah. [LB631]

SENATOR SCHUMACHER: And it's de minimis if they want to come in and sign an affidavit saying, golly, gee whiz, too poor, can't afford \$5 for this service for the next year--you know, we've got to pay for a pack of cigarettes--then, you know, I don't see where, you know, if they signed that affidavit and then we would do it for free or something. [LB631]

DAVID SHIVELY: I can only speak to the way it works for us, and this has worked well for us. It helps me and my staff manage our work flow. It's interesting when you say someone doesn't have to drive to our office. You'll be surprised at the number of people that hand deliver them after we mail them to us and then get their ballot and then hand deliver their absentee ballot back to our office too. And... [LB631]

SENATOR SCHUMACHER: We're saving gas. And at \$10 a gallon that might be

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something. [LB631]

DAVID SHIVELY: Yeah, depending on what part of Lancaster County they're coming from to get to our office, which is in the central part. [LB631]

SENATOR SCHUMACHER: No further questions. [LB631]

SENATOR AVERY: Okay. Senator Brasch. [LB631]

SENATOR BRASCH: Thank you, Chairman, and thank you, Mr. Shively. Do some counties also publish that in the newspaper? I think I've seen it in newspapers. [LB631]

DAVID SHIVELY: Right. We're required by state law to publish it in the newspaper. [LB631]

SENATOR BRASCH: The early voter. So they do have... [LB631]

DAVID SHIVELY: The early voter application. [LB631]

SENATOR BRASCH: Right. So they could get it through that means and also register on a permanent basis. It wouldn't necessarily have to be a mailing. [LB631]

DAVID SHIVELY: Right. We're required by state law to publish an absentee ballot application in the newspaper, general circulation of the county, prior to the election, and I don't remember how many days prior we're supposed to do that. We usually publish it around the first day that absentee voting can start. Absentee ballot application or early vote applications are also available on the Secretary of State's Web site as well as many of the county election officials' Web sites too. Those are available there as well. [LB631]

SENATOR BRASCH: So it's not always necessary to be an extra mailing. But you do have that just as a verification. [LB631]

DAVID SHIVELY: No. I mean we do mail this out but, in addition, that's where that application is at as well. [LB631]

SENATOR BRASCH: Okay. All right. Thank you. Mr. Shively, thank you. [LB631]

SENATOR AVERY: Senator Pahls. [LB631]

SENATOR PAHLS: Yes, thank you. And that made me think a little bit. Are you required by law to send a postcard telling people where their polling place is? [LB631]

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DAVID SHIVELY: Only if you move their polling location. You're required the first time they register to vote; they get a polling place card telling them where their polling location is. If you would move that polling location, let's say the facility that you use as a polling site for Precinct A, you can no longer use that facility that Precinct A normally voted in and you move that polling location, then you're required to notify the voter that you moved their polling location to a different location. So that's the only other time. We're not required annually or before every election to notify all voters of their polling location. [LB631]

SENATOR PAHLS: Okay. I think that I get a card all the time, and I've voted in this same place. Is that just Douglas County doing that then? It tells me where to vote--and I have several people in my family. [LB631]

DAVID SHIVELY: I know Douglas County did that at one time. Whether they still continue to do that, I don't know. I know that they used to do that. [LB631]

SENATOR PAHLS: Okay. Okay. That's...okay, thank you. [LB631]

SENATOR AVERY: Any more questions? Don't see any. Thank you. [LB631]

DAVID SHIVELY: Okay. Thank you. [LB631]

SENATOR AVERY: Any more opposition testimony? Anyone wish to testify in a neutral position? Senator, you may close. [LB631]

SENATOR COOK: Why, thank you, Mr. Chair and members of the committee. I've appreciated your attention and all your thought-provoking questions this afternoon. I'd like to first address some of the opposition testimony. There was testimony today that a permanent early voter request list will lead to increased costs for local governments, election commissioners, and county clerks due to increased postage or things like that. I would offer that maintaining this list results in more predictable workload, and we had testimony to that effect just now from Mr. Shively. More predictable workload for the offices administering the election. Additionally, encouraging citizens to vote consistently by mail will reduce congestion at polling places and lead to more predictable workload for staff members handling the early vote ballots. Ultimately, however, we as policymakers should ask ourselves whether a greater engagement in and possession of our state's democracy is worth more than the postage that delivers it. As you're all aware, we're witnessing uprisings in the Middle East and within the United States as well by persons who are envious of the freedoms that so many of our fellow Nebraskans seem to be taking for granted. Voter turnouts in even high profile elections are often small, which is very personally disheartening for someone like myself. LB631 creates a public policy that encourages and facilitates greater engagement with our democracy. Again I appreciate your consideration and support and your questions, and would ask

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for the advancement of LB631. Thank you. [LB631]

SENATOR AVERY: (Exhibit 2) Thank you, Senator Cook. Are there any more questions? Thank you very much. I have...before we end the hearing I have one letter to be entered into the record in opposition to LB631 from the Holt County Clerk. That is the hearing on LB631. We'll now move to LB605 and invite Senator Conrad, who is not here yet, to come forward. We're going to skip over that one and come back to it whenever she arrives. Are you okay with that? Okay. Thank you. LB605, Senator. [LB631]

SENATOR CONRAD: Good afternoon, Chairman Avery, distinguished members of the committee. My name is Danielle Conrad; that's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d, and I represent the "Fighting 46th" Legislative District here in our Nebraska Unicameral district...or Unicameral Legislature. Sorry, it's been a long day. (Laugh) Maybe I should stick to the script. Nonetheless, LB605 allows for election day registration at the polls while simultaneously addressing the past concerns of election officials and members of the committee. Election day registration is a proven method of increasing voter turnout among highly mobile populations without compromising the security of our election system. Currently, nine states allow election day registration: Idaho, Iowa, Maine, Minnesota, Montana, New Hampshire, Wisconsin, Wyoming, North Carolina, and the District of Columbia. All of these states have had smooth and secure elections with some of the highest voter turnout rates in the country. The advantages of election day registration are numerous. States with this provision boast higher than average voter turnout, have fewer provisional ballots, experience insignificant increases in costs or administrative difficulty, and have the benefit of enhanced participation in our democratic process. According to the United States Election Project, states with election day registration, on average, have about a 7 percentage point higher turnout than states without this option--and that was based on the November 2008 election. The top five states in terms of voter turnout all had election day registration. A 2008 Demos study on the potential effect of EDR or election day registration in Nebraska estimated that overall turnout could increase by nearly 5.4 percent and as high as 10 percent among highly mobile student populations. And I do believe that actually this same group just recently, maybe even today, has released an updated version of this report with new numbers. So we'll be happy to share those with the committee as they become available, and potentially, testifiers after me may address those as well. Finally, it's important to note that the right to vote is a fundamental right under both the State and the U.S. Constitution. If you look at Article I, Section 22, of the Nebraska Constitution, it clearly states: "All elections shall be free; and there shall be no hindrance or impediment to the right of a qualified voter to exercise the elective franchise." A citizen going to the polls to exercise their fundamental right to vote is much different than applying for college on time, applying for a visa, or even a job, none of which are fundamental rights and justify this current barrier to full participation. In addition, LB605 solves the administrative issue that is often brought up by Nebraska election officials: how to assign the correct ballot to each voter so that many ballot splits...because Nebraska has

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so many ballot splits. LB605 requires a printed list of all physical addresses with the corresponding ballot style in each precinct. This has been tested in a few Nebraska counties and can be done with our current voter file. These physical addresses and corresponding ballot lists would be incredibly helpful to identifying the correct ballot in our provisional ballot process. Unlike previous same-day registration bills that have been previously brought before this committee, my legislation also requires a valid ID component with it and proof of residency for those who wish to vote on election day. This is quite literally twice the amount of information required by a regular voter. I believe the requirement of the ID is not necessary and not required in other EDR states, but I'm willing to compromise and put out some issues for thoughtful consideration in terms of potentially putting the burden a bit higher to ensure the integrity and security of our electoral systems by moving in this direction. The legislation and the permissible forms of identification that I tried to utilize in this proposal is based off of what's acceptable in Colorado. And I understand in visiting with committee counsel and proponents prior to the hearing today, that I'm not sure if the bill, as proposed, clearly carries out some of my intent in terms of how these identification requirements match up. So we'll be happy to work with the committee on those technical or substantive amendments if need be as we move forward. Finally, I am hopeful that LB605 takes to heart and addresses some of the concerns of election officials that have been brought in the past on these topics, and I think that you will have a very invigorated dialogue from the testifiers behind me today, and I urge your thoughtful consideration of this very important topic. Thank you. [LB605]

SENATOR AVERY: Thank you. Let me ask you one question: With respect to the requirement of an ID, you don't require that of nursing home residents, right, in this bill? [LB605]

SENATOR CONRAD: I think...yes...and to be clear, Senator Avery, it's, as you can see, a very, very lengthy bill and I acknowledge that there may be some technical drafting issues in terms of intent and what was actually proposed. That would be my fault and something that we would have to address. But the point is, I think, is that rather than having a strict photo ID requirement, we do have to strike a balance between the integrity and security of our electoral process and the fundamental rights for our citizenry to exercise their vote and to participate in the process. And I think the best way to do that, looking at litigation and experiences of other states, is to acknowledge that an identification piece might be appropriate but that a strict photo ID requirement is probably not the best way to meet that balance that needs to exist in the law, because of a variety of problems with all citizens, particularly vulnerable populations like the elderly, in accessing that. [LB605]

SENATOR AVERY: Do you think that there might be an equal protection issue here if some voters are required to show ID and some are not? [LB605]

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SENATOR CONRAD: Well, I think that if, subject to any challenge down the road, and we've started to talk about some of these issues on other topics thus far already this session, and any sort of constitutional analysis, you have to first determine the appropriate standard of review and the level of scrutiny. And considering that a fundamental right is involved, it most likely would receive the highest, and then the compelling state interests would have to meet that. So I think that's something that we should think about as we move forward, but in trying to again achieve that balance I thought it might make sense to have some different requirements. [LB605]

SENATOR AVERY: Thank you. Any questions from the committee? Senator Sullivan. [LB605]

SENATOR SULLIVAN: Thank you, Senator Avery, and thank you, Senator Conrad. From a purely logistical standpoint and looking at the right to vote and having access to vote, what are the potential, literal, logjams of going through this process on election day that might even eliminate somebody's opportunity to vote by the time the polls close? [LB605]

SENATOR CONRAD: I think that if we can start from a point of agreement that in many instances people who would otherwise be eligible to vote and participate in an election have not been able to perfect that registration by the required time frame now in law, and this type of idea would improve their ability to participate on election day, if we can start from that consensus point I think that we can work through the logistical and implementation issues if there is some sort of an agreement there. When it comes to the actual implementation and logistical issues, I think a variety of things. One, technology is changing every election cycle--every day for that matter. And that helps us to ensure that we can have an efficient process which would allow for people to meet the time frames which are a very short window on election day, from 8 a.m. to 8 p.m., and be, I think, responsive to real burdens on poll workers and to try and balance that again with helping people to fully express their fundamental rights. We do so already in terms of how we now accept and treat provisional ballots, say, for example, which adds a new and different level to traditional voting, and I think it's been implemented quite well in Nebraska. [LB605]

SENATOR SULLIVAN: Thank you. [LB605]

SENATOR AVERY: Senator Schumacher. [LB605]

SENATOR SCHUMACHER: Thank you, Senator Avery. Senator Conrad, why don't we just have an auto registration process? You get a driver's license or a state ID and you're registered. I mean why do we make people go through an extra step? Now granted, there may be a teeny tiny percentage of the population that doesn't have a driver's license or a state ID, and, you know that may be problematic. We have to do a

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stopgap thing there. But why mess with voter registration? Why don't we just register them when they get their identification card? [LB605]

SENATOR CONRAD: Senator, I think that's a great question and I think it's exactly one of the reasons why I brought a piece of legislation like this forward, because we've seen a natural progression and an evolution in our statutory framework to constantly expand opportunities for voter registration, whether through motor-voter, you open up your phone book, you can find an application in there; we now have resources related to on-line registration and otherwise. So maybe we should think about heading in that direction, but I also believe that there is probably maybe a First Amendment concern in terms of automatically requiring people to register to vote when I imagine it may be a political statement that they choose not to register and not to vote. So there's an inverse I think, maybe, potential First Amendment problem there, but I'm not sure about that. It's just something I was brainstorming when you mentioned it. [LB605]

SENATOR SCHUMACHER: You would think if they don't want to, they can check a box and (inaudible). [LB605]

SENATOR CONRAD: They could opt out. Yes, if there was an opt-out format, that might fix that kind of a problem, but...and I don't know. I'm just kind of engaging in some academic dialogue at this point in time. [LB605]

SENATOR SCHUMACHER: Thank you, Senator. [LB605]

SENATOR AVERY: What do you say, Senator, to people who argue we shouldn't be making voting so easy; that there is a responsibility on the part of the voter to find out when the deadlines are, to get their registration in early, and by golly, let's make them do that; let's not make it easier. What's your response to that? [LB605]

SENATOR CONRAD: I think that we should make it as easy as possible for all qualified and eligible voters to vote and fully participate. That is a philosophical position that I hold, that I would hope we all hold, because it's critical to how our democratic system works. And the more, and the more diverse voices, that participate in the democratic system ensures a stronger system and a better outcome. And so I think that, particularly in a modern world, recognizing the difficulties and the strain on individuals, families, and vulnerable populations, that sometimes those deadlines can be missed. And it's important that we remove the hindrances and barriers that may arbitrarily exist to ensure full participation for those who wish to engage as such. And I think that's what we as senators should encourage rather than deny. [LB605]

SENATOR AVERY: Thank you. Senator Pahls. [LB605]

SENATOR PAHLS: So you're telling me you're a proponent of immediate gratification.

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(Laughter) [LB605]

SENATOR CONRAD: In this instance, yes. [LB605]

SENATOR AVERY: Senator Janssen. [LB605]

SENATOR JANSSEN: Thank you, Chairman Avery. I have no such question along those lines. (Laughter) I will say if it's been a long morning, it's probably going to be a long night for us, and there's...again, that has nothing to do with what he just said, (laughter) speaking of our interview later tonight. But philosophically, and this will come as no surprise to you in our time working together, that I'm fundamentally opposed to this idea. I am intrigued by the ID part of it, however, which I have a bill up right after...almost before you, because you didn't quite get here and I about got shuffled ahead of you. And so you bring up many great points on that. But the one thing you brought up is about making it easier for people--qualified people I assume... [LB605]

SENATOR CONRAD: Yes. [LB605]

SENATOR JANSSEN: ...to--qualified being qualified electorates--to vote, and saying that it should be easy, they should be able to do it right away. But then you backtracked a little bit I think unintentionally with: but they have to have this ID. And then you kind of analogized to: but going to college you have to apply for it, you have to do that ahead of time. In order to get this ID, one would assume you also have to plan ahead to do that. So is...I think there's a question in there. [LB605]

SENATOR CONRAD: I think there is and I'm going to at least attempt an answer, and if there's some follow-up that's okay too. I'm going to be very candid with this committee because you know, Senator Janssen, that's my style. Actually the ID component contained in my legislation is meant purposely to be an alternative to some of the legislation that you've proposed. And if this committee is serious about moving forward in that direction of creating an ID requirement as a prerequisite for voting or otherwise, I think it should be more expansive than a photo ID. I think that looking at the experience of other states and the litigation that has ensued when those kinds of policies have been adopted, that we need to recognize that those forms of photo ID may not be available to all citizens. And that by....again, my model was based on Colorado, where they have literally a laundry list of other forms of acceptable identification that would be available for people to bring in. And those are some technical issues again that we may have to address in the drafting. But if we do have serious concerns about electoral fraud or integrity or those kinds of issues, which I don't think have been widespread in Nebraska, to be very clear, I don't think they're well documented, I don't really think that those exist. And I think that's great. But if those are real concerns that this committee wants to move forward to address, I think that any sort of identification requirement has to be much, much more broad than just a photo ID. And I think that, you know, previous

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introduction surrounding similar legislation has not moved through the process. And I was hopeful that by adding another layer of maybe security or peace of mind to this with an identification piece, that would be something fresh to look at and hopefully given maybe a second thought or an additional consideration. Is that close? [LB605]

SENATOR JANSSEN: No, no. That's spot on. [LB605]

SENATOR CONRAD: All right. Okay. [LB605]

SENATOR JANSSEN: I appreciate that. [LB605]

SENATOR CONRAD: Yes. [LB605]

SENATOR JANSSEN: And what I've just said, philosophically I think we know where we stand on this, but personally, for me, it comes from the first time I cast a presidential ballot. And people on this committee may know it, I did it from the Persian Gulf via absentee. And I guess I wasn't a responsible college student at the time. I...and you said there was a lot of strain that happens. And a lot of times this is brought by a group of, I guess, undergrads if you will. [LB605]

SENATOR CONRAD: Sure. [LB605]

SENATOR JANSSEN: I've been in this committee for, well, now, three years. I'm a big salty veteran now. It's a little bit disheartening to me when I see that they're coming, looking for easier ways to vote, when I was, personally speaking, working 15 hours a day in a combat zone. Found the time to go down to a mail room in my very little off time to do what I consider my civic duty and verify everything to do that. And so I'm probably...probably never going to get over that when I see...and I went to college too, and I found myself with an abundance of time. I just chose to spend it in other ways sometimes. So that's where my opposition comes from. I just don't...don't you worry just a little bit about making it just so easy and so influential that we could walk down O Street, is it? Is that the bar street here in town? I never...you went to UNL; I wouldn't know. [LB605]

SENATOR CONRAD: Yes, yes, yes. [LB605]

SENATOR JANSSEN: Maybe I would. I don't know. But and then just a little...as a public servant, you know, people going around. We've seen it in Omaha. I am now a qualified electorate; that's fine. But it just kind of reeks a little bit when you're pulling people out of homeless shelters that probably have no idea; paying people to vote, which has been documented. And you're right, there has been not much fraud in Nebraska. We can thank the Secretary of State for that. He's done a great job. But also that's kind of like trying to find fraud when you allow people to enter a park freely and

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you don't charge admittance, because we're really not checking for anything right now. So I know I threw a lot at you... [LB605]

SENATOR CONRAD: That's okay. I can handle it. [LB605]

SENATOR JANSSEN: ...but I always know you'll come back with that, and a lot more, so. [LB605]

SENATOR CONRAD: Sure. And I think a couple things. You're absolutely right, the Secretary of State's Office. Here is something we can definitely agree on, and the fantastic poll workers that we have across this great state are responsible for ensuring very orderly and appropriate elections in Nebraska. And we can't, I think, say enough good things about their good work. So you're absolutely right there. Going to, you know, I think it's a matter of probably public record, at this point in time, that regardless of the fact about what happened in recent elections in Omaha, I was not privy on the ground to any of those situations. And I think they're currently under investigation, so I don't know if it's fair to say that it's been documented that people were paid for their vote or not, and that's just a point of clarification. The first point, kind of working backwards then, a dissonance that you see in terms of the experience you had as a young person involved in military service who went through a variety of requirements to ensure that you could exercise your vote, and kind of seeing that as a lack of responsibility or initiative if people don't do so now and, instead, would turn to election day registration. And I think the important thing to remember is, Senator Janssen, in our democratic system and, particularly when it comes to the exercise of fundamental rights, and the most important thereof at the ballot box, the principles of our law, statutory framework, and patriotism require that regardless of your age, your position in life, your participation in military endeavors or not, everybody has a right to vote who is otherwise not disqualified and should have the full opportunity to exercise that--and their vote should count equally. And that's what a democracy is about. And so anything that we can do to remove barriers that may exist and that do affect populations that are more transient, more negatively: low-income folks, students who sometimes have a great deal of misunderstanding about if they're supposed to register back home and vote, are they supposed to register in their new campus residence, or in their new adopted city--and I think that Nebraska's law is purposely flexible on that point. It allows you to choose the residence that you seek to engage that right in and to follow through with that. But my point is, at the heart of it, is that we have nothing to fear by greater participation by our citizenry in our democracy. And indeed, as elected officials, we should do everything in our power to ensure that that happens. [LB605]

SENATOR JANSSEN: And we should ensure that the qualified people should vote. [LB605]

SENATOR CONRAD: Yes. Yes. [LB605]

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SENATOR JANSSEN: And that's just again, with my... [LB605]

SENATOR CONRAD: I agree. I think there's a total agreement there. There's not a values difference there. [LB605]

SENATOR JANSSEN: That's just where I kind of always separated on this issue, is you just talked about sometimes...I have a lot of faith in our college students. In fact, one is probably going to testify here that I talk to quite regularly about this issue, and we're on opposite sides of it. But it's just...you're a college student. Fundamentally, you're supposed to be our future--bright. I guess maybe I wasn't bright. I went to the military right away, and at the time it probably was, as many on this committee think, it probably wasn't the best decision at the time but I figured out how to do it. It wasn't that hard. It was pretty easy to do. And I just...what pains me when I see these people come here is that...that are not working their efforts toward...I was involved on a college campus and we tried to get people registered--the right way. Not make it easier. I mean get registered...it's not that hard anyway to get registered. So I think it's misguided sometimes. There's no question there. I'm sorry, I was just... [LB605]

SENATOR CONRAD: No, I think that, you know, every member of this body and every member of this audience salutes the patriotism as exemplified through your military service. But to be clear, this legislation isn't directed to college students. That is indeed a population that would benefit, as experienced in other states that have adopted this kind of an idea and moving forward; but it applies equally to all citizens that, who for whatever reason, have not been able to meet the registration deadlines. And again I think that's really important to remember, because it has the potential to affect citizens in every corner of Nebraska, from every political philosophy, from every socioeconomic status. And my point is simply we should do all we can to make sure those who are qualified to vote have the ability to do so, and the administrative kind of barrier that exists currently with the preregistration is something that I think in a modern day can be removed. [LB605]

SENATOR JANSSEN: Thank you, Senator Conrad. And we could... [LB605]

SENATOR CONRAD: Yes. Thank you. Appreciate it. [LB605]

SENATOR JANSSEN: And we could probably spend tonight talking about this too. [LB605]

SENATOR CONRAD: Yes, yes. Great. Thank you. [LB605]

SENATOR AVERY: Senator Price. [LB605]

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SENATOR PRICE: Thank you, Chairman Avery. Senator Conrad, thank you. I have like a two-part question, but I'm going to preface it with a statement. If we could have a--and I have had this conversation with others--if we could have a biometric card, you know, that means that I know that the person who has the card is that person... [LB605]

SENATOR CONRAD: Okay. [LB605]

SENATOR PRICE: ...and we could figure out a way to get all our split ballots taken care of, which is problematic... [LB605]

SENATOR CONRAD: Okay. [LB605]

SENATOR PRICE: ...I wouldn't mind if you voted at Baker's as long as I knew the right person was voting on the right ballots. You could do it anywhere. You could move anywhere in the state, I wouldn't have a problem. But our IT infrastructure won't allow it, but we're going to get there one day--you can put your thumbprint and go vote. But now that said, it looks to me that Section 14 and 30 of your bill are the critical aspects of your bill here. Section 14 starts to talk about, you know, what forms of ID; and Section 30, situations where they depend on Section 14 to be utilized. So I'm looking at it and I'm reading, and I get particularly to page 15, paragraph 2, line 9, where you have a big "or" in there, like (inaudible) a valid military ID or...and we get down to a paycheck or a utility bill. Problematic right there, because I can't ensure that the person who we spent ten minutes talking about is a qualified voter if they're giving me a paycheck, with all the legislation we've had before about, you know, improperly documented individuals for our state. And so that's what...but what even perplexes me more is that in that paragraph 2 we say if it's your first time you've ever voted in the state, the first time you're registering, you could use a paycheck or a utility bill or the other forms. But further on, if you're already registered in the state, then you have to use an ID. It's like we have a more stringent if you're already registered in the state versus the first one that I could probably...it almost sounds like I could use a couple box tops to go in there. So that's problematic, which leads into my final question, part of my question: Do you know, has the Supreme Court upheld any photo ID laws for any states? [LB605]

SENATOR CONRAD: Okay. There is a lot there. But it sounds like at the outset that you're saying if the technology existed appropriately you wouldn't have a problem with same-day registration so that we can ensure ballot integrity, voter integrity, those kinds of issues. [LB605]

SENATOR PRICE: Integrity. That is correct. [LB605]

SENATOR CONRAD: Okay. Okay. So there's...that's a good place to start I think. And then a couple points as we move forward here. One, the additional forms of identification that are listed, kind of a laundry list in this legislation again are based off of

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other states' experience, and most notably Colorado's, which is just where I went to get help in drafting this law and looking at the legislation or the statutes that they had in place, and knowing full well that there has been a variety of different outcomes for different pieces of litigation that have moved forward in other states based on their identification laws or photo identification laws. And I think it's fair to say that there's a real mixed bag in terms of conclusion, and that in order to be safe, the safest, if Nebraska chooses to move forward in this direction, we should take a more expansive view of appropriate identification rather than a more limited one to ensure that we have a sound law that minimizes potential litigation. I want to also point out that this legislation, of course, does not remove the potential criminal penalties for those who would choose to defraud our system. And so it requires much more than bringing in a bunch of box tops, as utilized in your example, but legitimate pieces of identification that most everyday people would have available to facilitate their participation in our democratic process. And if they do so in a fraudulent manner, they are still subject to criminal and civil penalties. [LB605]

SENATOR PRICE: So...but, okay, and then I'll let it go. Just the idea being I would argue that I would go with the set of parameters--because this is sweeping reform--I would go with the parameters of the most restrictive law that was passed, whether it be Indiana's or I believe South Carolina, one of the southern states had one that went to the Supreme Court and was upheld, and so I believe Indiana's was also. And I would use one that's more restrictive than one more expansive. So give me the best, that's passed the supreme test, instead of giving me the widest open to anything that I'm not even sure if it's passed the test yet of the Supreme Court. Do you see what I'm saying,... [LB605]

SENATOR CONRAD: No, I don't (laugh)...but (laugh)... [LB605]

SENATOR PRICE: ...to understand. In other words, to make sure that we maintain the integrity of the system. Then as we have the technology and other available, and if you want to open it up it's a lot easier to let the camel's nose and all that we talk about, it's a lot easier. But to use something that can prove it, then all the way through to the Supreme Court and upheld, I think that's a great place to start. [LB605]

SENATOR CONRAD: And I think that we can have a sincere difference of opinion here, but I don't see this as sweeping reform. I see this as a natural progression in terms of ensuring every qualified member of our electorate who has the right to vote and who chooses to vote, can do so. And it is indeed based on experiences that have been found to work in other states, and I think that as the great laboratories of democracy we should benefit from that experience. And rather than narrowing the qualifications that help people participate in our democratic system, we should look at them more broadly. [LB605]

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SENATOR AVERY: Senator Schumacher has a question. [LB605]

SENATOR SCHUMACHER: Thank you, Senator Avery. Senator Conrad, I want to thank you for this discussion. It's one of the, in my long... [LB605]

SENATOR CONRAD: It's a fun day over here. [LB605]

SENATOR SCHUMACHER: ...my long six weeks here, it is one of the best, and I think we need a whole lot more like them. So I'm going to pursue it just a little bit more if you have patience with me. [LB605]

SENATOR CONRAD: Sure. [LB605]

SENATOR SCHUMACHER: You made a comment that intrigued me. You said we have nothing to fear from our further facilitation of democracy. But isn't it a general perception of those who happen to hold power, whether it's in the Mideast or in Nebraska, that we have something to fear from the expansion of democracy? [LB605]

SENATOR CONRAD: Absolutely. And I think that sadly there are a lot of assumptions inherent in both sides of this debate or that can exist. And I've heard from people as I was preparing for this legislation: You know, well, we shouldn't help those folks that are too lazy to register or who don't have the same kind of information and haven't made themselves informed citizens to the level that I have, or you and I have who, you know, every day, read the papers and register on time and vote on time and vote frequently. And, you know, I think that again kind of goes back to the train of thought that came forward in our dialogue with Senator Janssen. At the ballot box, what we read is not tested. What our background and education is, is not tested. Those former limitations, whether they be through poll tax, property requirements, other sorts of limitations that previously existed on the right to vote, have been steadily eroded, and we've seen a more expanded and enfranchised electorate for good reasons, because we're talking about fundamental rights here. And it is not for you or I or others to say what the qualifications are to be an informed and engaged citizen other than they don't have the criminal record that would otherwise prohibit them from fully participating or they're at the minimum age requirements--you know, the basic kind of parameters that we can agree should exist. But instead, it's not for you and I to say what a person needs to do in order to feel like they are prepared to cast a ballot. That is an individual choice that I fully believe that individual citizens can make for themselves. And if they decide that they may not have had an opportunity to register on time but they have enough information about the candidates before them or the issues before them that they would like to weigh in on, then they should have the right to do so. [LB605]

SENATOR SCHUMACHER: Whether it's this reform, whether it's the reforms of some of the other things we've seen before the committee and probably will continue to see, it

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seems that always we get back to, well, a reform means a less secure system and we wrap ourselves in securities of defense against change. Is this system any less secure than going out and a petition circulator handing you a form and having you sign it and then sending it back in and...? I mean is this less secure, in reality? [LB605]

SENATOR CONRAD: No, I don't believe it is, Senator. And that petition circulators are a whole other story. (Laugh) But I bet it is a lot of fun to sit on this committee and have a chance to hear all of those, those issues that come forward. And as in any area of law that comes before us, there are competing and divergent interests that we must seek an appropriate balance among. And I think that it is part of our duty to ensure that we have a system that is secure and has integrity, and that limits fraud or potential abuse when we can. But we have to balance that against the fundamental nature of the rights involved here. And just because it's new or scary or something different than we've done in the past doesn't mean that's a bad thing. We should continually be evolving our public policies to embrace technology, to address the experiences of other states, and to move forward with positive change. That's actually one of the most exciting opportunities that we have available in this body and in these positions. And so I'm hopeful that this debate will continue. [LB605]

SENATOR SCHUMACHER: Thank you very much, Senator. [LB605]

SENATOR CONRAD: Thank you. [LB605]

SENATOR AVERY: Any other questions? Are you going to stay around? [LB605]

SENATOR CONRAD: I may. (Laugh) [LB605]

SENATOR AVERY: The afternoon is almost gone. (Laugh) [LB605]

SENATOR CONRAD: All right. I'll reserve the right to close at this point in time. But thank you for the fantastic questions and I know that there's going to be a lot of good testimony on both sides coming behind us, and again will commit to work with the committee if you choose to move forward in this or any other direction to address some of the substantive and technical errors that may be present. Thank you. [LB605]

SENATOR AVERY: Thank you, Senator. Proponent testimony. Welcome again. [LB605]

ADAM MORFELD: (Exhibits 1, 2, and 2-A) Thank you. Good afternoon. My name is Adam Morfeld; that's A-d-a-m M-o-r-f-e-l-d, and I'm here on behalf of Nebraskans for Civic Reform. I know there are several new members of this committee, and I've met with everybody individually, but I would like to emphasize what the purpose of Nebraskans for Civic Reform is. We are an organization that's an all-volunteer organization. We're nonprofit, nonpartisan. We have a lot of members who are

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Republican and a lot of members that are Democrat and one or two members that are Independent, and we're dedicated to improving our civic institutions here in Nebraska--and that's just a little bit about us. I think sometimes I kind of get lost in translation when I'm talking to you about what we're trying to push, and forget to tell you who we are. First off, myself and Nebraskans for Civic Reform have been working on election day registration for about four or five years now. This is my fourth time testifying before this committee on this initiative, and I fully intend to do it until I'm 70 or 80, and I intend to be in Nebraska so you'll probably see a lot more of me; however, there are term limits so you'll probably get lucky at one point. (Laughter) So that being said, the reason that we started on this quest, if you will, is that a lot of young Nebraskans are disproportionately affected by registration deadlines. And these registration deadlines don't exist in nine other states; that's almost one-fifth of our states. As a residence director, and during the 2008 election, I saw no more than at least eight or nine potential first-time voters unable to vote. Many of them were registered already in the state but they weren't registered...they didn't know they had to reregister within the state because they had never voted before. So they realized: Well, my voting location is three or four hours away; I can't make it. So that's one of the issues that came up and kind of led to this. In addition, as a poll worker during the 2010 midterm election at the City Campus Union at UNL, I turned away no fewer than 25 young voters, many of them that would not make it back to their hometown to vote on time, many of them that were already registered. And that was just myself alone. I don't know about my other fellow poll workers. Election day registration, however, it should be remembered not only benefits young voters and students, but a lot of other members of our population. The Demos policy brief that just came out has updated numbers based off Nebraska's election system, estimated that overall turnout could go up by about 4.4 percent; turnout among those aged 18-25 could go up about 8.9 percent; and then turnout among those who have moved in the last six months could go up about 7.5 percent. I'll submit this to the record if one of the pages wants to get it. I didn't...I only have one copy; I apologize. I know that there's going to be a lot of debate and a lot of testimony on this today so I'll try to keep my comments fairly brief, but I want to go through some of the issues about election day registration and address some of the things that opposition will most likely bring up. First off, it's true that Nebraska has an unusual amount of political subdivisions and, thus, different ballot styles or faces as Senator Price brought up. And thus, that does complicate the process in which the right ballot is given to the right voter. However, LB605--and I don't know if Senator Conrad brought this up--solves this issue by requiring a county election official to print off a list of all physical addresses based off the voter registration database and their street file. This is a system that's currently in place across the state. I've talked to one county clerk who is a rural county clerk and one county clerk who is in a more urban area, and they've both been able to print off this list easily with their current system. One of the many benefits to a statewide voter registration system is that the street file has the ability to accurately and automatically assign voters to the correct precinct. It also identifies ballot style. So this list can be printed off for each precinct. In addition, precinct workers across Nebraska currently

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work with a large number of ballot splits and regularly make determinations on which ballot style should go to the voter when the voter has to vote provisionally. So currently, they're already identifying which ballot has to go to the voter when the voter has to vote provisionally. Despite the record number of turnout voters during the 2008 election, there were no major problems and Nebraska poll workers demonstrated their ability to process a high number of ballot styles. Last year, the Secretary of State...or excuse me, I think it was two years ago actually, the Secretary of State testified that approximately 90 percent of eligible Nebraska voters were already registered. This unfortunately has little bearing on what EDR is trying to accomplish. For instance, during the 2008 general election, 50 percent of Iowa voters that utilized the EDR were already registered in the state of Iowa. They just moved somewhere else. Many voters who utilize EDR are already registered, but moved and did not realize that they had to reregister after they had moved to a different county, until the registration deadline had passed. Secretary Gale also noted in his testimony that he believed that when looking at EDR it was really a registration issue and not a turnout issue, and he did not believe EDR would promote voter turnout, but rather, he believed that what promotes voter turnout is the excitement of the candidates and the excitement of the issues. However, it's proven that in EDR states that's not the case. There's an average 7 percent higher turnout among EDR states, and that's fairly significant. (Security siren) That's doesn't sound good. (Laugh) Another misconception is that the voter who utilizes election day registration is either lazy or uninformed. If registration deadlines are the litmus test on whether or not someone is too lazy or too uninformed to vote, and you (inaudible) of the state has the responsibility to ensure informed voters by limiting voting to only those informed voters, then what about the individuals who have been registered in the same place for 20...(recorder malfunction)...and have never had to reregister, and just show up to the polls every election? Are they suddenly more informed than the person that just registered ten days before the election or on election day? Finally, election day registration does not promote fraud. In fact, it requires individuals to register in person in front of an election official. In this bill, it requires proof of residency and a photo ID. Almost done. [LB605]

SENATOR AVERY: You have a red light. [LB605]

ADAM MORFELD: Okay. I'll just finish up my comments here. Our board has very mixed reactions on this photo ID requirement. We wanted to work with Senator Conrad to bring up another alternative to that. We're willing to work with whoever is interested. However, that is an issue that is hotly debated among our board and among other individuals, and something we're a little bit hesitant with. In conclusion, I would just like to note that election day registration minimizes eligible voters from being disenfranchised by arbitrary deadlines in an accessible and secure manner, and I urge all of you to support this legislation. [LB605]

SENATOR AVERY: Thank you, Mr. Morfeld, even though you did go over. [LB605]

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ADAM MORFELD: I apologize. (Laugh) [LB605]

SENATOR AVERY: Senator Janssen. [LB605]

SENATOR JANSSEN: Thank you, Chairman Avery. Welcome back. [LB605]

ADAM MORFELD: (Inaudible). [LB605]

SENATOR JANSSEN: First off, Mr. Morfeld, I applaud you in your efforts. You've been here longer than me, actually. [LB605]

ADAM MORFELD: (Laugh) [LB605]

SENATOR JANSSEN: And, term limits, you'll probably be here after me. But I applaud that you keep coming back with this same issue because you so deeply believe in it. However, I do not, but we've had these discussions before, but. So the photo ID, that's an issue with you, and yet you're still encouraged...I guess you also want legitimate elections. [LB605]

ADAM MORFELD: Um-hum. [LB605]

SENATOR JANSSEN: Can you see where not showing an ID would probably, I guess, cloud the subject a little bit when somebody shows up? If we didn't have to have driver's licenses, how would we know if people are legal to drive? So I applaud...the one thing I applaud Senator Conrad for is the ID part of it, although it's probably not going to stand up constitutionally, but. Then...but that, your board...I'm curious as to why that is such an issue, especially for something that is so, well, "day of." It's...so it would be just like me just showing up at the cafeteria and saying I want to come in here and I have no money, but just take it; you don't know who I am. Help me with this. [LB605]

ADAM MORFELD: Certainly. Other states that have election day registration require some kind of proof of residency. So you've got to come in with a utility bill, something that's no more than 30 days old that shows your name and where you live. That way there's kind of that component of making sure they're in the right precinct and they are who they say they are to a certain extent. Our board is very split on the voter ID requirement. We'll be testifying in opposition to your bill today; we can get to that later, I suppose. However, one of the things that we are supportive is the overall concept of EDR. The difference between our bill and a full voter ID requirement is our bill solves the problem. It solves the problem of people being disenfranchised on election day. Now if there's a higher burden for that person on election day to show a little bit more identification, which there already currently is in EDR states--they have show a proof of residency--then that's something we're willing to look at. However, EDR solves a voter

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turnout problem and also solves a problem of eligible voters being turned away from the polls because of arbitrary registration deadlines. Whereas, a full ID requirement simply restricts individuals who are eligible to vote. So that's the difference. That's the philosophical difference. [LB605]

SENATOR JANSSEN: Well, isn't "day of" arbitrary? What's arbitrary? [LB605]

ADAM MORFELD: I think what's more arbitrary is something that restricts somebody from voting. "Day of" does not restrict people from voting. It allows them to vote on election day, whereas, our current system does not. [LB605]

SENATOR JANSSEN: But I would still say it's a little bit arbitrary. It's whenever you can do it. I mean... [LB605]

ADAM MORFELD: Okay, so even if you say it is arbitrary, though, Senator, it's arbitrary but it doesn't affect people's ability to vote. So, sure, it may be arbitrary, but it allows the maximum amount of leeway for people to be able to exercise their constitutional right--a constitutional right that's enshrined in our own state constitution, so. I think that's the difference is, yes, it's an arbitrary, but it's an arbitrary date that doesn't affect people's ability to exercise their constitutional right. [LB605]

SENATOR JANSSEN: Because it means so much to them that they wanted to wait until the last day to do it. [LB605]

ADAM MORFELD: A lot of people don't wait till the last day. A lot of people that utilize election day registration--Iowa is a great example--50 percent of them were already registered. They have already registered to vote. They simply didn't reregister wherever their new location is. And if the registration deadline is not necessary, which it's not necessary in nine different states, then why have it? Particularly if it affects the ability of a person to practice their fundamental right to vote. [LB605]

SENATOR JANSSEN: And you had to turn people away? You said you turned people away as an election worker? [LB605]

ADAM MORFELD: Absolutely. I mean they could have voted a provisional ballot, but they're registered in Omaha. They hadn't registered in that area, so we told them that, well, if you're registered in Omaha, you have to go back to Omaha, or if you're registered out west, you have to go to your polling place out west. [LB605]

SENATOR JANSSEN: Was that restrictive on them? [LB605]

ADAM MORFELD: I would think so. They weren't able to vote. [LB605]

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SENATOR JANSSEN: Yet I was able to do it from the sea in the Persian Gulf, but they couldn't do it from campus in Lincoln? [LB605]

ADAM MORFELD: Certainly, Senator. I mean...yes, you did it from the sea in the Persian Gulf, and I'm not quite sure what the requirements are for a service member to... [LB605]

SENATOR JANSSEN: Well, it used to be much different, much more restrictive,... [LB605]

ADAM MORFELD: Did it? Okay. [LB605]

SENATOR JANSSEN: ...much more difficult than now. But my point being the University of Nebraska has an entrance exam. They have ACT tests. There are high-achieving academic standards. They have deadlines for applications. [LB605]

ADAM MORFELD: Absolutely. [LB605]

SENATOR JANSSEN: These are, by and large, smart people that should be able to figure out, if they live in Omaha, or me--Nickerson, Nebraska, population 250--should figure out how to vote if it means that much to them, if they're that much into their civic duty. Another fundamental reason against this is I think a lot of it comes down to is maybe you go to Lincoln, maybe you go to Wayne State, as I did, and somebody is standing on the stump, saying vote for Adam because he's a great guy; he'll...whatever, free lunch, you know, whatever. So go vote today because it's the thing to do. That's what I get worried about. That does worry me about pushing people to the polls that really don't take the time to, one, get registered beforehand, and then just show up and they're going to vote for the last person they talked to. That concerns me as a person that (1) has served in the military, (2) has ran for public office, expended a great deal of energy doing so, and expense, huge toll on my family to do that. And then just to have somebody show up, day of, that doesn't know me or Senator Conrad or anybody, that's where...and we've talked about this. [LB605]

ADAM MORFELD: Well, and certainly, and... [LB605]

SENATOR JANSSEN: So I'm giving a public forum for you to blast back (inaudible). [LB605]

ADAM MORFELD: Well, and my response to that is, how do you know that that person is not informed? How do you know that that person isn't up on the issues? I mean I think I used, the last time that I testified on this bill, I have an uncle who has been registered in the same place for 30 years. He just votes, blindly, party line. He doesn't know who the candidates are. He's told me that before. So how do you know that that person

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that's met that litmus test, that responsibility test that you so vehemently support, how do you know that that person is informed as well? You don't. So how do you know that somebody who shows up on election day, particularly if we have that system in place for those individuals, hasn't gone out and gotten informed? And to be quite honest with you, I don't think that it's our place to determine who is informed and who is not informed. Voting is a fundamental right of our democracy. Obviously, we would like individuals to be informed before they vote. However, it is their right to be uninformed if they want to. They are a citizen. And I'd like to think that most people who go vote are informed, because if you want to go vote, generally, you're doing it for a reason and you're doing it for a cause or something that you're interested in. Otherwise, you wouldn't show up at all. [LB605]

SENATOR JANSSEN: As you know that from your many years here, you're not allowed to ask questions from over there, but you asked many, and I... [LB605]

ADAM MORFELD: We can do that some... [LB605]

SENATOR AVERY: I rule those to be rhetorical questions. He was not... [LB605]

SENATOR JANSSEN: And I... [LB605]

ADAM MORFELD: Thank you, Senator. [LB605]

SENATOR JANSSEN: With your indulgence, Mr. Chairman. [LB605]

SENATOR AVERY: (Laugh) [LB605]

SENATOR JANSSEN: But I do agree with you on that and I think you answered those questions splendidly. I agree with you on that. I just wish people would take their voting responsibility a little bit more responsible, if you will. So, well said. [LB605]

SENATOR AVERY: Let me explain. I didn't think that you actually were asking him to respond to you. They were the rhetorical. Okay. [LB605]

ADAM MORFELD: Okay. I don't want to be in trouble. [LB605]

SENATOR AVERY: Senator Brasch. [LB605]

SENATOR BRASCH: Thank you, Chairman, and thank you, Mr. Morfeld. As you said, you met with many people, many senators here, and you made appointments. You kept those appointments. Timeliness was critical in keeping those appointments. I worry that on campuses if, you know, we're telling people that you can show up and vote on the day of the, you know, election day, that perhaps that's just promoting procrastination

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and not practicing timeliness, the deadline of voting day, you know. A trend. And probably the people who weren't going to vote on the deadline are people who may also not take voting day deadline...that's another deadline they may miss. It's just a sliding deadline. And that, you know, we can't guarantee diligence on candidates, study of. However, what came to mind here when Senator Janssen was talking about, you know, his concern about people just being sent in line to vote a certain way as a part of instant gratification for a free T-shirt or a bag of M&Ms. I think the credit card companies were doing little things on campus at one point, you know, to get kids to just jump in. That I think there was a comedian, like "Jaywalk" or something, where he was pulling people randomly off the street, just asking them simple questions--and they really weren't, you know, prepared. At that point, you know, I would not want to see that person just sent right into a voting booth, that they need to get back to civics a little bit or some history. But the timeliness. I would like to see our country continue to promote timeliness and not encourage procrastination. [LB605]

ADAM MORFELD: Well, in response to that, Senator, I agree with you to a certain extent. However, I think that we have to ask the question, and this isn't a question for you--this is a rhetorical question. You know, what is the point of election day timewise? I mean what are the point of them, particularly when they're not necessary, and particularly when they impede a fundamental right? I agree that we need to promote timeliness. However, I don't think that we should do it at the expense of infringing upon people's fundamental right to vote, particularly when those deadlines have been proven not to be necessary and one fit for the states of our country. And I think that, particularly, a lot of individuals do go through the effort of registering to vote; of reregistering, sometimes; and, in particular, a lot of these students are first-time voters and they've never voted before. They didn't know they had to reregister, or they've come from other states to settle in Nebraska and go to school here and they've been in states where there are EDR, or where you're registered in one county and you can move to the next one and not have to reregister. So there's a lot of confusion there regarding it. And I think it should not also be lost on the fact that this doesn't just affect students. This affects a lot of hardworking individuals and citizens, who I maintain students are. (Laugh) I worked two jobs and went to school too, and I know a lot of my colleagues do as well. So this myth of the lazy student just sitting around doing nothing--sure, there's a few of them--but there's a few lazy adults who are, you know, 25 and over that... [LB605]

SENATOR BRASCH: And I'm not saying lazy. [LB605]

ADAM MORFELD: No, no, definitely I'm not... [LB605]

SENATOR BRASCH: I'm just saying the thing is that you know there's a deadline and you meet that deadline. It's very important...that voting is important. I would be more inclined to lobby harder for early registration, you know, to...if there's any chance they

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can't make it, voting day, that that would be the best and easiest option for busy people--not lazy people--but busy people or people preoccupied with occupations or studies. But you have some good...you know, you're doing well in what you're doing, but I do question and align more with Senator Janssen's concern of just seeing people load it up and sent to the ballot the day of. I think that could be a concern. [LB605]

ADAM MORFELD: I think that you can currently do that with our current system, is just load people up that are registered to vote and bring them to the polls. With election day registration, it, sure, might make it a little bit easier, but, you know, I know that I loaded up a bunch of residents in my dorm, regardless of their beliefs, and made sure that they could go and get to vote to the Devaney Center, when the polling location was there. So I don't think it should be discouraged that certain people are loaded up and brought to the polls either, necessarily. I mean Senator Schumacher brought up a really good point: Why not have universal registration? In a lot of other countries, they have universal registration where you apply for something or you apply for certain government services, you're automatically put on the rolls. So I think that that's another way to bring down the registration barriers and deadlines. [LB605]

SENATOR BRASCH: Thank you. Thank you, Chairman. [LB605]

SENATOR AVERY: Senator Price. [LB605]

SENATOR PRICE: Thank you, Chairman Avery. Mr. Morfeld, thank you. I've enjoyed our conversations over the years. And in those years, I've always had something in my mind, trying to wrap it around and figure out what is causing a block for me to just absolutely endorse what you're asking, and I wrestle with it. And in today's testimony and in years past, I've heard the words "infringe," "impede," and "disenfranchised." All of these allude to a situation that you would think is illegal. You would think. I'm not saying it. Yet none of our election laws have been struck down. All of our laws are the law of the land and they've withstood the courts, and we are all charged with following the laws of the land. And if we have ignorance of the law, that doesn't excuse you. Correct? I mean we can't say, "I didn't know that was a law," and then if we get in trouble say, "I want a do-over." We have...there are repercussions for our ignorance. So I look at this and I think, we have laws, and what we're trying to do is say you had ignorance of the law and you get a do-over. It's illegal. Now if the law changes, if we go through all the actions here in the Legislature and we have a new law regarding any of this, that's the new law. There's no do-overs, you know. So my question to you, then if I wrap it around, it says if it was truly a law or this infringement, impediment, and disenfranchisement on election day, are you saying that people...that the law is no longer valid and should be challenged and thrown out? Or are saying that you'd like to go through the process of changing the law? Okay, because if you're saying I want to change the law, you're admitting already in a way that's saying ignorance of the law doesn't...can't be disenfranchisement, impediment, or infringement. It's just the law. You're not

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disenfranchised if you don't know the law. So the question is, do you think our laws right now are unconstitutional? [LB605]

ADAM MORFELD: I think under our current presidents and our current jurisprudence, they're not unconstitutional. [LB605]

SENATOR PRICE: Thank you. [LB605]

ADAM MORFELD: However, I think reasonable minds can differ as to whether or not a court decision or a decision by the Supreme Court is the wise decision and is the best public policy decision. And I think that...I mean you can, Senator. (Laugh) I think that...I can't..I don't think I could find anybody in this room that agrees with every single Supreme Court decision that's been passed down. One of the nice things about this, though, is that you, as state senators, have the power to change it. You, as state senators, have the power to define the public policy. And so I am saying that the public policy that we currently have in place doesn't disenfranchise voters, and I believe that it is the incorrect public policy and that's why I'm here asking you to change it. [LB605]

SENATOR PRICE: And I agree with you. I just think that sometimes using those words of infringement and disenfranchisement, particularly infringement, is perhaps problematic in what we're doing. But I appreciate your answer. Thank you. [LB605]

ADAM MORFELD: Okay. [LB605]

SENATOR AVERY: Senator Karpisek. [LB605]

SENATOR KARPISEK: Thank you, Senator Avery and Mr. Morfeld. You know, you say you're going to be working on this till you're 70 or 80. Well, you used to sit over there, and now you're over there, and I'm sure one of these days you'll be over here--but you might be a little too smart for that. [LB605]

ADAM MORFELD: That's not for me to decide, so. (Laugh) [LB605]

SENATOR KARPISEK: (Laugh) So we'll see. Anyway, I just wanted to give you a little shot on that. And I've got a lot of comments but I'm going to save mine for Exec Committee because, otherwise, we're going to end up in a scrap back here. I think we're going a little past where we want to go. But I agree with some of what you think; I don't agree with all of it. You are on it all the time. The point of someone getting a do-over, I think you're just trying to extend the date here. You're not trying to change the way we do everything. Now my point is probably going to be with the election commissioners and clerks of the additional work and the things that go into that--and if you want to say anything about that. [LB605]

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ADAM MORFELD: Certainly. And I mean I'm sure...I am not an election commissioner. (Laugh) And I'm sure there's a few of them here today to testify in opposition to this. However, I don't think a 5.5 percent increase is unmanageable. And if it is unmanageable, then I think we need to take a look at our election system a little bit more closely. I do realize that there are a lot of budget problems right now, and particularly on the county level. I do appreciate that and I know that this would provide a little bit more of a burden. However, the officials that I've talked to, and I've talked to election officials in about three or four different states that have EDR, two states that recently enacted it; they did not think that the workload was that much higher with election day registration. It was simply just retraining, which takes a little bit of work. And so I don't think a 5.5 percent increase is prohibitive. In addition, it also reduces provisional ballots, which in my experience as a poll worker in one election, provisional ballots are very time-consuming, and particularly time-consuming after the election as well. [LB605]

SENATOR KARPISEK: Well, and I think there's a lot of worry of the unknown and especially now when we're cutting aid to cities and counties, then trying to do something more, I'm very sympathetic this year more than I have been before. And I just want to put that out there, because again, I think a lot of it is fear, and I don't blame anyone. I'm not good at change at all; not at all. So I do understand that. But this year I am really concerned about what we're going to place on them without more money, but. [LB605]

ADAM MORFELD: Certainly, Senator. And I would just like to point out one thing, that this is not the unknown. This is done in nine other states, and I think that the requirement that there be a list of all physical addresses with corresponding ballot styles in the precincts is something that we should currently have in place with our provisional ballot system, and I don't think that that's too burdensome. [LB605]

SENATOR KARPISEK: Thank you for being here, Mr. Morfeld. Thank you, Senator Avery. [LB605]

ADAM MORFELD: Thank you, Senator. [LB605]

SENATOR AVERY: Senator Schumacher. [LB605]

SENATOR SCHUMACHER: Thank you, Senator Avery. Mr. Morfeld, just a factual question. In any of your research or delving into this subject, have you come across a number of how many people who could vote in Nebraska don't have a driver's license or a state-issued ID? I mean are we talking 10 people, 1,000 people? We seem to be...you know, the idea of an ID is a good one. We heard Senator Price say, jeez, if we could identify everybody, we would go with the breaking down all these barriers. Security doesn't become an issue. So now we're down to a factual question: Are the IDs reliable? And how many people are just for some reason or another they've never come

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across a need for a Social Security ID or--I guess that's not a photo ID--but a Nebraska-issued ID? Are we talking about any number of people at all? [LB605]

ADAM MORFELD: Well, Senator, and this will come up in my next testimony, we don't have specific numbers for Nebraska. That would require somewhat of an extensive study. But extensive studies have been done in other states that are looking at these proposals. And Missouri, alone, that had a photo ID requirement that's similar to the one Senator Janssen is introducing, it was estimated, based off the Department of Transportation numbers, that an estimated 235,000 Missourians did not have the valid ID that was required by that law, that were eligible voters. In Wisconsin--and these numbers are rough because they're just off the top of my head; I don't have my testimony with me--25 percent, I believe, of individuals 65 and over were estimated not to have a valid up-to-date ID that was required by the proposed law there, and then I believe 49 percent of African American women in that state were predicted not to have that type of ID and 55 percent of African American men, and I believe close to 20 percent of Caucasian men and women also did not have that. So that's kind of the breakdown. That's not specific numbers for Nebraska, but that's to give you an idea of other states that have this issue. [LB605]

SENATOR SCHUMACHER: In Missouri, 20 percent of the people didn't have a driver's license or state-issued ID? [LB605]

ADAM MORFELD: Two hundred and thirty-five thousand Missourians... [LB605]

SENATOR SCHUMACHER: That was total. [LB605]

ADAM MORFELD: ...that were registered to vote...I should...sorry, I have my testimony over there. Two hundred and thirty-five thousand Missourians that were registered to vote that did not have a valid and up-to-date ID. [LB605]

SENATOR SCHUMACHER: And that was an ID we would call a driver's license or a state photo ID? [LB605]

ADAM MORFELD: Correct. [LB605]

SENATOR SCHUMACHER: But of those that didn't have an ID, do we know how many of those were on Social Security, Medicaid, some other reliable identifier? [LB605]

ADAM MORFELD: We don't. However, there's national studies that show that I think 18...again, I'm doing these off the top of my head so I'll clarify in the next bill, but...or testimony. I believe 18 percent of people over the age of 65 did not have a valid photo ID. [LB605]

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SENATOR SCHUMACHER: So are we making a case for some type of an ID system with auto registration here today? [LB605]

ADAM MORFELD: Well, with auto registration I think that that would go a long ways in remedying some of our registration deadlines that people have a problem with. Yeah. But I think that's a whole other issue. [LB605]

SENATOR SCHUMACHER: Thank you. [LB605]

SENATOR AVERY: I don't see any more questions, Mr. Morfeld. Thank you very much. [LB605]

ADAM MORFELD: Thank you. [LB605]

SENATOR AVERY: Any more proponent testimony? Welcome. [LB605]

KATIE KIDWELL: (Exhibit 3) Hi. Good afternoon, members of the committee and Chairman Avery. My name is Katie Kidwell, and that's K-a-t-i-e K-i-d-w-e-l-l, and I'm testifying in support of LB605. I'm here today as a state subcommittee member for the government liaison committee of the Association of Students of the University of Nebraska-Lincoln. This committee works to monitor local, state, and national government, finding and researching issues relevant to students. We then work two ways: (1) to educate our peers on politically important issues, and (2) to ensure that our elected officials hear the student's voice. Election day registration is one such issue. ASUN has always worked to educate our peers about voter registration and upcoming elections. Recently, the local county election commissioner made the Nebraska Union a polling location. During the 2008 presidential election, hundreds of students waited in line to exercise their civic duty. This fall, ASUN hosted a Constitution Day celebration to educate students about their rights as well as register new voters. To help with this process, 14 of our members became deputy registrars. Additionally, a legislative debate was held on UNL's campus between the two District 46 candidates. Next month, ASUN will be hosting more voter registration drives to inform and educate students about the upcoming Lincoln City Council election. However, despite our best efforts, the small number of students reached at these events still leaves many students as unregistered voters. Election day registration is one such way to assist these students. First, many students have their first voting experience while at the university. A student from out of state may not be familiar with Nebraska's voter registration deadline, while a student from an EDR state might not be aware that they need to reregister ahead of time at all. Even those students moving within Nebraska or even within Lincoln may not think about updating their voter registration information because they either have never voted before or have only voted once. Though an absentee ballot is another option, it, like voter registration, requires experience with the election system. Additionally, students are working more and more to help with the rising cost of college tuition, creating

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another restraint to registering on time. Even though these obstacles exist for the general population, they hit students especially hard, as we are extremely mobile and tend to have more limited voting experience. Second, people often incorrectly assume that being unregistered means being uninformed. Media coverage on elections continues and often increases after registration deadlines. Media outlets through which information can be acquired are numerous, making it almost impossible to be uninformed about political candidates and issues, especially by such a media-driven population as students. Though it would be impractical because of the assortment of arbitrary deadlines scattered over the states, CNN coverage of a debate unfortunately does not include information about voter registration or absentee ballot deadlines. It is for these reasons and others that voters, and especially young student voters, often get turned away from the polls without EDR. On a positive note, EDR has the benefit of inclusivity, specifically for students. Mr. Morfeld mentioned the benefits in voter turnout in the state as well as turnout among those aged 18-25 and for those who have moved in the last six months, as suggested by the updated Demos policy brief. Both of these demographics cover a large majority of students. Obstacles do not prevent a citizen from being uninformed just from voting. EDR works to eliminate unnecessary structural barriers to civic participation. Though EDR holds many benefits for other populations within the state, students particularly benefit from being allowed to register to vote and vote on election day. As a civically active student representing other students and on behalf of the students of the University of Nebraska-Lincoln, I ask for your full consideration of this bill, and I thank you for your time. [LB605]

SENATOR AVERY: Thank you, Ms. Kidwell. Are you a political science major at the university? [LB605]

KATIE KIDWELL: No, I'm not. [LB605]

SENATOR AVERY: Well, you should be. [LB605]

KATIE KIDWELL: (Laugh) It may be too late for that, unfortunately. [LB605]

SENATOR AVERY: Any questions? Senator Janssen. [LB605]

SENATOR JANSSEN: Thank you, Chairman Avery. And is it Katie Kidwell? Kidwell? [LB605]

KATIE KIDWELL: Yes, um-hum. [LB605]

SENATOR JANSSEN: It's Kidwell. Thanks for coming, and you're lucky you're not...well, poli sci would be okay now; I think Chairman Avery is gone. [LB605]

SENATOR AVERY: (Laugh) [LB605]

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SENATOR JANSSEN: So it might work now. It might be a little more conservative over there. But what...I think I've seen you here before, so the same applause goes to you as to Mr. Morfeld for your passion in this. What is it that--I listened to your testimony--but what is it that really empowers you or gets you so passionate about this, or are there other issues on campus or...? I guess are you from Lincoln originally? There's a lot of questions (inaudible). [LB605]

KATIE KIDWELL: I am not actually from Lincoln. I'm actually from out of state. I'm from Kansas City, Missouri, and so...but, yeah, but it's actually...I wasn't politically involved, I guess, as a high school student. And coming to the university has changed that, and so I'm not actually...I would consider myself more informed and active here in the state of Nebraska than I would have been in my home state. And I plan on staying here. That's one consideration, so. [LB605]

SENATOR JANSSEN: Good. Who are the candidates in District 46? [LB605]

KATIE KIDWELL: Senator Conrad and then Chad Wright. [LB605]

SENATOR JANSSEN: Somebody else? [LB605]

KATIE KIDWELL: Yeah. The one who didn't win? [LB605]

SENATOR JANSSEN: Well, we got the one we need here. [LB605]

KATIE KIDWELL: I had a night class during that debate, so. [LB605]

SENATOR JANSSEN: Thank you very much for coming. I appreciate it. [LB605]

KATIE KIDWELL: Yes. [LB605]

SENATOR AVERY: Senator Sullivan. [LB605]

SENATOR SULLIVAN: Thank you, Senator Avery. Thank you, Ms. Kidwell. You indicated that when there was a polling site on campus, you had great turnout. [LB605]

KATIE KIDWELL: Um-hum. [LB605]

SENATOR SULLIVAN: Do you have any anecdotal evidence, responses from students that weren't able to vote? Actually told you that because they weren't registered or weren't aware of the problem, the circumstances? [LB605]

KATIE KIDWELL: I didn't...unlike Mr. Morfeld, I didn't work as a poll worker, but as a

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member of GLC and holding these voter registration drives in September, oh, in October, we had a lot of students who...when we had our booth, we lured them with hot dogs. Right? And so we had our booth set up outside the Union. We'd bring them over with the hot dogs and then we would ask if they knew anything about the upcoming election, and we'd mention the voter...we would have the voter registration forms. And a lot of them just didn't seem to realize--oh, well, when are they due? Like, but I'm already registered at home. Well, are you planning on voting for your precinct at home or are you planning on voting here? And I think, yeah, a lot of students...I didn't necessarily see anyone personally turned away or hear from anyone, but I saw sort of some of that when registering students before the election. [LB605]

SENATOR SULLIVAN: Okay. Thank you. [LB605]

SENATOR AVERY: Senator Schumacher. [LB605]

SENATOR SCHUMACHER: Thank you, Senator Avery. The university, are you issued a student ID? [LB605]

KATIE KIDWELL: Well, we're issued...yeah, we're issued a...yeah, a photo student ID. [LB605]

SENATOR SCHUMACHER: And does it have any unique number on it? I mean an identification number of anything like that? [LB605]

KATIE KIDWELL: Yeah. You have your student ID number and then a 16-digit number, as well as there is a bar code on the front, so. I assume those are unique. [LB605]

SENATOR SCHUMACHER: And that would be...is there any correlation between that ID and if you have a driver's license, the number, or something to link the two? [LB605]

KATIE KIDWELL: I don't believe so. There's no address or anything like that on your student ID card; just your picture and your student ID number. I don't know if it's...I don't think it's directly connected to your driver's license. [LB605]

SENATOR SCHUMACHER: So the student ID does not have an address on it. [LB605]

KATIE KIDWELL: No, it does not. [LB605]

SENATOR SCHUMACHER: Well, I suppose that's for some security so they can't (inaudible). [LB605]

KATIE KIDWELL: Probably. [LB605]

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SENATOR SCHUMACHER: Okay. I have no further questions. [LB605]

SENATOR AVERY: I don't see any more questions, Ms. Kidwell. Thank you very much for your testimony. [LB605]

KATIE KIDWELL: Thank you very much. [LB605]

SENATOR AVERY: Any more proponent testimony on LB605? Okay. Opponent testimony. I don't see any opponent testimony. (Laughter) [LB605]

SENATOR KARPISEK: Going once, going twice. (Laughter) [LB605]

NEAL ERICKSON: They're all just waiting to see who goes first. (Laughter) Hello, Senator Avery, members of the committee. [LB605]

SENATOR AVERY: A more familiar role for you. [LB605]

NEAL ERICKSON: (Exhibits 4 and 5) For the record, my name is Neal Erickson. I am Deputy Secretary of State for Elections. That's N-e-a-l E-r-i-c-k-s-o-n, here on behalf of the Secretary of State's Office in opposition to LB605. And, in particular, I'll be testifying today as regarding the election day registration aspect of it. A couple things that I kind of want to give a little more background on. The proponents of this have talked about nine states that have EDR. Actually what we really have is the original seven states that had it in 1993 and that exempted them from the NVRA. Since then, they...Iowa has adopted a traditional EDR. North Carolina actually uses a slightly different system and they count it as EDR. They allow people to register and vote on the same day, but it's actually prior to election day. And I don't recall whether their cutoff is on Monday before election day or the Friday before. We actually have a similar cutoff: ten days prior. Federal law allows you to close registration up to 28 days prior. Minnesota and Wisconsin are examples of states that do that. EDR is kind of an appropriate issue for them then. They've had it for a long time; they've made it work. Mr. Morfeld--you know, and I think Senator Janssen picked up on this--called these arbitrary deadlines. We looked to the federal deadline, 28 days, and said, no, the state of Nebraska, we can do this a little bit quicker; we can get some things done. And our actual deadline for registration is ten days prior to the election. And it is not an arbitrary deadline by any stretch of the imagination, because what we have to do then is make sure that all counties have processed their registrations, close off our registration database, and then allow the counties to start printing poll books. And so that's why we have those ten days. You know, as we get quicker and being able to process these registrations and print these poll books faster, yes, we might be able to shorten that some time. But we need to have a situation where we have one voter on one registration list. We don't want to have somebody who, oh, let's say on the last day, move...register...well, this Sarpy County registrant now is a Douglas County registrant and registers in Douglas County,

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and have their name show up on both poll books. So that's what we seek to avoid by putting some of these deadlines in there. Overall, our office's opposition to election day registration is on the integrity of the election. If you look at the other states that are involved, and I've looked for some things that...I unfortunately could not get ahold of actual ballots, but I think this might illustrate some of the problems we have. What is being passed out is the official canvass from Carroll County, Iowa, and then the official canvass from Washington County. With all due respect to Senator Brasch, it wasn't because of it was in your district; it's just these happened to be counties that are approximately the same size--approximately 20,000 population. If you look at the Iowa canvass and look at the offices that they're electing, you're talking their federal and state offices take the first two pages; the second two pages take countywide offices. Everybody in that county is getting exactly the same ballot. All these offices are on there. Every precinct that's on here is receiving that same ballot. By contrast, take a look at Washington County. On the first page you have your statewide offices. Once you start getting into your county offices on page 2, into ESUs and townships on page 3, school boards and cities on page 4 and 5, the ballots that somebody receives is going to be different from someone else in the county depending on where they live. And that's where the difficulty becomes is that the poll worker needs to be able to determine what ballot this person is entitled to. If they're given the wrong ballot, and particularly this happens in a number of cases, it has the potential to impact the outcome of these races--maybe not necessarily on the senate race or even a legislative race, but a school board race, a city council race. We have a Nebraska Supreme Court decision where a county commissioner race was decided by two votes that were alleged to be improperly cast. And those people were required to disclose, in court, how they voted. So our issues are not...we've done a lot of things to help certain elements of the community, particularly the college students. Last year, I believe, we passed a bill that has the university send not only registration...or provide a link to not only a registration form but to an early request ballot...or early request...excuse me, an early ballot request form to each student. So with the red light on, I'll close my testimony on that and answer any questions you might have. [LB605]

SENATOR AVERY: With your indulgence, Mr. Erickson, I'm going to give a public service announcement. There is a snowstorm going on outside and there is a 30-car pileup on I-80 near Milford. If that influences anybody's travel plans, I offer that information for your help; that I'm not trying to discourage you from staying here to testify (laughter), but I know that some of you drove from a distance. So that does not include you, Mr. Erickson, so (laugh) we will open up the opportunity for questions. Senator Janssen. [LB605]

SENATOR JANSSEN: As public service announcement: anybody here opposing the next bill, you should probably go right now. (Laughter) It's getting very bad out. Deputy Erickson, thank you for bringing this. I actually did not know this, between the lowans, and I was asking the other day about that. [LB605]

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NEAL ERICKSON: And it's very similar with Minnesota. Minnesota and Iowa, for example, do their school board elections separately in off years. Their city elections are even a different separate election in off years. We combine everything into one ballot and we elect a lot more things. Iowa does not elect their regions; they do not elect their community college trustees, things like that--things that we have on our ballot. [LB605]

SENATOR JANSSEN: So I...no, I just wanted to say I appreciate that and I'm sure Senator Brasch appreciates her 3 vote victory on this current ballot, and I think more appropriately, even though Secretary of State Gale isn't here today, he got 80 percent of the vote in this particular district, so I find it hard to believe it was randomly picked, but. [LB605]

NEAL ERICKSON: Well, actually I was looking for 20,000, and actually I thought, well, Kearney is about the same size...I've worked in Carroll, Iowa...so I thought Kearney is about the same size. And I was really surprised. Carroll is a lot smaller than I thought it was. [LB605]

SENATOR JANSSEN: (Inaudible). Thank you. [LB605]

SENATOR AVERY: Any more questions? Senator Schumacher. [LB605]

SENATOR SCHUMACHER: Thank you, Senator Avery. Mr. Erickson, describe for us the process now of voter registration. I take it, let's say you run across somebody at the Walmart store or--I don't know if they allow it to be done there--but some store where there's a person registering persons to vote. They get...what goes on from that moment to the moment that that person walks up to the voting booth and gets their ballots and can cast a ballot? What ID do they have to show? What's the process? [LB605]

NEAL ERICKSON: Okay. Let's just start, you walk up to a registration table in Walmart, or assuming it's before the election, before the deadlines. That form is then provided to the election commissioners. That information is entered into the registration record. [LB605]

SENATOR SCHUMACHER: Back up: the form. [LB605]

NEAL ERICKSON: Okay. [LB605]

SENATOR SCHUMACHER: Okay. To get that form, do I have to provide any ID to get the form? [LB605]

NEAL ERICKSON: No. Well, when you say it is a Walmart, I'm assuming you have deputy registrars there? Or you just... [LB605]

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SENATOR SCHUMACHER: I've got somebody circulating a... [LB605]

NEAL ERICKSON: You just came across a form. [LB605]

SENATOR SCHUMACHER: Yeah. Well,... [LB605]

NEAL ERICKSON: Okay. [LB605]

SENATOR SCHUMACHER: ...or there's somebody that wants to...you know, with one of the political parties or action groups that is sitting there thinking they're doing a civic duty and signing people up. [LB605]

NEAL ERICKSON: Right. Somebody, you just go ahead of a form somehow, you filled it out, you mailed it in. [LB605]

SENATOR SCHUMACHER: Or they told me they would take it in. [LB605]

NEAL ERICKSON: Okay. Well, it somehow gets to the election commissioner's office. [LB605]

SENATOR SCHUMACHER: Do I have to show an ID at that point? [LB605]

NEAL ERICKSON: No. [LB605]

SENATOR SCHUMACHER: Okay. So now we've got the form leaving my hands and going through some vehicle, the mail, or a courier, and showing up in the election commissioner's office. [LB605]

NEAL ERICKSON: Right. [LB605]

SENATOR SCHUMACHER: What happens then? [LB605]

NEAL ERICKSON: Now there will be a little bit of distinction between by mail, and I'll get to that in a minute. But what will happen is that the local official then enters that into the registration record. The system will search to see if there's anybody else in the state registered with that information. And if that's the case, it will pull them from that county into the new county. [LB605]

SENATOR SCHUMACHER: And they have it...that interfaces with the big database that you guys have in your office? [LB605]

NEAL ERICKSON: Yeah. Well, it's all one database. It doesn't really interface. It's

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all...they're just...there are, in effect, terminals on that database. [LB605]

SENATOR SCHUMACHER: Okay. All right. [LB605]

NEAL ERICKSON: Or they have access to that database. From there, they're assigned a precinct-to-precinct part and that will indicate what ballot they're entitled to. [LB605]

SENATOR SCHUMACHER: And how is that processed? [LB605]

NEAL ERICKSON: That is done, for most cases they use a street finder system that will auto populate where they're supposed to be. Now occasionally get into situations where it may not work, and then you almost have to do it by hand and determine where they are in that county. Are they one side of a, say, a city boundary or a village boundary or on the other side of it? Those are more the exceptions. But they need to get that assigned to them. They then send that...they then send an acknowledgement mailing out to that person, saying that, yes, this registration is complete. And if for some reason it was not complete, that acknowledgement statement will say it's not...your registration application is not complete; we need this information. Those acknowledgement notices are required by federal law. Assuming that everything was okay, they're a registered voter, in that acknowledgement letter they are informed them of their polling place, and then on election day that person can go vote there. By mail is a little bit different...well, and there's one other thing that we do in terms of that is required by federal law. When we get those, we...when that is entered into the database, we run those through DMV and through an organization called AAMVA, which is the national Association of Motor Vehicle Administrators. There they can confirm the driver's license number and last four digits of the Social Security number. [LB605]

SENATOR SCHUMACHER: If they have them. [LB605]

NEAL ERICKSON: If they have them and if they were provided. If that match occurs, then that eliminates something and we're talking by mail. If a registration were received is from a first-time voter, never voted in the state of Nebraska, and it's received by mail, under federal law we're required to either match it against the state database, which is part of the reason we do the motor vehicle and SS check, or provide voter identification prior to receiving a ballot. Now, under federal law, this registration is not required to be photo ID. It can be that utility bill or a paycheck, a government mailing, whatever. But we actually clear the vast majority of those. If that person, we weren't able to match against the database and they were a first-time registrant by mail and had not previously voted in the state, then there's an indicator that is put onto the poll book that says they have to show ID prior to getting a ballot. And so there's a little bit of difference there if it's a first-time voter by mail. [LB605]

SENATOR SCHUMACHER: Assuming that the poll place had a broadband connection,

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why can't all that take place right then and there in a matter of a few seconds? [LB605]

NEAL ERICKSON: Assuming all of them did have broadband connection and we were able to buy the functions, you know, buy the...there are, oh, what do you call them, e-poll books that are available on the market there. And assuming they did have a broadband connection, yeah, we could utilize that. As an example, the state of North Dakota that does not have registration at all uses the poll book system. [LB605]

SENATOR SCHUMACHER: And with...I mean what we require now, you can get by without a photo ID as long as you go through the process and show a canceled check or a government check or something like that. [LB605]

NEAL ERICKSON: Yeah. And those are going to...like I said, those are going to be the very infrequent, because usually we're able to match the DL or last four digits of the Soc and comply with the federal law that way. [LB605]

SENATOR SCHUMACHER: So really the administrative problems, since all of what you described there is really just some data entry in a computer program running against some databases, the administrator problems are resolved if the polling place has a broadband connection that is paid for by somebody. [LB605]

NEAL ERICKSON: Yes. [LB605]

SENATOR SCHUMACHER: Okay. [LB605]

NEAL ERICKSON: Yes. [LB605]

SENATOR SCHUMACHER: So we're talking again, money. [LB605]

NEAL ERICKSON: Yeah. And we've looked at them. You know, our estimated cost on being able to outfit...and this is not even with the broadband connections, because if you look at lot of these polling places, some of them barely have electricity. Some of them can be very rudimentary. But if we were to go to an e-poll book system and did have that capability, we're probably looking in the neighborhood of \$1,000 to \$1,500 per unit per polling place, so. [LB605]

SENATOR SCHUMACHER: For what? [LB605]

NEAL ERICKSON: For the terminal, in effect. [LB605]

SENATOR SCHUMACHER: For a \$200 computer? [LB605]

NEAL ERICKSON: Well, it's...there is software actually associated with it as well. And I'll

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tell you what: these vendors aren't cheap anymore. [LB605]

SENATOR SCHUMACHER: Well, but, you know, we know that there's cheaper ways to get software sometimes. So again it's...we're getting pretty close here, aren't we, Neal? [LB605]

NEAL ERICKSON: In the urban areas I'd say yes. [LB605]

SENATOR SCHUMACHER: And even in those places that didn't have a broadband connection at every location, if there were a number of locations that were able to then print the ballots or with a reserve of ballots it could be polled according to what the computer said that person was supposed to get, we could still make same-day registration available even though they might have to drive a few miles to get to a fully equipped polling place. [LB605]

NEAL ERICKSON: Yes. Well, what you would have to do then at that point is either have a ballot on demand system. If you're talking about having somebody, okay, my polling place is not broadband wired, so I have to go to a different place that is in order to get that ballot, then you would either have to have, in effect, all the ballots that are available in the county there or have a ballot on demand system available there. [LB605]

SENATOR SCHUMACHER: But that wouldn't really be too bad to have a limited number of ballots on... [LB605]

NEAL ERICKSON: I tell you I would hesitate to do that. I mean we use it for some early voting stuff and we use it...and, theoretically, we could use it in some satellite locations. The ballot on demand system can be a little touchy sometimes. [LB605]

SENATOR SCHUMACHER: That's the electronic version of this. [LB605]

NEAL ERICKSON: Oh, yeah. Well, what it is, is basically we know what that ballot for that particular precinct and part looks like. We basically tell the printer to print that ballot. Realistically, right now, the problem is with the printers. To keep them in register and keep them so that the scanners will read them sometimes become problematic. [LB605]

SENATOR SCHUMACHER: Sometimes. But it's workable. [LB605]

NEAL ERICKSON: Yeah. I mean I'll give you an example. Hall County, right now, is using an old Douglas County printer that they got rid of because they kept having too many problems with it. [LB605]

SENATOR SCHUMACHER: I mean assuming that these two or three places per

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county, you know, could have a decent printer. [LB605]

NEAL ERICKSON: Well, and the problem we've had with this...and this piece of legislation actually talks about having them go to the polling place. We've had situations where we talk about having to go to the election commissioner's office and be able to do it there, where, yeah, it would be capable of doing that. But based on the numbers what you are going to do is you're going to overwhelm that site. And so you have to be relatively careful about, okay, if I'm going to send them to this particular place, is there a potential to get that site overwhelmed? [LB605]

SENATOR SCHUMACHER: But if we're going to overwhelm any voting place, we're assuming that lots of people are going to come out of the woodwork at the last minute--and we won't be that lucky. [LB605]

NEAL ERICKSON: Well, based on the numbers that they were looking on in, based on Iowa's first year, you know, we were looking at 25,000, 27,000 in Douglas County. [LB605]

SENATOR SCHUMACHER: That many extra voters. [LB605]

NEAL ERICKSON: That's what they were...that based on their numbers. Now I think that is mitigated to a degree by people who are changing addresses or moving from county to county and, because of EDR, are just not bothering to update their registrations. Now if we could get them to do that, we could mitigate that problem a little bit more. [LB605]

SENATOR SCHUMACHER: So there are a lot of people that find a barrier because, whether it's because they're procrastinators or because they move, that apparently would be helped in the process of democracy if we were to make this investment. [LB605]

NEAL ERICKSON: Well, it depends what you mean by a lot. [LB605]

SENATOR SCHUMACHER: Well, 27,000. I mean that's a nice chunk of people. [LB605]

NEAL ERICKSON: Well, like I said, I think we might mitigate that a little bit, and...but if Iowa's numbers would hold true, yeah, it would be 27,000. [LB605]

SENATOR SCHUMACHER: So I mean to the extent we're all bellyaching about no...people don't turn out, they don't want to vote, we may be on to something here. [LB605]

NEAL ERICKSON: Well, I mean theoretically it is a viable system in certain places. With

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the technology we have right now, I don't believe it is here. [LB605]

SENATOR SCHUMACHER: Well, so we've got it at least reduced down to a technical question now. [LB605]

NEAL ERICKSON: Well, yeah. No, I think that's always been, has been...and the technical question actually is a result of or what it is doing is protecting the integrity of the election. [LB605]

SENATOR SCHUMACHER: I have no further questions. [LB605]

SENATOR AVERY: Any other questions from the committee? Don't see any. Thank you very much. [LB605]

NEAL ERICKSON: Thank you. [LB605]

SENATOR AVERY: I have a weather update. The interstate is now closed, both directions. [LB605]

SENATOR SCHUMACHER: Senator, shouldn't Senator Price be giving us the weather update? [LB605]

SENATOR AVERY: (Laugh) I know he would rather, but I kind of enjoy it. [LB605]

SENATOR SCHUMACHER: Wow. It must be a mess. [LB605]

SENATOR AVERY: This is...we're still on opposition testimony. Ms. Olmer, you're the one I was talking to about these weather problems. [LB605]

DIANE OLMER: You're trying to get rid of me, weren't you? [LB605]

SENATOR AVERY: I was...no, just wanted you to be well-informed. [LB605]

DIANE OLMER: (Exhibits 6 and 7) Okay. I have a sister in town. (Laugh) Good afternoon, Government Committee. My name is Diane Olmer, D-i-a-n-e O-l-m-e-r. That's probably the first time I remembered to spell my name first since I've testified. And I am the Platte County Election Commissioner. I am also representing the Election Law Committee of the County Clerks, Register of Deeds and Election Commissioners. And Mr. Erickson pretty much covered a lot of what my concerns are. And usually when I come and talk to you, I pretty much talk about how this bill will impact election commissioners; I'm not talking about my personal feelings as far as do I like it or do I not. And one thing that was brought up that would solve all of our problems was the fact that we would provide our poll workers with a street file that would allow them to

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determine ballot type. If you look at the handout I gave you, right now the last two pages, there's a green page that's the ballot. It's one of our Platte County ballots for Joliet precinct. Up in the upper right-hand corner there's a number circled, and that's what the poll worker looks for now. After they look at the page before, the page before the green page is actually a page out of a voter roster. And the voter roster is very simple for the poll worker. The voter comes in, they give their name and address, they find them alphabetically. They make sure the address matches. And then right away they go to the circled number on the roster that tells them this is the ballot type. All they have to do, then the judges match up the ballot type on the roster to the ballot type on the ballot. Our goal in getting that roster is to make it as simple for the poll worker as possible, because they only do this job twice every other year. And no matter what kind of training we give them, we can't guarantee that they're going to understand ballot types and street files and everything else, like we do. I've also included a copy of a street file from one precinct in our county. We have 30 precincts. The last election, we had ten that had no splits. So those, according to this law, I wouldn't have to even send a precinct file out...or a street file out to them, which would be great. But the other 20 precincts all would have required this list. And this little precinct has my least amount of voters. It only has about 110 voters. It has a possible, I think, 14 splits. And when I say splits--precinct parts. This list, when I printed it out of the computer now, prints me a list and gives all the different addresses, and it finally goes on the right-hand side to a precinct part. What is a precinct part? I have to take that little Joliet precinct and I went up and down every street and avenue, and assign a precinct part to it. Are you in this school district? Are you in this NRD? That precinct itself has three NRDs and five school districts. And so it doesn't give a ballot type when you print this out of our system right now. So I actually went through, crossed out the column with the precinct parts, because precinct part does not always agree with ballot type. So when they have...I also have fire districts built into this description of my precinct in case I ever have to do that kind of election, so there's some things; so I have a possible 14. It always narrows down to less. So that means precinct parts are not always going to be the ballot style. So I manually went through with my list from the last election and changed it so that there was a ballot style for each address for that little precinct. I'm just saying, right now, unless somebody forks out a bunch of bucks to ES&S, that's the process we would have to use. And we're all talking about budgets and the state isn't helping the county and counties have budgets, and so probably none of us have enough money to change it so that ES&S prints that list, going straight to a ballot type. And that will change with each election. So it's probably going to be this way. There's always a chance for error every time I manually do something. So I did this. I had the lady in the office recheck it. Hopefully, it's right. And then I have challenged you, which you don't have to do right now, I just put two people's names, which that doesn't matter, with an address and used that street file and see if you come up with the correct ballot type. It's not an easy document to use. It's not impossible. Is it workable? Could we use it? Sure. Our goal has always been to make it easier for the poll worker so that they're not making decisions. This, on election day registration, if they make a wrong ballot choice, that

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ballot is in the box so it's a done deal. And as Mr. Erickson testified, wrong ballots do determine races--probably not major races, but lesser races as far as size. So that's...I just want you to look at it and you look at it and see if you think it's a great solution. As Senator Schumacher mentioned, if we finally, someday, get enough money to put an electronic poll book in each poll worker's hand, I think it's workable then. But you have to realize, too, when you talk about this electronic poll book, it comes with an initial price. But for each election we have to pay to have every piece of equipment we have reprogrammed because each election is different. So when you talk about a poll book costs, and I'm not even sure what they cost, well, that's upstart; that's one thing. But I have to pay for each election for the EDR, for any piece of equipment I have. So this would be extra expense for every time we have an election. [LB605]

SENATOR AVERY: Red light. [LB605]

DIANE OLMER: So I'm done. If you have any questions? I'm sorry I took so long. [LB605]

SENATOR AVERY: Thank you. Thank you. Questions from the committee? Senator Price. [LB605]

SENATOR PRICE: Thank you, Chairman Avery. Just one question. Did I understand you correctly that using the existing systems you have, that you would need an up...and we wanted to use this system with the mythical upgrade to print the data you would want, you would need a new upgrade for each election cycle? Not the poll book but just using this. [LB605]

DIANE OLMER: That street file, right now, gives an address and then it tells you what precinct part they are. If we wanted our existing system to list the address and a ballot type, we would have to pay ES&S, right now, before the next election, a lot of money to do that. That would not be for each election. But I was talking about the poll book. If we had a poll book at the polls, that would cost us money every time for each poll book to have it reprogrammed, so. [LB605]

SENATOR PRICE: Thank you very much, Madam. [LB605]

SENATOR AVERY: Senator Schumacher. [LB605]

SENATOR SCHUMACHER: Thank you, Senator Avery. So...but this, what you started with here, is something you have in your office. [LB605]

DIANE OLMER: I can print that out of our system right now. [LB605]

SENATOR SCHUMACHER: And it's on a database of some kind. [LB605]

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DIANE OLMER: Yes. Our statewide election system. [LB605]

SENATOR SCHUMACHER: And in order to come up with the ballot type for each of these particular addresses, you go through some mental procedure. [LB605]

DIANE OLMER: It's...when I have to set up our ballots, I have to have that knowledge anyway to tell the computer what precinct part goes to a ballot type to get the roster to come out of that same system. So I need that list. I have a...I call it my precinct part list...or my ballot style list. And I, of course, always keep it. And I would use it, because, right now, the system that we have does not provide for changing the street file to ballot type. [LB605]

SENATOR SCHUMACHER: Now...well, this handwritten stuff, do you do that for every election you (inaudible)? [LB605]

DIANE OLMER: I don't do it at all now, but if this law passed, this is what I would have to do with the existing system. [LB605]

SENATOR SCHUMACHER: And that's to select the ballots that you would give this person. [LB605]

DIANE OLMER: Right. So that number that you saw on the roster that I circled, that's what I'm trying to tell the poll worker: If you find the right address, this is the number you need and connect it with the ballot. [LB605]

SENATOR SCHUMACHER: And the barrier is some terrific fee due to...ES&S, I take it, is some software outfit? [LB605]

DIANE OLMER: ES&S is the company that owns our software for our election system in Nebraska. [LB605]

SENATOR SCHUMACHER: Is there anything stopping just a plain old programmer from going through the steps that you manually did in your head and writing a little program to generate these numbers? [LB605]

DIANE OLMER: I guess I would trust myself to do that better than somebody out of the office if it's going to be for each election. I don't think a programmer can go into our system and change anything with the system. I think it's illegal. [LB605]

SENATOR SCHUMACHER: No. I mean just have a stand-alone thing (inaudible). Download your database, run a program against it to generate these numbers, doing the same steps that you would do in your head to come up with the handwritten thing,

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and there it is on a \$200 laptop. [LB605]

DIANE OLMER: That might be possible. I'm consist...if you read those addresses and the one I gave you, I'm saying it's not the easiest thing in the world to follow, even if the number was there right away. You've got 400th Street; you've got 400th Avenue. You've got evens and odds. You've got...and I'm not saying my poll workers are stupid, but it's...there are going to be mistakes made and they will not be reconciled because the ballot is in the box. And there is just a lot of chance for error using this system. [LB605]

SENATOR SCHUMACHER: Has your group studied any way of maybe looking at some of these functions being done in alternative ways to what this ES&S is telling you it has to be done at? [LB605]

DIANE OLMER: The Secretary of State handles the computer system...or the election system for the whole state, and we're all connected--and that is great. [LB605]

SENATOR SCHUMACHER: To your knowledge has your group or this committee or any oversight group taken a look at exactly what impediments are being created by what seems to be a very high cost of this software? [LB605]

DIANE OLMER: When the Secretary of State chose this company, they did compare. They do a lot of bargaining every year for their contract. It isn't like they just took it because it was in Omaha. They did the bargaining. They checked with other systems. And so I don't think this was a decision made lightly. [LB605]

SENATOR SCHUMACHER: At least this step seems to be fairly rudimentary--pretty easy. [LB605]

DIANE OLMER: I'm saying that's possible. It would cost money. But I'm saying that list isn't easily used anyway. [LB605]

SENATOR SCHUMACHER: Thank you. [LB605]

SENATOR AVERY: Any other questions? I don't see any. Thank you, and good luck driving back to Platte. [LB605]

DIANE OLMER: Great. Yeah, maybe I'll be at my sister's house. (Laugh) [LB605]

SENATOR BRASCH: I think that would be wise. [LB605]

SENATOR AVERY: Any more opponent testimony? [LB605]

SENATOR SCHUMACHER: Thank you, Diane. [LB605]

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SENATOR AVERY: How many others wish to testify on this bill? Please raise your hand. Just one. Okay. Two? [LB605]

DAVID SHIVELY: (Exhibit 8) Good afternoon, Senator Avery... [LB605]

SENATOR AVERY: Good afternoon. [LB605]

DAVID SHIVELY: ...and members of the Government Committee. I'm going to try to be real brief here, because everything I basically had in my prepared statement has already been covered. I do want to add two things regarding...my name is David Shively. It's D-a-v-i-d S-h-i-v-e-l-y. I am here in opposition to LB605. I know supporters of election day registration occasionally point to Minnesota as a prime example of how well this works. I do want to point out an issue that happened in 2008, and it happened in more than one case, on this article that I brought forward to you about a voter who registered to vote on election day but was not qualified because she was a convicted felon. And after the election was done, that woman did have charges filed against her. But that doesn't negate the fact that her ballot was in the ballot box and that ballot was still counted even though she did have charges filed against her in that situation. In addition, I also understand that Montana has had election day registration, and recently the Montana House of Representatives passed House Bill 180, on a vote of 67-33, which will end their practice of election day registration if it is also passed by the Montana Senate and signed by their governor. So there evidently has been some issues, and I'm not quite sure what those issues were in Montana, but there are some issues in Montana with their election day registration. I don't really have anything in addition to what has been brought up before but would be happy to answer any questions if you'd like. [LB605]

SENATOR AVERY: Thank you, sir. Questions from the committee? Senator Karpisek. [LB605]

SENATOR KARPISEK: Thank you, Senator Avery. Thank you, Mr. Shively. We have issues in our elections, though, right? We just talked about things going on in Omaha. [LB605]

DAVID SHIVELY: That's correct. In the situation there are different things that happened, so yeah, things can happen wherever. There's always going to be an issue. There could always be an issue. There's no such thing as a perfect election. [LB605]

SENATOR KARPISEK: My point exactly. Thank you. [LB605]

SENATOR AVERY: I don't see any more questions. Thank you, Mr. Shively. [LB605]

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DAVID SHIVELY: Thank you. [LB605]

SENATOR AVERY: Any other opponent testimony? Welcome. [LB605]

BETH BAZYN FERRELL: Thank you. Good afternoon, Chairman Avery, members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm appearing here on behalf of the Nebraska Association of County Officials in opposition to this bill. I won't repeat the testimony that you've already heard. I think you've heard our concerns about the number of splits in Nebraska compared to those in other states. I would also like to draw your attention back to the conversation early on in the hearing on this bill between Senator Price and Senator Conrad. We also had some of those same technical concerns about the IDs and the type of photo IDs and that sort of thing. I would be happy to try to answer questions. [LB605]

SENATOR AVERY: Thank you for your testimony. Questions from the committee? I don't see any. Thank you. Any other opponent testimony? Anyone wish to testify in a neutral position? No neutral testimony. That puts you up, Senator Conrad. [LB605]

SENATOR CONRAD: Thank you. Thank you to the committee for your patience and kind consideration of this important issue. I think we had a great dialogue today. Legitimate concerns were brought forward and important issues were addressed. And again, I challenge this committee to really focus on whether or not we have a values difference here or if we have a technical or implementation question to address, which I think are very different. But if we can address that first threshold in an important way, which I think we should, we are wide open to working with everybody else on the implementation and logistic problems that may or may not be present. And finally, the basic philosophy I think in my bringing this bill is really twofold. One, I work hard each session to try and find a piece of legislation that will encourage participation by young people. As evidenced by those who testified here today, this is one of those pieces of legislation that really brings young people into the process and engaging with our Legislature. So I think that's already a huge win and it's one of my favorite parts of the job. Secondly, when it comes down to balance, when it comes down to issues, when it comes down to implementation, I'm going to err on the side of individual liberty and fundamental rights every time. I hope you will too. Thank you. [LB605]

SENATOR AVERY: Thank you, Senator. Do you want to hang around and see if we have any more questions for you? (Laughter) [LB605]

SENATOR CONRAD: No. (Laughter) I'm kidding. Happy to. Happy to. [LB605]

SENATOR AVERY: Okay, that ends the hearing on LB605 and there is...Senator Janssen is arriving to...Senator Janssen, are you ready to start on LB239? Oh, before we move on to LB239, I want to go back to LB605. I have four letters of opposition from

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county clerks and county commissioners: Washington County, Holt County, Hall County, and Knox, to read into the record. (Exhibits 9, 10, 11, and 12.) All right, now we're ready for you, Senator Janssen. [LB605]

SENATOR JANSSEN: About time. [LB239]

SENATOR AVERY: Welcome, sir. [LB239]

SENATOR JANSSEN: Thank you. Thank you, Chairman Avery, members, fellow members of the Government, Military and Veterans Affairs Committee. For the record, my name is Charlie Janssen, C-h-a-r-l-i-e J-a-n-s-s-e-n. I represent District 15 in the Nebraska Legislature, which is Fremont and all of Dodge County, and I hope it stays that way if any of you are on the Redistricting Committee. I appear today to introduce LB239, the voter ID legislation. LB239 would require persons casting ballots to provide government-issued photographic identification before voting at their polling place. Voters casting ballots by mail...again, voters casting ballots by mail would not be required to provide government-issued photographic identification unless it's their first time voting. If it's their first time voting, they would have to present their ID to the election commissioner before having the ballot counted. A person who does not present identification at the polls would be permitted to cast a provisional ballot. He or she then would have ten days to submit a government-issued photographic identification to the election commissioner in order for the ballot to be counted. Exemptions are provided for residents of nursing homes, voters who have religious objections to being photographed, and persons who sign a statement that they are indigent and unable to obtain government-issued photographic identification. The Department of Motor Vehicles would offer a state identification card at no cost to voters who wish to obtain photographic identification if they indicate they are indigent. The card would only be used for purposes of voting. This came up earlier, but I modeled this proposal on the Indiana photo ID bill that was upheld by the United States Supreme Court in 2008 in Crawford v. Marion County Election Board, 553 U.S. 181 in 2008. Justice Stevens wrote the majority opinion and reviewed some examples of voter fraud throughout history. Some might say that there are few examples of voter fraud in the United States and this bill is unnecessary. Justice Stevens pointed to several alarming instances in a footnote to support the majority opinion's approval to a process like Indiana's, like I have outlaid in LB239. Judge Barker cited evidence containing examples from California, Washington, Maryland, Wisconsin, Georgia, Illinois, Pennsylvania, Missouri, Miami, and St. Louis. While the brief indicates that the record evidence of in-person fraud was overstated because much of the fraud was actually absentee ballot fraud or voter registration fraud, there remained scattered instances of in-person voter fraud. For example, after a hotly contested gubernatorial election in 2004, Washington conducted an investigation of voter fraud and uncovered 19 ghost voters. After a partial investigation of the ghost voting, one voter was confirmed to have committed in-person voting fraud. A lot of people also that would oppose this talk about going back to the

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days of yore and having poll taxes and what not. As a side note, I'd like to point out there is no fiscal note for this, as we know, there's no...if there's no monetary value, there is no tax involved with this, so no such thing as a voter tax. I'm not here to assert that there is rampant voter fraud in Nebraska. In fact, I don't believe there's much, if any, voter fraud. Well, I do think there is some, as indicated by recent elections, but I don't think it's a rampant problem. Nebraskans are honest and forthcoming people. When we cast our ballots at the polling place, we generally recognize each other as friends and neighbors. That's why I was a little bit surprised one recent time when I went to vote, and this has happened...this is common-sense legislation, and everybody says that, but this makes the most common sense to me. When I went to my polling place two years ago or a year ago as an elected official now, and I had been for a while on the city council and I went to show my ID and they said, well, you don't need to show an ID, and I thought, wow, well, I must be so popular everybody recognizes me. No. Nobody needs to show their ID at this place. And I was really surprised and I had voted before, but I think most people are surprised and you just naturally do it because we do that so often in our day-to-day lives. We have to show our ID when we go anywhere. So...and that's what really made me bring this bill. As Nebraskans, we're also not naive. Elections are very important to ensure voter support and electoral accountability. We have races in our state that are determined by one vote. My district, during the last election cycle, had a tie, had tie races, and that's where they went to casting of lots, if you will. I think they decided between flipping a coin or drawing a card in that particular election. Asking for identification at polls is not too much to ask and the United States Supreme Court has very recently permitted this exact language. A lot of times in our committee, hypothetical cases and pending lawsuits give us pause. That's not the issue here. The Supreme Court has spoken on this one. According to the National Conference of State Legislatures, in a November 22, 2010, report, eight states request or require voters to provide photo ID. Oklahoma will join them in July. An additional 18 states require ID but not necessarily one with a photograph. I believe in earlier testimony we heard that one-tenth of our states are doing same-day election and, therefore, we should look at doing that. In this case, I think we actually have a true one-tenth and even more that requires some sort of an ID. Nebraska is not considered 1 of these 27 states right now. I think most Nebraskans would agree with me that it is surprising that it is not already the case and they would not be...they would not object to showing their identities when they show up at a polling place. I believe, Senator Karpisek, one of your bills last week, I put this on the list of...and I think I'm going to use this more and more often--jeez, I thought this was already a law; I thought we already had to do this; it's common sense. I think this falls under that same category. I think most Nebraskans would also agree that it is a good idea to permit those that forget their ID to be able to cast a provisional ballot, one that actually means something, something that I didn't realize until I got on this committee. I hope all the exceptions and accommodations in this bill will satisfy those who oppose my bills and that are more restrictive actually than LB239. My office has spoken with Deputy Secretary of State of Elections for his reaction on this proposal during the interim. He recommended that if

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we wanted to offer a photo ID bill, I use the Indiana law as a guide. I have done so and appreciate his advice and I believe Deputy Erickson is here to speak in a neutral capacity today on this bill. I would also like to bring the committee's attention that this issue has been raised more and more across the country in the last election cycle. Many press accounts indicate that the issue was a large factor in the outcome of the races for Secretary of State in our neighboring states of Iowa and Kansas. Nearly every state of the Union took note of the U.S. Supreme Court's 2008 Opinion and has studied and introduced similar legislation to satisfy the request of their constituents. I thank you for your time on this. This is a very important bill to me, surprising to some that, dare I say, this is my priority bill this year and it's one that I've spent some time with. I think the sanctity of elections based on my now third year on this committee is something that I've taken I guess quite a bit of honor in doing and making sure that the people that are voting are qualified electors when they go to vote, and I think showing an identification card makes common sense. I think this is a common-sense committee and I certainly am happy to answer any questions on this. [LB239]

SENATOR AVERY: Thank you. Let me start by asking you, what is the cost of a photo ID card in the state of Nebraska now? [LB239]

SENATOR JANSSEN: There is no fiscal note on this. There's no cost at all to a person that wants to vote on this, so another reason to pass this because, again, it has no fiscal note. And this year I think I asked earlier to one of the opposers of a bill that said that fundamentally they may agree with what we're doing but it costs too much and it's unduly burdensome perhaps on the counties or cities, especially when we're taking their funding away, which appears to be happening. In this case, there is no cost involved. [LB239]

SENATOR AVERY: So you're talking about cost...General Fund cost or cost to the county. [LB239]

SENATOR JANSSEN: Yeah, there's...yeah, the fiscal note is in there. It's...there's no...there's no impactful cost. [LB239]

SENATOR AVERY: I'm talking about the cost to the voter. Isn't it about \$26.50 to get a... [LB239]

SENATOR JANSSEN: No. [LB239]

SENATOR AVERY: ...state photo ID card? [LB239]

SENATOR JANSSEN: No, the...no. As you... [LB239]

SENATOR AVERY: Well, if you get a driver's license, Senator, you pay for that. [LB239]

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SENATOR JANSSEN: This is not a driver's license. This is a photo ID for voting purposes only, as I laid out in my introduction, and if you read the fiscal note it further explains that, that... [LB239]

SENATOR AVERY: So the state will issue a free ID card for all voters and it will cost us nothing. [LB239]

SENATOR JANSSEN: Yes. [LB239]

SENATOR AVERY: I find that stunning. [LB239]

SENATOR JANSSEN: I'm a stunning individual. [LB239]

SENATOR AVERY: (Laugh) How can you make...it would be hundreds of thousands of ID cards? How can you do that and not have it cost any money? [LB239]

SENATOR JANSSEN: Chairman Avery, if you read the bill you would know that it's not hundreds of thousands of people. It's the people that if you show your ID that's good enough. If you don't have an ID or any other government-issued ID, generally this is, you know, when you talk...AARP I think is here or has put in a letter of opposition based on this, indigent people, persons that can't get on a bus or very elderly people that have not had the proper identification, which they could also sign a statement, they wouldn't have to show up. But these...there would be very minimal, which is obvious from the research that we've had on this bill when you...exactly looking at the fiscal note on it. So it would be not even enough that they could come up with a fiscal note on it of the number of people that would actually need a voting card. You wouldn't need one, I would assume, because I assume you have a government-issued ID. [LB239]

SENATOR AVERY: How would you define indigent, just I could just tell...I could claim to be indigent, I wouldn't have to prove it? [LB239]

SENATOR JANSSEN: I could possibly sign off on that for you but...no, that's all you would need to do. [LB239]

SENATOR AVERY: You don't have to prove it at all, just say I'm indigent? [LB239]

SENATOR JANSSEN: I think "indigent" is a well-defined term. I don't have it in front of me right now. [LB239]

SENATOR AVERY: And it's not defined in the bill, because I did read it. [LB239]

SENATOR JANSSEN: So I'm certain you did. [LB239]

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SENATOR AVERY: (Laugh) The concern I'm getting at is whether or not this might run afoul of the Voting Rights Act that outlaws poll taxes. If someone is required to pay for an ID card, even if they can afford it, that is a condition of voting. Putting conditions on voting that are under the Voting Rights Act of 1964, unconstitutional. [LB239]

SENATOR JANSSEN: Well, as I opened with, there is no fee, again. I guess I can say it again. There is no fee so there is no tax, which dispels any concern that you would have on this. [LB239]

SENATOR AVERY: You know, you don't think that the state can make ID cards and issue them free and at no cost to the state, do you? [LB239]

SENATOR JANSSEN: It does not cost the person any money that wants to go vote and it's...I don't write the fiscal notes, I just live by them, so yes. [LB239]

SENATOR AVERY: And the Department of Motor Vehicles didn't provide you with any estimates on what this will cost them to do this? [LB239]

SENATOR JANSSEN: They did and they did you as well, in your book--zero. [LB239]

SENATOR AVERY: Any questions from the committee? [LB239]

SENATOR PRICE: Yes. [LB239]

SENATOR AVERY: Senator Price. [LB239]

SENATOR PRICE: Thank you, Chairman Avery. Thank you, Senator Janssen. As I listen to the discourse here, I think what I was hearing was the individual requesting the ID would not incur a cost but obviously creating the ID would be a cost to the state. So that's a different thing, even though they had none down, but that's what I heard. But I had a question for you because of earlier testimony. I'm questioning and wondering when you started to talk about what is a valid ID. Is a paycheck a valid ID? [LB239]

SENATOR JANSSEN: No. [LB239]

SENATOR PRICE: Can you expound on that for me? [LB239]

SENATOR JANSSEN: Yeah, I can. In fact, in my opening I did, and the Supreme Court ruled on this. The valid ID is not...which we just heard in a similar bill, a paycheck, a utility deposit. That's not a valid ID. That was not upheld. What's upheld is a government-issued ID. A paycheck is not, albeit could be government issued, is not an identification card, so that doesn't live up to the standard, I believe, of Justice Stevens'

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Opinion and the majority court's Opinion of the U.S. Supreme Court. So if we truly wanted to have a valid ID, like we talked about in the previous bill, and if that bill were to rise from this committee, I would ask them to adopt the language that I've used in my bill that actually is valid and has been upheld by the court of law. [LB239]

SENATOR PRICE: Thank you very much, Senator Janssen. [LB239]

SENATOR JANSSEN: And in talking about, you know, and you brought up a good point and going back to Chairman Avery, yeah, it's almost as ludicrous saying would the state incur a cost. Well, yes, we...but to call that a poll tax is very misleading. That's just like saying the state would incur a cost by actually having a ballot so, therefore, it would be a poll tax because...in order to make it easier for people to vote. So again, probably for the sixth time, this bill has no fiscal note. It's no cost to the voter, no such thing as a poll tax whatsoever. What it does is makes sure that the sanctity of elections are basically as solid as we could possibly make them... [LB239]

SENATOR PRICE: Thank you, Senator Janssen. [LB239]

SENATOR JANSSEN: ...now, with deference to Senator Schumacher, who I think we can make much better, by the way. [LB239]

SENATOR AVERY: Senator Schumacher. [LB239]

SENATOR SCHUMACHER: Thank you, Senator Avery. Senator Janssen, I'm just looking through this and I don't think anybody has a problem with making sure that a person only votes once and votes where they're supposed to vote and all that. But, you know, you have two standards here for this photographic identification: one, one of these ID cards, or a motor vehicle identification thing. But in the event that they're one of whatever it was, 200, and...like a quarter million people in Missouri who didn't have an ID, which just shocked me that there could be that many people in the state of Missouri without an ID, but then they've got to go to this new...this other standard which, gee, it's a pretty hard one. Do you think there's any other alternative? Because this one says you have to have a U.S. government-issued document, I'm not sure if that's a letter from the IRS or exactly what that is, but it has to have the name of the individual to whom the document was issued and the name conforms to the voter record. So if it's Jill H. Smith and Jill Smith, I'm not sure if that's conforming or not, or J. Helen Smith. But it has to have that. Has to have the photograph of the individual to whom the document was issued. So you got to have a photograph of yourself and then this all has got to have an expiration date on it. What kind of thing would you have to come up with to satisfy all those requirements to meet that alternative thing? I mean that's pretty darn hard. [LB239]

SENATOR JANSSEN: No, it's actually very simple. [LB239]

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SENATOR SCHUMACHER: Okay. [LB239]

SENATOR JANSSEN: In fact, I don't know much about Missouri and I've never been elected to the Missouri Legislature or Senate. If I was, I would probably have a double salary right now and a much higher per diem and health benefits. So I can't speak to Missouri. I can tell you, the voter ID costs nothing and it has all the things that you're talking about. [LB239]

SENATOR SCHUMACHER: Now I'm into "B." For some reason I don't...I'm a free spirit who's drifting through the Ogallala Plains and I get off my horse and I want to vote in my hometown and I don't...never need one of these license things and I'm now told, all right, you can't vote, but we got plan B here and this is the plan B. And what do you envision somebody who doesn't have one of these state cards, who's a citizen who has every right to vote, who's even went through the registration period ten days ahead of time, doesn't have a driver's license because you don't need one of those to ride a horse, and now what do I got to show you in order to be able to vote? [LB239]

SENATOR JANSSEN: You know, going back to my opening, there are people...there's ways. If you have a, in your case, I guess you're the free-stomping Ogallala Aquifer guy. [LB239]

SENATOR SCHUMACHER: Uh-huh, looking for pipeline. [LB239]

SENATOR JANSSEN: You could claim that's your religious right. You have a reason to not be photographed. There are ways out of this, Senator Schumacher, if somebody truly does not want to have a photographic ID. I'm going to guess everybody in this room right now has a photographic ID that fits that. Now, granted, this is kind of a fish in a barrel here. People are pretty civically engaged if they're here today or otherwise have nothing better to do. (Recorder malfunction--some testimony lost.) It's possible. It's not that hard. And as discussed earlier, my own philosophical beliefs are it shouldn't really be super easy to vote. You should have to have some, I guess, barrier for entry on that and age is fine but you should also register. You have to register. And when you show up to the polls it changes nothing. You show an ID. We have IDs for driving. Of course, I have a passport. When I go to a foreign country, I have to keep that passport on me at all times, by the way, which is not unduly burdensome. Some people think it is; it's not. You would, too, if you went to a foreign country. It's just not that hard and it's common sense. [LB239]

SENATOR SCHUMACHER: Do you have any estimate of how many people in Nebraska, who are otherwise qualified and registered to vote, would not fall...already have a government ID or a driver's license? [LB239]

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SENATOR JANSSEN: No, I don't. I don't have any estimates on that. The thing that just...the security reasons of it alone got to me and then I'm also...this isn't a factor yet but I name my son, I'm not a very inventive individual or creative, and I name my son the same name as me, so I thought, well, what if we...we're both old enough to vote. Well, I am, but as soon as he gets old enough, what if he shows up? Is it...it's the same name. You know, and that's an extreme situation but it does happen. I mean it's not extreme to say that a father names his son after him or whatnot. So what's the verification on that? It's a very simple, simple way, and I would almost...I'm not a betting man because we can't do it in the state of Nebraska legally--maybe you could change that, I don't know--but if you went to the polls I'd bet several of you actually, when you do that, you walk in, you grab your ID. You think you have to show your ID to do it. And many of my constituents think that. I didn't waste their time today, quite frankly, to come down here and testify to this bill. They have jobs. We don't hold these at very convenient times. The interstate is actually shut down so I'm glad I did not have them come down today. This is simply a common-sense piece of legislation that I'm very passionate about, probably more passionate about this piece of legislation than anything else I brought this year, which would surprise many people. [LB239]

SENATOR SCHUMACHER: Thank you, Senator. [LB239]

SENATOR AVERY: If I may go back to something you said in your opening, you referred to modeling this after the Indiana case and, as I recall, the Indiana law provides a free card to everybody, a free state-issued ID card to everybody so that there is no...the issue of the Voting Rights Act and the poll tax and all that doesn't come into play. And as I recall, the Supreme Court case, believe it was Crawford, the Supreme Court case essentially upheld the law because it was a free ID card that didn't require the voter...it wasn't a condition of voting that required them to ante up \$20 or I think it's \$13 in Indiana. So how can yours pass constitutional muster if the only people you exempt from this are the indigent? I mean...and I'm looking at this fiscal note because you suggested I hadn't looked at it (laugh) but...and I go back to it and it does indicate here that...not that there is no fiscal impact but it's without a clear definition of "indigent," the number of ID cards that will be issued at no cost cannot be determined. So the true cost is unknown, not zero. So there will be some cost because the state would have to produce these to the indigent. How many that would be they don't know, so they couldn't give you an estimate. So it's not cost free. So if it's not cost free and we're not going to do an entirely free state-issued card, you have two problems, I think. You have a fiscal note...I mean you have a fiscal impact; it's (laugh) not in the note. And you have a potentially constitutional problem in that you are not providing a free card to everybody in the state, which Indiana did, and that's the only thing the courts have ruled on. And there is a cost there. Indiana spent something like, just for materials, over \$300,000, and when you measure the cost of administering the program with personnel and transaction time, manufacturing, it was \$1.3 million. And that's, of course, it's a bigger state, bigger population, so ours would be lower, but it's not cost free. [LB239]

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SENATOR JANSSEN: Well, again, I can't agree with your numbers at all. This is a constitutional law. It was mirrored after Indiana's. The law that I propose today, LB239, is constitutional and, as you know, all the laws we pass are constitutional until they're proven otherwise. [LB239]

SENATOR AVERY: I've said that many times. [LB239]

SENATOR JANSSEN: So that said, this is constitutional and I have constitutional law backing me up because I had a less-restrictive and basically a free way to do it. I think the people in Indiana will be patting me on the back, saying, gosh, I wish we'd had thought of that, but I thought of it. So there is no fiscal note on this. It's common sense. It's constitutional. It needs to be passed by this committee. It needs to be the law of the land. Over in Iowa, a Secretary of State ran on this issue alone. You can look at your exit polling. It was this issue alone. And I'm not running for Secretary of State. I know Secretary of State Gale is not here but that's not the motive here. I'm just saying, this is a compelling issue to common-sense Midwesterners, Indiana included. Two thousand eight gave us pause for concern and I think Nebraska is pretty common sense. And, Chairman Avery, I'm even willing to venture a guess that you probably even are somewhat inclined to grab your ID when you go in to vote. [LB239]

SENATOR AVERY: Well, you're requiring a photo ID. I might want to show something that's not a photo. [LB239]

SENATOR JANSSEN: I doubt you would. [LB239]

SENATOR AVERY: But the...you do recognize, though, that to say the fiscal impact cannot be determined because we don't know how many people are indigent or will claim to be indigent, that that does not necessarily mean that it is zero impact. [LB239]

SENATOR JANSSEN: Well, that's just like saying that there would be a polling tax if we all of a sudden make legal same-day election registration and we have to have more ballots and it would cost more money. There would probably be no...and I don't think there is a fiscal impact on that. But would it cost more? Yes. [LB239]

SENATOR AVERY: No, no, this is a direct cost to the...I'm talking about the cost to the voter. If the voter has to... [LB239]

SENATOR JANSSEN: Again... [LB239]

SENATOR AVERY: ...has to shell out money to buy an ID card, that could be construed as a poll tax. You say that you've exempted these people. What I'm saying is that the Department of Motor Vehicles cannot determine how many indigent people there might

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be and, therefore, they cannot determine what the fiscal impact is. That's not the same thing as saying there is no fiscal impact. [LB239]

SENATOR JANSSEN: I'm glad you keep bringing that up because you keep building the case to pass this bill on my legislative record, because there is no fiscal impact on this. If you don't have a driver's license, if you don't have an ID card, you can go get a free card. There is no burden on you or anybody here to pay \$27. There is no fee in this. So I'm glad you keep saying that, so I'm going to keep saying it. There is no fee. [LB239]

SENATOR AVERY: But there is a cost to the Department of Motor Vehicles to produce that ID card. [LB239]

SENATOR JANSSEN: There's a cost to the election commissioner to run an election. [LB239]

SENATOR AVERY: Senator Karpisek. [LB239]

SENATOR KARPISEK: Thank you, Senator Avery. Senator Janssen, I don't want to irritate you and I know you are over this and right now I am in favor of the bill, so I want you to know that, so I'm not...I'm trying to help. [LB239]

SENATOR JANSSEN: I have no further questions. [LB239]

SENATOR KARPISEK: (Laugh) So I'm trying to help here. In the fiscal note, it does talk about county general fund money, five-year ID card, revenue per card, \$3.50, and all those sort of things. So I guess what I'm thinking is, if I don't have one of...if I don't have a driver's license, I go to get a card, does it cost...it doesn't cost me anything to go get a card? [LB239]

SENATOR JANSSEN: You as the voter, it does not cost you anything to get that card. And, you know, I'm glad you brought that up with the counties. The one thing that gives me pause for concern on this bill, the one thing is the ten-day lag that could possibly... [LB239]

SENATOR KARPISEK: I was going to ask about that too. [LB239]

SENATOR JANSSEN: And that concerns me and as I looked at that I kind of related it to what used to be called absentee ballots. And I know Ms. Olmer perhaps brought this up. I read some of her neutral testimony that that could be a problem. But absentee ballots I thought used to be...they didn't...I was under the idea that they didn't count them unless they really needed to. [LB239]

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SENATOR KARPISEK: Yeah. Yeah. [LB239]

SENATOR JANSSEN: If, you know, if you and I ran against each other and you beat me by 8,000 votes and there was 5,000, there was no sense to count them. [LB239]

SENATOR KARPISEK: Kind of like when you play golf and you're ahead by so many holes. [LB239]

SENATOR JANSSEN: So, right, you just...right, you just forget about it. [LB239]

SENATOR KARPISEK: Okay. So anyway, I'm having a hard time wrapping my head around it and, again, I'm not trying to be combative on that. To me, I guess I don't care. (Laugh) That's not my issue in this, but I'm trying to help. But I do see where you're going. I do agree that it has to cost someone somewhere somehow, okay? Anyway, and really what I wanted to say is I don't think you're stunning, so... (Laughter) But thank you anyway for your opinion. [LB239]

SENATOR JANSSEN: Well, once again you'd probably be in the majority. [LB239]

SENATOR KARPISEK: (Laugh) All right. Thank you. [LB239]

SENATOR AVERY: Senator Schumacher. [LB239]

SENATOR SCHUMACHER: Thank you, Senator Avery. Senator Janssen, and I'm inclined to support something like this, too, but I think there's problems here. There's two problems that jump out at me. First of all, the exception, a resident of a nursing home shall not be required to present a government-issued photographic identification prior to being issued a ballot. Okay. I'm an old person. I'm in a nursing home, lived in the country 80 years, you know, done my thing; I don't have to present a picture. I'm an old person, 80 years old, lived in the country, did my thing, but I live at home; I got to present one. Why am I treated unequally? [LB239]

SENATOR JANSSEN: On the nursing home, I believe you could also fall under the indigent, whether you're in a nursing home or not. [LB239]

SENATOR SCHUMACHER: No, but I mean but this is...I mean this provision is in here and I'm the guy who's living at home. I'm not in a nursing home and I'm standing before the federal court and I'm saying, you know, there's no rational reason why I am being treated differently from the guy in the nursing home because of my place of residence; Judge, throw this thing out. It's a...I mean, do you see the issue? [LB239]

SENATOR JANSSEN: No, you bring up a good point and, like I said, like many laws down here, we sometimes copy/paste from other states and what has held up in other

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states. And the reasons that they ran it, in this particular case, Indiana, usually nursing homes, assisted-living places, the people couldn't get out. There are other means for the person, the 80-year-old person that lives in Columbus that can't get out of their house, there are other means for them to still vote. So is it perfect? No, and I... [LB239]

SENATOR SCHUMACHER: We've got to make it perfect enough so the judge doesn't say "out." [LB239]

SENATOR JANSSEN: Yeah. Oh, and I agree, and that's why I appreciate your expertise on this because that's the reason I brought it, and this is where our base is at and I know in this committee we work well together to hash things out to make sure that they...when they go out to the floor, they're ready for prime time. And so anything I can work with on that, especially with your background, happy to do. [LB239]

SENATOR SCHUMACHER: Then the second one here, I mean we talked about this indigent thing and I either got to have some of these IDs that are described earlier or an applicant for a state identification card who indicates that he or she is indigent, and I take it that you better be truthful if you indicate that rather than just make up a story, and then, and in need of a state ID card for purposes of the Voting Act under the Election Act shall be issued a state ID card at no cost. Well, you see, I'm Howard Hughes. I really don't like my picture taken. I've got these long ugly fingernails and everything else and I've been staying...hanging out in a motel room at the penthouse level. I don't have a driver's license, don't have a state ID, don't want one. But I want to vote, okay, and I would be lying if I said I was indigent. So in order for me to vote, I'm going to have to pay 26 bucks or whatever a nonindigent person has got to pay for a state ID card or I can't vote, and that's a poll tax. [LB239]

SENATOR JANSSEN: You could show up at the polling place. One, you could say it's religious, which in this case again... [LB239]

SENATOR SCHUMACHER: No, I'm not religious. I'm an atheist, I don't care. [LB239]

SENATOR JANSSEN: Well, you're...well, that's still a religion then. [LB239]

SENATOR SCHUMACHER: Well, that has nothing to do with me voting. [LB239]

SENATOR JANSSEN: Religious preference or whatever. And what we're talking about really here is...and this is where we get away from common sense a lot of times, you put all these things in here to really cover a miniscule amount of people and usually the people that try to detract from a common-sense bill, which happens. So we take this one little part, and all these little parts were put in there in Indiana for this same reason because somebody much like yourself was asking these questions, well, what if, what if. And there will be people that oppose this and they'll bring up these what-ifs, what-ifs

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when the majority of people, the vast majority...this isn't a partisan issue at all. This is the majority of people show up and they are just...I won't say it rises to dumbfounded but just a little bit taken aback that they don't have to show an ID to vote. [LB239]

SENATOR SCHUMACHER: Right. But I'm Howard Hughes. I'm standing before the federal judge and I just made my argument of a poll tax and asked the judge to pitch this, and I don't think you're going to find an opinion from any lawyer that tells you this isn't going to get pitched because of that problem. [LB239]

SENATOR JANSSEN: Oh, I do have an opinion. I have an opinion from the United States Supreme Court that says it won't get pitched, Senator Schumacher, and it won't get pitched. [LB239]

SENATOR SCHUMACHER: Well,... [LB239]

SENATOR JANSSEN: This is one of the few cases where we actually have...this isn't...as stunning as I may or may not be, this isn't something that I crafted in office 1403. This is something that has actually held up to the courts. [LB239]

SENATOR SCHUMACHER: Do you...oh, you can give it to me later, but the cite of that case, because I think that this is so clearly a problem that I'd be surprised the Supreme Court said in these...in that factual situation that it's not. [LB239]

SENATOR JANSSEN: It's Crawford v. Marion County. [LB239]

SENATOR SCHUMACHER: You can give me the cite (inaudible). [LB239]

SENATOR SULLIVAN: Thank you, Senator Avery. [LB239]

SENATOR AVERY: Senator Sullivan. [LB239]

SENATOR SULLIVAN: Thank you, Senator Janssen. All constitutional issues aside, I'd like to know if you have any information about, first of all, how long ago did Indiana implement this and maybe some information about the other states, because I'm thinking that when it was first enacted and implemented, it probably came as a little bit of a shock to the electorate and, no, really. I mean I don't carry my ID in with me to the little town of Cedar Rapids. I leave my ID at home and I...or my driver's license out in the car and it would have come as a surprise to me. So is there education involved in this or, you know, I think that...I'm interested in how it was implemented in the other states and what kind of reaction they had. [LB239]

SENATOR JANSSEN: You know, the only thing I know about the implementation is it happened before 2008. [LB239]

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SENATOR SULLIVAN: Okay. [LB239]

SENATOR JANSSEN: That's when the...well, the court hearing. So it was around about that time, based on that opinion. I don't have the exact year. I should. I apologize for not having that. As far as carrying your ID, you got to have it to drive. [LB239]

SENATOR SULLIVAN: Yeah, it's in the car. [LB239]

SENATOR JANSSEN: You know, I should...let me take that back. To legally drive, you're supposed to have it. [LB239]

SENATOR SULLIVAN: Right. Right. And I said mine was in the car. [LB239]

SENATOR JANSSEN: And you could go get it. In that instance, you could go get it. If you're talking about an educational aspect to it, you know, I wouldn't...I would imagine it would be word of mouth most than anything. [LB239]

SENATOR SULLIVAN: But you don't have any evidence of the reaction in the states that have gone through this of what sort of reaction from the electorate. [LB239]

SENATOR JANSSEN: You know, the only reaction I could have is that other states are now looking at adopting this because of that, so I would say it was positive overall. But that's not to say, I mean, honestly, people are going to be upset if they show up...if I showed up, there's been days when I've come down here and, thankfully, the security will let me push a button and get into our parking lot because I forgot it. I forgot it those days. But can I go back and get it? Do I have an ID? Can I prove who I am? In this case, the one thing I don't necessarily love about the bill is the ten days. But in my case, I could go down to my county clerk's office the next day, show my voter card, ID card, whatever else I have, and my vote would still count, or I could run home and get it. Precincts in Nebraska are very small, usually very close to home. You could...you're allowed to vote, then you come back, you could show your ID. So I think it would be...I don't think it's unduly burdensome, I guess, and I'd probably say 95 percent of the time, while I'm not sleeping, I have my identification on me or, I guess including sleeping, very near me. [LB239]

SENATOR SULLIVAN: Thank you. [LB239]

SENATOR AVERY: Any other questions from the committee? Thank you, sir. Are you going to stay around for closing. (Laugh) [LB239]

SENATOR JANSSEN: You never know. (Laughter) [LB239]

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SENATOR AVERY: Proponent testimony? Anyone wish to speak in support of LB239? Nobody. Okay, we'll go to opponent testimony. How many people are planning to testify in opposition? Okay, I'm going to ask you to follow the light system very carefully, because when the red comes on, if you're not finished, I will stop you. It is almost 5:00 and we still have two more bills. [LB239]

JACK GOULD: (Exhibit 1) I'm going to talk fast. My name is Jack Gould, that's Jack, J-a-c-k G-o-u-l-d. I'm here representing Common Cause Nebraska. Senator Avery, members of the committee, appreciate you staying, listening to all this. First of all, I know that I have great faith in the Secretary of State's office, in the election commissioners and in the clerks, and I've been down here for about 20 years testifying on voting rights bills and I know that if we had any real threat of fraud that they would be here in front of us today testifying for this bill instead of taking a neutral capacity. A second thing is that voter ID bills with photo IDs on them generally are there to take care of one big problem, which is people who try to assume another voter's identity. And in talking with Neal Erickson about this in the hallway, really yesterday, Neal's been here a long time, too, and he had only one incident that he had in his memory of anyone doing that in the state. So, you know, this is not the big issue that perhaps we might want to present. A third item is the fact that a lot of studies have been done and you'll probably hear some of those later, but a lot of national studies by organizations like the Brennan Center and Common Cause show that this kind of legislation does limit the voting power of elderly people, of handicapped people, people of color, people in poverty, and that is a problem to be considered. And I'm not going to go into all that research but I think it's something you need to be aware of. The last important issue that I wanted to bring up is that I think you have attached to your fiscal note what the Motor Vehicles folks said about this bill, and I think it's interesting to look at it. Senator Avery did a good job of raising the question about cost, and I appreciate that. But if you notice that there are 32,768 cards issued every year and that it generates considerable amount of revenue, now if these cards are given out freely I assume that revenue will disappear. And what's not in here is what is the cost of actually producing 32,768 cards. That isn't in here either. So what we would see is a large loss of revenue to four different entities and then we would be looking at the problem of manufacturing these cards and distributing them free of charge, and that is generally what has happened in the states when the fiscal note comes forward. People suddenly realize that we're talking not in terms of, you know, \$5,000 here. We're talking in terms of perhaps \$100,000, \$200,000, \$500,000. It all depends on the amount of the cards that have to be produced and then you do have to take into consideration the loss of revenue that it presents. So with that, I'll stop. [LB239]

SENATOR AVERY: Okay. Thank you. Any questions from the committee? Senator Price. [LB239]

SENATOR PRICE: Thank you, Chairman Avery. Mr. Gould, just real quick, are you at

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all familiar with the case, the Supreme Court case, in Indiana? [LB239]

JACK GOULD: Not as a lawyer would be. [LB239]

SENATOR PRICE: Okay. Well, I'd just let you know they couldn't find two people who were disenfranchised and couldn't get an ID, and that was why...that's one of the things they found out there. But I'm sure we'll hear more about that, but the people who were in opposition, they had to produce two people and they couldn't find two people in the state. [LB239]

JACK GOULD: Two people who couldn't find the...? [LB239]

SENATOR PRICE: Who couldn't get an ID card for free, like you said, the elderly or the infirm. They couldn't find two people. So I mean, I think that was part of their...I don't want to say litmus test, I'm not an attorney, I just read the case and read some stories on it. But I wanted to share that with you because they have to be very, very careful in this because that is a big concern and it will always be a concern and is rightfully so. So I thought I'd share that with you. [LB239]

JACK GOULD: One of my concerns is the fact that this fiscal note did not appear on-line. The fiscal note that's on-line that we all looked at, most the people that are here, said there was no cost. And I had to call Motor Vehicles this morning and I asked Beverly Neth if this is...there was no cost. And she said, didn't you see my fiscal note? And I said, no. And then I came back and I talked with others and found out that this was attached and this does indicate the cost and it does look like it's extreme. So that is a concern. My green light is still on so I took liberty not only answering. I can't tell you in this state how many people wouldn't be able to...how many other people wouldn't qualify or would have a problem because we don't have it in effect yet, but I have a feeling that if it goes into effect there will be a lot more than two who will be affected. [LB239]

SENATOR PRICE: Thank you very much. [LB239]

SENATOR AVERY: Any other questions? I don't see any. Thank you for your testimony. [LB239]

JACK GOULD: You bet. [LB239]

SENATOR AVERY: Any other opposition testimony? [LB239]

ADAM MORFELD: Good afternoon. My name is Adam Morfeld, that's A-d-a-m M-o-r-f-e-l-d, and I am here on behalf of Nebraskans for Civic Reform in opposition to LB239. First off, I'd like to correct Senator Janssen. He's actually wrong. If you do not

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possess an ID, that is unacceptable for voting purposes. Public Law 109-2005 requires the DMV, which is the Department of Motor Vehicles in Indiana, to issue an Indiana state ID for free. So it's not just indigent individuals. Crawford, and I've read Crawford, looked at this law based off not an indigent requirement but for free for all those who wished to vote, so (laugh) I do believe, and while I'm not an attorney, I do believe that there would be a constitutional challenge involved with this case. And there was a constitutional challenge involved with the state of Georgia's requirement that had the exact same requirement for indigency and the federal court there actually struck it down. And then Georgia had to go back, amend the law, and then make it so it's free for everyone who wants an ID for voting purposes. So that's actually incorrect. That being said, I only have about four more minutes so I'll keep going here. For most of us in this room, requiring a photo ID seems like a trivial thing, however, it is not for potentially thousands of Nebraska citizens. If passed, LB239 requires a valid and current driver's license or federally issued photo ID. This will be one of the most restrictive voter ID bills in the country. Specifically, this will affect seniors who recently just...or excuse me, this will affect seniors who do not and cannot afford to live in a nursing home, out-of-state students who recently just moved to Nebraska and now call it home, and lower-income individuals who do not drive. I'd like to also note that based off my reading of the bill, it requires that you have an ID that's valid under the Motor Vehicle Act, which under my understanding requires that you have a photo ID that has your current address on it within 30 days of moving. So that restricts it to a lot of other individuals as well who have been in Nebraska for a very long time. Most importantly, this law is unnecessary. Voter ID only protects against voter impersonation, which is virtually nonexistent. I have been working and studying on election issues for nearly five years and every voter fraud study that I've read listed voter impersonation at the bottom of the list or not at all. In order to impersonate a voter, one must find out where the voter lives. Next, they must find out where they vote and then they must go and vote in their name. In addition, they must also hope that the precinct worker doesn't know who that voter is. Such a form of voter fraud is extremely easy to identify, because when the actual voter shows up to vote, it will be made apparent that fraudulent voting has occurred. A great example of the ineffectiveness of this bill is the recent Omaha recall election. Several voters are currently being investigated for voting absentee and then attempting to vote at the polls. This type of fraud is one of the most common but would not have been prevented by LB239. The current system works and the Omaha recall election is an excellent example of that. Next, I simply cannot and do not believe that this bill is fiscally neutral. As required by the Supreme Court and at least one federal district court in Georgia, a mandatory voter ID law requires that a state issue free identification cards to all individuals who wish to vote, not to people who just simply claim that they're indigent. A zero-dollar fiscal note is remarkably unlikely and may result in an unconstitutional implementation of this law in Nebraska. Missouri had an identical bill and the fiscal note was nearly \$6 million for the first year alone. A quick estimate Indiana conducted of the cost of voter photo ID law found that in providing more than 168,000 IDs to voters, the total production costs, including manpower, transaction time--I don't have it memorized,

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sorry--and manufacturing was in excess of \$1.3 million, with an additional revenue loss of nearly \$2.2 million. This estimate did not include the costs of training officials, nor providing voter education or outreach regarding the laws requirements. It should also be noted that this would greatly increase the number of provisional ballots at the polls on election day, placing an incredible burden on the election officials. Voter ID is a solution in search of a problem. While my organization has not been able to obtain Nebraska-specific numbers, in Missouri, a state who was entertaining their own similar voter ID law, it was estimated that as of March 2009, 253,000 registered Missouri voters do not have the valid Missouri photo ID required on file with the Missouri Department of Revenue. These eligible voters would not be able to cast a ballot even if they could identify themselves with another ID. Another great example is Wisconsin, which also considered a very similar proposal. To run through the numbers very quickly, since I only have a minute here, 23 percent of all elderly Wisconsinites of the age of 65 would not have had the valid Wisconsin photo ID; 7 percent of Caucasian men and women also would not have had the valid photo ID; and 55 percent of African-American males and 49 percent of African-American females would not have a photo ID. This legislation burdens the elderly, poor, and people with disabilities. In conclusion, while a voter ID law seems incredibly common sense, in reality they are exceptionally burdensome on our most vulnerable citizens. I urge the committee to think very carefully about the actual effect of this bill and the unnecessary hardship that it will place on Nebraska citizens for very little return. I thank the committee for your time and your consideration and would be willing to answer any questions at all. [LB239]

SENATOR AVERY: Thank you, Mr. Morfeld. Questions from the committee? Senator Schumacher. [LB239]

SENATOR SCHUMACHER: Thank you, Senator Avery. Did any of those other laws have the nursing home residency exception that this one has? [LB239]

ADAM MORFELD: I don't know that, Senator. I simply looked up their requirements for indigency because I saw that on this bill and wanted to make sure that it was in line with the other bills that were ruled constitutional, which it was not. [LB239]

SENATOR SCHUMACHER: Thank you. [LB239]

SENATOR AVERY: Any other questions? I don't see any. Thank you. [LB239]

ADAM MORFELD: Thank you. [LB239]

SENATOR AVERY: Any other opposition testimony? [LB239]

MARY ANGUS: Hi, Senators. [LB239]

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SENATOR AVERY: Would you give the clerk your sign-in sheet. Thank you. [LB239]

MARY ANGUS: Thank you, Senator Avery. And I apologize if I am the reason that you don't want laptops at your desk anymore. I wrote my testimony a couple of weeks ago on route here for a very important bill, and I apologize for that. My name is Mary Angus, A-n-g-u-s, spelled M-a-r-y, and I'm here representing ADAPT Nebraska, which is a network of advocates across the state who advocate on behalf of persons with disabilities. This particular bill is a very, very important one to us and that is because it is a bigger barrier than we've been addressing for a long time in our right to vote. ADAPT Nebraska is part of a coalition of the Nebraska Disability Vote Project and, as such, we've been studying disability rights and voting for about seven, eight years now; work with the National Disability Vote Alliance and other organizations like the American Association of Persons with Disabilities. I have to say I agree a lot with some of the pieces that we're talking about in terms of the cost of the ID cards, one...and I'm very disorganized because this is not the testimony that I expected to give today. One of the things that we've talked about is how much this would actually cost to put one out. Well, my grandson is at Benson West High School and he has a photo ID for school and if he loses that it's...the cost of the copy of that is \$5. So if we've got 1,000 people who aren't...who have to get one of those, that's \$5,000, so there's a fiscal note that could be put on there right off the bat. One of the problems with those, though, is that even before that many people with disabilities--fortunately, not myself--have grown up in institutions or have had all of their personal records lost in one way, shape or form. We have kids in the foster care system, and this is a little bit separate, who may never see their birth certificate. Some people who lived in institutions all their lives don't even know where they were born. So regardless of the cost or the granting of a free ID for a person with a disability or who was indigent, it doesn't matter because you've got to show a birth certificate to get either. You've got to show a birth certificate to get a government-issued ID and you have to show government-issued ID to get your birth certificate. I don't know how we could have a bigger barrier to people voting. One of the discussions that I heard earlier was of concern to me. Voting is absolutely a constitutional, fundamental constitutional right. I don't have a right to go to Walmart and use my credit card without an ID. I have a fundamental constitutional right to vote. And unfortunately, I think Senator Janssen would have a big problem with me, I am awful on timeliness. I'm terrible. You can tell, I don't even have my testimony written up this time and the last time it was on a computer. That does not take away my right to vote. I'm talking about folks who even today can't get into some polling places. Nebraska has one of the best records going in terms of being able to be physically accessing your polling places, but when we have only recently gained that ability to use voting machines in polling places and to get into, physically get into polling places, to ask us then to prove that we were born here by a birth certificate which, regardless of whether you give me a free voter ID, I've got to pay if I can find out where my birth certificate is, that is a barrier to a fundamental civil right that I have as a person and a United States citizen. And I don't even know that there's anything else I can add to that. This would create one of

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the biggest barriers to people with disabilities voting that we've seen in a long time. Thank you. I'd be happy to answer any questions. [LB239]

SENATOR AVERY: Thank you for your testimony, Ms. Angus. Questions from the committee? I think we have asked about all the questions left and so thank you for... [LB239]

MARY ANGUS: If I wait till late enough in the day, everybody is tired. [LB239]

SENATOR AVERY: Everybody is tired. [LB239]

MARY ANGUS: I can't get home tonight so... [LB239]

SENATOR AVERY: Thank you for your testimony. [LB239]

MARY ANGUS: Thank you. [LB239]

SENATOR AVERY: Any other opponent testimony? Good afternoon. [LB239]

AMY MILLER: (Exhibit 2) Good afternoon. My name is Amy Miller, that's A-m-y M-i-l-l-e-r. I'm legal director with the American Civil Liberties Union of Nebraska. I want to talk to you today about cash and the constitution and cash again. Cash comes first because Chairman Avery's questions were correct that there are going to be costs to voters, which we think then become an illegal poll tax. As you just heard, to get a state ID card you have to show something to the Department of Motor Vehicles and in Nebraska that includes either a birth certificate or a passport. To get a copy of your Nebraska birth certificate if you were born here, it's \$12. If you want to show your passport, that's \$185. So although the ID card that Senator Janssen is talking about is free, you need to pay cash to get the documents to get the free state ID card. Those costs may seem minimal but they are not. The U.S. Supreme Court has already held, in the context of a poll tax that was \$1.50, wealth or fee paying has no relation to voting qualifications; the right to vote is too precious and too fundamental to be so burdened. In other words, it doesn't matter if it's only \$1.50 or it is substantially more for someone to be able to get the free ID card; it is too much if there's any cash involved for the voter to be able to access the voting box. We heard several references to the 2008 Supreme Court decision Crawford v. Marion County Election Board. I want to be clear, that held on a facial challenge that was brought by the ACLU of Indiana and it was only on a facial challenge to the application to the law in Indiana. It was done before the law had gone into effect and so there has not yet been and the door is still open to a challenge on how the law is actually being implemented in Indiana. In fact, there already has been another case filed that's working its way up through the Indiana courts and all of that is only based on the federal constitution. You can't take comfort in the idea that because the U.S. Supreme Court ruled in Crawford that somehow LB239 has had a miracle

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blessing handed down upon it. Not only is there still open federal challenges as applied, there are also state constitutional challenges available. On the third page of my testimony, I've quoted to you Article I, Section 22 of the Nebraska State Constitution. You've heard it before but I'll repeat it: All elections shall be free; there shall be no hindrance or impediment to the right of a qualified voter to exercise the elective franchise. The phrase "no hindrance or impediment" does not appear in the federal constitution. As often happens, state constitutions can grant more protections to their citizens than the federal constitution. The federal constitution is just a floor and the Nebraska Constitution has set a ceiling that's substantially higher. It is my belief that if there was a challenge brought to LB239 under the state constitution, that the state constitution provision would find that having to show identification is a hindrance or an impediment. That's why, for example, the Missouri State Supreme Court struck down their voting ID law, even though it was not brought on federal challenges. The Missouri State Constitution similarly required free elections and so, in the 2006 decision, Weinschenk v. State of Missouri, the Missouri State Supreme Court struck down their photo ID requirement saying that there is a compelling state interest in preventing voter fraud but this was not narrowly tailored; that requiring payment to obtain a birth certificate is not a poll tax but it is a fee that qualified eligible registered voters, who lacked an approved ID, are required to pay in order to exercise their right to free suffrage. So I talked about cash, I talked about the constitution, and I'll wrap back around to cash again. You have heard some testimony already that the fiscal impact clearly is not going to be zero to the state of Nebraska. There is going to be a fiscal impact to the voters, as discussed. The fiscal impact to the state, as described on the last page of my testimony, looks at what the Legislative Fiscal Bureau in Wisconsin, Iowa, and Indiana have all reported out. Wisconsin, it's \$2.3 million annually just for the DMV to crank out the free IDs; Iowa just rejected their voter ID law, and I apologize for the typo, that's \$1,628,000 per year to offer the free IDs; and the state of Indiana, which is the laboratory where we're looking at what's happening, has spent over \$10 million in free ID. It's not a settled area of law. Senator Sullivan asked the question about the expense. It's going to cost the state to offer the free ID. It's going to cost the state to train poll workers. It's going to cost the state to educate the voters and do public education so voters know they need to bring an ID with them or how they obtain the free ID. And there will be a cost of LB239 passes and there is an inevitable civil rights challenge. For those reasons, we would suggest there's no good reason to spend millions of dollars to make it harder for Nebraskans to vote and we urge you to indefinitely postpone LB239. [LB239]

SENATOR AVERY: Thank you, Ms. Miller. Let me take you back to the Nebraska Constitution. You quoted Article I, Section 22: There shall be no hindrance or impediment to the right of a qualified voter to exercise the elective franchise. Couldn't one argue that without a photo ID you're not a qualified voter? [LB239]

AMY MILLER: I think that you've become a qualified voter as soon as you, in fact, met

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the statutory requirements, and once you've registered to vote, and I realize we're not talking about same-day voter registration anymore, when you're talking about you have already been registered to vote, ergo therefore you are a qualified voter. At that point, the next question is, is anything else that you place in front of the voter a reasonable burden? And again, according to at least what the Missouri Supreme Court did with similar state constitutional language, the answer was no. I think the Missouri State Supreme Court left open that if you could come up with a narrowly tailored solution to a problem with voter ID fraud, then you could move forward. I'm currently, as I sit here, unable to think of a way that you could narrowly tailor a voting requirement that makes voters show identification even when it's free. And I think the final problem there is we don't burden fundamental constitutional rights unless you have a compelling state interest. There's no record of voter fraud that's been shown to the Legislature. For the Legislature to move forward on a bill that would potentially burden fundamental constitutional right with no evidentiary record of a problem in front of you suggests that the court would be left with trying to decide whether there was even a compelling state interest and not finding one. [LB239]

SENATOR AVERY: We often do things in this Legislature and in this committee that we call best practices. Could one argue that this is a best practices proposal for the Nebraska election law? [LB239]

AMY MILLER: I think not. I, because of time limits, I skipped over the second page of my testimony that does talk further about the types of people that get affected, and in the bullet point area on page 2 there are examples from ACLU clients in other states who have been impacted. And I think all of us would agree that it would not be best practice for, in the first example, a group of nuns being turned away because they didn't have identification. They don't drive, they don't have to cash checks, none of them had photo ID. In Georgia, 5,000 eligible voters were disenfranchised. The majority of them simply had Hispanic or Latino surnames. And then, I'm sorry, Shirley Preiss, age 98, was born in Kentucky in 1910. She had no birth certificate because she was a home birth. She moved to Arizona and Arizona implemented a voting ID law. She couldn't show them that she was an American citizen because she had no birth certificate. She repeatedly tried to contact Kentucky to ask them to give her a birth certificate. There are some ways in which, if you were born without a birth certificate, you can get one from the state. You generally have to bring forward a live witness who witnesses your birth, who could testify, yes, I was there when Shirley was born. Shirley, at the age of 98, had no such live witness, so Shirley just can't and doesn't vote in Arizona. She's a plaintiff in an ACLU lawsuit there. And then the final bullet point which I think is particularly important to a state like Nebraska, studies indicate many Native Americans who are over the age of 40 weren't born in hospitals, so similarly, whether they're rural births or home births, you're talking about people who don't have birth certificates and can't even get in the door to pay the costs that may be a poll tax. So I think with all of that evidence, best practice here is we don't have a problem, we don't need to fix it by

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starting to eliminate 98-year-old citizens who can't get in to prove that they have been here for 98 years. [LB239]

SENATOR AVERY: Thank you. Questions? Senator Brasch. [LB239]

SENATOR BRASCH: Thank you, Chairman. Thank you, Ms. Miller. I'm trying to weigh this all out very carefully and I understand there's a matter of law and the constitution and...but I also know that voting is an important right. However, today I would not be able to get through an airport if I don't have a picture ID. If I wanted to enlist in the military or something, I'd probably have to show that I was 18 years of age for certain items or 21 years of age or 65 years of age for a senior citizen. It seems that it's growing more important in our history that we are able to identify who we are, given certain situations. In light, you know, and you're saying that voting is not as critical as boarding on a plane or proving your birthright or your position, because I think it is. And I think, you know, maybe at one point it wasn't important in our history because everybody, you know, came through Ellis Island in a timely (inaudible) undocumented, but now that we have so many people with so many needs and that perhaps it would be wise for our country to help whoever, you know, needs help with getting a photo ID, but we know everyone and understand, you know, that they're voting, you know, or they're...your thoughts are? [LB239]

AMY MILLER: I think you're absolutely right that things have changed, that back maybe even 10, 15 years ago it would not have been as common for all of us to have photo IDs and that right now you're right. I, like Senator Janssen, am very used to having my ID with me most times, when I board planes, every time I'm going places, but we forget that if we just assume it's always been like that, and it hasn't in our relatively recent living memory, including the life, say, span of my father, who, while I was talking about the fact I'd be testifying, said, well, I don't have a birth certificate. And I said, why don't you? He was the product of an American G.I. and a British woman. He was a home birth in the slums of Yorkshire, England, and because he was military product, he was allowed to come over into America at a very young age and nobody asked because we didn't have such importance attached to things like everybody has to have a birth certificate. The identity card, the Social Security card, has really morphed from its origins for just being for Social Security to being a general identifier. So things have changed but the problem is right now we still have substantial populations who have their feet and their origins back in that earlier time who couldn't meet the new standard you're talking about and, therefore, would be x-ed out of the political process. It is possible if LB239 was introduced 50 years from now, when that generation of folks who might have been home births, who might have been rural born, who may have not had any birth certificate, when those folks have passed on it's possible this would not be such a large barrier to so many people. But the sensibilities we have today about identification are not those that were present for many, many voters who are qualified and legal citizens who would be x-ed out right now. So this may be a bill that's before its

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time or before a generation. [LB239]

SENATOR BRASCH: And, you know, and there's advocacy groups that are here and, see, I would think that it's easy to keep putting things off. Now, you know, with identity theft, things like that, I do believe that if there's a will there is a way to identify who we are. I think Senator Janssen mentioned or someone, maybe it was Senator Avery, about if you go to Europe you have to have documentation, a passport, something showing that this is truly who I am. And I think going to our polls for a very important task of voting in our next leaders, you know, the people who hold, you know, our laws in their hands and our futures and our policy and decision makers, you would want to validate that I am truly who I am and move forward. But because I was born in another era, I would think that there would be a way, especially with today's technology, that it wouldn't be a cumbersome task. You know, you could e-mail the hospital in London where your, you know, father was born, that there would be a way to facilitate those papers without a plane ticket or you know. [LB239]

AMY MILLER: I think that is the difficulty that although I'm not going to advocate for a national ID card, I think the proponents who have suggested everybody, every American should just have to have a document that we all have and we all carry with us at all times, it would make police job easier, ambulance, to identify a dead body, whatever, until we have that, that is a sort of first baby step before you can move to and everybody can show that at the ballot box. But right now when not everybody can produce, that there is just no way for me to satisfy the requirements that are currently required under state law, then why leave out 98-year-old Shirley? She has literally...unless we were just going to carve out an exception that perhaps Secretary Gale could meet with each of these individuals and assess whether or not he truly believed they were a legal citizen or not. Right now we don't have a mechanism that will catch all of the Shirleys, that will catch all of the home births, that will catch all the people that were born under circumstances, maybe a foreign birth that moved in. And so until we make that first step, and I hear what you're saying is you might support a national ID card, but since we don't have that I can't see a fair way that you can implement requiring some sort of ID card when right now there's no way for someone to get them. [LB239]

SENATOR BRASCH: And I'm also concerned about how much we are giving...I'm giving my grandkids to take care of. They have a lot on their hands and I think if there's anything we can possibly do today, let's get her done, you know, that kind of, you know, mentality, rather than saying that it's going to be the next generation or the generation after. But I do appreciate and understand your testimony. Thank you very much. [LB239]

AMY MILLER: Thank you. [LB239]

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SENATOR BRASCH: Thank you, Chairman. [LB239]

SENATOR AVERY: Senator Karpisek. [LB239]

SENATOR KARPISEK: Thank you, Senator Avery. Thank you, Ms. Miller. It's been so long ago since I registered to vote and I haven't had to change places, how...and I'm sorry if I'm repeating anything, how do you register to vote? Do you have to have an ID to register? [LB239]

AMY MILLER: I haven't had to register to vote for so long because I've been registered since I was 16. I do not believe you have to show identification to register. [LB239]

SENATOR KARPISEK: How would they know it's you? [LB239]

AMY MILLER: Well, we do it by a mail-in card in many places. If I recall correctly, when I came to law school I reregistered because I was at a grocery store and the League of Women Voters were there with a stand, and I did not have to show identification. So we don't currently require it. So this would be an interesting change, and I'm not sure that you're going here but now I'm thinking aloud... [LB239]

SENATOR KARPISEK: Well, I'm going whichever way and, again, I haven't done it and maybe one of the clerks will be able to help us out with this. But I'm thinking if you have to do it there, all of your points are kind of moot. If you don't, all of Charlie's or Senator Janssen's are kind of moot. So anyway... [LB239]

AMY MILLER: You don't have to now and I'm now thinking aloud as to whether or not that creates an additional question. If you wanted to move forward with LB239, do you also need to look at amending all of the registering to vote statutes. Because I know that when I moved recently and bought my own home, I am a taxpayer, when I first...when I finally moved because I bought my home, I simply did it by a card that I mailed in. And so trying to stretch back to when I was a teenager, I don't think you have to provide any photo ID to register to vote. [LB239]

SENATOR KARPISEK: All right. Thank you. Thank you, Senator Price. [LB239]

SENATOR PRICE: Thank you, Senator Karpisek. Are there any further questions from the committee? Senator Schumacher. [LB239]

SENATOR SCHUMACHER: Basically absent a problem, and evidence of a problem with people voting twice because of misidentification, voting for somebody else, some other type of fraud, we are pretty limited in what we can require. [LB239]

AMY MILLER: I would agree with that, because in the constitutional test there has to be

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a compelling state interest. A phantom fear that maybe we will all of a sudden be living in the days of Tammany Hall again, I think you would have to have a record, an evidentiary showing that we currently have a problem you are attempting to resolve in order to take such a bold step as to impose potential financial burdens on otherwise qualified voters. [LB239]

SENATOR SCHUMACHER: Thank you. [LB239]

SENATOR PRICE: Thank you, Senator Schumacher. Are there any other questions? Seeing none, thank you, Ms. Miller, for your testimony. Do we have any further opposition? Welcome. [LB239]

JANE KLEEB: (Exhibit 3) Hi. Hello, Senators. My name is Jane Kleeb, and that's K-I-e-e-b, and I'm here representing Bold Nebraska, and my testimony will focus on...more on the youth vote. For several years, I worked on studying and implementing programs to increase young people's civic engagement. I worked in both nonpartisan and partisan programs. There are many myths around the youth vote. At times, I think elected officials and candidates think that the youth vote is some mythical unicorn that only certain candidates can capture when the reality is there are many barriers that prevent young people from voting at the same rate as older voters do, and one of those barriers is in front of you today. Implementing a restrictive voter ID law may sound like a good idea on face value but, in fact, the end result is simply fewer Nebraskans voting. Already only 27 percent of young people in Nebraska voted in 2010, and in 2008 only 48 percent of young people voted, compared to 60 percent of older voters and 73 percent in 2008. A voter ID law will further decrease that number, not increase it. If we as a state are serious about increasing civic engagement, we would pass a same-day election registration law, not a restrictive and expensive voter ID law. A fiscal note of zero for this bill is simply not possible. You cannot force Americans to pay for an ID in order to vote. It's unconstitutional and it's considered a poll tax. Therefore, the state would have to offer photo IDs at no cost to Nebraskans, not to mention all the other things that would go around implementing this law. You would have to do mailings to inform potential voters that they have to have an ID. You would have to have new training for state and county staff. You would have to print additional provisional ballots. A voter ID law will simply require more government staff and will require additional government funds to pay for these new photo IDs. In today's tough economic times and as our state faces almost a \$1 billion deficit, this is not a time to add more economic burden to our counties and to our state, and it is most certainly not a time to grow government for a problem that simply does not exist. The nonexistent problem I'm referring to is voter fraud. There is no proof of any widespread voter fraud right now in our state, and there is no proof that a voter ID would stop such fraud. In fact, I stated in last year's hearing on same-day election registration, the point was raised that the Department of Justice initiative in prosecuting voter fraud resulted in only 40 prosecutions nationwide for election crimes related to illegal voting between 2002 and

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2005. The only thing a voter ID law will do is put up more barriers to Nebraskans voting. Our country and our state pride ourselves on ensuring that Americans have a voice in our democracy. This bill would silence voices, especially young voices, at a time when we can all agree that what we need in Nebraska is more voices in our democratic process. And with that, I'd take any questions, and will also just note that there is a new report by the group that is seen as the expert on voter laws and voter ID cases by Demos that I will most certainly send to Senator Avery so you can get that to the full committee. [LB239]

SENATOR AVERY: Thank you, Ms. Kleeb. Questions from the committee? Senator Pahls. [LB239]

SENATOR PAHLS: Yeah, the part that you intrigued me is the comment about civic engagement, which I have no argument about at all and your reason why it may increase. Can you explain to me, if we're talking about civic engagement, because I'm from the Omaha area and just recently we had a petition, a recall of a mayor, and we had so many people who did sign that petition but they didn't vote. [LB239]

JANE KLEEB: Yep. [LB239]

SENATOR PAHLS: What's... [LB239]

JANE KLEEB: One of the big problems with young people voting, in particular, is that it's not a habit yet. So research shows that it takes three elections to make voting a habit, and when you're a young person, we all are used to voting and if you're in a small town you're really used to voting because everybody around you tells you where to go to get to register to vote. But if you're in a big city or you just moved to a new state, it's often complicated. And while I think our Secretary of State does an amazing job of registering voters, the Web site is also very clunky and it's very confusing to figure out where you go to vote, what you need to vote. I was a reporter for MTV and I tracked two young people figuring out the process in Nebraska and they did not have to show ID. They did have to show proof of residency, so for them, one of them, they were a college student and the other young person was, you know, not in college, so they showed a pay stub and their rental agreement. So people don't vote because it's not a habit. And I think if we're really serious about increasing civic engagement then a bill in the Education Committee should happen on having mandatory civic engagement and civics classes for our high school kids so we are registering all of them in high school, so we are teaching them the process of voting and that huge responsibility that they have. But this law does not do anything to solve that problem. [LB239]

SENATOR PAHLS: Okay. Well, then apparently you have have...and by your name, you do have some background in the history of voting. And I was brought up in a generation where, you know, the United States was burning, you know, think about it, in

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the sixties, which many of you did not have the privilege of growing up in and what I considered as a privilege. It was some tough times. By your knowledge, did more young people vote at that time? [LB239]

JANE KLEEB: It's a great question. Yes. When young people got the right to vote in 1972, about 60 to 70 percent of young people were voting. On average right now about...in presidential years, about 50 percent of young people are voting. Now that is a big increase. There's been a tremendous amount of efforts, Rock the Vote, MTV, both the GOP and the DNC have spent significant amounts of money since 2000 to get young people to vote at higher levels. Voter IDs are shown to decrease the youth vote, and I have a lot of concern, Nebraska is already in the lower end of young people participating in our state, that this law will just further put us down a path of young people not voting. [LB239]

SENATOR PAHLS: Okay. I'm listening. You're telling me you actually have proof that an ID would cause the younger or the youth... [LB239]

JANE KLEEB: Yes. Yes. [LB239]

SENATOR PAHLS: ...not to vote. [LB239]

JANE KLEEB: Rock the...yeah, Rock the Vote actually just testified at...I don't remember the state off my hand but I will send you the testimony from their executive director, Heather Smith. They did studies that shows that voter...when states have restrictive voter ID laws, the youth vote decreases. [LB239]

SENATOR PAHLS: Do you see why some people would bring something like this forth, because the voter...I mean to having an ID? Do you understand the rationale, why some people believe that's needed? [LB239]

JANE KLEEB: I understand on face value why that makes, quote unquote, common sense, but the problem with this is that not everybody has a driver's license or a government-issued photo ID. And so if we're going to implement a photo ID requirement, we are going to have to make sure that where you go to get that photo ID is accessible. Again, this report that Demos did showed, they were doing Wisconsin, that in some areas there wasn't a place where you could actually even go get a photo government ID. So if you didn't have a car, there was really no way, no convenient way, to go and actually get the photo ID taken. And so if we're going to implement this, there has to be a system in place that is easy for people who don't drive or don't have money to take the bus, because we're talking about our constitutional right as citizens to cast our ballots. [LB239]

SENATOR PAHLS: Okay. If we can find a way to do what you just proposed... [LB239]

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JANE KLEEB: And that's going to cost millions of dollars. It's not going to cost zero. [LB239]

SENATOR PAHLS: I understand the zero is (inaudible). [LB239]

JANE KLEEB: Yes. And so then fine, I'd be fine with it if our state was committed to the technology, to the resources to make sure that this was not an additional barrier to me as a citizen acting on my constitutional right to vote. [LB239]

SENATOR PAHLS: Okay. Thank you. [LB239]

SENATOR AVERY: Senator Price. [LB239]

SENATOR PRICE: Chairman Avery, thank you very much. Ms. Kleeb, thank you for coming and testifying today in this horrible weather that we have now. You mentioned and referenced young people. Can you identify the range of a young person? [LB239]

JANE KLEEB: Yes. We're talking 18 to 24. [LB239]

SENATOR PRICE: Eighteen to 24. All right. And then do you have any numbers for whether or not more or fewer individuals are getting driver's licenses? [LB239]

JANE KLEEB: No, I don't, but I could definitely do some research on that. [LB239]

SENATOR PRICE: Okay. And then... [LB239]

JANE KLEEB: For many years, I worked, you know, on youth vote programs and trained young people on how to get their peers to the polls, and a lot of lower income and African-American and Latino young people do not have driver's license. They simply...that may sound odd to us, but they don't have them. They may have a community college ID or they may have a high school ID, but they don't have driver's license. And I don't know the exact figures for Nebraska but I will certainly look those up. [LB239]

SENATOR PRICE: All right. And then just finally, in thinking about the testimony from today and everything, we're all left wondering and thinking and contemplating. And on one side of an argument--I don't know if it's an argument but just it is what it is--we have the integrity and the sanctity of the election itself in question, and then the other side we have the voting right, and that's when...and I have no answer. I'm listening and I'm wondering: Are they in opposition? Are they synonymous, congruent? I'm trying to find out. When I try to protect the sanctity of the election and the right to vote and we've seen that they could be at loggerheads at times, if I go too far to protect the sanctity of

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the vote I could, as someone said, disenfranchise a voter. If I try to get every single voter the opportunity to where we use limited checks and balances for validating who they are, I then compromise my election. Do you see that that could be a challenge? [LB239]

JANE KLEEB: If we had widespread voter fraud in Nebraska, I would agree that the integrity of our election system is at risk, but... [LB239]

SENATOR PRICE: Wouldn't one vote be...wouldn't one vote cast improperly that changed the outcome of an election be as egregious as 100 or 1,000? [LB239]

JANE KLEEB: We have to then ask ourselves as a state, do we have the resources, number one, to defend this law in court, because there will be court challenges to it, and number two, do we have the resources to train our state and county workers and have the resources to provide free photo IDs at accessible locations for folks? So if the answer is yes on that, then implement the law. [LB239]

SENATOR PRICE: Then I think we see it the same way then. The sanctity of the election is so important; it's just like a cost thing on the other side. Thank you. [LB239]

SENATOR AVERY: Any other questions? Senator Schumacher. [LB239]

SENATOR SCHUMACHER: Thank you, Senator Avery. Do you happen to know how often you have to renew a state-issued voter ID? [LB239]

JANE KLEEB: From what I understand, you do not have to ever renew your voter registration unless you move locations. [LB239]

SENATOR SCHUMACHER: No, no, the ID, this bill. [LB239]

JANE KLEEB: Oh, if there was a photo ID... [LB239]

SENATOR SCHUMACHER: Right, and how often do I have to get my mug shot taken? [LB239]

JANE KLEEB: I'm sure that some states may have put an expiration date on it, but I don't know the answer to that. [LB239]

SENATOR SCHUMACHER: Well, this bill requires it to be a current ID so with an expiration date, but it doesn't...it doesn't require that you look like the person on the ID. [LB239]

JANE KLEEB: (Laugh) Yeah, Mickey Mouse never votes either, which you know people

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always complain that there's Mickey Mouse, people are registering as Mickey Mouse but Mickey Mouse never tries to vote, you know? (Laugh) [LB239]

SENATOR SCHUMACHER: He may have done it once. (Laugh) He's been voted for. [LB239]

JANE KLEEB: He has been voted for, Donald Duck too. [LB239]

SENATOR SCHUMACHER: I have no further questions. [LB239]

SENATOR AVERY: Any more questions from the committee? Thank... [LB239]

JANE KLEEB: I will follow up and look at license, the numbers, as well as that report, because the report actually has some really good fiscal information in it. [LB239]

SENATOR AVERY: Thank you, Ms. Kleeb. Any other opposition testimony? Good afternoon. Good evening. [LB239]

BETH BAZYN FERRELL: Yes. Chairman Avery, members of the committee, for the record my name is Beth Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm appearing in opposition to the bill for the Nebraska Association of County Officials. Most of the concerns that our board had you've heard today. We did look at this bill before we had the benefit of any kind of a fiscal note and, of course, as you know, with the pending loss of state aid, anything that could potentially cost counties has been a concern to us. A second issue that we discussed was the ten-day delay for someone to come in and present an ID, and whether that would be more appropriately left at seven days rather than expanding it to ten. And finally, another issue we talked about was whether this would discourage longtime voters from voting. For example, a couple comes in, one of them leaves their ID at home. Is the spouse that doesn't have the ID with a potentially either not decide to vote provisionally or not to come back later and show that they had an ID that was appropriate under this? I think Senator Sullivan pointed out that there would be an educational process to this and that may resolve those concerns. I'd be happy to try to answer questions. [LB239]

SENATOR AVERY: Thank you very much. Questions from the committee? I don't see any. Thank you. Any other opposition testimony? Anyone wish to testify in a neutral position? No neutral? (See also Exhibits 4, 5, 6, 7, and 8) Senator Janssen, you have time. [LB239]

SENATOR JANSSEN: Thank you, fellow members of the Government, Military and Veterans Affairs Committee. And I'm even more confused now, because I thought it was Kleeb and now it's "Kleb," and so now I'm thoroughly confused on the pronunciation of that name. But thanks for the debate on both the two bills. I'm very interested in both of

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the last two bills, even the bill that wasn't mine. I'm just willing to work with you. Senator Schumacher brought up some great questions and would love to work with you on those because I know that's kind of more of your area of expertise in making this the best possible bill to come out. Nebraskans have asked for it. This is...I keep saying it's common sense. I can pick out a movie; I have to show an ID. I pick up my dry cleaning; I have to show an ID. But I don't have to show an ID to pick my President and I think that doesn't make common sense. So I look forward to working with you and that will end my closing, except for a question from the always inquisitive Senator Sullivan, if she... [LB239]

SENATOR AVERY: (Laugh) Okay. Senator Sullivan. [LB239]

SENATOR SULLIVAN: Thank you. So your comment that Nebraskans want this, you've heard from your constituents and others? [LB239]

SENATOR JANSSEN: Yeah, and like I said in my opening, I had so many...I go home every night, and it's going to be very difficult tonight, into Fremont, and this was the bill--this will surprise you--this is the bill I've heard more about. And I don't run many bills every year; it's just you hear a lot about them. This is a bill...this is...this makes sense. Why don't we do this? To go back to Senator Karpisek's "jeez, I thought we already had to do that" type of thing. And I, granted, I put an article out in the paper, like we all do, our weekly columns, and I wrote about this, but this is the one that seemed to illicit the most, like, hey--even people who are against me on other stuff--like, hey, this makes sense, you should have to do this; I mean your other stuff may not, but this makes sense. Did I take a poll of all Nebraskans? No. I couldn't afford that. But Senator Karpisek could but... [LB239]

SENATOR AVERY: Any other questions? I don't see any. Thank you, Senator Janssen. [LB239]

SENATOR JANSSEN: Thank you very much. [LB239]

SENATOR AVERY: That ends the hearing on LB239. We'll now move to LB365. Welcome, Senator Sullivan. [LB239]

SENATOR SULLIVAN: Thank you. It's been an afternoon. (Laugh) [LB365]

SENATOR AVERY: It has. [LB365]

SENATOR KARPISEK: And evening. [LB365]

SENATOR PRICE: Evening, and it could be morning. [LB365]

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SENATOR SULLIVAN: (Laugh) Chairman Avery and members of the Government, Military and Veterans Affairs Committee. I'm... [LB365]

SENATOR AVERY: Oh, I'm sorry. I'm so tired I forgot to read into the record on the last bill. [LB239]

SENATOR SULLIVAN: Oh. [LB365]

SENATOR AVERY: (Exhibits 4-7) We have two letters in opposition to LB239, one from the League of Women Voters of Nebraska and one from AARP, and two letters in a neutral position from the Secretary of State and from Diane Olmer, Platte County Election Commissioner. (Also see Exhibits 8-10. Testifiers left early because of bad weather.) I'm sorry to interrupt you. [LB239]

SENATOR SULLIVAN: That's all right. No problem. [LB365]

SENATOR AVERY: Now. [LB365]

SENATOR SULLIVAN: So I am Senator Kate Sullivan, K-a-t-e S-u-l-l-i-v-a-n, representing the 41st Legislative District. I introduced LB365 at the request of the Secretary of State John Gale. The provisions in LB365 are related to the implementation of the federal MOVE Act provisions. The Military and Overseas Voter Empowerment or MOVE Act was signed into law by President Obama on October 28, 2009, and added additional protections to the right of service members to vote in federal elections regardless of where they are stationed. This law requires that states and territories allow members of the U.S. uniformed services and merchant marines, their family members, and U.S. citizens residing outside the United States to register and vote absentee in elections for federal offices. The MOVE Act required the state to provide information on the status of a military or overseas voter early voting ballot, yet maintain the confidentiality of the voter's personal information. For the 2010 election cycle, the Secretary of State established such a system using available system tools for a very modest price of approximately \$4,000. Now, an alternative was to make additions or modifications to the Secretary of State's central database, which had an estimated price of \$50,000 to \$60,000. The Secretary of State's modest approach involved using the voter identification number for military and overseas voters to access the system. To preserve the privacy of the military and overseas voters' personal information, the voter ID number needed to be protected. This change will cause difficulties for the political parties, as many if not all have designed their databases utilizing the voter ID number as a key field. Subsection (5) proposes to have the Secretary of State provide registration lists to the state party with the idea that the state party would then provide enhanced lists, for instance, by adding phone numbers or "householding" the lists to the county parties. However, since the introduction of LB365, several county party officials have complained that they either don't like the format the state party provides or the

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state party charges them for the information. So we may actually want to review that provision of the proposed legislation. The changes in LB365 allow the Secretary of State to comply with the MOVE Act requirements for a very reasonable cost. Now I will say if you have specific technical questions about this implementation, I hope you will address them to Mr. Erickson. He intends to follow me. But I do strongly encourage you to send LB365 to General File. [LB365]

SENATOR AVERY: Thank you, Senator Sullivan. Do we have any questions from the committee? Thank you. [LB365]

SENATOR SULLIVAN: Thank you. [LB365]

SENATOR AVERY: We will now take proponent testimony. Good evening. [LB365]

NEAL ERICKSON: Yeah, it's getting to be evening. Good evening, Chairman Avery, members of the committee. For the record, Neal Erickson, N-e-a-l E-r-i-c-k-s-o-n, Deputy Secretary of State for Elections, here on behalf of Secretary of State John Gale. I'd like to start off by thanking Senator Sullivan for introducing this bill on our behalf. I think she has come up with a pretty good synopsis of it. With the MOVE Act, we had to look at our database and figure out how we were going to comply with the MOVE Act and try and do it as cheaply as possible. We needed to find something that was unique to the military and overseas voter. You know, we looked at things like driver's license. Unfortunately, we didn't feel there was going to be a situation where all military or overseas personnel had a driver's license as a unique identifier. The one thing we did have was the voter ID number, which is basically just a record number within our database that we could utilize. It was something that was known to the military and overseas voter, and allowed them to access our system. The reason for doing so was basically because of cost. It was a way that allowed us to do this relatively cheaply and put this together without expending a lot of money in terms of modifying not only the data captured by our database, but the functionality of it as well. Senator Sullivan is exactly right, while we had this section open we looked at the, in (5), in terms of how we provide under current law every political party is entitled to a free list prior to each election. We've gotten in the habit, in the past few years, of providing that to the state parties, and so we changed that language regarding having counties get it from their local election officials. We anticipated this would be easier. They would get more data for it. And it wasn't until after we introduced it that we found out that, yes, there are some county chairmen out there that don't like that format, don't like...apparently some of the political parties do charge them for those lists or for those enhancements. And so with that, we did it as what we thought was going to make it cheaper and easier for the counties and have an increased data. And with the objections that we have, if that section has to go, well, we do not have a problem with that. So with that, I'd answer any questions you might have. [LB365]

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SENATOR AVERY: Thank you for your testimony. Questions from the committee? I don't see any. Thank you. [LB365]

NEAL ERICKSON: Thank you. [LB365]

SENATOR AVERY: Any other proponent testimony to LB365? [LB365]

DIANE OLMER: Good evening, Senators, and, unusual, I'm here to promote something. I know Senator Avery might mention that otherwise. [LB365]

SENATOR AVERY: (Laugh) [LB365]

DIANE OLMER: But this bill, people come to my office and they want a list of voters, and there's no restriction on who asks for this list. They do have to sign an oath, and the oath, in short, says: I'm going to use this for political purposes, not commercial. That's it. It doesn't have to be a candidate. It doesn't have to be party member. So I'm not talking about the lists that the parties get free or anything. It's just that this does put restrictions on the list that I can give out. And just, in general, I think that's a good idea. We all are afraid of our identity being stolen, and maybe this would just be good for that. And that's all I have to say about it, so thank you for listening. [LB365]

SENATOR AVERY: Thank you, Ms. Olmer. Questions from the committee? Thank you. Any other proponent testimony? All right. We'll go to opponent testimony. I thought you were hanging around because you were enjoying yourself. [LB365]

KORBY GILBERTSON: I've got nothing better to do. (Laughter) I just enjoy all of you so much that...we don't see enough of each other. Good evening. For the record, my name is Korby Gilbertson. It's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of Media of Nebraska in opposition to LB365. Media of Nebraska, I know most of you know what Media of Nebraska is comprised of. It's the both print and radio and television media in Nebraska, but we focus mainly on open public records, open meetings laws, First Amendment issues--and that's where we come to today. I think we've spent a lot of time focusing on what the bill wants to do, but I want to bring everyone's attention to the first paragraph on page 2, where it says, "The voter registration register shall be a public record." And that's what we want to protect. Many times, the media uses the voter registration records, and the voter ID number specifically, to do...to track voting patterns after the fact. So they will take comparisons of what happens in previous elections, look at what happens now. I can give you a specific example of how these were used, just recently, with the Omaha recall election. And I didn't have time today to go pull the articles, but there was articles in the paper about how when they looked at the voter IDs of the people that signed the petitions and then they could find that only a fraction of those people actually voted in the election. They can also use those numbers for things like tracking voter fraud or looking at how

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different things go during petition processes and other things. What Media of Nebraska would propose, and I know the Secretary of State is opposed to this, is we don't mind if the information about the driver's license number or the last four digits of the Social Security number are left off; what Media would like to protect is the voter identification number. And for that reason we oppose the bill. I'd be happy to try to answer any questions. [LB365]

SENATOR AVERY: Thank you. What does the voter ID number tell a person? [LB365]

KORBY GILBERTSON: It will only tell you if the person voted. It will not tell you how they voted or anything else. It can only give you a record of how many...for example, you can go see...someone could go look and see if I voted in the last ten elections. [LB365]

SENATOR AVERY: It doesn't... [LB365]

KORBY GILBERTSON: But it does not tell you how. [LB365]

SENATOR AVERY: It doesn't tell you anything about where they live, what their phone number is, or... [LB365]

KORBY GILBERTSON: Not...the ID doesn't. Now the whole record would because they can be by...they're by addressees on the whole record you can look at. I had to look at those years ago, but I haven't done it recently. [LB365]

SENATOR AVERY: Yeah. I was under the impression that the number included a lot more information than voting history. [LB365]

KORBY GILBERTSON: The ID number itself doesn't, but I said the register does. Yes. [LB365]

SENATOR AVERY: Senator Schumacher. [LB365]

SENATOR SCHUMACHER: Thank you, Senator Avery. So basically you don't have any problem with the Social Security number part of the driver's license (inaudible). [LB365]

KORBY GILBERTSON: No. [LB365]

SENATOR SCHUMACHER: And really there's no sense in being all that secretive about the voter ID problem because--voter ID number--because those don't change and there's a "gazillion" copies of this thing out there already. (Inaudible) only affect the new voters. [LB365]

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KORBY GILBERTSON: Yes. [LB365]

SENATOR SCHUMACHER: I don't have any further questions. [LB365]

SENATOR AVERY: Any other questions? Were there any attempts between you and the Secretary of State... [LB365]

KORBY GILBERTSON: Yes. [LB365]

SENATOR AVERY: ...and Senator Sullivan to work out a compromise? [LB365]

KORBY GILBERTSON: Yes. [LB365]

SENATOR AVERY: And you could not get it done? [LB365]

KORBY GILBERTSON: No. [LB365]

SENATOR AVERY: We've always been able to get you guys to compromise with us. [LB365]

KORBY GILBERTSON: (Laugh) We...I know, this morning, that we talked to Senator Sullivan about striking the voter registration number from the bill and that we would have no problems with the bill if that was done. And we were told no, so. [LB365]

SENATOR AVERY: Okay. Any questions from anybody else? I don't see any. Thank you. [LB365]

KORBY GILBERTSON: Thank you. [LB365]

SENATOR AVERY: Any other opposition testimony? Anyone wish to testify in a neutral position? You have been waiting a long time for this. [LB365]

SANDRA STELLING: Yes, I have, and I'm not going home tonight either. It's too far; too snowy. I'm Sandra Stelling, S-a-n-d-r-a S-t-e-l-l-i-n-g, Jefferson County Clerk, Register of Deeds, and Election Commissioner, and also cochair of our association's legislative committee. I'm testifying neutral because I agree with part of the bill and don't agree with part of the bill. And I'm sorry, I understand...I missed part of it when Senator Sullivan was giving her testimony to call. I do agree that the limited access to what a voter registration list should have on it. I do agree with that. And I would like to see the local parties still remain in here to get their voter registration list, because my parties in my county use those to get my poll workers, so. And that's all I have. [LB365]

SENATOR AVERY: Well, thank you. Questions? Senator Schumacher. [LB365]

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SENATOR SCHUMACHER: I think with all those offices, you give new meaning to the word "county consolidation." (Laugh) I have nothing further. [LB365]

SANDRA STELLING: (Laugh) County consolidation has already been done in a lot of counties, so. (Laugh) [LB365]

SENATOR SCHUMACHER: (Laugh) No questions. [LB365]

SENATOR AVERY: I don't see any more questions. Thank you, Ms. Stelling. Any other neutral testimony? Seeing none, Senator Sullivan, you are recognized to wrap it up. [LB365]

SENATOR SULLIVAN: Thank you very much, Chairman Avery. And I do feel compelled to maybe follow up on a few comments. First of all, I did visit with Ms. Gilbertson and Mr. Radcliffe, and the point of contention was the voter identification number. And if you recall, when I opened my remarks and talked about the MOVE Act requirements, suddenly that voter ID number became the pin number that opened the door to the personal identifying information for the individual. So that's what we're trying to work around in this instance, and that's why I didn't feel like I could budge on that. I will also say, though, that the Secretary of State, in all fairness to them, also is working on other ways to work around that. Because if you recall, I mentioned that they used that field as a way of working within their database. To not do that means that they're going to have to create some new software and that will take some additional monies. And as has been brought up several times today, in these budget constraints that we're facing, they really didn't want to go to that expense right now. So there's hopefully going to be some continuing conversation and work on this to resolve that issue. But in the meantime I will also remind you that voter registration lists are still available to the public. Voter histories are still available to the public. And although it's inconvenient for political parties, campaigns, and other private entities that use voter registration lists, the voter ID number doesn't necessarily belong to the public any more than a voter's driver's license number or their Social Security number does. So bottom line is LB365 does not limit reasonable access to public records. Thank you. [LB365]

SENATOR AVERY: Thank you. Senator Pahls. [LB365]

SENATOR PAHLS: Thank you, Chairman. Do you see any potential for you to make some kind of agreement with the multimedia, or is that...are they just totally off the wall? [LB365]

SENATOR SULLIVAN: Well, I think they apparently don't want to budge off of the voter identification number. And as I said... [LB365]

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SENATOR PAHLS: That's the critical piece. [LB365]

SENATOR SULLIVAN: That's the critical piece that, like I said, opens the door in light of the MOVE Act and trying to provide that access to the military and overseas voters, because MOVE says you've got to give them access to being able to follow the process of their ballot. This was the way the Secretary of State's Office opted to do that. Now, given time, perhaps even within this year, they can come up with another way to do that, then perhaps...and I'm sure, in that process, then Media of Nebraska will be kept informed. [LB365]

SENATOR PAHLS: Okay. Thank you. [LB365]

SENATOR AVERY: Any other questions? Senator Schumacher. [LB365]

SENATOR SCHUMACHER: Yes, thank you, Senator Avery. But the voter ID number already has been made public. I'm sure Media of Nebraska has got a copy of it. I've got a copy of it. I'm sure anybody that wanted it got a copy of it, so it's not a secret. [LB365]

SENATOR SULLIVAN: Whether they can trace it to the personal information, the Social Security and driver's license of that individual, I'm not sure they can do that. They can do that...well, I guess they could, right...that's the... [LB365]

SENATOR SCHUMACHER: Yeah, they can do it right now. I mean it's right there. The first number in the field is the voter ID number and then your name and your...whether you're Mr. or Mrs. or whatever, and your address, and every precinct you have ever voted in and how many times you voted. It's all there on that line. I know it's there. I mean I've got a copy and I don't think it's a secret, and I'm sure the press has got a copy and I don't think it's a secret. [LB365]

SENATOR SULLIVAN: And that's what we're trying to... [LB365]

SENATOR SCHUMACHER: So it's already...the cat is out of the bag, unless for the new people or maybe the new military people. But I bet I can find your voter ID and probably is not much more time than it takes me to go back to the office. [LB365]

SENATOR AVERY: Any more questions? [LB365]

SENATOR SCHUMACHER: No. [LB365]

SENATOR AVERY: Thank you. [LB365]

SENATOR SULLIVAN: Thank you. [LB365]

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SENATOR AVERY: That will end the hearing on LB365 and we'll now move to LB169. And I'm on speed dial on this. (Laughter) [LB365]

SENATOR PRICE: Okey-dokey. Welcome, Chairman Avery. [LB169]

SENATOR AVERY: This will be the fastest opening you've ever seen. LB169: This provides that if a voter has moved from one residence to another within the state, the voter will be entitled to vote provisionally. Under current law, voters who move within the county in which they are registered to vote are allowed to vote provisionally. However, the bill...I mean the current law does not allow you, if you move out of the county, to vote provisionally. This bill would allow someone who moves from one county to a different county to vote provisionally in the new county of their residence. Current law provides also that a person who has moved to a new county after the close of the voter registration period to be able to vote for President and Vice President. This bill is an extension of that current provision. Instead of only allowing the voter to vote at the top of the...I take it they will be allowed to vote the entire ballot. This is a bill that we have heard before. It's called county-to-county portability. It's reasonable and it moves us closer to making voting easier in this state, which has always been a goal of mine. I have...I introduced a number of bills to do that in the past. I urge you to give this serious consideration and advance it to General File. Thank you. [LB169]

SENATOR PRICE: Thank you, Senator Avery. Are there any questions? Senator Karpisek. [LB169]

SENATOR KARPISEK: Thank you, Senator Price. Senator Avery, how do those votes then get to the right place? [LB169]

SENATOR AVERY: You mean if you vote provisionally... [LB169]

SENATOR KARPISEK: Yes. [LB169]

SENATOR AVERY: ...in the new county? They would have to verify your residence, and then the vote could count because you were already previously registered in another county. I presume you'd have to reregister. [LB169]

SENATOR KARPISEK: It could count. But how does it...how do...how does Saline County know that I voted in Lancaster or vice versa? [LB169]

SENATOR AVERY: Oh, you're worried about the fraud issue; about voting possibly in multiple counties? [LB169]

SENATOR KARPISEK: Well, just how does it even get there? I mean how do they know? How does Lancaster know that I was registered in Saline but now I voted there,

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and they need to send my ballot over to there, or does it count here? [LB169]

SENATOR AVERY: No, it counts here. [LB169]

SENATOR KARPISEK: Okay. [LB169]

SENATOR AVERY: It counts where your new residence is. [LB169]

SENATOR KARPISEK: Gotcha. [LB169]

SENATOR AVERY: But I'm not concerned about the issue of fraud, because when you vote provisionally there are safeguards in place that will require...in fact, when you vote provisionally, you are affirming by that vote that you have not voted on any other ballot, and the falsification of this oath carries penalties. [LB169]

SENATOR KARPISEK: Very good. I was more concerned about logistics rather than fraud, but thank you. You cleared up both of those. Thank you, Senator Price. [LB169]

SENATOR PRICE: Any other questions? I have one for you, because I've never voted provisionally. Do you know if on a provisional ballot you need to articulate or indicate that you were registered in Saline County and now your voting in Douglas County, so they know where to go look to where you were registered? I mean... [LB169]

SENATOR AVERY: I have never voted provisionally either, but my guess is that that would...that information would be required. [LB169]

SENATOR PRICE: But right now, on a provisional ballot, you don't know if it requires that you state there: Oh, hey, I'm registered; well, I was registered in this other county and that's why I'm voting here. I'll let...to see someone come up. [LB169]

SENATOR AVERY: Oh, yeah. I'm pretty sure that would be a part of it. [LB169]

SENATOR PRICE: All right. Thank you very much. Seeing no further questions, we'll move to proponents. [LB169]

ADAM MORFELD: (Exhibits 1-2) I just have a few handouts here, quick. I'll also put it on speed dial here. Good afternoon, my name...or good evening, my name is Adam Morfeld. That's A-d-a-m M-o-r-f-e-l-d, and I'm with Nebraskans for Civic Reform. As Senator Avery already stated, county-to-county portability will allow Nebraskans that are already registered to vote in a different part of the state, to vote provisionally and have their ballot counted if for some reason they're not reregistered at their new address. One of the reasons...one of the ways that we kind of found out about this was that, first off, when we were meeting with some election officials, they pointed this out, that it would

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actually be fairly easy. Because, right now, they have to count the provisional ballots that they get--they don't have to count them, excuse me. They have to go through the provisional ballots that they currently get. They're just currently throwing out the ones that are already registered in the state and forgot to reregister. They're just considered in the wrong jurisdiction. Whereas, they would count them with this system instead of throwing them out. We did an analysis of some of the information that was provided by the Secretary of State's Office, and it appeared as though a quarter of provisional ballots that are thrown out are from individuals that have already registered in the state but forgot to reregister in their new jurisdiction. So, I mean, in reality, I think the burden on the election officials is the same as it is now, because instead of throwing out the provisional ballot, they're simply counting it. And that was actually confirmed by about eight different states that we called with county-to-county portability. We asked them if, for instance, their workload increased and provisional ballots greatly increased after the enactment of this law in their state? And they stated that it did not. Instead of throwing out the ballot, they were simply counting the ballot of the individuals that have already been registered in the state. To kind of give you some numbers here, one medium-sized county looked at their provisional ballots that they threw out. They realized that half of the provisional ballots that they threw out would have been counted if something like this had been enacted. And, as I said, about 24 percent of the provisional ballots statewide in the 2008 election wouldn't have been thrown out, which I believe is I think around 800 ballots. But I believe that might be in the...that's actually in the report that I sent around there. So, in conclusion, I urge you to support LB169 and advance it to General File. County portability provides registered Nebraska voters with an opportunity to have their vote counted and their voice heard, and it does so in a cost-effective and minimally burdensome manner for our election officials. I'd be happy to answer any questions that you may have. [LB169]

SENATOR PRICE: Thank you, Mr. Morfeld. And thank you for your brevity. Are there any questions from the committee? Seeing none, thank you. [LB169]

ADAM MORFELD: Thank you. [LB169]

SENATOR PRICE: Could we have the next proponent for LB169? Can we have the first opponent? Welcome back, Mr. Erickson. [LB169]

NEAL ERICKSON: Thanks, Senator Price. Once again, for the record, 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 John Gale. We are opposed to this piece of legislation. This basically, what it is, is kind of I guess I'll call it mini EDR. Whereas, election day registration would encompass those that had not been registered previously as well as those that might have been registered in another jurisdiction, this just kind of subdivides that group and takes care of one aspect of it. This will create some logistical problems for us. For example, we will have to, in order...and maybe I should explain the

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provisional process, since you asked about it and I've been through it actually. When I moved, I refused to reregister because I wanted to actually vote provisional. What that involves is going to the polling place, saying: You know, I live in this precinct but I'm not on the poll book; I'm...you know, I should be entitled to vote on this. Even despite my warning to Lancaster County, I was still asked for ID, which was inappropriate. (Laughter) But what you do is you basically sign a document that says: Yes, I was registered to vote in Lancaster County at this address; I now reside at this address. You fill out a new registration card and you sign a note saying: This is the only ballot I will vote. Yes, it would be possible to do this from county to county, but one of the things we see on the back end is when it comes to counting. Right now, in terms of provisional votes, the smaller counties tend to get this stuff done very quickly. We're going to see an increase in the number of provisional votes there. They're able to get it done because they only have to check within their own jurisdiction. If this were in place, what we would have to do is we would have to wait till every county had put in their voter history to make sure that...we'd have to wait--Douglas County is traditionally the last--we would have to wait until Douglas County has their voter history in there to make sure that person did not vote in Douglas County. So it's going to mess with the time frame a little bit. It is certainly possible, but I think a lot of the same problems that pop up with EDR, which we've talked about at length today, are going to be present also when this...in this type of system. [LB169]

SENATOR PRICE: Good. Thank you. And I think that answers the question, and committee counsel said when you fill out your registration card you would be giving your address where you were registered before, so it's in the packet, maybe not on the provisional. So that's in the record. Senator Schumacher. [LB169]

SENATOR SCHUMACHER: Thank you, Senator Price. So how many provisional ballots would there be, say, in Douglas County or...well, that's the biggest one, so. [LB169]

NEAL ERICKSON: Well, the first year that we did it, they had something like 14,000, which was...they were doing some things that...they were issuing provisionals when they probably didn't have to. But I think, realistically, they probably, in a general election cycle, run 7,000 to 8,000. [LB169]

SENATOR SCHUMACHER: Seven to eight thousand? [LB169]

NEAL ERICKSON: Yeah. [LB169]

SENATOR SCHUMACHER: And that's in the biggest county. [LB169]

NEAL ERICKSON: Right. And that's just from moves within the county itself. [LB169]

SENATOR SCHUMACHER: Okay. Now if they were to enter those, first, into your

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database, or transmit those first, you could--as well as the other counties--before they transmitted all their data, is that possible to speed it up? [LB169]

NEAL ERICKSON: Well, and that's actually what they do. I mean what most of them do, before they even start verifying the provisionals, they enter their voter history so they can determine...if I was to vote provisional, I can do...there's...I can vote at my precinct; I can vote at any precinct provisionally; and then I could also vote my home precinct where I'm on the poll book. So what they have to do is they have to check and make sure that this individual has not voted anyplace else provisionally; in addition, they did not vote in their home precinct or their previous precinct. [LB169]

SENATOR SCHUMACHER: And that ballot is physically laying someplace, waiting to be counted? Or how does that (inaudible)? [LB169]

NEAL ERICKSON: Yeah, that's actually what it's supposed to be. Although we have, occasionally, poll workers mess it up and just throw...and that's what happened with the recall situation. They just...what's supposed to happen is the ballot is supposed to go in the envelope, and the information on the envelope is supposed to be verified before the envelope is even opened and the ballot counted. [LB169]

SENATOR SCHUMACHER: In an earlier hearing, I think this year, there was some talk that the provisional ballots were just a spoof and they really weren't counted for anything. That's not the case? [LB169]

NEAL ERICKSON: No. No, we count, statewide, probably close to 90 percent of our provisionals--85 or 90. [LB169]

SENATOR SCHUMACHER: No further questions. Thank you. [LB169]

SENATOR PRICE: Thank you, Senator Schumacher. For a point of clarification then on that, I think the question was--and I was going to ask it anyway when you said that 7,000 to 8,000 perhaps that come from Douglas County--how many are actually submitted at the poll and how many are qualified, or it can be a different number? Because there have been instances prior to this bill where someone will show up; they're not in that county or in that precinct, and sometimes they'll, for ease and expediency, the poll worker will say--because they don't want to have the fight--they say: Fill out a provisional. That provisional filled out; it goes in the stack. But you know, when you open it up, it's not a valid provisional because this isn't in place. [LB169]

NEAL ERICKSON: Yeah. Well, and that was, when the provisionals...the provisionals have been around basically since the enactment of the National Voter Registration Act, which was in '95, here in Nebraska. They were called fail-safe voting before. HAVA expanded them a little bit. And you're correct, I mean the provisional ballot can

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sometimes cover a lot of sins. And when you've got a voter who is not entitled to vote, quite frankly, but is going to give the poll workers a lot of grief, they'll offer a provisional, knowing full well that it will not be counted. [LB169]

SENATOR PRICE: All right. Thank you. I just wanted to make sure we had it clarified what we were talking about with spoofs. Are there any other questions? Seeing no further questions, thank you for your testimony. [LB169]

NEAL ERICKSON: Thank you. [LB169]

SENATOR PRICE: Do we have any other opposition to LB169? Welcome back. [LB169]

DIANE OLMER: (Inaudible.) Good evening, Senators. My name is Diane Olmer, D-i-a-n-e O-l-m-e-r. I'm the election commissioner in Platte County, and I'm here for the election law committee also of our group association. And I just want to reiterate all the things that we mentioned about EDR pretty much fall here too as far as if you increase the number of provisionals you're going to have people showing up at the polls that aren't on the list, and we will have poll workers making too many decisions on what ballot they get. And so that is our biggest gripe or complaint about this bill. And as far as if you have any questions on how a provisional is actually handled, we handle plenty of them, so. With that, I'll let you ask me questions or whatever. [LB169]

SENATOR PRICE: Thank you very much, Mrs. Olmer. Are there any questions? Senator Schumacher. [LB169]

SENATOR SCHUMACHER: Thank you, Senator Price. Diane, how many provisional ballots are usually in Platte County? That's kind of a medium-sized county. [LB169]

DIANE OLMER: Well, it depends on election--maybe 133, maybe 150, maybe less. The point that was brought up that now if it was across the state, I think it...my provisionals usually do all the investigation on them. Sometimes I don't enter my voter history in before we look at them. I just have to go to...I pull it up in the computer, and it says they were registered in Joliet precinct and now they're voting in Columbus A precinct. All I have to do is go look at that poll book: Did they vote in the other? So it's a simple matter verifying that. If they say they think they're registered to vote, usually it means they...and sometimes on that form it says: Where do you think you registered to vote? And a lot of them will check: DMV. Well, we do have access to the DMV driver's license, and we pull up their screen and, at the bottom, it says "registered to vote," in green; or red, "did not register to vote." So things like that it doesn't take us very long to verify. So I usually canvass the Thursday after election day, and I usually have that information ready for the Canvass Board, and they're the final say in everything. But with the new law I'm going to have to wait until Douglas is done, which is the biggest county and they'll have the most, because I'll have voters that moved into Platte County from Omaha, and so I'll

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have to wait to see if they voted in Omaha before I can get my process done. So this will slow up the process in smaller counties. [LB169]

SENATOR SCHUMACHER: Would you put your 130, or whatever, ballots in the machine so that Douglas County would know who was voting in Platte County, earlier? [LB169]

DIANE OLMER: If this came in...if this bill came in, I probably would...probably have to hire somebody to enter the voter history so that every county wouldn't have to call me. They could look on the computer and see what their voter history was. [LB169]

SENATOR SCHUMACHER: And you said you have access now at your office to the DMV records? [LB169]

DIANE OLMER: Yes. And we only have that because it mentions about if they've tried to register to vote there. [LB169]

SENATOR SCHUMACHER: And so you would know the driver's license number of the person? [LB169]

DIANE OLMER: Yes. [LB169]

SENATOR SCHUMACHER: Okay. I have no further questions. [LB169]

SENATOR PRICE: Thank you very much, Senator Schumacher. Are there any other questions from the committee? Seeing none, thank you for your testimony. [LB169]

DIANE OLMER: Okay. Thank you. [LB169]

SENATOR PRICE: (Exhibits 3-6) Are there any other testifiers in opposition? While we're waiting for you to approach, I would like to read into the record four letters in opposition from Knox County, Holt County, Hall County, and Platte County election commissioners and/or county clerks. Welcome back. [LB169]

BETH BAZYN FERRELL: Thank you. Senator Price, members of the committee, for the record my name is Beth Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm appearing here in opposition to the bill for the Nebraska Association of County Officials. I won't repeat what you've already heard. We're concerned about this bill because of the logistics of getting the process completed. I'd be happy to answer questions. [LB169]

SENATOR PRICE: That is the quickest I've heard. Thank you very much. (Laughter) Are there any questions from the committee? I see no... [LB169]

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SENATOR SULLIVAN: Well, just... [LB169]

SENATOR PRICE: Well, just one moment. [LB169]

SENATOR SULLIVAN: What...I mean just how much time...assuming we'd have to wait for Douglas County and assuming that a county would have to check all other 91 counties, how much lag time then are we talking about, additional, to finalize the election results? [LB169]

BETH BAZYN FERRELL: I don't really have any data. I think it would just depend on how soon a larger county like Douglas would be able to get that data entered, and that would probably just depend upon the size of the election and those kinds of things. [LB169]

SENATOR SULLIVAN: Um-hum. [LB169]

SENATOR PRICE: All right. Ma'am, do you know how long they have to certify an election? Is that ten days? I remember we talked about a ten-day process of certifying elections or something. [LB169]

BETH BAZYN FERRELL: I believe it's seven days, but I can check it for sure. [LB169]

SENATOR PRICE: Okay. Okay, actually it's seven and they wanted to move it to ten in another bill, and I was just worried about if you're doing your canvassing. But that's probably irrelevant. And I see Senator Schumacher has a question, so. [LB169]

SENATOR SCHUMACHER: Now when you would check the...you wouldn't have to check 90 other counties. You would just check that voter's record if everybody's stuff had been reported. Right? [LB169]

BETH BAZYN FERRELL: Right. If it had been reported... [LB169]

SENATOR SCHUMACHER: It would just be one check. [LB169]

BETH BAZYN FERRELL: It should be just one check. That's the way I understand it. [LB169]

SENATOR SCHUMACHER: Thank you. No further questions. [LB169]

SENATOR PRICE: Thank you, Senator Schumacher. Are there any other questions? Seeing none, thank you for your testimony. Are there any other individuals who would wish to testify in opposition? Would anybody like to testify in the neutral? Seeing none, Senator Avery, you are welcome to close. [LB169]

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SENATOR AVERY: I was going to actually waive but I have to make one observation. There's one thing that does not change: When you offer a bill to do anything with election law, if it's going to add one minute of work to the county officials, they will oppose it, 100 percent. Thank you. [LB169]

SENATOR PRICE: (See also Exhibits 7 and 8) Thank you, Senator Avery. (Laughter) And that will close the hearing on LB169 and the hearings for today. Thank you for participating in your government. [LB169]