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Government, Military and Veterans Affairs Committee
March 02, 2011

[LB312 LB566 LB606]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, March 2, 2011, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB566, LB312, and LB606. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Lydia Brasch; Russ Karpisek; Paul Schumacher; and Kate Sullivan. Senators absent: Charlie Janssen; Rich Pahls.

SENATOR AVERY: Okay. Senator Price is here; we can start. Welcome to the Government, Military and Veterans Affairs Committee. My name is Bill Avery. I represent District 28 here in Lincoln. We don't have a big agenda today, but the procedures are the same, so let me go over them, if you don't mind. Many of you have heard them before. Before I do that, though, I want to introduce the members of the committee. Some of these introductions will be empty seats, because Senator Pahls from Millard is out of town today and will not be attending any of the session. But seated next to him is Senator Lydia Brasch from Bancroft, a new member of the Legislature. And next to her is the place reserved for Senator Charlie Janssen from Fremont, who is pinned down in the Judiciary Committee today on a rather controversial bill that he may not get back here. So we'll have to just wait and see. And next to him is Senator Scott Price from Bellevue. He is Vice Chair of the committee. To my immediate right is the legal counsel for the committee, Christy Abraham. Senator Karpisek will probably be here in a few minutes. He is from Wilber. And seated next to him, soon to arrive we hope, is Senator Kate Sullivan from Cedar Rapids. And last over here is Senator Paul Schumacher from Columbus. The clerk of the committee is Sherry Shaffer in the red jacket. If you want to testify, we're going to ask you to fill out this form. Print the requested information as clearly as you can and hand it to the clerk, and she will have an opportunity then to record the information. When you take the microphone, please state your name for the record and spell it, so that we can have an accurate record. Also, if you are here and wish to record your opposition to or support for any of the bills that we will be discussing today, but you do not wish to formally testify, you can record your opposition or support on this sheet of paper, and both of these forms are available at each entrance to the room. The agenda is posted outside the door, and that is the order we will follow. Before we get to that, though, let me make a few other announcements. We use the light system. Green light means you have four minutes for your testimony. When the amber light comes on, you should be winding down because you only have one more minute before your five minutes expire. When the red light is on, you should be finished. We have found that that helps us move things along, and everybody gets the same amount of time, and it's a fair system. We do encourage full participation in the public hearings. We take pride in the fact that Nebraska is the only Legislature in the country that actually requires a public hearing of all bills that are introduced. We take it very seriously, and we welcome you here. We do ask you, however, if you have a telephone or a computer or anything that makes noise, please

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put them on silence. And we ask you also not to bring any computer to the witness table. If you have exhibits that you would like for us to see, we will need 12 copies, and you give those to the clerk, and she will have them distributed. If you do not have 12 copies, the page will help you with that, and the page today is Kyle Johnson from Sutton. All right, with that we will start with Senator Schumacher's LB566, and that will be followed by LB312 and LB606. Senator Schumacher.

SENATOR SCHUMACHER: (Exhibit 1) My name is Paul Schumacher spelled S-c-h-u-m-a-c-h-e-r, and I'm the senator representing District 22. I'm here today to introduce LB566. LB566 deals with a mechanism for using modern-age technology to facilitate our petition process. One of the great things about this committee is that it deals with the fundamentalist of the fundamentalists in our free society--the right of the people to enact laws governing themselves. I can remember going to school, and in our history book of Nebraska, it said that Nebraska was a populous state. And that meant that, ultimately, the people decided and the people ruled, not special interest, not great moneyed interest, but it boiled down to a simple concept, the people. And the people were not always trustful of their government. In fact, they're distrustful of it. So when they wrote their Constitution which is a pretty important document for them, they reserved some rights to themselves. And the first right of the people reserved was the right of initiative petition. Second one was the right of referendum, and then by statute they added in a right of recall. Direct access by the people to government, not through lobbyists, not going through middle men, and when their government wasn't serving their interest, they could take charge. Well, that right, since about 1990, has taken some severe flak. So it's a brief review of the initiative history of the last couple of decades. What was an innocent sounding amendment was put on the ballot for the voters, and it simply said, you know, that old word, elector, in the Constitution that we use to base our petition numbers on which you need to get signatures for? Ah, let's just call it registered voters. And I have to confess, I was one that bet, because I didn't do the research to know the very fine distinction between elector and a registered voter. And an elector is....you count electors by the people who actually vote; you count registered voters by the people who are registered to vote. Well, the courts knew the difference, and suddenly it went from like 55,000 votes to put something on the ballot to like 110,000 votes, approximately double signatures, I should say, approximately doubled the burden that came down about 1995 or so. That was a big shock to the system, probably not intended by the voters, but nevertheless, they voted, and they got what they voted for. Then there was another fairly innocent sounding constitutional amendment placed on the ballot by the Legislature. Common sense, called the single subject rule, and that said, you couldn't have two subjects in one initiative petition. You couldn't have property tax decreases in with the helmet law...sound common sense enough. But in 1992, that issue became an issue in a case that went to the Supreme Court. The court decided the case on other grounds, but it left a big question of what exactly is a single subject? Is raising revenue and spending it, saying well, are you going to spend the revenue you raise? Is that one subject or two? Oh, we don't have an answer to that, and it's really

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hard to deal with. The preference has been then to split it up into a double or three or four petitions just to make sure you're on safe grounds and don't get bounced if you happen to spend all that money and win. That, of course, creates a nightmare, because you got to collect a lot of signatures and at about 87 cents a pop in order to verify them, at least that's what the Douglas County people tell me that they paid the last go 'round on the recall petition, and it's a big expensive proposition. But, nevertheless, it's one of those things out there. And then our laws refer to things called petition sponsors. Who is a sponsor? Is it just the people that sign on to the petition? Is it people who happen to help a whole lot, give a whole lot of money? Who is a petition sponsor? That's really an up-in-the air subject, not decided by our courts. So, basically, where we're at on that is that we've had a range of people saying, okay, we've got 70 people signed on as petition sponsors out of an abundance of caution to one sham corporation out in front in another. We don't know the rules. So, as things began to evolve, it became pretty clear...and then we also had a situation where the law was amended, so that you had to get so many signatures out of so many counties, and that was the idea of spreading out, so just the eastern part of the state or special interest area of the state couldn't get something on the ballot. You'd have to get 30-some percent of your signatures out of...you have to get, out of so many counties, and it's...so it's very difficult to do a petition, but still doable, and was doable, because there was a mechanism by which you could really control a petition process pretty well by paying by the signature, because when they brought in their signatures, you could verify them, and you knew where the signatures were coming from, and you knew that they weren't being...you could check them against a computer system, so they weren't being forged, and it was working pretty good. Now, what happened in 2006 was near a tragedy, because we had a lot of out-of-state money come in on two matters, one of which was a casino bill sponsored by a Las Vegas casino by the name of Boyd, and the other one was a deal to limit the local government ability to spend. A lot of out-of-state money there, too, even though there was a lot of local support also. But what happened there, it's the people going out on the street were met with a new phenomena in Nebraska petition circulating, and that was the blockers. Blockers, in the case of the government spending matter, paid for usually by taxpayer derivatives such as the various associations of governments, trying to not have the people interfere with the right to spend. That one was defeated, but it was defeated because people figured there was a loophole in it that the people could simply shift the burden to the local government, and it really wasn't going to be a tax saving anyway. The Legislature responded by taking away pay by the signature, and also a few other restrictions, making it virtually impossible for anybody local to do it except maybe somebody who is associated with an extremely large out-of-state operation as we may be seeing next year when a Humane Society outfit with all kinds of money is going to come in and try to mess with the farm and cattle industry, an example of the problem that we have. So to address some of those issues and put power back in the hands of the people, I would propose LB566. It follows basically the same kind of mechanism as we've set up for filing electronic signatures on all kinds of documents and all kinds of state documents. Secretary of State's Office has done a great job. You get

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letters out from them saying, gee, you can do this electronically now; you can file your taxes electronically now; you can file UCC and lien papers electronically now. We're in the electronic age, and this is really a great way to go. So what this does is says that you can...and it's optional. You can do it the old way; you can do it this way and the old way; you can do it exclusively this way really if you want to. But basically, you sit down at the computer, and you enter information known to you on the Secretary of State's voter database--your name, your address, political party affiliation, a number of fields, so that it's pretty sure it's you just right then and there, but it doesn't stop there. It then says, okay, let's make doubly sure and go to an independent database for some other information--the pin number you might use to file your tax return in Nebraska, your driver's license number, a state-issued ID number, any number of independent database items that is what was termed in the bill as state qualified data...good stuff on another database. You match that, and it says, okay, you're in to the part of the program where you can check it...read the thing and check yes or no. If you check yes, you submit that, a postcard, about 27 cents' worth of thing, you send out...you're saying, hey, we show that you signed a petition. If this isn't so, call us and call the cops, basically, and there's big penalties if you try to scam the system. So it's a far more integral system than we have now when you just go out in the street and get somebody to sign a petition, write down their birthday, and their county, and their address, and rely on somebody who isn't a handwriting expert in a clerk's office to make a rough comparison of a signature maybe given on the street--far more integrity in this particular thing. It identifies exactly who the petition circulators or petition sponsors are. It provides for large fees, if you use this mechanism to help offset its cost. It saves a manual verification process that all the counties have got to go through and all the commotion with sending out those petitions to other counties, and most importantly of all, this bill, I see as an integration of a lot of items before this committee as we strive to same-day voter registration, verifying the legitimacy of people who are actually casting our ballots. All the issues that we have to try to extend democracy to the people, and I would look that probably, and if the committee wants to vote it out, it'd be wonderful, but it probably is best set in the context of a comprehensive election and petition voter system that I would ask the committee to consider, so that we can get straight answers on what the real cost of integrating some of these progressive proposals are, and then come out with something that we can go to our legislative colleagues and say, folks, let's bring Nebraska's voter democracy; let's bring our initiative petition process into the twenty-first century, and let's do it right, and let's make our state the populous state that it was meant to be. Take any questions. [LB566]

SENATOR AVERY: Thank you. You know I like this idea, because I carried this bill last year. I wondered, do you have any way of estimating how much money might be generated by, I guess it is Section 5? [LB566]

SENATOR SCHUMACHER: And that's the Section 5... [LB566]

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SENATOR AVERY: See, that's where you have...you establish a fee for petitions proposing a constitutional amendment and a fee for other petitions... [LB566]

SENATOR SCHUMACHER: It would be, you know, that amount of money times however many more there would be. [LB566]

SENATOR AVERY: Um-hum. [LB566]

SENATOR SCHUMACHER: I mean, how many petitions that there would, and it's hard to say how much that would be. I will say, and we saw the fiscal note on this. That fiscal note is not in the real world. In 2004 and 2002, we set up a computer system to verify votes against the Secretary of State's data...or not votes, but signatures on the manual ones against the Secretary of State's database and did it against 640,000 signatures or 670,000--it was way up there, and the cost of the actual implementation of the system, and granted, it didn't correlate against an independent database like driver's license or something, was less than \$15,000 and we had people all over the state checking into it, over the Internet. This is not rocket science, and this is level of technology and cost that's reasonably different from what the fiscal note would indicate. [LB566]

SENATOR AVERY: Yeah, we're seeing a lot of fiscal notes like this, this year. I'm not going to ask any more questions. Let me see if the committee...Senator Brasch. [LB566]

SENATOR BRASCH: I was reading here about requiring a server... [LB566]

SENATOR SCHUMACHER: Right. [LB566]

SENATOR BRASCH: ...and is there a server, and it would need a separate server and must it be in Nebraska? [LB566]

SENATOR SCHUMACHER: I think it... [LB566]

SENATOR BRASCH: I guess, you know, if there was a disaster or something, that sometimes private business holds servers in another state just for the sake of preserving electronic records. [LB566]

SENATOR SCHUMACHER: All a server is...I mean, it may sound mystical, but all it is, is a computer with enough capacity tied onto the Internet with a database program that's designed to interface with whatever is coming in. You would have the server located in Nebraska. The backups could be located anywhere. But the server, because this is Nebraska data and very precious Nebraska, right? That computer would physically be setting here...no reason it couldn't even be setting in this room. I mean, it's not a big item to set up a server. There's literally hundreds of them set up every day. [LB566]

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SENATOR BRASCH: But it requires a separate server then? [LB566]

SENATOR SCHUMACHER: Right. [LB566]

SENATOR BRASCH: One that exists today. [LB566]

SENATOR SCHUMACHER: Right, and so, you know, you're talking a few thousand dollars for a server, certainly less than ten. [LB566]

SENATOR BRASCH: Okay. Thank you, Senator Schumacher. Thank you, Chairman. [LB566]

SENATOR AVERY: I'm going to go to Senator Sullivan. [LB566]

SENATOR SULLIVAN: Thank you, Senator Avery and thank you, Senator Schumacher. Question about Section 7 where you talk about the fact that the Secretary of State will mail a postcard via the U.S. mail to petition signatures to verify their signature? Is that what the post...? [LB566]

SENATOR SCHUMACHER: Right. It basically says, look, we show that you filed an electronic signature on such and such petition on such and such a day. If you didn't, let us know, far more than what's done now, because if you sign a petition on the street, you don't get a postcard back, saying was that you? Are you sure? So this is a...probably a necessary level of security, but because this is a new thing, you know, you spend the 27 cents or whatever the postcard is. [LB566]

SENATOR SULLIVAN: And you have no idea that even if it is or isn't them, it's incumbent upon the person to return that postcard which they may or may not do... [LB566]

SENATOR SCHUMACHER: They don't have to return the postcard. They just get a notice that we... [LB566]

SENATOR SULLIVAN: ...or that they give notice. You know, they may ignore the postcard. [LB566]

SENATOR SCHUMACHER: Sure, they could, but, nevertheless, they've already been on the computer system. They're already logged in their name and address, and they've already...it's been correlated with their driver's license number, for example, or their credit card number which they've logged in. So they've all...I mean, a number of important checks have been done that makes you just really, really sure that it's them. But this is one that makes it just really, really, really sure that it's the person. And they might ignore the postcard, but it's a triple safety net kind of thing. [LB566]

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SENATOR SULLIVAN: I'm not sure that I have a great level of comfort with respect to...well, I guess my question is, is the technology that we have in place or even that we could put in place, at what you say is sort of a...not a big expense. Is that going to provide enough level of security when we're dealing with personal information here? [LB566]

SENATOR SCHUMACHER: The personal information on the voter database, for the most part, is public right now. But you enter that part in, and then when you enter in, you put your name, your address, whatever, and it looks through the data, the Secretary of State's voter database, say, oh, it looks like we found that person here. And we've got one that knows somebody's name, somebody's birthday, somebody's address, and party affiliation, for example. Okay, now, Senator Sullivan, what is your driver's license number? Okay? You enter that in. That goes over to a completely different database just like the Platte County Election Commissioner was talking about the other day, and checks with the voter data or the driver's license database, for example. If that number matches, then we're...you know, the system is assured as can be, certainly more sure than a signature on the street that you're really you, and when you say, I hereby sign...when you click that thing, you really did. But just in case, somebody knew your driver's license, knew all that stuff, went through all the trouble of trying to fake it was you signing that petition, you would get a postcard. And if you really didn't do that, you would say, wait a minute, we got a problem. And at that point, the postcard would invite you to contact the Secretary of State and law enforcement. [LB566]

SENATOR SULLIVAN: Okay. Thank you. [LB566]

SENATOR AVERY: Senator Karpisek. [LB566]

SENATOR KARPISEK: Thank you, Senator Avery, Senator Schumacher. Could...just thinking kind of like you maybe for a change, (laugh)... [LB566]

SENATOR SCHUMACHER: Oh, God, that's dangerous. [LB566]

SENATOR KARPISEK: Could you send them an e-mail instead of the postcard? [LB566]

SENATOR SCHUMACHER: Probably could, but I don't think we have, at least the present voter databases don't show e-mail addresses for everybody, and you want to try and treat everybody equally. The comparison of...and I know I've sent some postcards out recently, and it was like 27 cents, a lot cheaper than the 80-some cents to...that I think is what Douglas County at least told me was to verify a signature. So this is a big cost saving, particularly if you get into one of those situations where somebody does three or four petitions in order to avoid the issue of single subject rule. [LB566]

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SENATOR KARPISEK: I was just wondering, you know, if you find it on-line, then you could put your e-mail address on there, but, however, if it wasn't you, you probably wouldn't put your...so, anyway. [LB566]

SENATOR SCHUMACHER: Put your right e-mail address, so that... [LB566]

SENATOR KARPISEK: The thing that worries me a little bit more about this is, I'm sure that you've seen on your legislative account, you've gotten all these chain letters from...especially on LB62 I've seen them. They're all written exactly alike; they just forward them which a little information for anyone. If you really want to get something passed, send one of those opposing that. That will really get that to go for me. If they all look the same, I'm not going to spend any time. So my question is, though, hey, Senator Schumacher, there's this one thing, and they're trying to get rid of whatever it is in the state. Go on there and sign on. You go on there, you don't read it, you say you read it. You sign on, and all of a sudden, you have everyone in the state up in arms, because they didn't read it. They've gotten misinformation. Then what? [LB566]

SENATOR SCHUMACHER: That's pretty fundamental to the petition process. I think it's pretty fair to say when somebody approaches you on the street, particularly, if you have a blocker screaming and yelling to try to draw your attention, that you aren't reading that petition. [LB566]

SENATOR KARPISEK: They're supposed to read it to you. [LB566]

SENATOR SCHUMACHER: They're supposed to read the caption, and the caption can be very, very brief. At least in this particular case, you've got to go through logging onto the thing, being verified that you are you, and then without anybody hollering at you, you get a chance to sign or not sign. And remember, this is not the election. This just gets you to step one to get it on the ballot and, unfortunately, even then in Nebraska law, almost every petition in recent time with few exceptions has gone through a lengthy court process, you know, so before it even gets to the ballot, because somebody finds something that somebody did wrong which, hopefully, would be minimized here, because there would be less things to go wrong unless some petition circulator not reading the petition or lying or whatever. And so, you know, that's part of the process, but then there's a campaign in which both sides can say, hey, this was a dumb idea, and we plug into our ordinary election system. [LB566]

SENATOR KARPISEK: But then it's all but what I heard, you're lying, even though it's not...you know, I kind of think about logging on and getting an eBay account. Well, you scroll down, scroll down, and scroll down, and finally, I Accept. [LB566]

SENATOR SCHUMACHER: Um-hum. [LB566]

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SENATOR KARPISEK: Well, sure, maybe you read all that. I sure don't. Who knows what I owe eBay for being a member? But, you know, people just don't read that kind of stuff, and they go off what they hear. And I agree with the petition process out and about, and you are upset about blockers. I'm upset about people not telling me the right thing about what I was supposed to be signing, and I caught a couple of them doing that, which was kind of fun. But...and it's both sides. But at least you have it right there in front of you, and you have some...I don't know. [LB566]

SENATOR SCHUMACHER: Democracy is fun. [LB566]

SENATOR KARPISEK: Yes, it is. Thank you. [LB566]

SENATOR SCHUMACHER: And we get 110,000 people to sign a petition, it gets to be, you know, more fun. [LB566]

SENATOR KARPISEK: Even more fun. Thank you, Senator Avery. [LB566]

SENATOR AVERY: Um-hum. Senator Price. [LB566]

SENATOR PRICE: Senator Avery, thank you. Senator Schumacher, thank you. I was listening to your testimony, and then I was reading in Section 4, where we actually have a third methodology outlined here where, I guess, an individual can sign an affidavit and send it to the Secretary of State to opt out, so you have an ability to go on and sign in and sign an affidavit to opt out of an electronic signature. How long does that opting out period last? Is that only for one or is that for the current subject or forever? [LB566]

SENATOR SCHUMACHER: The sponsor of this particular...of a particular petition can say look it, I don't want to mess with electronics. I believe in paper on the street, and that's how we're going to do this petition just as we always could do it. [LB566]

SENATOR PRICE: All right. Thank you very much, Senator Schumacher. The word...there's so many words where they're kind of running in. So the sponsor would then be the individual who says, we're not going to do the electronic... [LB566]

SENATOR SCHUMACHER: Right, right. [LB566]

SENATOR PRICE: All right, thank you... [LB566]

SENATOR SCHUMACHER: Or whoever...basically, whoever is going to end up paying the bill for the whole thing, and that's the sponsor. [LB566]

SENATOR PRICE: All right. Thank you, thank you very much. [LB566]

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SENATOR AVERY: Senator Sullivan. [LB566]

SENATOR SULLIVAN: Thank you, Senator Avery. Thank you, Senator. I just wanted to clarify what I thought I heard you say was that perhaps you are less interested in seeing this bill advance and then have an interim study or did I misunderstand you? [LB566]

SENATOR SCHUMACHER: No, you didn't misunderstand. There are a number of proposals before the committee dealing with same-day voter registration which involves computer technology and a database. This thing which involves computer technology and database, there are probably half a dozen bills if we'd go through and index them that involve matching information with the database. Senator Janssen's voter ID thing, and some way or another, all of them have certain things in common, and that is enhancing the electoral process, the political process by the use of computer technology and modern technology. And all of them have a common problem, and that is, there's differing opinions at this point as to what something would cost or what technology is the best way to do it, or whether or not they could all be integrated into a system which complements each other, all those kind of things, and maybe at least it occurred to me that rather than doing that, this in this bill, this in this bill, and this in this bill, we put all these modern ideas together in a comprehensive election and voting rights measure and advance that maybe next year. Not to say I'm backing off of this, if you want to hand me a gift, but nevertheless, if we want to do it in a comprehensive way to take all of the very legitimate concerns that have been floating around and good ideas that have been floating around before the committee this year, I think we can come up with a good measure. And we can sit down with the Secretary of State's Office and say, look, what is this really going to cost? If the vendor that you're saying you want to use is a third of a million dollars, you know, what other options are there? Are there any other ways to accomplish this? And come up with something so that we can have same day voter registration; we can use a petition process, again, without screaming matches in the field, and we can use technology in all these various areas. [LB566]

SENATOR SULLIVAN: Thank you. [LB566]

SENATOR AVERY: I like your idea. That might be an interim study possibility, and I am impressed with the security measures you have in this bill. That's better than what I had last year. [LB566]

SENATOR SCHUMACHER: Well, it's better than the existing system, for sure, because the existing system...if you know name, address, and I think there's like three out of four fields you got hit on...name, address, birthday, and you're pretty well home free...county. And if you can kind of mimic maybe a signature, but maybe not because who checks that closely when you're processing hundreds of thousands of signatures? But, nevertheless, this has a higher degree of security and, bigger than that, it gives the

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people the opportunity to think before they sign rather than come out of a grocery store and have somebody who is either being paid by the signature or, worse than that, from out-of-state whose job is to collect so many signatures a day for so much money, and who could care less about the rights and respect of the people of Nebraska to go out there and try and badger them to sign while somebody else is barking at them, don't sign; the guy is a crook. I mean, that's why this process is broken down. [LB566]

SENATOR AVERY: Any more questions? Don't see any. [LB566]

SENATOR SCHUMACHER: Thank you. [LB566]

SENATOR AVERY: All right. Proponent testimony. Good afternoon, Mr. Bernbeck. [LB566]

KENT BERNBECK: (Exhibit 2) Hello, how are you? My name is Kent Bernbeck, B-e-r-n-b-e-c-k, from Elkhorn, Nebraska. Thank you for the opportunity to testify as usual. You know, the 20 years...nearly 20 years I've been coming down to the Legislature, I've had this committee tell me amongst other things, two things. One, the petition process doesn't have any deliberative element to it. People aren't able to discuss it enough and come up with their conclusions about it. And the second thing is the dominance of the money that we've seen over those 20 years. It's literally a broken record. I've heard that so many times. Finally, there's a bill in front of us that actually goes a long ways in trying to address both those issues. As Senator Schumacher just said, you know, everybody knows at this point...I mean, if this were to pass, that, instead of being confronted by a circulator which sometimes people feel uncomfortable with that, they say, well, you know what? I have another option. They know they have the option of going home, clicking onto the state Web site, and reading it, and evaluating for themselves. And that way, the next time they're approached by a circulator, they don't have to feel uncomfortable. They say, you know, I've decided not to or I've signed it already. So I think it's going to go a long ways in curbing this abuse of professional circulators. I mean, the professional circulators that I've witnessed have not been...they have not treated Nebraskans well. Many of them do; many of them are very professional, very courteous, and walk away when someone says no, but a lot of them don't, and we know that. And the other part of this bill that I guess I like so much is that it really can go a long ways in creating a level playing field for those low-budget grass-roots petitions that I'm so fond of. You know, by being able to approach people and say, go to the Web site; go to the Web site; you can sign there. It allows someone that doesn't have a lot of money to spread the word just as our Supreme Court...our U.S. Supreme Court has protected to be able to go out and spread that word, saying hey, sign the petition on this Web site. And, you know, the only thing I see right now is that, you know, if this were to move forward and have the momentum to move forward, I worry a little bit about interim studies, because last year we had one of those and it, you know, didn't go very far. But, you know, we're back again, so that's the good thing with

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this. But, you know, I think this is a good opportunity for us to move forward with some of these ideas as Senator Schumacher was talking about. And one final thing, about two years ago, I was able to bring together 16 or 17 people from around the state. These were state senators, future state senators, former state senators, state officeholders or former, I should say, petition sponsors, attorneys, a varied group of people. And the thing that we all embraced and agreed upon is this idea of on-line petition signing because of some of the things I had mentioned about, you know, the dominance of money and, you know, the access for the people who don't have the money. And then to create a more deliberative process that people can think before they sign. This is really the one idea that came out of that group, and I...so I really do embrace this, and I've left a handout for you to look at. [LB566]

SENATOR AVERY: Thank you, Mr. Bernbeck. Questions from the committee? I don't see any. Thank you. [LB566]

KENT BERNBECK: Thank you. [LB566]

SENATOR AVERY: Any other proponent testimony? All right. We'll move now to opponent testimony. Anyone wish to speak in opposition to LB566? [LB566]

NEAL ERICKSON: 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, Deputy Secretary of State for Elections, here on behalf of the Secretary of State in opposition to LB566. And our major reason for opposition at this point is the cost aspect of it. You know, we have talked with Senator Schumacher and Mr. Bernbeck in the past about some on-line petition possibilities, and I think there are some possibilities there. And certainly, the choice about, you know, how to spend the money is going to be a legislative choice and that's going to be within your purview. But what we prefer is one that is a self-sustaining one, in effect where the petitioners are paying for this process. You know, if there are additional funds available, we'd certainly like them to go instead to maintaining the infrastructure in the election system we currently have which in a couple of years, we're going to have some problems with that. And an expenditure of this level, at this point in time, we don't feel is the wisest course. Within the bill, and I was glad to hear Senator Schumacher say that he wasn't moving forward with this right at this time, but there are a lot of technical things within the bill that we would certainly comment on, I think, too numerous to mention here. To give you some examples, one thing is (inaudible) political party. On generally our petitions now, we don't require a political party. Disclose that. There are some timing issues. For example, the petitioners have to opt out at the time they submit the petition to us, and the filing fee would then be due then. Well, that doesn't really track with the way the process works right now, because what we do is, they file with us; we send it for review by the Revisor of Statutes, and then those suggestions come back. They can choose to accept them or not, and give us final language. Quite often we have groups that submit three or four different versions, and under the way this thing

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is drafted right now, that filing fee would be due at the time they do the initial submission. And there would be questions about, you know, are there additional fees due when they come with different versions? There are some things in the bill that have the Secretary of State's Office getting into, oh, I think some things that have traditionally been in the purview of the Accountability and Disclosure Commission in terms of having them file when certain monetary thresholds are reached, things like that. But those are, I think, more minor details that can be worked out. In terms of the postcard aspect of it which is something we have discussed in the past, and using a mailing as a verification tool, what we certainly would suggest is using the business reply mail postcard which will increase the cost a little bit, but I think will actually probably be more effective in finding out those people. If there were people that did not sign and their name somehow got on these, I think would be more likely to return that mailing if the postage was paid for them. And so, when we've talked about this in the past, that's the kind of thing we've looked at is yeah, mailing a card to these people to make sure they sign, but including a business reply mail card with that. So with that, I'd answer any questions you might have. [LB566]

SENATOR PRICE: Well, thank you very much, Mr. Erickson. One question I would ask for you right now is you mentioned about the paying for the petition. Who pays for them now? [LB566]

NEAL ERICKSON: Um-hum. The petitioners. [LB566]

SENATOR PRICE: And so...and the idea being that...when do they pay for them? [LB566]

NEAL ERICKSON: Well, they pay for them in terms of printing and circulating them. [LB566]

SENATOR PRICE: All right. Thank you very much. Are there any other questions from the committee? Seeing none, thank you for your testimony. [LB566]

NEAL ERICKSON: Thank you. [LB566]

SENATOR PRICE: Do we have anybody else who would like to testify in opposition? Welcome. [LB566]

JASON KVOLS: Thank you. Good afternoon, members of the Government, Military and Veterans Affairs Committee. For the record, my name is Jason Kvol's, J-a-s-o-n K-v-o-l-s, and I serve as a director for District 3 on the Nebraska Farm Bureau Federation's Board of Directors. My wife and I farm 700 acres of corn and soybeans in Cedar County in northeast Nebraska, and I come before you today on behalf of the Nebraska Farm Bureau Federation. Farm Bureau's position on this bill is in one of

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opposition. Our member-adopted policy adopted just this past year in 2010 reads, "We support tightening the signature collection requirements of Nebraska's initiative petition process. We oppose the use of the Internet or other electronic media to collect signatures. Our policy is very clear in this case." We certainly recognize what Senator Schumacher is trying to do by offering additional options for the signature collections, for expanding the opportunities for those in rural areas to participate in these types of processes, yet our members have expressed a variety of concerns that I will share with you. We feel there are many questions about the integrity of electronic signatures collected for this type of activity. There is an increased opportunity for fraud and ballot rigging. We point to a recent example here in Nebraska where the process of voting for a license plate design was manipulated by a third-party Web site. Additionally, we feel that the collections of signatures via the Internet favors those who have readily available access to the Internet. It has been shown in rural areas of the state that there is a clear broadband gap. A recent study by the United States Department of Commerce showed that only about 28 percent of rural dwellers with incomes less than \$25,000 have broadband Internet in their homes compared to 38 percent of their urban counterparts, and 86 percent of their high-income rural counterparts. A similar pattern holds for demographic groups defined by race, ethnicity, and education. We hear from our members, especially those in the older demographic, that in addition to the actual lack of rural broadband access, many lack the skills, knowledge, or confidence to utilize the Internet for such activities. While we greatly value the Internet as a tool, we also recognize it is not for everyone and respect that at this point in time there are many who choose not to use it. Our fear would be that there would be a shift that the Internet would move away from us from traditional collection of signatures resulting in under representation of both older demographics and rural demographics. Rural America is already disadvantaged in this state based on population. Those who live in rural areas are already part of a minority population and many Nebraskans are generations removed from the farm. Less than 2 percent of the state's population is actively engaged in farming. This disconnect from modern farming practices among the nonfarming population has the potential to make agriculture a relatively easy target for groups aggressively looking to change the way Nebraska family farmers do business. If there were to be a ballot initiative that would negatively impact agricultural interests, we are clearly at a disadvantage. We feel electronic signature collection would make it easier for those who wish to target agriculture through a ballot initiative process to do so. We would urge the committee to take this into consideration when looking at this legislation and consider it in your decision making process. Thank you. I would entertain any questions that you would have. [LB566]

SENATOR PRICE: Thank you, Mr. Kvols. Are there any questions from the committee? Senator Sullivan. [LB566]

SENATOR SULLIVAN: Thank you, Senator Price. Thank you. Your last comment is interesting in that it hadn't occurred to me that maybe rural might be put at a

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disadvantage, but would you also think that perhaps in organizations like yours, would need to play a more active role in getting information out to people, so that they, in turn, can weigh in via electronically? [LB566]

JASON KVOLS: Part of our membership is the older persuasion, and as I stated in my speech, that there is a concern there that those that choose not to be part of the Internet and the electronic signature collection would be disadvantaged. When we currently have the system now of collecting signatures going out door to door, if you will, and collecting signatures, if there's that move towards the Internet and the electronic collection of signatures, we feel that the rural areas would be disadvantaged just because of that very fact. [LB566]

SENATOR SULLIVAN: Um-hum, um-hum. But all the more need then for an organization like yours to mobilize the membership to raise the level of awareness and for them to weigh in accordingly. [LB566]

JASON KVOLS: Correct, correct. [LB566]

SENATOR SULLIVAN: Okay. [LB566]

SENATOR PRICE: Thank you, Senator Sullivan. Senator Karpisek. [LB566]

SENATOR KARPISEK: See now, there aren't many of us left to ask questions (laughter). Thank you for your testimony today. [LB566]

JASON KVOLS: (Laugh) Thank you. I appreciate it. [LB566]

SENATOR PRICE: Is there any other further testimony in opposition? Would anybody like to testify in the neutral? Senator Schumacher, you are clear to close. [LB566]

SENATOR SCHUMACHER: Thank you, Senator Price. Just in summary here, the concern about that not one area of the state be able to put a measure on the ballot all by itself is a legitimate one, and it's been addressed by our Constitution, and one of the more recent changes, because it requires that in all cases, registered voters signing a petition be distributed as to include 5 percent of the registered voters of each of two-fifths of the counties of the state. You can't get by doing an initiative petition without going everywhere. Now, this initiative petition mechanism is not exclusive. The people that elect to stay in the electronic signature system can still have people collect signatures by the manual mechanism, and probably will go out to many areas to collect the signatures, because it will have some functionality in some areas. Interestingly enough, on the broadband comments, many areas...I shouldn't say many...yeah, many areas don't have access to broadband, but this type of technology doesn't require broadband. Dial-up is just fine; requires access to the Internet in some mechanism or

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another; if no place else, at your public library. So, you know, we haven't stopped with electronic commerce. We didn't say, look it, you can't file Secretary of State's UCC documents on-line. You can't pay your taxes on-line, because there are some folks that don't have Internet access. Let's just stop until 100 percent of the people understand Internet and all have the best and greatest computers. We have to move forward, and this is a precious area to move forward in. And I look forward to working with the committee in developing a way that we can integrate this brilliant new technology which is in use in every other facet of our life into our electoral process to make it better. I'll take any further questions. [LB566]

SENATOR PRICE: Thank you, Senator Schumacher. Are there questions? Seeing none, thank you very much. [LB566]

SENATOR SCHUMACHER: Thank you very much. [LB566]

SENATOR PRICE: And that will close the hearing today on LB566, and we will move forward to Senator Coash's LB312. Welcome, Senator Coash. [LB566]

SENATOR COASH: Thank you, Senator Price, members of the Government, Veterans Affairs Committee. It's nice to be in here. It's kind of full over in Judiciary right now. (Laughter) A little room. And I do appreciate the opportunity to come in here and introduce LB312. And for the record, my name is Colby Coash, C-o-a-s-h, and I represent the 27th District here in Lincoln. I'm going to introduce LB312 which is a bill to support Nebraska's veterans who have suffered traumatic brain injuries. LB312 creates the Brain Injury Council whose members are appointed by the Governor to oversee programs created under the Federal Traumatic Brain Injury Act. The council will be located in the Voc Rehab and advises the director of Voc Rehab on the administration of the Veterans Resource Facilitation Fund, which is also created by LB312. This fund supports the placement of resource facilitators within Voc Rehab to provide ongoing support for veterans with brain injury in coping with living with a brain injury and to assist individuals in transitioning back to employment and living in their community. These facilitators will utilize and help to create...to increase the capacity of existing services available to veterans who have brain injuries. The fund may also be used for training existing service providers to provide brain injury services and to access and maximize the private and public funding available to support veterans of brain injury. This is going to become much more important as more and more veterans return from service, in current campaigns, with brain injury. Overall, the intent is to maximize what currently exists in the community and to enhance the necessary services for veterans to allow them to live successfully in that community. So that's in a nutshell what this bill does. It creates an advisory board. And the fund actually would go to providing a resource facilitator to help facilitate the resources for veterans. I'll point you to the fiscal note and there's a couple of things I'd just would like to get on record for the committee as they consider this bill. First of all, the Department of Education has a grant that can cover the

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administrative costs for the Brain Injury Council, but they can't use that grant for the direct services. And so that's what the facilitation fund would do. And that's where the \$83,000 from the General Funds would cover the cost of the resource facilitator. But I will also tell you that that's based on a position that is a higher pay grade than what this would actually take. And I believe that, should this bill enact, be enact, they wouldn't need the \$83,000 because the type of person that they would take...need to do this kind of work, that work could be done for less and there's some testifiers behind me that will clarify some of that as well. So with that, I'll answer any questions. [LB312]

SENATOR PRICE: Thank you, Senator Coash. I personally appreciate you bringing this bill, as you might imagine. The question I would...first, I'll make a statement in that there is a Veterans Aid Fund. I'll just leave that laying right there. The other, I had a question. I noticed when, in the fiscal note where they talked about a council, 15 members, does your bill clearly articulate who the members are going to be? [LB312]

SENATOR COASH: It does. [LB312]

SENATOR PRICE: Can you point that out for me real quick? [LB312]

SENATOR COASH: Yes, I can. On page 2 of the bill there's 15 members of...and it starts on line 14 of page 2, which would be the Director of the Department of Veterans' Affairs or their designee, the director of...13 public members. Of the public members, seven have to be people with brain injury or family members of people with brain injury, at least four of the remaining members shall be representatives of one of the following groups: Public or private health related organizations, disability advisory or planning groups within Nebraska, and service providers for individuals who have brain injuries. So it's fairly prescriptive as to the makeup of the council. [LB312]

SENATOR PRICE: Thank you very much, Senator Coash. Are there any other questions from the committee? Senator Karpisek. [LB312]

SENATOR KARPISEK: Thank you, Senator Price. Thank you, Senator Coash. Do we need that many people on that council or is that a recommendation, or...? [LB312]

SENATOR COASH: Well, this is a bill that was LB141 last year and this is what was recommended. [LB312]

SENATOR KARPISEK: And I don't know that that makes any difference. [LB312]

SENATOR COASH: But there may be too many cooks in this kitchen for this, but this is a broad area. This touches Military Affairs, this touches health of, you know, it touches a lot of different areas and so we want to be make sure we get everybody covered up. [LB312]

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SENATOR KARPISEK: And that doesn't affect the fiscal note anyway, so. [LB312]

SENATOR COASH: No, the fiscal note is reflective of the actual resource facilitator, the service where the veteran would...this resource facilitator would be the individual who would assist the veteran in actual, the services. None of the money it goes to support the council itself. [LB312]

SENATOR KARPISEK: Right. Okay. Thank you. Is there...I don't know if you or someone behind you knows, is there somewhere that maybe we could start this already at the Department of Veterans' Affairs or...? [LB312]

SENATOR COASH: We've been looking at that and I think some testifiers behind me will address that. [LB312]

SENATOR KARPISEK: Okay. Good. And then the last thing, is there anything like this already in private sector? [LB312]

SENATOR COASH: Yes. There are groups out there that assist people with brain injury, but there isn't, to my knowledge, a group that specifically goes to assisting veterans with brain injury. [LB312]

SENATOR KARPISEK: Well, and I think the veterans are very important, but I think all of us looking at football injuries, all sorts of things, probably got our bell rung a little more than we realized, and it's a great idea. I think the whole concept is a very good one. So thank you for the bill. Thank you, Senator Price. [LB312]

SENATOR PRICE: Thanks, Senator Karpisek. And I'd add on to that in looking at...I do see the veterans part, but it would be interesting that there were hooks involved here that could reach out to other segments of our community that have traumatic brain injuries. I mean, we've already heard helmet bills, we've heard...of course, we're going to hear a bill for high school athletes and things. So a traumatic brain injury can happen in a larger segment of our community. So if there's a hook in there to assist with that, I think that's good. But, of course, being focused is always a great place to start with that. Senator Sullivan. [LB312]

SENATOR SULLIVAN: Thank you. Thank you, Senator, and thank you, Senator Coash. Senator Price mentioned the Veterans' Aid Fund. Does that come into play at all here as a source of funding? [LB312]

SENATOR COASH: It could. I haven't explored that opportunity to use any of those funds for this particular purpose. [LB312]

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SENATOR SULLIVAN: Okay. Thank you. [LB312]

SENATOR PRICE: Are there any other questions from the committee? Seeing none, thank you, Senator Coash. I take it you'll stay around for closing? [LB312]

SENATOR COASH: Well, I have the next bill up in Judiciary, but we're still in the opening as of ten minutes ago, so I think I'll have time to stick around. [LB312]

SENATOR PRICE: Thank you very much. Now we'll take proponents for the bill. Welcome. [LB312]

PEGGY REISHER: (Exhibit 1) Thank you. Good afternoon. My name is Peggy Reisher. It's...Peggy is P-e-g-g-y, Reisher is R-e-i-s-h-e-r and I'm here today as a member of the Brain Injury Association of Nebraska. I'm here asking you to vote yes on LB312, the Brain Injury Act. As a social worker, I have spent the last 17 years of my life helping individuals with brain injuries and their families. Fourteen of those years I had worked as a social worker on an acute brain injury unit at a local hospital here in town. Because of my experiences, I know personally how trying it can be to find brain injury resources in the state of Nebraska. In addition to this experience, I have also been a part of what we've put together, it's called a Veterans Brain Injury Task Force. When the Veterans Brain Injury Task Force first met in June of 2008, we used two important documents to kind of guide our efforts. One of them is the Rand Center for Military Health Policy and Research, which had done a study called the Invisible Wounds and the Mental Health and Cognitive Care Needs of America's Returning Veterans. We also used some information from the Brain Injury Consensus Conference which was held in 2007. At that conference we had put together a white paper called Barriers and Recommendations. There was members of...there was over 100 of us individuals at that meeting as well as civilians, but DOD, the VA, and also DVBIC had participated in that meeting. Those two documents along with the experiences of the task force members working directly with veterans in our state, we confirmed our beliefs in the gaps in services for veterans with brain injury in Nebraska. We feel as though resource facilitation would be one way to help fill these gaps. My job here is to kind of give you an idea of what is resource facilitation. So I think a lot of folks aren't necessarily clear on that. Resource facilitation can help families, as well as healthcare professionals, employers, etcetera, be aware of the signs and symptoms of brain injury. Resource facilitator can help link returning veterans to available resources in the VA system as well as the DOD system. Resource facilitation can help provide training and expertise in Nebraska communities with little understanding of how to be supportive of an individual's brain injury. Resource facilitator could also be that person which the VA, as well as the DOD case managers from across the nation, could contact to help transition a person back to Nebraska. Resource facilitation can also help collect data to help identify the volume of veterans needing services. In addition to that, it can partner with state and national organizations to better utilize the services which already exist in the

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state. By having resource facilitation would also kind of help support some of the main findings in the Rand report. And there was four main things that the Rand report had made recommendations about. Their suggestion was to increase and improve the capacity of mental healthcare system and delivery of evidence-based care. They suggested that we as a state...or as the United States needed to do a better job changing policies to encourage more service members and veterans to seek needed care. The third thing was to deliver evidence-based care in all settings. And the fourth thing was to invest in the research to close knowledge gaps and plan effectively for the future. Resource facilitation is not a new concept. Over 40 states have some form of resource facilitation. The task force advisors from the Defense and Veterans Brain Injury Center, as well as the Nebraska/Western Iowa, have worked with such states that do have resource facilitation such as Iowa, Minnesota, and Colorado. They report states with resource facilitations are better equipped to help identify resources in their states, thus making veterans transition back to the community a bit smoother. In 2009 I was part of a national work group which surveyed the differences and similarities of how states are doing resource facilitation. Although states vary in who is responsible for this, and as well as the data that's collected, who is eligible, and how it's funded, the bottom line is all other states have recognized the need for service in their states and have found ways to support it. Although the VA and DOD are working hard to meet the needs of veterans, the research that we found in the Rand study, as well as personal experiences, the task force members all recognize that we need to have more assistance from family members, employers, community leaders, as well as the state of Nebraska to help join and support the warriors returning with brain injury. It seems like a very small price to pay when you compare the commitment, service, and courage our Nebraska veterans have shown us. [LB312]

SENATOR PRICE: Thank you very much, Ms. Reisher. And with that, are there any questions? Senator Sullivan. [LB312]

SENATOR SULLIVAN: Thank you, Senator Price, and thank you for your testimony. Just how many incidences are we coping with right now today? Do you have any idea here in Nebraska? [LB312]

PEGGY REISHER: Well, I think that's the tricky part. I think...and you'll hear some other folks also talk about that. But because of the nature of it being a mild brain injury, a lot of the veterans aren't necessarily returning to the VA to be counted. I know when the Rand report had done their study in 2008, they were estimating approximately 19.5 percent of veterans returning had traumatic brain injury. Those numbers are a lot higher than what, I think, the VA is actually finding in Nebraska. But I think again, it goes back to not everybody is returning to the VA for those services. So there in turn, we need to educate the community and the state as a whole about how to identify and get the veterans turned back to the right services. [LB312]

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SENATOR SULLIVAN: So it's a matter of not only accessing the services but, first of all, even being diagnosed with having the problem. [LB312]

PEGGY REISHER: We've been...with the grant work that we have with the...with some grant monies that we have, we've been doing what we call brain injury and PTSD trainings across the state. We've held six of them and we've had over 335 participants come to that. And a lot of them are mental health providers that were just wanting to educate them about what is brain injury. It's the common signs and symptoms of brain injury in PTSD. And really our message is, please go forth...as you work with these veterans, go forth and help educate them and get them connected to the right services, but we know that's grant funded and it's temporary, so. [LB312]

SENATOR SULLIVAN: When does this grant run out? [LB312]

PEGGY REISHER: We have two...it's a four-year grant. We're starting year three in April. [LB312]

SENATOR SULLIVAN: Now in this grant, do you actually have a network that's similar to this council that we're talking about, or is this council going to be brand new? [LB312]

PEGGY REISHER: The council already exists, but when I talk about the Veterans Brain Injury Task Force, that's just a sub group. I think I've got like 44 different members on the task force right now and just different participants. So we've been trying to spread the net, (laugh) but we also know it's a lot to try and accomplish. [LB312]

SENATOR SULLIVAN: Okay. Thank you. [LB312]

SENATOR PRICE: Thank you, Senator Sullivan. One thing I bring up and perhaps a testifier behind you can articulate it better, but it's my understanding that less than 20 percent of the veterans we have in our state are actually enrolled in the state that the VA knows they're here. So what we have a situation of is, you know, 80 percent of our veterans haven't even acknowledged the state that they live here and that's why it would skew some of those numbers because again, you could have 17 percent returning back and that would be 100 percent of your veterans are reporting in. So that's part of what leads to these numbers differential. But if someone else or yourself can clarify that, I'd be more than happy to hear you. [LB312]

PEGGY REISHER: Yeah, and we certainly...I know as we talked as a group as a task force we've...you know, there's so many that don't even recognize themselves as veterans. A lot of them, again, are returning to the VA for a variety of reasons. And that is the group that we need to try to reach out to. And some of...for a variety of reasons, folks don't always want to go back to the VA and you'll hear some more testimony about that. [LB312]

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SENATOR PRICE: Well, thank you very much, Ms. Reisher. Seeing no other comments, again thank you for your testimony today. [LB312]

PEGGY REISHER: Thank you. [LB312]

SENATOR PRICE: Will the next proponent come on down? Welcome, sir. [LB312]

MARK SCHULTZ: (Exhibits 2 and 3) Good afternoon, Senator Price and members of the committee. My name is Mark Schultz, M-a-r-k S-c-h-u-l-t-z. I'm the director of Vocational Rehabilitation in the Department of Education. Being passed around are two documents. One is a letter from the State Board of Education in support of LB312, and the second is my written testimony in support of LB312. And I thought what I would like to do is just take this opportunity to kind of maybe answer some of the questions, but also to expand on a couple of things and emphasize a couple of the points in the testimony. First of all, in regards to the federal grant, Nebraska has had a TBI grant of some sort since 2000 so it's been a little over ten years that these grants have been in existence and Nebraska has received one. In 2008, Vocational Rehabilitation was designated as the lead agency for the TBI grant here in the state. And so we've been operating that grant since that time, and under that grant there is an advisory council that's been established. The council...the makeup of the council is pretty much influenced by the federal legislation, and the funding for the operation is coming from the TBI grant. In addition to that, we've conducted a number of public awareness, education, and training activities and all those things as outlined in the Brain Injury Act, could still continue to be covered under the federal grant. And as Peggy indicated, we are nearing the end of the second year of a four year grant. Will there be additional federal grants? We don't know at this point. But given that we've had a grant for the last ten years, I would hope that they would continue that program and see the benefit of that at a federal level. The reason that we...I think the importance of the bill is the fact that the grant cannot be used to provide direct services, and that is resource facilitation. We, under the grant, I think, have done a very good job in terms of starting to develop screening tools to go out and identify individuals with brain injuries that previously went undiagnosed. So we're getting those out to various systems and so as we identify those individuals, the question then becomes, what next, because we've got to connect them to services. The Rs is an Employment Focus program. They're coming to us for a job that typically what happens is most of those individuals have other needs, housing, transportation, have legal issues, that they need to have addressed in order to even start thinking about a job. That's where resource facilitation comes in because it can make that connection for people that can get them, particularly for veterans of brain injury, to those unique resources that only veterans are eligible for. And I think that's why this is a good place to start with veterans because there are resources if we can identify them and connect them to those resources. But yes, it does make sense that as we identify resources, I think it would be easy enough to extend the availability or

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information about those resources to any individual with a brain injury. And I would hope that we could do that in the future. I also want to clear up the fiscal note. When that was prepared, they...the note was completed with some incorrect information about the classification of the position, so it was based on a program director classification instead of the appropriate program specialist to classification. So there would be several pay grades lower. And as you've heard previously, the operation of the council, as well as some of the public awareness education training activities, all of those would still continue to be funded under the grant, and so those federal resources weren't, and should have been a part of that fiscal note as well. So if there are any questions, I'd be glad to try to address those. [LB312]

SENATOR PRICE: Thank you very much, Mr. Schultz. Are there questions? Senator Sullivan. [LB312]

SENATOR SULLIVAN: Thank you. And thank you for your testimony. How do you identify and seek out the people that...the veterans that you work with? [LB312]

MARK SCHULTZ: I think that's the million dollar question is identifying those individuals. I think the VA has a good screening process set up initially, but for one reason or another they may not capture all those veterans and so many are returning back to their communities undiagnosed and experiencing problems months later and not knowing why. So the real issue is, how do we identify those individuals in the community? We're doing what we can in terms of creating public awareness about the issue, as Peggy said. We're trying to do more training to professionals to recognize brain injury and the symptoms and how to screen for that. And that's the best that we can do and then, hopefully, to make connections for those individuals. [LB312]

SENATOR SULLIVAN: So you're working with the Department of Veterans' Affairs? [LB312]

MARK SCHULTZ: Yes, yes, we have a task force set up as a part of this grant that specifically looks at those issues and is trying to develop a plan for how to address them. [LB312]

SENATOR SULLIVAN: But the funds are flowing through the Department of Ed because they're job training basically, or...? [LB312]

MARK SCHULTZ: The history of the grant was, it started out in the Department of Education, and actually it was a collaboration between special education, vocational rehabilitation, and the Health and Human Services. So it was a three-way collaboration and special education at the time was identified as the lead, and then in 2008 we took over as the primary lead on the grant. [LB312]

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SENATOR SULLIVAN: Is this legislation a way to make this program that you have with grant funds sustainable? [LB312]

MARK SCHULTZ: The operation of some of those things we'd have to look at, otherwise to fund it. I think one of the things that we have done as a part of that grant is to really establish a grass-roots organization that, hopefully, now will develop and be able to look for funding opportunities that will help to support some of the operations of this program. So we're hopeful that that can happen. The resource facilitation, I think the advantage of looking at this as a pilot is, particularly for veterans, if we can get them referred to other resources, particularly the federally funded programs, that's going to diminish the need for some of the state public resources that are out there. So that's what we're hoping and hoping that we can be able to demonstrate that. [LB312]

SENATOR SULLIVAN: Thank you. [LB312]

SENATOR PRICE: Thank you, Senator Sullivan. I'd ask, Mr. Schultz, is it correct to characterize the Veterans' Affairs services for veterans something that the veteran has to ask for first. [LB312]

MARK SCHULTZ: Yes. [LB312]

SENATOR PRICE: So just for members to realize you can't just reach out looking at a file of veterans who have returned, find out those that have been involved in incidents, and automatically enroll in panel, and then review, and then put them through a battery of tests. So with...particularly with the guard and reserve component that's going over there as a greater portion of the troops, what we see, the veteran has to ask first. So I've contemplated this for a lot of time and I would offer that that million dollar question you have is to have a standardized question that would go into every medical facility when you have someone going in and triaging them, there should be a question. Are you a veteran? That should be the first question for any government service on...right after your name. Who are you, are you a veteran? And that might give them the opportunity to get into the system and improve that first step because, unfortunately, I think, unfortunately, I understand why the VA has to do what they do, but you never get a chance to reach out to anybody. They have to ask. So, okay, I see you're nodding your heads, so that part means you're in...good. Well, I appreciate it. Are there any other comments? Senator Schumacher. [LB312]

SENATOR SCHUMACHER: Thank you, Senator Price. In looking through the bill, I mean, I see the words advisory capacity, support, recommendations, encourage, oversee, advise. I mean, that seems to be the operative verbs in the bill. What is...do you see that if we adopt this bill, how does life change for the average veteran with or without this bill? I mean, what does this do for him besides advise and encourage, and how does this all work, and how does this make it better? [LB312]

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MARK SCHULTZ: Okay. Most of those words are relative to the advisory council and come pretty much out of the federal language in legislation. How it changes for the average veteran with a brain injury is that once identified, there will be a place for them to contact. A single point of contact that they can ask for assistance in, around whatever barriers, whatever issues they have that they're facing. So they could be in terms of, I'm experiencing issues of fatigue, confusion, you know, I don't know where to turn. And so that resource facilitator could start to make those connections. For a lot of those individuals, they're experiencing other difficulties related to the brain injury, whether around legal issues, they've got into trouble and are facing charges because of their behaviors, because of the brain injury, but don't understand that. And so that's the kind of support this resource facilitator could do in terms of linking them to the right resource so they'd help them to understand, and then help them to get the...whether it's counseling or whether it's connections to housing or other supports to start to resolve those issues for veterans. Right now, there's no real clear place to turn, especially for those that have gone back to the community. [LB312]

SENATOR SCHUMACHER: So this 15, or whatever, 13-member board, hires a resource guy and that guy is a go-to guy? [LB312]

MARK SCHULTZ: The resource as I see this being structured, the advisory council still functions as it is and they're providing advice in terms of how to establish the resource facilitation. The actual hiring, as I see it, would be a position within BR. That would be funded to...actually provide that services of resource facilitation. There would probably be an 800 number, veterans would call into that number, and then they would start to work with that person and be connected to resources in the community. [LB312]

SENATOR SCHUMACHER: How does this differ from say the county Veterans' Affairs officer? [LB312]

MARK SCHULTZ: It sounds like there will be someone here to testify about that, so...that can speak directly. [LB312]

SENATOR SCHUMACHER: I'm just trying...and why would Nebraska need its own 15-member commission? I mean, isn't one...can't we have a regional thing and save money or, you know, is there such volume of calls that each state needs its own? [LB312]

MARK SCHULTZ: Well, I do know that there was a report that HRSA, Health Resources and Services Administration, looked at how many states were doing resources facilitation and the value of that, and they identified...I think that was in 2009, 40 states were...had resource facilitation available for individual brain injury. I think what's unique is that, one, it's difficult to identify those individuals with a brain injury. They know they're

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having difficulties. They're not sure why, so that's part of what this can do. And second, getting them eligible for those resources then becomes difficult, so. [LB312]

SENATOR SCHUMACHER: But, I mean, why can't I, with South Dakota and Kansas... [LB312]

MARK SCHULTZ: Do a regional? [LB312]

SENATOR SCHUMACHER: ...all have one guy doing this rather than everybody doing it and duplicating it? [LB312]

MARK SCHULTZ: Yeah, because a lot of those issues are based on available community support. So identifying what's in that veterans' community is going to be critical. I don't know how you would do that on a regional basis. [LB312]

SENATOR SCHUMACHER: Okay. I don't have any further questions. [LB312]

SENATOR AVERY: Senator Karpisek. [LB312]

SENATOR KARPISEK: Thank you, Senator Avery. Thank you, Mr. Schultz. Is there any...and maybe you're not the one to ask, but is there any physical type things that we can do to heal the injury or is it mainly trying to help them out through...I know counseling helps physically, too, but other than just helping them get a job or...can we get them better? [LB312]

MARK SCHULTZ: The answer to that is that brain injury, and the...that limitations that occur because of that, very substantially. So mild brain injury, there could be strategies that could be used to help in terms of that person's ability to function for (inaudible) someone with a severe brain injury. It's not going to improve in most cases. Once those deficits, I think, Peggy could probably answer this better than I can, but I think there is a period of time in which you don't expect to see any significant improvement. [LB312]

SENATOR KARPISEK: Very good. Thank you for being here. Thank you, Senator Avery. [LB312]

SENATOR AVERY: Any other questions from the committee? Thank you, Mr. Schultz. [LB312]

MARK SCHULTZ: Thank you. [LB312]

SENATOR AVERY: Still on proponent testimony? Good afternoon. [LB312]

TIFFANY ARMSTRONG: (Exhibit 4) Good afternoon, Chairman Avery, and members of

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the committee. My name is Tiffany Armstrong, and for the record that is spelled T-i-f-f-a-n-y, Armstrong is A-r-m-s-t-r-o-n-g. I am here today as the chairperson of the Nebraska Traumatic Brain Injury Advisory Council and am testifying in favor of LB312. The TBI Council has established a Veterans Task Force which has looked at the impact of brain injuries on the Nebraska veteran population. Included on the task force are representatives from the VA, the Nebraska National Guard, Congressional delegations, veterans' support groups, veterans themselves, as well as other agencies. This task force has held employer trainings in collaboration with the Nebraska Medicaid Infrastructure Grant, which helped employers understand the issues and help with strategies that returning veterans with brain injuries may encounter in the work place. We have also trained over 300 healthcare providers across the state on ramifications of PTSD and brain injury on the lives of our veterans. However, due to the restrictions of the federal grant, we cannot provide direct services for the brain injury population. And one of the issues that has come up again and again, is the need for a resource facilitator. A resource facilitator will help serve the nearly 800 Nebraska service members who have already screened positive for a brain injury upon returning from OIF/OEF. A brain injury resource facilitator is necessary and pertinent now because brain injury has become the signature wound for today's conflicts. Individuals of brain injuries are already experiencing memory loss, attention deficits, and decreased executive functioning like problem solving. How can we expect a veteran with a brain injury to find his or her way through the halls of the VA system? We cannot expect them...the soldiers to, and according to the most recent data in Nebraska, nearly 49 percent of the soldiers do not return to the VA system upon returning to their communities. Without the help of a resource facilitator, we will allow more and more of our veterans to face joblessness, homelessness, prison, and even suicide. LB312 is necessary to allow for a resource facilitator for our veterans. As most of us are aware, the VA system has many good support services to offer, but with no central organization, information, or referral system, veterans may find it difficult to navigate the system without assistance. When our soldiers return home, they need somewhere to turn that easily provides the services these soldiers need. The soldiers should not be required to navigate this complicated system just to receive services. The VA system, along with community services, can provide the care our soldiers need, but the soldiers should have one person to contact for appropriate services instead of wasting time calling several people when their time could be better spent healing. As a healthcare professional and individual with a brain injury, I can personally testify to the importance of having one contact person to help identify appropriate services. Finding and accessing services appropriate for individuals with brain injuries is not easy and can often lead to inappropriate services or missed rehabilitation opportunities. Individuals with brain injuries respond much better to services provided soon after an injury rather than waiting while one deciphers what treatment options are available and appropriate. I urge you to pass LB312 to demonstrate to our veterans that Nebraskans truly care about the services they provided. These soldiers risked their lives in defending our freedom. Now let us defend their lives by providing a resource facilitator to enhance

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their healthcare and vocational services. Thank you. [LB312]

SENATOR AVERY: Thank you. Questions from the committee? Senator Brasch. [LB312]

SENATOR BRASCH: You know, I noted...and thank you, Chairman, and thank you, Ms. Armstrong. In here you talk about a complicated system just to receive services. I'm curious, in the past when I've called the Veterans Office there's a voice dial system, and it's been a couple of years since I've tried. But couldn't there be a push one for brain trauma injuries less complicated? I mean, describe your belief that it's too complicated. [LB312]

TIFFANY ARMSTRONG: Well, oftentimes the soldiers first don't realize that they have a brain injury. They just know that I'm having, you know, this issue or this problem or my family says I'm getting irritable easily, and so just to say push one for a brain injury, they're not going to, you know, sometimes even know. Or they may not want to identify that they have a brain injury because then that...there's something wrong with them. And so having that type of system I don't think would necessarily work, would be effective. [LB312]

SENATOR BRASCH: Or for health benefits push one, you know, something. I don't know. [LB312]

TIFFANY ARMSTRONG: Yeah. Well, and oftentimes it's not just health benefits. They need help with health, with jobs, or they may not know. You know, I'm just having these issues and I don't know where to turn or what do I need or what's causing it. And there are different services available, you know, in different aspects of VA system. I'm not, you know, an expert on the VA system by any means, so I can't answer specific questions. But in talking with a lot of the VA service providers, I do know that there's different services that are provided in different areas that people don't realize are available. And so the resource facilitator would help identify all those individual ones that maybe people rarely get to because they don't understand the system. [LB312]

SENATOR BRASCH: And how would they get to this system? [LB312]

TIFFANY ARMSTRONG: The resource facilitator, it would be...I'm not sure exactly how we're going to publish the actual...who the resource facilitator is, but it would be available through the VA system or through the Brain Injury Association of Nebraska, through members of the advisory council. [LB312]

SENATOR BRASCH: And someone through the existing system would identify the need of this system? [LB312]

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TIFFANY ARMSTRONG: Well, the resource facilitator would be kind of the first point of contact and then they would help them get into the VA system, if that's appropriate, or community services, whatever is appropriate for their needs. [LB312]

SENATOR BRASCH: So it would be a precursor, they would go to this group first, and then it would bounce back to the traditional VA needs, and then back to your group? [LB312]

TIFFANY ARMSTRONG: Well, the resource...they would initially...I mean, they wouldn't have to go through the resource facilitator, but that would be the point of contact if they really didn't know, you know, what services they needed or what was going on, they would just call and say, you know, this is what's happening and then they would say, okay, you can contact this person or this service, whether it be through the VA community services. [LB312]

SENATOR BRASCH: Excellent. Thank you, Mrs. Armstrong. Chairman. [LB312]

SENATOR AVERY: Senator Price. [LB312]

SENATOR PRICE: Yes, that's what it was this morning. Thank you, Chairman Avery. (Laughter) I apologize. The reason I was thinking about a multiple of things is Senator Brasch was talking there and she brought up a question in my mind as to where this service lies or where would this be seated because it's my understanding, somewhat limited understanding, but that a veteran first has to be identified that they're a veteran, they go to their VSO, or something like that, they go through the entire process. I mean, for Veteran Services. I mean, and I think they've changed it some here in the last six years in that a veteran can just say, hey, my DD Form 214 says I was in the service, and they can go to the VA and emergency circumstances or whatever and try getting some treatment, but in general a veteran needs to be, I'll use the word, impaneled in the VA, and be awarded a service connected disability in a traditional sense. But I'm hopeful, from the shaking heads, that we'll have that delineated greater. Because when Senator Brasch was asking where does this sit, before a veteran enters the veterans services pipeline? And if that's the case, then that would mean they went to a local doctor, they went to a local physician who has this information and they did diagnosis and say, hey, we believe you, as a veteran, have a resource available through XYZ, want them to be in the VA. Then they would have to still go through some processing at the VA to receive that...those services, correct? [LB312]

TIFFANY ARMSTRONG: Right. [LB312]

SENATOR PRICE: Okay. And if anybody behind you understands the gist, please feel free to talk to that. Thank you very much. [LB312]

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SENATOR AVERY: Any other questions? I don't see any. Thank you for your testimony. [LB312]

TIFFANY ARMSTRONG: Thank you. [LB312]

SENATOR AVERY: Any other proponent testimony? Welcome, sir. [LB312]

NORMAN McCORMACK: (Exhibit 5) Mr. Chairman, members of the committee, thank you for the opportunity to offer my support for LB312. My name is Norman, N-o-r-m-a-n, McCormack, M-c-C-o-r-m-a-c-k. By way of qualification, I am a licensed mental health provider and a certified professional counselor in the state of Nebraska. My professional experience includes a 25-year tenure with the VA's Vet Center program during which time I counseled numerous veterans with traumatic brain injury, or TBI as it's called, as well as for other issues. On a more personal note, I have a son-in-law, an Air Force veteran who has suffered a TBI, the consequences of which have been devastating to his wife and his two young sons. People who sustain a significant brain injury, traumatic or otherwise, are faced with a host of limitations postinjury. The medical community has documented deficits in cognition, behavioral control, mental acuity, motivation, planning ability, volition and others. Military veterans and others suffering from the consequences of a brain injury deserve and need the support of their government and their communities. Enactment of LB312 would help establish those support systems. I'd like to spend the balance of my time to share some personal observations and conclusions drawn from my experiences with my son-in-law and his family. John joined the Air Force in March of 2003, and was trained as a security specialist. He did well in his various assignments, was promoted accordingly. While on active duty, he enrolled in the community college with the Air Force and accumulated over 100 hours...a hundred quarter hours, I should say, of college credit while he was on active duty. His accomplishments as an airman clearly demonstrates his intelligence, emotional maturity, motivation, and behavioral control. In January of 2009, John tripped and fell hitting his head on a hard object. Although there was no immediate indication of the seriousness of the injury, he subsequently lost consciousness and his vital signs plummeted. He was hospitalized and those healthcare providers involved in John's care told him that he could expect some problems for several months. Subsequent neurological and neuropsychological testing documented numerous deficits in functioning. Consequent to these findings, John was placed on medical hold in the military for over a year. He was ultimately medically retired. John's limitations affect his ability to perform many routine tasks. They interfere with his marital relationship, disrupt his relationship with his two young sons, and severely limit his vocational options. His wife, my daughter, has reported this: "After the fall we were told by the doctors that John would recover and be able to do the things he had in the past. As time went by, John did not improve. His personal reliability profile, that's a security clearance kind of thing, was pulled and he was forbidden to handle weapons even though he had gotten expert marksmanship ratings on all of them. He was shuffled from his duties in security forces

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to working in a warehouse. These changes affected John's self-esteem. He had spent six years in security forces and was deployed three times. Now nobody seemed to trust him. We struggle with my husband's disability. I have noticed significant short-term memory loss in John. For example, when our youngest son was still on bottles, John would not remember if he had given him a bottle or not. He would literally have to look around the room to see if he could find an empty bottle. If he didn't find one, then he knew one had not been given. The same holds true for diaper changes and other childcare activities. My husband has had a severe mood change. Since he finds what used to be simple tasks almost impossible, he has become extremely irritable. When he becomes frustrated, he will lash out. His frustration, I believe, stems from several issues. Not only is this his memory loss, but his inability to support his family. Despite what the doctors have said, John did not recover. One of the saddest consequences of John's fall is that he doesn't remember the birth of our youngest son. John loves his sons. He tries very hard, most of the time successfully, to be a good dad. Not remembering the birth of one of his children bothers him a lot. It bothers me too." John's story demonstrates the frequently devastating effects of brain injury. Fortunately, John had available to him people who care and know what supportive services are available. Twenty-five years experience with the VA, for example. Such is not the case for everybody with a brain injury, probably for most. For these folks negotiating the confusing system to determine the right mix of services is an impossible task. It is for these people that LB312 is necessary. Thank you. [LB312]

SENATOR AVERY: Thank you, sir, for your testimony. Questions from the committee? I don't see any questions. Thank you, Mr. McCormack. [LB312]

NORMAN McCORMACK: Thank you. [LB312]

SENATOR AVERY: Any other proponent testimony? [LB312]

JAMES RUSSELL: My name is James J. Russell, James, J-a-m-e-s, J., R-u-s-s-e-l-l. I'm from Omaha, Nebraska. I'm an active volunteer in the Omaha VA Medical Center. I am also cofounder of the Veterans Resource Network. That's a group of volunteer peer support specialists who reach out to veterans in the community. And these are usually veterans who are reluctant to seek out VA care. I would like to address Senator Price about his admission to the VA hospitals. We have to understand that the VA is divided up into several sectors. All a person needs to access care in the VA hospital is to go to the eligibility office in any VA hospital and present that document, and depending on what time a service they were in, and so forth, they are categorized in eight different categories. And the process begins at the eligibility office. No one is denied care at the VA hospital. In Omaha we have a wonderful staff throughout the hospital and I can never stop saying how good the people are. For the young veterans, they have the OEF/OIF Outreach Program. And the last time I talked to the coordinator there, there are something like 5,500 registered veterans just from OEF/OIF campaigns. So the VA

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is really going out and bringing the people in. But that's only 41 percent of the veterans that we know exist. We still have to find that 58, 59 percent of these people. And according to the Rand study that over a third of these veterans coming back have TBI and posttraumatic stress. Both of these are very difficult to diagnose and the symptoms are very similar. I, myself, have worked with three veterans over the past several years. One of those veterans who had a severe case of TBI attempted to hang himself in jail. Another one died of an overdose. And the other one is now currently receiving treatment at the Des Moines VA domiciliary. It's very important that we reach out to these people and explain to them why it's so important to receive treatment at this point. A lot of people try to receive...put off treatment or they're too busy or they're just suspicious of the VA and its programs. And that's not exactly a good thing. The VA tries very hard to reach out to these young men through television ads, through suicide campaigns, and so forth, but they seem reluctant to come in. But all these young vets that have been over in the war zones of Iraq and Afghanistan, all they have to do is come in and see the coordinator for the OEF/OIF...the OEF/OIF coordinator in the VA hospital and they will be taken care of because they receive five years of free medical care, postdischarge. The ones, there are...there are veterans who are slipping through the crack, there's no doubt. But trying to get to them and get the information to them so they realize that they have a problem, and get them into the VA so they can receive help is a big problem. No matter who we're talking to, if you look in the VFW magazines, the Disabled American magazines, and the American Legion magazines, this is a big problem throughout the nation to get the young vets to come in and receive treatment. And I am very much in support of LB312 because it's sorely needed to get the information out to have one place in the state to coordinate the information and get it out to the families and the loved ones of the veterans because these are the people who first notice the difference. [LB312]

SENATOR AVERY: Thank you, Mr. Russell. Any questions from the committee? I don't see any questions. Thank you, sir. Any more proponent testimony? All right. Any opponent testimony? Anyone wish to testify in a neutral position? Senator Coash. [LB312]

SENATOR COASH: Thank you again for listening and thanks publicly for all of the folks who came here and testified in support of this bill. Just...it's kind of a review. This bill has two parts. One part establishes the council which is based off of the federal...kind of mirrors the federal statutes. That's the advisory piece that Senator Schumacher referred to. And the second part is the resource facilitator which is where the fiscal note comes from. And this is the service that the veterans need. I did a little bit of...I'll get that in a minute. Head injury is a head injury. You know, whether you acquire your head injury playing football or during combat, heads are kind of the same. But the needs for veterans is a little bit different than the needs for everybody else. This is a focused effort on veterans and that is my intent. There are gaps out there for services for veterans that don't exist for other groups of people who have head injuries. And there is a reason to

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specialize and that's because veterans have special needs. I do believe timing is the key. Doing this now versus later is the difference between hundreds of veterans getting support because of the rate of returning veterans from our foreign campaigns. More of the fiscal situation and I don't mind...and we are, as with everything, making priority decisions. And I don't mind prioritizing veterans. There's some math here that I thought was kind of interesting. If you round the fiscal note to \$80,000, which I think we're going to ask for a new one based on the new reclassification, but even if you round it down to \$80,000, and I believe as Ms. Reisher had mentioned that they've already screened 800 veterans in our state, so we already know right now that there are 800 veterans out there in our state who have acquired a brain injury. So you take the \$80,000 divided by 80, or \$80,000 divided by 800, that's \$100 per veteran that we would be asking our state to pay. And \$100 per veteran, in light of the sacrifice that they put for us when they acquired their brain injury, doesn't seem like a whole lot. So I appreciate your indulgence of this and we will continue to work with the committee, so I'd like to see this move forward. I'd like to see...we've got a lot of priorities in our state and I think that this one needs to be up there, so I look forward to working with you. Thank you. [LB312]

SENATOR AVERY: Thank you, Senator Coash. Any more questions? Senator Schumacher. [LB312]

SENATOR SCHUMACHER: Thank you, Senator Avery. Senator Coash, a couple of questions that I've asked earlier that I was hoping to hear an answer in the testimony from. One is, how does this differ from the traditional county veterans affairs officer that's supposed to be the link with the VA and where the guys are supposed to go? [LB312]

SENATOR COASH: I'll try to get a more clear answer to that for you, Senator Schumacher, but here's how I will put it. The county veterans' officer is connected with the VA and the VA has its services. What the VA doesn't have, that I'm aware of, is what's provided for in this bill which is a facilitator of the community-based services that are out there. The VA is certainly a service. They provide medical care and a lot of other programming for veterans, but what they don't provide is the resource facilitator that will help that veteran with a brain injury access the technology services to help them deal with their injury, the vocational rehab services that one of the testifiers spoke to, the mental health services. And the mental health services may be provided through the VA, but when you talk about VA hospitals, you know, there's a few in our state and we've got veterans all over the state. And so we're trying to centralize it here and that's one of the purposes of this bill. [LB312]

SENATOR SCHUMACHER: And then the follow-up question is, you know, if we have somewhere around 800 to 1,000 in our state and this person is supposed to be the facilitator or whatever for them, and we go...assuming he's situated in Omaha or Lincoln, we go 400 miles west, is the workload such that we couldn't swing the compass

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all around and come into some cooperative situation with maybe South Dakota, or Kansas, or Iowa, so that, you know, I mean, so that we can all save money? I mean, is that busy? [LB312]

SENATOR COASH: I'm certainly not opposed to partnering with other states. Obviously, my priority is our Nebraska veterans. We have the Brain Injury Council and that is a statewide organization and so we have experts in brain injury across the state. So even though you may have the resource facilitator in one part of the state, they have the connection through this advisory council that's created and through the systems already in place to access and support those veterans throughout the state. So that's what we're trying to get accomplished. [LB312]

SENATOR SCHUMACHER: Okay. I have no further questions. [LB312]

SENATOR AVERY: One more question from Senator Price. [LB312]

SENATOR PRICE: Thank you, Chairman Avery and I would just...lead on to help understand. You would envision this as being an outreach which is different than what a Veterans Service Officer does. A Veterans Service Officer would be...sits in the office and does intake, but this would be more of an outreach which would be located within the community to help the veterans. And then in talking to the ability for regionalization, I believe, I could have it wrong but I think vision 27 of 16, if the Iowa/Nebraska VA hospital, so there would be an inherent regionalization by working with the Veterans Office and the Veterans Hospital in Omaha. [LB312]

SENATOR COASH: Yeah, because we're connected with Iowa as well. And the interesting thing, you know, this is an outreach bill, but we already have 800 people who have been identified as (a) veterans, and (b) having a head injury. And what they don't have is someone that they can call, a central person that they can call that will help them navigate all of the other services, including the VA. I mean, the VA is one of those services, but there are a lot of other services that these veterans need that the VA cannot provide. And...or as some of the testifiers pointed to, the veterans are reluctant to access. And so this is very much an outreach bill. [LB312]

SENATOR PRICE: Thank you, Senator Coash. [LB312]

SENATOR AVERY: Another question from Senator Schumacher. [LB312]

SENATOR SCHUMACHER: Thank you, Senator Avery. Then I'm going to try to conceive how this is going to go whether the veterans are going to call into this resource facilitator which I assume is maybe only one or two people? [LB312]

SENATOR COASH: One. [LB312]

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SENATOR SCHUMACHER: Okay. So you've got one guy and then how that works with outreach. Does...when somebody comes back from the service, do they get a phone call, do they get a visit in Ainsworth from this person? Is he on the road? Is there a car involved? I mean, how do you outreach unless you just intake? [LB312]

SENATOR COASH: Well, we are...like I said, we already know where 800 veterans are, and with the already established Brain Injury Council that is already across the state, we already have mechanisms to access and make sure that we do more outreach. For example, the mental health counselor that came through. He...all of the mental health providers in the state ought to know that this is a service, and we've got the mechanism in place already to reach out to them. [LB312]

SENATOR SCHUMACHER: I don't have any further questions. [LB312]

SENATOR AVERY: All right. I don't see any more questions. Thank you. [LB312]

SENATOR COASH: Thank you. [LB312]

SENATOR AVERY: (Exhibit 6) I have one letter of support to enter into the record from Terri Holman on behalf of the Nebraska Planning Council on Developmental Disabilities. That ends the hearing on LB312. We'll now take up LB606, which is mine. [LB312]

SENATOR PRICE: Welcome, Senator Avery. [LB606]

SENATOR AVERY: Thank you, Mr. Vice Chair. My name is Bill Avery, B-i-l-l A-v-e-r-y. I represent District 28 here in Lincoln. Last year a Virginia-based group called Americans for Prosperity spent thousands of dollars on political ads in a variety of campaigns in this state. Some of those were campaigns for seats in the Legislature. These ads were specific to certain candidates and were directed to the voters in that candidate's district. After the election, Americans for Prosperity did not file any reports with the Accountability and Disclosure Commission claiming that its ads were only factual information, and they did not support or oppose any candidate, therefore, they did not need to file any reports on how much money was spent and who contributed money. What this bill, LB606, does is address that situation where a business claims it does not have to file any reports because their ads are only factual. And then the way I'm trying to do it is to create a new type of communication under the Accountability and Disclosure Statutes called Electioneering Communication. Electioneering Communication is defined in the bill to mean any communication that refers to a clearly identified candidate, is publicly distributed in the 30 days before an election, and is directed to the electorate of the office sought by the clearly identified candidate. Electioneering communication does not include a contribution or expenditure, a communication by media, a candidate debate, or a communication by a membership

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organization to the organization's members. LB606 requires any person who makes an electioneering communication in the amount of more than \$250, requires them to file a report of the electioneering communication within ten days to the Nebraska Accountability and Disclosure Commission. These reporting requirements are similar to those...for those who make an independent expenditure. We have laws on the books now to cover independent expenditures, and we...apparently, the law does not, as currently written, cover the kind of communication my...I'm describing here. The report on electioneering communication will include information on the date, the amount, and a brief description of the communication. Also included in the report will be the name and address of the person filing the report and the name and address of each person who contributed more than \$250 to the electioneering communication. Late filing fees apply to any person who doesn't file this report on time. Similarly, if a corporation, labor organization, or business association makes an electioneering communication with a value of more than \$250, it will file a report with the commission including the nature, the date, and value of the electioneering communication in the name of the candidate identified in the communication. In 2003, the United States Supreme Court upheld provisions in the McCain-Feingold campaign finance law that relates to electioneering communication. So it's not a new concept, it's in the federal law. In federal law, and this law is named the Bipartisan Campaign Reform Act, electioneering communications are defined as media ads that clearly identify a candidate which are aired 60 days before a general election or 30 days before a primary election and can be received by 50,000 people in the state or district. The federal law prohibits corporations and unions from airing these ads. Political parties are allowed to pay for them, but they have to use hard money. Hard money being campaign contributions and not money contributed to the party. After this ruling by the Supreme Court many states decided to implement electioneering communication laws similar to that in federal law. Now remember, LB606 does not ban electioneering communication. It only requires that these communications be reported. You may have heard about the recent U.S. Supreme Court case, Citizens United v. FEC that allows corporations and labor unions to make independent expenditures and fund electioneering communications. The ruling in that case did not affect the reporting requirements for electioneering communications. So I believe the provisions of LB606 are narrowly tailored to meet a compelling state interest, and would be upheld as constitutional based upon recent rulings of the U.S. Supreme Court. And it will, most definitely, increase transparency by giving the public more information about the groups that fund ads against political candidates. In a recent editorial in the Lincoln Journal-Star, the editorial writer indicates that because these groups are not required now to report, it robs Nebraskans of the opportunity to find out what sort of people are trying to influence their vote. And I think that is the compelling state interest. Thank you. [LB606]

SENATOR PRICE: Thank you, Senator Avery. A quick question for you. It looks...as I look at this, this is a per communication filing, so it wouldn't be an issue for a campaign, it wouldn't be towards an issue or a candidate, but each time someone would do a

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communication that was over \$250, let's just say for the sake of discussion, a statewide commercial, there would be per commercial they would have to make a declaration to the NADC. [LB606]

SENATOR AVERY: Yeah, any person that makes an electioneering communication as defined in the bill in the amount of more than \$250 would have to file a report within ten days. Each communication. [LB606]

SENATOR PRICE: Right, each communication and then what we see, so if we had a group of people like a PAC, or some...like an outside of AFP, like you brought up, you'd only be looking at AFP as a contribution not the contributors. [LB606]

SENATOR AVERY: No, the people...no, they'd have to report the source of their income too. [LB606]

SENATOR PRICE: Okay. Thank you. [LB606]

SENATOR AVERY: Whatever income they use to pay for that communication, they'd have to report the source of that. [LB606]

SENATOR PRICE: Okay. Thank you very much. Senator Schumacher. [LB606]

SENATOR SCHUMACHER: Thank you, Senator Price. I noticed two things that kind of had me scratch my head as to how effective this might be. Number one, the ten day delay. Is there...I guess, I'd ask, why when they deploy the communication they shouldn't be required to log it immediately? But most of these groups, this kind or the independent expenditure group lay in wait, hide their sources of revenue, and then spring it in the last ten days of the campaign when people would like to know who is paying for this junk, but don't. And then the other thing, with the accountability...so you file with the Accountability Commission. They've got 250-some PACs over there. If you want to find out who is spending money against you, they don't have any indexing mechanism so you can quickly do it. And so that should be a way that you can find it so a day before the election when you're being hammered, you know that it's, you know, Joe Blow in New York City whose got an ax to grind that's putting money against you and the people bite back if they get a chance to know. [LB606]

SENATOR AVERY: Well, your two questions are very good ones. I believe the ten day reporting period or the ten day lag between the actual ad and the report is consistent with the way the law is now written with respect to independent expenditures. On the other issue, I've had numerous discussions with people on the commission and with Frank Daley about providing more user-friendly access to their information. It's a question of cost. That's one of the...I hate to say it, but their Web site is really bad and finding your way around on that Web site is not easy. And unless you're on the Web site

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almost every day...if you're like most people you check it periodically for something and then...but each time I go in I have to reeducate myself as how to get around in there. There ought to be an index in the system. There ought to be easy access on the Web site. I know that there's a great deal of interest in improving the Web site in providing better information. I do believe we are moving in that direction, but it's a matter of money. We did, I believe, last year pass a law that allows for electronic reporting. More and more people are doing that. I believe it may only apply, though, to lobbyists, registered lobbyists at this point. [LB606]

SENATOR SCHUMACHER: Well, you know, in small businesses that advertise a catalog of widgets have a search unit on their Web site that beats the thing that we have with the Accountability Commission and I know that can't cost a fortune, know it doesn't cost a fortune. So it's...you know, it seems to me that...I guess I should phrase this in a question. Do you think we need to look at exactly, you know, what it would take to practically get at least a rough search mechanism on that Web site? [LB606]

SENATOR AVERY: Well, I believe that Mr. Daley will be following me in support of this bill, and I would ask that you direct that to him. I think it's possible and certainly shouldn't be very expensive. [LB606]

SENATOR SCHUMACHER: Thank you. [LB606]

SENATOR AVERY: Maybe they don't have IT people in their department. That's probably the problem. But I have an AA that can do a lot of that kind of stuff much better than I can. [LB606]

SENATOR PRICE: Senator Sullivan. [LB606]

SENATOR SULLIVAN: Thank you, Senator Price. So essentially these entities found a way to get...found a loophole in the legislation for independent expenditures? [LB606]

SENATOR AVERY: Yep, for...in our state. [LB606]

SENATOR SULLIVAN: In our state. So will they find another loophole? [LB606]

SENATOR AVERY: Well, if they do, I'll try to close it. It's...this is...I have always felt, long before I ever came to the Legislature, that government must be as transparent as we can make it. If we're going to have trust by the public in what we do and how we do it, then they have to believe that what we're doing is fully exposed and fully clear to them so they can then form...they can have informed opinions about what we do. And if we don't provide for full access to information, public records, public meetings, transparency in activities, and campaigning, if we don't do that, then it undermines the legitimacy of what we do. And without legitimacy, then we can't function very well, it

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seems to me. [LB606]

SENATOR SULLIVAN: Thank you. [LB606]

SENATOR PRICE: Thank you, Senator Sullivan. Senator Avery, I just have one question for you. Maybe you can help me understand it. I don't know why I'm tripping up on it. On page 2, line 16 and line 18, we use the word "sought by." I didn't know, did you, did you...is this elsewhere within our legislation and laws we currently have? Because for some reason I think about it and you were talking about...Senator Sullivan was talking about a loophole. What I'm saying is, sought by a candidate means it's only those things that are for a candidate not against a candidate. I mean, I'm just wondering, does this language clearly say what you want it to say, because if I say, it means sought by a candidate and I'm against him, well...just wondered? [LB606]

SENATOR AVERY: It does. I mean, I don't really understand why...how else you would phrase it. I mean, candidates seek office. [LB606]

SENATOR PRICE: Right. [LB606]

SENATOR AVERY: And we're referring here to the election for office sought by the clearly identified candidate. I believe this also mirrors some of the language in federal law. [LB606]

SENATOR PRICE: Okay. That helps me a lot. Thank you very much, Senator Avery. Are there other questions? Seeing none, thank you, Senator Avery. [LB606]

SENATOR AVERY: I will stick around. [LB606]

SENATOR PRICE: I'm sure you will, and we will move on to the first proponent for LB606. Welcome, sir. [LB606]

FRANK DALEY: Thank you very much. Good afternoon, Vice Chairman Price and members of the Government, Military, and Veterans Affairs Committee. My name is Frank Daley, D-a-l-e-y. I serve as the executive director of the Nebraska Accountability and Disclosure Commission. I'm here today to express the commission's support of LB606, which on its face is kind of a simple bill, but it comes to you after a long and nuanced legal history involving court cases, political speech, the First Amendment, and the U.S. Supreme Court. Maybe the first thing I'll do is just address some of the questions that were raised to Senator Avery. First of all, Senator Schumacher, I agree with you about the Web site. This is our second generation Web site. It's time to move to the third generation, and are you available for my appropriation hearing tomorrow? (Laughter) Maybe you could sit next to me and... [LB606]

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SENATOR SCHUMACHER: Who...well, it isn't time for questions yet, so. [LB606]

FRANK DALEY: Okay. Well, any rate, we recognize that it's time to move on to the next Web site and we hope to do that. Funding is an issue. We have no IT people in our department. Next, as far as why the ten day delay. An excellent question. Frankly, as a practical matter, we simply tied electioneering communications into the filings that are currently done by corporations, unions, industry, trade and professional associations, their reporting of expenditures. So the reporting system applies under the billable expenditures and to electioneering communications. So that's kind of the reason for that. As Senator Avery said, the bill defines electioneering communication as a communication which refers to a clearly identified candidate, occurs within the 30 days immediately preceding the election in which the clearly identified candidate is seeking public office. And the communication is directed toward the electorate. That is the folks that will vote for or against that candidate for public office. And I would expect that a logical question is, well, why is this different than what's reported now? How is that different from what campaigns and everyone else is reporting? And the difference is, that under the Accountability and Disclosure Act, and also in federal law and the law of many states, what is reported are expenditures. And expenditures are typically defined as money or goods or services that are used in assistance of the nomination or election of a candidate or in opposition to the nomination or election of a candidate. Now what often happens in these so-called electioneering communications, which are sometimes known as issue ads, is that they will often come out right before an election, they will...it will be something which will not suggest that you vote for or against this person, it will not make any mention of the fact that this person is a candidate for public office, it will not make mention of the fact that there is an election. On the other hand, it will tend to focus on either the voting record of the candidate or on some other issue related to that person holding public office and what you often see is that it attempts to put the candidate/office holder in either a very, very positive flattering light, or a very, very negative critical light. And this might be done by having very good photographs with family or photographs that look like mug shots, something of that nature. And so they don't precisely fit within the definition of an expenditure according to the U.S. Supreme Court because it's not implying that someone should vote for or against. So that's kind of the problem that we face. The U.S. Supreme Court has regularly taken the position that these types of activity do not constitute an expenditure and they don't fall under the normal reporting requirements. On the other hand, as Senator Avery mentioned, the Bipartisan Campaign Reform Act did include within it the concept of electioneering communications. And the Supreme Court has upheld the concept, it has upheld the reporting of these types of communications, and so forth and so on. So that's kind of the reason for all of this. So what would happen under the bill is that corporations, unions, other types of entities would report electioneering communications in essentially the same way as they would report expenditures. I think it's important to emphasize that electioneering expenses across the country emanate from many different types of groups. And they represent many different types of viewpoints. This is a bill which really

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is requiring a minimal amount of reporting by those engaged in this activity which appears to be calculated to affect the decisions of the voters in our elections. So I do want to thank you for the opportunity to testify as to this bill and thank Senator Avery for introducing the bill. We are very grateful. [LB606]

SENATOR PRICE: Thank you very much, Mr. Daley. Are there questions? Senator Sullivan. [LB606]

SENATOR SULLIVAN: Thank you, Senator Price, and thank you, Mr. Daley. And I'm cautiously optimistic that this might address a concern, but as I mentioned earlier, looking for any ways that somebody might identify a loophole. Now in the bill it says that the communication means any communication which refers to a clearly identified candidate. So might that be the opportunity for a loophole that maybe there might be an innuendo without actually referring to the candidate, they can get their point across and still...and then bypass this requirement? Is that a possibility? [LB606]

FRANK DALEY: Certainly, but the less identifiable the person who was the subject of the communication, the less effective it is, I think. So this is not the cure-all. This addresses a very, very specific issue. [LB606]

SENATOR SULLIVAN: Okay. And so then in the reference to the identified candidate could be supporting it or...in a positive or a negative light, whichever the case might be? [LB606]

FRANK DALEY: Correct. So in other words, you could have someone who is sending out an electioneering communication referring to Jeremiah Jones, State Senator Jeremiah Jones of the 50th Legislative district. And the district...the communication could talk about the bills that Senator Jones has voted on and what wonderful things those bills have done for people in the 50th District because it's done one, two, three or four and the pictures on the material show Jones with a smiling family looking up at him. And it's a very, very positive thing. And voters look at that in the 30 days prior to the election and they get a good feel for Senator Jones and when election time comes, maybe that's who they vote for. On the other hand, it can take a very, very different approach. For example, it can have something that looks more like a mug shot of Senator Jones and refer to bills on which he or she has voted, or he has voted in this case, and show certain negative things that have occurred. For example, you can pick things out of the appropriations bill anytime and find positive and negative things. And frankly, most senators vote on the appropriations bill and so that's great fodder for this type of advertising. And so the voter may get a very, very negative impression of Senator Jones. So that's kind of the idea behind the electioneering communication. [LB606]

SENATOR SULLIVAN: And in situations where it's not a sitting elected official, but

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somebody running for an office, they might cite what their membership in a certain organization or something like that? [LB606]

FRANK DALEY: Exactly, exactly. [LB606]

SENATOR SULLIVAN: And so those kinds of things have happened and that's how...and they were not...the groups doing that weren't required to report anything to you? [LB606]

FRANK DALEY: In my view it's an open question, but certainly there is this line of legal decisions which seem to indicate that unless there are kind of magic words built into the ad that, yeah, are pretty clear about saying vote for or vote against, support or oppose, then I think there's at least a good basis for argument that it does not constitute an expenditure and therefore, is not reportable under current law. [LB606]

SENATOR SULLIVAN: Okay. Thank you. [LB606]

SENATOR PRICE: Thank you, Senator Sullivan. I would ask, sir, and Senator Sullivan talked about it, we talk about candidates and then we talk about issues and some issues were like, you know, LB300 or some other issue, so all those would receive no requirement to report because they could be an ad by an outside activity. I think LB300, the corporate farming one, was one that we could say, a lot of money poured into the state, but nobody would be required to report in that situation, correct? [LB606]

FRANK DALEY: Well, the answer is sort of. [LB606]

SENATOR PRICE: Okay. I was afraid. [LB606]

FRANK DALEY: And this bill doesn't really address that. But Initiative 300 was a valid question so that was covered under a different set of laws that requires reporting of ballot question committees and things like this. What this bill is not trying to get to are the type of communications which occur, for example, in connection with legislation that's going on. We're not trying to capture lobbyists here who are sending out things talking about that LB whatever before the Legislature currently you should support or oppose. Not trying to attach that. We're not even trying to attach the types of situations in which maybe you are either criticized or praised because of your support of a bill that's ongoing. One of the ways that we try and carve that out in which the Supreme Court has said is legitimate, is that it refers to a very, very compressed period of time. That is the 30 days before the election. So things like that that are probably going on now, they'll fall under this. In fact, under federal law it's 60 days before the election, but we've compressed it a little bit further in this bill. [LB606]

SENATOR PRICE: And then finally, that when people do the reporting, it's only to the

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first level. And I'm thinking if we were to say, an entity donates to it, you only get that entity. You don't get that donors behind that entity like... [LB606]

FRANK DALEY: That's...yeah, that's correct. And, in fact, under this bill most of the time you're not going to get much beyond the entity that actually made the expenditure because the way a lot of organizations are structured, people contribute money to an entity for a wide variety of purposes because they do one, two, three, four and five, and they have this opinion, and sometimes they spend money on electioneering ads, sometimes they may give money to candidates. They do a...sometimes they lobby. So people donating to that organization have not necessarily contributed money for an electioneering communication, and so we may not see those names. It only gets to the first level for the most part. [LB606]

SENATOR PRICE: All right. Thank you. Are there any other questions? Senator Schumacher. [LB606]

SENATOR SCHUMACHER: Thank you, Senator Price. Mr. Daley, we've heard several different forms before this committee and others about the high cost of Web pages and putting it on with fiscal notes. When you're looking at, like we do in your Web page now, I mean, how do you get an idea that it's going to cost you this amount of money or that amount of money? Do you put it out for bids? Do you have a single source supplier? The numbers that I've seen are just...blow my mind because I know what it can be bought out there for in the streets and it's a fraction of the cost. And like your Web site is a reasonably simple thing that should be manageable by a sequel database, minor amount of queries, no big deal to be able to pull the data on, you know, who has spent money for so and so, and who spent money against so and so. Who do you go to in order to get an idea that this is a big ticket item? [LB606]

FRANK DALEY: Okay. Well, first of all, I mean, the key is how your database is set up. That essentially controls what it is that you can pull out of that. Now within our office, we have the ability to make queries and we often do those on behalf of citizens that want certain information. In the area of lobbying, the citizen sitting at his own computer has the ability to make queries and pull out information by category or lobbyist or whatever else he wants. As far...currently, Nebraska.gov is our IT provider. They are our service provider, they maintain our Web page. In years past, in our initial launch of a Web site, we maintained our own Web page. On the other hand, more and more, it becomes incredibly difficult, particularly when you're a governmental Web site, it just became a major proposition to continually keep up with the antivirus, the fire walls, maintaining a server, and so forth. In fact, we had an incident with an old server that was still connected where they were using that server to get around and get into the state's system. So there are just a lot of security reasons now, I think, you're going to find. Agencies just are not going to maintain their own Web sites and databases. It's just too technically difficult unless you're one of the big agencies. [LB606]

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SENATOR SCHUMACHER: So even if a query could be written against your database and a system put into effect for 10 percent of the cost of what Nebraska.gov will do it, you just go at Nebraska.gov? [LB606]

FRANK DALEY: Not necessarily, but that's who is our provider currently. [LB606]

SENATOR SCHUMACHER: I have no further questions. [LB606]

SENATOR PRICE: Thank you, Senator Schumacher. Senator Brasch. [LB606]

SENATOR BRASCH: Thank you, Vice Chairman, and thank you, Mr. Daley. My, my...I believe I'm correct in guessing it's not additional paperwork for the candidate, correct? [LB606]

FRANK DALEY: That is correct. No additional paperwork for the candidate. [LB606]

SENATOR BRASCH: Good. All right. Excellent. And then the other is, basically at this point it would just be a matter of transparency in disclosure for the public for the state on the third party or outside party or...? [LB606]

FRANK DALEY: For those that are making electioneering communications, correct. [LB606]

SENATOR BRASCH: Okay. Okay. [LB606]

FRANK DALEY: And it's a minimal burden, I would say. It's simply...in most cases, it's going to be a one-page form that discloses, we are the XYZ group. We made an electioneering communication with the value of X dollars which, you know, targeted so and so who was a candidate. [LB606]

SENATOR BRASCH: And I do believe if it's done as a service to the public, a transparency requirement that on their communications...I don't think it's there, but a toll-free number for that group would also help the candidates in not having to answer questions with things they don't...people they do not know or...as a recent candidate, I would get calls. And, in fact, I had to do a Google to find out. [LB606]

FRANK DALEY: Sure. [LB606]

SENATOR BRASCH: And, in fact, one of the reporters explained to me what this group was. I did not know. So I'm just thinking, you know, in disclosure, maybe a toll-free number or Web site or something, some sort of a public... [LB606]

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FRANK DALEY: And that might be a worthwhile idea, though, in fairness, the bill does not include that requirement. [LB606]

SENATOR BRASCH: It does not, but I guess if the purpose is transparency and accountability, and accountability to regulation to your division, or is it accountability to the public, Senator Avery said that the editorial said that they want to know who the people are. I think directing them directly to the people would be the best solution for that. And if it's for your purposes for legal accounting... [LB606]

FRANK DALEY: Well, for our purposes... [LB606]

SENATOR BRASCH: And what would you do with this information, I guess, is what...? [LB606]

FRANK DALEY: Yeah. Our purpose is simply to put the information out so it's available to the public and to the press to examine and evaluate and help them make their electoral decisions. I guess the whole concept behind disclosure of campaign financing information is that sometimes the identity of the speaker helps you to evaluate what the speaker is saying. By way of example, if I'm reading a letter to the editor in a small town newspaper and it's talking about police brutality with the local police force, it makes a difference to me if the writer of the letter is the neer-do-well who is drunk every weekend, who is always falling down and can't remember anything, or if it is the local minister with a reputation for honesty and integrity, that helps me evaluate the content of the letter. Just also as the contributors that you list in your campaign statements probably say something about who supports you and things of that nature, some people like it when they see a lot of individuals who are local, and others are offended if they see a lot of corporations that are from out of state. But that's part of the evaluation process of the voter and we just want to be sure that if there are people or groups that are legitimately trying to be involved in Nebraska elections, that they're playing by the same rules. And there's an element of disclosure to help the voter and the public and the press evaluate what's being said. [LB606]

SENATOR BRASCH: Very good. Thank you, Mr. Daley. Thank you. [LB606]

SENATOR PRICE: Thank you, Senator Brasch. Are there any further questions? Seeing none, thank you for your testimony today. [LB606]

FRANK DALEY: Thank you very much. [LB606]

SENATOR PRICE: Our next proponent, please. Welcome, sir. [LB606]

JACK GOULD: (Exhibit 1) Thank you. Senator Price, members of the committee, my name is Jack Gould. That's J-a-c-k G-o-u-l-d, and I'm here representing Common

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Cause Nebraska. It's very difficult to follow Senator Avery and Frank Daley, but I thought that I could add just the experience of what private citizens have to go through in order to find out who is putting attack ads out there. We became aware of Americans for Prosperity after seeing a number of ads that we consider to be attack ads. Pictures of the candidates, they had some very...they were associating candidates with specific issues that were somewhat explosive, and those ads are available if you would like...if the committee would like to see them. Our concern was, you know, who are these people because we had not heard of them before? And, initially, I went to Accountability and Disclosure and looked for a political action committee, an independent committee, somebody that we could recognize. And when they...we didn't find them, we decided that we should file a formal complaint with the Accountability and Disclosure that this was a group that was not registered, was not disclosing their information. During that process we became aware of the fact that they might be registered as a corporation. And so we went to the Secretary of State's Office. I went down to the area where corporate contracts are recorded and I paid a dollar a page for the application for certification of authority to transact business in Nebraska. Americans for Prosperity was registered both as a corporation and also as a foundation. Both of them headquartered in Arlington, Virginia, and they...the funding was pretty much in limbo. I mean, we're not sure where the money came from because it's not disclosed. The current law, as I understand it, and Frank can probably address this better than I can, if you're registered as a corporation and you do get involved in some political activity, and you do choose to disclose it, it is actually...the disclosure takes place after the month in which the election takes place and ten days after the end of the month. Frank can explain that better than I can, but that's my understanding of it. That time has passed since the last election cycle and, to my knowledge, Americans for Prosperity has not filed anything and my understanding is that they would challenge their need to disclose what they spent. But it was considerable. The ads are in color. They're rather large and they're certainly not something that the average organization can afford easily. With that, I will take any questions. [LB606]

SENATOR PRICE: Thank you, Mr. Gould. Are there any questions? Mr. Gould, I would ask you are there any other organizations that are similar to that other than AFP or are they the only organization that does this nationwide? [LB606]

JACK GOULD: I would suspect there are. There probably will be a lot more, but to my knowledge, right now, this was the first time that I really was exposed to this kind of activity. Most of the things have been, you know, independent committees, political action committees. I mean, they're the standard things that we look at when that sort of attack ad comes out. And, you know, from our organization's standpoint we would like to see a lot more in the way of disclosing who these people are and why they're doing it, and having it done sooner as you pointed out because if you get to the point where it's too far back, or comes too late, it hardly has any effect. The damage is done. And as Frank Daley mentioned, I think he's discovered that it could be 60 days in advance if

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you chose to make it that that the corporations would have to disclose the intent of their expenditures. [LB606]

SENATOR PRICE: All right. Thank you. Seeing no further questions, thank you for your testimony. [LB606]

JACK GOULD: Thank you. [LB606]

SENATOR PRICE: Do we have any other further proponents? Is there anybody here to testify in opposition? Would anybody like to testify in neutral? Seeing no testifiers, Senator Avery, to close. [LB606]

SENATOR AVERY: Let everyone take note of the fact that's probably the only time I've had a bill when nobody opposed it. Usually nobody supports. (Laughter) The question came up of whether or not this was a loophole. I think this...my reading of current law tells me that groups of this nature are clearly required under current law to file. And I will read to you what current law states. This is Nebraska's campaign finance reporting requirements on the spending. They are to be reported when it is "in assistance of or in opposition to the nomination or election of a candidate or the qualification passage or defeat of a ballot question." That seems to me to be clear. The law further states that one is not required if the expenditure does not support or oppose a ballot question or candidate by name or clear inference. Now you can...you don't have to use a candidate's name to have a clear inference. What happened in the case of AFP is that their lawyers told the local leaders, do not file, do not file any reports. Now this bill, if it becomes law, will require groups of that nature who engage in those kinds of activities to report. It's a transparency issue. It's not...it really is not about any particular campaign or any particular race, but it's needed if there is any ambiguity there that allows groups like that to avoid reporting, then we need to remove it. [LB606]

SENATOR PRICE: Thank you, Chairman Avery. Are there any questions? Seeing none, that closes the hearing today on LB606 and closes today's hearings. Thank you for participating in your government. [LB606]