

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

[LB292 LB299 LB349 LB417]

The Committee on Government, Military and Veterans Affairs met at 9:30 a.m. on Tuesday, March 5, 2013, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB417, LB292, LB299, and LB349. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Dave Bloomfield; Russ Karpisek; Scott Lautenbaugh; John Murante; Jim Scheer; and Norm Wallman. Senators absent: None.

SENATOR AVERY: Welcome to the Government, Military and Veterans Affairs Committee. The hoarse voice you hear today is mine. I am Bill Avery, Chair of the committee, and I represent District 28 here in south-central Lincoln. Before we start, let me just remind you that the agenda will be as posted outside the room starting with LB417, then moving to LB292, then LB299, and then LB349. It looks like, except for you, Senator Kolowski, this is all Government today. No, Seiler too. All right.

SENATOR KARPISEK: So half.

SENATOR AVERY: Yeah. Let me introduce the members of the committee. We're not used to doing this in the morning. On my right here is Senator John Murante from Gretna. Seated next to him is Senator Dave Bloomfield from Hoskins. Senator Lautenbaugh from Omaha will be here shortly. And seated next to him is Senator Scott Price, Vice Chair of the committee, from Bellevue. On my immediate right is Christy Abraham, the committee clerk. And on my left, on time today...

SENATOR KARPISEK: How about that.

SENATOR AVERY: ...is Senator Russ Karpisek from Wilber. Next to him is Senator Norm Wallman from Cortland. He is seated next to Senator Jim Scheer from Norfolk. On the end down here at the left is Sherry Shaffer, the committee clerk. If you are going to testify, we ask that you fill out a green form that is available at each entrance to the room. This is to establish information that we need for the record. Please provide the information requested and print it clearly. When you arrive at the table to testify, we ask you to state your name for the record and also spell it so that we get a clean record. If you are...if you wish to record your opinion about these bills but you do not wish to testify, there's another form here--this is a white one--that will give you the opportunity to provide your name and address, bill number, support or oppose. And we ask that you pick one of those up at the entrance to the room. We have two new pages today, Mr. Benjamin Blowers from Lincoln and Jean-aime bondo from Lincoln, and we're happy to have them. Since we are usually in the afternoon we don't usually get to see those two. We ask you to understand that the procedure is that the introducers go first. They're followed by proponents, then opponents, and neutral testifiers. Closing remarks are reserved for the introducing senators only. Please listen carefully to the testimony given

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

prior to you so that you do not repeat what has already been said. We will be using the light system. It is a five-minute system: the green light is worth four minutes, the amber light is worth one; we do not impose that on the introducing senator. And the red light means you should be finished. Please turn off your cell phones and any electronic devices you have that cause or make noise, and we will not be disturbed. Let's go. Senator, welcome.

SENATOR KOLOWSKI: Thank you very much. Good morning, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. My name is Senator Rick Kolowski, R-i-c-k K-o-l-o-w-s-k-i, and I represent District 31. I introduce LB417 to ensure that all counties and poll workers have the same level of high quality and up-to-date election resources to refer to on an election day. This ensures consistency and provides smaller counties that may have less resources and more infrequent elections the same level and quality of resources. I understand that counties such as Lancaster and Douglas, who have excellent guides, may not benefit from this legislation. However, I want to ensure that counties with election administrators who are part time have the same resources as these larger counties with full-time administrators. And there are six counties with full-time election administrators in our state: Douglas, Lancaster, Sarpy, Hall, Buffalo, and Platte Counties. I would like to recognize and commend the Secretary of State's Office for providing excellent technical assistance to county election administrators on their secure Web portal and via their hot line. These services and information could be streamlined into one consistently updated, uniform guide for poll workers. The comprehensive poll worker guides in Douglas and Lancaster Counties, for example, could be used as a framework for a statewide guide. There is no need to reinvent the wheel, but there is a need to provide this resource statewide to counties with fewer resources. I also understand that the Secretary of State has put together an excellent poll worker training video for all 93 counties to use. This is undoubtedly a fantastic resource, but it is not a resource that would be readily available for poll workers on election day if questions or issues come up with voters. Several election workers have noted that poll workers can call the main election office on election day if they have questions. However, the election office on election day is often very busy, and voters on lunch break or with families, children in tow, do not always have the time to wait 15 to 20 minutes for an election official to get through to the main election office to resolve an issue. This was often the case in Douglas County last election in November. Furthermore, having an election guide provided and updated by the state for poll workers happens to be a common practice in many states around us and throughout the United States. Iowa, Minnesota, Kansas, and South Dakota all provide some kind of uniform standards and guidelines for poll workers and election administrators. Nationwide, 24 states have uniform poll worker guidelines and standards issued by the chief election officer. Another 16 states have uniform standards and guidelines issued to election administrators and poll workers in some manner. Eight states, Nebraska included, have not attempted to provide comprehensive standards and guidelines issued to poll workers or election administrators. I understand that many

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

election administrators in Nebraska conduct their elections in different ways from county to county. However, when it comes to polling locations, the Election Act does not provide for much variation on the treatment of voters. Therefore, having a uniform and standard guide for poll workers would ensure high-quality resources for all counties regardless of their size and ensure that voters are being treated lawfully and equitably. I thank the committee for their time and consideration and would be more than happy to answer any questions. And I also would add that there is no fiscal note, as you may have noticed. And we would also be willing to amend this to be an on-line guide only if necessary just to make it available. Thank you very much. [LB417]

SENATOR AVERY: Thank you, Senator. I have two people. I'm going to go with the Vice Chair here, Senator Price. [LB417]

SENATOR PRICE: Well, thank you. And I'll be quick. Thank you, Senator Kolowski. [LB417]

SENATOR KOLOWSKI: Yes, sir. [LB417]

SENATOR PRICE: We've seen iterations of this bill before, trust me. If you're going to make any changes, could it just be an either/or, printed or electronic, so it doesn't have to be either. [LB417]

SENATOR KOLOWSKI: I'd be very happy. [LB417]

SENATOR PRICE: That way, some people would be happy to have that and get it just electronically, others maybe would like to have a copy, that's all. [LB417]

SENATOR KOLOWSKI: Absolutely, sir. Excellent. Excellent. [LB417]

SENATOR AVERY: Senator Scheer. [LB417]

SENATOR SCHEER: Thank you, Senator Avery. Senator Kolowski, just to allow you to respond... [LB417]

SENATOR KOLOWSKI: Uh-huh. [LB417]

SENATOR SCHEER: ...to some of the testimony that's been mailed in from Scotts Bluff County Clerk. It states that you can say that the Secretary of State's Office already offers guidelines for training the poll workers and has done so on a regular and continuing basis. So that would be a nonfactual comment, that they truly don't provide that then? We do... [LB417]

SENATOR KOLOWSKI: No, I don't disagree with that comment. The form that it's in,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

such as the video for training and all the rest, may be cumbersome at the election site as I mentioned in my testimony. And that doesn't lend itself to a quick access as you would perhaps with a PC at your table or a laptop or some written guide that you could easily flip through and have been trained on to find something rather than dragging in a larger television or something you might be using on a video, either a cassette or a disk or however you might be doing it. So it's a matter of how it's being delivered and the ease of access to try to answer that question which could come up from any angle. [LB417]

SENATOR SCHEER: Okay, thank you. [LB417]

SENATOR KOLOWSKI: Yes. [LB417]

SENATOR AVERY: Any other questions? Did you encounter any opposition while you were developing this bill to the burden that it might place on the Secretary of State and election commissions? [LB417]

SENATOR KOLOWSKI: Not...no, sir. I did not. We talked to the Secretary of State on this. And as they were here on the last bill that we presented, they had very little heartburn or concern over this one as it stands. It's just trying to make more material available in the hands of all county officials as they're doing their election process. And again, a lot of the smaller counties, it's a very part-time situation for them, training the poll workers and bringing them together. [LB417]

SENATOR AVERY: I don't see any more questions. You going to stay around to close? [LB417]

SENATOR KOLOWSKI: Yes, sir, sure will. [LB417]

SENATOR AVERY: All right. Thank you. [LB417]

SENATOR KOLOWSKI: Thank you very much, Mr. Chairman. [LB417]

SENATOR AVERY: All right. We'll now accept proponent testimony. Good morning. [LB417]

ADAM MORFELD: (Exhibits 1, 2) Good morning. I just have some handouts here. Good afternoon or good morning. Members of the Government, Military and Veterans Affairs Committee, my 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, and I'm here testifying in support of this legislation today. Being as though it's in the morning, usually I have time to make prepared comments but you guys will get kind of the short and nitty-gritty here, and I'll respond to some of your questions. Senator Bob Giese originally introduced this

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

legislation several years ago after a fact-finding trip to Iowa to meet with the Secretary of State's Office. We brought along, I think, nine to ten Nebraska election administrators. And they had met with the Secretary of State's Office in Iowa on several different issues just to look at best practices. And one of the issues that came up and that they saw after observing an election in Iowa is that they had comprehensive election guides for poll workers that were very convenient, very useful. They had indexes, table of contents, they had best practices in there. It had very specific instructions on how to treat voters in certain situations. And all of the election administrators came up to us, and the takeaway from that trip was it would be great if Nebraska had these guides. And that's how this started, and then we looked into it. And the information that you have there, the 50-state survey...I was going to print out the spreadsheet that our legal clerk put together. He spent two weeks calling states and finding out what they do in their statutes but, of course, it didn't print out correctly. So I'd be more than happy to send that information to you. But that's the breakdown right there of the different states. Nebraska is one of eight states that doesn't have this uniform guidelines or standards in place. And they're very useful for counties' administrators, for instance, that oftentimes only administer elections every two years. And so this provides a very useful, almost guaranteed, up-to-date guide for these poll workers and provides the same amount of resources that Lancaster, Douglas, and I believe even Sarpy County provides to their poll workers, and several of the counties that also have full-time election administrators which are three other ones other than the big three. The other thing that I'd point out just in response to some of the questions, I've met I believe it's Vera in Scotts Bluff County. And I've met with her, and Vera has been running elections for 25, I think, 30 years in that county. She's very knowledgeable on the Election Act, and she has her own guides as well. There's a lot of county election administrators that don't have that depth of knowledge and experience. And I've met with 43 of them traveling across the state, and all of them have said that this would be very useful. So with that being said, I'll answer any questions you may have. But I just wanted to address a few of those different issues and the genesis for this legislation. [LB417]

SENATOR AVERY: Thank you. Questions from the committee? Do you have any sense--you've studied this in the state of Nebraska, you've talked to a lot of election commissioners--do you have any sense of why it is that we've not developed some sort of uniform guide? I mean, it can't be a question of local control, not in an election. [LB417]

ADAM MORFELD: Well, I think that...I can't say that there is really a reason. Maybe there just hasn't been an impetus for it. There is definitely variation on how you administer elections, how you set things up, how you go about doing that. But how you're actually treating the voter on election day is uniform. There's really not a lot of ambiguity in the statute for that. And, quite frankly, if you were treating voters differently from one county to the next on how they get the ballot, who gets the ballot, then that could be, conceivably protection violation. So when it comes to actually administering

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

elections at the polling location, it's fairly uniform in the statute and there's little ambiguity. Now there is differences with how they administer it and how they set up the elections, when they set up elections, all that thing from county to county. But that guide doesn't do...that's not the purpose of this guide. This guide only talks about at the polling location. So that kind of answers your question, Senator, in that I can't tell you what the impetus or why there hasn't been an impetus to create one of these. But I can tell you that a lot of election officials...actually all the election officials that I talked to thought it would be very useful. Now I did talk to Vera and she already has her guide and she has a wealth of experience in running elections; so she doesn't think it would be very useful. But this guide really isn't for the folks that already have their guides and have been doing elections for a long time and on a regular basis like Vera has. This is more for the other counties that are much smaller and often only administer elections once every two years. [LB417]

SENATOR AVERY: But this guide would trump whatever guide Vera may have. [LB417]

ADAM MORFELD: No, it would not. They could use their own guide. Douglas County could use their own guide. There's nothing...unless I read the language incorrectly, there's nothing in there that makes it mandatory. [LB417]

SENATOR AVERY: Okay. Senator Bloomfield. [LB417]

SENATOR BLOOMFIELD: Thank you, Mr. Chairman. How in depth do you intend this guide to be? Are we looking at a 300-page thing or are we looking at a 2-page thing? [LB417]

ADAM MORFELD: Yeah. The guides in Douglas County and Lancaster County are about 50 pages. And I think that that's more than sufficient. In Minnesota and Iowa, I think they're anywhere from 50 to 80 pages. But they have larger font because many of the poll workers are a little bit older and, you know, it helps to have a larger font. So I don't think that it would be too large. But I think it's also important to note that the guides in Lancaster County and Douglas County and, I believe Sarpy County has something similar, would be a very useful framework for these guides. And they're very similar, I've read through them and there's really not a big difference in how they're organized. But you wouldn't be reinventing the wheel. The Secretary of State I'm sure--I don't know how they would administer this--but I'm sure that they would look at those guides, use those as a framework, and then send them out to maybe a working group of folks to look at. [LB417]

SENATOR BLOOMFIELD: Okay, thank you. And your comparison to being a little bit older depends on which viewpoint you're looking from. [LB417]

ADAM MORFELD: Certainly, Senator. I didn't mean any offense. [LB417]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

SENATOR AVERY: I don't see any more questions. Thank you, Mr. Morfeld. [LB417]

ADAM MORFELD: Thank you very much. [LB417]

SENATOR AVERY: Any other proponent testimony? Proponent testimony on LB417? All right, we'll go to opponent testimony. Seeing none, neutral testimony? Senator. [LB417]

SENATOR KOLOWSKI: Chairman Avery, thank you again for the opportunity to be here today and have this chance to present LB417. We do have some samples of different things that have been produced. Nothing like ending with a few examples of what is available. And Senator Avery, Chairman Avery, your question on would this document, the new document we're proposing, trump anything? Only if the laws change and it comes out from the state would it trump the local guides that are very well done in a couple of different counties. And they would have to, again, change the body of their content in order to come into alignment with the state law as that changes. That would be one of the advantages even though some individual counties do have an excellent guide right now. There would be the uniformity of everyone getting the word if a law does change or interpretation does change that everyone would get that in a uniform fashion and have it available so all voters are worked with and dealt with evenly and fairly at the time of the elections. So all these would have to be changed as any law would change. And you can see the multiple printing costs and all the rest from different sources. But having one uniform guide would be a great advantage for the cost and leveling of that cost across all counties and serving our public hopefully much better than we have in the past. [LB417]

SENATOR AVERY: Thank you, Senator. [LB417]

SENATOR KOLOWSKI: Thank you, sir. [LB417]

SENATOR AVERY: Any more...Senator Lautenbaugh. [LB417]

SENATOR KOLOWSKI: Senator. [LB417]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman. Thank you, Senator, for bringing this. [LB417]

SENATOR KOLOWSKI: Yes. [LB417]

SENATOR LAUTENBAUGH: I think you pointed out that the only reason it would change is if the law changed. So would you be on board with some sort of a moratorium in monkeying with our election laws for several years just to save the cost of reprinting

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

the book? [LB417]

SENATOR KOLOWSKI: I would be very happy if we'd get this done and get this out if no one passes a law next year. I couldn't agree more. [LB417]

SENATOR MURANTE: I think you just found a cosponsor, Senator Kolowski. [LB417]

SENATOR LAUTENBAUGH: You never know where they're going to turn up. [LB417]

SENATOR KOLOWSKI: Yes, I noticed that. Alliances are good. [LB417]

SENATOR AVERY: Senator Bloomfield. [LB417]

SENATOR BLOOMFIELD: You pointed out that there is no fiscal note. How do we get by with no fiscal note when we're printing books and have the Secretary of State doing things? [LB417]

SENATOR KOLOWSKI: I'm not sure how that happened but since there wasn't one, I sure wasn't going to mention it. [LB417]

SENATOR BLOOMFIELD: Give me a lesson at some point when you figure that out, would you? [LB417]

SENATOR KOLOWSKI: Yes, sir. [LB417]

SENATOR AVERY: The counties would bear the cost. It's not a General Fund expense, it would be counties. [LB417]

SENATOR KOLOWSKI: Right. [LB417]

SENATOR AVERY: (Exhibits 3, 4, 5) Before we end the hearing on LB417, I have a letter here in opposition from the Platte County Election Commissioner, Diane Olmer. And I have another letter in opposition from the Scotts Bluff County Clerk, Vera Dulaney. And I have a letter here, and we can't quite decide whether it's in opposition or neutral--I want to say it's neutral--from Nancy Scheer of Madison County. So...yes, Senator. [LB417]

SENATOR MURANTE: Senator Kolowski,... [LB417]

SENATOR KOLOWSKI: Yes. [LB417]

SENATOR MURANTE: ...I just want to be clear as to your intentions. [LB417]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

SENATOR KOLOWSKI: Uh-huh. [LB417]

SENATOR MURANTE: So you had stated that the Douglas, Sarpy, Lancaster County all have voter guides... [LB417]

SENATOR KOLOWSKI: Uh-huh. [LB417]

SENATOR MURANTE: ...they're all in your--I think you used the word--adequate. Is that... [LB417]

SENATOR KOLOWSKI: They're very well done, yes, sir. [LB417]

SENATOR MURANTE: They're well done. [LB417]

SENATOR KOLOWSKI: Yeah, it works well for them. [LB417]

SENATOR MURANTE: And so your intention is just the numerous counties that don't have them, it gives them some sort of resource to have. [LB417]

SENATOR KOLOWSKI: Correct. [LB417]

SENATOR MURANTE: Okay. [LB417]

SENATOR KOLOWSKI: And again, any one of the counties already having something could look and better their own guide... [LB417]

SENATOR MURANTE: Sure. [LB417]

SENATOR KOLOWSKI: ...by something that would be produced by our Secretary of State's Office or wherever he would direct that. [LB417]

SENATOR MURANTE: Great. Thank you. [LB417]

SENATOR AVERY: Thank you, Senator. [LB417]

SENATOR KOLOWSKI: Thank you, sir. [LB417]

SENATOR AVERY: That ends the hearing on LB417, and we'll now move to LB292 and invite Senator Karpisek to address us. Good morning, sir. [LB417]

SENATOR KARPISEK: Good morning, Senator Avery. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k. I represent the 32nd Legislative District. LB292 would change one word from "ten" thousand to "twenty" thousand. In any county, right now,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

with less than 10,000 inhabitants, the county clerk may apply to the Secretary of State to mail ballots for all elections held after approval of the application to registered voters of any or all precincts in the county in lieu of establishing polling places for such precincts. My bill would say that we would raise the 10,000 to counties with less than 20,000, just to allow more counties to be able to participate in vote by mail elections. And that's all it does. [LB292]

SENATOR AVERY: All right. Thank you, sir. Questions? Senator Price. [LB292]

SENATOR PRICE: Thank you, Chairman Avery. Senator, how many counties would... [LB292]

SENATOR KARPISEK: I knew that was going to be the question. [LB292]

SENATOR PRICE: I'll get to it later. [LB292]

SENATOR KARPISEK: I think it's...I'm not going to say. I'll be wrong. Hopefully, someone else will know. [LB292]

SENATOR PRICE: Thank you. [LB292]

SENATOR AVERY: Well, it would be more than 60 or 70 because that's what qualify now. Somewhere between 60 and 70. That's in our notes here, under current law which is at 10,000. What is the overriding purpose of this? [LB292]

SENATOR KARPISEK: Just to make it, again...the counties brought me this or NACO did. And to be able to use vote by mail only for more counties. I mean, it doesn't have anything to do with polling places or anything like that as I just thought of could be, I guess, an idea. But it doesn't go that...I didn't want to give it to everyone to be able to do. NACO would have liked that, just to take any number out of it. But I didn't care for that so just jumped up. And I think it's maybe like seven counties more that would be able to do it. [LB292]

SENATOR AVERY: Well, is turnout greater with mail elections, mail-only elections? [LB292]

SENATOR KARPISEK: Sure, especially the...they ask for the ballot, it goes to them, and it comes back. Yes. [LB292]

SENATOR AVERY: I believe in the case of Senator Davis, he had an unusual situation where his opponent resided in one of those counties that did vote by mail and put him at a distinct disadvantage. He and I had a conversation about that. And I said, well, watch for Karpisek's bill. [LB292]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

SENATOR KARPISEK: I guess that depends if they like you at home or not, if you're at an advantage or not. [LB292]

SENATOR AVERY: You never deviate, do you? Senator Murante. [LB292]

SENATOR MURANTE: Thank you, Senator Karpisek. Senator Avery kind of hit on...well, first of all, I looked up the counties that we'd be adding, and it's not very many. We're talking just Seward, Otoe, Saline, York, Box Butte, Red Willow, Custer, Colfax, and Holt. So we're not adding that many. But I have...I don't mind vote by mail elections. I think there's...it makes a lot of good sense to do it. What I do think, it's fundamentally unfair in my view to have political subdivisions or, as Senator Avery pointed out, state legislative races where--especially in primaries--because the state Legislature has said one county is going to have their elections conducted by one means and a different county is going to have their election conducted by a totally different means, and one way produces a much higher voter turnout than the other, you are giving an enormous advantage to the...we, as a Legislature are giving an enormous advantage if you just happen to be in one of those counties where... [LB292]

SENATOR KARPISEK: They do that. [LB292]

SENATOR MURANTE: ...you do vote by mail. Can you comment on that and the balancing act that we're trying to do here? [LB292]

SENATOR KARPISEK: I'd have to agree with you on that, Senator. And I guess I hadn't thought of it that way. I was thinking more of maybe rural precincts. I know in my home precinct, when I was first able to vote, has closed. A lot of small towns have closed, and now they have to drive maybe ten miles to go to a polling site. So that was my thought in this because Saline is one of those counties that you could do. And I guess I hadn't thought of...didn't realize, I guess, that you could do one county in an election like that and not the other. My thought was to say, well, if you're...if the election commissioner looks at it or a county clerk and says, well, gosh, the town of Swanton doesn't have one anymore; maybe we can do those precincts vote by mail rather than having them drive. But I can't say that I disagree with you on your thought. [LB292]

SENATOR MURANTE: All right. We agree with each other in this committee too, no less. [LB292]

SENATOR KARPISEK: Yeah. I know. Odd. [LB292]

SENATOR MURANTE: First time for everything, I guess. [LB292]

SENATOR KARPISEK: It's morning. [LB292]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

SENATOR AVERY: Do you...you mentioned that NACO wanted to just lift just all numerical restrictions. [LB292]

SENATOR KARPISEK: Well, we talked about it, yeah. [LB292]

SENATOR AVERY: And you resisted that. If this committee wanted to have a committee amendment to adopt the NACO position, would you oppose that? [LB292]

SENATOR KARPISEK: Yes. [LB292]

SENATOR AVERY: Would you like to share with us why? [LB292]

SENATOR KARPISEK: I guess I'll have to think about it. I just don't think that in some of those really populated counties that they would have to be able to do that. And I don't know if the cost would justify it either. [LB292]

SENATOR AVERY: They probably may not opt for it. [LB292]

SENATOR KARPISEK: And that is true. And I may not oppose it, I guess. We'd have to really talk about it. [LB292]

SENATOR AVERY: But that would address the issue raised by Senator Murante assuming that all counties... [LB292]

SENATOR KARPISEK: Well, yes, it would. But then, yeah, still assuming that they would all do it that way. I guess I would take some advice from any former election commissioners in the committee. [LB292]

SENATOR AVERY: But not NACO. [LB292]

SENATOR KARPISEK: Maybe. [LB292]

SENATOR AVERY: Teasing. Any other questions? Thank you, Senator. [LB292]

SENATOR KARPISEK: I'll stick around for closing. [LB292]

SENATOR AVERY: Okay. Proponent testimony? Good morning. [LB292]

BETH BAZYN FERRELL: (Exhibit 1) Good morning, Chairman Avery and members of the committee. For the record, my name is Beth Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. And I'm with the Nebraska Association of County Officials appearing in support of the bill. We'd like to thank Senator Karpisek for introducing this bill on our behalf. I had

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

some prepared testimony, but I think I may just try and address some of the questions that you had raised. Really what we're looking at with this bill, Senator Murante, is doing an individual precinct by precinct as opposed to having a whole county make the decision. That's really our goal with the bill. So there would be just one polling place that would be eliminated. Each county would...election commissioner would need to submit an application to the Secretary of State for that particular precinct. And what we found is those precincts tend to be about 400 maximum to have it be cost effective because the county has costs involved in postage. They send out a notice to everyone in the precinct that would be switched to an all-mail polling place, and then they send out the ballots. The ballots have return postage on them so it wouldn't...it's not intended, at least, to be for those larger precincts just because of the cost issue. Does that help a little bit?
[LB292]

SENATOR MURANTE: No, but I see your point, yeah. [LB292]

BETH BAZYN FERRELL: Okay. Some of the other issues: I think we had talked about opening it up to counties of all sizes. I think that would be somewhat self-regulating if it was opened up to all counties, simply because of the cost effectiveness of when it's cost effective to do an all-mail election or not. Let's see, you asked about how many counties would be eligible under the 20,000. That would add nine counties. So right now there are 17 counties or would be 17 counties under LB292 that would not be able to do an all-mail election for a particular precinct. I think I'll stop right now and just open up to any questions I can try and answer for you. [LB292]

SENATOR AVERY: Thank you. Questions? Senator Bloomfield. [LB292]

SENATOR BLOOMFIELD: Thank you, Senator Avery. With the number of counties that now have this option, how many of them are taking advantage of it? [LB292]

BETH BAZYN FERRELL: It's my understanding that before the 2002 election, there were about 58 precincts in 10 counties that had taken advantage of the opportunity for an all-mail election. [LB292]

SENATOR BLOOMFIELD: So it's not an overwhelming number that are rushing to do this then. Thank you. [LB292]

BETH BAZYN FERRELL: No, sir. It's not. Right. [LB292]

SENATOR BLOOMFIELD: Thank you. [LB292]

SENATOR AVERY: Senator Murante. [LB292]

SENATOR MURANTE: Thank you for your testimony. The precinct-by-precinct element

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

of it doesn't really satisfy my concerns because then you'd...even if we satisfy the county-to-county conflict--which I don't think we do with Senator...the Senator...what...the Al Davis race was exactly the race that I looked at when I was looking at this bill before I came. And when you...I think in that case, Cherry County had a 55 percent voter turnout and I think it was Dawes County was where Senator Davis was from, had a 25 percent voter turnout. So you were talking about more than double the percentage. And even if you get into the intracounty level and you have the state saying we're going to mail ballots to people just because they happen to live in the rural part of York County instead of...but if you live in the city of York, you have to go to the polls. There's still a difference there. And I understand that there is maybe a public policy reason to do that if you live in a sparsely populated area, but we're still treating people differently. And one of the things that was jogged in my mind, and I'd spoken with Mr. Morfeld on this issue previously, was the 2000 Supreme Court case, the Bush v. Gore case that ended the presidential election. And not the 5-4 decision that was more controversial, but the 7-2 decision which the Supreme Court said that there was an Equal Protection violation, that Florida counties...in one county they were counting a ballot, and in a different county they were rejecting the exact same ballot. And I think there's a principle there that we're treating people differently depending just on where they live and we can apply that principle. And I'm not saying that what we're doing is unconstitutional, I would never do that with Scott Lautenbaugh on this committee. But I am saying there's a principle there that we can apply. And I...do you think we should be treating different people differently, and how we're conducting our elections is different depending on what the size of the county that you live in? [LB292]

BETH BAZYN FERRELL: That's a good question. I mean, our intent isn't to, you know, disenfranchise any voters or, you know, sway any elections. It's really looking at an option that would make it available for voters. [LB292]

SENATOR AVERY: Any other questions? I don't see any. Thank you for your testimony. Additional proponent testimony? Welcome back. [LB292]

ADAM MORFELD: Good morning, members of the committee. My name is Adam Morfeld, that's A-d-a-m M-o-r-f-e-l-d. And I am representing Nebraskans for Civic Reform in support of this legislation today. We've always been in support of vote by mail elections and expansion of it, particularly in the rural areas where citizens are a little bit older sometimes--no offense, Senator Bloomfield--and sometimes have a harder time getting from one place to another. And in many cases it's not just ten miles. It's 10, 20, 30 miles, particularly in some of the larger counties. And that's why you've seen counties like Cherry County adopt vote by mail elections on a larger scale. I think, Senator Murante, you bring up a good point. And it's a point that we're concerned about is, you know, making elections much more accessible in one county or even in one precinct and not in the other, which can have...turn outcomes on elections. Other states that have all vote by mail elections or just vote by mail elections, in general, depending

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

on the jurisdiction or precinct, there's not a huge, huge increase in the general elections and the presidential elections, the big ones. There is a big increase in turnout in the special elections and in the more down ballot elections and a substantial increase in turnout in those elections. So while we do have concerns about treating voters equally, of course, we believe that, in general, a move towards all vote by mail elections really does help increase turnout among folks where the polling location is much further away or they may just have problems getting to the polling location, in general, in rural areas. In states that have all vote by mail elections, Oregon and Washington, they both started out very gradually. And it was very successful for them because it was a very slow process. Election administrators were able to, you know, work out the kinks and all those things instead of just launching it. Now this isn't a move towards all vote by mail elections. This is a very small step to making it more accessible for rural folks. So I think it's a step in the right direction and particularly for more rural counties. I'd be happy to answer any more questions. [LB292]

SENATOR AVERY: Thank you. Questions? Don't see any. Thank you. [LB292]

ADAM MORFELD: Thank you. [LB292]

SENATOR AVERY: Any other proponent testimony? We're on LB292. Any opponent testimony? Neutral testimony? Senator Karpisek. Is that a waive? [LB292]

SENATOR KARPISEK: That is a waive. [LB292]

SENATOR AVERY: Okay, thank you. That ends the hearing on LB292. We'll now move to LB299. Senator Seiler, welcome back to the Government Committee. [LB292]

SENATOR SEILER: Thank you, Mr. Chairman, members of the committee. My name is Les Seiler, L-e-s S-e-i-l-e-r. And I'm a representative of the 33rd District. I bring this bill to amend Section 32-554 on behalf of Mayor Vern Powers and the city of Hastings. It does two basic changes: one, it changes the council numbers from three to four. Guess what Hastings has? They've got four wards, and not three. And, therefore, we fall outside of the LB or Section 32-554, which provides up to three wards. We're asking that you change that to four. And the other part that we're asking to be changed is that the city council vote and receive a majority to place the issue of election of a councilmember at large on the general election. The current way is only by petition of the voters can you put that on the ballot to elect at large. So this would be a second way of getting the issue on the ballot. In all honesty, Hastings is...you'll hear from two witnesses, and Hastings has had a hard time in one of its wards getting candidates to run. They just...we had an opening not long ago, and we couldn't even get one to be appointed. And they went about a month and a half, two months before they could even find somebody that would step up and volunteer. So that led to the position that the mayor is taking in this is that he had plenty of people outside that district that would be

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

placed on the council, but not from that district or ward. So that's why we brought the bill. And I believe you'll hear from a witness from the League of Municipalities and a representative of the city of Hastings. Any questions? Yes, Norm. Oh, sorry. Ernie just accused me of being a judge, I guess it went to my head. [LB299]

SENATOR AVERY: Senator Wallman has a question. [LB299]

SENATOR WALLMAN: Chairman Avery, thank you. Yes, Senator, do you figure...why do you think these people don't want to run for the board? Do they feel disenfranchised with the system or... [LB299]

SENATOR SEILER: No, I think the bottom line is that particular ward has a lot of hourly working people and they don't have the time and they are younger people that have families. And between the families and their work, they're fully occupied. That would be my analysis of it. [LB299]

SENATOR WALLMAN: Okay, thank you. [LB299]

SENATOR AVERY: Senator Price. [LB299]

SENATOR PRICE: Chairman Avery, thank you. So let's think...I'm trying to think outside the box. How many other municipalities would be affected by this? [LB299]

SENATOR SEILER: I don't think any. I think everybody else...nobody else has got four, I believe. The league may have the statistics on that. I don't right off the top of my head. [LB299]

SENATOR PRICE: I'll look forward to their testimony. Thank you. [LB299]

SENATOR AVERY: Do you think, Senator, that this might be vulnerable to a charge of special legislation? [LB299]

SENATOR SEILER: No, I don't think so because it's already on the books at three. We're just raising it to four. [LB299]

SENATOR AVERY: And I noticed that Adams County--that is where Hastings is, right? [LB299]

SENATOR SEILER: That's correct. [LB299]

SENATOR AVERY: Adams County has over 31,000 residents, so it's in the top 11 counties. Usually the difficulty of recruiting people to run for office or to be appointed is in counties much, much smaller and more remote. So that's... [LB299]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

SENATOR SEILER: Uh-huh. And they're covered by LB or Section 32-554. [LB299]

SENATOR AVERY: Okay. Senator Lautenbaugh. [LB299]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman. Thank you, Senator Seiler. But to be clear, any change would have to be voted on by the people? [LB299]

SENATOR SEILER: Absolutely. [LB299]

SENATOR LAUTENBAUGH: Okay, thank you. [LB299]

SENATOR AVERY: Any other questions? Don't see any. Are you going to stick around for closing? [LB299]

SENATOR SEILER: I will. [LB299]

SENATOR AVERY: Okay. This is proponent testimony. Okay, welcome. [LB299]

DON WESELY: Yeah. Mr. Chairman and members of the Government Committee, for the record I am Don Wesely, W-e-s-e-l-y, registered lobbyist on behalf of the city of Hastings. We thank Senator Seiler for introducing this bill. And he has correctly identified the issue, and that is there are four wards right now in Hastings. And the bill affects first-class cities, Mr. Chairman. So it affects all first-class cities, giving them an additional option of instead of having no more than three, allowing them to have no more than four at-large members of the city council. So the current law says they have to have at least four by ward. And then it says, but no more than three at large. And so the only change here is to say no more than four. And that way they feel...they currently have eight members on the city council, so it would stay at eight. And they like that, they think that's good for Hastings. But they have had a problem finding people even to be appointed to the city council, let alone run for it. And so they think that the option of allowing for the four...currently the four wards have two councilmembers each, so that's how it's worked out. And they think they'd like to have one for each ward, but then allow them to have four at large that would run. The city of Lincoln, as Senator Avery knows, has four district seats--so that would be similar to Hastings having four wards--but then has three at large. And so this concept of a mixed district and at-large system, I know in Lincoln has worked quite well. And so Hastings would kind of like to follow that model, but not go from eight to seven councilmembers. So that's our desire. It's kind of a small change, but it would be helpful to Hastings. So thank you if you could support it. [LB299]

SENATOR AVERY: Thank you. Questions? Senator Lautenbaugh. [LB299]

SENATOR LAUTENBAUGH: Thank you, Senator Avery. And thank you for testifying. I

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

take it you have an opinion as to whether or not this is special legislation. [LB299]

DON WESELY: Yeah, and it would not be... [LB299]

SENATOR LAUTENBAUGH: Why not? [LB299]

DON WESELY: ...because it affects all first-class cities. So... [LB299]

SENATOR LAUTENBAUGH: And what is the, if you know, generally the definition of a first-class city? [LB299]

DON WESELY: Oh, jeez. There's a... [LB299]

SENATOR LAUTENBAUGH: I don't know either. I'm drawing a blank. [LB299]

DON WESELY: Get Gary. [LB299]

SENATOR LAUTENBAUGH Okay. [LB299]

DON WESELY: Gary will follow me and he can go into the broader... [LB299]

SENATOR LAUTENBAUGH: Because I have to admit I'm confused about what we're doing here. Current law allows all first-class cities to do what now? [LB299]

DON WESELY: Yeah, I had not realized this before looking at this bill too. Current law for first-class...well, there's also another section that affects them. But for first-class cities specifically, they have to have at least four wards--at least--so it's a base of wards. But then they have a maximum of no more than three at large. And so all we're saying is that maximum would go up to four. So you'd have a minimum of four wards and a maximum of four at large. [LB299]

SENATOR LAUTENBAUGH: Okay. [LB299]

DON WESELY: So that's what is currently allowed for first-class cities. And again, you're right, Senator Lautenbaugh. It would have to be proposed and then go to a vote of the people in Hastings or any other first-class city. [LB299]

SENATOR LAUTENBAUGH: Okay, thank you. [LB299]

SENATOR AVERY: Senator Scheer. [LB299]

SENATOR SCHEER: Thank you, Senator Avery. If the intent is to get us to the point where we can appoint people without having geographic boundaries to worry about, we

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

still have that. So you're not doing away with the problem that you brought to the table as far as you've got Ward Four and that person resigns, you still...if they are representing Ward Four, we still have to find somebody from Ward Four. So although it maybe helps minimize it, it doesn't solve it. [LB299]

DON WESELY: You are correct about that. It would mean, you know, if that ward representative did want to resign from the council, they would still have to be appointed from that ward. But the feeling is that making this change would help. And so it doesn't completely eliminate the problem, but it helps the problem. [LB299]

SENATOR SCHEER: Okay, thank you. [LB299]

SENATOR AVERY: Senator Murante. [LB299]

SENATOR MURANTE: Thanks, Don, for coming. I have a separate bill which deals with at-large versus by-district elections, and I'm sure these guys are sick of me talking about it. But the research that I have learned is that at-large elections can be effective and they're not destructive or a cause for alarm or discrimination or anything like that if two requirements are met: one, the population is relatively small; and two, if the population is relative homogeneous. That there's not like Omaha where you've got a lot of disparate ethnic groups and just the gamut. [LB299]

DON WESELY: Uh-huh. [LB299]

SENATOR MURANTE: Do you believe that in the case of Hastings--and I'll let Senator Seiler ask him probably the same question--do you believe that Hastings fits those two requirements? [LB299]

DON WESELY: It certainly is small. [LB299]

SENATOR MURANTE: Uh-huh. [LB299]

DON WESELY: I think the population is about 25,000, but...and since it's so small I think the variance between areas of the city is not as great as it would be in an Omaha or a Lincoln. But I do think there has been one district that they've had more problems with than others and is why they're asking for this legislation. So...but it's a practical thing in trying to address their issue. They want to maintain the geographic representation in the city but then also give them a little more flexibility as well. So... [LB299]

SENATOR MURANTE: Okay, thank you. [LB299]

SENATOR AVERY: Any other questions? Senator Price. [LB299]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

SENATOR PRICE: More of a comment. Thank you, Chairman Avery. But I would think Hastings is a thriving metropolis for the area it's currently located in. [LB299]

DON WESELY: Yes, it is. [LB299]

SENATOR AVERY: I don't see any more questions. Thank you for your testimony. [LB299]

DON WESELY: Yes. Thank you very much. [LB299]

SENATOR AVERY: Any other proponent testimony? Good morning, sir. [LB299]

GARY KRUMLAND: Good morning, Senator Avery and members of the committee. My name is Gary Krumland, it's G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities, appearing in support of LB299. Let me give you just a little bit of background to kind of answer some of the questions that came up. When a city is formed or when a city becomes a city after it was a village, the law requires that it be divided into wards and that two councilmembers be elected from each ward. So most cities have an even number of councilmembers. Cities of second class, which are those between 800 and 5,000, most of them have four. Cities of the first class, which are between 5,000 and 100,000, have eight. And I don't know why. I can't tell you that probably, but the vast majority of those that have a mayor/council form of government have eight members on the council. The law for, I don't know, probably hundreds of years have said that a city--other than a city with a home rule charter which is basically for all cities except for Lincoln and Omaha--have the ability if they have elections by ward, the voters can go and do an at-large election or vice versa, if they're at large, the voters of the city can change it to a election by ward. So that's been the law that's on the books. In 2001, the Legislature enacted a bill which was brought, I think, on behalf of the city of Bellevue by Senator Paul Hartnett who was the head of the Urban Affairs Committee at the time, which gave cities of the first class--and I don't...because it's a class of cities, it wouldn't be special legislation that any city in that class can take advantage of it--that provides that a city of the first class can have a divided system, partially by ward, partially by at large. And the way they set it up is that if you did that, you had to have at least four members from wards and you could have up to three members at large. And the city of Bellevue, I think, enacted a situation where they have one at large and five elected by ward. And it was kind of designed because they had ten at the time, they wanted to reduce the number to six and have one at large. So that was kind of doing that. But because most other cities of the first class have eight members, if they want to transfer over to a system where you have half at large, half by ward, they would need to reduce the number of councilmembers. And if they don't want to reduce the number of councilmembers, this is what is needed, the LB299. It simply provides that if you change your system so you go half at large, half by ward, you can continue having eight members half and half rather than an uneven number for doing that. So

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

that's kind of where we're at. The bill at the time, in 2001, was targeted for first-class cities, but it basically said at least four or three at large. And this says you can have at least four by ward, but you can have up to four at large. So that's what it does. The bill also, as Senator Seiler mentioned, this statute has always been a little bit unclear of how you get it on the ballot. It says a city can put the issue on the ballot, and then it talks about the petition process. The question has always been, does that mean only by petition or when they say the city can put it on the ballot, does that mean the city council? In 2001, the subsection that just applied to this bifurcated system clearly said it can be the city council or by petition. And so what this bill does is make it clear for the other sections is that it can be done by either the city council or by petition. This is consistent with other issues that go on the ballot like the local option city sales tax can be done by the city council or the...by petition under the lid and levy statutes, political subdivisions can do that--the same thing--either by the governing body or by petition. So that's consistent with that. And I'd be happy to answer any questions. [LB299]

SENATOR AVERY: Thank you. Questions? Senator Bloomfield. [LB299]

SENATOR BLOOMFIELD: Thank you, Senator Avery. I'd like to see the vote stay as close to the neighborhood as possible. Is there anything in current law that prevents Hastings from going to five elected by district and staying with three at large? [LB299]

GARY KRUMLAND: They could go to five. I mean, they have to have at least four...under the current law, if they would decide to go with it, they would have to have at least four by ward. However... [LB299]

SENATOR BLOOMFIELD: They could go to five? [LB299]

GARY KRUMLAND: They could go to five. However, they could... [LB299]

SENATOR BLOOMFIELD: And they would still have eight. [LB299]

GARY KRUMLAND: ...put it before the voters and go completely at large, so there's nobody from district. That's under the law right now. [LB299]

SENATOR BLOOMFIELD: Okay, thank you. [LB299]

GARY KRUMLAND: So this just applies when you have the bifurcated system. [LB299]

SENATOR AVERY: Any other questions? Senator Scheer. [LB299]

SENATOR SCHEER: I understand that's state policy as of 2001, but I'm not exactly sure it's good policy. It would appear to me that we're trying to minimize election impact by district and perhaps having more control over the electoral process from a smaller

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

base of constituents by putting them all at large. I think in any community you will find quite different voting rates per different wards or precincts to the extent that the higher the voter turnout in some area would then maybe equate to, in the case of the four and four, you could literally have one from an area because it was his or her geographic area. But you certainly could have all four of those at large simply because that is the higher turnout and voting for, you know, four of the above would create a dominate voting block for that community within one small geographic area, and I'm not sure that's good policy. [LB299]

GARY KRUMLAND: Well, I think the arguments have always been, you know, that you have wards so that each area of the community or state or whatever the jurisdiction is representative are represented at large very often are argued, well, you have a view of the total city, you're not just worried about one little area. And right now under the law you could do one or the other. For cities of the first class, the law does right now allow to do a combination, and all LB299 does is saying instead of having three or four, three or five, it'll be four and four or four, five. So it's kind of... [LB299]

SENATOR SCHEER: I understand that it's permitted. I'm just not sure that it's good policy. [LB299]

GARY KRUMLAND: Okay. [LB299]

SENATOR SCHEER: And I guess what I was looking at from you is if you thought that was good policy or not. And you explained the process which was nice of you. I understand the process. I'm wondering if you believe it is good policy to be able to have concentrated representation and a community of that sort. [LB299]

GARY KRUMLAND: Well, I think it's probably good policy. First of all, it lets the voters decide. The voters are the ones who have to determine that. So they're the ones who make the decision. And it gives a combination of both of the arguments of, you know, whether you have from a ward that...right now you can do one or the other. This makes it clear that you can do both. I just think, for a local control point of view, I think let the local people make that decision. It goes to the vote of the people. [LB299]

SENATOR SCHEER: Okay. Thank you. [LB299]

SENATOR AVERY: Local control. We hear that a lot. Senator Lautenbaugh. [LB299]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman. We're all in favor of local control until we're not. [LB299]

GARY KRUMLAND: Yeah. (Laughter) [LB299]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

SENATOR LAUTENBAUGH: I've been there. And I won't belabor the point. I must be particularly dense today, but if you're going to be around after the hearing, hopefully you can explain to me how these actually work because I'm just not getting it. And lobbyist is nodding as well, so hopefully we can figure it all out. But so I just... [LB299]

GARY KRUMLAND: Okay. Is there... [LB299]

SENATOR LAUTENBAUGH: I'm sorry I'm just...you're not explaining it poorly. I'm just not tracking. So after the hearing maybe we can all get together... [LB299]

GARY KRUMLAND: Sure. [LB299]

SENATOR LAUTENBAUGH: ...and you can try to straighten me out, so. [LB299]

SENATOR AVERY: L.B.J. used to say come let us reason together. You do that, you'll figure it out. Any other questions? I don't see any. Thank you. Any other proponent testimony? We're on LB299. Any opposition testimony? Any neutral testimony? Senator Seiler. [LB299]

SENATOR SEILER: I'd normally just waive but a lawyer can't stand the mike you know. (Laughter) I was sitting back there listening to your questions and what the thought running through my mind was, what would I rather run for against trying to get 25,000 votes or 6,000? And if you split it four-four, one person is going to have to make their decision in that board if they're going to run for the 25,000. But I believe that in this particular case, we're not changing the policy already set by the state; we're just raising it from three to four. And I think that was a quirk of the division of first-class cities. So that's the only comment I have left. [LB299]

SENATOR AVERY: Thank you. [LB299]

SENATOR SEILER: Thank you. [LB299]

SENATOR AVERY: All right. That ends the hearing on LB299. Now we go to the last hearing of this morning, LB349. Senator Murante. [LB299]

SENATOR MURANTE: Thank you, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. For the record, my name is John Murante, spelled M-u-r-a-n-t-e. I represent Legislative District 49 in the Legislature, which includes Gretna and northwest Sarpy County; and I'm here today to introduce LB349, which as you can see from behind me has inspired the youth of Nebraska to come here today. (Laughter) LB349 consists of two components: one that addresses the presidential petition process and another that addresses the presidential write-in process. The changes to the petition process are ones that have been introduced

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

before. They move the deadline for petition submission to August 1 from September 1 and eliminate the current restriction that signers cannot have voted in the presidential primary. Depending on the date of the election, the time frame to verify the petitions is very tight and the time period always involves Labor Day. In both 2004 and 2012, the verification process was not completed until the day the ballot was to be certified. In 2004, it was due to the early election date; and in 2012, September 1 fell on a Sunday so the petitions were not due until the close of business on September 3. Regarding the restriction on primary voters signing the petition, Nebraska and Texas are the only two states that still have such a restriction, and the restriction is the number one reason why signatures for petitions are rejected on presidential petitions. The second portion of the bill would require write-in candidates to submit the same information as petition or party-nominated candidates with their write-in affidavit. The additional information required includes name and consent of the vice presidential candidate and the names and consent of the electors for the candidate. It would also treat presidential write-in candidates the same as write-in candidates when it comes to how votes are counted and reported. The 2012 presidential cycle saw write-in affidavits for the office more than double from 2004 to 2008. This is a bill that I am introducing on behalf of the Secretary of State's Office. I want to thank them for their work on this piece of legislation. They do very good work. I think this is a technical and cleanup bill which just helps harmonize our language. And I'd be willing to answer any questions, but I see our director of elections is here who can...is really the foremost expert on this subject matter, so. [LB349]

SENATOR AVERY: Thank you, Senator Murante. Questions from the committee? I don't see any. You're staying, right? [LB349]

SENATOR MURANTE: Absolutely. [LB349]

SENATOR AVERY: Proponent testimony. [LB349]

NEAL ERICKSON: Good morning, Chairman Avery and members of the committee. For the record, my name is Neal Erickson, N-e-a-l E-r-i-c-k-s-o-n, Deputy Secretary of State for Elections here on behalf of the Secretary of State to testify in support of LB349. First off, I'd like to thank Senator Murante for introducing this. This isn't the sexiest bill out there. It deals with a couple of things, as Senator Murante mentioned. One the committee has seen before, and that is a trade-off between the current system right now that has the deadline of September 1 that has caused problems for election administrators in terms of being able to get those petitions verified; and then a provision in Nebraska statute that says people who vote in the primary for president cannot sign that petition. And as Senator Murante mentioned, we are one of only two states that still have that requirement. So what the one portion of this bill does is kind of create a trade-off. Yes, the petitioning period would be earlier, August 1. But on the other hand, it also reduces or eliminates that requirement that signers of the petition can vote in the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

primary, so it makes it easier for petitioners as well. From an administrative standpoint, it makes it easier for election administrators to verify these in a timely manner because of the earlier deadline; also technically, because the petition verification package that we use within our computer system doesn't typically look at voter history. So that's something that the election official when they're verifying this can verify the signature, but then they have to go into a different component and make sure that this person did not vote in the primary. The second portion of this bill regarding the write-ins, Senator Murante is right, we saw a tremendous increase this last election cycle with people that claimed to want to be a presidential write-in. And really all that component does is treat presidential write-ins like any other presidential candidate. It requires them to have a vice president and the consent of the vice president. It requires they name their electors. We did see an increase in that this last cycle in particular and did probably best to treat them as the presidential candidates are. And with that, I'd answer any questions you might have. [LB349]

SENATOR AVERY: Thank you. I almost called you senator. Thank you, Mr. Erickson. I was looking at a senator. Senator Lautenbaugh. [LB349]

SENATOR LAUTENBAUGH: He makes more than we do. (Laughter) A little bit. Mr. Erickson, thank you as always. Is there a constitutional requirement or other requirement that we have to allow write-ins at the presidential level? [LB349]

NEAL ERICKSON: No. As a matter of fact, you don't have to allow write-ins at all. It is something we currently allow in Nebraska statute. [LB349]

SENATOR LAUTENBAUGH: Does it strike you...I mean, I know there have been successful write-ins at the local level historically here in Nebraska. Does it strike you as kind of absurd that we allow them at all at the presidential level? [LB349]

NEAL ERICKSON: Well, realistically, it doesn't in terms of the presidential write-ins in particular, it really doesn't cause us a whole lot of consternation. They typically do not get a whole lot of votes. It's not something that ends up being reported separately, etcetera. So typically, you know, some people will use the write-in affidavit form that's on our Web site and use that. Other times we just receive letters that contain all the information that's on the write-in affidavit. And so these are generally people that...well, actually I can say there are a few I have talked to that do think they're going to win, but most of them are doing it to kind of it's on their bucket list or this is something they wanted to do, etcetera. [LB349]

SENATOR AVERY: Senator Wallman. [LB349]

SENATOR WALLMAN: Thank you, Chairman Avery. Thank you, Director, for being here. The only really complaints I have about...not about write-ins but about

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

Independents, how they can't vote in the primary necessarily, you know. They don't have a candidate. Do you have any solutions to that? [LB349]

NEAL ERICKSON: Well, that actually is governed by party rule in terms of being able to vote for a presidential candidate. Theoretically a party could allow other people to vote in their primary, whether it be for president and for other offices as well. They do that within their rules. [LB349]

SENATOR WALLMAN: I can remember when America's liberators wouldn't run for president in Nebraska. [LB349]

SENATOR AVERY: Couldn't we write a law that would require open primaries? [LB349]

NEAL ERICKSON: Yeah, theoretically you could. I mean, right now it's controlled by party rule. [LB349]

SENATOR AVERY: Okay. Senator Price. [LB349]

SENATOR PRICE: Thank you, Chairman Avery. Mr. Erickson, thank you for testifying on this stimulating bill. My question has to do with the part where we're now going to allow people to vote who voted in a primary. It would seem almost that that was not in alignment with the laws. I mean, we think that we'd close that off somehow and I don't understand why we did that, why that wasn't challenged. [LB349]

NEAL ERICKSON: I think the argument was when that provision was adopted was a kind of one bite of the apple. In the primary election if you voted for that, you cast your vote for who you'd like to see your party nominee to be. And then to be able to turn around and sign a petition later on was kind of a second bite of the apple. While, you know, I think certainly it's a ballot consideration, it...I think it's not...it doesn't really work that well with presidential candidates in particular because even though, say in Nebraska, they vote for one candidate and vote overwhelmingly for one candidate. That doesn't necessary mean they're going to be the nominee on the national level. [LB349]

SENATOR PRICE: Thank you. [LB349]

SENATOR AVERY: Thank you, Senator. Any other questions? I don't see any. Thank you. [LB349]

NEAL ERICKSON: Thank you. [LB349]

SENATOR AVERY: I want to pause here for a moment to welcome about 20 students from Hartington Public High School. Welcome. I hope you have learned how riveting our work is. (Laughter) [LB349]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
March 05, 2013

SENATOR PRICE: And that you, too, can be a city councilmember. (Laughter) [LB349]

SENATOR AVERY: All right. We're still on LB349. And we're still taking proponent testimony. Any other proponents? Any opponents? Any neutral testimony? All right. Senator, it's your turn. [LB349]

SENATOR MURANTE: I will close simply by saying that there was no opposition testimony, as you could see. I'm not sensing a lot of consternation on the committee, so I hope that...it's my hope that we can Exec on this relatively shortly and hopefully get it on consent calendar. This seems a good candidate for it. So thank you very much. [LB349]

SENATOR AVERY: Next week. Thank you. [LB349]

SENATOR MURANTE: Thank you. [LB349]

SENATOR AVERY: That ends the hearing on LB349, and that also ends the hearings for today. Thank you all for coming. [LB349]