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Government, Military and Veterans Affairs Committee  
February 05, 2014

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[LB746 LB946 LB1048]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, February 5, 2014, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB946, LB1048, and LB746. Senators present: Bill Avery, Chairperson; John Murante, Vice Chairperson; Dave Bloomfield; Tommy Garrett; Russ Karpisek; Scott Lautenbaugh; Jim Scheer; and Norm Wallman. Senators absent: None.

SENATOR AVERY: (Recorder malfunction)...Affairs Committee. We have three bills today. The order of the agenda is posted outside the room and it tells us that we're going to take up first, LB946, followed by LB1048, followed by LB746. All that will be followed by an Executive Session, just for the committee's information. Before we start, let me introduce the members of this committee. Starting to the right, Senator Tommy Garrett from Bellevue. Next to him is Senator Dave Bloomfield from Hoskins. And then we have Senator John Murante, the Vice Chair of the committee, from Gretna. To my immediate right is Christy Abraham, the legal counsel for the committee. I am Bill Avery, I represent District 28 here in Lincoln and I chair this committee. I think Senator Karpisek, Russ Karpisek from Wilber will be here in a few minutes. Next to him is Senator Norm Wallman from Cortland. And I believe Senator Scheer will be here later. He is from Norfolk. On the very end down there is Sherry Shaffer. She is the committee clerk. She basically makes sure that we do everything right. And that includes this form right here. If you wish to testify for or against any of the bills under consideration today, we ask that you fill out this green form. Print the requested information clearly and hand it to the clerk when you appear here for testimony. If you do not wish to testify but you have an opinion and you want us to know it, there is another form here that is available at the table at each entrance. And it requests information that you can provide. Please print clearly on that as well. If you have any supporting documentation for your testimony and you would like for us to see it, we ask that you have 12 copies. If you don't have 12 copies, we can get that for you. We do have a page today, don't we, Sherry? His name is Colton Wolinski from Lincoln and he will help you get the required copies. You do not need to pass them out to us, the page will do that for you. The order of business is that the introducers of the bills will have initial statements, followed by proponents, followed by opponents, and then neutral testimony. Closing remarks are reserved for the introducing senator. We ask that you listen carefully to prior testimony so that you're not repetitive when you appear. We will be using the light system. It is a five-minute light system. The green light means that you have four minutes. And when the amber light comes on, you have one remaining minute to finish your testimony. And when the red light comes on, you have to be finished or I will have to stop you. So if you have cell phones or any electronic devices that make noise, that includes computers, we ask that you put them on silent or you turn them off. If they're not disturbing people around you, you may use them. All right, with that, we will start with LB946 and invite Senator John Murante to address us. Welcome, Senator. [LB946]

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SENATOR MURANTE: Thank you, Chairman Avery, members of the Government, Military and Veterans Affairs Committee. For the record, my name is John Murante, spelled J-o-h-n M-u-r-a-n-t-e. I represent District 49 in the Nebraska State Legislature, which includes Sarpy County, Gretna, Chalco, and portions of Papillion and La Vista. I am here today to introduce LB946 which makes various changes to the election laws of Nebraska. I introduce this bill on behalf of Sarpy County Election Commissioner, Wayne Bena, who is here today and would be happy to answer any questions for you. He worked in collaboration with a number of other election commissioners and clerks around the state of Nebraska to develop these changes in cooperation with the Secretary of State's Office. I believe you'll find most of these to be rather technical in nature and ways to make their offices more efficient. Section 1 of the bill would change language in school bond elections that would state that the members of the counting board would receive no less than minimum wage instead of requiring just the minimum wage. Especially in our larger counties, members of the counting board are election employees and the current language would seem to imply that they would have to be paid only minimum wage and not what their actual current wage is. This change is consistent with other wage language in other areas of the Election Act. Section 2 of the bill removes the provision that an election commissioner in counties larger than 100,000 have to wait six months after leaving office to be eligible to run for any office. Currently, that is a standard which applies only to 3 election commissioners in the state of Nebraska and the other 90 don't have such a requirement. Section 3 of the bill would solidify the requirement the chief deputy election commissioner has to take the same oath as the election commissioner in counties over 100,000 people. It's implied that statute that a chief deputy take an oath of office in its current practice but the requirement is not listed anywhere. Section 4 deals with the process surrounding the selection of chief deputy election commissioners in counties over 100,000 people. Currently, when there is a vacancy, the election commissioner shall...will notify by registered or certified mail all members of opposite...to the...all of the opposite parties requesting that they submit at least three names for consideration. Political parties have a certain number of days after signing for the letter to submit their list to the election commissioner. And the election commissioner has ten days to select a deputy. Given the fact that there are more than two recognized political parties in the state of Nebraska, it was realized that a scenario exists--depending on when a political party signed for their letter and sends a list of names to the election commissioner--that there were different time lines in which a commissioner would have to pick a deputy. So this would harmonize that. Section 5 would allow a special election for Class IV or V school districts to be held in conjunction with the primary or general election in a city of the primary or metropolitan class. This change would allow school districts such as Omaha Public Schools and Lincoln Public Schools the ability to schedule a special election at the same time as a city election. And it would apply only to Lincoln and Omaha. Section 6 would allow the filing fee for any office to be set as of November 30 of the year preceding the election. Thus, election officials have a set filing fee for all offices at the

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start of the filing period of December 1. Currently, political subdivisions have up until January 15 to change their salaries, so the filing fee may change over the course of the filing period. Section 7 would allow county officials the option to not send ballots in an all-mail election to those voters on the NVRA list. We heard about that list earlier this year. People who we have indication don't live at their house anymore, we don't have to mail them ballots. In this instance, the election commissioner has the option to mail these voters a notice explaining how they can obtain a ballot and all applicable deadlines for that election. But that way, we're not mailing ballots to homes where people no longer live there. Section 8 allows an election official to replace a destroyed, spoiled, or lost ballot in a special all-mail election up until 5:00 p.m. on the date set for the election. Current law only allows election officials the ability to replace a ballot up until noon on that day. Section 9 makes public the record or list of registered voters who have returned their ballots in an all-mail special election. We already do that for regular elections held at polling places and this conforms and harmonizes mail-in and polling place standards. And Section 10 allows county election officials to charge the overtime costs of permanent employees working the election to the political subdivisions that are on the ballot. Under a ruling by the Secretary of State's Office, county election officers were directed to stop charging these overtime costs as they were not directly stated in state statutes. And while officials can charge all costs of temporary employees and poll workers, the overtime costs of permanent employees cannot be charged. So those are the technical aspects of the bill that I am presenting for you today. There are a number of them. If you have any questions, I would be happy to attempt to answer them. And if I am unable to, I will probably defer to some of the experts sitting behind me. [LB946]

SENATOR AVERY: Thank you, Senator. [LB946]

SENATOR MURANTE: Uh-huh. [LB946]

SENATOR AVERY: Let me ask you, what is the reason for eliminating the requirement that election commissioners not become candidates for office within six months? [LB946]

SENATOR MURANTE: I think that first of all, there's a sort of treating all offices the same way. I think it's reasonable to say that if you're an election commissioner, you can't run for office while you're counting the ballots. Now with that said, we don't have that policy in the overwhelming majority of the state of Nebraska where the election officers are county clerks, which are elected officials. And, of course, our Secretary of State is an elected official. But I didn't want to remove that requirement entirely. But I don't see a public purpose, to use one of your phrases, in saying you have to wait six months after you quit your job. I'm not...I have not been explained what good comes from that from the public's perspective. So in my view, I'm just saying if you want to run for office, that's fine. But resign and... [LB946]

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SENATOR AVERY: Do you know any of the history on that particular aspect of law, because it seems to me that we discussed this sometime in the last few years. [LB946]

SENATOR MURANTE: I think so. If I remember correctly, John Nelson introduced a piece of legislation which dealt with that subject matter. [LB946]

SENATOR AVERY: While you were employed in his office? [LB946]

SENATOR MURANTE: If memory serves, that is correct, Senator Avery. If memory serves, though, that bill took the provision about election commissioners not being able...totally out. So an election commissioner could continue to serve as election commissioner while they were running for another office. And this bill would not provide that. [LB946]

SENATOR AVERY: Questions from the committee? Senator Karpisek. [LB946]

SENATOR KARPISEK: Thank you, Senator Avery. Senator Murante, along those same lines... [LB946]

SENATOR MURANTE: Yes, sir. [LB946]

SENATOR KARPISEK: ...why do you think those three can't run? Maybe because they're not treated or put into office the same as all the other 90 other ones? [LB946]

SENATOR MURANTE: That's...it's possible. Now there are some election commissioners which are appointed by the county board. And, of course as I previously mentioned, the overwhelming majority of election officers, county election officers in the state of Nebraska are just elected by a vote of the people. If this committee wants to make the Douglas, Sarpy, and Lancaster County Election Commissioners elected instead of appointed positions... [LB946]

SENATOR KARPISEK: I think someone tried that. [LB946]

SENATOR AVERY: I think it's... [LB946]

SENATOR KARPISEK: I think it might have been me. [LB946]

SENATOR AVERY: ...still you. [LB946]

SENATOR MURANTE: As always, you come up with great ideas. [LB946]

SENATOR KARPISEK: My only point is, if they want to be treated the same, then be the same. And we'll have a huge sticking point on that in this bill. [LB946]

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SENATOR MURANTE: I suspect...now, I can't speak for the election commissioners. But I can...if I were in their position and I was an appointee of the Governor, I would probably--from my perspective--I'd probably prefer to get elected and to run on my own merits rather than the whims of who the people of Nebraska elect as Governor. And then you never know what decision to make there. [LB946]

SENATOR KARPISEK: It doesn't seem that that was the testimony on the bill, though, when that was introduced. So anyway, I just wanted to put that out there. [LB946]

SENATOR MURANTE: That was before my time, Senator Karpisek so I can't... [LB946]

SENATOR KARPISEK: Yeah, I think you were in a different office but I don't know if it was much before your time. Thank you, Senator Murante. [LB946]

SENATOR MURANTE: Different office but a higher salary. [LB946]

SENATOR KARPISEK: Right. [LB946]

SENATOR AVERY: Any other questions? Any questions that do not require memory of what this committee has done in the past five years? [LB946]

SENATOR KARPISEK: Seven. [LB946]

SENATOR AVERY: Seven. Thank you. All right. We will now accept proponent testimony on LB946. Good afternoon, Mr. Bena. [LB946]

WAYNE BENA: (Exhibit 1) Good afternoon, members of the committee. I'm glad he gave that great summary because I was going to think I only had five minutes to do the same thing, so. Members of the committee, my name is Wayne Bena, W-a-y-n-e B-e-n-a. I serve as election commissioner for Sarpy County, Nebraska, the state's third largest and now over 100,000 registered voters. As a little bit of history, this is the start of my second term as election commissioner and my fifth year and my first attempt at writing legislation. I've spent the last four years watching, observing, testifying. And I thought, over this past year, I'd look into some ways we can make the process a little bit better. The election commissioners in Douglas, Sarpy, and Lancaster meet with the Secretary...a representative, Neal Erickson, every three months and we discuss legislation or how elections are going. And usually, bills like this start with, well, why does state statute say this? And when none of us can figure out why or if we can figure out a better way, that's what you see here in today's bill. As we conduct elections every year, we look at statute and we see different processes and procedures that can be tweaked a little bit. That's what this bill is here today to do. Dave Shively, the Lancaster County Election Commissioner, will be speaking after me to talk a little bit about some

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of the things that he requested in this bill that specifically apply to him in regard to the school district elections. And he'll also talk a little bit about the one substantive change in this bill would allow us, instead of sending ballots to people on the NVRA list, allowing us to send a postcard letting them know what they can do to fix their registration. As an example--and his example is going to be better because he just sent out a whole bunch of ballots for this Lincoln Public Schools election--the last election by mail that we conducted, we had...it was 5,000 ballots. Approximately 425 were on the NVRA list. Of those 425, 261 were returned within seven days. And only four were actually returned as a voted ballot. As we've heard in the past is, these people cannot be removed from the registries because they could be a college student, a snowbird, or what have you. I think that is good public policy. But in an all-mail election, we're spending a whole lot of money to spend money on ballots that come back. We know they're going to come back. Or in this case, we had 157 ballots that I believe sat in someone's mailbox because the mailman did not return them as prescribed. So this would allow us to send a notice and that postcard that saves much more money than having to send the full ballot out. I didn't want the election commissioner six months to be the focal point of this bill but it sounds like it is. But to reiterate from Senator Murante, in LB449 two years ago, this provision was completely stricken out so I...the three of us could have run for an office while as election commissioner. The compromise that year was to allow us to be appointed to another job as long as we quit our job. And this would just remove the six-month provision. We would still have to quit. I would just remind this committee, the three of us are the only three people in the entire state that have a waiting period to run for office. And while none of us are wanting to run for office right now, you never know what the future believes. And in my case, if I were to complete my term in 2017 and wish to serve in a different capacity, I would be ineligible for running for any office in 2018 because six months would have to expire. There is...this is the least most important thing of this bill. So if you want to kick that out, I'm not going to say...I just thought it was a method of fairness and a compromise. The Secretary of State's Office doesn't like the thought of us running for office. And I'm fine with that. But just let me quit and then let me make a conscious decision of what I do after. Don't give me a waiting period and the only three people to be a waiting period. Again, the rest of the things in this bill are very technical in nature. Just in my last, one thing that we did do in this bill is, we found in special elections there's a requirement that we are not allowed to send...not replace a ballot that was lost after noon. And we were...you know, we're there in the office and we can do it. What I passed out to you is, we realized after we did this bill, there's also a provision in normal elections that we cannot replace a ballot that's lost or spoiled after noon. So this would, (inaudible) respectfully request in the committee amendment that the statute that we give you, that change as well to 8:00 p.m. which is the thought of that election. In closing, I'm willing to answer any questions about any specific portion of this bill. My hope is, is that this could be a consent calendar item or in...my thought is it could be a committee priority and you can do whatever you want to it to add on for all those small little election bills. We did remove the provision that would allow inspectors to have an amber light on top of their car when turning their ballots in.

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Too soon? [LB946]

SENATOR LAUTENBAUGH: Too soon. [LB946]

WAYNE BENA: I'm sorry, too soon? Okay. But Senator Dave Landis was my negotiations professor in law school. And the one thing that I learned from his class is, everything is a negotiation. So if there's something you don't like on this bill, we'll work with it or we'll take it out. So thank you. [LB946]

SENATOR AVERY: Okay. Thank you, Mr. Bena. Let me ask you about the...looks like the last provision on overtime cost of all permanent employees. [LB946]

WAYNE BENA: Correct. [LB946]

SENATOR AVERY: Is this going to increase the cost to the cities and the counties and, if so... [LB946]

WAYNE BENA: To the people who are...It was something that we were doing already. And I believe what occurred was, Douglas County did an internal audit--the auditors in Douglas County--and realized well, do you have the authority to do this? Well, they went back to the Secretary of State and the Secretary of State said, it doesn't look like you probably do, specifically. And so for the last few cycles we have not been. So the potential that we'll increase some costs, yes. But understand that those costs are spread out over the federal government which doesn't pay us, the state that doesn't pay us--hint, hint--and various others. So those costs, portioned out, is a very small portion of it. But what I can say is, that specifically does hurt us is in special elections. In the last...that Bellevue race that I talked about in a previous hearing--which will be the discussion in about a week--I could not...while I...it was an unbudgeted election. While the city of Bellevue had to pay for that entire election, they couldn't pay for the overtime cost of my people needing to stay to count the ballots, you know, after...8:00 and after. So it's more important even in the special elections to have this because I can't charge those costs and I had to ask for additional appropriations for those overtime costs because they were not previously budgeted. So it helps us the most in special elections. But in the normal elections, it will be a small increase to the political subdivisions because we're just talking about the 5:00 p.m. to 8:00 p.m. on election nights and maybe some overtime if we have some extra work to do. But I'll tell you what right now is, many of our counties will focus on the temporary employees because we can get every dime of that money. We can charge that money. [LB946]

SENATOR AVERY: Just the permanent employees. [LB946]

WAYNE BENA: Yeah, this is just for the permanent employees, just their overtime, not their normal salary. That is already budgeted within the county. This is just their

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overtime hours that may not be budgeted because we don't know how long they're going to be there or how much work we're going to have. [LB946]

SENATOR AVERY: Have you heard from the city or the counties on this? [LB946]

WAYNE BENA: No. [LB946]

SENATOR AVERY: Not a word? [LB946]

WAYNE BENA: No. [LB946]

SENATOR AVERY: Okay. I saw it. Yeah. [LB946]

WAYNE BENA: I think you might have awoken the beast behind me, so. [LB946]

SENATOR AVERY: Any questions? Senator Lautenbaugh. [LB946]

SENATOR LAUTENBAUGH: That does lead to a question, I guess. This can't be that much money, though, in the great scheme of things, though, the overtime amount. I mean, significant to you probably but not significant to a city, I'm assuming. [LB946]

WAYNE BENA: What he is referring to is that...so if I were to have an employee spend a Saturday or overtime processing registrations or what have you or on election night, you know, the office closes at 5:00. So 5:00 to, say, 9:00, 10:00, or 11:00 by the time we count ballots, those are the overtime expenses for those employees that we cannot charge back. Now again, once we charge that back, that's spread out between all the subdivisions that hold the election in that given time. So it's a very minimal cost in your normal general and primary cycles. But it is a huge cost for me in a special election when it's not already budgeted, even though that I'm getting every dime back from that city or whatever have you, I'm not getting that back. So it's very important, especially in those situations. [LB946]

SENATOR LAUTENBAUGH: But I mean, to put it in perspective, can we quantify? You're a small office. So a huge cost for you is not a huge cost for the city of Bellevue. [LB946]

WAYNE BENA: No. [LB946]

SENATOR LAUTENBAUGH: Can you actually throw out a number, this huge cost to you? [LB946]

WAYNE BENA: Well, the city of Bellevue, they would only be charged my overtime. There's no...maybe I'm misunderstanding the question. [LB946]

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SENATOR LAUTENBAUGH: Do you remember what that was for this (inaudible) election? [LB946]

WAYNE BENA: That election was \$1,000. The overtime and costs was \$1,000. [LB946]

SENATOR LAUGHTENBAUGH : Okay. That's what I'm getting at. That's probably why we're not hearing from them, because it's \$1,000. [LB946]

WAYNE BENA: Yeah. It was \$1,000 for that election. [LB946]

SENATOR LAUTENBAUGH: Okay. [LB946]

WAYNE BENA: So...yeah. [LB946]

SENATOR AVERY: Any other questions? [LB946]

WAYNE BENA: But again, I could have hired a temp to stay the entire time and sent my staff home and I could have gotten that \$1,000 back if I did it that way. I'd rather have my staff there. [LB946]

SENATOR LAUTENBAUGH: Understood. [LB946]

SENATOR AVERY: Okay. Thank you. [LB946]

WAYNE BENA: Thank you. [LB946]

SENATOR AVERY: Any other proponent testimony on LB946? Good afternoon. [LB946]

DAVID SHIVELY: Hello. [LB946]

SENATOR AVERY: First time this term. [LB946]

DAVID SHIVELY: (Exhibit 2) Maybe the only time. We'll see what happens. Good afternoon, Senator Avery, members of the Government Committee. 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 LB946. There's about four items in this bill that I'd like to just talk about just briefly. As Commissioner Bena indicated, this is...some language in here is more to...as a cleanup on some issues that sometimes we find frustrating on why it actually is in state law and the reason it is in there. But let me talk about first, on Section 5 which would allow a Class IV or Class V school district to conduct a special election in conjunction with the city elections if those are cities of a primary or metropolitan class

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that are governed by home rule charter. This kind of came...we were trying to figure out dates for possible special elections, when the Lincoln Public Schools could do special elections. We were looking into the future and we realized that our city elections in 2015, they couldn't have a special election. They couldn't have put this bond issue on next year because it isn't the second Monday...the first Tuesday following the second Monday of the election. And so they couldn't do that, even though the city could put a bond issue on, the Lincoln Public Schools couldn't. So we thought maybe that would be an idea that maybe we could add that if they would like to do that, they could be able to do that. On Section 6, the filing fee, right now the filing fee is to be on the annual salary of what that person will receive if they are elected. And as was mentioned earlier, county boards don't set their filing fees...the deadline for them to set their filing fee is January 15 of the year of the election. So we have people starting to file on December 1. We don't know exactly what the annual salary is going to be for that office until, possibly, January 15. And in Lancaster County, that's what it was this year. I think it might have been the 14th when they actually passed the resolution. And so we had a couple of people file for office. They paid their filing fee--what we thought it might be--but then it changed. And so then we had to go back to them and ask them to pay the additional filing fee. No problem, we got the filing fee. But yet, it's another step in the process that maybe didn't have to be there. So we came up with an idea that whatever the annual salary of that office is on November 30, that's what the...1 percent of that would be the filing fee. We think that would be an easy way to do that. The next thing, and the picture that I handed out to you and want to talk about, is under Section 7. This is talking about all-mail elections. And I'm very familiar with all-mail elections because we're going through it right now. But the pictures you have here, in your upper right hand corner, there are about--I can't remember--33 or 34 trays of undeliverable ballots of inactive voters. Those are the voters that were in an inactive status that when we mailed those ballots, we knew they most likely would come back to us as undeliverable. This bill will allow us to send a postcard or some type of card out to them prior to the election--and that could be forwardable to their new address--telling them how to get a ballot and make sure their address is up to date. If they want to vote in that election, it gives them an opportunity. And we aren't just sending ballots out to addresses where we know they're either going to come back or, as Commissioner Bena said, that may be sitting in a mailbox somewhere or got to somebody's home and is just sitting on a table and it's not going to be voted. It would be an enormous amount of savings. You're probably talking almost \$25,000 sitting up here in that upper right hand corner it cost us on that election to do that. The other picture is the upper left hand corner are just active ballots that came back. The voters that were active voters but they are not be able to be forwarded. In most of the cases, we had a new address on them, but they were unable to deliver. And the bottom one is just the first day we got ballots back, that was all the trays we got back before we sorted through them. So I wanted to show you that it is...that is the truth and that's the way it looks when it gets down to it. The last thing I wanted to talk about is Section 8. This...and Commissioner Bena talked about this too, but it doesn't make any sense that someone, if they need a replacement ballot, their

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absentee ballot they also talked about but a ballot by mail, if they made an error on the ballot, they have to...the election...they have to come in by noon on election day. And yet, someone could come in and vote a provisional ballot in that afternoon or an agent could come in on a regular election and pick a ballot up anytime in that afternoon. But if you just needed a replacement ballot because you made an error on it or you didn't get your ballot, the law says that you have to do that by noon. And it just seems to make more sense to have it at the close of the polls on either a mail-in election at 5:00 or, if it was a regular election, at 8:00. And so I think there's some simple changes in this bill. And I would encourage you to advance it to General File. And I think...I'd be happy to answer any questions. [LB946]

SENATOR AVERY: Thank you. Questions? Senator Lautenbaugh. [LB946]

SENATOR LAUTENBAUGH: Thank you, Senator Avery. Good to see you, Mr. Shively, of course. So how does the postcard thing work? [LB946]

DAVID SHIVELY: What I envisioned--and I think the Secretary of State would probably help counties try to come up with something--but I envisioned along with the way we do our confirmation cards or we do our NCOA mailing right now. This is how we would probably do it in Lancaster County. I think it gives some options to election commissioners in the counties. But we'd probably send a card that had something to tear off that they could say, hey, no, I don't live at that address. This is my new address. Please update my...me to that new address. And so we'd get that in and then, hopefully, we might send it out even two weeks before when we'd send the ballots out. And so by the time we got that in, we'd be able to do it. Or if it came in after we mailed the ballots, we'd have a new address to send the ballot to them. That's how I would envision it. I think there would be some other ways you could do it. Maybe in some ways...some of the small counties, they just might want to send a letter out with a voter registration application. I think in our case, with 20-some thousand, we'd probably do a postcard similar to the confirmation... [LB946]

SENATOR LAUTENBAUGH: It's cheaper to send out the postcards... [LB946]

DAVID SHIVELY: Right. [LB946]

SENATOR LAUTENBAUGH: ...so you're trying to avoid the more expensive, erroneous mailing. [LB946]

DAVID SHIVELY: Exactly. And actually, and then on top of it, we could...because on the ballots that can't be forwarded, we could make those forwardable so if it goes to their old address and they've actually moved to another address in Lincoln, it would get to that address. And they would still send it back with their new address on it. We've already contacted them in that way one time, you know, when we first found out they

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didn't...weren't at that address. So this would just be a second time. In some cases, we've probably contacted them two or three times. [LB946]

SENATOR AVERY: Senator Scheer. [LB946]

SENATOR SCHEER: The ballots, themselves, are not forwardable. And so you've got the cost of that postage. But for them to return them, does the post office then charge you a return fee to get them back to you? [LB946]

DAVID SHIVELY: No, because it's first-class mail and first-class mail, they're required to return that to us. [LB946]

SENATOR SCHEER: Okay and it's just not, necessarily, as quickly as you might expect? [LB946]

DAVID SHIVELY: Well, that's what we were told. But we were surprised. We mailed ballots on Wednesday and on Friday we had, I think, almost 30 trays of undeliverable ballots that came back to us. They told...when I first visited with the postmaster here, I was told we probably wouldn't see those until later in the next week. But we got them back...some of them back quicker. And we've gotten...they've trickled in then after that. [LB946]

SENATOR SCHEER: Okay, thank you. Thank you, Senator. [LB946]

SENATOR AVERY: Senator Karpisek. [LB946]

SENATOR KARPISEK: Thank you, Senator Avery. Mr. Shively, what...how much ahead would you send those postcards out? [LB946]

DAVID SHIVELY: Well, the bill that's proposed here doesn't give a certain time line. In a special election it might...the political subdivision is to inform us at least 50 days prior to the election. My goal would be to try to get that out as quickly as possible so we'd get that updated and so when we go to mail the ballots out, we'd have the address there. [LB946]

SENATOR KARPISEK: So you could get... [LB946]

DAVID SHIVELY: I think it would just depend on when you were actually notified by the political subdivision. [LB946]

SENATOR KARPISEK: But you're hoping maybe a month ahead? [LB946]

DAVID SHIVELY: That would be my goal. You know, that would be certainly...in many

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cases, even here with the recent Lincoln School District election, we kind of had an idea this was going to happen. And they actually beat...they were ahead on the 50 days. But there have been some situations where you actually don't get that resolution till the 50th day prior. [LB946]

SENATOR KARPISEK: Right. I don't think we'd want to say you have to do it so many days ahead. But I think it's a great idea. Thank you. [LB946]

SENATOR AVERY: Any other questions? Let me ask you about this bottom photo. [LB946]

DAVID SHIVELY: Uh-huh. [LB946]

SENATOR AVERY: That is the school bond issue? [LB946]

DAVID SHIVELY: Yes. [LB946]

SENATOR AVERY: I don't know if you're at liberty to answer this question. But if you are, I'd be curious to know, is this...does this indicate a heavy turnout, a heavy response? [LB946]

DAVID SHIVELY: These are undeliverable ballots. [LB946]

SENATOR AVERY: These are undeliverable? [LB946]

DAVID SHIVELY: Those are undeliverable ballots. There may be some that were mixed in there that were ballots that were returned to us. [LB946]

SENATOR AVERY: Uh-huh. [LB946]

DAVID SHIVELY: But we're right now...I mean, if you're asking about what our response rate has been, it's been very good. We're over 40,000 ballots that have been returned for this election. In 2006, when we had the special election with Lincoln Public Schools and we did it by polling locations, we had 37,000 ballots cast altogether. So we are going to be well ahead of where we were in 2006. [LB946]

SENATOR AVERY: And your experience with all-mail balloting is positive, then? [LB946]

DAVID SHIVELY: It's been very positive. We've done about five or six of these. The most recent one we did for the village of Panama, we were about 55 percent turnout. The Palmyra School District we did in September, I think it was...I believe it was close to 60 percent turnout. So our turnout rates do go up. Now I don't expect Lincoln, because

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we're a larger community here, to be that percent, you know, getting over 50 percent. But it's still going to be better than the 24 percent turnout that we had in 2006. [LB946]

SENATOR AVERY: Thank you. Any more questions? Thank you, Mr. Shively. [LB946]

DAVID SHIVELY: Thank you very much. [LB946]

SENATOR AVERY: Any other proponent testimony on LB946? Good afternoon. [LB946]

BETH BAZYN FERRELL: Good afternoon. Chairman Avery and members of the committee, for the record, my name Beth Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials. I'm appearing in support of the bill. I'd just like to echo the comments of Mr. Bena and Mr. Shively. These are issues that we hear about from election commissioners. Particularly, the issue in Section 6 that deals with the filing fee. It would be very helpful to have a date certain to base the filing fee on. So I would be happy to answer questions. [LB946]

SENATOR AVERY: Is that your favorite part of the bill? [LB946]

BETH BAZYN FERRELL: That is my favorite part of the bill, yes. [LB946]

SENATOR AVERY: Okay. There's a lot in there for you. Any other comments, questions? I don't see any. Thank you for your testimony. Additional proponent testimony? We're on LB946. Any opponent testimony? Still on LB946. Any neutral testimony? Neutral testimony coming up. Good afternoon. [LB946]

ADAM MORFELD: Good afternoon. Chairman Avery and members of the committee, my name is Adam Morfeld, it's A-d-a-m M-o-r-f-e-l-d. And I am testifying in a neutral capacity on behalf of Nebraskans for Civic Reform. I'm not going to repeat much of what's been said but we did look at the bill. We did have the opportunity to look at the bill before it was introduced. We did appreciate that. And any concerns that we had with the vote by mail ballots being sent out or not being sent out without notification were alleviated by the notification provision that's been provided in the bill. We think that's reasonable. We do think it's also reasonable that they don't want to have 20,000 ballots out floating around or being returned and to save that or I don't know if it was 20,000, but it was several thousand ballots being returned back. As far as the appointed election commissioner running for office issue, as long as they've resigned their position before they would run for office, we didn't have any concerns on our board in regard to that provision as well. But I'd be more than happy to answer any questions. [LB946]

SENATOR AVERY: Okay. The obvious one is, why aren't you testifying in support? [LB946]

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ADAM MORFELD: You know, we're working on that with Senator Murante. So maybe next session we'll...yeah. I was, you know, as I was looking at our position that we took at our board meeting and as I was thinking about our testimony today sitting back there, I almost came up in support. But we really don't have any concerns with the bill with the provisional...the vote by mail process. We like that because it creates, I think, more accessibility for a lot of people. Particularly, in special elections that have lower attention and turnout. However, we do know that there has to be trade-offs. But as long as people are receiving notification that--in an affordable manner, as these postcards would be--that would alleviate our concerns with the people on the NVRA list not immediately getting their ballot. [LB946]

SENATOR AVERY: Okay. Senator Scheer. [LB946]

SENATOR SCHEER: Well, then, Adam, would it be appropriate to say this is a positive, neutral stance? [LB946]

ADAM MORFELD: I think that this is a positive neutral stance. [LB946]

SENATOR SCHEER: Okay. [LB946]

ADAM MORFELD: And I'm happy to be in a positive neutral stance on behalf of Senator Murante's bill. [LB946]

SENATOR AVERY: Any other questions? I don't see any. Thank you. [LB946]

ADAM MORFELD: Thank you. [LB946]

SENATOR AVERY: Any other neutral testimony on LB946? Seeing none, Senator Murante, if you wish to close. [LB946]

SENATOR MURANTE: I'll just say briefly that, as Commissioner Bena said, if there are provisions in this bill that are difficult for the members of this committee, I'm happy to work with you. There are a lot of things in this bill, I think, that we can all agree upon and I'd be happy to work with you to get that done. [LB946]

SENATOR AVERY: Okay. All right, that...anybody have more questions? That ends the hearing on LB946. We'll now move to LB1048, and that is also your bill. [LB946]

SENATOR MURANTE: Thank you, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. My name is John Murante, M-u-r-a-n-t-e. I represent District 49 of the Nebraska Legislature, which includes Sarpy County, Gretna, Chalco, and portions of Papillion and La Vista. And I'm here today to introduce LB1048.

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LB1048, you may recall last year actually, Dave Shively started this discussion when he presented to us--and he's leaving now, so apparently I did a great job in satisfying his concerns--brought to us a series of provisions in the Election Act which pertain to political parties and how election commissioners and state government interact with the political parties. He started that process and at the same time, both national political parties began a process of reforming how they were going to nominate candidates for President of the United States. And with both happening at the exact same time, Senator Avery and I began working on a complete rewrite of Article 7 of the Election Act which pertains to political parties and changes the relationship between the state and the political parties, in particular, with how they nominate candidates for President of the United States. The first thing that we did was we went through the Election Act and attempted to determine what could be completely stricken. What this state, basically, had no business interfering with the operations of the political parties. There were numerous provisions which, in this bill, we have just completely stricken: When political parties have to have county post-primary conventions, when they have to have state post-primary conventions, when they have to have Congressional district post-primary conventions. These are things that there was mutual agreement that the state didn't really have any business telling them when to conduct their affairs. And those are, in this bill, completely stricken from statute. What we have done in its place is changed, a bit, the process--at least in the statutory framework--for how Presidents get nominated by the political parties. And what we've done is created that each political party will put together a delegate selection plan. And that's in Section 4 of this bill. And they...the political parties will determine amongst themselves a couple of questions. First of all, do you want to nominate your candidates on the basis of a primary or a caucus? And we leave the choice up to them. Do you want the delegates to the national convention to be committed on the basis of that primary or that caucus? Again, we leave that up to them. And do you want those delegates to be committed either on a winner take all basis or on a proportional basis on the primary? And we leave that up to them. The change that will happen is that Nebraska is the only state in the Union that has an advisory primary. A primary which, as far as delegates to the national convention are concerned and the actual process of nominating, our primary doesn't mean anything. It can be completely ignored. And both political parties have taken steps to remedy that. In 2012 the Republican Party passed, for the first time, a rule to say that the will of the people had to be adhered to. And this codifies...this plan codifies that into Nebraska state law. We also do a couple technical things such as if a party dissolves, how to ensure that those candidates don't appear on the ballot. The one issue that we did not completely resolve in our negotiations was the issue of whether political parties who choose to have a caucus and nominate their candidates by a caucus, whether their candidates for President should appear on the ballot because, in that instance, the election would still not matter at all. That remains somewhat unresolved. I decided to introduce this bill without that provision in it, understanding that that discussion is something that needs to be had either in this committee or on the floor of the Legislation as a whole. Quite frankly, I see both sides of the story and think both arguments make a lot of sense to

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me. But that is the long and the short of what we have done here today. So this will change how we nominate Presidents of the United States. And I think it's worth noting that if this bill does not pass, we have deadlines for when the political parties must have their conventions. And both national parties want to move their national conventions into mid-June. And our statutory framework as it exists right now, would not allow the selection of delegates to those national conventions until after the conventions are over. So if this bill does not pass, Nebraskans will have absolutely no say in who gets nominated President of the United States. We will have no mechanism to send delegates to our national conventions. So in some form or fashion, this bill has to pass. And I would submit that it probably needs to pass this year because if we wait till next year, we will be at the commencement of the presidential election and we'll be changing the rules in the middle of the game, which I don't think is fair for either the people in Nebraska or the candidates for President of the United States. So that is why this is so important. I'd like to thank Senator Lautenbaugh, Senator Avery, and Senator Mello for cosponsoring this and for all your hard work that you've done on this bill. And I'd be happy to...especially you, Senator Lautenbaugh. And I would be happy to answer any questions that you have. [LB1048]

SENATOR AVERY: Let me start. I see two people here from the parties. And I presume that they will be addressing the question that you raised about the gap. There is an incomplete part of this bill yet to be completed. [LB1048]

SENATOR MURANTE: I do not presume to speak for either of the political parties, so I will defer to their judgment. And they can talk about whatever it is they want to talk about. [LB1048]

SENATOR AVERY: Do you have anything to say about the process of consulting with the two political parties at the same time? [LB1048]

SENATOR MURANTE: I will say this. It was a unique experience being able to sit down with both political parties on this issue. And understand that they both needed legislative action to happen on this. And to make it happen in a way that was workable for both of them was an interesting conversation. I, personally, found the intraparty discussions of what each side attempting to figure out what they wanted to see accomplished for themselves was probably more fascinating. But the two...how the two parties worked, didn't seem to conflict with each other. They sort of ran parallel to each other. So it was, once we could kind of figure out where both parties wanted to go with it, that it was--I don't want to say easy--but it was a work in progress that I think we got done. [LB1048]

SENATOR AVERY: And we did have a number of conversations about it. [LB1048]

SENATOR MURANTE: Yes. [LB1048]

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SENATOR AVERY: Questions from the committee? Senator Lautenbaugh. [LB1048]

SENATOR LAUTENBAUGH: I would just note, I do see the chair of one of the parties. But I don't see the chair of the other party. And I just wanted you to know that this committee is being trifled with, Mr. Chairman. I hope you recognize that we're being disrespected, so. But we'll make do, but... [LB1048]

SENATOR MURANTE: We're trying to smooth things out, Senator Lautenbaugh. [LB1048]

SENATOR LAUTENBAUGH: As am I. [LB1048]

SENATOR AVERY: Thank you. I don't see any more questions. [LB1048]

SENATOR MURANTE: Thank you. [LB1048]

SENATOR AVERY: Proponent testimony? Senator Karpisek wanted to know who was going to step on the land mine first. Welcome, Mr. Spray. [LB1048]

J.L. SPRAY: Thank you, Mr. Chairman. I am J.L. Spray, the initials J.L., Spray, S-p-r-a-y. I'm the chairman of the Nebraska Republican Party and a proponent of the bill, LB1048. I don't know that I have a lot to add. I certainly would submit for questions. But I think it really was, for our part, a bipartisan effort. I'd like to publicly thank the Chair for, at least, hosting some meetings and encouraging us to work through this. I think the bill streamlines a lot of things and takes some materials out that are sort of deadwood. So I think there's some good being done here that way. And really the only issue--and I don't think I have a dog in the hunt on that issue about the caucuses because we're primarily going down the parallel track with the primaries--but the 80 percent number in the number of delegates that have to be allocated based on the primary election to make it meaningful is a minimum. And that minimum could be more minimal, I think. The reason it's set there--my understanding anyway--is that it tips the hat at super delegates--in our case, we call them automatic delegates--to the national convention, because they're not subject to the election in the primary. And so we need some kind of leeway there. But I think that could be 60 percent or 55 percent or 75 percent just as easy. And I worry that because we have national party rules--which is sort of what both of us are dealing with here--that we leave enough flexibility that we can tiptoe around them without coming back to the Legislature all the time, asking for some kind of relief or change. I think my goal, at least, was to give us as much latitude as was reasonable so that we could work within the confines of that. And that's certainly what we intend to do. I think, with the passage of the bill, we're in good shape, so. Now, anybody have any questions for me? [LB1048]

SENATOR AVERY: Let me ask you, is 80 percent enough? [LB1048]

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J.L. SPRAY: It's too much, I think. I'd rather see it lower. You know, the purpose, if I understand it, is to give meaning to the primary which heretofore has had no meaning. I respect that decision. And I think it probably, policywise, makes a lot of sense. I just want to see to it that both parties have room within that remaining amount. So, for instance, if we went from 3 automatic delegates to 8 out of 32 by adding, say, our congressional delegation as automatic, we would all of a sudden be having to come back to talk about how to get relief from the 80 percent. So I don't think that's anywhere in the near term, but that's my thinking about it. [LB1048]

SENATOR AVERY: Okay. Questions from the committee? Thank you, Mr. Spray. [LB1048]

J.L. SPRAY: Thank you, Senator. [LB1048]

SENATOR AVERY: Additional proponent testimony? Welcome. [LB1048]

VICTOR COVALT, III: Good afternoon. I'm not the chair of the Democratic Party. [LB1048]

SENATOR AVERY: No. Former, former. [LB1048]

VICTOR COVALT, III: My name is Victor Covalt, C-o-v-a-l-t. And events would tell you not to look at the guy behind the curtain. That's the scary part. My name is Vic Covalt. I used to be chair of the Democratic Party. I was on the rules committee for the Democratic Party in 2008. I helped organize and run the caucuses in 2008. And I served as state chair for the Nebraska Democratic Party 2008 to 2012. I'm also a delegate and the delegation chair of our Nebraska delegation to the Charlotte convention in 2012. In doing that, I've had two rounds of drafting delegate selection plans to match up with the Democratic National Committee rules and the state rules. And it's hard to have two masters, I'll just tell you that. At the end of the day, I think the state interest in the regulation of political parties is to, first of all, make sure it coordinates with the state election process. And second of all, it gives Nebraskans a meaningful participation within that process. If you haven't noticed, we have a really odd way of picking a President in this country. And they really are picked by the parties, and they really are...the candidates are picked by the parties. And it's their convention, it's their party, and you have to play by their rules or you don't get in. And that's always been the conflict between the state rules, which were designed many years ago for an entirely different environment than what we have today. My initial proposal is we threw out most of Article 7, kept the first three sections, kept the one that said we had a state convention, and got rid of everything else so that I could dance with the DNC and what they do. I don't pretend to know what the RNC knows and does and how they do it. But I'll tell you, the DNC, they like their rules, and they've got a lot of them. And they, at

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times, blatantly conflict with the state party rule or state law. And there's a savings clause that says, do the best you can within those rules. But the things that really need reformed right now, as the sponsor well noted, is that the time crunch on the county conventions being held the first 10 days in June, left me 13 days to go from electing county delegates to the state convention, to having everything submitted to the DNC. I had a June 23 deadline for all the delegates, everything done. So I was going from no delegates to everything done in 23 days. It can be done. But if you move it back any further, it can't be done. Okay? And the indications are, they're going to move it back even further. The second thing that really has to be changed is the selection of county convention delegates because right now, that's an elected position. I've already filed my application to be elected. The default clause is two delegates per precinct. If three people show up, you have to have a separate ballot printed for that precinct. Now the parties have been magnanimous in sending out notices to all the county clerks that we want 1,000 delegates per precinct to avoid elections on that. But it seems to me that that's all kind of a game that we don't need to be playing. Other things that, you know, the CD conventions that are in state statutes (inaudible) a convention and the certification of national delegates by the Secretary of State in 705 and 706. I know of no compliance with that at all because the DNC sets their rules to who gets to be a delegate and when your deadlines are and what you have to file. And that's all they care about. Preserving the primary election is very important, meaningful participation. The one thing after the running the caucus in 2008, the most constant complaint was there is a percentage of people in America that want their vote to be private. And I think that that private vote should be respected. And I think Nebraskans should get to vote for who their party's presidential candidate is and express it in a meaningful way. I appreciate the bill's putting some strength into that. Before we were supposed to be electing county delegates, who are electing state delegates, who were representing the people that way. That went by the wayside. But I do think that what we need to do is give the parties the greatest amount of flexibility to manage their own affairs. And I would suggest a hybrid system should be added to Section 4 that said, "or any combination of caucus and primary" because I can see allocating it both ways for the greater good, because we're not going to move our primaries to become important in Nebraska politics. But we can do both and have it both ways and it takes one more clause, "or any combination of caucus and primary". Another thing is I think the county conventions because of the timing, just have to remain optional. This is a place where J. L. and I disagree, but we agreed to disagree. I tried to accommodate what he needed. But what I'd like to say is that we'd like an opportunity to run our preliminary caucuses or conventions on something other than a county basis because of a disenfranchisement that occurs when you run it by counties in small rural areas and, sometimes, in very large metropolitan areas. My object is and our goal is that all people have a meaningful participation in the process. So support the bill, could add a combination of caucus and primary, avoid mandatory registration or mandatory county conventions, and preserve the presidential primary. Thank you. Any questions? [LB1048]

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SENATOR AVERY: Questions from the committee? Senator Lautenbaugh. [LB1048]

SENATOR LAUTENBAUGH: Thank you. Thank you, Mr. Chairman. By the way, I was joking about you not being the chairman. We had a testifier, introducer, earlier in the session say we were being disrespected because somebody sent the wrong person to testify. So I was alluding to that. I'm perfectly happy to see you. Vince is great also but, you know... [LB1048]

VICTOR COVALT, III: Vince knows what to do, I know how to do it. [LB1048]

SENATOR LAUTENBAUGH: Thank goodness you have each other then. [LB1048]

VICTOR COVALT, III: Yeah, that's true. [LB1048]

SENATOR LAUTENBAUGH: I guess I shouldn't say that, you know, things considered. Maybe I don't want you guys to have each other. But anyway. [LB1048]

VICTOR COVALT, III: Anything else? [LB1048]

SENATOR AVERY: Are you...you don't mind if we quote you on that? [LB1048]

VICTOR COVALT, III: Quotable...if it's quotable, it's quotable. You can have it. [LB1048]

SENATOR AVERY: It's on the record. [LB1048]

VICTOR COVALT, III: Okay, it sounds good. Thank you very much. [LB1048]

SENATOR AVERY: I don't see any more. [LB1048]

VICTOR COVALT, III: Okay, thank you. [LB1048]

SENATOR AVERY: Thank you. Any other proponent testimony on LB1048? Okay. Seeing none, any opponent testimony? All right, neutral testimony. You are free to close. [LB1048]

SENATOR MURANTE: I'll close very briefly just by saying that one thing I do think we have to at least consider in this process is the discussion of moving our primary date. If we have a national convention in the middle of June, which the Republican Party has already affirmed that that's what they intend to do going forward and I understand the Democratic Party will follow suit, having a May primary is...first of all, we are at the very end. We already are pretty much at the very end, but we are making ourselves at the end of the process and basically irrelevant. And it's going to make their jobs extremely difficult to go from a primary election to a national convention in a period of weeks.

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There are a lot of good reasons to move our primary election into April. And I think that's something that we have to consider in this process. [LB1048]

SENATOR AVERY: Well, that is not proposed in the bill, though. [LB1048]

SENATOR LAUTENBAUGH: Yet. [LB1048]

SENATOR MURANTE: Committee amendments are germane to just about everything, as I understand it. [LB1048]

SENATOR AVERY: Well, we are discussing it, so this is part of the hearing. [LB1048]

SENATOR MURANTE: Uh-huh. [LB1048]

SENATOR AVERY: Senator Lautenbaugh. [LB1048]

SENATOR LAUTENBAUGH: Can you refresh my recollection? Did we advance the bill already this year with the amendment that changed the filing deadline? [LB1048]

SENATOR MURANTE: Yes. That was the issue with Senator Larson's bill and Senator Mello. There was sort of a hybrid agreement, as I recall, that was adopted and it's now on Final Reading. [LB1048]

SENATOR LAUTENBAUGH: So our filing deadline is already moving up to... [LB1048]

SENATOR AVERY: No. [LB1048]

SENATOR LAUTENBAUGH: It is not moving up? [LB1048]

SENATOR MURANTE: No. That wasn't...that didn't end up being the agreement. Although Senator Mello, if memory serves, that was his desire. [LB1048]

SENATOR AVERY: We were trying to get some room for writing candidates in. [LB1048]

SENATOR MURANTE: Right. [LB1048]

SENATOR AVERY: We couldn't do it because of military voters. [LB1048]

SENATOR LAUTENBAUGH: Oh, okay. [LB1048]

SENATOR MURANTE: Uh-huh. [LB1048]

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SENATOR LAUTENBAUGH: Well, now I've got two things to talk to him about, so. [LB1048]

SENATOR MURANTE: All right. [LB1048]

SENATOR AVERY: Senator Bloomfield. [LB1048]

SENATOR BLOOMFIELD: What is the earliest that we could move our primary to without getting the national parties all upset? [LB1048]

SENATOR MURANTE: Well... [LB1048]

SENATOR BLOOMFIELD: My personal opinion is to tell them where to go. [LB1048]

SENATOR MURANTE: Okay, so I know the Republican Party just passed their new rules where they said that Iowa, New Hampshire, Nevada, and South Carolina, if memory serves, will have their caucuses and primaries in the month of February. No one can go before them. And, if memory serves, it was the first two weeks in March states can start conducting caucuses and primaries but it would have to be awarded proportionally based on the results. They could not do winner take all. And if it was after March 15--and I could be off here or there on the dates but that's how I generally remember it--so we couldn't go into February or certainly before that without being penalized from the Republican Party side. I'm not sure that the democrats have recodified their rules yet. I've been trying to follow along, but I haven't...I don't know that they've made that change at this point. [LB1048]

SENATOR AVERY: Senator Lautenbaugh. [LB1048]

SENATOR LAUTENBAUGH: Did you have discussions with the parties about moving the primary, with their representatives? [LB1048]

SENATOR MURANTE: I have had discussions with the representatives. I don't know that I've spoken with Vic Covalt, well, ever before. So this will be an experience. And, J. L., I don't know that you and I actually... [LB1048]

J.L. SPRAY: I think we did. [LB1048]

SENATOR MURANTE: We did have that discussion. [LB1048]

SENATOR AVERY: Is that a question? [LB1048]

SENATOR LAUTENBAUGH: Well, and you're talking about moving...I mean, some states have a presidential primary, I believe, and then they have the everything else

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primary... [LB1048]

SENATOR MURANTE: Right. [LB1048]

SENATOR LAUTENBAUGH: ...which I think guarantees bad turnout in two separate primaries. [LB1048]

SENATOR MURANTE: Right. [LB1048]

SENATOR LAUTENBAUGH: But we're not talking about that, I'm assuming. [LB1048]

SENATOR MURANTE: It's...I am not. We...it's...we're unusual in that we are one of the last states in the Union to nominate a President. We're one of the first states in the Union to nominate a Governor. So our...we have one primary and we're at the extreme ends on both because we choose to have one. [LB1048]

SENATOR LAUTENBAUGH: So we would be going much earlier in our gubernatorial nomination. [LB1048]

SENATOR MURANTE: A month, potentially, yeah. I mean, it's... [LB1048]

SENATOR LAUTENBAUGH: Okay. [LB1048]

SENATOR AVERY: Any more questions? Thank you. [LB1048]

SENATOR MURANTE: Thank you. [LB1048]

SENATOR AVERY: That ends the hearing on LB1048. We'll now move to LB746. [LB1048]

SENATOR AVERY: Good afternoon, committee. My name is Bill Avery, B-i-l-l A-v-e-r-y, I represent District 28 here in south-central Lincoln. Most of you who know me, know that I have been an advocate for making the voting process as easy and as accessible for as many people as possible. For example, I introduced bills allowing people to register to vote on-line. I've had bills to provide easier access for students to request early ballots, to allow people to register to vote on election day, to ease the restrictions of petitioning on the general election ballot. That's just to name a few of the bills that I have sponsored in the past, most of which, however, died in committee as I recall. I believe this bill has the same intent, making the process of voting easier for people who want to vote. LB746 provides that if a voter has moved from one residence to another within the state, the voter will be entitled to vote provisionally. Currently, voters who move within the county in which they are registered to vote are allowed to do that, to vote provisionally. This bill allows someone who moves from one county to a different

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county to vote provisionally in their new county of residence. Current law allows a voter who moved to a new county after the close of the voter registration period, to vote for President and Vice President. That's a special ballot that includes only the Presidential and Vice Presidential candidates. This bill is an extension of that current provision. Instead of only allowing the voter to vote the top of the ticket, LB746 allows the voter to vote the entire ballot. Similar bills have been introduced in the past. One of the concerns raised by those bills was the issue of voter fraud. Under this bill, LB746, voters are required to provide address verification before they receive the provisional ballot. To approve their address, a voter can provide photographic identification such as a driver's license. They can provide a utility bill, a bank statement, a government check, or other government document that is dated within 60 days prior to the date of presentation. The documents need to show the same name and resident address of the person provided on the registration application in order to vote a provisional ballot. Again, I believe this bill makes the voting process easier, more accessible to more voters, and still address the issue of voter fraud by requiring address verification. And I urge you to advance this to General File without amendment, and promptly. [LB746]

SENATOR MURANTE: I appreciate your candor. Senator Scheer. [LB746]

SENATOR SCHEER: Go ahead. [LB746]

SENATOR MURANTE: Senator Wallman. Senator Scheer. [LB746]

SENATOR WALLMAN: Thank you, Senator Avery. This bill intrigues me, as you probably knew it would. And I have good friends who reside in Texas six months and one day, so they're legally Texas citizens. And so they have Texas license plates on their motor homes and stuff. And yet, they vote in our election because they also have a Nebraska license plate. I mean, not a license plate but Nebraska resident. Is that legal? [LB746]

SENATOR AVERY: Are they voting in Texas, too? [LB746]

SENATOR WALLMAN: I'm going to ask. [LB746]

SENATOR AVERY: I don't think that they are violating any statute in Nebraska. I might be wrong, but I don't think they are. [LB746]

SENATOR WALLMAN: Okay, thank you. [LB746]

SENATOR AVERY: But it's very possible they're violating something in Texas. [LB746]

SENATOR MURANTE: Hold on. Senator Scheer. [LB746]

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SENATOR SCHEER: Thank you, Senator Murante. Senator Avery, did you get a chance to look at Secretary of State's letter? [LB746]

SENATOR AVERY: No. I just became aware of that letter a few minutes before the committee session started. [LB746]

SENATOR SCHEER: Well, in it--and I'm going to paraphrase because I want you to respond to it--his concern by and large gets to the fact that if you are a current resident of a county, you can't register the last ten days to vote. Yet, if you move from one part of the county to another and have had time to establish their residency either by getting a bank statement changed or getting utilities set up and so forth, obviously, they've had time to reregister. Are you not having a special class of citizen because we don't let somebody just walk in the day of election and say, I live here. I've lived here for five years, for that matter. I just have never registered to vote. [LB746]

SENATOR AVERY: Yeah, I see your point. I am an advocate of election-day registration so I don't have any problem with that. I do think, though, that... [LB746]

SENATOR SCHEER: But that's not allowed right now. [LB746]

SENATOR AVERY: Yeah. [LB746]

SENATOR SCHEER: So based on what we're doing right now, do you see a problem? [LB746]

SENATOR AVERY: I know this will be a step in the right direction because you're getting closer to election-day registration, which I think would be (inaudible). Now I do know that the Secretary of State has opposed legislation like this in the past. But I haven't had a chance to study the letter. I intend to do...looks like it's going to get legs. [LB746]

SENATOR MURANTE: Is that all, Senator Scheer? [LB746]

SENATOR SCHEER: Yes, thank you. I'm sorry. [LB746]

SENATOR MURANTE: I can't help but notice that you have introduced a bill which requires some voter identification. And I... [LB746]

SENATOR AVERY: I thought I'd slipped that past you. [LB746]

SENATOR MURANTE: ...I'd be remiss if I didn't ask, is requiring voters to show identification under your bill, do you consider this to be voter suppression? [LB746]

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SENATOR AVERY: I...no. Actually, these are special circumstances and it's very limited. It's not a voter ID bill. It applies to every vote. [LB746]

SENATOR MURANTE: So we're just... [LB746]

SENATOR AVERY: It's proof of address. [LB746]

SENATOR MURANTE: So we're just suppressing votes in a targeted way rather than across the board? [LB746]

SENATOR AVERY: This is not something that one has to do in order...I mean, if you want to be able to have county-to-county portability for your registration, then you have to establish your residency. And that's one way to do it, is with a driver's license. It's not the only one, you'll note. [LB746]

SENATOR MURANTE: Thank you, Senator Avery. [LB746]

SENATOR AVERY: Okay. [LB746]

SENATOR LAUTENBAUGH: You understand, this is my opportunity to come up with the person who this is the only possible way they could do it and you're suppressing their vote because they just would have to have that license and, you know. But... [LB746]

SENATOR AVERY: I can imagine all kinds of things that would happen between you and me if this bill gets to the floor. [LB746]

SENATOR LAUTENBAUGH: But we get along now, so that's not going to happen, truly. [LB746]

SENATOR MURANTE: Thank you, Senator Avery. [LB746]

SENATOR AVERY: Thank you. [LB746]

SENATOR MURANTE: Are there proponents for the bill? Welcome. [LB746]

ADAM MORFELD: (Exhibit 1) Good afternoon, Senator Murante and members of the 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 testifying in support of LB746. We'd like to thank Senator Avery for introducing this legislation. And we believe that this is an incremental step to achieving what we've tried to achieve in the past with election-day registration but understanding that some people have concerns about that type of legislation. That being said, I want to address a few things right off the bat. The

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one-liner, I think, is somewhat unfortunate in that it indicates that voter identification may be required for certain voters. For us, this is address verification. And it's address verification under the current HAVA requirements for people that move into the state, are first-time registering to vote, and register to vote by mail, and also do not provide a Social Security number or a driver's license number, I believe. Those people currently have to provide some kind of address verification when showing up to vote if they don't do those things. And at the end of my testimony on LB662, I did note that we were fine with address verification as...and that's the voter ID bill, I'm sorry. LB662 was the voter ID bill introduced by Senator Krist on behalf of Secretary Gale. I did note that we were fine with address verification under the current HAVA requirements--which is essentially what this is--address verification under the current HAVA requirements because that's a form of verification that a lot of people are going to have, whether it be in the glove box of their car or the bottom of their car or something they get in the mail that's no more than 60 days old. I did want to pass out just a little bit of information about provisional ballots currently in Nebraska. This is data from the 2008 election. We haven't gotten done...we have not finished analyzing data from the 2012 election. And that's primarily because we waited until the last minute to ask the Secretary of State for that data. But we will send that analysis. And what it basically shows if you turn to the back is, in that chart of the provisional ballots that were rejected in 2008--about 3,500--24 percent of them were voters that were already registered in the state but in the wrong jurisdiction. Essentially, meaning that they had moved from one county to the other. They forgot to reregister to vote, they showed up at their polling place, and they were out of luck. That's 804 different people that had voted. And we believe that it's a step in the right direction to allow those people who have moved from, say, Douglas to Sarpy County--which I think sees a lot of this--or Sarpy to Douglas County, to allow those people who show verification of address and fill out a provisional ballot and everything checks out, and they've already been a registered voter for the first time in the state and provided all those HAVA requirements that they voted or registered by mail, to allow them to have their ballot counted because, essentially, what's happening right now is they're going through the entire--they as in the election administrators--are going through the entire process of verifying that provisional ballot. But the difference is, is they're throwing it out instead of counting it. This would add the added step of address verification. But it would also add the possibility of that person's ballot being counted if they had address verification on election day. Address verification is something that is used in all ten election-day registration states--well, there's actually nine; District of Columbia would be ten--and in Iowa included, Wisconsin, and Minnesota. So this is a common practice for election-day registration. That's not what this is, though. This is a very narrow group of people that are already registered within the state that would be able to have their ballot counted instead of thrown out if they move from one county to the next or within one county in some cases. That being said, some of the concerns that we've heard in previous testimony on this--and it was a few years ago--was some of the election officials had concerns about their ability to verify if one person had already voted in another county before they actually count and open the ballot. The solution to

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that is the county calling the other county toward the end of the ten days that they've gone through all of the provisional ballots and asking, hey, has this person tried voting in this county before we count it? I think that's a fairly simple process. Some of the smaller counties have actually brought up that, well, you know, I don't have a lot of staff. I don't have a lot of resources to do that. Well, in most smaller counties that have those issues, there's not that many provisional ballots that they need to look at and count anyway. So I think that the time would be fairly de minimis and I think that you would see a lot more of these ballots being counted, which is our end goal, and making elections as accessible as possible in a secure manner. And with that being said, I'd be more than happy to answer any questions that you may have. Thank you. [LB746]

SENATOR MURANTE: Senator Bloomfield has a question. [LB746]

SENATOR BLOOMFIELD: Thank you. Barring any enforcement, a lot of the county officials they have to contact one another, this individual just got by with voting in both counties. Unless we put something in there that says, if he votes a provisional ballot, the county clerk will contact the clerk from the other county. Am I mistaken there or is that...did they just slip by with two votes? [LB746]

ADAM MORFELD: Well, Senator, I need to double-check. I don't have the legislation in front of me. But I thought there was a provision in there that would require that they double-check or if there isn't a provision in there, I mean, I think that we need to add that provision. [LB746]

SENATOR BLOOMFIELD: Okay. I thought in your testimony you said they might call them or they could call them. [LB746]

ADAM MORFELD: Yeah. I think it should be required. And if it's not in there, then I'd be more than willing to work with Senator Avery's office to draft an amendment because that would be a concern of ours too. [LB746]

SENATOR BLOOMFIELD: Okay. Thank you. [LB746]

ADAM MORFELD: And to answer Senator Wallman's question earlier, residency is determined by what you consider your domicile or your residency, as Amy Miller testified today from the ACLU on the voter ID bill. So a person can be a snowbird down in Texas. But as long as they're not voting in both Texas and Nebraska, they can consider this a residency as long as they have some kind of physical presence. It can't just be I feel like Nebraska is my residency but or residence but I don't actually have any physical presence there. [LB746]

SENATOR MURANTE: Senator Scheer. [LB746]

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SENATOR SCHEER: I'll have you respond to this, and I probably will know your answer. But I need to say it anyhow. From your comments that this is a good thing because the counties can call each other and verify and do all these things but if we get back to basics, from my perspective, because someone didn't take the personal responsibility to change their registration, having changed or started all these other different accounts, it's okay, then, to put the onus on the counties to do all the verifying because the individual didn't take the time to do that. And, I mean, I understand what you're saying. There is the opportunity for others to do that but, you know, at some point in time we maybe need to come back to some type of personal responsibility because what, in essence, we've done is transferred it from the individual that had the obligation to change that registration... [LB746]

ADAM MORFELD: Uh-huh. [LB746]

SENATOR SCHEER: ...to now it's the obligation of the counties to verify that, you know, although you haven't done--not you, personally--but the person hasn't reregistered and then being able to verify that he is. And a vote is a precious item. I'm not trying to minimize that. [LB746]

ADAM MORFELD: Uh-huh. [LB746]

SENATOR SCHEER: But I think sometimes we might try...there has to be a balance somewhere. And I'm not sure that this is the balance by putting the onus back onto the counties to verify that you really are what you are and really had the responsibility to do before that point in time. I mean, there's going to be exceptions. I understand that. [LB746]

ADAM MORFELD: Uh-huh. [LB746]

SENATOR SCHEER: But sometimes I just wonder at what point does it become the person's error for not being able to vote. [LB746]

ADAM MORFELD: Uh-huh. [LB746]

SENATOR SCHEER: A lot of us don't vote for a lot of different reasons... [LB746]

ADAM MORFELD: Uh-huh. [LB746]

SENATOR SCHEER: ...and when it really does merit that other side of work on the part of the institution to allow that. [LB746]

ADAM MORFELD: Can I respond to you? [LB746]

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SENATOR SCHEER: You bet. [LB746]

ADAM MORFELD: Okay. It wasn't a question but I would like to respond. I think that, you know, we get that question a lot or we get that viewpoint a lot. And my response to that viewpoint is that, you know, I do believe it's the obligation of the county clerk or the election commissioner--and depending on the county--to do everything in their power to be able to count some of these ballots as long as it is within...it is permissible pursuant to statute. So for me, as long as that person takes the personal responsibility of showing up, being an eligible voter, proving residency in some cases, I do believe that it is the election commissioner and the county clerk's job to go out--as long as it's permissible by state statute or state statute requires that--to go out and verify that person and make sure that their vote counts. For me, I come from the train of thought of Senator Avery in that we should have election-day registration. There's currently ten states--well, nine states and the District of Columbia included--that have election-day registration and have had run very smooth elections with people registering on election day showing proof of residency. And for me, if the technology and the ability is there to keep our elections as safe and secure as possible--and it's been proven in other states for over 30 years in some cases that that's a safe and effective way of running elections and it makes it as accessible as possible--then I don't think that there should be any barriers to that right to register and vote on election day or cast a provisional ballot, show residency, and vote on election day. For me, the personal responsibility argument...you know, I guess I just don't agree with that argument. I just think that if there is a will and there's a way to do it secure and make elections more accessible, that's the policy that should dictate. [LB746]

SENATOR SCHEER: Well, in my own response to this... [LB746]

ADAM MORFELD: Uh-huh. [LB746]

SENATOR SCHEER: ...we may have different viewpoints on this. But what you've expounded on is registering voting, essentially, the election day. [LB746]

ADAM MORFELD: Uh-huh. [LB746]

SENATOR SCHEER: That is, to me, a separate issue than what we're talking here. [LB746]

ADAM MORFELD: Uh-huh. [LB746]

SENATOR SCHEER: If that ultimately is what your goal or Senator Avery's goal is, then I personally think that's what the bill ought to state. [LB746]

ADAM MORFELD: Uh-huh. [LB746]

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SENATOR SCHEER: It should not have an incremental adjustment here or there. If that is, indeed, the intent, then make that the bill. [LB746]

ADAM MORFELD: Uh-huh. [LB746]

SENATOR SCHEER: And we'll have a discussion on that item at that point. But that's really not what this bill talks about. [LB746]

ADAM MORFELD: Certainly. [LB746]

SENATOR SCHEER: That's why I don't disagree with your philosophy and your thoughts on that... [LB746]

ADAM MORFELD: Uh-huh. [LB746]

SENATOR SCHEER: ...but that's not what this bill is talking about. [LB746]

ADAM MORFELD: You're right. And that's not what this bill...I mean, we've had about seven election-day registration bills introduced over the last eight years. And none of them have made it out of committee. So for...so...you know, I think that this bill, for us, represents a middle of the road, a compromise for people that are currently registered in the state who move from one county to the next, forget to reregister or maybe they choose not to reregister because they know that this process is in place. As long as they have address verification, they have the ability to be able to fill out a provisional ballot, register to vote--which is the same thing when you're filling out a provisional ballot--and then have their ballot counted. But you're right. It is. It's a different process. It's not election-day registration. I feel as though it's a step in the right direction and it's a middle-of-the-road type of compromise. [LB746]

SENATOR SCHEER: Fair enough. [LB746]

ADAM MORFELD: I don't know if I have any position to compromise here but that's how I feel so it represents. Thank you. [LB746]

SENATOR SCHEER: Thank you, Senator. [LB746]

SENATOR MURANTE: Thank you. Senator Bloomfield. [LB746]

SENATOR BLOOMFIELD: Thank you. I'm going to throw out an example. I'm going to take one of our own sitting senators here, Hansen, from out in the western part of Nebraska. He rents an apartment downtown. I'll guarantee you, he can show you a light bill from both places the same day. No problem voting twice. [LB746]

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ADAM MORFELD: But...and if it's not in the bill, I think it should be in there, Senator Bloomfield. But if there's a provision that requires that they check... [LB746]

SENATOR BLOOMFIELD: Call. [LB746]

ADAM MORFELD: ...the ballot and make sure that he didn't vote in the other county that he was previously registered in, then they wouldn't count that ballot. And they could actually, probably--if they could find some intent--they could maybe charge him with voter fraud as well. If that's not in the bill, then you know, I think it should be put in there. We can work on that. [LB746]

SENATOR BLOOMFIELD: Okay. Thank you. [LB746]

ADAM MORFELD: Yep. [LB746]

SENATOR MURANTE: Senator Karpisek. [LB746]

SENATOR KARPISEK: Thank you, Senator Murante. Mr. Morfeld, this is just a provisional vote, right? [LB746]

ADAM MORFELD: Uh-huh. [LB746]

SENATOR KARPISEK: So it would go through the same channels as any other provisional vote? [LB746]

ADAM MORFELD: Yes. With the exception that it would have the additional requirement that they show address verification. [LB746]

SENATOR KARPISEK: So really, we're not recreating the wheel here. We're just putting more maybe into the provisional box. [LB746]

ADAM MORFELD: Yes. [LB746]

SENATOR KARPISEK: So it would still be checked... [LB746]

ADAM MORFELD: Yes. [LB746]

SENATOR KARPISEK: ...just like all others. Okay. I'm more with you now. Thank you. [LB746]

ADAM MORFELD: Okay. [LB746]

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SENATOR MURANTE: I have to ask you the same question that I...the same basic concept that I asked Senator Avery... [LB746]

ADAM MORFELD: Uh-huh. [LB746]

SENATOR MURANTE: ...and that I asked a representative of Common Cause a couple of weeks ago. [LB746]

ADAM MORFELD: Uh-huh. [LB746]

SENATOR MURANTE: It seems by your testimony that you don't have an enormous problem with what you call address verification, that to you, that's a reasonable standard for our voting system in Nebraska. Is that an accurate sentiment? [LB746]

ADAM MORFELD: Yes. Under certain circumstances, yes. [LB746]

SENATOR MURANTE: When would it be inappropriate and why? [LB746]

ADAM MORFELD: You know, I'd have to think about that a little bit more. I think address verification, for us, and the reason why we said that that's a reasonable compromise on LB662 was that...I should step back for a minute. The reason why we have a problem with LB662 in Senator Janssen's bill... [LB746]

SENATOR MURANTE: Uh-huh. [LB746]

ADAM MORFELD: ...is it requires a strict photo identification with current address that they are currently registered at, a type of verification that a lot of eligible voters don't have. [LB746]

SENATOR MURANTE: Uh-huh. [LB746]

ADAM MORFELD: We're fine with address verification in this instance, when there's a need to identify and then or verify. And then in other instances where the Secretary of State is concerned, I'm not as concerned as he is about those instances but that's neither here nor there. Where address verification with the more broader requirements--so utility bill, bank statement, etcetera, etcetera--that is a type of verification that more people are going to have and the people that we're concerned about that move around a lot. So for me, in special circumstances such as this where people have concerns about people voting in multiple locations, and in circumstances like the Secretary of State where he's brought up some concerns about certain demographics of voters, that's where I think address verification is fine and acceptable and something we're willing to compromise on. I don't know if that answers your question, though. [LB746]

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SENATOR MURANTE: You got about halfway there. [LB746]

ADAM MORFELD: Okay. [LB746]

SENATOR MURANTE: So if we were to apply it more broadly and just say... [LB746]

ADAM MORFELD: Everybody. [LB746]

SENATOR MURANTE: ...address verification is necessary to vote, that sounds like something you would be opposed to. [LB746]

ADAM MORFELD: I think I'd be opposed to it but only because first, there's not a problem that has been identified. With the Secretary of State's proposal, he's identified 2,000 or 3,000 people that he's concerned about for certain reasons. Okay. Address verification, that will most likely be accessible documentation for most people, for a vast majority of people. Under this circumstance, we have concerns that people could vote in two different places on election day. I think address verification, again, is broad enough and reasonable enough to be able to add as a requirement to special circumstances such as this. [LB746]

SENATOR MURANTE: And the word you used were...was that we have concerns about this happening. Do you have any evidence that anyone has actually...how do I say that? [LB746]

ADAM MORFELD: Voted in one place and then voted in the same place in the same day, is that... [LB746]

SENATOR MURANTE: Exactly. [LB746]

ADAM MORFELD: In states like Iowa that recently passed election-day registration in 2006... [LB746]

SENATOR MURANTE: Uh-huh. [LB746]

ADAM MORFELD: ...that has not happened. In fact, it would be easy to catch because you'd find out...it wouldn't be easy to catch beforehand which is, you know, why I think that provision is important that that be in there. But you'd find out if somebody voted twice. You know, that there would be a record that they voted once in whatever county and then they voted in the other place. And then they'd be able to prosecute that person. [LB746]

SENATOR MURANTE: Okay. [LB746]

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ADAM MORFELD: We haven't seen that in Iowa. [LB746]

SENATOR MURANTE: I think, and you and I have talked about this before. [LB746]

ADAM MORFELD: Uh-huh. [LB746]

SENATOR MURANTE: I mean, in my view, either these sort of restrictions are civil rights violations which are intended to suppress voter turnout or they're not. It's one or the other. I mean, you can't have...there isn't a middle ground there. [LB746]

ADAM MORFELD: Actually I think, Senator, I have to disagree with you. We've provided the middle ground, it was address verification. The Secretary of State rejected that. So I think there is, you know, a middle ground. And I see what you're talking about in the ideological spectrum. [LB746]

SENATOR MURANTE: Right. But either these sorts of causing people to prove they are who they say they are... [LB746]

ADAM MORFELD: Uh-huh. [LB746]

SENATOR MURANTE: ...and that they live where they say they live, either it is a moral wrong or it's not. [LB746]

ADAM MORFELD: Uh-huh. Yeah. [LB746]

SENATOR MURANTE: You can't really have it both ways. [LB746]

ADAM MORFELD: No. [LB746]

SENATOR MURANTE: There isn't...you can say...like Senator Avery kind of said, you can do it in a targeted way but... [LB746]

ADAM MORFELD: Uh-huh. [LB746]

SENATOR MURANTE: ...and to a limited group of people but if you apply it more broadly, then...I don't understand the logic there, I guess. [LB746]

ADAM MORFELD: Well, I mean, I think the logic for us--and I can't speak for Senator Avery and he can tell me if I'm wrong--the logic for me is that, you know, currently these people's ballots are being thrown out. And under this system, we're providing an opportunity for their ballots to be counted. So we're creating accessibility by adding on just one more little requirement of address verification which is already required in other

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circumstances throughout the state. So for me, that's the difference is that the requirements that we're talking about in LB662 and then LB381, both the voter ID bills, those are requirements that do not expand the availability or the accessibility of voting and do not address a problem that has been found to exist. This one is...okay. [LB746]

SENATOR MURANTE: But the point that I'm trying to get at... [LB746]

ADAM MORFELD: Yeah. [LB746]

SENATOR MURANTE: ...is what you call just one little requirement when you're talking about a person who's moved across county lines... [LB746]

ADAM MORFELD: Uh-huh. [LB746]

SENATOR MURANTE: ...and wants to vote. I suspect if Senator Janssen introduced a bill next year to apply it to the entire population, you and 15 other groups would have a line out the door talking about the civil rights travesty that is occurring in the state of Nebraska. And it's the exact same activity. [LB746]

ADAM MORFELD: Uh-huh. [LB746]

SENATOR MURANTE: You're just applying it to a different universe of people. [LB746]

ADAM MORFELD: To be honest with you, we would have to see what address...if somebody introduced a bill requiring address verification for everyone and it wasn't the broad requirements that we have now, we would have to sit down with my board and address whether we would oppose that, to be quite honest with you. You know, again, any time that you put on a restriction, you have to look at what's the compelling governmental interest for us with voting rights. And in this case, this is not a restriction that would restrict people from voting. This would actually expand voting and have ballots that would otherwise not be counted, counted. I see where you're going with this Senator. But to be honest with you, address verification under the broad requirements here, we would not be as opposed. And I can't speak for my board or myself. We'd have to look at impact and some of the things that they're trying to do and see the legislation. So I can't take a position on something that's currently out there. But it would not be the opposition that we have to a strict voter ID requirement, I can guarantee that. [LB746]

SENATOR MURANTE: Okay. Any other questions? Thank you. [LB746]

ADAM MORFELD: Thank you, Senator. [LB746]

SENATOR SCHEER: Thanks, Adam. [LB746]

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SENATOR MURANTE: Are there additional proponents wishing to testify? Seeing none, are there any opponents who wish to testify? Welcome. [LB746]

BETH BAZYN FERRELL: Good afternoon, Senator Murante, members of the committee. For the record, my name is Beth Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials and I'm appearing in opposition to the bill. When our board talked about this bill it really...the discussion focused on some of the issues that Senator Bloomfield raised about how do election commissioners communicate with each other to verify that someone has not voted in another county. And our concerns really were logistical in nature, really related to those questions. There were also some issues of the possibility of timing that things might be delayed just as there's communication between the counties. I would be happy to try to answer questions. [LB746]

SENATOR MURANTE: Thank you very much. Are there any questions? Senator Karpisek. [LB746]

SENATOR KARPISEK: Thank you, Senator Murante. So just because there would be more? [LB746]

BETH BAZYN FERRELL: It may be that, you know, one county might get done verifying theirs sooner than another and, you know, there just might be some timing issues coordinating it. [LB746]

SENATOR KARPISEK: But don't you already have some? [LB746]

BETH BAZYN FERRELL: There are some, yeah. But, you know, depending on the number of provisional ballots were across county lines, it just may be a little more...may require a little more coordination. And it's not impossible, certainly. It's just that it may take a little longer. [LB746]

SENATOR KARPISEK: So maybe you're more negative-neutral. [LB746]

BETH BAZYN FERRELL: I...well, yeah. You put me on the spot. [LB746]

SENATOR KARPISEK: I'm sorry, but this comes back to it sounds like, well, it's just too much work. [LB746]

BETH BAZYN FERRELL: No. And I don't think that was what our concern was. It's just that there needs to be a process that provides for, directly, communication. [LB746]

SENATOR KARPISEK: And there is a process. [LB746]

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BETH BAZYN FERRELL: I don't know that it's specifically stated in this bill. [LB746]

SENATOR KARPISEK: Well, they're provisional ballots. [LB746]

BETH BAZYN FERRELL: I think our folks would maybe like a little more guidance in that. [LB746]

SENATOR KARPISEK: Okay. I would like to thank you for coming and not just sending a three-page letter blowing it up. Thank you. I think that's not very professional. Thank you. [LB746]

SENATOR MURANTE: Thank you, Senator Karpisek. Are there additional questions? Seeing none, thank you for coming. Are there additional opponents wishing to speak? Does anyone want to testify in the neutral capacity? Welcome back. [LB746]

WAYNE BENA: Good afternoon again, Senators. Again, my name is Wayne Bena, W-a-y-n-e B-e-n-a, I serve as election commissioner for Sarpy County. As consistent with previous testimonies in regard to public policy decisions, I don't believe it's my place to take an official position in regards to my office. I do think it's important to think how these type of legislations affect the process. And as an election administrator, I can answer those questions. There's been a lot of talk about neutral-positive, neutral-negative. I do share my concerns of NACO that there isn't a specific process or a clearinghouse of how we would go about verifying these things. And currently we don't call other counties. I, personally, we do. For every provisional ballot we don't count, we just go back to see if they...just as I want to prevent fraud, I sample some of the ones that we reject from Douglas County and see if they did try to vote at their old polling site. But we're not required because at the exact moment that we find out they're not a voter in the county, it's rejected and we don't have to do anything else with it. While I share the concerns of NACO, I would say on the positive-neutral side, this is the closest thing that I've seen that I could support of this type of work because we are doing most of this work already up until the point of checking to see whether or not they voted at their old polling site. Now there is the additional...we are going to be needing to check...not check IDs but verify addresses. Let's be clear, I mean, you know. But what's clear to us is not clear to the general public and what that is. So there is a little more work at the polling site that has to be done. But all the work that we do up until the point that we reject the ballot of the person that's not registered in the county, we would just need to know how we go about contacting the other county, whether or not the Secretary of State is the clearinghouse for that, if we just call, if we e-mail. I will say, Dodge County is going to be finished with their provisionals a lot sooner than I will be. Or, you know, pulling, you know...so there is some timing issues. Do I believe we can do the work? Yes. I would like procedures in place of how that work is going to be done. Finally, and I brought this up on either...on some other bills, when we start opening up certain situations in which it's okay to verify an address and some that do not, it provides a

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different standard that voters might not understand. And the example that I give and I have given before is, that we've have people in line that are in the back of the line and they see someone showing an ID. And whether or not it's that one person that has to show an ID or it's a person that's so adamant about showing something that they show it down, the person 50 behind does not know that. And I had a person leave the line adamant that we were illegally asking for ID and they didn't vote. And we said, well, it probably was under this situation because I specifically say in my training, you do not ask for ID in any circumstances unless it says that in the book. If they ask...if they try to give it to you, thank them, they don't need it, you know, what have you. So for every time we open up something, I just want you to be clear that there might be someone that doesn't understand in the back of the line that they might have to. And that makes them upset and they leave even though we could have corrected it when they got to the front. It's not that I'm for or against, it's just that I want you to understand that standard. So I share my concerns with NACO of a process to verify. But at the same time, I believe this is a very positive step in the evolution of what Senator Avery has wanted in regards to this public policy in Nebraska; that close, I think. So I will be happy to answer any questions in regards to the process of how this type of scenario would work at the polling site. Thank you. [LB746]

SENATOR MURANTE: Thank you very much. Senator Wallman. [LB746]

SENATOR WALLMAN: Thank you, Senator Murante. Thank you for coming here again. And of these provisional ballots that were, you know, nonregistered, were they in a different state or they actually moved in the community, do you know? [LB746]

WAYNE BENA: I looked up my statistics from 2012 and to briefly tell you, we had 1,500 provisional ballots, exactly. It wasn't estimated, it was exactly 1,500. Of those, 847 were counted because of for whatever various reason, most likely in-county move. We rejected 535 that were not registered in the county. Again, I would have to go back to the envelopes to figure out of that 535, 500 were from another county in Nebraska or they were somewhere else. So the maximum number that we could, if this legislation was in effect, would have added was an actual 535, depending if all 535 of those people were registered somewhere else and didn't vote at their polling site because if they did vote at their other polling site, we wouldn't count that provisional ballot and then forward it to law enforcement. [LB746]

SENATOR WALLMAN: Thank you. [LB746]

WAYNE BENA: I would say the line between Douglas and Sarpy is the most likely that this is going to happen because of...and it's always going to be the neighboring county people moving in. But the majority is going to be between Douglas and Sarpy, in my opinion, so. [LB746]

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SENATOR MURANTE: Senator Karpisek. [LB746]

SENATOR KARPISEK: Thank you, Senator Murante. I just want to say, Mr. Bena, thank you for coming and making this...telling us the real-world implications of it and not so much, hey, this is great or it's terrible. But just telling us that, that means a lot to me to try to envision what it's really going to do. And I just want to say thank you. [LB746]

WAYNE BENA: No problem. [LB746]

SENATOR KARPISEK: Thank you, Senator Murante. [LB746]

SENATOR MURANTE: You're so welcome, Senator Karpisek. [LB746]

SENATOR KARPISEK: Good. [LB746]

\_\_\_\_\_: It was good. [LB746]

SENATOR MURANTE: Anything else? Thank you. [LB746]

WAYNE BENA: Uh-huh. [LB746]

SENATOR MURANTE: Is there additional neutral testimony? Seeing none, Senator Avery, would you like to close? [LB746]

SENATOR AVERY: I was hoping there would be no opposition so I wouldn't have to close but there was. We...I think Senator Bloomfield raised a very important question that we could easily resolve in a committee amendment. And I would hope that you give serious consideration to that. On the question about is this any different from the voter ID bill that Senator Janssen has? It is significantly different because of what Mr. Morfeld calls residence verification, includes not just a photo ID but all kinds of other forms of ID. And Senator Janssen's bill I think only has two forms, one is a voter registration card that I'm sure Senator Scheer knows where his is. I don't know where mine is. I don't...I'm sure I've got one somewhere. But my 91-year-old mother would not have been able to find hers and she had not had a driver's license for 5 years. So those are the kind of things that come up in that debate. It's not the same thing as this where you're talking about four or five different ways to verify your residence. So while it is the same procedure, it does not have the same scope and impact. That will be my response. With that, I would urge you, again, to advance this bill to General File. [LB746]

SENATOR MURANTE: Thank you, Senator Avery. I can assume by your testimony, then, that if legislation is introduced which just has address verification as its scope and purpose, that you would be all for it? You'd probably prioritize it? [LB746]

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SENATOR AVERY: I'll have to look at it and see what the wording shows. But I surprise people all the time here. [LB746]

SENATOR MURANTE: Yes, you do. Senator Scheer. [LB746]

SENATOR SCHEER: Thank you. Senator Avery, just, you know, getting back to my comments as far as the personal responsibility and part of the bill states that the information has to be within the last 60 days. Compromise? Okay. You moved in the last 60 days, maybe you haven't had time. But if you've been there for over 60 days, haven't you had really time to reregister? So... [LB746]

SENATOR AVERY: Oh, surely you've had time. I have a hard time, though, putting conditions on the right to vote that include personal responsibility. You...there are all kinds of things that get in the way of preparing yourself to vote. And I'm thinking of college students, for example. You've got finals and papers due and you forget these things. But you show up to vote on election day and you're not in the right county, you ought to be able to vote provisionally. That's really what I'm trying to achieve here. [LB746]

SENATOR SCHEER: Okay. Thank you. [LB746]

SENATOR MURANTE: Thank you. Any additional questions? Senator Bloomfield. [LB746]

SENATOR BLOOMFIELD: (Inaudible) What is to keep me, under this form of identification, from picking up your ID or electric bill that you threw carelessly out into the garbage and walking in saying I'm Bill Avery before you ever get a chance to get out of bed and be there in the morning? [LB746]

SENATOR AVERY: I suppose there is nothing to stop you from doing that. I'm trying to figure out how or whether that would be illegal. It certainly would be wrong. [LB746]

SENATOR BLOOMFIELD: Oh, I'm sure it would. I'm sure it would. The odds of getting caught are pretty slim. [LB746]

SENATOR AVERY: Yeah. But... [LB746]

SENATOR BLOOMFIELD: But when you come in to vote, you're going to get tossed out on your ear. [LB746]

SENATOR AVERY: Well, that's a powerful urge to vote, isn't it? [LB746]

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SENATOR KARPISEK: Early. [LB746]

SENATOR GARRETT: And often. [LB746]

SENATOR AVERY: How is it you always come up with the absurd situations? [LB746]

SENATOR MURANTE: (Exhibits 2, 3) Is that it? All right. Before we close the hearing, I have a letter of support from Sherry Miller, the president of the League of Women Voters and a letter of opposition from John Gale, Secretary of State. And with that, we close the hearings on the day. Thank you. (See also Exhibit 4) [LB746]