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Government, Military and Veterans Affairs Committee
February 27, 2013

[LB418 LB433 LB449 LB450]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, February 27, 2013, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB433, LB418, LB449, and LB450. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Dave Bloomfield; Russ Karpisek; John Murante; Jim Scheer; and Norm Wallman. Senators absent: Scott Lautenbaugh.

SENATOR AVERY: (Recorder malfunction)...Military and Veterans Affairs Committee. My name is Bill Avery, representing District 28 here in south-central Lincoln and Chair of this committee. Before we start with our agenda, there are several housekeeping things I need to take care of. First, we will follow the order of the agenda as posted outside the room beginning with LB433, moving to LB418, then LB449, and LB450. And before I do start with Senator Price, we'll introduce the members of the committee. Might as well start with Senator Price, who is Vice Chair of the committee and from the metropolis of Bellevue. And on the right down there who is going to be with us soon, is Senator John Murante from Gretna. Next to him is Senator Dave Bloomfield from Hoskins. And next to him, Senator Scott Lautenbaugh of Omaha. And then Senator Price, I just introduced. Sitting next to me on my right, is Christy Abraham, the legal counsel for the committee. On my left, soon to arrive will be Senator Russ Karpisek from Lincoln. Nope, he is not from Lincoln, he is from Wilber. Next to him is Senator Norm Wallman who is not from Lincoln either, he's from Cortland. And Senator Jim Scheer is from Norfolk. Sherry Shaffer is on the very end down here on my left, she is the committee clerk. If you have any material that you wish the committee to look at, any exhibits, you will need 12 copies. If you do not have 12 copies, give your original copy to the clerk. She will have the pages make copies for you. Our pages are capable young people, Will Rahjes from Elwood and Cicely Batie from Lexington. They will distribute the material that you have for us. If you want to testify for or against any of these bills, we ask that you fill out this green form. Print clearly the information requested. This is available at the entrance to the room, each one of the entrances. If you are interested in conveying to us your opposition to or support for any of these bills but you do not plan to testify, there is another form. This white form is available also at the entrances to the room. Please provide the information requested on that. Also, we will be using the light system. The green light is a four-minute light, and after that an amber light appears that gives you one more minute to finish your testimony. When the red light comes on, we ask that you be finished. If you have a cell phone or any other electronic device that makes noise, please turn them off while you're in the room so as not to disturb our proceedings. With that, I will ask you to listen carefully to the testimony that precedes you so as not to be repetitive, so that we can move along with our business. So with that, I will start with LB433. Senator Price, welcome to the Government Committee.

SENATOR PRICE: Thank you very much, Chairman Avery and members of the

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Government, Military and Veterans Affairs Committee. My name is Scott Price, S-c-o-t-t P-r-i-c-e. I represent the 3rd Legislative District in Nebraska Unicameral, and I'm here today to introduce LB433. LB433 was brought to me by the Secretary of State's Office with the intent to fix some issues experienced during the last election cycle. Now during this election cycle, there were some accounts of a program to provide ballots to those who may have been hospitalized over the election. Current law contains a provision that requires such programs to be conducted by at least two trained registered voters to deliver and assist, if necessary, those hospitalized voters to help them carry out their constitutional right to vote. LB433 provides information to the Secretary of State on such programs with minimal burden on the local election officials. Some counties have chosen not to participate in a program and mail ballots to voters in hospitals and nursing homes. For those counties that utilize these programs the procedures would be included in an election plan that is already required by statute. There is a report added by LB433, one that is due within 60 days after the election that contains basic information such as the name of those registered voters administering the ballots, the number of ballots, and the location. So to synopsise, you're at a nursing home, you're at a hospital, you want to exercise your right to vote. You know you're not going to be able to get to a...you're not at home to receive the ballot, you can't get to the polls. Now each county has a program if they choose to, to deal with that. That's already levied on them to have that process identified. What we're asking for is, if they do that, to send back a report to the Secretary of State. So it's no additional duty other than the report of findings at the end of election. Now a representative from the Secretary of State's Office--I do believe the Secretary himself--is here, who will answer any of those technical questions that you may have as I'm sure they are the subject-matter expertise more so than I could ever hope to be. And with that, I would yield to your questions. Thank you. [LB433]

SENATOR AVERY: Thank you, Senator Price. What is the purpose for the report? [LB433]

SENATOR PRICE: I'll leave that up to the Secretary of State's Office. I believe it has probably to do with the efficacy of the program and to ensure that those who asked for it, did get what they required. I mean, if you're going to tell them you have a program to make sure people get a chance to vote, we want to make sure they follow through with it. [LB433]

SENATOR AVERY: Questions from the committee? Don't see any. Thank you. [LB433]

SENATOR PRICE: Thank you. [LB433]

SENATOR AVERY: All right. We will accept proponent testimony on LB433. Welcome, Mr. Secretary. [LB433]

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JOHN GALE: (Exhibit 1) Mr. Chairman. Chairman Avery, members of the committee, I am John Gale, G-a-l-e, Secretary of State for the state of Nebraska and Chief Election Officer. I am here to testify in support of LB433. And I want to thank Senator Price for his interest in this bill and for his introduction and support of this bill. As Senator Price mentioned, there currently is a law, Section 32-944, that allows an election commissioner or a county clerk to train registered voters to act on behalf of that office in administering a ballot to residents of a nursing home or of a hospital who have requested ballots. And the ballots are to be administered by the two registered voters who have been trained who are not affiliated with the same political party. The election commissioner or the county clerk, if they're going to have such a program, have to adopt procedures to carry it out. The reason that we wanted to see this bill introduced was that there had been news reports of hospitals having such a program and after investigation finding that maybe it wasn't done with the formality that it needed to be done. Not that we had any evidence of any fraud or abuse, but evidence of some informality. And one of the things that we've really been focusing on this year is really studying the election laws and trying to find those areas that are weak that are potentially subject to abuse. And this is one of the areas that we were concerned about. And the reason we're concerned is that there isn't any accountability or transparency for these programs. There aren't many of them now, but we know that with the baby boomers' generation there are going to be a greater number of people in future years in nursing homes and hospitals for a variety of procedures and treatment. And that means more of them are going to be there on election day. Now if you're in a nursing home or you're in a hospital early enough that you can request an absentee ballot, obviously the ballots get delivered to you and you can vote absentee. Or if you have a family member or a friend who can be your agent, they can administer up to two ballots without being trained by the county clerk or election commissioner. So your family or a good friend can, for up to two ballots, deliver a ballot to you, pick it up, and deliver it. But for those who are in for any kind of a sudden emergency illness or treatment or surgical procedures and they're in the hospital, they have the right to request a ballot. And hospitals are trying to accommodate them. And in order to accommodate them, there have to be two trained registered voters, one from each party. Why is that? Because you want as much accountability as possible. You don't want ballots being delivered in large numbers to a single person from a single party because there's a potential of abuse there. So it's like most other pieces of our election process. Having someone from each party handle these ballots and have been trained to do so, provides certainly accountability. Now transparency is what we're asking for. We're asking for the counties that adopt this program to work with nursing homes and hospitals to simply submit their plan and procedures to us ahead of time so we know they have a plan. We can study it. Maybe if we need to work with them to update it, that will be necessary, but we want to know there's a written plan. Then after the election, we want them simply to submit, within 60 days, a final plan that tells us how that was carried out: which hospitals, which institutions participated, who the registered voters were who were trained, how many ballots they handled, how many people they served on election day. Is this a big deal?

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Well, it's not a big deal, but it could be in future years, And an increasingly big deal because more hospitals will have people who need a ballot on election day. And so it makes it more accountable if we're seeing the plan and we know they have a plan and that we get a report at the end so, if we have any questions or suspicions, we can investigate and find out more. And it just makes the whole system more fair to the voter who's in the hospital, more fair to the election system to ensure that both major parties are represented handling these ballots. You don't want to happen what happened 20 years ago when a nursing home could request ballots for 20 or 25 residents and all of the unmarked ballots would go to the social director of the nursing home, which means that social director could have entered every ballot and sent it back in again. And that gap was closed. We just don't want to see this developing in a new way where we don't have accountability and transparency. Thank you. [LB433]

SENATOR AVERY: And you don't see the report to be especially onerous or unusual or overburdening? [LB433]

JOHN GALE: I don't at all, Mr. Chairman. I think it's a very low-cost, no budget issue. The plan is supposed to be prepared by them anyway, and so there's no cost in submitting the first plan to us. And the report at the end--maybe if they have two or three hospitals involved--we're talking about a fairly short report. But it makes the election commissioners or the county election officials very accountable because they have to spell out the detail of who the people were that they trained to serve each hospital and how many ballots they administered to what residents in the hospital. So we think it's a very fair way for us to help protect the integrity of the voters in the hospital to assure that they get a ballot and the ballot gets cast. [LB433]

SENATOR AVERY: Thank you, sir. Questions? Senator Scheer. [LB433]

SENATOR SCHEER: Thank you, Senator. Just for informational purposes, how does the hospital voting work in more rural areas where you have more regional hospitals so that you would have patients that would be from various counties? You know, there could be five, six different counties. So how does that work for those counties to be able to get to that hospital, or does it? [LB433]

JOHN GALE: Well, that's an excellent question, Senator. And off the top of my head, I can't tell you. Although I can tell you that currently I don't think we have any hospitals who are in rural areas who have this program. The program seems to be in the metropolitan areas where the voters are obviously from the local county or metropolitan area. But your question is a good one and should be addressed, but if the registered voters are trained in one county and it's a multicounty area, obviously there would have to be a determination by the hospital whether they could get two volunteers from other counties that have people in the hospital to come and administer ballots from other counties. So I suspect that not all counties are going to be able to benefit from this

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except those that have sufficient population in the local hospital to be predominantly from one county. [LB433]

SENATOR SCHEER: Well, if I might ask you to look at that a little closer, because our hospitals are not necessarily in each county. So, I mean, there's less hospitals probably than counties. But I look at, for example, some of the legislation this year that was directed at a tie vote in a primary, and that was a smaller community. Those one or two people that could have been hospitalized in one of those communities close there, if they had had the opportunity to vote could have made a substantial difference in that election. So the fact that there are less voters doesn't mean that they're less important voters. So I would ask you to maybe take a look to see how that might be modified to be able to work for the system. [LB433]

JOHN GALE: That's an excellent question, and we will look into that. I would suggest this as a possibility, that when the hospitals conceive of their plan--because it usually originates with the hospitals and then they go to the county election commissioner and the county election commissioner tells them what the procedure is--but I think the hospitals are going to have to develop a plan in those rural areas with multiple counties where they advise the family or friends of the institutionalized person to be the one who administers the ballot. So if you're in the hospital in Norfolk and maybe you're from Plainview, that you would contact the family in Plainview and say your family member has requested a ballot; will you receive a ballot from your county clerk and bring it to your family member? Because that's the only way they're going to be able to vote. [LB433]

SENATOR SCHEER: Sure. Okay. [LB433]

JOHN GALE: So that might be the only answer to that. But we will look into it. [LB433]

SENATOR SCHEER: Okay. Thank you, Secretary. [LB433]

JOHN GALE: Thank you. [LB433]

SENATOR AVERY: Senator Bloomfield. [LB433]

SENATOR BLOOMFIELD: Thank you, Senator Avery. Mr. Secretary, my question would be along the same lines only we're going to be crossing state lines. The largest community in my district does not have a hospital, they go to Sioux City, Iowa. I would have the same sort of a question going over to Sioux City to serve our resident. [LB433]

JOHN GALE: Well, that's of course an excellent question as well, and probably my answer is the same. If the people who are being trained--in that particular instance it would be, if I'm understanding right, it would be the hospital in Iowa--and therefore, if

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you're going to have a program developed on the other side of the river it would be, again, to have the family members or friends contacted as early as possible upon the hospitalization to get a ballot to them in the hospital and then bring it back and have it cast, because family and friends can do that up to two ballots without training. So it could be done real quickly the same day or the day before the election. [LB433]

SENATOR BLOOMFIELD: Okay. Thank you. [LB433]

JOHN GALE: So it's kind of the same issue, and we'll look at both of those. [LB433]

SENATOR AVERY: I don't see any more. Thank you, Mr. Secretary. [LB433]

JOHN GALE: Thank you, Mr. Chairman. Thank you, members of the committee. [LB433]

SENATOR AVERY: We will now receive proponent testimony on LB433. More proponent testimony? All right, we'll move now to opponent testimony. Neutral testimony? Closing comments from the introducer, Senator Price. [LB433]

SENATOR PRICE: And I'll be brief. Thank you, Mr. Chairman, members of the committee. Senator Bloomfield, Senator Scheer, your questions are excellent--why we have the committee process. But again, I think the Secretary spoke about that. Being able to do two, if I had a family member and I knew they wanted to vote and they were in the hospital--delivering a baby, my daughter might be doing some--I can make the request. There would be no training required and do it for up to two other ballots. And I suppose...all right, now that's why the only two counties that have this are Douglas and Lancaster because of the sheer numbers. And they're not dealing so much with out-of-county even though they may still have that. But again, the idea is if you're going to have a plan as outlined by the current statute, it makes sense if we're going to levy that you create a plan, we should look at the plan. It's kind of like the obverse of what we see about having agencies promulgate rules and regulations when we give them direction. We're just making sure that that all falls in line, and that's all I'd say to that. I would answer any questions. But as the Secretary said, we will look into those questions. [LB433]

SENATOR AVERY: (Exhibit 2) Thank you, Senator. Any more questions? Let me read into the record a letter of opposition from the County Clerk of Richardson County, Mary Eickhoff. All right, that ends the hearing on LB433. And now we will open the hearing on LB418 and welcome Senator Kolowski to the Government Committee. Good afternoon, sir. [LB433]

SENATOR KOLOWSKI: (Exhibit 1) Good afternoon, Senator Avery and committee members. Thank you very much. Senator Avery and members of the Government,

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Military and Veterans Affairs Committee. My name is Rick Kolowski, R-i-c-k K-o-l-o-w-s-k-i, and I represent Legislative District 31. I introduced LB418 to increase accountability, equity, and collaboration in the administration of our elections. LB418 gives additional oversight and duties to chief deputy election commissioners in counties with a population of 100,000 or more, which currently includes Douglas, Lancaster, and Sarpy Counties. Specifically, LB418 requires both the election commissioner and chief deputy election commissioner to sign off on two specific election matters: number one, placement and management of polling locations and precinct boundaries; and number two, appointment of election officials and their training. If the election commissioner and chief deputy election commissioner cannot reach an agreement of the duties listed above, then the specific disagreement shall be referred to the Secretary of State to make the final decision. In the original draft of LB418, the role of arbitration was designated to the county boards. After meeting with Secretary of State John Gale and his Deputy Counsel Neal Erickson, I have drafted an amendment to designate the role of arbitration to the Secretary of State. The amendment also clarifies that the Secretary of State is only required to take action on the specific issue. I want to take a moment to thank Secretary Gale and Neal Erickson for the incredible work they do in Nebraska and their command of election policy. I am grateful for their willingness to meet with senators to discuss the intricacies of elections. So why do I bring this legislation before you today? Currently, chief deputy election commissioners are appointed with absolutely no oversight authority or assigned duties other than when the election commissioner is absent or they become the acting election commissioner. I believe it is important in any profession for there to be clear understanding of the roles, duties, and responsibilities. The absence of clearly-defined responsibilities can cause confusion, inertia, and controversy. The recent precinct and polling place changes in Douglas County, for example, could have benefited from the oversight of the deputy election commissioner, Lisa Wise. Lisa may have been involved in every level of discussion, but currently she has no recourse if she disagrees with the election commissioner, Dave Phipps. Requiring an additional level of authorization in election administration decisions will result in heightened confidence in the nonpartisan nature of election administration in Nebraska's largest counties. My goal with LB418 is to do just that, to increase transparency, collaboration, and equity by providing existing deputy election commissioners a clear role and authority in their office. Thank you for listening today. I would be more than happy to answer any questions. And on that note, I would urge you to advance LB418 to the floor for full consideration of the Legislature. Thank you.
[LB418]

SENATOR AVERY: Thank you, Senator. You mentioned that any disputes would be referred to the Secretary of State. [LB418]

SENATOR KOLOWSKI: Yes, sir. [LB418]

SENATOR AVERY: You were testifying from an amendment that you're offering...

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[LB418]

SENATOR KOLOWSKI: Yes, sir. [LB418]

SENATOR AVERY: ...because the green copy refers to the county board. [LB418]

SENATOR KOLOWSKI: Yes, sir. [LB418]

SENATOR AVERY: Okay. Just wanted to make sure. [LB418]

SENATOR KOLOWSKI: We have amended that. [LB418]

SENATOR AVERY: Okay. Any other questions? Senator Scheer. [LB418]

SENATOR SCHEER: Senator Kolowski, in your intent it says that the deputy commissioners' powers and duties would be additional oversight of appointments and training, and the creation and management of precincts and polling locations. Additional oversight, so I'm just trying to follow some chain of command. [LB418]

SENATOR KOLOWSKI: Uh-huh. [LB418]

SENATOR SCHEER: Then does the election commissioner still have the authority to set those? [LB418]

SENATOR KOLOWSKI: Yes. [LB418]

SENATOR SCHEER: He just has to have input from that person, he doesn't necessarily have to agree. [LB418]

SENATOR KOLOWSKI: Correct. [LB418]

SENATOR SCHEER: Would that be correct? [LB418]

SENATOR KOLOWSKI: Yes, sir. [LB418]

SENATOR SCHEER: So then where would the dispute of whose authority or whose powers fall into play? [LB418]

SENATOR KOLOWSKI: Well, at the current time, the election commissioner would dominate in that. There's no recourse for the deputy commissioner. And this would now set a location and direction for that if there is a disagreement or that could go to, and that would be the Secretary of State. Originally, we had the county board but we have changed that through our discussions. [LB418]

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SENATOR SCHEER: But if the county...if the voting commissioner ultimately still gets to make the decision... [LB418]

SENATOR KOLOWSKI: Uh-huh. [LB418]

SENATOR SCHEER: ...then the assistant gave their input--good, bad, indifferent, doesn't make any difference--and so at that point in time then the deputy commissioner can send the point in or...because I thought I'd read somewhere that it was the election commissioner that actually sent that... [LB418]

SENATOR KOLOWSKI: Well, as to who sends that, I'd have to look it up again. But I...the point is, if it causes...if the issue causes so much heartburn on the part of the deputy, they have recourse in their professional opinion as to the decision made by the election commissioner himself or herself. So they have an opportunity to send it somewhere, where at the current time there's no opportunity to send it anywhere. It is the voice of the election commissioner. And, again, this only pertains to the three largest counties. With 90 other counties not involved or in need of the same kind of oversight or opportunity, it behooves us to make sure we do the very best in the largest counties where the voting does take place. [LB418]

SENATOR SCHEER: Okay. Thank you, Senator. [LB418]

SENATOR KOLOWSKI: Thank you. [LB418]

SENATOR AVERY: Thank you. Any other questions? Senator Murante. [LB418]

SENATOR MURANTE: Senator Kolowski, are you aware of any instances where the deputy election commissioners have expressed any concern, opposition, disagreement with the election commissioners in the past few years on the subject matters that we're talking about in this bill? [LB418]

SENATOR KOLOWSKI: My connections are primarily with the Douglas County situation. And there are...there were situations where involvement did take place with the deputy commissioner. An election commissioner can bring the person in but not take any advice at all or ask for the advice, just have them present, all the way up through giving advice and denying it and going his or her own way as an election commissioner. So the fail-safe in all of this is the two heads better than one kind of attitude. If we have some good ideas in the county as far as handling that election, this gives the deputy election commissioner an option, like I said, if there is enough heartburn that they could go to the next level by taking this to the Secretary of State and hopefully avoiding an issue or a conflict or bad publicity in their particular county. [LB418]

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SENATOR MURANTE: But in the instances that you brought up in the last year in Douglas County, are you aware (a) if the deputy election commissioner was involved in the process, and (b) if the deputy election commissioner had any concerns with how the process played itself out? [LB418]

SENATOR KOLOWSKI: Yes to both. I had personal contact with her and have heard those. [LB418]

SENATOR MURANTE: Okay, thank you. [LB418]

SENATOR KOLOWSKI: Thank you. [LB418]

SENATOR AVERY: Senator Bloomfield. [LB418]

SENATOR BLOOMFIELD: Thank you. Senator, this to me appears to give the exact same footprint to the deputy that the commissioner has. Am I correct in that? The same amount of authority basically, because the commissioner cannot proceed without full agreement from the deputy, it would appear. [LB418]

SENATOR KOLOWSKI: If it's slowing down a process here, is that what you're asking, Senator? I don't look at them as equals because of the job titles and salary levels and all the rest. It's just a point along the way that would slightly delay the process on the part of the election commissioner, because the deputy now has requested that this get filed with the Secretary of State for a decision...for a ruling from that office. I don't look at them as equal. It's just that it's a checkpoint on the part of the deputy that they can ask for this process to take place. There simply was no process prior to this time. [LB418]

SENATOR BLOOMFIELD: But the commissioner cannot proceed without the agreement... [LB418]

SENATOR KOLOWSKI: Yes. [LB418]

SENATOR BLOOMFIELD: ...of the vice... [LB418]

SENATOR KOLOWSKI: Well, of... [LB418]

SENATOR BLOOMFIELD: To me, you're handcuffing him. [LB418]

SENATOR KOLOWSKI: He or she could proceed, but it would probably not be wise if there is something that is going to be filed with the Secretary of State's Office. You'd rather get that hearing rather than set something in motion. And that is why I'm not looking at any of the deputy commissioners as doing petty tie-up things. But it would be

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something of a major concern they would have with the decisions and direction they're going as a county. [LB418]

SENATOR BLOOMFIELD: Okay. I guess I didn't see anything that prevented the petty. But, thank you. [LB418]

SENATOR KOLOWSKI: Thank you. It's a professional trust, I guess you could say. Thank you. [LB418]

SENATOR AVERY: Senator Price. [LB418]

SENATOR PRICE: Thank you, Chairman Avery. And along those lines, we're caught oftentimes when we're trying to be prescriptive in our guidance that we have an ability to delineate between that which, in this case, is petty and that which isn't. And that sometimes is in the eye of the beholder. And you being a military guy yourself, you realize with chain of command and authority and the buck stops somewhere, someone has the ultimate responsibility. And when you have a shared one and you have to put two heads on it...it's fairly well accepted we have one Governor... [LB418]

SENATOR KOLOWSKI: Sure. [LB418]

SENATOR PRICE: ...we have one Secretary. And as Senator Bloomfield has alluded to, it could end up being...unless we have absolute agreement all the time there's no provision that says, no, this is considered a minor issue and this is a major issue; and therein lies the rub. And I understood in your closing to his question about professional courtesy. But in the heat of elections sometimes that gets difficult to differentiate. And so have you given any thought to how you would differentiate between what is a major versus a minor infraction or disagreement? [LB418]

SENATOR KOLOWSKI: Well, I would turn to the individuals involved and usually of two different parties as they're set up in all three counties. And hopefully, also trying to keep to the nonpartisan aspect of delineating the decisions within that particular county. And hopefully, their professional attitude and rapport with one another would give them the judgment--to make as individuals, as professionals--to work those out over time. I have no prescriptive advice besides let's take things carefully and professionally and try to work things out as best we can before it gets to us and something to the Secretary of State's Office. [LB418]

SENATOR PRICE: So to take it out of a different--if you would indulge me--to take it out of a different...the current pool of politics and overlay it in something else, is that the same way something would happen between, let's say, a building administrator and a superintendent and a school as a superintendent, the one that's going to make a decision; or can a principal say, I don't like what the superintendent did, I'm going to go

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to the commissioner of education? [LB418]

SENATOR KOLOWSKI: I don't see it the same way, having worked in that environment for decades. My giving input to the superintendent on those particular issues and then he or she would have to live with the decision to answer their board of education. When you see something that might be problematic to a superintendent and they heed your advice, you gain more trust in the future when they see it would have been a mistake if I had taken that particular step. If they don't heed your advice and just cast it aside and end up in a pickle, then they might come back to you and have a little more respect for your openness of bringing the items forward. I think you're as good as the people you surround yourself with and also how well you are able to listen to them no matter how caustic the relationship might be at times. [LB418]

SENATOR PRICE: But so there is no grand arbiter then. It falls on the person who makes a decision and they have to face the consequences. And that's all of us who are elected to office, we have our board we call our constituents. [LB418]

SENATOR KOLOWSKI: Absolutely. [LB418]

SENATOR PRICE: Thank you very much for your input. [LB418]

SENATOR KOLOWSKI: And your comments, sir, are exactly on target to what happened in Douglas County. And I think we're trying to avoid those in the future by having another step--minor as it might be to some and major as it might be to others--that would hopefully avoid those situations. [LB418]

SENATOR PRICE: Right. Thank you. [LB418]

SENATOR KOLOWSKI: Thank you. [LB418]

SENATOR AVERY: Any other comments or questions? Senator Scheer. [LB418]

SENATOR SCHEER: Thank you, Senator Avery. [LB418]

SENATOR KOLOWSKI: Uh-huh. [LB418]

SENATOR SCHEER: Senator Kolowski, I was looking over the bill for whatever reason right now, and is there a time mechanism on this at all? Because in looking on page 4, I guess, where it talks about the agreement and disagreement... [LB418]

SENATOR KOLOWSKI: Uh-huh. [LB418]

SENATOR SCHEER: ...it says you will file with the county. And I guess my point is

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they're both...in this case, we're talking about the three counties that are all appointed positions. So do you think it would have value to have a date that on or before whatever date that they both have to either agree or disagree with the duties and submit it rather than wait in the middle of an election cycle to have the feud over what's going on? You know, that should be done away from the election process, not during the election process. So would it make sense to modify this to maybe have some type of a...so many days after appointments agreement rather than put it into when something does come up and then have it really stop the process potentially during an election? [LB418]

SENATOR KOLOWSKI: Senator Scheer, I've been a time-driven person in my own life because the calendar controls the school year in my own professional life. I don't disagree with that, and I did give that internal thought as I looked at that. But I didn't think I wanted to micromanage. As professionals, they know their schedule for upcoming elections and what should be done by when. And hopefully, there would be enough time in there prior to the setting up of an election cycle that they would be able to handle that themselves. We could be prescriptive, we could set a date, we could say by so many days or weeks or whatever it might be if we want to be more specific about that. But I'm more than willing to let them--in only three counties--work that out and decide themselves as to the flow and not let that be an impediment to having everything ready for that election day. [LB418]

SENATOR SCHEER: Well, by nature of the process, elections are political and the people involved here are political representatives. [LB418]

SENATOR KOLOWSKI: Correct. [LB418]

SENATOR SCHEER: So I would think that the time to make those decisions is way before the election process... [LB418]

SENATOR KOLOWSKI: Correct. [LB418]

SENATOR SCHEER: ...or candidates get involved. I mean, if they're appointed on January 1 of whatever year, then you give them 60 days or something for them both to agree or not to agree. But you get all of that out of the way and finalize within 180 days, not into an election process. And that's the only thing I'm trying to get away from is not having the big cluster in the midst of a primary or a general election. I just don't think that's the appropriate time to have the disagreement. [LB418]

SENATOR KOLOWSKI: We can certainly do that. I have no problem with that. And if that helps the process by giving more of a time line to it, that's very easily fixed. [LB418]

SENATOR SCHEER: Thank you. [LB418]

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SENATOR KOLOWSKI: Thank you. [LB418]

SENATOR AVERY: Any other questions? Don't see any. You going to stay for closing?
[LB418]

SENATOR KOLOWSKI: Yes, sir. [LB418]

SENATOR AVERY: Okay. The committee will now receive proponent testimony on
LB418. Proponent testimony. [LB418]

SENATOR KOLOWSKI: Thank you, Mr. Avery. [LB418]

SENATOR AVERY: Good afternoon. [LB418]

BEATTY BRASCH: Good afternoon. Good afternoon, Chairman Avery and members of the Military and Government Affairs Committee. My name is Beatty Brasch, B-e-a-t-t-y B-r-a-s-c-h, and I work at the Center for People in Need, and I'm here in strong support of LB418. Because of my past experience as election commissioner back in 1983 to 1987 and as deputy election commissioner back in 1979 to '83, I am particularly interested in this bill. I remember the frustration when I was deputy election commissioner of being ignored and not consulted on any issues. I think it is important to have not only a strong election commissioner, but a strong deputy to help ensure nonpartisanship in all election decisions. In particular, the training of election workers and the drawing of precinct boundaries are key. I was asked today to testify on my experience as deputy election commissioner. Basically, I was given no responsibility. I had a small desk in the hallway between the main office where the people registered voters and then the people that did the other bookwork. I was in the hallway at a tiny desk. I came in every day and I had nothing to do, so I learned the election law. I became very knowledgeable in all the statutes. I don't know if you all have looked at the statutes, but they were very confusing and they're probably in every single book. I mean, they're all over the place, especially for villages and the small elections. I observed what was going on. I figured out how to predict voter turnout, so that time I was called upon to tell the...asked to inform the election commission on what the voter turnout was so when the election commissioner was called by reporters she would have a very good estimate. And one time I realized the wording on a ballot issue that was to be reported to the election commissioner was not valid. I brought it to her attention. Her response was she called everybody in the office, a lot of the office staff, but she left me in the hall and had a closed-door meeting. I heard sometimes the staff giving wrong information to people about being able to run for office or so forth, and I was able to change some of that. But basically, as far as training of election workers, I did visit precincts so I had that information. I did write a manual on it, but I was never part of the actual training, never invited. I was concerned about the training at the beginning because I thought it was very inadequate. Precinct boundaries, they did that while I was

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there. I was never invited to any of the meetings. I remember them working on it, but I was never asked to come to a meeting or talk about it or give my input. I was never consulted about precinct workers and who they should be, whether it was Republicans or Democrats. So I feel that LB418 will...and I think it's important because I think it will help increase the accountability, the transparency, and the collaboration in the administration of election law. And I think it's important because I think you do need both parties there to be represented. [LB418]

SENATOR AVERY: Thank you, Ms. Brasch. Questions from the committee? Senator Scheer. [LB418]

SENATOR SCHEER: I don't know, maybe I see the question as too obvious. I understand what happened to you when you were the assistant from '79 to '83. Then did you run it differently from '83 to '87? [LB418]

BEATTY BRASCH: Yes. Absolutely. [LB418]

SENATOR SCHEER: Can you give us a little interpretation? [LB418]

BEATTY BRASCH: First of all, we were in a small office, but I moved the deputy up to the very front part of the office. And then when we moved to our own quarters, I gave her a big office, and I certainly included her in things. And she did a lot of voter registration, a lot of training, and...yeah. I mean, you know, I knew how unfair I felt it was and I certainly wouldn't want to treat somebody else that way. [LB418]

SENATOR SCHEER: Okay. And are you knowledgeable of how that has transpired because, obviously, you had a bad experience? The person that worked with you would say that they had a very good experience. So how do...do we know how that's worked since you were in office? [LB418]

BEATTY BRASCH: No, I'm really not aware. [LB418]

SENATOR SCHEER: Okay. Thank you. [LB418]

SENATOR AVERY: Any other questions? Mr. Shively is here, maybe he'll testify. [LB418]

BEATTY BRASCH: Okay, great. Thank you. [LB418]

SENATOR AVERY: Thank you. Any other proponent testimony on LB418? Good afternoon, sir. [LB418]

ADAM MORFELD: Good afternoon, Chairman Avery, members of the committee. My

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name is Adam Morfeld, that's A-d-a-m M-o-r-f-e-l-d, and I'm the executive director of Nebraskans for Civic Reform. Today I'm testifying in support of LB418. And I think it's important to note that LB418 would provide deputy election commissioners with substantive responsibilities and require that they are engaged in critical election administration decisions on often controversial decisions that have most recently been highlighted in Douglas County but I think can be highlighted in other places as well. It's also important to note that this only applies to enumerated widths of duties. So it wouldn't be every time they need to buy pencils or every time they want to maybe locate a drop box somewhere or something like that. They would have to get, you know, the sign-off by the deputy election commissioner. I mean, this is for the appointment of other election workers--which can be critical decisions at times--such as district supervisors that, for instance, may or may not require voter identification numbers before being able to vote with a provisional ballot. And also, the polling place changes as well. So any time that there's a change in polling place locations, it's always good to have a extra pair of eyes to look. Are they being placed by major transportation hubs in areas where a lot of people don't have their own transportation? Are these polling locations being placed in places like, for instance, towers where people are disabled or a little bit older and have mobility issues? So the idea is to increase a level of accountability but also require that there be a second pair of eyes on the critical decisions being made. In addition, ensuring the active participation of the deputy election commissioners in these decisions will help ensure that the election commissioner has taken into account various administrative, community, and political dynamics. Giving the election commissioner enumerated oversight duties does precisely that. It is also important to note that our process of choosing an election commissioner in our top counties is a bit of an anomaly nationwide. According to the national study conducted by political scientists David Campbell and Martha Kopf, 61 percent of jurisdictions have elections administered by an elected individual like many of our counties; 2 percent by an elected board of elections; and 22 percent by an appointed board of elections; and like Nebraska, 15 percent by an individual. I bring this up for the sole purpose of pointing out that Nebraska is, again, a bit of an anomaly in how our elections are administered in that the individual who is appointed...the individual appointed who is administering our counties' largest elections...I know that this point has already been belabored in many committee hearings before this on several different bills. And I won't get into the merits of our system because there are certain merits based off past historical circumstances. But I do think that it is important that given our fairly unique system of administering elections that we have sufficient oversight which includes checks and balances. I thank you for your time and consideration and urge you to advance this to the floor. [LB418]

SENATOR AVERY: Thank you, Mr. Morfeld. Questions from the committee? I don't see any. Thank you. [LB418]

ADAM MORFELD: Thank you. [LB418]

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SENATOR AVERY: Any other proponent testimony on LB418? Proponent testimony? Okay, we'll now go to opponent testimony. Anyone wish to speak in opposition to LB418? Any neutral testimony? Welcome back, Mr. Secretary. [LB418]

JOHN GALE: Thank you, Mr. Chairman. [LB418]

SENATOR AVERY: I was hoping you would chime in on this one. [LB418]

JOHN GALE: John Gale, G-a-l-e, Secretary of State, Chief Election Officer for the state of Nebraska. As I promised this committee when I briefed the committee earlier in the year that any senator that comes to us who asks for help or advice on a bill, we're more than happy to help. Whether it's a bill we like or we don't like, better drafted bills are better for everyone as they come through the process. Senator Kolowski was very kind to invite my Deputy for Elections, Neal Erickson, and I to his office to meet with he and his legislative assistant on LB418. I had considerable concerns about it for a number of reasons and voiced them to Senator Kolowski. We talked about them, he seemed very open to change. I simply wanted to mention two things. The bill as initially drafted was going to move any dispute between the commissioner and the deputy to the Douglas County Board, which we were very concerned about because that was going to create a complete deadlock in the election administration of Douglas County, and that impacts my office. If elections in Douglas County can't move forward because of disagreements that are locked up in a decision that can't be made until it's put on...by public notice put on the agenda at a board hearing of the Douglas County Board--which might be 30 days--things aren't going to get done, and we're going to have a crisis in elections. I was totally opposed to that idea and simply suggested that if there are disputes, it's better to have a single source of election administration authority help resolve it than to go to a full county board, with public notice and public hearing, with multiple people who are not election administrators. And I mentioned that the Secretary of State's Office might be able to help streamline that process if there is such a dispute. The second question really had to do with if you have 100 precincts involved and there's a dispute over 1 precinct, does that mean that all 100 precincts go to the county board for a decision or just that 1 precinct over which there is a dispute? The same thing with the training of the intermediate, mid-level of election...it's not poll workers, it's election administrators that are talked about in this bill who are the most experienced people in the field. If there's a dispute over one paragraph in the training manual, does that mean the whole training manual goes to the county board or just that one paragraph? So that issue I think Senator Kolowski addressed by saying that it would simply be the single subject of dispute. Honestly, this system has worked very well in other counties. Sarpy County and Lancaster County, the election commissioner and deputy get along great, traditionally have always gotten along great no matter who has what party label in the course of the administration. It always seems to be Douglas County that becomes the focus of these problems. I do not want my office, my five people, running Douglas County because

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they can't ever get along and make decisions together. And I think the point is, how do you reconcile this? I understand Senator Kolowski would like to "departisan" the decision making, but is this the right way to do it or is there another way to do it? And should every dispute that they can't resolve come to me? We work very well with Election Commissioner Phipps and Deputy Election Commissioner Wise. When we went up on behalf...at the request of the Governor to help work out a resolution of the restoration of some of those precincts, Lisa was at every meeting. We had great input from her on all the issues that we dealt with, she was never excluded, and that was at the request of Election Commissioner Phipps. We didn't say, well, where's Lisa? She was always there. So if there are any disputes there, I'm not sure where exactly they occurred. I don't know if we're making a mountain out of a molehill or not, but it's sure better that it at least come to our board. If it's a major policy issue of dispute that's not reconcilable, we'll help make that decision. We probably under law, have to do it anyway because we have the power to investigate election administration in any county. But it certainly shouldn't go to the county board with all of the procedural difficulties and delays that would be encountered to try to resolve issues at that level. Thank you.
[LB418]

SENATOR AVERY: Thank you. Questions from the committee? Senator Bloomfield.
[LB418]

SENATOR BLOOMFIELD: Thank you, Senator Avery. Again, Mr. Secretary, this appears to me that it diminishes the authority of the appointed commissioner. Do you see it that way or would you rather not state an opinion on that? [LB418]

JOHN GALE: In the sense that the Governor has made the appointment? [LB418]

SENATOR BLOOMFIELD: Yes. [LB418]

JOHN GALE: Well, it seems to be the tradition and probably the consensus over a long period of years that one of the benefits of a party electing a Governor is that the Governor gets to make certain appointments. It doesn't mean that that's necessarily politicizing the election commissioner offices, but it does mean that the Governor gets to choose his friends, men or women, to run those offices as opposed to somebody else's friends. We've had a great working relationship with all three of those counties. We haven't found them to be corrupted with hyperpartisanship in our relations with any of the three of them. But I think Douglas County itself has a lot of hyperpartisanship that impacts what decisions are made by the election commissioner. And so we then have issues like this that have come up in other bills, as well, as to--in effect--how to address these issues in Douglas County. And some of them are political issues and some of them maybe are election administration issues. But it's kind of unique that we're always talking about Douglas County on these issues. We're not talking about 93 counties, 93 statewide election administration issues. But hopefully, the wisdom of this committee

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will address this bill and some of the other bills and maybe help resolve this. But please don't put in roadblocks that are going to deadlock our ability to run elections because we overreacted to some of the issues that have arisen in Douglas County. [LB418]

SENATOR BLOOMFIELD: Thank you. [LB418]

SENATOR AVERY: Thank you, sir. [LB418]

JOHN GALE: Thank you. [LB418]

SENATOR AVERY: One more question from Senator Murante. [LB418]

SENATOR MURANTE: Thank you for coming, Secretary Gale. You brought up the issues in Douglas County which, you're right, we seem to keep coming back to the issues in Douglas County. Now it's my understanding that your office investigated those issues. Is that accurate? [LB418]

JOHN GALE: We did. [LB418]

SENATOR MURANTE: Did you find that the Douglas County election office perpetuated institutionally an effort to suppress minority votes in Douglas County? [LB418]

JOHN GALE: Did not. Did not. I thought two primary things. Number one, it was too much, too fast. The law had just been changed, and it did allow for precinct levels to grow. And we were concerned that maybe in Douglas County they were expanding too fast, too soon. That is not an issue of voter suppression in my book. The second thing was that some of the choices were kind of disputed because the election commissioner was trying to centralize some of the voting precinct locations. And actually, the voting public didn't want it centralized, they wanted it to stay where it was. So even in efforts to provide what would look like a better resolution for voting locations, the local public didn't want things to change. Sometimes there were parks, highways, golf courses that were in the way that needed to be resolved. We studied the maps many times to try to help them resolve some of the issues. We thought it was a good resolution that was made. And no, we did not have any evidence. We thought that the staff there was an excellent staff in working with their IT people and working with the election commissioner, deputy election commissioner, and the election administrator as well; Justine, outstanding person. So we really thought that they all conducted themselves professionally in our efforts to resolve that. Certainly there should have been public hearings, maybe an advisory committee would have been an excellent idea as well. Some of those ideas aren't bad ideas. I use advisory committees in my work as well as chief election officer. But, no, I did not find any such evidence. [LB418]

SENATOR MURANTE: Sure. And as a matter of public policy, public and various

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people are going to disagree with any decision that any elected official or head of...any person involved in government, people are going to have reasonable disagreements over. But beyond just the allegations of voter suppression, did you find or did any staff member from the Douglas County election office express to you any concern that the Douglas County election commissioner was acting in a way to benefit one political party over another? [LB418]

JOHN GALE: I had a number of discussions with the election commissioner and with other members of the staff. And I can honestly say in testimony that I did not find that he was attempting to unduly, unfairly, unreasonably, rearrange precincts for the benefit of one party over the other. [LB418]

SENATOR MURANTE: Okay. Thank you, Secretary Gale. [LB418]

JOHN GALE: Thank you. [LB418]

SENATOR AVERY: I have one more question for you if you don't mind. Do you know how deputy commissioners are selected? [LB418]

JOHN GALE: Yes. In the instance where a new Governor is elected, the Governor, of course, makes an appointment from his or her own political party for the election commissioner. And then the other opposite major political party offers three names to the election commissioner. And the appointment is then made by the election commissioner who is appointed by the Governor of those three choices that are given by the opposite political party. [LB418]

SENATOR AVERY: So with that feature, one would think that there wouldn't necessarily be tension and hostility between the commissioner and the deputy since the deputy gets to pick from among three people. Of course, it's possible these are three very undesirable people. [LB418]

JOHN GALE: One hopes not, but you would think that...I know because I'm on the Accountability and Disclosure Commission, I have the ability to appoint three members myself to the Accountability and Disclosure Commission. And some of those are Democratic appointments and I'm a Republican. And I will secure names, as by law required, from the Democratic Party and then I will interview and talk to those candidates and pick the one who I think will best fit and perform on the Accountability and Disclosure Commission. So you hope that's the same process. And I think, honestly, Lisa Wise was a wonderful choice by David Phipps. And I think she's learned the election process and election administration very well. And I think from my knowledge and experience they work in sync to a very, very large degree. [LB418]

SENATOR AVERY: Just for the record, I think you've done a great job picking good

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members of the A and D Commission. [LB418]

JOHN GALE: Thank you. [LB418]

SENATOR AVERY: And I know that you're deeply involved in that. So would it be your observation or conclusion that if we were to advance this bill that it would somehow create tension or introduce discord into the election commissioner's office by requiring some collaboration? [LB418]

JOHN GALE: Well, that's awfully speculative for me to address, Mr. Chairman. I think the idea is a good idea, and that's why I think it is Senator Kolowski introduced the bill. I don't know its basic origins but maybe it was Nebraskans for Civic Reform since they supported it. But the idea of the two of them working together for the benefit of the public is an excellent idea. And for the commission to hear the opinions and thoughts of the deputy is an excellent idea. It's just good administration, good management. Whether this bill is going to enhance that working relationship or disrupt it, I think it's a good idea for there to be some ultimate level of resolution of major policy differences. But I think on a day-to-day basis, I think the election commissioner really should make the call after consultation. [LB418]

SENATOR AVERY: Thank you. Oh, another question. Senator Murante. [LB418]

SENATOR MURANTE: Yes, I had a follow-up question. Senator Avery started me down the road but I want you to keep going down the road. We talked about how the deputy election commissioners are hired. Do the election commissioners have the authority to fire their deputies? [LB418]

JOHN GALE: Well, that's my understanding that that's true. I think the Governor does as well. But that's...I can't tell you by law so I can't answer that precisely. But I believe the Governor has that authority, but I'm not sure. [LB418]

SENATOR MURANTE: Okay, thank you. [LB418]

JOHN GALE: I can't answer that. [LB418]

SENATOR MURANTE: Okay. [LB418]

SENATOR AVERY: We'll look it up. Thank you, Mr. Secretary. [LB418]

JOHN GALE: Thank you, Mr. Chairman. Thank you. [LB418]

SENATOR AVERY: Any other neutral testimony on LB418? I don't see any. Senator Kolowski, you are recognized to close. [LB418]

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SENATOR KOLOWSKI: Thank you, Chairman Avery. I want to thank the committee for the opportunity to have this chance to share this bill with you. And I would say the questions...Senator Murante, thank you for your questions, and I think they're right on target also. I don't think there was anything that was premeditated, done in any way, shape, or form. One of my concerns with the communication, cooperation, coordination of effort between these two positions I think that's so important is perception. Timing is so important on an election. We all knew November 6 was the election date, it was on the calendar forever. And knowing what you have to get ready for an election is a very long, arduous kind of task in a large county. And to make decisions at the last or tenth or eleventh hour as you're approaching that twelfth hour was very confusing for people. And hopefully in a professional manner, everything was aboveboard as Secretary Gale has found in his investigations and his statements; and I trust that. He's done an outstanding job in our state. But I think perceptions of the public also have to be thought of in the sense of communication and the coordination of setting up something as large as a county election the size of Douglas County. And I hope the...if this moves forward, I hope the--and as successful as it becomes a law--I hope that it'll raise the awareness for the need for that kind of communication, timing, effort to be fully out there and not confusing to the public, because even a wrong perception is still a perception. And we don't want to have to deal with those as time goes on and then have repercussions or afterthoughts. We'd like to have it aboveboard and clear and clean and efficiently done. So thank you very much again for your time today. [LB418]

SENATOR AVERY: Thank you, sir. I don't see any more questions. That ends the hearing on LB418. Thank you, Senator Kolowski. And we'll now move to LB449, which is mine. And I will turn the Chair over to the Vice. [LB418]

SENATOR PRICE: Chairman Avery, welcome to your committee. [LB449]

SENATOR AVERY: Thank you, Senator Price. Let me find my place. I am here...oh, my name is Bill Avery, B-i-l-l A-v-e-r-y. I represent District 28 here in south-central Lincoln. I am here to introduce LB449. This is a pretty simple bill, it's one that we have worked on before unsuccessfully. But I like to...I just like to keep knocking on the door. Sometimes the door gets opened. What this does is add airport authorities, public power districts, natural resources districts, and metropolitan utilities district to the definition of high elective office. Current law provides that "no person serving in a high elective office shall simultaneously serve in any other high elective office." Therefore, under this bill members of the boards listed above will not be allowed to serve in any other high elective office simultaneously. Other high elective offices currently in law include members of the Legislature, Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, Public Service Commissioners, State Board of Education, University of Nebraska Board of Regents, city, county, learning community, community college areas, and school district elective office. So

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that's a fairly long list, but it doesn't include all of the offices that I believe ought to be included under the definition of high elective office. The bill also provides that anyone serving more than one high elective office on the effective date of this act shall be allowed to complete the remainder of all terms for which he or she was elected or appointed. In 2010, I carried a bill that added community colleges to this list. That bill was enacted into law. My concern about allowing people to serve in more than one high office is that this creates potential conflicts of interest. The entities that are included in this bill: airport authorities, public power districts, natural resource districts, and the metropolitan utilities district, all share a very important power, and that is the authority of eminent domain. That is significant. And it is in my mind, a significant amount of authority that puts them in a position to collide with the interests of other boards upon which they might sit. So I think this is important to avoid conflicts of interest. If people are now able to sit on two different boards or serve in two different offices, both of which might have eminent domain power, this will create situations where conflicts of interest almost certainly will develop over time. And that does not serve the public interest. There will be testifiers after me who may be able to explain in more detail the concerns that they might have about this issue. So with that, I'd be happy to take questions. [LB449]

SENATOR PRICE: Thank you very much, Senator Avery. Are there questions from the committee? I would ask one question. In contemplating this and having been here for the other iterations, do you foresee that there are any of these boards that would be unable...so I have a person that sits on two boards. Do you foresee that because we have laws to help us get away...would one board be unable to complete its function if someone were to, say, be in that situation where they say, I opt out, I'm not going to vote on this subject before the board because of my other...the conflict, therefore, that board would be unable to conduct their business? Are there any boards that are so small that they can't do their business with one member or two or in a joint situation? [LB449]

SENATOR AVERY: I get your point. I think this bill, if passed, would actually remove those conflicts on many of them. And it would make it possible for those boards to act so you wouldn't have to be declaring conflicts of interest. If you remove the potential areas of conflict, then it makes it easier. [LB449]

SENATOR PRICE: Right. [LB449]

SENATOR AVERY: There may be some argument made today that some of these boards and commissions and whatever offices have a hard time recruiting enough people to serve. Now that is a legitimate concern in some of the small communities and some small counties. But I'm not sure if it's serious enough that barring dual officeholding would have to be avoided. I really think that dual officeholding is not in the public interest. [LB449]

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SENATOR PRICE: All right. Thank you very much, sir. Are there any other questions? Oh, yes. Senator Wallman. [LB449]

SENATOR WALLMAN: Thank you, Vice Chairman Price. You know, we're changing the constitution here, right? Are we changing the constitution? [LB449]

SENATOR AVERY: No. [LB449]

SENATOR WALLMAN: No? Okay. Do you think airport authority would have...you know, what would be the trouble with the learning community with that? You think there would be conflict of interest between those two? [LB449]

SENATOR AVERY: It's possible. [LB449]

SENATOR WALLMAN: Okay. [LB449]

SENATOR AVERY: But maybe it...it may not be that the airport authority would have a conflict with the learning community. But you could have a conflict with an NRD or you could have a conflict with a community college, particularly over land, because airport authorities are seeking to modify their land use, seeking to expand to get more landing strips, approach paths, things of that sort. There are all sorts of problems that can develop. [LB449]

SENATOR WALLMAN: Thank you. [LB449]

SENATOR PRICE: Thank you, Senator Wallman. Seeing no other questions, thank you, Senator Avery. And we will move on to proponent testimony for LB449. Are there any of those who wish to propose...present...informative, thank you. English is a second language. Welcome, ma'am. [LB449]

JANIS MCKENZIE: (Exhibit 1) Senator Price, members of the Government Committee, this is my regular hearing room but this is not my regular committee. It's a pleasure for me to be here, I rarely get to come and visit with you. And actually, I'm here today because I'm filling in for Senator Mick Mines who is down with the flu. My name, for the record, is Jan McKenzie, J-a-n M-c-K-e-n-z-i-e. I'm here today as a contract lobbyist representing the Papio Valley Preservation Association in support of LB449 in Mick Mines' stead. We would like to thank Senator Avery for recognizing that conflicts regarding eminent domain and public tax policy exist whenever a single elected individual is allowed to serve in multiple elective offices. State statute 32-604 recognizes elective officials in counties, municipalities, school boards, community colleges, and the learning community as high elective officials. It provides that no person serving in high elective office shall simultaneously serve in any other high elective office. Clearly,

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former legislators recognized that a conflict exists when an individual serves on more than one government authority that has the power of eminent domain and taxing authority over competing budgets. As stated by Senator Avery, LB449 adds airport authorities, public power districts, natural resources districts, and the metropolitan utilities district to that same classification. I will let you review the remainder of the printed testimony, as Senator Avery has already outlined the two big issues, eminent domain and potential for taxing authorities that are in conflict with each other of the two government bodies. So I would offer to answer any questions you have, but I can guarantee you I'm probably not the right person to ask. [LB449]

SENATOR PRICE: Well, thank you for that. With that great lead-in, does anybody want to try to ask a question? [LB449]

JANIS MCKENZIE: I promise you the answer would be: I don't know. [LB449]

SENATOR PRICE: Well, we're lucky today. There are no questions. [LB449]

JANIS MCKENZIE: But I'm willing to be a conduit to Senator Mick Mines who would be willing to find the right persons for you to ask if you have any questions. [LB449]

SENATOR PRICE: Thank you very much for your testimony. [LB449]

JANIS MCKENZIE: Thank you. [LB449]

SENATOR PRICE: Are there any other people wishing to testify as proponents for LB449? Seeing none, would anybody like to testify in opposition to LB449? Welcome. [LB449]

KRISTEN GOTTSCHALK: (Exhibits 2, 3) Thank you. I'm taking a chance, I have my testimony on this gadget. Senator Price and members of the committee, my name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. I am the government relations director and registered lobbyist for the Nebraska Rural Electric Association. I'm here to provide testimony in opposition to LB449. My 34 members provide electric service to more than 400,000 meters on over 80,000 miles of distribution lines across rural Nebraska. And our membership is comprised of two different types of entities. We have public power districts...rural public power districts that are government subdivisions that are elected in the general election process. And we also have electric cooperatives which are elected in an annual meeting. And the electric cooperatives, of course, would not be impacted by this law at all. NREA member systems serve primarily in very sparsely populated areas. And in some of those districts, as Senator Avery brought up, it may be difficult to find qualified and--and I emphasize "and"--willing. I think there's a number of qualified people, but getting people willing to serve in public office becomes more and more difficult every year. Except where there are funding conflicts, I believe,

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in tax-supported entities like city/county issues, it's hard for us to believe that there is a conflict of interest with our public power systems. In fact, we honestly believe that there are benefits of having elected officials with a broad base of government service background in those offices. And that diversity of perspective in officeholding, I think it's an important component of elected office. We are very concerned that in rural areas LB449 will unnecessarily and unfairly limit the pool of qualified electors to run for office. Now eminent domain was brought up as an issue and the public power districts do, of course, have the power of eminent domain. In fact, there have been bills introduced this year to address eminent domain issues. And when I polled my members to talk about eminent domain, the responses I generally get, well, I've been here 30 years and never in that time have we used our power of eminent domain. It's a tool that they have, although with our rural systems it's rarely used. I should emphasize very strongly that public power districts have absolutely no taxing authority whatsoever, so there can be no funding conflicts in that. They are cost-based entities based on their rural electric rates as monies that come in to operate and work the systems. Because of those things, the members of NREA urge you to really look at the impacts that this legislation would have in the rural areas of Nebraska and not advance LB449. I also wanted to mention I was submitting opposition testimony on behalf of Danny Kluthe, who is a Cuming County Public Power District board member. He also serves on the Lower Elkhorn NRD board. Also there is a letter of testimony from Joe Thiele, who serves on the Elkhorn Rural Public Power District and he's also on the Clearwater School Board. Very qualified members that offer a lot to both of the boards that they sit on. So with that, if you have any questions, I'd be happy to address them. [LB449]

SENATOR PRICE: Thank you, Ms. Gottschalk. Senator Karpisek. [LB449]

SENATOR KARPISEK: Thank you, Senator Price. Reading both of these letters, it should be up to the people to decide if they could be on both. Then why do we have anyone in higher? A lot of us come from rural parts of the state too, so taking us out of there leaves an imbalance, if you will. So maybe we should just take them all out. [LB449]

KRISTEN GOTTSCHALK: I think--and I'm going to give you my perspective based on my limited historical knowledge on that. As for members of the Legislature, because you have these other government entities are creatures of the Legislature, were created by and are governed by the members, there's a greater opportunity for conflict there. However, you do still have the opportunity to serve on, say, an ag society board which is a board that's elected at an annual meeting. So you're not strictly prohibited, just limited. [LB449]

SENATOR KARPISEK: Well, I will say I got kicked off of a cemetery board because I was...which, it was probably a good thing. But, well, it was just a lot of work and nobody is ever happy how the cemetery is mowed, I'll tell you that. You know, and I understand,

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but I just have a hard time seeing where you can have a foot in both camps. And you know, they talk about that you're a better member because you're on both. Well, my feeling is you can be on one for a while then go to the next one or something like that. It's just my feeling. Just reading what they said to me seemed very, okay, if you like it that way, then we should get rid of everyone. So thank you. [LB449]

KRISTEN GOTTSCHALK: Uh-huh. [LB449]

SENATOR PRICE: Thank you, Senator Karpisek. Senator Wallman, no? Senator Scheer. [LB449]

SENATOR SCHEER: Thank you, Senator Price. Are there other instances in any of your board membership throughout the state other than these two that would be affected, are you aware of? [LB449]

KRISTEN GOTTSCHALK: We have several board members that serve on NRD boards, some that serve on school boards including Class I school boards that then would have to give up service on one or the other. [LB449]

SENATOR SCHEER: So it is not exclusively limited just to these two. You have others that are... [LB449]

KRISTEN GOTTSCHALK: No. No. [LB449]

SENATOR SCHEER: Okay. [LB449]

KRISTEN GOTTSCHALK: Those are the only two that submitted letters to me today. [LB449]

SENATOR SCHEER: Okay, thank you very much. [LB449]

KRISTEN GOTTSCHALK: Uh-huh. [LB449]

SENATOR PRICE: Thank you, Senator Scheer. Are there any other questions from the committee? Seeing none, thank you for your testimony. Do we have any other opposition testifiers? Welcome, Mr. Conley. [LB449]

FRED CONLEY: (Exhibits 4, 5, 6, 7) Good afternoon. I'm here also representing the NARD in this testimony. My name is Fred Conley, F-r-e-d C-o-n-l-e-y. Mr. Chairman and members of the committee, for the record, my name is Fred Conley and I'm chairman of the Papio-Missouri River Natural Resources District. I am testifying today in opposition to LB449. This bill would change the definition of high elective office under Nebraska law so as to encompass additional offices including directors of natural resources

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districts. Under this bill, NRD directors would be precluded from serving in a number of other elected offices including on school boards and in county and city offices. Current Nebraska law provides that "no person shall be precluded from being elected or appointed to hold an elective office for the reason that he or she has been elected to hold another elective office." Nebraska Revised Statute 32-604(1). There are two exceptions in statute to this general rule. The first one provides that members of the Legislature and those serving in constitutionally created offices may not serve simultaneously in any other elective office. Nebraska Revised Statute 32-604(2). The second exception provides that "no person serving in a high elective office shall simultaneously serve in any other high elective office..." Nebraska Revised Statute 32-604(4). High elective office is defined as including members of the Legislature, state constitutional officers, the State Board of Education, the Board of Regents. I think you've heard this in previous testimony. When a bill similar to LB449 was introduced in 2011, it was the view of the Papio-Missouri River NRD that this proposal was a solution in search of a problem. That remains our view today, and passage of time only confirms this. First of all, in many parts of Nebraska, finding qualified individuals--and I think you've heard this statement too--is very difficult. This bill would prohibit a rural county commissioner, for example, from serving on an NRD board. While this may present less of a problem in urban areas, the qualifications for NRD directors should be uniform statewide. I believe public service should be encouraged, not discouraged. This proposal also interferes unnecessarily in the democratic process and the choices available to the voters. Finally, NRD directors are not paid salaries and the position is not a full-time job. NRD board races are generally low key and nonpartisan. To label NRD board positions as a high elective office would appear to be inconsistent with the ordinary meaning of the term. For these reasons, we would respectfully ask the committee not to advance LB449. And I would be happy to respond to any questions. [LB449]

SENATOR PRICE: Thank you, Mr. Conley. Are there any questions from the committee? Senator Scheer. [LB449]

SENATOR SCHEER: You brought up an interesting point. Thank you, Senator Price. Mr. Conley, do you know the four items that are listed, the public power districts, natural resources district, the MUD, and airport authorities, are any of those paid positions? [LB449]

FRED CONLEY: I think the MUD position. I think they get a salary on the MUD board. I'm not sure about OPPD, and I'm not sure about the others that are there. Airport...I think Omaha Authority members are not paid. I don't think they're paid. And I don't know whether OPPD is, but I think MUD gets a salary. Now what was the other? Oh, I forgot the other. [LB449]

SENATOR SCHEER: Metropolitan...MUD and the natural resources district. [LB449]

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FRED CONLEY: I know on metropolitan...we don't get a salary on the metropolitan...I'm on the Metropolitan Community College. We don't get a salary. [LB449]

SENATOR SCHEER: Okay, thank you. [LB449]

FRED CONLEY: Uh-huh. [LB449]

SENATOR PRICE: Thank you, Senator Scheer. Senator Wallman. [LB449]

SENATOR WALLMAN: Thank you, Vice Chair Price. Yeah, thank you for coming down here. Now in the NRD, your director is paid, right? [LB449]

FRED CONLEY: We get a per diem. [LB449]

SENATOR PRICE: Per diem? [LB449]

FRED CONLEY: Yes. It's \$70 per meeting to a maximum, I think, of \$3,200 a year. [LB449]

SENATOR WALLMAN: Thank you. [LB449]

SENATOR PRICE: Thank you, Senator Wallman. Seeing no other questions, thank you for your testimony today, sir. [LB449]

FRED CONLEY: Thank you very much. [LB449]

SENATOR PRICE: Do we have any other opposition testimony? Seeing none, would anybody like to testify in a neutral capacity on LB449? Seeing none, Senator Avery, would you like to close? [LB449]

SENATOR AVERY: Thank you, Senator Price. We just heard the same opposition testimony that we heard last year and we heard in 2010. I know that a lot of these offices have very highly qualified people serving, and I know that experience in elective office often prepares you for other kinds of elective offices. But this bill does not address qualifications. It's not about qualifications, and it's not about how good one might be because they've served previously in another position or at the same time in another position and currently serving, say, on the NRD. I'm quite sure there are many, many very well-qualified people serving throughout this state. But none of the opposition testimony directly addressed the conflict of interest issue. That's what this is about. Ms. Gottschalk said their public power board doesn't even use their eminent domain authority very often, if ever. But they had the authority. If you serve on other boards that have the same authority, that's a conflict. And that might put you in a situation where

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you are acting in the same decision area, on the same piece of property, for two different entities. I just think that we have to be careful about how we conduct ourselves in public office. Potential conflicts remain. Removing that potential is the purpose of this bill. I would point out that Mr. Conley also did not directly address the conflict of interest purpose behind this bill. Keep your mind on what is the public purpose of the proposed legislation, not what does it do to Mr. Conley in his dual officeholding, not what does it do to Ms. Gottschalk's constituency. Ask yourself how does it serve the public interest? If it inspires confidence in what we do, it might actually be a good thing. And the more we can remove potential conflicts of interest and the more we can reduce the impression that government is filled with people who are always exploiting conflicts of interest, I think the better we're going to be as a state. So with that, I would end my testimony on LB449. [LB449]

SENATOR PRICE: Thank you very much, Senator Avery. Are there any questions? Senator Scheer. [LB449]

SENATOR SCHEER: Senator Avery, in relationship to the conflict of interest, we do already in statute have the ability to declare a conflict of interest on different boards that would eliminate that problem for those individuals at that perceived time. Would that be correct? [LB449]

SENATOR AVERY: No. It is correct that we do have conflict of interest statutes. But simply declaring a conflict doesn't remove it. [LB449]

SENATOR SCHEER: If you declare a conflict of interest and do not vote, how would that... [LB449]

SENATOR AVERY: That's different. That's different. [LB449]

SENATOR SCHEER: Well, but I've never seen anyone declare a conflict and continue to debate and act on an action item. [LB449]

SENATOR AVERY: There are some subdivisions that do bar you from acting on a conflict of interest. This Legislature does not. You can have a conflict of interest and you can file a conflict of interest statement. It gets published in the Journal and it gets filed with the Clerk and the Speaker, but you can continue to participate in the debate, you can continue to work in the committee on the bills on which you have a conflict, and you can continue to vote. [LB449]

SENATOR SCHEER: Are you aware that any of the NRDs or the public power districts, airport authorities, or MUD would not...do not have the... [LB449]

SENATOR AVERY: Good question. I haven't researched it to that degree. What I like to

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see though is conflicts of interest removed so that we don't have the perception that perhaps we are acting in ways that are improper. [LB449]

SENATOR SCHEER: And honestly, I don't disagree with that in a perfect world, Senator Avery. My concern is out in the rural areas, those people are absolutely correct. I mean, when you find people that will volunteer to do things, especially on an unpaid basis, there's getting to be a smaller and smaller number of those that, one, have the ability, and secondly, have the time. So it...and by virtue of them already filling two positions right now should give us a pretty good clue that there's too limited a number of people participating versus how many positions are available. So that truly is my biggest concern, is just trying to keep an adequate pool available for those positions. [LB449]

SENATOR AVERY: If this bill gets on General File, I will do my best to have my staff research that issue and find out how many of those people ran unopposed or find out how many of them were actually uncontested races. I think you'd be surprised to learn that most of the dual officeholders had to win the race in a contested campaign. [LB449]

SENATOR SCHEER: Okay, thank you. [LB449]

SENATOR PRICE: Thank you, Senator Scheer. [LB449]

SENATOR AVERY: I think that would be relevant, anyway. [LB449]

SENATOR PRICE: Thank you. Senator Wallman. [LB449]

SENATOR WALLMAN: Thank you, Vice Chairman Price. And yeah, I'm picking up where Senator Smith left off. I think if we have really trouble with the conflict of interest maybe we could pass a bill that if you have conflict of interest, you cannot be involved in discussion or decision. Would you agree with that? [LB449]

SENATOR AVERY: Well, I think yes, I do agree with that. And I think that there are a lot of us in this Legislature who are allowed to participate in spite of conflicts, do not because we have a conflict. I know that's happened to me and I think it's happened to others. But I don't know how many subdivisions out there prevent people from continuing to vote on matters where they have a conflict. The city of Lincoln does not permit it, I know that, and I think there are others. [LB449]

SENATOR WALLMAN: Uh-huh. And I deal with that on Ag Committee, that myself, you know, with corn checkoff votes and all that stuff. It affects me. If I have a conflict and everything, I probably can't vote on much though either. But on these NRDs and stuff like this, I can see. [LB449]

SENATOR AVERY: I can tell you that Frank Daley with the Accountability and

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Disclosure Commission has spoken on this issue in a way that makes it fairly clear to me. If you are part of a large population--say farmer, that's a category of large population--where the bill may involve that population and may actually contribute to the financial benefit of that population, it's not a direct benefit to you so much as it is to a category you happen to be a member of, then you do not have to worry about participating in the debate and vote on that. If, however, you are a member of a limited population of maybe one or two people and you may be the only one that benefits, there is a different matter. You should not participate in those matters. [LB449]

SENATOR WALLMAN: Thank you, Senator Avery. [LB449]

SENATOR PRICE: Thank you, Senators Smith and Wallman. Senator--sorry--Murante. [LB449]

SENATOR MURANTE: Senator Avery, I'm looking at page 3, lines 9 through 11. Do you think that it's fair to say on the record that you, as a member of the Legislature, have a conflict with the learning community? [LB449]

SENATOR AVERY: On page 3? [LB449]

SENATOR MURANTE: Uh-huh. [LB449]

SENATOR AVERY: On 9 through 11? Any contact with... [LB449]

SENATOR MURANTE: Conflict. Conflict. [LB449]

SENATOR AVERY: Conflict. [LB449]

SENATOR MURANTE: Uh-huh. [LB449]

SENATOR AVERY: No. I have no relationship to the learning community. [LB449]

SENATOR MURANTE: None whatsoever? [LB449]

SENATOR AVERY: No more than anybody else in this Legislature who may have helped with the legislation or voted to support it. [LB449]

SENATOR MURANTE: Thank you, Senator Avery. [LB449]

SENATOR AVERY: I'd like to follow up with that to know where you're trying to go. [LB449]

SENATOR MURANTE: We'll get there, I promise. [LB449]

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SENATOR AVERY: Okay. [LB449]

SENATOR PRICE: (Exhibit 8) I think I should say thank you, Senator Murante. Before we...seeing that there are no other questions, before we close the hearing I'd like to read into the record a letter of opposition by the Little Blue Natural Resources District, and that is now read in. Thank you very much, Senator Avery, and that will close the hearing on LB449. And we will now proceed to LB450, Senator Avery. [LB449]

SENATOR AVERY: Thank you, Senator Price. For the record, my name is Bill Avery, B-i-l-l A-v-e-r-y, representing District 28 here in south-central Lincoln. LB450--this bill was brought to me by the election commissioner of Lancaster County. It clarifies the role of the county clerk or election commissioner when a political party decides to use a caucus process to elect delegates to the county convention instead of using the primary system. When the Democratic Party in 2008 decided to hold caucuses to select their delegates to the county convention, the role of the county clerk and the role of the election commissioner in the process was unclear and remains unclear. The election commissioner or county clerk is involved in the process of electing delegates to the county convention when there is a primary election by issuing certificates of election. But it is less clear what their role should be when there is not a primary but instead there is a caucus. This bill attempts to clarify that the political parties will notify the delegates of the county convention, not the county clerk or election commissioner, if there is a caucus. Under LB450, if delegates to the county post-primary convention are chosen in caucuses, the county party central committee will be responsible for notifying each person chosen as a delegate at the caucuses of the time and place of the county post-primary convention. Currently in law, the election commissioner or the county clerk issues certificates of election to each person elected as a delegate to the county post-primary convention and notifies each person elected, at the time, of the time and place of the convention. If a political party decides to use the caucus system, the state central committee will notify the Secretary of State of the date of the caucus no later than January 1. Once the date has been set in a filing form for a candidate who has filed as a delegate for that party's post-primary convention with the county clerk or the election commissioner will be deemed null and void. No additional county convention delegate filing forms for that political party will be accepted by the county clerk or the election commissioner. Dave Shively, who conferred with my office on this bill and is the Lancaster County Election Commissioner, is here to answer your questions. [LB450]

SENATOR PRICE: Thank you, Senator Avery. Are there any questions? Yes, Senator Scheer. [LB450]

SENATOR SCHEER: Thank you. And maybe...I've got to ask...that may be...the January 1, does the party usually have that date that far in advance? I'm... [LB450]

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SENATOR AVERY: I do not know, sir. [LB450]

SENATOR SCHEER: Okay. [LB450]

SENATOR PRICE: Thank you. [LB450]

SENATOR SCHEER: I'll ask the next one then. [LB450]

SENATOR AVERY: Okay. [LB450]

SENATOR PRICE: Thank you, Senator Scheer. Any other questions? Seeing none, thank you, Senator Avery. We will move now to proponent testimony. A fount of knowledge and wisdom. Welcome, Mr. Shively. [LB450]

DAVID SHIVELY: Thank you. Thank you, Vice Chairman Price. My name is David Shively, D-a-v-i-d S-h-i-v-e-l-y. I'm the Lancaster County Election Commissioner. I'm here today in support of LB450. I visited with Senator Avery regarding this bill a little bit out of frustration on our end when a caucus was held in 2008 and again in 2012. It's really very unclear in the statute what our responsibilities are. It's very...it's outlined very clearly what our responsibilities are if the party determines that they're going to elect their delegates at the primary convention what our responsibilities are. But it's not so clear what we have to do when a caucus is held. What we do now, what happens as far as if a caucus was held, we have to get the list from the county party to us. And then in order for us to certify back to the county party, who was actually chosen at their county caucuses as delegates. And then we also require...we have chosen--at the recommendation of the Secretary of State's Office--to actually notify those delegates as a certification of election that they have been selected. And that's really not outlined in the statute. And all this is trying to do is try to outline that a little bit better for what our responsibilities are because it was a little bit frustrating on our part to know exactly what we were to do. Senator Scheer, you asked why they put the January 1 date in there. I had actually, when I first talked with Senator Avery, I talked about February 1. And I know in visiting with the Secretary of State's Office, they suggested January 1 because February 1 is the date that the county party is to notify us how many delegates are to be elected by precinct. And so they thought we needed to have an extra month in there, so that's why the Secretary of State suggested March 1. But February 1 is actually the date that the county party is to let us know how many delegates are to be elected by precinct for their county convention. I just was trying to get things a little bit clarified for us as election officials so we know what we're supposed to do when a party decides to go the caucus route. And I'd be happy to answer any questions. [LB450]

SENATOR PRICE: Thank you, Mr. Shively. Well, just to follow up on that date. January 1 is a holiday for everybody, and the 31st tends to be a half-day holiday for a lot of offices. I would submit that there is a date either before or after. I mean, even in the

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Legislature we started a unique timing point that circumvents the need to contend with those issues. So perhaps that would be something you would investigate. [LB450]

DAVID SHIVELY: Sure. [LB450]

SENATOR PRICE: Thank you. With that, are there any other questions? Senator Scheer. [LB450]

SENATOR SCHEER: At any point in time over the past couple of years--and getting back to the date, and I'm not trying to kill it--do the Democrats usually know that far in advance that they're going to be using the caucus system that they could notify you? I mean, I just...I want to make sure that the timing is correct where if...well, we don't make that decision till the end of January. Well, then they're going to have it, but this law doesn't do any good because they didn't notify you by January 1. So I just...I'm trying to put something in there that sort of guards this so that it still can be done because we'd have the right stuff but the wrong date. [LB450]

DAVID SHIVELY: Right. And I don't know the answer to that. I don't know when they made the decision on holding caucuses. I know they chose to do caucuses and were going to do it if they had actually selected the date of the caucus by January 1 or not. I know, in 2008, they knew quite a bit in advance. The Democratic Party knew when they were going to have the caucuses or they were going to do caucuses. And I'm assuming they chose to do the same thing in 2012. I'm just not sure when they actually chose the date of those caucuses. And currently there's nothing in statute for them to even notify us, you know, when the caucus is going to be held, I believe. They say that they shall set the day of the caucus, but it doesn't tell us that, you know, they are to notify us when the caucus is either. You know, a caucus, you know, has worked well for the Democratic Party and, you know, and I...this isn't trying to take that caucus away from them. It's just administratively for us and what we're supposed to do once they decide to do that. [LB450]

SENATOR SCHEER: Well, I understand. [LB450]

DAVID SHIVELY: Right. [LB450]

SENATOR SCHEER: But they don't have a workable date, yet they don't know because they don't get together for their first quarterly meeting of whatever that year is till the second Monday or whatever it might be or the second Saturday. So consequently, they don't even make that decision until then. Our drop-dead date was January 1, so what have we accomplished here? [LB450]

DAVID SHIVELY: And it's one of the reasons why I probably suggested February 1, because that's already a deadline in statute for them to notify us the number of

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delegates to be elected for the county convention. So my assumption--I guess, thinking February 1--that by that time they're going to have to decide whether they're going to have a caucus or not. But I know the Secretary of State's Office, I believe, recommended an earlier date, and that's why this was changed. [LB450]

SENATOR SCHEER: And is there magic to the January...and I wish they were here. So I'm not trying to put you on the spot here. Is there something that ties January in more appropriately? [LB450]

DAVID SHIVELY: I think their idea was to have it earlier because then they could still have another month before they had to notify us about the number of delegates elected by precinct. [LB450]

SENATOR SCHEER: Yeah. [LB450]

DAVID SHIVELY: I mean, I don't know. It could be January 15, it could be, you know, January 31. I mean, that was a decision I know when Senator Avery and his staff talked with the Secretary of State's Office, that was a recommendation on their part. [LB450]

SENATOR SCHEER: Okay. Thank you, Dave. I might suggest that we have somebody contact the Democratic Party just to find out when their magic date is because that might be helpful for our continuing discussion efforts here. [LB450]

SENATOR PRICE: Thank you, Senator Scheer. Are there any other...Senator Murante. [LB450]

SENATOR MURANTE: Thanks for bringing this, Dave. This is a bill that came up earlier this year during the subject matter when it was being discussed about delegates to the national convention and how they should be selected. In my conversations with legal counsel at the Secretary of State's Office, this was a better vehicle to address my concerns than Senator McCoy's bill that dealt with electors. And not so much a question but just a comment, it is my belief that this entire section of statute 32-700's, all of them need to be from start to finish rewritten. I mean, it seems the political parties, half of the statutes in there they don't follow at all. The other half they don't even know exist. It's just if we can put together...Senator Scheer's concerns are valid because the two parties operate differently. But to come up with one, cohesive, sensible solution to deal with how our statutes relate to political parties, I'd like to offer myself and my staff, and I look forward to working with you and Senator Avery and Christy and the Secretary of State's Office to making some sense out of it because right now, as far as I'm concerned, it is a completely incoherent section of statute that needs to be totally overhauled. [LB450]

DAVID SHIVELY: I wouldn't disagree with that. But the reason I brought this part is

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because of the frustration we had with the caucus system and what our responsibilities are. But, yeah, there certainly are other things that probably could be changed in that statute...in that chapter as well. [LB450]

SENATOR PRICE: Thank you. Are there any other questions? Seeing none, thank you for your testimony today. [LB450]

DAVID SHIVELY: Thank you. [LB450]

SENATOR PRICE: (Exhibit 1) Are there any other proponents to LB450? Are there any opponents to LB450? I would like to read into the record that we do have a letter from Ms. Diane Olmer, the Platte County Election Commissioner, in support of LB450. [LB450]

SENATOR MURANTE: It's a miracle. [LB450]

SENATOR PRICE: We actually got two of those this year. With that, we'll move...if anybody would like to testify as a neutral? Seeing not, Senator Avery, would you like to close? Senator Avery waived closing. That will close the hearing on LB450. And thank you for participating in your government. [LB450]