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Government, Military and Veterans Affairs Committee
February 25, 2015

[LB273 LB541 LB646 LB649 LR35]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, February 25, 2015, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB541, LB646, LB649, LB273, and LR35. Senators present: John Murante, Chairperson; Tommy Garrett, Vice Chairperson; Dave Bloomfield; Mike Groene; Matt Hansen; Tyson Larson; and Beau McCoy. Senators absent: Joni Craighead.

SENATOR MURANTE: Okay, everyone. Welcome to the Government, Military and Veterans Affairs Committee. My name is John Murante, I am the Chairman of this committee and state senator for District 49, which represents Gretna, Chalco, portions of Papillion and La Vista, and northwest Sarpy County. We are here today to hear a number of bills. The order will be...we'll take up the bills in the order on which they appear on the agenda outside of this room. If you intend to testify on any of the bills that will be heard today, we ask that you fill out one of these green sheets. The sheets are located on either side of this room. If you are here and wish to express an opinion on any of the bills with which we are hearing but do not intend to testify, we have a sign-in sheet that is also located on the table on either side of the room. If you testify, please begin your testimony by stating and spelling your name for the record; it's very important for our transcribers. The order of business with which we will proceed is that the introducer will make opening remarks. And then we will proceed to proponent testimony, followed by opponent testimony, neutral testimony, and then the introducer will have an opportunity to close. We ask that you listen very carefully to the comments which precede yours and try not to be repetitive. If someone has already made a statement or articulated an opinion which you wish to second or have...and has already been expressed again, we ask that you sign in on the forms located on both sides of the room. And I can assure you that your opinion will be taken into account just as if you had come before the committee and testified. We do use the light system here in the Government, Military and Veterans Affairs Committee. Each testifier will be granted three minutes to testify. When the yellow light comes on, that will indicate that you have one minute remaining and we'd ask that you begin wrapping up your remarks. When the red light comes on that means it's time to end your testimony and we will open up the committee for questions that they may have of you. At this time, I would ask that everyone here, including the members, turn off or silence their cell phones or any other electronic devices. You will notice that the Government Committee is equipped for electronic devices for the committee members, so if you see us using our devices it is for the purposes of pulling up information that is being presented to us. If you have a prepared statement, an exhibit, or anything you'd like distributed to the Government Committee, we'd ask that when you come up to testify that you give it to our page, who will distribute it to the members of the committee. And we ask that you provide us with 12 copies. If you don't have 12 copies, that's not a big problem. We'll have the page make copies for you. And our page today is Seth Thompson from Ogallala, Nebraska. I will now proceed to the introduction of members. Again, my name is John Murante, state senator for District 49. To my

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immediate left is State Senator Matt Hansen from Lincoln. To his left, State Senator Beau McCoy who will be joining us shortly, he represents Omaha; followed by State Senator Joni Craighead also from Omaha. To the far left is committee clerk, Sherry Shaffer. To my immediate right, research analyst Charles Isom. To his right, State Senator Tommy Garrett of Bellevue who is the Vice Chairman of this committee. And to his right, State Senator Dave Bloomfield from Hoskins, who will be with us shortly. To his right, State Senator Tyson Larson who is always with us in spirit if not in presence. And to his right, State Senator Mike Groene from North Platte, Nebraska. And with that, Senator McCoy has joined us. And we will proceed to the first item on the agenda, LB541. Senator Crawford, welcome back to your committee on Government, Military and Veterans Affairs. [LB541]

SENATOR CRAWFORD: (Exhibit 1) Thank you, Chairman Murante and members of the Government, Military and Veterans Affairs Committee. My name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th Legislative District of Bellevue, Offutt, and eastern Sarpy County. As returning members may recall, in 2013 the Legislature passed LB429 to create a publicly available Web site for all state contracts as part of the Taxpayer Transparency Act. I introduced LB429 to bring additional transparency to the state contract process. The bill passed on a 43-0 vote and became law on June 4, 2013. At www.statecontracts.nebraska.gov citizens can review all current state contracts by vendor, dollar amount, and agency. LB429 also provided for an ability for citizens to view expired contracts. The pages are now circulating a memo prepared by the Department of Administrative Services regarding the current status of the state contract Web site for your review. LB541, the bill before us today, brings retention of these expired contracts in line with our state agency general retention schedule of five years post expiration. Colleen Byelick, with the Secretary of State's Office, brought this issue to our attention. And you will hear from Colleen in a few minutes. The current statute requires indefinite retention because there is no time line for retention in the state. Indefinite retention requires significant resources for care and custody and commits resources long term for storage of records. Currently, state records, including contracts, cannot be disposed of unless the disposal is pursuant to a records management retention schedule. LB541 requires the expired contracts posted on-line to follow the same retention schedule established for the state contracts generally, aligning the Web site with the Records Management Act. These schedules are created and updated by the Secretary of State with approval from the agency, State Archives, and the Auditor and are based on the legal, fiscal, and historical and administrative value of the record. For contracts, the retention schedule is five years after completion, fulfillment, or voiding of a contract. Government transparency is important, which is why I prioritized LB429 in 2013. The state of Nebraska has an obligation to its people to provide this information in a usable format. These contracts are executed with taxpayer money and Nebraska taxpayers deserve to know where their money is being spent. LB541 ensures this added transparency is maintained for contracts that are public record. It allows us to not continue to require space for saving contracts

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that are no longer public record. With that, I'm happy to answer any questions that you have. [LB541]

SENATOR MURANTE: Thank you, Senator Crawford, for your introduction. Are there any questions? Seeing none, thank you for your opening. [LB541]

SENATOR CRAWFORD: Thank you. [LB541]

SENATOR MURANTE: We'll now proceed to proponent testimony to LB541. Before we get to that, we'll welcome Senator Bloomfield and Senator Groene. And welcome to the Government Committee. [LB541]

COLLEEN BYELICK: Thank you. Good afternoon, members of the Government, Military and Veterans Affairs Committee. My name is Colleen Byelick, it's C-o-l-l-e-e-n B-y-e-l-i-c-k, I'm the general counsel for the Secretary of State's Office, here on behalf of Secretary of State John Gale, testifying in support of LB541. First, I'd like to thank Senator Crawford for introducing this bill on behalf of the Secretary of State's Office. As the state records administrator, the Secretary of State's Office assists state and local agencies in drafting and maintaining records retention schedules. These schedules allow agencies to dispose of state records when they meet their retention. Their retention is based upon...its administrative, legal, historical, and fiscal value of the record. These schedules are thoroughly vetted and are signed off by the agency, the Secretary of State, the Auditor, and the state archivist. These schedules are very important in allowing state agencies to maintain and dispose of records in an orderly, thoughtful, and controlled manner. As you know, LB429 in 2013 created a database of state contracts and a Web site that those contracts could be viewed upon. And provided that all contracts in existence as of January 1, 2014, were to be included in the Web site and those remained even after they expired. And so essentially what this did, it created a duplicate copy of a state record that was being maintained by the agency but didn't allow the agency or the Department of Administrative Services the ability to manage that record. So LB541 would allow the Department of Administrative Services to add a records management component to the contract database and would allow expired contracts which had met their retention to be removed from the contract database and corresponding Web site. As we have heard, the general retention for contracts is five years from their expiration or termination. Therefore, removal of these contracts from this database and corresponding Web site is appropriate as they retain little value for the public viewing contracts in the database. Maintaining records past their retention is sometimes necessary for reasons such as a legal hold if there's pending litigation. However, sound records management practices encourage the disposition of records once they have reached the end of their useful life cycle. Maintaining records past their retention subjects the agency to additional liability and can be costly. Whether we're maintaining records digitally or on paper, there are

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costs associated with storage and maintenance of those records. And maintaining them past their life cycle isn't an efficient use of state resources. For these reasons, we asked Senator Crawford to introduce LB541 and we greatly appreciate her interest in records management and her interest in this bill. Thank you for allowing me to appear before you today. I'm happy to try and answer any questions you may have. [LB541]

SENATOR MURANTE: Thank you very much for your testimony. Senator Garrett. [LB541]

SENATOR GARRETT: Thank you, Mr. Speaker. Thank you for your testimony today. I'm struck by the fiscal note. The cost of automating this is \$2,176; if we don't automate it, \$67,000. [LB541]

COLLEEN BYELICK: Right. [LB541]

SENATOR GARRETT: It appears to me that there would be record copy of these contracts whether we automate this or not. So why is there such a disparity in the...? [LB541]

COLLEEN BYELICK: Well, that comes from the Department of Administrative Services. And I think what they're saying is, that if they can go into this contract database system and essentially put a trigger, because the expiration date is already in that database. And so if they can go and input a trigger to say, okay, this contract can be removed from this database five years past this date, that from a technical standpoint, that's not that complicated to do and isn't going to cost that much money. If we're talking about some sort of process where someone has to, by hand, go through each one, something of that nature, that's going to be more costly and that's where they're coming up with that higher dollar amount. And we think that this can be automated. And essentially, the state agency is still maintaining a copy of this record themselves, so they're going to be disposing of this record pursuant to their own practices anyway. We're just now allowing for it to be disposed of from the database and Web site. [LB541]

SENATOR GARRETT: That makes sense. One other question. When you dispose of a public record like that, is it shredded or is it just thrown in the dumpster or how is that... [LB541]

COLLEEN BYELICK: Typically, it's shredded if they're sensitive or any sort of personally identifiable information, anything like that on it, it's going to be shredded. And there is actually a record that you fill out to notate that you've disposed a record. And then that record actually goes to our Records Management Division and is maintained by that division. So there's a process which state agencies go through to dispose of records. And sometimes even that means taking

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that record to the Historical Society and seeing if it's something that they want to take into their collection, so. [LB541]

SENATOR GARRETT: Thank you. [LB541]

COLLEEN BYELICK: Yeah. [LB541]

SENATOR MURANTE: Thank you, Senator Garrett. Any additional questions? Seeing none, thank you very much for your testimony. [LB541]

COLLEEN BYELICK: Thank you. [LB541]

SENATOR MURANTE: Are there additional proponents to LB541? Any additional proponents? Are there any opponents? Is there any neutral testimony? Senator Crawford, you are recognized to close. [LB541]

SENATOR CRAWFORD: All right. Thank you and I just urge the committee to vote this bill. I'm hoping it's consent calendar material. It's really putting the Web site in line with our other document provisions. And I would remind members and just inform the new members, when you're reading a fiscal note it has to put the cost that is the cost of implementing the policy but they're not allowed to put the savings in. So it's the \$2,000 cost of automating this, but the point of the bill is to help save money in terms of server space, etcetera, that we would have if we had to hold onto these contracts forever. So just making that note in terms of understanding the fiscal note on that. [LB541]

SENATOR MURANTE: Thank you, Senator Crawford. Senator Bloomfield has a question. [LB541]

SENATOR BLOOMFIELD: This is more a question to the Chair. Does a fiscal note not prohibit it from going on consent calendar? [LB541]

SENATOR MURANTE: Does a fiscal note prohibit it? I would have to recheck the rules. I haven't checked on that in the last year. [LB541]

SENATOR CRAWFORD: Okay. It may. Okay. [LB541]

SENATOR BLOOMFIELD: I think it might. [LB541]

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SENATOR CRAWFORD: All right. Thank you. [LB541]

SENATOR MURANTE: Thank you very much, Senator Crawford. And that closes the hearing on LB541. So we will proceed to the next item on the agenda, LB646. Senator Bill Kintner. Welcome to your Government Committee, Senator Kintner. [LB541 LB646]

SENATOR KINTNER: Well, Mr. Chairman, members of the committee, it's good to be here on transparency day. [LB646]

SENATOR MURANTE: You're picking up the theme day, Senator Kintner, you're starting to pick it up. [LB646]

SENATOR KINTNER: Yes, that's right. I'm Senator Bill Kintner, B-i-l-l K-i-n-t-n-e-r, from Legislative District 2, I'm here to introduce LB646. LB646 amends Section 84-1413 of Open Meetings Act by striking subsection (3), which currently allows a public body to elect leadership within the public body by secret ballot. I believe that striking subsection (3) in Section 84-1413 improves transparency within government bodies by allowing voters to see all the votes their government leaders are casting. Leadership within public bodies can influence what issues are addressed and which ones are not or how an issue is addressed and the level of scrutiny, thoroughness, or time put toward the particular issue. Leadership votes are just as important as other votes within the public body and should be available to electorate to hold their elected officials to their campaign promises and public statements because people represent ideas in politics. During our debate to eliminate secret ballots for leadership votes as part of the Legislature's permanent rules, we heard many times leadership votes are just votes of internal organization. But as I just said, they are important and people deserve to know what they are. Oftentimes, leadership votes are more than just organizational. They are critical to success or failure for issues that come before the body. I sincerely believe that the public will be better served if the light of public scrutiny is shone on the votes of public bodies in Nebraska. I just want to say, last year Senator Crawford had a couple bills on transparency. And I looked at those bills, skeptical at first. And I looked at them and I said, you know, that makes sense. That really does make sense. We need to make sure that people know what's going on in government. So we put some transparency on the executive branch. Well, I got to thinking, if it's good for the executive branch, it ought to be good for the legislative branch. If it's good for the legislative branch, it ought to be good for every governmental organization. And so I agree. Senator Crawford said, people deserve to know where their money goes. Well, people deserve to know what we're doing down here when we're on their time with their dime. And with that, I'll answer any questions you may have. [LB646]

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SENATOR MURANTE: Thank you, Senator Kintner. Are there any questions? Senator Garrett. [LB646]

SENATOR GARRETT: I've got to take the bait. We debated this when we looked to a motion on amending the rules at the beginning of the Legislature. And it was defeated by a vote of 33 to 12. What's different about this that you think is going to get different traction out on the floor if it makes it out of committee? [LB646]

SENATOR KINTNER: Well, I think that people have more time to weigh in now. I think your constituents who may not have contacted you before will have a lot more time to contact you. It's been in the media...this will be the second time it's been in the media. It was in a media story today, it may be in another media story tomorrow. And I think it's being more in the public light. I've got to tell you, people think we're different than all the other legislatures. They think that we're nonpartisan. They think that there's an openness about us that you don't see anywhere else. And when they find out that we have secret votes, they're like, what? No one has ever asked me about it on our front porch because no one ever believed that we would do something like that. They think everything we do is in the open and they think we're different. And I think we are too, and that's why I brought this. [LB646]

SENATOR MURANTE: Thank you, Senator Garrett. Senator Groene. [LB646]

SENATOR GROENE: Thank you, Chairman Murante. Senator Kintner...but this covers everything,... [LB646]

SENATOR KINTNER: Yes. [LB646]

SENATOR GROENE: ...not just the Unicameral. [LB646]

SENATOR KINTNER: Correct. [LB646]

SENATOR GROENE: So if there's a school board vote for president or a city council, county commissioner, it's got to be public. [LB646]

SENATOR KINTNER: Yep. And you're going to have some people probably come up behind me and they're going to say, boy, we don't want that. We might have the guy sitting next to me mad at me. Well, jeez. If you're going to be an elected official you're going to have people mad at you and you're going to have to deal with it. If you don't like it, you need to be in a different line of work. I mean it's just the way it is. You worked hard to get elected, you're standing up there,

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now you've got to answer for what you're doing. I firmly believe that. I guess I should point out that I do that in every single thing I do as a senator. Every vote, as I cast it on the floor, I post a vote...at the end of those final votes I push a button right when we move on the agenda. It's right out there in almost real time. I do everything I can to make sure that my constituents know what I'm doing. I don't hide anything from them at all. I think they have a right to know and they sure appreciate it. They tell me every time they see me, thank you very much for your openness. And I think it's the right way to do. I am as convinced as ever that this is the right way to go and I am convinced as ever the people of our state want this to happen. [LB646]

SENATOR MURANTE: Thank you, Senator Groene. Senator Garrett. [LB646]

SENATOR GARRETT: Thank you, Chairman. Again, Senator, I agree with the transparency. But as the Chairman of the Rules Committee it all came down to our state constitution, which says we will be nonpartisan. I love our Unicameral. I love the fact that we're nonpartisan. And it specifically states in there that we're to be a nonpartisan Unicameral. And, again, prima facie evidence in the newspaper was when the Douglas County Republican Party comes out and is going to censure Senator Krist for not going along with what the Douglas County Republican Party wanted him to do with voting on something on this particular issue. And that's prima facie evidence right there of partisanship. And that's...if we can change the constitution to say we're going to be a partisan Unicameral, then that's great. But in good conscience--and I don't care how many people attack me for that--I'm supporting the...I took an oath to support and defend the Constitution of the state of Nebraska. That's what it says and that's what I'm doing. So, thank you. [LB646]

SENATOR KINTNER: You know, I'm supporting the constitution too. And it does not say anything about not publicizing votes because you're going to hurt someone's feelings. And in that there's a political party that's going to beat you up. You know what? Just because someone mentioned in Douglas County that they wanted to censure someone, you know what? Cooler heads prevailed. Cooler heads prevailed. I think they thought better of it and said, you know what? This isn't what we need to be doing. So because a few hot heads say we need to censure someone, you know what? I don't know, they don't ever try to censure me. I've never had anyone get mad at me and say, we need to censure Bill Kintner because I'm totally open about what I do. Even when people disagree with me, there's a written explanation of why I took that vote, how I voted, and when I put...I put every single person in leadership I voted for. It sure didn't hurt me. I don't think I have any enemies down here. I'm not sure I hurt any feelings. If I did hurt any feelings, no one said anything to me. [LB646]

SENATOR MURANTE: Senator Garrett. [LB646]

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SENATOR GARRETT: Thank you, Speaker (sic). Cooler heads did prevail and your motion lost 33 to 12. That's the whole bottom line. And you know, political grandstanding aside, I'm all about transparency and I supported keeping the secret ballot for leadership. I will publicly put what my vote is for leadership as well. But I don't think we can force the body to do that. [LB646]

SENATOR KINTNER: Senator Garrett, you are perfectly...okay, I'm sorry, I'm sorry, I'm sorry. [LB646]

SENATOR MURANTE: Hold on a second. Let's...he asked a question and you can answer. [LB646]

SENATOR GARRETT: But we cannot force the body to do that. And I'm more than willing...I'm all about transparency. I voted for some Democrats for leadership positions on committees. And I'll...you know, that's just the way it is. But, again, support and defend the Constitution of the United States, support and defend the Constitution of the State of Nebraska. And that's the whole bottom line. Thank you. [LB646]

SENATOR KINTNER: I'm sorry I interrupted. Let me just say, I don't think that...every time...let me just talk in terms...every time that the liberals want to stop something, they start screaming and start talking and the newspaper helps them do it, the Omaha World-Herald: It's partisan, it's partisan. I've never talked to any political party about this. No political party ever told me to post every one of my votes on-line. None one told me I had to do anything. I did this because it's the right thing to do. If you want to carry the water for the liberals, you go right ahead, but I don't see it. I don't see it that way in any way, shape, or form. And you're not going to beat me down by saying, you're partisan, you're partisan. No, I'm not partisan. There's nothing about this that's partisan. It's the right thing to do. We can agree to disagree. And we will, we'll always be friends. But I just don't see it that way, Senator Garrett. [LB646]

SENATOR MURANTE: Senator Groene. [LB646]

SENATOR GROENE: Thank you, Chairman Murante. Both you guys are my friends. I've got to sit by you, so I (inaudible.) But anyway, as a freshman senator on the floor that day, some of us wanted to fight for the open vote big time, because we ran on it. But cooler heads said, family is in the balcony, this is a family day. Let's not do it today, let's try it as a bill introduced in the Legislature because that way we can have open debate and that is where I agreed to and a lot of us agreed to not to fight it on the floor that day. And now we are coming up with the other half of that. Vote against it again, but let's have a chance to actually have a full debate when our family

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isn't up in the balcony watching. Is that not true, Senator Kintner? Is that what happened that day? And you were one of the wiser heads that advised that? [LB646]

SENATOR KINTNER: On the first day we pulled back. We were going to introduce on the first day and we pulled back and said, let's either go for the Rules Committee or just change the laws of our state. And we're doing both. So we failed at the Rules Committee, we're going to change the laws of the state. [LB646]

SENATOR MURANTE: Thank you, Senator Groene. Senator Bloomfield. [LB646]

SENATOR BLOOMFIELD: Thank you, Chair. Senator Kintner, I appreciate your passion for this and I also appreciate the fact that you have five members of this committee that have cosigned on here so it's obviously going to come out of committee. I will have a lot of questions for you when it comes to the floor, if it gets there, because you keep telling us how people want this. I got not one e-mail from anybody in my legislative district telling me that I need to do this. So would you have any comment on that? [LB646]

SENATOR KINTNER: No, not really. I don't know how engaged the people are. I've got enough e-mails for both of us, I'm sure. [LB646]

SENATOR BLOOMFIELD: It seems like most of them come from Douglas and Sarpy County. Thank you. [LB646]

SENATOR MURANTE: Thank you, Senator Bloomfield. Any additional questions for Senator Kintner? Seeing none, thank you very much. We'll now proceed to proponent testimony to LB646. All those in favor of LB646 please come forward and testify. And welcome to the Government, Military and Veterans Affairs Committee. [LB646]

KVETA HANSON: My name is Kveta Hanson, K-v-e-t-a H-a-n-s-o-n, I did not come prepared for this. I didn't realize that it was going to be one of the bills here. But I've thought about this before and I am definitely one of the citizens that agrees with the remark that Senator Kintner made. If the people in the state have a right to transparency in the financial matters of the state they have the right to transparency in votes. I think that that's the basis, the foundation of a lot of the problems that we have in both state and federal government. There is a lot that the people don't know about and then they can't voice what they would like to say. There's probably a lot more that people say at home because they aren't aware of your discussions here. They don't have time to sit by the things you have televised. But the discussions are also the result of being a little bit intimidated. I don't know if they intimidate each other or if the intimidation is from the

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authority. But I do believe that we'd get a lot better participation if we had more transparency here in the Legislature. [LB646]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down today, much appreciate it. [LB646]

KVETA HANSON: Thank you. [LB646]

SENATOR MURANTE: Are there additional proponents wishing to speak on LB646? And welcome back, Ms. Ferguson. [LB646]

LONA FERGUSON: Good afternoon. I don't have this filled out yet because I wasn't prepared to do this. My name is Lona Ferguson, L-o-n-a F-e-r-g-u-s-o-n. Until...I'm not...I really didn't come for this because I really thought that when this started I was a little surprised that...I thought, well, why did they decide not to look at something that the second house really has a right to know. I think sometimes we forget we're a Unicameral. You people are elected and you represent us, all of you--and we appreciate that--or you wouldn't be here, you know. But we are the second house. We are the voice. And I don't know your e-mail address, Senator Bloomfield, but I will find it and we will accommodate you with lots of e-mails and phone calls; all of you. We can do that, we can make that happen. Transparency is something that I don't think any of us are real, real comfortable with. I mean, you know, we're all that way. Do we always like to tell the truth? I mean, if you have children, you about have to force the truth out of them. I have a granddaughter that would rather commit to me and tell grandma rather than tell mom and dad. And I'm sure she got that from her mother somehow. But this is a serious matter. It's a very serious matter. The issues that come before our state are things that happen here. And we're getting more and more federal issues that...come down here, let's decide here and then let's take it forward. And there are a lot of people that are sitting back there going, we're never heard. No one listens. We never know. Well, I think transparency is very important. And I'm glad that this was brought forward this year. I was a little bit disappointed to see it drop. I didn't know it was because it was a family day. I always thought every day should be a day for the people to make the laws that best fit people. We can have family days on Sundays, Saturdays, and other times. I appreciate you listening to me. I am hoping this does go forward so that it can be discussed. And I love all of you, I really do. I think you all do a great job, so I'm not taking sides. But I would say, I do respect and want transparency in our government because without it, it's just like the child factor that I brought up. If our children lied to us once, do we not question them forever? We're constantly looking for that one little thing that will prove to us that they have not learned to tell the truth. And I think that goes on with government. We see one little flaw or we get maybe (inaudible) one or two times and then we're always looking and I think it's a hold up. So thank you for the ability to come up as quickly as I did and thanks again. [LB646]

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SENATOR MURANTE: Thank you very much. Hold on one second. We may have some questions. We do. Senator Bloomfield. [LB646]

LONA FERGUSON: You want to give me your address, right? [LB646]

SENATOR BLOOMFIELD: It's right here. Senator Groene will hand it to you when you go by. But, no, I do have a question for you. What county are you from? [LB646]

LONA FERGUSON: Well, I have property and I've lived and I was raised most of my life in Dawson and Buffalo County. [LB646]

SENATOR BLOOMFIELD: And what county you from now? [LB646]

LONA FERGUSON: Well, I'm actually going from Buffalo into Lancaster County. [LB646]

SENATOR BLOOMFIELD: Okay. Thank you. [LB646]

LONA FERGUSON: You're welcome. [LB646]

SENATOR MURANTE: Any final questions for Ms. Ferguson? [LB646]

SENATOR GROENE: If you know anybody from Madison, make sure they...or Norfolk. [LB646]

LONA FERGUSON: I have family from Norfolk, the Theisens (phonetic.) [LB646]

SENATOR BLOOMFIELD: Norfolk...Madison County doesn't get me either. They get Wayne, Dixon, and Thurston. [LB646]

SENATOR GROENE: All right. That's right. [LB646]

SENATOR MURANTE: All right. Are there additional proponents to LB646? Seeing none, opposition testimony to LB646. And to the remaining opponents, if you could move forward closer to the front two rows, I'd appreciate it. Thank you. [LB646]

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JOHN BONAIUTO: Senator Murante, members of the committee, John, J-o-h-n, Bonaiuto, B-o-n-a-i-u-t-o, registered lobbyist. I represent the Nebraska Association of School Boards and I'd like to start my testimony by saying, because the School Boards Association opposes this bill, in no way do we want that to imply that school boards aren't transparent. This is one of those few instances where a school board may...the statute allows them to use the secret ballot to elect a president. Not all school boards do use the secret ballot, some do. I have not taken any kind of a survey but there are those that do it as an open session item. But we like to have the boards make that decision. And that's when the board sits as close to their voters as they can get and so folks in the community know the school board members. School boards can take no other action that is not open. If they go into an executive session, legally, and discuss an item, before any action can be taken they have to come out into the open and make that decision in front of the voters, the people. So in this instance we appreciate your thoughtful discussion early this session and how the Rules Committee handled this. And we would like to see this still be available to school boards. With that, I'll conclude my testimony. [LB646]

SENATOR MURANTE: Thank you, Mr. Bonaiuto. Are there questions? Seeing none, thank you very much for coming down today. Additional opposition testimony to LB646. [LB646]

GARY KRUMLAND: Senator Murante, members of the committee, my name is Gary Krumland, G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities. The executive board of the League did vote to oppose LB646. We've done an informal poll. Many of the city councils and village boards across the state elect their leadership--basically the president of the council, the chair of the village board--by open or they have some sort of rotating system where somebody takes it. But there are governing bodies who do use the secret ballot and they would like to continue doing that. And so for that reason we do oppose the bill. [LB646]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions. Seeing none...oh, excuse me. Senator McCoy. [LB646]

SENATOR McCOY: Thank you, Chairman Murante. Mr. Krumland, why do you think it would be that some municipalities use this and some do not? [LB646]

GARY KRUMLAND: It's just probably the local culture or what they've been doing. I know some cities kind of just rotate, take turns being the chair of the council. And so they just don't have a need for a vote. Others, because of probably conflicts or disagreements, do want to have a secret ballot to vote who their leadership are. [LB646]

SENATOR McCOY: So do all of them, to your knowledge, that don't do leadership on a rotational basis use a secret ballot? [LB646]

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GARY KRUMLAND: No. Well, we just took a very minor check with a few cities. But some of them said they do just have a general vote in the open, some don't. [LB646]

SENATOR McCOY: So the League doesn't actually keep records over who does or does not? [LB646]

GARY KRUMLAND: No. No. [LB646]

SENATOR McCOY: Okay. Thank you. [LB646]

SENATOR MURANTE: (Exhibits 1 and 2) Thank you, Senator McCoy. Any final questions for Mr. Krumland? Seeing none, thank you very much for coming down today. Is there any final opposition testimony to LB646? Seeing none, is there any neutral testimony? Seeing none, Senator Kintner waives closing and we'll proceed to the next item. Excuse me, we do have some letters. Thank you, Mr. Isom. We have two letters in opposition to LB646, one from Amy Prenda from the Nebraska Water Resources Association, one from John McClure of the Nebraska Public Power District. And with that, the public hearing on LB646 is closed and we'll proceed to the next item on the agenda, LB649. Senator Kintner, welcome back. [LB646 LB649]

SENATOR KINTNER: (Exhibit 1) Once again, thank you, Mr. Chairman and members of the committee. I've always believed there is more than one way to skin a cat. My name is Bill Kintner, K-i-n-t-n-e-r, Bill, B-i-l-l. I represent Legislative District 2. I'm here to introduce LB649. What this does: It amends Section 84-712.01, clarifying that all votes taken by public officials in the course of their public duties shall be considered public records. This improves transparency by making sure that all votes of public officials are available for the electorate to obtain as they assess their public officials' actions in office. Now I'm going to hand out AM527 for the committee's consideration. And recently, Frank Daley, the executive director of Accountability and Disclosure Commission, revealed some concerns with this in Section 49-14,124.01, regarding procedure with preliminary investigations in the commission. So this section requires that preliminary investigations be kept confidential. If you look at beginning of the subsection, this may already be exempted, but we wanted to just make sure. So if they're investigating you, Senator Hansen, they weren't sure about some contribution you got, that stays confidential until they're ready to make a ruling and then it comes out in the open, where it should be, just so you know how that works. But anyway, that's all it is. And if you have any questions, I'll be happy to answer. [LB649]

SENATOR MURANTE: Thank you, Senator Kintner. Are there any questions? Senator Bloomfield. [LB649]

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SENATOR BLOOMFIELD: Senator Kintner, are you aware that when you skin a cat, you usually end up with a dead animal no matter how you do it? Thank you. (Laughter) [LB649]

SENATOR KINTNER: Yes, I'm very much aware of that. (Laughter) [LB649]

SENATOR MURANTE: Can't wait for the transcribers to get that one. [LB649]

SENATOR KINTNER: Yeah, that's right. Yeah. Oh, yeah, for the transcriber, that was a double head nod there, yes. (Laughter) [LB649]

SENATOR MURANTE: Senator Groene. [LB649]

SENATOR GROENE: Thank you, Senator Murante. What about when school boards go in or somebody goes in to...they're going to fire somebody or something, they do it in secret? [LB649]

SENATOR KINTNER: That's already covered. That...so that's already covered. That's...when you do personnel decisions, that's already covered by law and that's... [LB649]

SENATOR GROENE: This don't cover that. [LB649]

SENATOR KINTNER: Yes. [LB649]

SENATOR GROENE: All right. [LB649]

SENATOR KINTNER: Correct. [LB649]

SENATOR GROENE: Thank you. [LB649]

SENATOR MURANTE: Thank you, Senator Groene. Senator McCoy. [LB649]

SENATOR McCOY: Thank you, Chairman Murante, and thank you, Senator Kintner. I guess, explain to me...you've got two very similar pieces of legislation and I want to get into it because it's appearing on a different bill. But explain to me, so this one is just for purposes of any votes, not necessarily just leadership votes, which is what...a previous piece of legislation that you introduced here earlier this afternoon, correct? [LB649]

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SENATOR KINTNER: Well, I think the best way to differentiate is the first bill made the public vote be in public. It made it a public vote. The second bill makes the record...you can do it behind closed doors, but we're going to...it's going to be a public record how everyone voted. You can do it behind closed doors or you can do it in the open, but the record will be public. So it has the same effect. [LB649]

SENATOR McCOY: Thank you. [LB649]

SENATOR KINTNER: So does that...okay. That answer? Okay. [LB649]

SENATOR MURANTE: Thank you, Senator McCoy. Any additional questions? Seeing none, thank you, Senator Kintner. [LB649]

SENATOR KINTNER: Okay. All right. [LB649]

SENATOR MURANTE: And we will proceed to proponent testimony to LB649. Any proponents to LB649? And welcome back to the Government Committee. [LB649]

KVETA HANSON: Thank you, Senator Murante. Again, my name is Kveta Hanson, K-v-e-t-a H-a-n-s-o-n. And I will pretty much second what I said before. We need...I believe that if we don't practice it, we continue to pick up very bad habits. And once we've, as we have already, been involved with secrecy, it just grows and it makes us think that we cannot expose certain things because they're too terrible. If we keep them out in the open, we won't let it grow. Thank you very much. [LB649]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? Seeing none, thank you for coming down today. Additional proponents wishing to speak on LB649? Seeing none, any opposition testimony to LB649? Mr. Bonaiuto, welcome back. [LB649]

JOHN BONAIUTO: Thank you, Senator Murante. John, J-o-h-n, Bonaiuto, B-o-n-a-i-u-t-o, registered lobbyist representing Nebraska Association of School Boards. First, I'd like to acknowledge Senator Kintner's creativity in approaching this (laugh) in different ways. As I read the first bill and then found the second bill, I thought, ah. So I would use the same reasons for my opposition of LB646 also on this bill. Thank you very much. [LB649]

SENATOR MURANTE: Thank you very much for your testimony. Senator McCoy. [LB649]

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SENATOR McCOY: Thank you, Chairman Murante. And thank you, Mr. Bonaiuto, for being with us this afternoon. You said in your opposition to an earlier piece of legislation that the Association of School Boards doesn't oppose transparency and that you wanted to be clear about that. Is that... [LB649]

JOHN BONAIUTO: That is true, Senator. [LB649]

SENATOR McCOY: Is that a fair or accurate characterization of what you said? However, you're testifying in opposition to this piece of legislation. So how do you rationalize that sort of statement if you're testifying in opposition to this bill? [LB649]

JOHN BONAIUTO: Senator, that's a very fair question. And other than for leadership, all votes taken by school boards are public. And as I said before, not all boards do leadership elections by secret ballot, but some boards do exercise that right as it gives them in statute. So we'd like to keep options open in law for boards, but that is the only time that a secret vote would be taken. [LB649]

SENATOR McCOY: And I don't want to split hairs here. But as I sit here, I guess I can't let you leave without challenging that just a little bit because, by very nature, that's not being for transparency, is it? [LB649]

JOHN BONAIUTO: That is...you know, there are exceptions to the rule, and I would say that would be one of those, you know, exceptions in that, for that instance, the leadership instance would be the only thing a board could do in a secret ballot. [LB649]

SENATOR McCOY: Because it sounds to me as if it's...we're for transparency except for times in which we think it gets a little sticky and, therefore, then we're not quite so much for full transparency because, keep in mind, obviously, as you all know, these are taxpayer dollars we're dealing with here when we deal with school boards and matters of anything that have pretty grave import to the education of the next generation of our children here in Nebraska, which I think we all care very deeply about. So I just wanted to have a little bit of exchange there because I guess I have a little bit of an issue with saying we're for full transparency. I completely understand your opposition to this bill and to the previous bill. [LB649]

JOHN BONAIUTO: Sure. [LB649]

SENATOR McCOY: But I think we've got to be careful to delineate what exactly we're talking about when we say we're for full transparency. [LB649]

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JOHN BONAIUTO: Appreciate that, Senator McCoy. [LB649]

SENATOR McCOY: Thank you. [LB649]

JOHN BONAIUTO: And I know that I was walking a very fine line there. [LB649]

SENATOR MURANTE: (Laugh) Senator Groene. [LB649]

SENATOR GROENE: Thank you, Chairman. John, as...could you tell me some school boards that do vote their school board secrecy, or is that a secret too? [LB649]

JOHN BONAIUTO: No, Senator. And we have not done a survey on which boards do it which way. And from my understanding, just in conversation, that could change depending on the people that are on the board and the personalities involved and...but we do not have a record of that. [LB649]

SENATOR GROENE: Thank you. [LB649]

SENATOR MURANTE: Thank you, Senator Groene. Senator Larson. [LB649]

SENATOR LARSON: So essentially, what you're asking is, is you just don't want...you're here in opposition, so you...the boards still have the opportunity to vote in secret, correct? [LB649]

JOHN BONAIUTO: For president, that would be the only... [LB649]

SENATOR LARSON: For president. [LB649]

JOHN BONAIUTO: ...the only situation that we would see that. [LB649]

SENATOR LARSON: What distinguishes president from secretary, treasurer? [LB649]

JOHN BONAIUTO: You know, the... [LB649]

SENATOR LARSON: When we're talking about leadership, I mean, you're... [LB649]

JOHN BONAIUTO: Yes. [LB649]

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SENATOR LARSON: You're going to...and we can say what Senator Kintner might be trying to get to is legislative concepts or...but I think he raises an excellent point in terms of all votes. So do you think you should have the ability to elect the secretary, treasurer by secret ballot then? [LB649]

JOHN BONAIUTO: Senator, I actually don't know if boards are still electing that position and... [LB649]

SENATOR LARSON: So they're just picking who the treasurer is? I mean I know... [LB649]

JOHN BONAIUTO: No, I...well, and... [LB649]

SENATOR LARSON: I mean, I know every school board does have a secretary, treasurer, so essentially they would have to be elected. Even if it's by unanimous consent, they're elected. [LB649]

JOHN BONAIUTO: And that's...many times that's the way that happens. [LB649]

SENATOR LARSON: That may be what's happening, but that's not necessarily...it would just be a unanimous consent motion, therefore, still elected. Do you feel that they should be able to...because you said that for president you support this, the concept of secret ballots. [LB649]

JOHN BONAIUTO: Leadership would be the broader term, so...and for those positions. [LB649]

SENATOR LARSON: So do you...under...I guess under state statute right now, and I excuse myself for not reading it, can a board use secret ballots to elect secretary, treasurer right now? [LB649]

JOHN BONAIUTO: I need to check that in law. So I... [LB649]

SENATOR LARSON: If it...well, then I'll move to a hypothetical. If a board cannot elect a secretary, treasurer right now by secret ballot, would you support a bill that would allow them to do that? [LB649]

JOHN BONAIUTO: I would not want to change what is... [LB649]

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SENATOR LARSON: So you wouldn't want to...so you would still support the not using a secret ballot. [LB649]

JOHN BONAIUTO: I...we're not looking for any change in the current law as it... [LB649]

SENATOR LARSON: You're not looking...so if that vote...if the current change...if the current law says they can't use a secret ballot to elect secretary, treasurer... [LB649]

JOHN BONAIUTO: Then we're not asking for that. [LB649]

SENATOR LARSON: So you're not...so you're okay with that being open to the public but board president...what's the difference in terms of...why president, school board president, and not secretary, treasurer then? What's the difference between the two? [LB649]

JOHN BONAIUTO: That...we think of the president like the key leadership position of that board, that the board should have that opportunity to do that how they would elect to fill that position. [LB649]

SENATOR LARSON: Does the...what does the...in these school boards, what is the president doing that...you know, I run a committee. I run the General Affairs Committee. I'm familiar with the extra duties that I have as a committee Chairman. What does the board chairman of a school board do extra, versus the rest of the school board committee? [LB649]

JOHN BONAIUTO: It is the president that would work with the district office to set the agenda, to really schedule additional meetings, hearings, so it falls to the leadership to do that, the president. [LB649]

SENATOR LARSON: My understanding of most school boards, all members work with the superintendent to schedule a...to...it's less...it's much less dictatorial than the Legislature, we'll say, our committee Chairs, in terms of this is when we're having hearings, this is...it's much more of a... [LB649]

JOHN BONAIUTO: Right, and that president then runs the meeting, much like a chairman, and...but, you know, it...the president of the board has limited...very limited authority. [LB649]

SENATOR LARSON: Very limited authority,... [LB649]

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JOHN BONAIUTO: Yes. [LB649]

SENATOR LARSON: ...but that's still something that... [LB649]

JOHN BONAIUTO: It's still the leadership. [LB649]

SENATOR LARSON: ...needs to be held secret from the public. [LB649]

JOHN BONAIUTO: If that board and that community are comfortable with that, then we just like to give the local board that option. And that's the way it is now in law. [LB649]

SENATOR LARSON: You know, I'm struggling with the concept, and I guess we'll have to check in law whether or not the secretary, treasurer can be by secret ballot. [LB649]

JOHN BONAIUTO: And I will know that before the end of this meeting. (Laugh) [LB649]

SENATOR LARSON: And... [LB649]

JOHN BONAIUTO: I've got my law book in my briefcase. [LB649]

SENATOR MURANTE: If it's helpful, Senator Larson, just leading...reading from a statute that exists, it's the vote to elect leadership... [LB649]

JOHN BONAIUTO: Leadership. [LB649]

SENATOR MURANTE: ...within a public body may be taken by secret ballot. So the term is "leadership." What that means or how that's applied, I'm not sure that's defined anywhere. But it's not the... [LB649]

JOHN BONAIUTO: President. [LB649]

SENATOR MURANTE: ...not the president or the top member of the governing body, but leadership is what can be done by secret ballot. [LB649]

JOHN BONAIUTO: Thank you. [LB649]

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SENATOR LARSON: Does that...yeah, and that phrases more interesting questions--is "leadership" leadership of committees within the school board?--and things of that nature and how deep you guys go. It's just...obviously, I'm on the record in that at the beginning of this session supporting the end of secret ballots within this body. And I represent the individuals in my district and they deserve to know how I vote on every vote. And I have a family member that sits on a school board, and I'd assume that they would have no problem knowing how they voted. And that's something that I think I have to set an example for, you know, my constituents and in a school setting you're setting an example for students, above all, and that concerns me. But thank you. [LB649]

SENATOR MURANTE: Thank you, Senator Larson. Senator Bloomfield. [LB649]

SENATOR BLOOMFIELD: Thank you, Chairman. Mr. Bonaiuto, the Rules Committee, which I happen to serve on, kind of decided that we wanted to keep it a secret ballot to prevent acrimony on the floor and between members of the body. Do you see that as the same reason, possibly, the school board would want to keep those ballots secret? [LB649]

JOHN BONAIUTO: Thank you for asking, Senator Bloomfield, and very much so. And it does...you know, it...the personalities and the people involved, sometimes it takes more than one ballot to elect the leadership, and that can become a difficult situation. [LB649]

SENATOR BLOOMFIELD: Thank you. [LB649]

JOHN BONAIUTO: Thank you. [LB649]

SENATOR MURANTE: Thank you. Mr. Bonaiuto, in light of that answer, do your school boards deal with other contentious issues, other than the election of leadership? [LB649]

JOHN BONAIUTO: They do, Senator. [LB649]

SENATOR MURANTE: And when there is disagreement on those issues, do you think sometimes that can lead to acrimony? [LB649]

JOHN BONAIUTO: It surely can, Senator. [LB649]

SENATOR MURANTE: And do you think that acrimony is sufficient justification to withhold your board members' votes from the public? [LB649]

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JOHN BONAIUTO: In no other situation does that happen. [LB649]

SENATOR MURANTE: Okay. Thank you. Senator Larson. [LB649]

SENATOR LARSON: And to continue on, on Senator Bloomfield's question, and moving along the same lines as Senator Murante's, are all the members elected to your school boards legal adults? [LB649]

JOHN BONAIUTO: Yes. [LB649]

SENATOR LARSON: Do they face acrimony in their everyday lives or challenges in dealing with people? [LB649]

JOHN BONAIUTO: I'm sure that they do. [LB649]

SENATOR LARSON: And when they're in disagreement among, you know,...I think schools sometimes face the most disagreement when it comes to consolidation and issues of that nature. In the end, there...wouldn't you think that most responsible adults know that they're going to disagree from time to time? Or do hurt feelings trump everything in representative politics? [LB649]

JOHN BONAIUTO: I believe that these responsible adults, although sometimes they get their feelings hurt, they get over the hurt feelings. [LB649]

SENATOR LARSON: They get over the hurt feelings, because they... [LB649]

JOHN BONAIUTO: They have to... [LB649]

SENATOR LARSON: ...know they have to lead the district or lead within the Legislature... [LB649]

JOHN BONAIUTO: Yes. [LB649]

SENATOR LARSON: ...and do what's best for the community. Thank you. [LB649]

JOHN BONAIUTO: Yes, Senator. [LB649]

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SENATOR MURANTE: Thank you, Senator Larson. Senator Bloomfield. [LB649]

SENATOR BLOOMFIELD: Thank you. Mr. Bonaiuto, are you having a good time? [LB649]

JOHN BONAIUTO: You know, I...this chair is getting a little warm in (laughter)... [LB649]

SENATOR MURANTE: We're no Education Committee. I see Senator Sullivan in the background, so (laughter)... [LB649]

SENATOR BLOOMFIELD: My question at this point is, do you feel there is a difference in voting for an idea, versus voting for a person, that could create more or less acrimony within a school board? [LB649]

JOHN BONAIUTO: I do, Senator. [LB649]

SENATOR BLOOMFIELD: Thank you. [LB649]

JOHN BONAIUTO: It...and I'm appreciating you more all the time. (Laughter) [LB649]

SENATOR MURANTE: And that will go down in history, Senator Bloomfield. You can't take it back. [LB649]

JOHN BONAIUTO: (Laugh) Yeah. [LB649]

SENATOR MURANTE: Are there any final questions for Mr. Bonaiuto? Seeing none, thank you very much. [LB649]

JOHN BONAIUTO: Thank you. [LB649]

SENATOR MURANTE: Additional opposition testimony. [LB649]

GARY KRUMLAND: Senator Murante, members of the committee, my name is Gary Krumland, G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities. As I mentioned before, the league executive board voted to oppose this bill also, LB649, in addition to LB646, for the same reasons. And I would be happy to answer any questions if anybody has any. [LB649]

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SENATOR MURANTE: Thank you for your testimony. Senator Groene has a question. [LB649]

SENATOR GROENE: Thank you, Senator Murante. What is the League of Municipalities? Who do you actually represent? So I know, who is taking a position here? [LB649]

GARY KRUMLAND: There are 529 cities and villages across the state; about 390 of them are members of our organization. [LB649]

SENATOR GROENE: So these inanimate objects are members, or is the city council, the mayor? Is it the fire chief? [LB649]

GARY KRUMLAND: Well, the city as an entity joins and pays the membership, but we work with all the city officials. [LB649]

SENATOR GROENE: So fire chiefs have a say in...who is on your executive board? I mean what kind of positions? [LB649]

GARY KRUMLAND: The executive board is made up of 15 elected officials, mayors and city councilmembers, and three appointed officials. [LB649]

SENATOR GROENE: So like city administrators and fire chiefs? [LB649]

GARY KRUMLAND: One city administrator, one city clerk, and one utility director or representative. [LB649]

SENATOR GROENE: All right. I just wondered. So that group just thinks that, who, the mayor should be, the city council president should be secret, that vote? [LB649]

GARY KRUMLAND: Well, they think that the...I mean they voted to continue the current law, which says that internal leadership of the city council or village board can be done by secret vote. Now the mayor is a separate entity and he's elected by the...he or she is elected by the citizens. [LB649]

SENATOR GROENE: Yeah. [LB649]

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GARY KRUMLAND: And in most cities, the mayor is the one who presides over the city council. [LB649]

SENATOR GROENE: Yeah, I corrected myself. But then are most of the...the cities do secret vote, or do you know? [LB649]

GARY KRUMLAND: We took a very short, informal poll of a couple cities. I...it wasn't extensive or anything, and it was mixed: some do and some don't. [LB649]

SENATOR GROENE: Because I think the city of Omaha, I was reading in the paper they have a lot of contention once in a while electing theirs, don't they? [LB649]

GARY KRUMLAND: Yeah, I've read that too. Other cities, though, do it by open or they just take turns. But, yeah, there are some cities that do it by secret ballot and for the same reason: the contentiousness of it and hard feelings. [LB649]

SENATOR GROENE: That isn't what democracy is all about, is it, sir, the hard feelings and contention? [LB649]

GARY KRUMLAND: Well, and I guess in...when the Legislature first adopted the Open Meetings Act, they thought that this was important, and so our board would like to continue it. [LB649]

SENATOR GROENE: Thank you. [LB649]

SENATOR MURANTE: Thank you, Senator Groene. Any additional questions? Seeing none, thank you very much for coming down today. Additional opposition testimony to LB649. Any additional opponents? Seeing none, is there any neutral testimony? Mr. Daley, welcome back. [LB649]

FRANK DALEY: Thank you very much, Senator Murante and members of the Government, Military and Veterans Affairs Committee. My name is Frank Daley, D-a-l-e-y. I serve as the executive director of the Accountability and Disclosure Commission, and I'm here in a neutral capacity for the purpose of supporting Senator Kintner's proposed amendment. What he is attempting to do is avoid a conflict within the statutes whereby the Accountability and Disclosure Act says one thing and the Open Meetings law says another thing. There's a...there are a limited number of votes that by law we have to keep confidential until such time that the commission issues an order, and for us to disclose that prematurely is actually a criminal offense.

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So I want to support your adoption of Senator Kintner's amendment and thank him very much for considering our situation. Thanks for the opportunity to testify. [LB649]

SENATOR MURANTE: Thank you, Mr. Daley. Senator Larson. [LB649]

SENATOR LARSON: Do you elect a board president with... [LB649]

FRANK DALEY: A chairman of... [LB649]

SENATOR LARSON: A chairman of the board? [LB649]

FRANK DALEY: Of the commission, yes. [LB649]

SENATOR LARSON: Is that a secret or a public... [LB649]

FRANK DALEY: It's been done both ways over the years, but for the past 10 or 15 or so, it's been open. [LB649]

SENATOR LARSON: Thank you. [LB649]

SENATOR MURANTE: Thank you, Senator Larson. Any final questions? Thank you very much for coming down. [LB649]

FRANK DALEY: Thank you. [LB649]

SENATOR MURANTE: (Exhibits 2 and 3) I'm still trying to get the "Hulk Hogan" nickname to stick with you, Mr. Daley. We'll see if that happens. (Laughter) Any additional, neutral testimony to LB649? Seeing none, Senator Kintner waives closing. And before we close the public hearing on LB649, I have a letter of support from Ed Rieker from North Platte, Nebraska, representing himself; a letter of opposition from Amy Prenda, representing the Nebraska Water Resources Association. And that closes the hearing on LB649. We will proceed to the next item on the agenda, LB273. Senator Sullivan, welcome back to the Government Committee. [LB649]

SENATOR SULLIVAN: (Exhibits 1 and 2) Thank you, Chairman Murante and members of the Government, Military and Veterans Affairs Committee. I'm Senator Kate Sullivan, that's K-a-t-e S-u-l-l-i-v-a-n, I represent the 41st Legislative District and I'm here today to introduce LB273. LB273 would allow voters to change the election of county offices from partisan to nonpartisan

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in counties of 20,000 or less. There are two methods by which the vote could take place under my legislation. First, the county board may adopt a resolution requiring submission of the question to the voters or registered voters may file a petition with the county clerk requesting submission of the question to voters. The petition must be signed by at least 5 percent of registered voters in the county at the preceding statewide general election as verified by the county clerk. Regardless of the method used, the question would be placed on the ballot at the first statewide general election held at least 60 days after adoption of the resolution or verification of signatures. If voters approve the ballot question, county offices will be elected on a nonpartisan ballot in subsequent elections. The same methods may be used to submit the question to the voters to change election of county offices from a nonpartisan ballot back to a partisan ballot. The question may not be submitted to the voters more than once every three years. LB273 is a little different than a bill that I introduced two years ago. That bill used the 10,000 population threshold based on the current threshold for elections by mail. The 20,000 population threshold was based on a figure the Secretary of State used in a letter to a citizen. And if the pages wouldn't mind, I have a copy of that letter that Secretary of State Gale sent to this particular constituent. There are 67 counties that meet the 10,000 threshold based on the 2010 census. Going to a 20,000 threshold adds 9 more counties, for a total of 76 counties with a population of 20,000 or less. For the purposes of committee conversation, going to a 15,000 threshold would encompass 74 counties. The method of placing the question on the ballot is similar to the method used to change the number of county commissioners. It allows the county's voters to decide whether to elect their county officials on a nonpartisan basis if the county population is less than 20,000. I started down this road of nonpartisan county office elections after the 2010 statewide primary election. In one of my counties both candidates for county office were of the same party. The election thus was decided in the primary. Slightly more than one-third of this county's registered voters decided the outcome of the race. Almost two-thirds of this county's registered voters were disenfranchised to this particular primary election because they were either registered as independents or members of the other political party. I'm quite certain that this same situation occurs in the primary all over the state, particularly in our rural counties with lower population. Let's face it, recruiting quality candidates is a challenge wherever you live, but it's particularly getting even harder in our smaller counties. Nonpartisan ballots work well for the county and state offices' elections in which they are already in use. LB273 would allow county voters in smaller counties to decide whether they want their county officials to be elected on a nonpartisan ballot or not. They can then vote in every election for the county candidates that they choose to support. Four years ago when I introduced a bill that would simply have made all county office elections nonpartisan, I quoted George W. Norris. Senator Norris once said in defense of the nonpartisan Unicameral, legislators' duties have nothing to do with the federal administration or the success of any political party. I'd like to co-op Senator Norris' comment once again and say that county offices' duties have nothing to do with the success of any political party. County officials should answer to the voters of their county, all voters. LB273 eases us into this concept by allowing the smaller counties to decide if

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they want their county offices to be nonpartisan. If this committee should decide to advance LB273 with a 20,000 threshold, you will need an amendment to correct a drafting error. And I have copies of that amendment, if I could ask again the page to pass it out. And I apologize, we overlooked this error when we introduced the bill. But I have already filed AM9 to correct it. So on page 2, line 13, we strike "ten" and insert "twenty." So I thank you for your time and interest and I encourage you to advance LB273. [LB273]

SENATOR MURANTE: Thank you, Senator Sullivan. Are there any questions? Senator Larson. [LB273]

SENATOR LARSON: Real quick, Senator Sullivan. I look at the list I pulled up. There's a number of counties right around the 20,000 threshold, just above it. But they all have the possibility to fluctuate. So what happens if it dropped to 19,800, pass it, and then by some miracle rural economic development happens and they move over the 20,000 limit? You get the...because by law at that point they're no longer eligible. [LB273]

SENATOR SULLIVAN: But they would be at the time that the election was made. [LB273]

SENATOR LARSON: Okay. [LB273]

SENATOR SULLIVAN: And so that would, I presume, would stand until it was acknowledged that that was different. And perhaps then it would have to take a vote of the people to change it back, but I could be wrong. [LB273]

SENATOR LARSON: Yeah. I'd have to have a...so you're saying if they did it while they were under 20,000 once it went above. [LB273]

SENATOR SULLIVAN: Yep, that's what I would interpret it, but we could be wrong and we'll check it out. [LB273]

SENATOR LARSON: Yeah, I'll have to talk to our research analyst. [LB273]

SENATOR SULLIVAN: Okay. [LB273]

SENATOR LARSON: Thanks. [LB273]

SENATOR MURANTE: Thank you, Senator Larson. Senator Groene. [LB273]

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SENATOR GROENE: Thank you, Chairman. Senator Sullivan, I've seen where there might be five in one party run for county commission and none of the other. Would you consider something like if only one party has candidates, that then the top two go on to the general election, then everybody has an opportunity to vote? [LB273]

SENATOR SULLIVAN: Well, that's another possibility. I hadn't really considered it. That would obviously take a change in the statute to make that happen as well. [LB273]

SENATOR GROENE: I agree. Everybody should have a chance to vote for their county commissioner. But what about if you did it and you still declared your party, because a lot of people judge who they vote for by political philosophies. And not everybody can be educated on each candidate, but they can judge by the political philosophy by their association. What about if you did this but you still had to declare a party? Would you have any (inaudible)? [LB273]

SENATOR SULLIVAN: I have mixed emotions about that. I guess I'd kind of make the case to compare it to the Legislature, which, of course, we run on a nonpartisan. And I would venture to guess that there is less difference in terms of political philosophy down at the grass-roots level because many of those county offices really have nothing to do with political or philosophical orientation. It's just, quite frankly, getting the job done for the county. [LB273]

SENATOR GROENE: Anyway, thank you. [LB273]

SENATOR MURANTE: Thank you, Senator Groene. Are there any additional questions? Senator Hansen. [LB273]

SENATOR HANSEN: Thank you, Chair. Senator Sullivan, why the population threshold? Not necessarily which one we chose, but why are we limiting this to a certain number of counties rather than all counties...applying it to all counties? [LB273]

SENATOR SULLIVAN: Well, that was the sort of the challenge, if you will, that I ended up when I introduced this the first time. That received some pushback from some of the larger counties where I think political parties have a bigger role in some of those county elections, and also with the recommendation of the Secretary of State that perhaps we start lower, and as I said in my testimony, to kind of ease into this, if you will. [LB273]

SENATOR HANSEN: Okay, because I was just thinking...because I could think of one instance in my county, Lancaster County, where you're right, there were two candidates of the same party.

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So essentially the primary was the deciding election. So I was just trying to keep track and apply it to my frame of reference. So thank you. [LB273]

SENATOR MURANTE: Thank you, Senator Hansen. Any additional questions? Seeing none, thank you very much for your testimony. We'll now proceed to proponent testimony to LB273. Would anyone like to testify in favor of LB273? Seeing none, is there any opposition testimony to LB273? Any neutral testimony to LB273? Welcome back. [LB273]

BETH BAZYN FERRELL: Thank you. Good afternoon, Chairman 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. I'm appearing here neutral on LB273. We are neutral to the policy of whether or not a county election should be partisan or nonpartisan. We do like the idea that the issue would go to voters to decide, in their own county, whether they wanted elections to be partisan or nonpartisan. We'll be in tomorrow with basically the same testimony on a bill you'll hear tomorrow that I think picks up some of the issues that Senator Groene had mentioned about still having a party but not having the party designation show on the ballot. So I would be happy to try to answer questions. [LB273]

SENATOR MURANTE: Okay. Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down. Any additional neutral testimony to LB273? Seeing none, Senator Sullivan, you're recognized to close. [LB273]

SENATOR SULLIVAN: Thank you. I just wanted to tell the committee that I'm more than willing to work with you as you hear testimony tomorrow from Senator Davis, if you have any continuing issues of concerns reach out to me. I'll be more than willing to work with you. And also, getting back to the party affiliation at the local level, in our small, rural communities and counties we pretty much know who belongs to each political party. So, thank you very much for your attention. [LB273]

SENATOR MURANTE: (Exhibit 3) Thank you, Senator Sullivan. Before we close the hearing on LB273, I have a letter of support from J.D. Schlutz from Harlan County, representing himself. With that, we close the hearing on LB273 and proceed to the next item on the agenda, LR35. And I don't see Senator Ebke. [LB273]

SHERRY SHAFFER: She's on her way. [LR35]

SENATOR MURANTE: So we will stand at ease until...sit at ease until Senator Ebke arrives. [LR35]

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SENATOR EBKE: Waiting for me? [LR35]

SENATOR MURANTE: (Laugh) Senator Ebke, welcome. [LR35]

SENATOR EBKE: (Exhibit 1) Good afternoon, Chairman Murante and members of the Government Committee. Thank you for waiting for me. I was in Judiciary. For the record, I'm Senator Laura Ebke. That's L-a-u-r-a E-b-k-e. And I represent the 32nd Legislative District, made up of Saline, Jefferson, Thayer, and Fillmore Counties, as well as the southwest corner of Lancaster County. I'm here today to introduce LR35. Now you've all heard a little bit about LR35 over the last couple of days. LR35 is a little different than most of what we hear in our legislative hearings. It doesn't seek to change or add to statute. What it does do, however, is ask for the Nebraska Legislature to exercise a power that it has under the U.S. Constitution and to request a convention of the states for the purpose of addressing some of the structural problems that we have in our country which threaten our children and grandchildren's futures. As I was out campaigning the last two years, I found a remarkable number of people who would talk to me on their doorsteps or in town halls, but much of the time they didn't really want to talk about state issues. What they were worried about, rather, were...you know, was sort of the amorphous Washington. Did you hand out the Article Vs? Okay, thank you. What they wanted to talk about was Washington. They were worried about the national debt which has topped \$18 trillion; they were worried about the ever-increasing tax burdens; they were worried about the runaway regulation, mostly but not exclusively at the national level; and, yes, they were even worried about Obamacare. My takeaway was that, while they were a little bit puzzled by the state process, they still felt somewhat connected to those of us in Lincoln. But they felt disconnected from the national government. And some of the questions I got were even along the lines of, can you just make Washington leave us alone? While I was running, I tried to set those questions aside, remind people that I was running for a state office, and show my empathy with their frustration. But I really wasn't thinking about what I could do about this problem. I should say, parenthetically, that while I had heard about the convention of states movement, I had never really given it much thought. In point of fact, I was a political science instructor teaching American government. And my greatest concern with the concept of the convention of states was that we'd end up with some sort of a crazy, runaway convention and end up with something far worse than the status quo. So fast-forward a little bit to this past Christmas after the election was over, and I was at Christmas with my extended family. And my brother looks at me as I walk in the door and he says, so are you going to introduce a resolution for convention of the states? I hemmed, hawed, and ducked the question. But my brother is a pretty smart guy. So I started doing a little more reading over the next couple of weeks, and then all of the pieces sort of fell into place for me. You see, I had failed to think of the convention of the states as what it is. Via Article V, it is just another way of proposing amendments to the constitution. Now you have in front of you...I think we handed out a copy of Article V of the constitution. I want to just...I just want to read that into the record. "The Congress, whenever two-thirds of both houses shall deem

it necessary, shall propose amendments to this Constitution." That's the way that we always think about the Constitution of the United States being amended. But then there's that little word "or," okay, "on the application of the legislatures of two-thirds of other (sic)...of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution..." It's obvious that the founders intended for this to be a viable option. It's also important for you to remember this: Even though it's never been done before, as far as an actual convention being called, there have been efforts been made across the years, since the very beginning. In 1893, in fact, Nebraska--yes, our very own state of Nebraska--filed for a convention of the states to call for the direct election of senators. In the next ten years, another 12 or 13 states filed for that, as well. Before the time of the deadline on that original filing expired, you know, we didn't have a convention. But a number approaching 20 states saw this as a legitimate means for making change. Okay? They made an application of some sort and ultimately we know that Congress saw this effort, this effort of the states trying to promote a proposal, a convention, via this application process. And Congress took matters into their own hands and proposed the Seventeenth Amendment and sent it out to the states. But the fact that Congress took that action I don't think diminishes the legitimacy of these efforts. It doesn't suggest that a convention of the states is somehow out of the mainstream just because it hasn't been done before. And in fact, in the late '30s and early '40s, there were around 12 or 14, depending on how you count, different petitions with similar subject matter. There were between 12 and 14 applications dealing with income tax limits that went to Congress. Several states in the mid '40s applied for a convention to place term limits on the President before the Congress got around to sending the Twenty-second Amendment to the States. There are literally hundreds of examples of applications for a convention of the states to propose amendments on dozens of different topics. Perhaps, today, because of our communications capabilities, the chance of success is greater. You know, imagine the previous communication barriers to get to that point, you know, to have identical calls proposed in, you know, in two-thirds of the states. Others will be following me, behind me, who will probably make reference to this, but let me just say a few word about our--you know, the Legislature's--appropriate authority as state legislators under the federal Constitution. Yesterday, I noted in comments on the floor that there are limited powers remaining for the state legislatures in the federal constitution. Each one of us has, however, sworn to uphold and defend the Constitution of the United States, as well as of our state. So I think it behooves us to take seriously those powers that we do have and to carefully deliberate over the possibilities that those powers hold for us and for improving our country. This power, the power to be part of a call for a convention of the states to propose amendments--again, propose amendments--can only be done in concert with a number totaling two-thirds of the states, or at least 34 total. In many ways, the fact that it requires three-fourths of the...or two-thirds of the states in and of itself dispels the fear of a convention out of control. I mean, what are the chance that all 34 states are just going to go crazy? And even once the call is complete, okay, assuming we get all 34 states to agree to a call, I'm inclined to believe that getting everyone to agree on the rules, to show up in the same place at the same time, and to agree on

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every word of every amendment that might be proposed will be difficult. Doesn't mean that it's impossible, but it's not going to be easy. I've read Madison's notes on the convention in 1787 and it's pretty clear that coming to an agreement in 1787 wasn't all that easy, either. This won't be an easy task, but I would argue to you that it shouldn't be an easy task, that changing our foundational document shouldn't be easy. But I do think that it might be necessary. I've come to believe that, even though it's difficult, if we care about not just our future but the future of our children and their children, then we have to undertake the effort to get control of the federal government. As I put on my political science teacher hat, let me remind you, we aren't and were never intended to be a purely democratic, unitary system, with all of the power residing at the national level and grants of power being given to units of government below. We were intended, however, to be a federal republic, with the ultimate sovereignty resting in the hands of the people but with governing power being divided and diffused so that no one group of people, no one branch of government, or one location of government would become too powerful. Today, we have in many ways allowed the states to become pawns of the national government. And frankly, I don't think we can expect members of Congress to voluntarily fix the problem or to offer amendments to the states for ratification. I would argue that it's up to us and the legislatures of at least 33 other states to get together, propose amendments, and to force the issue. The convention of the states resolution before you for consideration asks for Nebraska to apply for the calling of a convention of the states limited to proposing amendments that deal with imposing fiscal restraints on the federal government, limiting the power and jurisdiction of the federal government, and limiting terms of office for members of Congress. Nothing more happens until 33 other states think that this is a good idea. There are other Article V groups out there, some with very different goals, and the fact that they are advocating for the different goals via Article V validates the legitimacy of the idea and the surety of a limited-scope convention. If those promoting various Article Vs thought that the scope was wide open, they'd all be gathering around one effort, I suspect, and then let ideas fly wild at a convention. Again, there will be a number of proponents, and perhaps others, who will speak after me. I think some of you have had a chance to meet with Mark Meckler with Citizens for Self-Government (sic). He and his group have been working on the convention of the states for some time. So he will probably be able to tell you much more about thinking with respect to rules, timing, selection of representatives, etcetera, as well as about what's happening around the country and other states, if you're so interested. But I'd be happy to try to answer any questions you might have of me at this point. [LR35]

SENATOR MURANTE: Thank you, Senator Ebke. I have a couple of questions for you. [LR35]

SENATOR EBKE: Okay. [LR35]

SENATOR MURANTE: Okay, so you have addressed in part the concept of a runaway convention. So what happens if this constitutional convention gets called and the delegates from

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the states send something out that is outside the scope of the call? Is the only limitation just the states' ability to not ratify it or...? [LR35]

SENATOR EBKE: Well, sure. Remember that anything that goes out as an amendment, as a proposed amendment, still has to be ratified by three-fourths of the states. [LR35]

SENATOR MURANTE: Right. [LR35]

SENATOR EBKE: So it's, what, 13 states vote against it and it's not going to...I think that's about right. Is that the right number? Thirteen states vote against it and it doesn't happen. [LR35]

SENATOR MURANTE: Right. [LR35]

SENATOR EBKE: Beyond that, I think that a case can be made that the legislators have the authority to direct their delegates to vote in a particular way or to move in a particular direction on any amendments, you know, in the case of...the unlikely case of a runaway convention. [LR35]

SENATOR MURANTE: But let me give you maybe... [LR35]

SENATOR EBKE: Okay. [LR35]

SENATOR MURANTE: ...a state-issue parallel. Okay? [LR35]

SENATOR EBKE: Okay. [LR35]

SENATOR MURANTE: If the Governor calls a special session and the Governor's call is specific to a subject matter and the Legislature passes a law that is outside the scope of that subject matter, it would be...litigation would be immediate and a court would immediately throw it out. Okay? So there is...it's not just a fallback plan that it... [LR35]

SENATOR EBKE: Right. [LR35]

SENATOR MURANTE: ...that whatever comes out of that special session could be...there is a referendum process or there is a way to undo it. It is: If the Legislature acts outside the scope of the call, whatever they do outside of that scope is going to be struck down by a court. Is...if a constitutional convention operates in a way that is outside the scope, is there some sort of similar

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mechanism to strike it down before, you know, the...outside of just the state legislatures' having the ability to undo it? [LR35]

SENATOR EBKE: It's a really good question. I don't know the answer to that. And, you know, Mr. Meckler is an attorney and he may have a better sense of that. You know, my off-the-cuff response would be that I think it's incredibly unlikely that it would happen just because of the pure numbers, because of the call that has been issued, and the nature of the application for the call, but...yeah. [LR35]

SENATOR MURANTE: My concern, and I'd like you to address it, is if I were a group who thought more along the lines of Ruth Bader Ginsburg, who has made it pretty clear that in her view the constitution is malleable, imperfect to the very least, okay, at the very least, and if I were part of a section of the country who believed that, what I would do in that instance is take our constitution, which is negative rights, as you...so it is a constitution which restrains government, and propose a series of extremely popular, good-sounding constitutional amendments which would be very difficult to oppose and very easy to demagogue, and such as granting rights on certain things. And I don't think it's that far-fetched to get legislatures from around the country to sign off on that. And then the laws that would follow have the potential to be the problem, not the amendments themselves, but then we'd be stuck with it. That's my concern. [LR35]

SENATOR EBKE: Sure. Sure. Well, I think...and honestly, that is part and parcel of the concern that I had about it for years. You know, I've...like I said, I've taught political science for 25 years. And, you know, the way I always taught the constitution was, you know, okay, we had all these people showing up in Philadelphia and they were just supposed to amend the Articles of Confederation. And instead, what did we get? We got this whole new constitution. As good as it might be, this is what we got. I think it's a very different situation and I think we also left out some of the specific call that the founders had. Plus, remember, things still have to be ratified and it's a big number that has to be ratified. I don't see it as nearly the problem. I understand. But the problem is things are out of control, I would argue, and what's the option, you know. [LR35]

SENATOR MURANTE: I suspect, if you and I sat in a room together, we would be able to come up with ways where in the last ten years Congress and the federal government has acted in ways that violated constitutional principles. [LR35]

SENATOR EBKE: Absolutely. [LR35]

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SENATOR MURANTE: If Congress is ignoring the constitution as it's written now, why would they pay any attention to these constitutional amendments that a constitutional convention would come up with? [LR35]

SENATOR EBKE: Part of that problem I think is that...is the courts. The courts have allowed that interpretation. And the idea behind constitutional amendments would be that we would clarify expectations. You know, over the last 200 years, especially the last 100 years, the courts have taken very broad interpretations of the commerce clause and, you know, all sorts of other things. And so, you know, if we clarify that via constitutional amendment, I think that that makes it a whole lot tougher, both politically and in reality, for courts and for the Congress and the President and everybody else to overtly violate the constitution. And if they do that, then, you know, maybe there's some price to pay politically. [LR35]

SENATOR MURANTE: We'll see. Senator Larson. [LR35]

SENATOR LARSON: Thank you, Senator Ebke. First of all, in principle, I support the concept of a convention of the states. I like the concept. I...it's something that interests me, especially since America is the first true representative democracy/representative government. [LR35]

SENATOR EBKE: Call it a republic. Let's call it a republic, okay? [LR35]

SENATOR LARSON: Yeah, representative republic. I guess the Greeks were the first democracy. [LR35]

SENATOR EBKE: Yeah. [LR35]

SENATOR LARSON: But a representative republic, there are issues within our system that are...that other nations across the world have improved upon our basic ideas. Does every...now this is a resolution. Does every one have to be exactly the same for the convention to happen? So I see yours talks about the scope of the convention is X, Y, and Z. Does every single one adopted have to be exactly the same? [LR35]

SENATOR EBKE: That's the approach that the convention of the states has applied just because they believe that, if you do that, it ensures that Congress can't ignore it when they make the call, based on the applications. [LR35]

SENATOR LARSON: Okay. And reading through these...so, like I said, first of all, I don't have a problem with the concept of a convention of states, and I can understand Senator Murante's

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concerns. That brings me to the second part of your LR. Knowing that I support the concept, now we have to debate what's in here... [LR35]

SENATOR EBKE: Right. [LR35]

SENATOR LARSON: ...and whether or not we want to do this and less so... [LR35]

SENATOR EBKE: Right. [LR35]

SENATOR LARSON: And what are fiscal restraints? I mean you...we talk about impose fiscal restraints. Now is that, you know, limiting national debt? Is that...I think that becomes very broad. And then we can talk about, you know, do we want to limit...you know, I think we are too far in debt but at the same time the U.S.'s ability to devalue the ruble was a national security thing. And to do that, we might have to do QE, which you get what I'm saying, that there's a number of issues moving in through here and... [LR35]

SENATOR EBKE: And that's why we have a convention. You know, we get people with serious ideas and, you know, to sit down and talk about it. [LR35]

SENATOR LARSON: Limit...and I...yeah, so like I...and I appreciate that. I just...now I...knowing that I do support the concept, now I have to...and the worry is, is to call one would be great, but then you...and I know, if we did call one, then three-quarters of the legislatures would have to pass what would be done. [LR35]

SENATOR EBKE: And it wouldn't necessarily have to be three-quarters of the legislatures. I mean you could do it through a convention within the state. So each state could call a convention, as well, so you could have a convention of the people within the states. That's the other...that's the alternative way of ratifying. It's been done I think once, maybe just once, when they...when we ended Prohibition. [LR35]

SENATOR LARSON: So the...all right, so that opens up a lot more questions. (Laughter)
[LR35]

SENATOR EBKE: You could have convention...you could...like I said, it's only been done once, so. [LR35]

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SENATOR LARSON: So the convention of the people, is that just whoever shows up and the majority wins or...? [LR35]

SENATOR EBKE: Well, I mean, the Legislature would have to determine how that was going to...how the ratification process was, and that would be part of the convention, too, to determine how the ratifications would take place. [LR35]

SENATOR LARSON: So you're saying we could host a...the Legislature would get to decide if the convention of the people happens at the Holiday Inn Express in O'Neill? I mean that (laugh)... [LR35]

SENATOR EBKE: Sure. (Laugh) No. Well, I mean...no, no. I mean I think that the convention of the states, if I understand the process correctly, and again this is something that's new,... [LR35]

SENATOR LARSON: I mean coming back to ratify what the states do. [LR35]

SENATOR EBKE: We...right, we'd...well, and in 1929? Was that the year that Prohibition ended, '31? [LR35]

_____ : '33. [LR35]

SENATOR EBKE: Thirty-three, when Prohibition ended, my understanding is that Congress, knowing that the state legislatures would not ratify the abolition of Prohibition, designated that the ratification process would be by popular conventions within the states. So that would be part of the...and if Mark corrects me on all this, I'll be in trouble. But... [LR35]

SENATOR LARSON: Well, yeah, and that kind of...like, who gets seated at the conventions? Who gets... [LR35]

SENATOR EBKE: But the convention, as part of the amendment process, the amendment proposal process, would then define how the amendments would be ratified when they go back out to the states. So they could either do it through the state legislatures or they could do it through conventions in the states, but it would have to be in three-fourths of the states. [LR35]

SENATOR LARSON: Like I said...and I appreciate that explanation and I think you're right in the sense that it would be difficult to get three-fourths on a lot of things. You know, there's obvious ways around it. And I support the concept and I support, you know, different scopes, as

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well. But you...you know, I worry about when you talk about imposing fiscal restraints on federal government. And I know that it's...my generation is going to have to pay off the debt and not the generation of... [LR35]

SENATOR EBKE: Not my generation, is that what you're saying? (Laughter) [LR35]

SENATOR LARSON: Well, you're going to be...yours, to a certain extent, but more so mine and your children's and grandchildren's... [LR35]

SENATOR EBKE: That's right. That's right. [LR35]

SENATOR LARSON: ...and not so much Senator Groene's generation, but...and so I get the concept. But the concerns, you know, fiscal restraints can go both ways, too, you know. What's a fiscal restraint? Is that Keynesian? Is that... [LR35]

SENATOR EBKE: Well, it's how we... [LR35]

SENATOR LARSON: ...you know, depending on who shows up at the convention and... [LR35]

SENATOR EBKE: Who shows up? Well, and that's where each of the legislatures decide... [LR35]

SENATOR LARSON: Yeah. [LR35]

SENATOR EBKE: ...how they're going to, you know, how they're going to allocate their membership. So you'll have a diverse group. But, you know, there was a diverse group sitting in Philadelphia in 1787, too, and they figured it all out. [LR35]

SENATOR LARSON: And I support the concept. Again, I just...I wish it didn't...I understand why it has to be limited and, at the same time, you know, we have to wrestle with it. So thank you. [LR35]

SENATOR EBKE: All right. [LR35]

SENATOR MURANTE: Thank you, Senator Larson. Senator Groene. [LR35]

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SENATOR GROENE: Thank you, Chairman Murante. Senator Ebke, who represents the state of Nebraska at the convention? [LR35]

SENATOR EBKE: That would be up to the Legislature to decide. [LR35]

SENATOR GROENE: Would it be a secret vote? (Laughter) [LR35]

SENATOR GARRETT: With helmets. [LR35]

SENATOR EBKE: If we want it to be, I guess. I, you know, I don't know. I mean, I think the...I... [LR35]

SENATOR GROENE: So...but it wouldn't be the congressmen and the senators in Washington... [LR35]

SENATOR EBKE: No, it would be who... [LR35]

SENATOR GROENE: ...that we're trying to term limit here. [LR35]

SENATOR EBKE: No, they would be...the Legislature would determine how they were going to select their representatives and, you know,... [LR35]

SENATOR GROENE: Would it be delegates with the...of the senators...from the 40... [LR35]

SENATOR EBKE: Delegates, yeah. It could be members of the Legislature. It could be citizens. It could be...I mean I think that the options are wide open. Now my understanding... [LR35]

SENATOR GROENE: (Inaudible.) [LR35]

SENATOR EBKE: ...is that each state gives one vote. [LR35]

SENATOR GROENE: Is how we do that in Senator Chambers' rule book? (Laughter) [LR35]

SENATOR EBKE: We'll figure that out when we get to 34. [LR35]

SENATOR GROENE: All right. Thank you. [LR35]

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SENATOR MURANTE: It's ever evolving. Senator Bloomfield. [LR35]

SENATOR BLOOMFIELD: Thank you, Chair. Senator Groene...sorry, Senator Groene. Senator Ebke. [LR35]

SENATOR EBKE: Yes. [LR35]

SENATOR BLOOMFIELD: Is there a time limit on this? [LR35]

SENATOR EBKE: No. Actually, there's...you mean as far as how long it... [LR35]

SENATOR BLOOMFIELD: No. If we pass the resolution this year, if we would put the resolution out on the floor, it could still be sitting there 15 years from now waiting for the other 20 states to come along? [LR35]

SENATOR EBKE: Yep. Yep. If you look at the...I believe it's in the last...the "application constitutes a continuing application in accordance with Article V of the Constitution of the United States until the legislatures of at least two-thirds of the several states have made applications on the same subject." So, yes, if no... [LR35]

SENATOR BLOOMFIELD: That's troubling to me, that it would continue just to hang out there in... [LR35]

SENATOR EBKE: Well, I don't know. The Twenty-seventh Amendment was just ratified not all that long ago, and it was one of the originals passed as part of the...that would have been part of the Bill of Rights. It was one of the originals back in 1791 and it was...it's just been in the last 15-20 years that it was ratified. [LR35]

SENATOR BLOOMFIELD: I can see, if we hang out there 15-20 years, we'd be looking at a whole different group of issues by the time they got around to it that we may or may not agree with. [LR35]

SENATOR EBKE: But these are still the issues. I mean it may disappear if our economic problems go away and if, you know,... [LR35]

SENATOR BLOOMFIELD: But it...this never disappears, and that...I would like to see a... [LR35]

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SENATOR EBKE: But it would require...but it still requires 34. It still requires those 34 to sign on. So if nobody else signs on, it just disappears. [LR35]

SENATOR BLOOMFIELD: Is there a method of retract...when does it disappear though? [LR35]

SENATOR EBKE: (Inaudible.) [LR35]

SENATOR BLOOMFIELD: Does it disappear 100 years from now if we don't get... [LR35]

SENATOR EBKE: Well, if nobody signs onto it, it's just there. There are a whole bunch of them out there, honestly, that have been filed with Congress that are still hanging out there. They've become largely irrelevant. You know, there was one on slavery back in 1861. There was one on...there have been some on the presidential term limits which became, you know, unnecessary. There have been a number of them. I think Article...there was one on Article XII or Amendment...the Twelfth Amendment or...you know, there have been a number of them. [LR35]

SENATOR BLOOMFIELD: This...it may be a question for somebody behind you, but is there a way to put a sunset clause on it to where we can say, if this hasn't happened in five years, we're no longer going to be bound by this? [LR35]

SENATOR EBKE: Well, we wouldn't...I don't think that we would put a sunset clause on this, but I don't think that there's...there would necessarily be any problem, you know, with the Legislature retracting it. [LR35]

SENATOR BLOOMFIELD: Okay. Thank you. [LR35]

SENATOR EBKE: I mean I think that would be possible. [LR35]

SENATOR BLOOMFIELD: Thank you. [LR35]

SENATOR MURANTE: Thank you, Senator Bloomfield. Are there any additional questions? Senator Groene. [LR35]

SENATOR GROENE: All right, so you get 34. Now you've got 34 independent states. Who steps forward and says, where are we going to have it, who is going to call it? The date, who is going to set up the dates? So when does this happen? [LR35]

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SENATOR EBKE: We all get on Google Docs and decide how we're going to (laughter)...I don't...I...you know, we're a long ways from that. You know, I think three states have approved it and... [LR35]

SENATOR GROENE: Three have? [LR35]

SENATOR EBKE: I believe...is that correct? Yeah. [LR35]

SENATOR GROENE: When did the push start for this? [LR35]

SENATOR EBKE: A couple years ago? [LR35]

_____ : No, it was last legislative cycle. [LR35]

SENATOR EBKE: Last year? Okay, so... [LR35]

SENATOR GROENE: Thank you. [LR35]

SENATOR MURANTE: Thank you, Senator Groene. Any final questions for Senator Ebke? Seeing none, thank you for your opening. [LR35]

SENATOR EBKE: Thank you. [LR35]

SENATOR MURANTE: And we will proceed to proponent testimony on LR35, proponents. [LR35]

MARK MECKLER: Mr. Chairman, honorable members of the committee, my name is Mark Meckler. For the record, that's M-e-c-k-l-e-r, and I am president of Convention of States Action, the group that is here promoting the convention of states resolution here in the Legislature. I'd like to start with a little bit of history, if we could, because I think it's important to set the stage for why we're here and, specifically, why we're here with you. In 1787, in that fateful convention, two days before the end of the convention Colonel George Mason from New York stood and pointed out what he considered to be a fatal flaw in the document that those men had drafted. The flaw was this, that Article V contained a provision allowing the federal government to propose amendments to the constitution should they deem them necessary. But Article V didn't contain a way for the people, acting through their states, to propose amendments similarly. And he said something like this, he said, are we so naive that we believe that a federal government

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that becomes a tyranny will propose amendments likely to restrain its own tyranny? We ask that question today. The answer is obviously, no, no government will do that, no government ever has. And the wisdom was so obvious there in 1787, two days before the end of the convention, that Madison's notes actually reflect there was no debate on the matter, that the amendment...the request to put in the second clause of Article V, giving you, the state legislatures, the power to call an amending convention specifically to propose restraints on the tyranny of federal government, was adopted unanimously, one of the few things actually adopted unanimously in that cantankerous convention in 1787. So the founders, the framers, saw that they needed to invest in you the ultimate power over the federal government. This is really extraordinary. I travel all over the country. I speak with state legislators all over the country. I can honestly say I had no idea five years ago that power was in there. I would say that probably at least half of the state legislators I talk to have no idea that they actually have power over the federal government. When I talk to state legislators all over the country they often tell me, you know, we're just under the pressure of the federal government constantly, they impede our authority, the EPA invades our state, you know, we're dealing with the strictures of Obamacare and other programs that are imposed on us, unfunded mandates that we have to deal with in our state and we're struggling with all these things that the federal government is imposing on us. And so often they say, there's nothing we can do about it, you know, we deal in our ever-shrinking area of authority and that's all that we can do. The reality is the founders gave you a gift. They sent a message to you in a bottle across the ages, and that message said that they were counting on you, state legislators, to be the last line of defense for liberty. They were counting on you if the federal government ever became too big and too powerful, ever exceeded the bounds set by the constitution, that you, state legislators, would get together from all across the country and step up and restrain them. And so we're here today to ask you to do that, to step up and provide that restraint. Three states have now passed this application: Florida, Georgia, and Alaska, not small states. Application is now pending in roughly 30 states around the country. More are adding every day. We expect that by the end of next legislative session, 2016, that we can hit the 34 number--that's our realistic goal--and hopefully call the convention in 2016. So with that, I'd like to open it to questions. [LR35]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions?
Senator Bloomfield. [LR35]

SENATOR BLOOMFIELD: Mr. Meckler, I'd like to ask you the same question I asked Senator Ebke. Is there any way to put a time limit on this to where it's not hanging out there 15 years from now? [LR35]

MARK MECKLER: In fact, many states have actually acted in that way. We have a history on the balanced budget amendment, commonly referred to as the BBA. We got to the point where 32 states in the early '80s had passed the BBA. And a bunch of states decided they didn't like that

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idea and decided to rescind and they actually voted to rescind their application. So the process is a simple vote for rescision. [LR35]

SENATOR BLOOMFIELD: Okay. Thank you. [LR35]

SENATOR MURANTE: Thank you, Senator Bloomfield. Any additional questions? Senator Groene. [LR35]

SENATOR GROENE: Thank you, Chairman. What's the time line? I mean, so they all gather in Philadelphia again? Hopefully, North Platte, but anyway...then who organizes it? Who decides/ sets the agenda? Who says that this is going to be done in six months or two months or who...how is that all decided? [LR35]

MARK MECKLER: Well, let's walk our way through the full process. So 34 states file their applications. The senator, Senator Ebke, was correct. Those applications need to be the same so we get what's called aggregation, so that we don't have to fight with Congress about whether 34 states have actually called. Once you do that, Congress has one duty...actually, two duties in this process. One is to set the time and place for the convention. Now I expect, with what I know about Washington, D.C., and what you guys probably know, that they're going to say Washington, D.C., is the place for the convention. I don't know exactly what they'll set as far as a time. Our position is, and we have legal authority for this, our position is if Congress doesn't set that convention pretty rapidly, we will encourage the states to send a letter to Congress simply saying they are setting their own time. The states in this instance are acting as sovereign entities not under the power of the federal government. They're acting in a power above the federal government, and so they can call the time if the federal government fails to do so. I assume it will be D.C. And then most of the leaders that I've talked to in the states around the country that are seriously considering this said they would go to D.C., for one hour, convene, and then they would recess and go somewhere in the center of the country, maybe here. And so I've heard lots of suggestions for where, but I expect...then the convention, by the way, sets their own rules. There is now an organization of state legislators from all around the country that have gotten together, called the Assembly of State Legislatures, and they are drafting a rule set right now. The goal is to come into convention with the majority of states already having agreed on a rule set. They're basing those rules on Mason's rules, which about 75 percent of state legislators use and are familiar and comfortable with around the country. And then they'll add on whatever special rules they need for an amending convention. So that's the general processes it lays out. It's important to note that the law of convention...when you guys pass a statute, you're passing a law. The law of the convention is the application, those three subject-matter areas that limits what can be discussed in convention. And then obviously, sometimes, when you pass laws, then there are regulations that are drafted that allow those laws to be put into effect. Those are

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essentially the rules of convention that will be drafted in convention itself or hopefully by Assembly of State Legislatures and then voted on by 26 states in convention. [LR35]

SENATOR GROENE: Thank you. [LR35]

SENATOR MURANTE: Thank you, Senator Groene. Senator Bloomfield. [LR35]

SENATOR BLOOMFIELD: Thank you. If we were to proceed down this path and elect a delegate to go to that convention, are they...do they receive pay of some sort? And if so, who covers that? The state do that? How much is it? [LR35]

MARK MECKLER: That would actually be up to you as a state. I mean if you...if we go back to historically, in the 1787 Convention, they received no remuneration for their services and they all paid their own way. The state could decide however they want to do it. Delegate selection, how the delegates are treated, what the authority of delegates is, is up to every state. And as an important part of that process, by the way, you're going to limit delegate authority. Each delegate, or they're actually called commissioners when they go to a convention, each commissioner is sent with what's called a commission, and that commission is essentially the contract that limits or says what their authority is. According to standard law of agency, I can tell you, you have the right to limit any agent's authority to act on your behalf. If they act outside the scope of that authority, you have the right to say that they're not acting within their authority and their authority has no actual legal effect under any law. And some states are actually passing something called the delegate limitation act. It was first proposed in Indiana by Senate President Pro Tem David Long. That act actually imposes a five-year felony penalty for any delegate that exceeds their authority when they go to a convention. So you guys have very strong control over your delegates before, during, and during deliberations in the convention. [LR35]

SENATOR BLOOMFIELD: Thank you. [LR35]

SENATOR MURANTE: Thank you, Senator Bloomfield. Senator Larson. [LR35]

SENATOR LARSON: Do only the 34 states that petition Congress get to send people or do all 50 get to go? [LR35]

MARK MECKLER: This is what's called an application for a general convention, so all 50 states would be invited to attend. [LR35]

SENATOR LARSON: So all 50 states, all... [LR35]

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MARK MECKLER: That's correct. [LR35]

SENATOR LARSON: And anything that comes out of the convention to go to the rest of the states, is that just 50, you know, 50 plus 1 percent to adopt a proposed amendment to go to the states or within the convention...I mean the vote within the convention, what... [LR35]

MARK MECKLER: Generally, within the convention, the vote is simple majority. So it would be 26 states to pass something out of convention, out for ratification to the states. [LR35]

SENATOR LARSON: And each state gets one vote. [LR35]

MARK MECKLER: That's correct. [LR35]

SENATOR LARSON: And you talked about the state can place restraints on their delegates or group of delegates. So the Legislature would...is really the only one since we've...my understanding, we're the ones that get to decide who the delegates are. [LR35]

MARK MECKLER: That's correct. [LR35]

SENATOR LARSON: The Legislature could say...we could have the debate. I don't know if we pass another resolution within...when we decide who goes that we as a Legislature support term limits and you can't go outside those bounds? We can... [LR35]

MARK MECKLER: Absolutely. Yeah, absolutely. [LR35]

SENATOR LARSON: Or we support a balanced budget amendment or we don't support a balanced budget amendment, so... [LR35]

MARK MECKLER: Absolutely, you're able to restrict your delegates' behavior in any way you desire. [LR35]

SENATOR LARSON: All right, so that leads to my next...again, I...and I support a convention or the ability to have the convention. But I'm...now I'm getting into the weeds and maybe I shouldn't. What happens when we call a convention and 25 states...or we know, essentially, there's just not enough votes to pass anything because states have already...the legislatures have already delegated the power... [LR35]

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MARK MECKLER: Or limited the power, right, right. [LR35]

SENATOR LARSON: ...or limited the power or delegated, you will do X. [LR35]

MARK MECKLER: Right, right. Practically speaking, I don't think that anybody would send anybody to convention. I mean you guys will be looking at the delegates who are coming, what are the commissions. Those are generally all public documents, like anything you guys do in the Legislature. And I presume that, if everybody limited their delegates in such a way that nobody was coming or that nobody could do anything, that nobody would attend the convention, from a practical perspective. [LR35]

SENATOR LARSON: Right, from a practical point. [LR35]

MARK MECKLER: You guys...you know, I have a lot of faith in state legislators. Maybe it's misplaced. You guys can tell me here. [LR35]

SENATOR MURANTE: You haven't been observing us very long, have you? (Laughter) [LR35]

MARK MECKLER: And in all seriousness, I travel around the country. I meet with a lot of state legislators. I spend time in D.C., as well. I'll be there tomorrow, unfortunately, and I don't have a lot of faith in those guys. There's not a lot of common sense in D.C. But when you travel around the country, it's amazing, the common sense, and especially in a Legislature like this. You guys are inside. Maybe you don't see it. I see it as an outsider. You guys are citizen legislators. That's what the founders intended. They expected you guys to be running things. They trusted the common sense of the average person and I think they were right then. And I believe, in my experience traveling around the country, they're right today. [LR35]

SENATOR LARSON: And for the record...oh, I guess I'm...am I still questioning? [LR35]

SENATOR MURANTE: You're still recognized, yeah. You're still up. You're still recognized. [LR35]

SENATOR LARSON: You know, because we had talked a little bit before, imposing fiscal restraints might constitute just the ability or the...a constitutional amendment that says the Federal Reserve must be audited every five years. It's not...it might not be a balanced budget amendment. [LR35]

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MARK MECKLER: Correct. [LR35]

SENATOR LARSON: What happens if...do you fear that legislatures do get to limiting, like the only part of the imposed fiscal restraints you can vote for is a balanced budget amendment, but all of a sudden they start discussing an audit of the "Fed" and now there's the...now our delegate has that restriction of, well, I only have the authority for my state to vote for a balanced budget amendment. Do you get what I'm saying? Is there this concern... [LR35]

MARK MECKLER: Yeah, I do, and so I'm not worried about that because, you know, we have text messages and e-mail. And if your delegate believes that something is coming up at convention that they don't have the authority to discuss and they think they should be discussing it, they're going to confer with your Legislature or a special committee you've created in your Legislature and say, should I be discussing this, do you want me to be discussing this, I don't have the authority to discuss this. And then you could edit the commission at any time. You have the authority. I want you to think about this as any contract you have, a service contract with somebody who acts as your agent. So... [LR35]

SENATOR LARSON: Well, legislatures move slowly. I mean, if...take Nebraska, for example. I mean, we could be in July or August. [LR35]

MARK MECKLER: Right. [LR35]

SENATOR LARSON: And if the Legislature, the whole body...and I'm just saying, like, that's a concept of... [LR35]

MARK MECKLER: Right. [LR35]

SENATOR LARSON: ...we don't (inaudible)... [LR35]

MARK MECKLER: Well, you're not alone in that. You know, we've got legislatures that meet less often than you. You've got Texas meets every two years and what if they're not in session? And the answer that I give, because I've been asked this question all over the country, is, this is an extraordinary circumstance. Right? You're talking an Article V-amending convention for the first time in the history of the United States of America. The entire country will be watching. I can assure you, whether you're in session or not, you guys will be paying attention. I would presume, and some of the part-time legislatures I've talked to have said that they would put together a standing committee to be paying attention and to be authorized to take action at all times, regardless of what's going on. You know, we haven't done this before. It's extraordinary

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and it's going to take extraordinary measures to be prepared to deal with it. And so that's what I've heard from states that have discussed that issue that have part-time legislatures. [LR35]

SENATOR LARSON: Thank you. [LR35]

MARK MECKLER: Sure. [LR35]

SENATOR MURANTE: Thank you, Senator Larson. Senator Groene. [LR35]

SENATOR GROENE: Thank you, Chairman. Does this convention have the authority to repeal existing amendments, like...or parts of some, like the Second Amendment? [LR35]

MARK MECKLER: A repeal of the...yeah, I've been asked this question many times. A repeal of part of the Second Amendment would expand the scope and authority of the federal government. In other words, it would allow the federal government to more fully regulate firearms. I think it's a pretty clear amendment, by the way. I don't agree with the Supreme Court's interpretation of the Second Amendment. It says, shall not infringe. [LR35]

SENATOR GROENE: But can this convention... [LR35]

MARK MECKLER: No. So the convention would have no authority because that would expand the authority of the federal government. So anything that would give the federal government more power over the citizen... [LR35]

SENATOR GROENE: So when they repealed the Prohibition, they repealed one there. [LR35]

MARK MECKLER: But that was...first of all, that was not a convention. [LR35]

SENATOR GROENE: All right. [LR35]

MARK MECKLER: That was done by congressional application to the states and the states then by three-quarters approved that. And again, even in that case, what that did is actually limited the authority of the federal government. So today, if we had Prohibition and you went into convention, you probably could call for the repeal of Prohibition to allow free trade and consumption of alcohol, which would reduce the scope of the authority of the federal government. [LR35]

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SENATOR GROENE: So you're telling me Article V says you can only limit, you can't add to... [LR35]

MARK MECKLER: Article V doesn't say that. The application which we have drafted specifically limits the convention to limiting the scope, power, and jurisdiction of the federal government, imposing fiscal restraints, or imposing term limits on federal officials. [LR35]

SENATOR GROENE: So what worries a lot of folks, they get down there and a few states, half the states, really want fiscal responsibility,... [LR35]

MARK MECKLER: Right. [LR35]

SENATOR GROENE: ...wants a balanced budget, and then someone wants open borders. [LR35]

MARK MECKLER: Right. [LR35]

SENATOR GROENE: So because they're hungry and they want something done, they compromise and then I...we end up with something that's worse than what we have. What about this word "compromise"? It...I mean, is it pretty much dictated that the states tell them what to do and that's it and they get down there and there's no compromise that, I'll give you this, you give me that? [LR35]

MARK MECKLER: That's...absolutely, and it's the same as...let me give you a real-world, legal example. It's the same as you hiring an insurance agent. You contract with that person. They are now your agent. You give them authority to bind you to a policy of insurance. And you tell them, I'm willing to pay \$1,500 a year for that insurance and I want these provisions in it. Now if they come back to you and they say, Senator, I've bound you to a policy of insurance that's now \$10,000 a year, you're not bound to that policy of insurance. They had no legal authority to act on your behalf to bind you to that policy of insurance. You gave them authority up to a certain level. And this is the same way. There's a law of agency. [LR35]

SENATOR GROENE: So when we come back, we can not vote for it, not ratify it. [LR35]

MARK MECKLER: Not only not vote for it, but you'll be paying attention to what they're doing while they're there. And should they be discussing those sorts of things, the responsible legislators that you are, you'll be paying attention to that and you'll be on the text message saying, we're watching you, what are you doing, you can't be talking about those things. [LR35]

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SENATOR GROENE: Thank you. [LR35]

SENATOR MURANTE: Thank you, Senator Groene. Senator Hansen. [LR35]

MARK MECKLER: Yes. [LR35]

SENATOR HANSEN: Thank you, Chair. I'm addressing the kind of the larger concern of the limiting the scope of a constitutional convention. [LR35]

MARK MECKLER: Sure. [LR35]

SENATOR HANSEN: What are you basing that interpretation on? I see you referencing agency law. But what else are you basing that interpretation on? [LR35]

MARK MECKLER: Sure. And the agency law is less about limiting the scope of the convention than it is limiting the actual authority of a commissioner to the convention. So the actual convention, there are multiple layers of scope limitation that are in place. The first layer is the application itself, which hopefully you guys have seen. That's the resolution that you guys have, and that's...it's the law of the convention and it says, convention is only for the purposes of discussing fiscal restraints on the federal government, restraints of the scope and power and jurisdiction of the federal government, and the imposition of term limits on federally elected officials. And so that gives you the parameters of the convention right there. Those are the legal parameters which may be discussed. And then from a...do you...feel free to jump in. [LR35]

SENATOR HANSEN: But I'm going to say... [LR35]

MARK MECKLER: Yeah. [LR35]

SENATOR HANSEN: But why? The constitutional convention for proposing amendments to states, just by the plain reading of Article V, there's nothing that necessarily grants the power to limit the scope of the convention. [LR35]

MARK MECKLER: Well, the problem...so you're mixing language, which is important. I apologize for parsing here. I'm a lawyer and the constitution is about language and it really matters. So one is we're not dealing with a constitutional convention. So that's really important. We're dealing with a convention of the states for proposing amendments under Article V of the constitution. Technically speaking, when we talk about a constitutional convention, there is such

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a thing. It's called a plenipotentiary convention. And when you sit down to draft a convention from scratch, that's referred to as a constitutional convention and that has no barriers. You can't impose barriers on that. In fact, Montana did that in 1972, so it's been done relatively recently in states here. But this is an Article V-amending convention and it is bounded by the state's application because the states are sovereign authorities and they are gathering under their sovereign authority as sovereign states. And they could limit it to whatever they want because they are sovereign states. [LR35]

SENATOR HANSEN: Is it safe to say that there are plenty of people who...or at least some people who disagree with that interpretation? [LR35]

MARK MECKLER: Absolutely, there are people who disagree with that interpretation. [LR35]

SENATOR HANSEN: Okay. See, just from my background, I have experience of talking with a law professor in my instance who was an advocate of convention of the states. [LR35]

MARK MECKLER: Right. [LR35]

SENATOR HANSEN: But he was explicitly an advocate in the sense of there was no bounds and they could address many different problems... [LR35]

MARK MECKLER: Right. [LR35]

SENATOR HANSEN: ...far greater than the state legislatures would be willing to. [LR35]

MARK MECKLER: Right. [LR35]

SENATOR HANSEN: So that was the basis of my question. [LR35]

MARK MECKLER: The history of convention in the United States of America is long and varied. And there were 11 conventions in the colonies, in the states prior to the 1787 convention, in the two years prior. There have been over 40 interstate conventions since, not general conventions in the sense that they were getting together to amend the constitution, but conventions for interstate compacts, for example. The Colorado River is governed by a compact negotiated between the states. Every delegate was sent according to...by their sovereign state according to instructions. The convention was held according to an application. Each delegate was given their instructions. That's our history. The Supreme Court has ruled multiple times,

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over 40 cases, interpreting Article V and discussions of Article V. And at all times the Supreme Court has held that history rules Article V. This is how Article V has always been run in our country. It's what the Supreme Court has always said. This is what we've always done when we've gotten into convention. And if you look at the list of folks who say that this could be a, quote unquote, runaway convention, that list starts at the top and most of them are issuing talking points from an organization called The John Birch Society. Birch Society chased out of legitimate public discourse in politics 30 to 40 years ago, and you will see those talking points reiterated by an organization that still spews anti-Semitic hatred and the like. So if you look at the weight of legal authority in America and if you look at, for example...the foremost conservative constitutional scholar in America is at Princeton. His name is Robbie George. He is a supporter of this. He signed something called the Jefferson Statement, says it's absolutely absurd that there could be a runaway convention. And Randy Barnett runs the Georgetown Center for the Constitution, says it's absolutely absurd. David Rivkin, one of the leading constitutional lawyers/litigators in America, Charles Cooper, who is the lead constitutional litigator for the National Rifle Association, obviously not somebody that would be amenable to a runaway convention where the Second Amendment could be affected, all of these legal authorities, the great weight of legal authority in America, prominent legal scholars, says there cannot be a runaway convention. [LR35]

SENATOR HANSEN: Okay. Thank you. [LR35]

SENATOR MURANTE: Let me follow up on that a little bit. [LR35]

MARK MECKLER: Yes, please. [LR35]

SENATOR MURANTE: So let's say we pass this, 34 states do it, and we have the constitutional convention. So it's kind of...I'm going to ask you a comparable question to what I asked... [LR35]

MARK MECKLER: Yeah, please. [LR35]

SENATOR MURANTE: Not a...an Article V convention, not a constitutional convention. [LR35]

MARK MECKLER: Thank you. [LR35]

SENATOR MURANTE: I don't want to make that mistake again, okay. [LR35]

MARK MECKLER: I appreciate that. Thank you. [LR35]

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SENATOR MURANTE: So it's an Article V convention and, you know, on one extreme or the other, you know, it doesn't matter. [LR35]

MARK MECKLER: Right. [LR35]

SENATOR MURANTE: There's a...there are sufficient votes to attach a constitutional amendment to say that life begins at conception. [LR35]

MARK MECKLER: Right. [LR35]

SENATOR MURANTE: Or there's sufficient votes to say that healthcare is a fundamental human right... [LR35]

MARK MECKLER: Right. [LR35]

SENATOR MURANTE: ...or sufficient votes at the convention to submit that to the states. [LR35]

MARK MECKLER: Right. [LR35]

SENATOR MURANTE: What happens then? [LR35]

MARK MECKLER: Well, I...so I would argue that there is full legal authority for challenging those proposed amendments as outside the scope of the constitution. To be perfectly clear, it's never happened. So I can't say, here's a precedent, here is a case where it's been done. But sovereign states have the authority to litigate on their own behalf when their delegates or people to whom they send to a convention exceed their authority. Literally, by standard agency law, by the law of sovereign states, you would actually...interestingly, this is more like a bunch of countries getting together because they're sovereign states. So they would have the right to litigate that in federal court, absolutely, and I believe there would be immediate, massive, multistate litigation to stop that. And I believe that that litigation would probably even come sooner than that. [LR35]

SENATOR MURANTE: Okay. [LR35]

MARK MECKLER: I believe, if it appeared that the convention was spiraling out of control, a lot of conservative legal scholars, if it was spiraling out of control in a left-leaning way or liberal

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scholars in a right-leaning way, would jump into that and would relish that fight. I think it's also important to know this is a political proposition. Right? To get to 34 states takes incredible political will of the people. Now you guys aren't doing this on your own. You have constituents who are interested, organizations who are interested. That pressure will be brought to bear all through the convention process, good and bad. I think your example is a great one, by the way. I mean I think the most difficult thing to deal with in a convention or in politics in general is when people propose things that sound great and are pretty scary in the long run. But we do have the law of the convention, which is the scope limited by the application itself. [LR35]

SENATOR MURANTE: Okay. Senator Larson. [LR35]

SENATOR LARSON: Is there any set length of time once the convention happens that states have to ratify the amendments that are proposed? So I know it takes 34 or more than...oh, is it... [LR35]

MARK MECKLER: Thirty-eight for ratification, three-quarters, right. [LR35]

SENATOR LARSON: Thirty-eight for ratification, 34 to call, 38 for ratification. Can 36 states do it immediately and then Nebraska wait 20 years and be like, oh, yeah, we are going to ratify what they did then and...do you get the question? [LR35]

MARK MECKLER: Yeah. And the answer is that I think we have a great example. And the Twenty-seventh Amendment was ratified 108 years after its proposition. It took that long to get to three-quarters of the states, so it sits out there until ratified or...and states similarly can withdraw their ratifying vote at any time. [LR35]

SENATOR LARSON: Withdraw their...and then the convention, whatever they propose, it could be...they could propose ten different amendments. It doesn't necessarily have to be all wrapped up in one. It could be... [LR35]

MARK MECKLER: That's correct. It goes out as a slate voted on individually. The original Bill of Rights is a great example. Twelve went out, ten were ultimately ratified, the eleventh, 108 years later. [LR35]

SENATOR LARSON: Okay. Thank you. [LR35]

MARK MECKLER: Sure. [LR35]

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SENATOR MURANTE: Thank you, Senator Larson. Any additional questions? Seeing none, thank you very much for that testimony, very informative. [LR35]

MARK MECKLER: Thank you, Senators. [LR35]

SENATOR MURANTE: Additional proponent testimony to LR35? [LR35]

MARK DAVIS: (Exhibit 2) Good afternoon. My name is Mark Davis, M-a-r-k D-a-v-i-s. Thank you, Chairman, for the opportunity to come and speak in front of you. I have that I'd like to submit letters supporting...in support of LR35 from constituents in every district in Nebraska that...we do have copies that we will distribute to your offices. My family came here in 1852, two years before Nebraska became a territory, long before it was a state. We have been a lot like the other Nebraskans: We just want to be left alone. You know, we can run our own lives. Sometimes, it seems like Nebraska Capitol can kind of reach out to the countryside. It seems more and more like the federal government is reaching out to the countryside and that is what these people, that is what I believe, as well. And we are really here asking for some relief on that from our representatives. I mean, I would like to welcome Mark Meckler to the Nebraska spring. It was nice, 38 degrees out, this morning. And if we step outside right now, we're going to have several inches of snow, I believe, and several hours to drive. So, I mean, I think we're all sick of winter. We're all looking forward to a spring. We're all looking forward to a lot of different things. But over the past ten years, I've had the opportunity to travel across this country. We have another winter that we're dealing with and that's federal government overreach. We've had...I've had a lot of complaints, a lot of people saying, what can we do, what can we do, what can we do. There are other places where there are riots, unrest, other things happening. Their answer we come to know as an Arab spring. That's not the answer that we have here. It's not a solution that we have here. We have what I'm considering to be an American spring. Right now, we have an opportunity to present that as a country and to lift the country up and really show a pattern to the world about this is how we bring a federal government into control. I'm not going to keep you all very long. There are some questions that I'm sure you may have. I may be able to answer them. I may not be able to answer them. We're here asking for your help so we can discuss this, both pro and con, open up the floor, and talk about it. That's really what today is all about, giving us the chance to talk about it. Thank you. [LR35]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions?
Senator Groene. [LR35]

SENATOR GROENE: Thank you, Chairman. In your mission, I don't see anything in here where we're going to limit the power of the presidency, or is that through...because that seems to be a major problem a lot of us are concerned about. [LR35]

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MARK DAVIS: Anything that is brought or proposed as an amendment to the constitution is going to come from your body. [LR35]

SENATOR GROENE: But we're limited by your description here: limit the power of the jurisdiction of the federal government. Does that include the presidency, that branch? [LR35]

MARK DAVIS: I believe the President is part of the federal government, yes. [LR35]

SENATOR GROENE: I didn't know what branch you were describing there. You're describing all three... [LR35]

MARK DAVIS: All three branches. [LR35]

SENATOR GROENE: All right. Thank you. [LR35]

MARK DAVIS: I believe there are abuses being handled in all three of the branches. Once again, the ultimate authority belongs to us. This is a government of the people and for the people. I believe Benjamin Franklin one time said...or was asked, what kind of a government were we given? His answer is, we were given a republic, if we can keep it. Are you going to allow us to keep it? [LR35]

SENATOR MURANTE: Thank you, Senator Groene. Are there any additional questions? Seeing none, thank you very much for your testimony, much appreciate it. [LR35]

MARK DAVIS: Thank you, Chairman. [LR35]

SENATOR MURANTE: And I'll remind everyone right now that before you begin your testimony to please complete one of these green sheets and, as you begin testifying, to please state and spell your name for the record. Can I get a show of hands of how many people intend to testify on this bill today? A few more, okay. To the extent that you can, please, try and sit in one of the front two rows. We'd much appreciate it. We have numerous openings in the front couple of rows for those who wish to testify. And welcome to the Government Committee. [LR35]

ROBERT KIRK: Thank you, Chairman. My name is Robert Kirk, R-o-b-e-r-t K-i-r-k. I'm a citizen of Gering, Nebraska. I drove 400 miles yesterday afternoon so I could come here and participate in the government process. I really think this is a good government issue. I am heartened by the fact that there is this Article V mechanism where we can rein in a federal

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government that is broken, that's out of control. I...in my own life, I'm a doctoral-level psychologist. Obamacare, the train wreck is happening. I was employed at Regional West Medical Center out in Scottsbluff. The amount of regulations and the amount of jumping around to fulfill every little thing has caused them to be turned upside down. They are hiring people to fill out forms for the federal government and have to let go of providers because they can't reach the overhead. The regulations of the EPA are another example that they want to control every ditch in the country. And they'll send drones and they'll send people with guns to enforce it. The federal government is out of control. We really deserve...we need this opportunity as an American people to send our best people to go and hash out what is the best way we can do...rein in the scope of the federal government, limit the power. And term limits, one term limit I really like is a proposal of the Supreme Court. Why should that be a lifetime appointment? Let's limit it. But 16 years, I mean, we have some pretty tough...well, we do have a justice, I think it was said before, that really doesn't think the constitution matters much. And we do have a federal government that thinks laws are okay, except, if they don't like them, they won't obey them or they won't enforce them. So isn't it wonderful to know that you are a part of a sovereign state? The federal government was created by the states through the people and now it's totally "bass-ackwards" where the federal government is trying to...you know, from the light bulbs to the toilets to the cars you can drive to everything, the federal government wants to run our lives, what you can buy in a restaurant or the sodas. And America, if we could just get back to the liberty and allow people to decide and allow each state, I'm much happier to come here to talk to you in Lincoln. But if I went to Washington, D.C., and brought up my concerns, how much are they going to be interested in me? I mean you know they're not going to be interested, at all. So I really urge you to get this out to the floor. And Mark Meckler has been great in terms of educating us from a legal perspective of how this can work and it wouldn't be...and the sky wouldn't be falling in. I have to say that when...you know, the chance of something terrible seems so miniscule. But if we don't do anything, where are we headed? We keep going the way we're going now, we all know we're headed for a cliff. Thank you. [LR35]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down today. [LR35]

ROBERT KIRK: You're welcome. [LR35]

SENATOR MURANTE: Additional proponent testimony to LR35, additional proponents. Welcome to the Government Committee. [LR35]

DOUG LIEWER: Thank you, Mr...Senator Murante. My name is Doug Liewer, D-o-u-g. Liewer is L-i-e-w-e-r. And I support a convention of states and I hope that the Legislature in the state of Nebraska gives...uses their authority to limit the power of the federal government. And I hope

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that you will give us a chance to be a voice for the people of the state of Nebraska. And I hope that Senator Larson would be one of the people that could be a delegate because he does...he is in favor of this. Thank you. [LR35]

SENATOR MURANTE: I'm going to have to disagree with that last part of your testimony, but (laughter)...is there...are there any questions for the testifier? Seeing none, thank you very much for coming down today. [LR35]

DOUG LIEWER: Thank you. [LR35]

SENATOR MURANTE: Are there additional proponents wishing to speak on LR35? Welcome back. [LR35]

KVETA HANSON: (Exhibits 3 and 4) Senator Murante, I'm Kveta Hanson, K-v-e-t-a H-a-n-s-o-n. And a lot of things have been covered. In my testimony, I'd like to highlight the fact that there are not many who know what to think of the convention of states that is being voted on in committee today. I have some questions pertaining to this matter, questions for you. Where was the federal government during the first years of the colonial state, colonies in this country? Where was the federal government? Where was the federal government during the colonial war? Where was the federal government before the first convention of states? It just wasn't there. And how did it come to be? Would there be a federal government if there hadn't been a convention of states? They had many before it was all formed. How did the federal government come to be? Was it because the states came together, convened, because their deliberations chose the method to send senators and representatives to work in the federal government? When did it happen that part-time work in the legislature turned into full-time, fully funded, with perks, etcetera, career? When did it happen that the states weren't in charge of the federal government and instead the federal government of the United States began running schools, Social Security, setting rules and regulations for everything, etcetera? We've already discussed that. But they decide who can work and who can't work and they're overstepping the constitution. If you hire help, do the employees follow your directives or do you follow their orders? How successful are the bosses that let their hired help push them around? Is there something wrong with that picture? Isn't that why we have a runaway federal government now? Let's help the states of the United States take back their authority and in the checks and balances of this constitution maintain their sovereignty while they respect the authority they gave to the federal government in the constitution. Let's get back to the checks and balances under the authority of God. Let's become the United, and sovereign, States of America with a federal government of the United States that does the job outlined for it in the constitution but not a nanny-state government overruling states' sovereignty. [LR35]

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SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down today, much appreciated. [LR35]

KVETA HANSON: Thank you. [LR35]

SENATOR MURANTE: Additional proponent testimony to LR35? [LR35]

KIRK MYERS: Good afternoon. [LR35]

SENATOR MURANTE: Good afternoon and welcome to the Government Committee. [LR35]

KIRK MYERS: My name is Kirk Myers, K-i-r-k M-y-e-r-s. Thank you for allowing me to present here today. I think this Article V idea here is an awesome time. I think the founding fathers wrote that in almost for such a time as we have today. You know, I personally...I believe in the constitution, what it stands for, what our founding fathers founded this country on. I mean, if America loses what was given to it, and we are, where else would we go to live our lives, to raise our families the way our heart dictates? You can look at the federal government and, I mean, you...we have amnesty with executive order at the stroke of a pen by one man and it's, boom, law of the land. You got the EPA out there. I don't think anybody...I don't know of anyone that's on board with where they're going, especially in Nebraska where, you know, they're looking at doing hazmat teams, if you have a load of cattle that happen to go to the bathroom on the road, you can't just wash it off the road. They're proposing hazmat teams for that kind of cleanup, pretty silly in Nebraska. You know? I've seen proposals for milk that...in the quantities it's shipped in that that needs to be hazmat. You look at IRS today with the amnesty deal. They're looking at giving refunds to these illegal immigrants. I find that amazing, that you're going to take my money and give it to someone that's here illegally. I mean I don't have any trouble with someone being here legally, but that's the whole point. It needs to...there is a process for that. You can look at our national debt, \$18 trillion. Our government is basically stealing from the dead, if you will, those that aren't born yet, our children and our grandchildren that are going to be under such economic bondage just trying to repay what the government is spending today on some very silly programs. The federal government is definitely out of control. The Civil War, Abraham Lincoln, you know, the Civil War, on one hand, the right side won. We got rid of slavery in America. But on the other hand, the real issue was, how much power does the federal government have? Is it more than the states? And from that standpoint, the wrong side won, because it did give the federal government more power than the states. Our federal government is really like a drug addict addicted to morphine. And I don't believe that they are going to stop voluntarily with controlling themselves. And I think a state...Article V would be a great way of doing that. We've heard about a runaway convention. You know, if you had an amendment for financially balanced budget, one that said, hey, EPA, you guys have done a great job, you're

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going in maintenance mode only, your budget is 50 percent, just...the air is good right now, the water is good, just keep it where it's at, federal education, if you said, no more federal education, Common Core is not required, this is a states issue, it's up to the states to decide how to educate their kids, and all those amendments would all be individual, they would all be individually voted on, you're going to need to have three-quarters of the states saying, yes, we agree. And to me, that's what America is all about is all of us as people determining how we're going to be governed and what we're going to allow our government to do to us. [LR35]

SENATOR MURANTE: All right. Your red light is on. [LR35]

KIRK MYERS: Yes. [LR35]

SENATOR MURANTE: So let's open it up to the committee to see if there are any questions. Seeing none, thank you very much for your testimony today. [LR35]

KIRK MYERS: Thank you. [LR35]

SENATOR MURANTE: Are there additional proponents wishing to speak on LR35? Seeing...oh. [LR35]

KVETA HANSON: (Exhibit 5) Unfortunately, my husband was here to testify. He was all prepared. We had car trouble yesterday and he's going...he's gone to the garage. [LR35]

SENATOR MURANTE: Okay. [LR35]

KVETA HANSON: I could read it for him or I can hand it out (inaudible)... [LR35]

SENATOR MURANTE: You could...what you can do is submit it to the page and we'll have it read into the record. [LR35]

KVETA HANSON: Okay, that's too bad. It's not very long and it's pretty good. (Laughter) [LR35]

SENATOR MURANTE: All right. Well, we will all read it and take it into account before taking action on the bill. So seeing no additional proponent testimony, are there any opponents to LR35? Any opposition testimony to LR35? How many opponents do we have? Would you...looks like a couple. [LR35]

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LONA FERGUSON: Hello. [LR35]

SENATOR MURANTE: Welcome back. [LR35]

LONA FERGUSON: (Exhibit 6) My name is Lona Ferguson, L-o-n-a F-e-r-g-u-s-o-n. I'm not good at reading testimony, but I felt that maybe I should do this. So forgive me if I stumble. The Constitution of the United States is the first constitution of its kind and has influenced the constitutions of other nations. Since the constitution came into the force in 1789, it's been amended 27 times. The Constitution of the United States is the supreme law of the United States of America powers of government. Amendments to the United States Constitution, unlike ones made to many constitutions worldwide, are appended to the end of the document. It has seven articles and 27 amendments. It is the shortest written constitution in force. All five pages of the United States Constitution are written on parchment. If I had five pages to show you--and I saw a stack this high and you probably have stacks this high on your desks--that's what we're talking about and that's what we're comparing here. I have concerns about the resolution to call a convention of the states. And I've heard it called constitutional convention, a con/con, or whatever. But I do know there's only one Article V that is going to give prerequisite for whatever you're going to call it to do whatever they want to do. This document was established...it established our republic. And I wish Senator Larson was here because, please note, there is no mention of a democracy in our constitution, nor the constitutions of the 48 states that were formed afterwards. And it's endured amendments, wars, depressions, and all the good and bad that has happened for over 200 years. We were given a republic "if we could keep it." This is not the first time in history that an Article V convention has been introduced or called. And thanks to Laura, you know, she has explained that quite well, I believe. We forget that there are other instruments of law that do come into play. It's that balance-of-powers thing, it's the opportunity for a Supreme Court to stand, and it's that opportunity for a President to do what they do and it's an opportunity for a senator or a congressman to give statement. I'm always for good government and believe that the people should be the watchdog of those that we elect. However, I have some opinion, as some of the following, and fear that we are more vulnerable than ever of a runaway convention that will not...will just amplify the problems that we already have. In listening to debates, and this is the first year that I've ever really attended these things, I've noticed that there's a lot of discussion, a lot of, "well, what ifs." How do we do it? You know, that's kind of the focus of our government. Not everybody agrees. We can like each other but we don't always agree on every issue. So...and we're looking at a federal government, not one that had 13 states. We now have 50. And do they always agree? No. And I would almost reckon to say, if any one of you were elected to go there, you might be in the same position of not knowing when to agree or when not to. Quickly, I want to go through these because, Arthur Goldberg, I don't really know if he was affiliated with another association. I always wonder, do these people get paid to do what they're doing? But he was an associate justice of the United States Supreme Court and he said, there is no enforceable mechanism to prevent a convention from reporting wholesale changes to

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our constitution and Bill of Rights; moreover, the absence of any mechanism to ensure representative selection of delegates could put a runaway convention in the hands of a single-issue group whose self-interest may be contrary to our national well-being. I've listed some others, and it would take time to go through them. Christopher Brown, professor of law at the University of Maryland School of Law... [LR35]

SENATOR MURANTE: Before we get into that, your red light is on. Let's see if there are any questions from the committee. Senator Groene. [LR35]

SENATOR GROENE: Could you tell me what Mr. Brown said? [LR35]

LONA FERGUSON: Yes, I can. [LR35]

SENATOR GROENE: Thank you. [LR35]

LONA FERGUSON: And there's one other guy I want to quote if you'll give me that privilege. [LR35]

SENATOR GROENE: Oh, I want to know what the other guy said too. Thank you. [LR35]

LONA FERGUSON: "In my view, the plurality of 'amendments' opens the door to constitutional change far beyond merely requiring a balanced federal budget." I'll let you read the rest, but there is one I do want to go on to. "If a general convention were to take place for the avowed and sole purpose of revisiting the Constitution, it would naturally consider itself as having a greater latitude than the Congress appointed to administer and support as well as to amend the system; it would consequently give greater agitation to the public mind; it would probably consist of the most heterogeneous characters; would be the very focus of the (sic--that) flame which has already too much heated men of all parties; would no doubt contain individuals of insidious views, who under the mask of seeking alterations popular in some parts but inadmissible in other parts of the Union might have a dangerous opportunity of sapping the very foundations of the fabric. Under all these circumstances it seems scarcely to be presumable that the deliberations of the body could be conducted in harmony, or terminate in the general good. Having witnessed the difficulties and dangers experienced by the first convention which assembled under every propitious circumstance, I should tremble for the result of a second, meeting in the present temper of America, and under all the disadvantages I have mentioned." The father of the United States Constitution, James Madison, wrote this warning on November 2, 1788, at the age of 37, against calling another general constitutional convention. Our constitution has stood well since that time. Maybe other things need to be looked at. The EPA, that's a department. They make

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rules. The VA, that's a department. They make rules. Maybe we need to look at the rules in the departments. Thank you very much, guys. Thanks. [LR35]

SENATOR MURANTE: Thank you. Are there additional questions? Seeing none, thank you for your testimony. Additional opposition testimony to LR35? If there are additional opponents, we ask that you please come closer to the front, please. We appreciate it. Welcome. [LR35]

KATHY WILMOT: (Exhibit 7) Thank you for the opportunity. My name is Kathy, K-a-t-h-y, Wilmot, W-i-l-m-o-t. I appreciate this opportunity. You're kind of like a heart surgeon. You're holding the heart I think of this nation in your hand. Please don't drop it on the floor. I began researching this subject in the early '90s when Governor Ben Nelson and Governor Leavitt from Utah were pushing for a constitutional convention. And attempting to placate those who say a convention would result in sweeping changes to our constitution, rather than simply submitting amendments, proponents now call it an Article V convention, not a constitutional convention. But despite this attempt to wordsmith, the truth is, an Article V convention is the only one referred to in Article V. Who would be in charge of a convention: 2014 Congressional Research Service report states, Congress has traditionally laid claim to broad responsibilities in connection with a convention, including: establishing procedures to summon a convention; determining the number and selection process for its delegates; setting internal convention procedures; including formulae for allocation of votes among the states. There is no language in Article V that limits a convention to a single topic or amendment. Instead, it refers to amendments, in the plural. Warren Burger, former chief justice of the U.S. Supreme Court said, "There is no way, any more than the Continental Congress could control the convention in Philadelphia, to put a muzzle on a constitutional convention. Once it meets, it will do whatever the majority wants to do. I would not favor it." Supreme Court Justice Antonin Scalia said, I certainly would not want a constitutional convention; who knows what would come out of it? Proponents argue the first convention was not a runaway, that Congress did not task the convention with only working with the Articles of Confederation, that the convention was acting at the behest of the states and not Congress. Federalist (Chapter) 40 states that in the opinion of Congress the convention of delegates was to meet at Philadelphia for the sole and express purpose of revising the Articles of Confederation. Instead, they wrote a new constitution and they even changed ratification numbers. Instead, they laid what was actually a runaway convention. Thankfully, the delegates then were true statesmen, men of integrity, ethics, of faith in God. They were not simply representing themselves or special interest groups. But unfortunately, many forces today are at work and they lack those qualities. Those forces see our rights as granted by government, rather than endowed by a creator. Today, other advocates of an Article V convention--and, remember, it just says convention--are WolfPAC and The Young Turks--those are liberal media groups funded by Soros--Code Pink, Occupy groups. Could it be that they also see the possibilities of a runaway convention and the chance to actually strip or rewrite our constitution? Our constitution has been amended 27 times through a process that does not place our constitution at risk. No one

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here...you've heard a lot of "I suppose," "hopefully," "my interpretation is." But no one can tell you with certainty how much or how such an event would proceed, who would choose delegates, whether the ratification requirement would be changed. Please protect our constitution. Vote no to LR35. Let it die a silent death right here. Thank you. [LR35]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you for coming down today. Additional opposition testimony to LR35? And welcome to the Government Committee. [LR35]

GARY HEINZLE: Thank you for allowing me to be here. My name is Gary Heinzle, H-e-i-n-z-l-e. I am concerned about LR35. But I think the people that are trying to do this are...have the goodwill of the country at heart. They couldn't be any more conservative than I am. With my age, I'm an original member of The John Birch Society. I'm not nearly as articulate as Kathy Wilmot, but I'm going to cover a few of the same points a little bit. Mark Levin, who is a promoter of this concept, initially was against it because of his concern, that I share, that the convention could get out of hand and could be controlled by the wrong people. And this is not a new concept, like Ms. Wilmot said. Governor Ben Nelson was promoting this when he was in office. There are people that are for...prominent people that you would think knows what they're talking about are for the constitution convention, but on the other side there's just as prominent people and just as knowledgeable that are against it. I think we have to...well, the thing about LR35 that bothers me is--and it's been alluded to a little bit--it's so open-ended. It's not really specific on what it's trying to determine. And the thing to look at is, who is going to initiate the delegates to go to the convention, how many will each state have? There are so many undecided considerations I think that really make it questionable how viable the thing is going to be. And I always think that we have reasonably smart people in Nebraska that are politically savvy, but we wouldn't stand a chance to those devious folks in Washington, D.C. So I strongly encourage this committee to vote against LR35. Thank you. [LR35]

SENATOR MURANTE: Thank you for your testimony. Are there any questions from the committee? Seeing none, thank you for coming down today. Continuing on with opposition testimony to LR35. And welcome to the Government Committee. [LR35]

LINUS MILLER: Thank you. My name is Linus Miller, L-i-n-u-s M-i-l-l-e-r. I'm not a very learned person. I don't have a wall full of degrees. I have a few. But the concern I have is, is this convention has no bounds. Once they start, they can do pretty much whatever they want and you have no recourse on that. We can't even run a government that has specified procedures to do things, and we can't follow them. So how are you going to rein in or control something like this constitutional convention? I mean, we have elections. Well, are they legitimate elections? No, they're not. Our election process has been tainted. We have a census every ten years to equalize

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representation. Well, under our current regime, we're going to include all the "illegals" in this country in the census. That's tainting...who are you representing? Are you representing the legitimate citizens of the United States? Or are you representing the "illegals"? That...since our President has decided that we are going to include the "illegals," the census is not valid, because we don't have a valid count. Also, you talk about legal elections. And the Secretary of State is supposed to justify and control the ballot. Well, as far as people running for office, does the Secretary of State ensure that they're eligible? No, he has...I have written the Secretary of State and he's written back to me. They do this by whoever, wherever. But he gets a sheet saying who the different delegates are going to be and that's who he puts on the ballot. There is no justification that that man is legal, that he is eligible to serve. And so if we don't have eligible people running, how can we say it's a legitimate election? And if we can't run an election and we can't run anything else, then how are we going to change it, the process, because even if we change the process they aren't going to approve it or they aren't going to abide by it. And that's where our problem is today. We are not abiding by the rules that are written. I guess I got a red light, so thank you. [LR35]

SENATOR MURANTE: Okay. Thank you very much for your testimony. Are there any questions for the testifier? Seeing none, thank you very much for coming down today, much appreciate it. Additional opposition testimony to LR35? Are there any additional opponents? Is there any neutral testimony on LR35? Seeing none, Senator Ebke, you are recognized to close. [LR35]

SENATOR EBKE: Thank you, Mr. Chairman, and thank you, members of the committee, for listening to this conversation we're having today. I just want to make two quick points. And then, if you have any questions, I'll be happy to talk to you yet today or any other time. First of all, let's remember that this is not a constitutional convention. It's a convention of the states. It is a legitimate way of proposing amendments to the constitution. And if I thought...those who know me know that I am...I define myself as a constitutionalist oftentimes. And if I were of any mind that this could turn into a runaway convention, I would run away from it as far, as fast as I could. I just don't believe that it's a reasonable fear at this point. The second thing I would say is, I have a friend who works out in Washington, D.C., works for a conservative organization out there, does a lot of training. And I respect his views on this sort of stuff a lot and I asked him, I said, what do you think of the whole idea of a convention of the states? And he said, you know, Laura, you know, a year ago I would have thought it was a terrible idea, but I've grown to believe that we don't have any other choice. He said, you know, that if we do nothing, we will never get hold of what's going on in our federal government. So I would leave you with that. I thank you for your attention today. And if you have any questions, please, let me know. [LR35]

SENATOR MURANTE: Thank you, Senator Ebke. Are there any final questions for the senator? Seeing none, thank you very much. [LR35]

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SENATOR EBKE: Thank you, Mr. Chairman. [LR35]

SENATOR MURANTE: (Exhibits 8 and 9) And I know we had some letters on this one. Thank you, Charles. And before we close the hearing on LR35, I have two letters of opposition: one from Ed Rieker, from North Platte, representing himself; and the other from Sherry Miller of the League of Women Voters of Nebraska. And with that, we close the hearing on LR35 and that ends our hearings for the day. Thank you very much for coming down. Much appreciate it. [LR35]