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Transcriber's Office

Government, Military and Veterans Affairs Committee
February 26, 2015

[LB140 LB202 LB462 LB571]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Thursday, February 26, 2015, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB462, LB571, LB140, and LB202. Senators present: John Murante, Chairperson; Tommy Garrett, Vice Chairperson; Dave Bloomfield; Joni Craighead; Mike Groene; and Matt Hansen. Senators absent: Tyson Larson and Beau McCoy.

SENATOR MURANTE: Okay, everyone. Welcome to the Government, Military and Veterans Affairs Committee. We are here today to hear four public...to conduct four public hearings on bills. The order in which we will proceed, we will take the bills up in the order in which they appear on the agenda, which is located outside of this room. If you intend to testify on any of the bills that we are hearing today, we ask that you fill out one of these green sheets and let us know whether you support, oppose, or are neutral on any of the issues before us. If you are here and wish to register support or opposition to any of the proposals before us but do not wish to testify, we ask that you sign in, fill out this sign-in sheet which is located on either side of the room. When you testify, if you testify, we ask that you begin your testimony by stating and spelling your name for the record. That's very important for our Transcribers Office. The order with which we will proceed is that the introducers will make initial statements, followed by the proponents, then the opponents, any neutral testifiers will then speak, and the introducer of the bill will then be allowed to close. We ask that you listen very carefully and try not to be repetitive. If someone has already articulated a point with which you wish to convey, we ask again that you fill out the sign-in sheet and your opinion will be taken into account. In the Government Committee we do use the light system. Each testifier will have four minutes to testify. The green light will come on. When the yellow light comes on, you have one minute remaining and we ask that you begin wrapping up your remarks at that time. When the red light comes on, we ask that you conclude your remarks, at which time we will open up the committee to see if they have any questions for you. At this time, I'd ask everyone in the audience and all committee members to turn off or silence your cell phones or any other electronic devices, anything that makes noise. If you do have a prepared statement, an exhibit, or anything to distribute to the committee, when you come forward and put your green sheet in the bin located just in front of our committee clerk, please hand whatever you wish to distribute to the page who will distribute it to the remainder of the committee. We do need 12 copies for anything that you wish to distribute. If you don't have 12 copies, that's fine. Just give it to the page, he'll make the copies for us. And our page today is Seth Thompson from Ogallala, Nebraska. And that concludes the formalities and I'll proceed to the introduction of the committee members. My name is John Murante. I am state senator for District 49, which includes Gretna, Chalco, portions of Papillion, La Vista, and northwest Sarpy County, and I'm the Chairman of this committee. To my immediate left: State Senator Matt Hansen from Lincoln, Nebraska; to his left, State Senator Beau McCoy from Omaha. Senator McCoy is traveling and will not be with us today. To his left:

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State Senator Joni Craighead, also from Omaha, Nebraska; and to my far left, committee clerk Sherry Shaffer. To my immediate right: Charles Isom is the committee's research analyst; to his right, State Senator Tommy Garrett from Bellevue, Nebraska. Senator Garrett is the Vice Chairman of the Government Committee. To his right: State Senator Dave Bloomfield from Hoskins, Nebraska; to his right, State Senator Tyson Larson from O'Neill, Nebraska. State Senator Larson has not indicated whether or not he will be here today, but we all wait in anticipation. And to his right, State Senator Mike Groene from North Platte, Nebraska. And that concludes our formalities and we welcome to the Government Committee Chairman Les Seiler. Welcome, Senator Seiler.

SENATOR SEILER: Good afternoon, Chairman Murante and members of the Government, Military and Veterans Affairs Committee. My name is Senator Les Seiler, L-e-s S-e-i-l-e-r, representing District 33, and I'm here today to introduce LB462. This is a change in definitions, not so much in what it pertains to. The public affairs and public funds being spent still is in the same position it was. It's the who the actors are and how they are determined. And I will get to that in just a second. To give you little history, there is a previous case, the facts of which are not so much important as how the case proceeded procedurally. And it was filed, a complaint was filed before the political Accountability and Disclosure Commission. They found the two public employees guilty and sentenced them...or fined them \$2,000 apiece. That was appealed to the district court. The district court reversed that finding. That was appealed to the Nebraska Supreme Court, and the Supreme Court found that the issue of intent had not been determined and was...sent it back to the district court. I just give you that as the outline of what happened in that case. This has basically what we're doing here is changing the bright lights...to a bright light standard for Nebraska public officials and employee to follow rather than the subjective intent of...test of intent. If you have the LB there in front of you, it's quite easy to see what we're changing. We're changing the definition of campaign or campaigning, means dissemination of any communication which refers to a ballot question, refers to a candidate by name, nickname, photograph, or drawing appearing in the communication or makes the identity of the candidate otherwise apparent through an unambiguous reference or through and unambiguous reference to the candidate's status as a candidate, and is aired, broadcast, cablecast, printed, or otherwise disseminated through the facilities of television station, newspaper, periodical, radio, cable TV. You can read the rest of it there. It's pretty exclusive. And then if we missed anything, paragraph (B) says is disseminated by any other means described in subdivision (A) of this subdivision. So any type of communication, it's covered. So what we're changing basically is to an objective look at...so in a hearing. Is it campaigning? Yes. Does it involve a ballot question or refer to a candidate? Define, yes. Was it broadcast? It's a violation at that point. They don't have to worry about the intent of the people or was the timing just right or was it wrong or did they stop right afterwards. That intent is not necessary to be proven. Now that won't affect the case that's currently pending because this bill hasn't passed and is not...doesn't have retroactive ability. But that's what we're trying to do. So you look at a case, you know exactly once you've got to the

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communication, got to the actor, and got to the...what is a ballot question or is it referring to a candidate, you know exactly what the rules are. And there's no room for guessing. That's basically what this bill does. I'll ask, any questions at that time, I'll try and answer them for you. [LB462]

SENATOR MURANTE: Thank you, Senator Seiler. Are there any questions? Senator Bloomfield. [LB462]

SENATOR BLOOMFIELD: Thank you, Chair. Senator Seiler, I may be way off base here. The Chairman will tell you that happens occasionally. If I go...use my motorcycle helmet as a point of reference, if I go talk to a group of ABATE people when I'm not necessarily running for anything, is that a campaign? [LB462]

SENATOR SEILER: No. The violation here refers to a public employee spending public funds. [LB462]

SENATOR BLOOMFIELD: Okay, okay. So you'd have to be spending public money. [LB462]

SENATOR SEILER: It's been ruled that you're not a public employee. [LB462]

SENATOR BLOOMFIELD: Oh, okay. (Laughter) [LB462]

SENATOR SEILER: That's why they can pay us \$2.25 an hour and violate the... [LB462]

SENATOR BLOOMFIELD: I certainly wouldn't be spending public funds I guess. Thank you. [LB462]

SENATOR SEILER: Yeah, they violate the minimum wage law. [LB462]

SENATOR MURANTE: Let me ask you this, Senator Seiler. [LB462]

SENATOR SEILER: Sure. [LB462]

SENATOR MURANTE: So as I read it, and correct me if I'm wrong, public employees who are essentially on the clock would be prohibited from disseminating any communication which refers to a ballot question or to a candidate. Can you think of any legitimate reason why a public employee would need to refer to...because you're not...as I read it, you're not even talking about

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the context of campaigning. If you talk about a candidate in any context, you can't do that. [LB462]

SENATOR SEILER: That's correct. [LB462]

SENATOR MURANTE: So you could talk about Steve Lathrop relative to Hauptman, O'Brien, Wolf & Lathrop has nothing to do with the political campaign at all. But... [LB462]

SENATOR SEILER: Not if he's running for something, it'd be prohibited. [LB462]

SENATOR MURANTE: Okay. So hypothetically let's say, and I'm just kind of spitballing here, but let's say a public employee was in an effort to ensure people have adequate legal representation, pointing people in the direction of Senator Lathrop as if he was on the ballot. And if it was not in the context of a political campaign, it was just you need legal representation, Hauptman, O'Brien, Wolf & Lathrop is a place to go. Is that campaigning by your definition? [LB462]

SENATOR SEILER: Does it refer to him as...he is a candidate for a public office? [LB462]

SENATOR MURANTE: Yeah, if he were a candidate. [LB462]

SENATOR SEILER: And I'm an employee of a public entity, the same entity he's running for? [LB462]

SENATOR MURANTE: Let's say not even the one that he's running. Let's just say he's running for public office and you're a public employee who wants to encourage someone to go hire Hauptman, O'Brien, Wolf & Lathrop Law Firm. [LB462]

SENATOR SEILER: No. I do not believe if...unless it's pertaining to that office. If I'm sending somebody to Steve that's had an automobile accident with an enclosed brain injury, I don't believe that would fall under this category. [LB462]

SENATOR MURANTE: Okay. But it does refer...because as I read it, all it says is...all you have to do is refer to a candidate. It doesn't have to be in the context of campaigning. It doesn't have to be relative to a political campaign. [LB462]

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SENATOR SEILER: Yeah. Campaigning means dissemination of any communication. And I interpret that to be pertaining to the issues, but. [LB462]

SENATOR MURANTE: Okay. So it's your intent at the very least to have it narrowed and tailored to just electioneering-type of stuff. [LB462]

SENATOR SEILER: Right. That's correct. And I believe the rest of the statutes make it pretty clear that's true. [LB462]

SENATOR MURANTE: Okay. Senator Bloomfield. [LB462]

SENATOR BLOOMFIELD: Thank you again. Are our staff members considered public employees? [LB462]

SENATOR SEILER: Yes. [LB462]

SENATOR BLOOMFIELD: So if somebody were to call Senator Hansen running again in four years, somebody calls his office and asks his opinion on LB874, can they disclose that on state time? [LB462]

SENATOR SEILER: I think they'd run the risk of violating the code. [LB462]

SENATOR BLOOMFIELD: I think we got a touchy spot here. [LB462]

SENATOR SEILER: Because, well, you got a public employee, he's on his duty as you described it, and he is voicing an opinion on a public issue. I think it could be a serious...it could be a violation. [LB462]

SENATOR BLOOMFIELD: Makes it awful to tough to talk to a constituent during election season, doesn't it? [LB462]

SENATOR SEILER: Not for you. [LB462]

SENATOR BLOOMFIELD: No, but for the office. Okay. Thank you. [LB462]

SENATOR MURANTE: Senator Groene. [LB462]

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SENATOR SEILER: Well, excuse me, is that person that you're talking to running against you? [LB462]

SENATOR BLOOMFIELD: No, I can't run again. No, just a question that Senator Hansen, if he were running in three years... [LB462]

SENATOR SEILER: Right, and the person... [LB462]

SENATOR BLOOMFIELD: ...and somebody called in just to give... [LB462]

SENATOR SEILER: His opponent called in. [LB462]

SENATOR BLOOMFIELD: No, not an opponent. [LB462]

SENATOR SEILER: Okay. [LB462]

SENATOR BLOOMFIELD: Just an constituent called in and wanted to know where Senator Hansen stood on a particular bill. And if you can't disseminate that information back out to them, you just as well take the phone out. [LB462]

SENATOR SEILER: I believe it's probably narrow enough to catch that. I'm sure there will be people testifying behind me that can elaborate more on that. [LB462]

SENATOR BLOOMFIELD: Okay. The same thing would apply then to I assume responding to an e-mail. [LB462]

SENATOR SEILER: One of the things that you also have here is you have a commission that hears this and they have their ability to disseminate what's prohibited and what isn't. [LB462]

SENATOR BLOOMFIELD: Okay. Thank you. [LB462]

SENATOR MURANTE: Senator Groene. [LB462]

SENATOR GROENE: Thank you, Senator Murante. So candidate A is running for public utilities and he's running on, he wants windmills all over the place. And right before the election the public...the utility runs ads that's saying, showing coal burning plants and showing dead birds

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by windmills and records them. Whoop, whoop, whoop, and we don't want to do that. Would that be considered unfair use of public monies against a candidate? [LB462]

SENATOR SEILER: In the case of Roland Skinner and Les Tlustos, the answer is yes. [LB462]

SENATOR GROENE: And that's...what case is that? The one before... [LB462]

SENATOR SEILER: The one that's presently back in district courts, been up to the Supreme Court. [LB462]

SENATOR GROENE: Or Senator Bloomfield has a candidate running against him but a public...and he likes people without helmets. And the public health, county health wants people to wear helmets. And the week before the public health starts running ads that people, brain damaged and gore on the highway that we need to have helmets right before the election. Would that be covered by your bill or... [LB462]

SENATOR SEILER: Yes. [LB462]

SENATOR GROENE: Those people wouldn't be able to do that. [LB462]

SENATOR SEILER: I believe that's true. That's spending public money for campaigning. [LB462]

SENATOR GROENE: But they're doing a public service that you should wear a helmet. [LB462]

SENATOR SEILER: They're also spending public money for campaigning. [LB462]

SENATOR GROENE: But this public service announcement, I mean, is what they're saying it is. [LB462]

SENATOR SEILER: It's still a... [LB462]

SENATOR GROENE: So your bill covers that, that they could get caught for that? [LB462]

SENATOR SEILER: I believe so. [LB462]

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SENATOR GROENE: Thank you, Senator. [LB462]

SENATOR MURANTE: I will say, Senator, I've read...I always hate to get into a legal interpretation argument with a lawyer (laughter). I'm just a humble pizza maker from Omaha. But I got to tell you, I mean, it seems to me like you are...what your bill does here, it prohibits referring to a ballot question, referring to a candidate by name, nickname, photograph, or drawing appearing in the communication. It's...that's in any way. I think Senator Bloomfield may have...I'm not sure our staff would even be able to update our legislative Web sites with this because it...if you refer to us, if you post a picture of us, it's campaigning. It doesn't even have to be in the context of campaigning. You could say...they could post a picture of me and say this guy knows how to make some pizza, and that would be campaigning as I read your bill. [LB462]

SENATOR SEILER: As it's properly drawn, yes. [LB462]

SENATOR MURANTE: Okay. [LB462]

SENATOR SEILER: I think you can be that broad. [LB462]

SENATOR MURANTE: Okay. [LB462]

SENATOR SEILER: If you take the position, you want to keep the public money and public employees out, when they're acting on behalf of the public, not as an individual but on behalf of the public, I think you've got to reach that conclusion. [LB462]

SENATOR MURANTE: So then I'll ask you kind of a similar question that I asked you the first time around. If...do you believe that if my legislative aide goes on nebraskalegislature.gov's Web site and updates my personal Web site to say Senator Murante prioritized LB1 this year, that that is...that that ought to be regulated, that ought to be prohibited, that my legislative aide should not be allowed to go on... [LB462]

SENATOR SEILER: Well, I believe there is some latitude in paragraph (7) that if you're in the normal course of your operation and his duties I think then that could be. But if you say to your employee, I want you to talk to everybody that comes in and sell my program to them, then I think you got a problem. But if they're just acting in their normal duties, I think maybe paragraph (7) takes them out from under them. [LB462]

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SENATOR MURANTE: Okay. Okay. Thank you very much for that. Senator Bloomfield. [LB462]

SENATOR SEILER: And that's in the law now. That's not a change. [LB462]

SENATOR BLOOMFIELD: Would this not put the Unicameral Update out of business? They put our picture in there every week. [LB462]

SENATOR SEILER: Who's the...is the Unicameral Update using public money? [LB462]

SENATOR BLOOMFIELD: I would certainly think so. [LB462]

SENATOR SEILER: I don't know. I don't know who publishes it. They never put my picture in there anyway. (Laughter) You guys all crowd me out. [LB462]

SENATOR BLOOMFIELD: I know it's been there at least once. I think that's another question, but I'll find the answer to who pays for that... [LB462]

SENATOR SEILER: Okay. [LB462]

SENATOR BLOOMFIELD: ...but I think it is state money. [LB462]

SENATOR MURANTE: Thank you, Senator Bloomfield. Any final questions? Seeing none, thank you, Senator Seiler. [LB462]

SENATOR SEILER: Thank you. [LB462]

SENATOR MURANTE: We'll now proceed to proponent testimony to LB462. All those wishing to testify in favor of LB462. And welcome to the Government Committee. [LB462]

DAVID JARECKE: (Exhibit 1) Thank you, Mr. Chairman. Chairman Murante, members of the Government, Military and Veterans Affairs Committee, my name is Dave Jarecke, that's J-a-r-e-c-k-e. I'm an attorney with Blankenau Wilmoth Jarecke, here to testify in support of LB462, and I'm here on behalf of the Nebraska Rural Electric Association. I've submitted written testimony that's being passed out to you. There have been a number of good questions that I think I would...I'm going to deviate from my testimony and just jump in and try to respond to those questions which I think is probably more relevant to this committee. The questions that have

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been asked in particular as to are we completely handcuffed in terms of mentioning a candidate, I think the direct answer to that is no. And, again, those things are being done now. Those portions of state statute that currently address that are not being modified by this bill. So the only thing that's being modified is the question of whether or not we want to focus on intent. What is the intent of the person when they're conducting that action? Senator Bloomfield's questions I think, again, precisely on point that we don't want to restrict government from operating in its normal course. And this bill doesn't do that or this amendment, I should say, to the current state statute does not do that. The government will continue to operate in any ordinary course in terms of identification of legislators, whatever those other normal acts might be. There's a couple of good questions in terms of the timing. One of the questions I believe asked by Senator Groene was, well, can we do this, you know, right before an election. The federal electioneering law was devised in such a way as to address just that question. And the way the federal law reads, 60 days before an election we're going to void, I think the helmet example was provided. So if the department of health is out there promoting the use of helmets or whatever the case might be, 60 days before election some of those ads might be prohibited to void, again, the suspicion that those ads were taken in favor or opposition to a particular candidate. And when we looked at that approach two years ago when this bill initially came up before this committee, it was suggested that we not follow the federal approach, and so we went in favor of this definition. This committee could frankly convince me that that would be a better approach just to follow the federal law. We have some U.S. Supreme Court cases that would give us some analysis as to that. But, again, I want to make it very clear that the intent of this legislation is not in any way to prohibit or interfere with day-to-day government operations, but more so to eliminate the analysis. And, again, I'll just go to the...I'll use the example that I've provided in the materials because it's an example that was...I pulled this directly off the Nebraska Energy Office Web site. They put out...and then I'll just read it to you real quick. National surveys indicate that nearly 90 percent of flexible fuel vehicles owners are not aware that their vehicles have the capability or have ever tried ethanol fuel blends. Nebraskans who own flexible fuel vehicles can now plan their travels for the holiday weekend with the knowledge of where to purchase E85 gasoline. That was put out in May 2010. Coincidentally, we have a primary in May 2010. If there was a candidate that said I am not in favor of ethanol, we should only promote electric cars in this state, again, I think somewhat of the questions that were brought up today you could argue that, well, the Nebraska Energy Office violated this statute because we think this was intended to get after that electric car candidate, and so that's why they're out there promoting ethanol fuels. As opposed to the broader question that, no, Nebraska produces a lot of corn and we're just trying to support the farmers of the state of Nebraska. And that's what this bill is intended to correct. Those types of misinterpretations, in my opinion, that could corner a candidate or corner a government body to say that that's not our intent. And, again, who amongst us do we decide gets to determine our intent? Or would you rather look at the black-and-white words? My time has expired and I'll certainly be happy to answer any questions. [LB462]

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SENATOR MURANTE: Okay. I do have a question for you. I'm going to ask you a question that's going to sound obvious, but we have a separate bill in this committee which makes the question a little more complex. How do you define what a candidate is? [LB462]

DAVID JARECKE: Senator, that's an excellent question. Because, and the facts of the case are certainly insightful to your question, the...when one applies or, you know, makes application to the Secretary of State might be the logical answer to your question. Under the facts of the case, and again this legislation will not in any way directly affect that case, that candidate had done nothing other than announce at some form I'm a candidate. And that is precisely the challenge of again what I think accountability faces. Because if I tell you right now I'm a candidate for the U.S. presidency in 2050, what meaningful benefit does that have to anyone? And your question I think is directly on the point. So because it boxes in I think again governmental entities to say, well, you can no longer address this topic because Mr. So-and-so announced he's a candidate. And I think it could have the stifling ability for someone to simply announce I'm a candidate and, again, frustrate government from performing its functions. [LB462]

SENATOR MURANTE: So to you, a candidate is beyond simply those who have filed to run for public office. It includes people who have announced, are raising money, and doing the other things that normal candidates do. [LB462]

DAVID JARECKE: Senator, the best answer I can give to you under the facts of the Roland Skinner case is that Nebraska Accountability took that interpretation... [LB462]

SENATOR MURANTE: Okay. [LB462]

DAVID JARECKE: ...that this person announced his candidacy, had not yet filed, and they viewed him as a candidate. [LB462]

SENATOR MURANTE: Okay. Thank you. Additional questions? Senator Groene. [LB462]

SENATOR GROENE: Senator Murante, thank you. The federal law allows people to put...and not even put who they are to air like tight public service announcements and say call your local candidate or your local senator and don't use a name because, you know, again the guy is laying on the road with no helmet on and they don't mention a name. Will this allow that like the federal...they do federally? [LB462]

DAVID JARECKE: The call...your so-and-so, certainly no. The question that was asked when Senator Seiler was responding to one of the questions, I think frankly he misspoke in terms

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of...the question was asked, does...would the department of health...could they put out a bill that says... [LB462]

SENATOR GROENE: An ad. [LB462]

DAVID JARECKE: Yeah, an ad, campaign, a public service ad that says, you know, helmets save lives. That's the end of the ad, and maybe it has a picture of some guy with his head cracked open. This bill would allow that ad. [LB462]

SENATOR GROENE: At present, they can't do that if somebody... [LB462]

DAVID JARECKE: At present, Accountability would have to interpret the intent of taking out that ad. [LB462]

SENATOR GROENE: And if they just happen to run it in Norfolk and nowhere else. [LB462]

DAVID JARECKE: Correct. [LB462]

SENATOR GROENE: But that would take that out of the Accountability's hands. [LB462]

DAVID JARECKE: It would take out the interpretation, much like that ethanol example, it would take out the interpretation of when they did...why did they really do it, you know. The response I've given to several people and the question is I don't want to have...ask you to look into my soul as to why I did something, you know. Let's just look at the words and see what it means. [LB462]

SENATOR GROENE: All right. Thank you. [LB462]

SENATOR MURANTE: Thank you, Senator Groene. Are there additional questions? Senator Hansen. [LB462]

SENATOR HANSEN: Thank you, Chairman. Mr. Jarecke, let's say this law had passed. We keep referencing this one case that NADC decided in 2010, the Van Burskirk case. Let's say this law, we enacted this law before 2010. What would change, what outcome would have come out differently in that case? [LB462]

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DAVID JARECKE: If LB462 were adopted and as part of the written materials included within the footnotes of the memorandum are the exact ads at question. So those are before you. The communications made to the public by Northwest PPD would certainly not meet the definition of campaigning and, therefore, they would not have been fined. [LB462]

SENATOR HANSEN: So this is basically in response to a decision by the NADC so to limit their scope. Would you say that's a fair interpretation? [LB462]

DAVID JARECKE: Senator, I would not suggest it's there to limit their scope. I would reiterate the point made by Senator Seiler is just to develop a bright line rule so that whether it's a public power district or school board, whoever it may be, have a bright line standard of understanding what they can and cannot do with public dollars. [LB462]

SENATOR HANSEN: Okay. Thank you. [LB462]

SENATOR MURANTE: Thank you, Senator Hansen. Additional questions? Seeing none, thank you for coming down today. [LB462]

DAVID JARECKE: Thank you. [LB462]

SENATOR MURANTE: Much appreciate it. Additional proponent testimony to LB462? Welcome to the Government Committee. [LB462]

TIM TEXEL: Senator Murante, members of the committee, my name is Tim Texel, that's T-i-m, last name is T-e-x-e-l. I'm the executive director and general counsel for the Nebraska Power Review Board. I need to clarify, first of all, I'm here in my personal capacity and as a government official, not for the board. The board officially is neutral on this. They don't very often take policy stances. But I wanted to testify about my concerns regarding the impact. I believe the commission's decision if it's not modified by this bill, and I think to some of the questions I see it as that the Accountability and Disclosure Commission's ruling would be the one that handcuffs people like myself to make statements, particularly those like what were made in the Roland Skinner case before the Accountability and Disclosure Commission. To me, it's somewhat personal because I could make a comment about wind power, about coal plants, about whatever it is, and if some candidate somewhere in the state had made a statement that I contradicted, then I'm subject to that, I think it's, \$2,000 fine from the Accountability and Disclosure Commission. With an issue that's as relevant and as much of a hot topic as wind power and coal today, I see that with somebody with my jurisdiction as very possible since my board has regulatory oversight over the electric industry in Nebraska. And I am concerned that if

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I made a statement or my board members made a statement somewhere at a conference or a seminar and I'm on public time, I'm being paid, I get reimbursed for my mileage or my meals there, that that's a public expenditure that I've expended to get to that location and, therefore, the Accountability and Disclosure could say you used public funds to get there, you made a statement that contradicts some candidate, and we're going to fine you \$2,000. And that's of great concern to me as a statewide official with statewide jurisdiction and my board members on a topic like wind power that is...and that's not the topic for this. It's much broader, but that's the specific example I give because that's my area of jurisdiction. I would suggest that there's one thing I would add to the bill, one concern that its focus might be a little bit too narrow, that this deals with the Accountability and Disclosure Commission with ads in the paper, with public announcements on the radio. But it wouldn't address my concern about making a statement orally to a small audience like this. I think dissemination to me would mean broadcasting to the world or to a broader audience. So my statements at a conference, seminar, presentation, which I do, would be still subject to being fined. And I would suggest adding the word and recommend a simple amendment to add the word "communicated" in line 17, page 1. So subsection (b) would read, "is communicated or disseminated." I think that would help protect someone like me from exposure making a factual statement. Not identifying any candidate. I'm just simply saying, whatever it is, coal is typically the cheapest or wind power is not cheapest without a production tax credit. Whatever factual statement I'm making doesn't subject me to a fine because there's a candidate who made a statement that said, for example, wind power is one-third the price of any other out there, any other generation source. I think it's good government for somebody like me who has expertise in a field to make a statement like that to the public. I don't care what the candidate...I'm not getting in the middle of a candidate's campaign. That's not my job. I agree with that, and we need the Accountability and Disclosure to be a watchdog for that. But I'm concerned about making statements that are factual and the stifling effect this would have without a bill like this to correct that. So with that, that's my testimony and I thank you. I'm willing to take any questions. [LB462]

SENATOR MURANTE: Thank you. Senator Groene. [LB462]

SENATOR GROENE: Thank you, Chairman Murante. What was your position again? [LB462]

TIM TEXEL: I'm the executive director and general counsel for the Nebraska Power Review Board. [LB462]

SENATOR GROENE: So if somebody put a petition initiative on the ballot that we're going to force the public power districts to go 25 percent wind power, right now you as public officials would have to stay out of that, right? [LB462]

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TIM TEXEL: I would, yes. We don't take policy positions. I wouldn't take a position on a ballot initiative or something like that. It'd be more of a factual statement that I'd make. If somebody, as I understand the law, if somebody asked me a question, the press or the public, I could respond to it. But if I made a statement at a conference, I couldn't. [LB462]

SENATOR GROENE: Let's say the NPPD was for that and as long as they didn't mention the ballot initiative and they put some ads out there that wind power was great and that we wanted to switch and it was cheaper, when that proposition was being on the ballot and the public service, now I don't believe you can do it, but with this you probably could. [LB462]

TIM TEXEL: Right. If it's factual. It needs to be factual in nature. [LB462]

SENATOR GROENE: But you're not really supporting the proposition. You're out there saying how...a public service, that this is a great idea. [LB462]

TIM TEXEL: Right. And as I understand it, if you don't name the ballot initiative, you don't list a candidate, you don't mention something specific like that, you give information that's broadly factual about a certain topic that this would help allow them to do that. [LB462]

SENATOR GROENE: But right now you can't. [LB462]

TIM TEXEL: That's the way I read the Accountability and Disclosure Commission. It would stop anything like that. Factual doesn't matter. As the previous testifier said, it's the intent as divined by the Accountability and Disclosure Commission that would put... [LB462]

SENATOR GROENE: Present law does that. [LB462]

TIM TEXEL: Under the interpretation of the Accountability and Disclosure, and that would...essentially you're asking a government official like myself or NPPD to gamble with \$2,000 to see if the Accountability and Disclosure Commission would believe that our intent was to interfere with that campaign. [LB462]

SENATOR GROENE: Or we could be asking you to just do your job and keep your mouth shut during the campaign. [LB462]

TIM TEXEL: Well, and certainly if I thought it would effect the campaign I would not want to make a statement other than a factual statement about general applicability. I mean, I completely

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agree underlying law that I should not be involved in the campaign as a government official. That would be completely inappropriate for me. [LB462]

SENATOR GROENE: I didn't mean to try to act like you would either. (Laughter) [LB462]

TIM TEXEL: I just wanted to clarify. That's...I'm not trying to broaden my ability to do that. I don't want to do that. [LB462]

SENATOR GROENE: That was a generic statement not just pointed at you. Thank you. [LB462]

SENATOR MURANTE: Thank you, Senator Groene. Senator Bloomfield. [LB462]

SENATOR BLOOMFIELD: Thank you, Chair. I'm concerned about unintended consequences again or yet. The Secretary of State frequently comes in to testify in this committee. He's certainly being paid to do that. He comes in and mentions a bill, do we suddenly have the Secretary of State in trouble? [LB462]

TIM TEXEL: Well, I don't think mentioning a bill would necessarily do it. As I understand it, it's a candidate for office, so it'd have to involve a candidate making a statement that the Secretary of State contradicted as I understand it. And I'm not...I'm somewhat familiar with the background and that, but as I understand it, it has to be contradictory to a statement made by a candidate for office. And then what exactly a candidate is, I'm not as familiar with. [LB462]

SENATOR BLOOMFIELD: Okay. Thank you. [LB462]

SENATOR MURANTE: Okay. I have a question for you then because you brought up an interesting point relative to this actually being too narrow in a term. So at the moment, the prohibition is against public officials or public employees shall not use or authorize the use of public resources for the purposes of campaigning, that the term campaigning is not defined, so it would be up to Accountability and Disclosure's discretion to determine what campaigning is. Through this bill, we are defining what campaigning is, and in order for an action to be campaigning, it needs to be aired, broadcast, cablecast, printed, or otherwise disseminated through the facilities of a television station, news station, radio station, etcetera, etcetera, etcetera. [LB462]

TIM TEXEL: Yes, in addition to the first part under (a)(i) that it refers to a ballot question, unambiguous reference... [LB462]

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SENATOR MURANTE: Right, it has to do both. [LB462]

TIM TEXEL: ...both of those, yes. You're correct. I would just add that other part is also applicable because there's an and at the end of the first part. [LB462]

SENATOR MURANTE: Okay. So I can refer to a candidate by name, as long as what I'm doing is not aired, broadcast, cablecast, printed, or otherwise disseminated through the facilities of a television station, etcetera, etcetera, etcetera, I can do that. [LB462]

TIM TEXEL: Well, I don't think you would identify the candidate because that's the first part. You would simply... [LB462]

SENATOR MURANTE: But let's say I do. Let's say I say, vote Dave Bloomfield for Congress. But I'm doing it through a form other than airing it, broadcasting it, cablecasting it. I'm going door-to-door telling people to. I'm on the clock, but I'm not airing it, broadcasting it, cablecasting it, doing all of those things that are listed there. [LB462]

TIM TEXEL: Well, that would be my concern. That's not contradicting another statement but it might be campaigning because you're going door to door using public money while you're being paid to do that, to campaign. [LB462]

SENATOR MURANTE: Right. [LB462]

TIM TEXEL: So my concern is aimed more at if I contradict something somebody says because obviously I'm never going to go door to door being paid in my official capacity. I hope nobody would on public... [LB462]

SENATOR MURANTE: My point is I think that the way that the bill is written that that goes from being prohibited under current law because NADC would clearly define that as electioneering or campaigning, but under the law as it's presented to us right now it would be permissible. It's not campaigning anymore because I'm not doing it via airing it, broadcasting it, cablecasting it. [LB462]

TIM TEXEL: But you're identifying a candidate specifically under the first part. [LB462]

SENATOR MURANTE: But I have to do both. It said the word is "and" in line 10. I have to do both in order to be campaigning. [LB462]

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TIM TEXEL: Well, and that's my concern is right now if I make an oral statement, like I think what you're saying the same thing, is if I'm making an oral statement, that's not broadcast and that's my concern that the bill might be too narrow in that regard. So I think if I understand what you're saying I would agree with you. That part needs to be tightened up and maybe adding communication would do that or clarifying it on the legislative history that this is intended. You could make another amendment that clarifies that. But that would be my point, is an oral communication that identifies a candidate. I'm not thinking of identifying a candidate because I wouldn't... [LB462]

SENATOR MURANTE: Sure. [LB462]

TIM TEXEL: ...my mind wouldn't go there. But, yes, I would agree... [LB462]

SENATOR MURANTE: Buy hypothetically if... [LB462]

TIM TEXEL: ...it should be tightened up about oral statements, not just broadcast. I think that was aimed at the impetus for the bill because that's what happened with the Northwest Rural Public Power District. But I would certainly add in an oral statement, like I said conference seminar. I guess going door-to-door would be the same thing on a smaller audience level. And I think it would warrant tightening up on that, something like that, yes. [LB462]

SENATOR MURANTE: Okay. Thank you. Any final questions? Seeing none, thank you very much for your testimony. [LB462]

TIM TEXEL: Thank you. [LB462]

SENATOR MURANTE: Additional proponent testimony to LB462. [LB462]

KRISTEN GOTTSCHALK: Chairman Murante, members of the Government, Military and Veterans Affairs Committee, my name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k, and I am the government relations director and registered lobbyist for the Nebraska Rural Electric Association. I also serve as the legislative subcommittee chair of the Nebraska Power Association, and I'm here today to testify on behalf of both the Nebraska Rural Electric Association and the Nebraska Power Association in support of LB462. NREA represents 34 rural electric systems across the state of Nebraska. We provide retail electric service to more than 230,000 meters, over more than 85,000 miles of line. The NPA is a trade association for all of the electric utilities in the state, which includes rural PPDs, electric cooperatives, municipal systems, and public power, and irrigation districts. So it's pretty encompassing. I'm going to

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deviate a little bit from my testimony because I want to address the question that you had with the last testifier. And as we read this, the concerns that you brought up were concerns that we actually did address when working with Senator Seiler's office and the Bill Drafter on this. So as you go through this, it makes reference to the aired, broadcast, etcetera, etcetera. And then as you finish that, you enter into that sub (b) which is disseminated by any other means not described in sub (a) of this subdivision. And we did intentionally want to make sure that it was clear that government funds, public funds, could not be used. You couldn't have an employee go stand on the corner with a sign and campaign on public time or go door-to-door, do any of the things that were previously discussed. So that was intended to be clearly prohibited, and the Bill Drafters suggested that language to be more encompassing. We do appreciate the efforts of Senator Seiler to clarify in the NADC Act what campaign or campaigning means. Under current statutes, obviously, we're prohibited from using public funds for the purposes of campaigning, and the fact that campaigning is not defined in statute can become somewhat troublesome. Now under the changes proposed in LB462, public power systems, public utilities, are still prohibited from campaigning with public funds. We've just provided definition for what that means. One of the issues that I want to get to is many electric systems, speaking just for my members, provide information on a regular basis regarding industry issues, including renewable energy development, load control, energy efficiencies, maintenance, and expansion of distribution systems, system upgrades, and a lot more. So they're communicating to the public. It's our concern that as a result of the recent ruling by NADC that even regular informational communication could be interpreted as campaigning if a candidate for office had a position different than that utility did in their informational provide. Communication does come in many forms and would include public service announcements, system newsletter, radio appearances by government representatives, and even links to information on a Web site. These types of communication or information providing happen year round, including election years. It's interesting when we talk about the motorcycle situation, if your Health and Human Services is going to disseminate information, it's going to be at the time when motorcyclists are going to be out. So the spring right before the May election it could appear to be in conflict with somebody in the same in the fall. LB462 makes a commonsense change to clarify the current statutes to provide that bright line of what is and what isn't campaigning. It does not broaden the authority of a public entity to become involved in campaigns, and I don't believe that it limits the Nebraska Accountability and Disclosure's authority. With that, I have the red light, I will be happy to answer any questions that you may have. [LB462]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? Senator Groene. [LB462]

SENATOR GROENE: Define to me what the difference is between the changes you made in the statute where you say to campaign instead of...and cross out for the purpose of campaigning. [LB462]

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KRISTEN GOTTSCHALK: Well, for the purposes of campaigning implies that the intent of the action needs to be determined. So we're...you know, as Mr. Jarecke mentioned, you have to look inside someone's soul to understand why they did it. Now as we changed it to campaign and campaigning, we still want to get at those types of actions that shouldn't happen, but now we've provided a definition of clearly what does it mean to campaign in statute. [LB462]

SENATOR GROENE: So you got a bunch of school teachers sitting in the multipurpose room running around with campaign signs and while parents are there, that's campaigning. [LB462]

KRISTEN GOTTSCHALK: Yes, that would be campaigning. [LB462]

SENATOR GROENE: All right. So now they're sitting in there. They got together and they're making campaign posters. They're not actually campaigning. Before, they could not use that facility to prepare those posters, but they're not actually campaigning. Can they do that now? Can they have...before, they could not have a meeting organizing, talking about which candidates they were going to support in that public school. They're not actually campaigning but they're doing campaigning purposes. [LB462]

KRISTEN GOTTSCHALK: You know, I think you do get at a different aspect is, you know, in preparation to communicate, is that the same as disseminating the information? [LB462]

SENATOR GROENE: Is that the same thing as campaigning? [LB462]

KRISTEN GOTTSCHALK: I think it is included. If you're preparing campaign materials on public time, it's the process that's the process of disseminating information. So... [LB462]

SENATOR GROENE: It's the same thing as campaigning? [LB462]

KRISTEN GOTTSCHALK: I think it would be the same thing as campaigning and would be prohibited. [LB462]

SENATOR GROENE: Okay. Thank you. [LB462]

SENATOR MURANTE: I want to explore that a little bit more. So now if this law gets passed, in order to be campaigning you have to disseminating some sort of communication. [LB462]

KRISTEN GOTTSCHALK: In some fashion, yes. [LB462]

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SENATOR MURANTE: In some fashion. So going out and pulling up yard signs, talking to anybody, you're not disseminating any sort of...I mean it's clearly campaigning. You're attempting to influence the outcome of an election, but you're not disseminating any communication. [LB462]

KRISTEN GOTTSCHALK: I will be perfectly honest with you, Senator. The concept of pulling up campaign signs was not something we discussed but should absolutely... [LB462]

SENATOR MURANTE: You have not had to listen to any Burke Harr bills in this committee. (Laughter) [LB462]

KRISTEN GOTTSCHALK: But I think I would not be speaking out turn in saying that if that's not clearly stated in here, that that should be included as well. [LB462]

SENATOR MURANTE: So it needs to go beyond simply disseminating some sort of communication. There are other forms of campaigning that are not simply disseminating communication. Fair to say? [LB462]

KRISTEN GOTTSCHALK: Yeah. In pulling up yard signs, you're dis-disseminating information. It's an unusual situation to be quite honest had not been considered as that, but I think it would have fully been the intent to prohibit that as well. [LB462]

SENATOR MURANTE: Okay. [LB462]

KRISTEN GOTTSCHALK: Make sure that that would be included in the definition. [LB462]

SENATOR MURANTE: Senator Bloomfield. [LB462]

SENATOR BLOOMFIELD: Thank you. During the campaign season were I to stand up on the legislative floor and say, Tommy Garrett is an idiot, (laughter) have I just broke campaign laws? [LB462]

KRISTEN GOTTSCHALK: I think the standards for senators is a little different in the process of debating legislation on the floor. So I do not believe that it falls under the same... [LB462]

SENATOR BLOOMFIELD: So if someone from Health and Human Services said the same thing. [LB462]

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KRISTEN GOTTSCHALK: If they stood up on the floor of the Legislature? [LB462]

SENATOR BLOOMFIELD: Stood up anywhere. If they stood up outside the... [LB462]

KRISTEN GOTTSCHALK: I think that if they were on government time and they did that in the course of an election, then, yes, that would be determined to be campaigning. [LB462]

SENATOR BLOOMFIELD: Thank you. [LB462]

KRISTEN GOTTSCHALK: Because you'd be directly...you know, and we also have to remember that there has to be some kind of unambiguous reference to the candidate status as a candidate. You know, if in the context of the conversation somebody says Tommy Garrett is not the most upstanding person--I'm not going to call him an idiot--(laughter) and it's a personal opinion and they're not referencing them as their status as a candidate, I'd say that's a little bit different and people are entitled to opinions. But I think when you're making reference to campaign issues and then make that reference in coincidence with that, then it is campaigning. [LB462]

SENATOR MURANTE: Senator Bloomfield. [LB462]

SENATOR BLOOMFIELD: So if instead of mentioning Tommy Garrett, I'd say that gray-haired fellow with the ponytail. [LB462]

KRISTEN GOTTSCHALK: That would be an unambiguous reference because it would clearly reference Senator Garrett if you're talking about a state senator. [LB462]

SENATOR BLOOMFIELD: Thank you. [LB462]

SENATOR MURANTE: Thank you, Senator. Any final... [LB462]

KRISTEN GOTTSCHALK: That distinguished looking man. (Laughter) [LB462]

SENATOR BLOOMFIELD: Oh, you don't have to suck up. (Laughter) [LB462]

SENATOR MURANTE: And with that, thank you, Ms. Gottschalk. Thank you for your testimony. Are there additional proponents wishing to speak on LB462? Seeing none, is there any opposition testimony to LB462? Welcome to the Government Committee. [LB462]

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W. DON NELSON: Mr. Chairman, Senators, my name is Don Nelson, D-o-n N-e-l-s-o-n. I live at 2430 South Canterbury Lane in Lincoln, Nebraska. I've lived in Lincoln 47.5 years with a 7.5 year break in Wyoming. So as my rancher friends say, Don's been to a lot of rodeos. He knows all the cowboys. He knows all the stock. I'm here to tell you a little bit about my background and then make a recommendation. By my count, I've probably have been involved in 500 political races, which includes nonpartisan races, Republican primaries in general election, Democratic elections, bond issues, initiatives, referenda. I've generally been involved in all types of things. In 1970, I was an advisor to the Nebraska Constitutional Commission. The last time we had a commission, I was appointed as a member of that commission. So I feel like I also know my way around statutes and the State Constitution. When I was in law school in the 1960s, I actually was part of the revision of the Florida State Constitution at that time. I speak in opposition to LB462. Let me give you some of my personal conclusions because where you stand depends on where you sit. So I have to expose a lot of my biases. I do not believe that the current Accountability and Disclosure law is vague and ambiguous. I do not believe that the Accountability and Disclosure Commission is overreaching in enforcing the current law. If your committee concludes otherwise, I recommend that a more thoughtful approach is to turn this LB into an interim study because what you do here is about to affect a whole range of governmental units. And they all ought to be brought in to discuss their views of election laws, not just a narrow focus. I believe there are five valid reasons for keeping LB462 in your committee. Number one, the fundamental issue embodied in LB462 is currently being litigated, as you've already heard. The Nebraska Supreme Court has rendered a decision and sent the case back to the Lincoln County Nebraska district judge. Until that issue is fully litigated, it would seem prudent for the Legislature to delay final action. If the intent is to legalize using taxpayer or ratepayer money to take sides in an election, I believe that such actions would undermine the faith in our public power model in Nebraska, which is the subject of the current litigation, although the proposed LB462 covers other governmental units than public power. A lot of the examples that were thrown out are not problems anymore. When the narrow and temporary focus in a public employee or elected official's conversation comes up, that was corrected two years ago by the Legislature by the so-called de minimis rule. That was a problem that came out of Norfolk, Nebraska, that was created. That's been sold. The proposed definition of campaigning in LB462 appears to be borrowed from the federal election law which would be inappropriate for the Accountability and Disclosure law. I see Mr. Daley in the audience. I assume he'll have more to say. LB462 as proposed runs the risk of what most lawyers jokingly refer to as the next lawyer's 401(k). If you make it vague and so imprecise, then you run the risk of having a permanent string of litigation. I'm here to answer any questions that you have in this regard. [LB462]

SENATOR MURANTE: Thank you very much for your testimony. Senator Craighead. [LB462]

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SENATOR CRAIGHEAD: Thank you, Mr. Chairman. Thank you, Mr. Nelson, for being here. Did you get through all your five reasons? I was trying to count with you. Did you get through all your reasons of (inaudible)... [LB462]

W. DON NELSON: Well, I'm to four but I'm assuming there's going to be a question come up that allows me to get to five. [LB462]

SENATOR CRAIGHEAD: Would you share your next couple of reasons with us, please? [LB462]

W. DON NELSON: Well, the fifth one is it may be that you're not fully acquainted with the facts of this situation. It's not as if the A&D Commission reached out and grabs some unsuspecting public employee or governmental unit. There was a hearing, a retired judge, district judge took testimony and concluded that the offense was clearly the intent to violate the separation of public money or ratepayer money from campaigning. If a unit of government has a regular and ongoing public relations program and they're on TV or the radio or the newspaper educating the public about issues, whatever they are, that's fine and dandy, and Accountability and Disclosure won't go after that sort. But if the intent is to defend an incumbent's position against a challenger, that's off limits. And I hope we're teaching our elementary students in Nebraska schools that you don't mix ratepayer money and taxpayer money with a campaign. And I'm concerned you're about to reverse that because by the admission of several people testifying here, if this passes it would legalize what Judge Van Pelt decided was improper in a violation of state statute. That's my central concern and that would undermine the fundamental premise of public service and elections. [LB462]

SENATOR CRAIGHEAD: Thank you. [LB462]

W. DON NELSON: Thank you. [LB462]

SENATOR MURANTE: Thank you, Senator Craighead. Senator Groene. [LB462]

SENATOR GROENE: Thank you, Chairman. So apparently you've been watching this for a lot of years. Is this the first time you've seen this? I mean, is this...where the public employees, public entity did kind of a public service commercial was pretty obvious that they were trying to influence it, opinion against that... [LB462]

W. DON NELSON: I'll convert it to my own words, Senator Groene. I was flabbergasted to the extent when somebody told me what was going on that I was convinced it was a hoax on the

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Web, and until I actually dug into and read what was going on I couldn't believe my eyes because, like I've told you, I've served any number of assignments in government at the highest levels just like a military assignment and it never crossed my mind or my colleague's minds that we would do something that blatant. But apparently there are a group of people that decided in our society, as long as you don't name the person everything is cool, which is called public education. We just won't name the person whose candidacy we're trying to undermine. And I'm here to say I think that's wrong, badly wrong. [LB462]

SENATOR GROENE: Thank you. [LB462]

SENATOR MURANTE: Thank you, Senator Groene. Any final questions? Seeing none, thank you very much for your testimony. [LB462]

W. DON NELSON: Thanks for your time. [LB462]

SENATOR MURANTE: Additional opposition testimony to LB462. Mr. Daley, welcome back. [LB462]

FRANK DALEY: Thank you very much, Chairman 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 today to express the opposition of the commission to LB462. And let me clarify that the commission actually considered this bill and voted to oppose it. Let me start with the premise that no one in this room wants to provide governmental entities with expanded opportunity to use public funds and public resources to engage in campaign activity. However, I think that is what LB462 does. And the best way to show that is to look at Senator Groene's example of the motorcycle helmet. Senator Bloomfield is well-identified with the effort to repeal the mandatory motorcycle helmet law. If Senator Bloomfield were eligible for reelection and let's say 2016 was upon us and he was continuing his effort to have the helmet law repealed, if the health agencies in northeast Nebraska in Wayne County and Dixon County and Dakota County started running anti...or started running mandatory motorcycle helmet ads before the election or during the election year but never had run ads like that before, under LB462 that would be perfectly permissible because it didn't refer to a candidate, it didn't refer to a ballot question, nothing of that nature. And that's kind of the problem when you define something such as campaigning, because campaigning, as you probably know, is somewhat of a creative process. It changes from year to year and the forms by which you campaign change from year to year. And so that's obviously something which as soon as you define it, you exclude certain things as Senator Murante pointed out, that you make a definition, and then suddenly pulling the campaign signs out doesn't constitute campaigning under the definition. But under current law if a public official sent his public

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employees out to pull out the campaign signs of the opponent, we'd say that's campaigning; under LB462 it would not be. One of the things mentioned by Mr. Nelson was this is a case which is still ongoing. We all know this arises from a specific case. This is currently before the District Court of Lincoln County having gone up to the Supreme Court and the Supreme Court having sent it back. So I might submit to you that maybe it's premature to start changing laws before we know what the complete outcome of this matter is. Several of the testifiers have mentioned, we don't want to have to have the Commission look into my heart to see what my intent was or to see what the purpose of the expenditure was. Well, for the purpose of is the logical equivalent of the word "intent", and in the law, we use the word "intent" a lot. And the way that you prove intent is to show all of the circumstances surrounding the particular activity. And that's a high bar for the Commission to get over and prove intent. So that actually acts as a protection for members of...or people who are public officials or public employees. Let me take issue with one major proposition. The language of LB462 presumes that you can't campaign for or against someone unless you name them or make a specific reference to them. But I think that's incorrect. You can campaign against someone by putting out information about an issue that is closely tied to them. And I know I'm running out of time, so I'll try and get this example. If I'm running for mayor against an incumbent and my platform is that all of the traffic lights in town ought to be changed to a newer style, what if in the two weeks prior to the election the current mayor states his opposition to replacing the traffic lights and then runs 60 radio ads using city funds to say the traffic lights should remain the same. And puts ads in all of the local newspapers using public funds saying traffic lights should remain the same. Under current law, the Accountability Commission could look into the intent behind that activity. Under LB462, intent doesn't matter because that activity would be legal. So at any rate, we do oppose LB462 and thank you for the opportunity to testify today. [LB462]

SENATOR MURANTE: Thank you, Mr. Daley. Senator Bloomfield. [LB462]

SENATOR BLOOMFIELD: Thank you for coming in, Mr. Daley. Do you have another point or two you would like to make? [LB462]

FRANK DALEY: I don't other than I appreciate the opportunity to be here and make the points we do. I will tell you that...since you invited, that this language was taken from federal law, this language that was taken from federal law on the federal level doesn't apply to public officials or public employees using public funds. It applies to private entities using private funds. The other thing it doesn't do on the federal level, it doesn't define campaigning. The federal election commission doesn't consider this language to be a definition of campaigning. It considers campaigning to be much broader than this language. Instead, it describes certain activity which is reportable. So it's used much, much differently in LB462 than it is on the federal level. [LB462]

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SENATOR BLOOMFIELD: Thank you. [LB462]

SENATOR MURANTE: Thank you, Senator Bloomfield. Senator Groene. [LB462]

SENATOR GROENE: Thank you, Chairman. What is your take on changing "to campaign" and crossing out "for the purpose of campaigning?" Would that tie your hands any on issues or... [LB462]

FRANK DALEY: I think for the purpose of campaigning is good because some of the language which is stricken and replaced with the new language says you can't use public resources for the purpose of campaigning. And what that does is it gives the commission the opportunity to look at intent so that, for example, in our repeal the helmet law case... [LB462]

SENATOR BLOOMFIELD: That's a good idea. (Laughter) [LB462]

FRANK DALEY: Okay. If we see that every May certain health organizations put out pro-helmet information and there's a longstanding tradition of that, that sort of indicates that maybe the intent had nothing to do with the fact that you want to repeal the helmet law. So that for the purpose of is good. Sometimes intent is easy to tell, like if the information says vote yes, vote no, vote for, vote against. But sometimes you have to go a little bit further than that. So for the purpose of does a couple of things. It makes sure we get to the heart of the matter, it protects the public official and public employee because it's a high bar for the Commission to get over and prove intent. [LB462]

SENATOR GROENE: What about my example about preparing materials to campaign versus actually campaigning? [LB462]

FRANK DALEY: That's kind of an interesting thought. The language in LB462 specifically speaks in terms of disseminating. And I'm not sure that preparing information constitutes disseminating. So let's say, let's take your teacher example. Let us say teachers on their own time and with their own resources were out on the street carrying campaign signs. It's not school hours. They're not on school property. They're out in public areas and they're campaigning with signs saying vote for, vote against, whatever it happens to be. But what if they use school materials and use...or school time to prepare those signs? They were sitting in the gymnasium... [LB462]

SENATOR GROENE: Or in a school building. [LB462]

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FRANK DALEY: ...or a school building, that sort of thing? I'm not sure how that all fits in but that...but part of the activity is legal, part of the activity under LB462, I'm not sure that it would be considered contrary to law. [LB462]

SENATOR GROENE: At the present it is though. [LB462]

FRANK DALEY: At the present it is because they would be using public resources and public...well, public resources for the purpose of campaigning. [LB462]

SENATOR MURANTE: So I'll ask you, Mr. Daley, the same question I asked Senator Seiler. Can you conceive of instances where a public employee on the clock could refer to a candidate by name and in any of the forms mentioned in the statute but be doing so appropriately or in a way that most of us would agree is not attempting to influence an election? What do you think about that? [LB462]

FRANK DALEY: Yes, and part of the problem with the definition is you create a corral. Whatever happens to be in the corral when you close the gate is part of the definition. Let us say that you've got a city or village that sends out its utility notices. And typically along with the utility notice they send a little newsletter of things that are happening in the area. And in this case, they're referring to Senator X and mentioning the fact that Senator X is working on a bill to get some sort of grant money for cities and villages that are trying to upgrade their wastewater treatment system. Under LB462, that's a use of public funds referring to a person who could be a candidate, and that would be contrary to the provisions of LB462. That would be using public funds to disseminate something that refers to a candidate by name. There's nothing in the bill that says you have to refer to them as a candidate. There's nothing in the bill that says you have to indicate that he's up for election. It just says refer to a candidate. So that's a type of situation we would currently I think all consider a lawful use of public funds, but it would be a violation of the terms of LB462. [LB462]

SENATOR MURANTE: Okay. Thank you very much. Senator Bloomfield. [LB462]

SENATOR BLOOMFIELD: This thought just occurred to me and again I may be off base. The county party, Republican Party of Wayne County, is that public money what they have in their treasury? [LB462]

FRANK DALEY: That is not. That would be private money. [LB462]

SENATOR BLOOMFIELD: Okay. Thank you. [LB462]

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SENATOR MURANTE: Thank you, Senator Bloomfield. Any final questions? Seeing none, thank you very much for your testimony. [LB462]

FRANK DALEY: Thank you, one and all. [LB462]

SENATOR MURANTE: Are there any remaining opponents wishing to speak on LB462? Seeing none, neutral testimony? Senator Seiler, you are recognized to close. [LB462]

SENATOR SEILER: Thank you, Mr. Chairman. I'm always nervous about contradicting a person that's looking over my disclosure (laughter) statements as we speak. [LB462]

SENATOR MURANTE: We've named him "Hulk Hogan" in this committee, so, and for good reason. [LB462]

SENATOR SEILER: Okay. And the answer to the helmet law that Mr. Daley referred to, I think it'd be covered by lines 8, 9, and 10 on page 2 of where the identity of the candidate otherwise apparent through a reference or would cover that were you not hitting the candidate of Senator Bloomfield as saying he's...don't use his name but refer to the helmet law and go after him that way. I think that would be clearly covered. Senator Bloomfield, your question, and I thought I knew the answer and I can only give you a partial answer. If you look at section (10) on paragraph 4, when you asked me whether or not an employee of the Legislature using public resources was a violation. Well, I find it specifically not a prohibition if they're talking about a ballot question. I don't find your clear answer to your question as to whether a candidate during an election. [LB462]

SENATOR BLOOMFIELD: Okay. Thank you. [LB462]

SENATOR SEILER: But it is clear there that if a member of your staff is operating under your supervision it's not prohibited. The last issue I'd like to just kind of close with is they referred to the case that's pending in district court in Lincoln County right now, and said Senator Van Pelt...or, excuse me, Judge Van Pelt made a decision, and he did. And it was appealed to the district court in Lincoln County, and that judge made an opposite decision and that was appealed to seven judges of the Supreme Court and they made a decision that they both were wrong and sent it back for further testimony. And what did they send it back for? The nebulous number of intent. I've tried a lot criminal cases and I will tell you I started out hollering about intent from the time I sat down to the time I left. Sometimes I was successful, sometimes the jury had a better idea. But they sent it back for intent and then they went on to talk about what elements were missed by the judge and the Commission, Accountability Commission, in determining

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intent and said we need further instruction on that. And you can find that on page 820 of the decision of 288 Nebraska reports 820 at the bottom of the last paragraph. And it said what they wanted to further develop on the letter of intent. And so they're saying it's a little nebulous under our bill but when you get into the area of intent, that's a slippery slope and right into a sinking pit. So I don't think...I think our bill does a lot better job of bringing to the forefront who's in violation and who's not. And the purpose of the bill is not to trap anybody. The purpose of the bill is to warn people that if you do this, you're going to be in trouble. And so don't do it. It's that simple. And I got to give the credit to the Nebraska Political Accountability and Disclosure Act. If anybody has a question about it, you call them, they'll give you good advice. I've never found them to mislead you or anything like that. And I have talked to them a number of times and my staff and my campaign committee has also talked to them and I've never, ever gotten bad advice from them. So to a certain degree I'll give them credit for that. But on this I think the bill is a lot better than the nebulous term intent. I'll answer any other questions. [LB462]

SENATOR MURANTE: Thank you, Senator Seiler. Senator Craighead. [LB462]

SENATOR CRAIGHEAD: Thank you, Mr. Chairman. Hi, Senator Seiler. Did you introduce this bill on your own volition or were you asked by somebody? [LB462]

SENATOR SEILER: I was asked by the power people to introduce this bill. In fact, I introduced it a year ago... [LB462]

SENATOR CRAIGHEAD: Okay. [LB462]

SENATOR SEILER: ...and we've made a presentation, and then it got...they were trying to work out the language between the Accountability and what they could do and it just reached a point where they couldn't get it. So that's why we brought it today. [LB462]

SENATOR MURANTE: (Exhibit 2) Thank you, Senator Craighead. Any final questions? Seeing none, before we close the hearing on LB462, I have a letter in support of LB462 from John McClure of the Nebraska Public Power District. And with that, we close the public hearing on LB462. Thank you, Senator Seiler, for coming down today. [LB462]

SENATOR SEILER: Thank you. [LB462]

SENATOR MURANTE: Much appreciate it. [LB462]

SENATOR SEILER: I'll pick up my chair and my whip and go back to (inaudible). [LB462]

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SENATOR MURANTE: And we'll proceed to the next item on the agenda, LB571. Senator Brasch is here and has cleared the room. Welcome, Senator Brasch. [LB571]

SENATOR BRASCH: Thank you, Chairman Murante, and good afternoon to the members of the Government, Military and Veteran Affairs Committee. I am Lydia Brasch, L-y-d-i-a B-r-a-s-c-h, and I represent the 16th District in the Nebraska Legislature. I am here to introduce LB571 which I have brought to you at the request of former Senator LeRoy Louden who is here today. The overall intention of LB571 is to allow the Nebraska Tourism Commission to mark significant tourism attractions across the state with uniform highway tourism markers. To accomplish this intent, the Tourism Commission is given a variety of specific powers. First, the commission shall have the authority to determine what tourism attractions are important to the state and to justify the expenditure of public funds for the purchase of highway tourism markers. Second, the Tourism Commission would have the authority to procure these markers by spending funds specifically appropriated by the Legislature for the purpose of establishing highway tourism markers and could designate the approximate location of such markers. Third, the Commission would have the authority to accept gifts and encourage local participation and contribution to the erection of tourism markers. The Commission would also have the ability to secure payment to the state for the actual replacement cost of any damaged or destroyed signs. In addition, the Tourism Commission could appoint and delegate a special committee for research and investigation of establishing tourism markers. In addition, the work of the Tourism Commission, the Department of Roads would be responsible for the actual erection and maintenance of the signs and would determine the exact location of the historical markers as they are given consideration to public safety and welfare. Any gifts or funding received for establishment of highway tourism markers would be directed to the State Visitors Promotion Cash Fund. Currently, the Visitors Promotion Cash Fund is used to generally promote, encourage, and attract visitors to and within the state of Nebraska. LB571 would add the erection and replacement of highway tourism markers to the purpose of the Visitors Promotion Cash Fund. The expenses incurred by the Department of Roads with regard to the establishment of signs would be reimbursed from the Visitors Promotion Cash Fund. Section 4 of LB571 makes it unlawful for any person, public or private corporation, association, or organizations to post, erect, or maintain any highway tourism marker on public property or upon any public street, road, or highway in the state bearing any legend, inscription, or notice which purports to mark a tourism attraction or to maintain any highway tourism marker posted or erected after the effective date of this act unless there is a written certificate of approval first secured from the Tourism Commission. There have been some concerns whether this section could be construed to undermine local control for establishing tourism signage. I do not believe this section could be construed as such. In addition, it is not our intention nor the intent of the Nebraska Travelers (sic) Association, the Tourism Commission, or former Senator Louden to undermine any ability of local governing bodies or private groups to establish tourism signage. Although we do want to be sure these groups are not establishing tourism signage that imitates the uniform highway

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tourism markers established by the Tourism Commission. We will remain in conversation with these parties to clarify Section 4 if necessary while remaining faithful to the intent of this legislation. Overall, LB571 mimics Nebraska revised statutes 82-120 through 82-124 which gives the Nebraska State Historical Society the authority to establish uniform highway historical markers. LB571 recognizes the importance of significant tourism attractions throughout the state and the need to establish markers that draw tourists and citizens of the state to these attractions. It also provides for important state and local cooperative efforts between the Tourism Commission and local governing bodies and groups to enhance our efforts for increasing tourism which provides for an important component of our state's economic base. LB571 may have a fiscal impact. If so, a very small one. As the fiscal note describes, there could possibly be some administrative costs to the Tourism Commission regarding the research to support the decision making regarding the establishment of tourism markers. Notably, the fiscal impact to the State Visitors Promotion Cash Fund depends on how the Legislature decides to fund tourism signage. While funds could be earmarked for signage by the state, it is our intention that signage funding will occur through private donations and grants which the Tourism Commission will use to fund the erection of tourism markers by the Department of Roads. Overall, this bill will provide a key step in promoting tourism within our state without putting a cost burden on the state. It would give the Tourism Commission the authority to establish tourism markers as they work in cooperation with local governing bodies and groups to establish markers that will encourage and draw citizens and tourists to see the many significant and beautiful tourism attractions our great state has to offer. As I conclude, I would like to thank former Senator Loudon for bringing this issue to our attention. In addition, I want to thank Kathy McKillip and the Nebraska Tourism Commission and Andy Pollock and the Nebraska Travelers (sic) Association for helping us craft this legislation to be beneficial to everyone--state government, local government, private groups, and associations--promoting tourism across our state. Again, I want to thank this committee for your time and I will be happy to answer any questions, and there are those behind me that will also answer. [LB571]

SENATOR MURANTE: Thank you, Senator Brasch. Are there any questions? Senator Bloomfield. [LB571]

SENATOR BLOOMFIELD: Thank you, Chair. Senator Brasch, you...in the fiscal note it says that the Department of Roads could put the signs up. How do you...do they then present a bill to the tourism people by the hour or how do you foresee that funding getting paid back? [LB571]

SENATOR BRASCH: And we can...the tourism people are here behind us, but the Department of Roads are the controlling factors on all signs. [LB571]

SENATOR BLOOMFIELD: Right. [LB571]

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SENATOR BRASCH: That is their designated duty. And there is funding currently for the...for putting signs up. And they can go into more detail, but there are funds, you know... [LB571]

SENATOR BLOOMFIELD: Okay. We'll wait for them. Thank you. [LB571]

SENATOR BRASCH: Please, yes. And I'm not sure that the Department of Roads is here today. I didn't see anyone when I... [LB571]

SENATOR BLOOMFIELD: The tourism people are, so they can answer the question probably. [LB571]

SENATOR BRASCH: The tourism are. Okay. [LB571]

SENATOR MURANTE: Senator Groene. [LB571]

SENATOR GROENE: Thank you, Chairman. I'll ask you, Senator, but they can answer it too. But what do you envision? Go back to the old billboards like Pioneer Village? I mean, that was the best advertising campaign there ever was. Are you talking just the little signs that we already have out there? When I go past your area and I see the Neihardt Center, I always am reminded that that sign is there. So what do you envision to be more than that or... [LB571]

SENATOR BRASCH: They will...and they will be described behind me, but my understanding is there is a uniform signage code that is used and they will need to comply with those, that code. At this point in time, Senator Louden can also let you know of certain areas where tourism signs to main attractions are not being posted because they're considered tourism and not historical. So there's a difference between tourism and historical, although tourism signs and historical locations do work together. [LB571]

SENATOR GROENE: Thank you. [LB571]

SENATOR BRASCH: So that's what we're trying to do is bring in more additional tourism signage above and beyond what we have for our historical. [LB571]

SENATOR MURANTE: Thank you, Senator Groene. Any final questions? Seeing none, thank you very much, Senator Brasch. We'll now proceed to proponent testimony on LB571. Proponents. Welcome back, Senator Louden. [LB571]

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LeROY LOUDEN: (Exhibit 1) Well, thank you. [LB571]

SENATOR MURANTE: My predecessor, mentor. [LB571]

LeROY LOUDEN: Yeah, yeah. I hope you're taking care of the 49th District nowadays. As I said before, when the 49th moved from western Nebraska to eastern Nebraska, I didn't notice it took much to take care of the 49th when it was in eastern Nebraska. (Laugh) Good afternoon, members of the Government, Military and Veterans Committee, and Chairman Murante. My name is LeRoy Louden, that's spelled L-o-u-d-e-n. I'm from Ellsworth, Nebraska, and I'm here today to testify in favor of LB571 introduced by Senator Brasch. We have a tourism agency that now operates within its own leadership. The 2012 Legislature created the Nebraska Tourism Commission as a cash-funded agency in Section 81-3711 list as the duties that the Commission was to implement. LB571 gives the Commission operation objectives to mark significant tourism attractions in Nebraska. The Department of Roads shall erect and maintain such markers and shall determine the exact location of such markers with consideration given for the safety and welfare of the public. Now that is the same language as I handed out on the backside of your paper is the sections that give these duties to the Nebraska Historical Society. And as we worked this over, we tried to use some of the same language and do the same thing at the Nebraska Historical Society has the authority to do. The same language is in 82-120 that gives the Historical Society have the Department of Roads install the historical markers along state highways. There would be a minimal cost to the Department of Roads because the number of markers would be small statewide. During a discussion with the Nebraska Historical Society, I inquired as to how many historical markers were installed by the Department of Roads last year, and the response was there was three done last year statewide. The Nebraska Tourism Commission is a new agency set up to promote tourism in Nebraska. There are attractions in Nebraska that require signage to encourage tourists to visit and stay longer in the area. The markers are an economical way of accomplishing this task and keeping within the guidelines of their budget. LB571 gives the Commission authority to have markers placed along state highways without encountering permits, lengthy regulations, and yearly fees. I don't know if any of you are familiar with these byways that we have. We have Highway 2 byway, scenic byways, different parts that show it, and the scenic byway that goes up through the Sandhills there, they were able to get some grant money to put in what they want to call kiosks or tourism markers along the state highway. And that's some of the ideas where we wanted to get started with this. They get the grant funding money to buy the signs. The same way with the Historical Society. If you notice those historical markers that are...stand about six, seven feet tall, seven or eight feet tall and that sort of thing, those are...I've worked with Historical Society on them between the DAR and myself, we've put up three of them here in the last year and a half, and those cost 5,300 bucks and you usually got to have local money put over half of it for the most part. And that's what usually been done. And it is in all of our best interests if we promote area attractions to interest tourists to stop, investigate, and possibly revisit in the future. Money and time spent in

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Nebraska, any tourist area, is a benefit to the communities and the state of Nebraska's economy. And I would urge you to advance LB571 out of committee. And as Senator Brasch so ably described how the whole bill works out, but it is patterned after what the State Historical Society has the authority to ask the Department of Roads to put this signage up. And as we talked to the Department of Roads, it's usually a minimal fee is what it costs them. They usually don't even budget for it because they're so few that are done during the year, and also they said that if they was...amount of money that was considerably, why they could go to that I think the tourism promotion tourism cash fund or something like that for reimbursement if necessary. But at the present time, why I would like to see LB571 done and what we need to do to promote our new tourism agency. And I think they've done quite well here in the last year or so. With that, I'll be happy to answer any questions. [LB571]

SENATOR MURANTE: Thank you very much for your testimony. Senator Bloomfield. [LB571]

SENATOR BLOOMFIELD: Senator Louden, you in your testimony referred to state highways several times. I assume you're not excluding U.S. highways. Highway 20 is technically a U.S. highway. I assume you mean all highways. [LB571]

LeROY LOUDEN: Okay. I hadn't thought about that on like 20 up there. I guess it is U.S. 20. I figure the state maintains it. It was always considered a state highway. One thing that we would have to be...the consideration is I...the reason I didn't mention federal because when you get into along the interstate, then you get into something else. I don't think the state can put turnouts or anything along the interstate like they can along your state highways. But that's a good point. It's something that I overlooked. [LB571]

SENATOR BLOOMFIELD: It may be something we need to clarify as we go along. [LB571]

LeROY LOUDEN: Yeah. [LB571]

SENATOR BLOOMFIELD: Thank you. [LB571]

SENATOR MURANTE: Thank you, Senator Bloomfield. Any final questions from the committee? Seeing none, thank you very much for coming back down, Senator Louden. [LB571]

SENATOR LOUDEN: You bet. Thank you for inviting me here today I guess with your testimony and all. [LB571]

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SENATOR MURANTE: Thank you. Additional proponents wishing to speak on LB571. Welcome back to the Government Committee. [LB571]

KATHY MCKILLIP: (Exhibit 2) Thank you, Senator Chair, Senator Murante. I'm Kathy McKillip, it's Kathy, K-a-t-h-y, McKillip, M-c-K-i-l-l-i-p. I'm the director with the Nebraska Tourism Commission. Thank you for allowing me this opportunity to present before the Government, Military and Veterans Affairs Committee this afternoon on LB571. LB1053, Section 2, Section 81-1245 quotes, to create a commission and to provide for a general promotional activity, solicitation, and an operating program to attract visitors to Nebraska and to further the use of travel and tourism facilities in Nebraska, to promote our state while educating the visitors about our amenities and the opportunities during their visit. This is from our statute regarding the creation of Agency 91, which is the Nebraska Tourism Commission. This is to encourage also fellow Nebraskans to support travel and enjoy our Nebraska products and history. Tourism supports existing companies and stimulates new business development. Tourism levels the playing field for communities statewide when it comes to attracting visitors and increasing revenue. Tourism is a champion for Nebraska. We promote our natural attractions, scenic beauty, historic sites, unique boutiques, and local businesses, outdoor adventures, culture and art, foodie finds, and dining establishments, also agri-ecotourism, discoveries, heritage festivals, and cultural celebrations. Nebraska has a great deal to offer. Most importantly, tourism is a source of immediate revenue to Nebraska's communities and counties and to our state. In 2013, visitors spent more than \$4.4 billion on travel in our state. This is a 2.6 percent increase from 2012. This is a higher visitor spending than what occurs in South Dakota and Wyoming. When the visitor experiences what Nebraska has to offer, simply put, they spend more and at a higher level. Direct jobs generated by domestic and international travels for the industry equaled more than 44,300 jobs. Travel and tax revenues generated by domestic and international travelers totaled more than \$612 million; that was up 2.4 percent from 2012. More than 6 of the 93 counties received more than \$100 million each in domestic traveler expenditures and had 1,000 or more jobs supported by the domestic traveler expenditures. This information is provided by the U.S. Travel Association. Those were Douglas, Lancaster, Sarpy, Hall, Buffalo, and Lincoln Counties. In addition, visitors that traveled Nebraska outspent visitors in Wyoming and South Dakota states that each have major ranking national parks. Wyoming's visitor spending, in the millions, was \$2,969,000 and some change, South Dakota was \$2,711,000, while Nebraska's for that same period of time was \$4,385,000. These are 2013 numbers. Marketing has changed a great deal since the turn of the twenty-first century. The Commission utilizes several different medias and promotional platforms to increase the reach and to connect with potential visitors and fellow Nebraskans. One form of advertising that has not changed over the years is the importance of proper directional, informational signage. Even with the twenty-first century electronic devices of GPS services, good road signage still have a place and value. LB571 would permit local entities to utilize local funding sources and contributions to pay for the financing of signage efforts. This is not the intent of the Commission to purchase or pay for installations, design, or

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replacement of such designated signage. Tourism is a key segment of the state of Nebraska's economic base. It provides the quality of life component that we all search for and that corporate Nebraska seeks when recruiting residents and visitors alike to enjoy and experience and embrace what we have. LB571 is an opportunity for local and regional partnerships to better promote and enhance unique attractions, historic sites, and Nebraska treasures to the traveler by increasing appropriate signage. At this time, the Nebraska Tourism Commission offers support for LB571. We would like to thank Senator Brasch for introducing LB571 and the following senators, Senators Groene, Senator Hilkemann, Senator Mello, and Senator Schilz, along with this committee for bringing the value and importance of tourism before the body, and for the support tourism plays as an important role for the state of Nebraska. Tourism generates revenue for our communities, our counties, our citizens, and the state of Nebraska. And thank you all and the committee for your service to our state. I would attempt to answer any questions, Senator. [LB571]

SENATOR MURANTE: Thank you for your testimony. Senator Groene. [LB571]

SENATOR GROENE: Could you give me a couple of examples right now where you think advertising would help on certain tourist attractions across the state that we don't have signage now? [LB571]

KATHY McKILLIP: Senator Groene, regarding the sign issue right here, I think that a couple of situations would be some unique golf courses that are in the Sandhills. That might be something that's recognized. We've spent quite a deal of our marketing dollars in the past promoting those. Now, yes, that's a private business, but at the same time if you're golfing up in the Sandhills or if you're at the Dismal Golf Course and you're staying in the Mullen area, a little bit of signage might be helpful there. I also believe that some of the signage that was mentioned along some of our scenic and historic byways is very helpful. We're certainly not in any position to want to take away any historic language from the State Historical Society. That's their job and role and they do it very, very well. Ours is just to provide a little bit more information and opportunity in certain areas of our state where the next turnoff or something that's upcoming may be a little bit more difficult to find. [LB571]

SENATOR GROENE: In my area, Ole's, I mean it's a private run, would there be a conflict with some other restaurant that says, you know...because everybody heard of Ole's in Paxton. [LB571]

KATHY McKILLIP: Yes. [LB571]

SENATOR GROENE: Number one tourist attraction in our town of North Platte and Fort Cody, the private gift shop there, everybody stops there that comes along the interstate. But that's a

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privately-owned entity. I mean, I go into other states and they'll say, go to Wyoming and they got Wall Drug, you know, just because it's private. South Dakota... [LB571]

KATHY McKILLIP: Possibly to help answer or address the question... [LB571]

SENATOR GROENE: But you know what I'm saying. [LB571]

KATHY McKILLIP: ...Senator Groene. I hope so. I think I will... [LB571]

SENATOR GROENE: Pioneer Village is a private development or a private entity I think, unless the city has taken it over since he's gone. I don't know. [LB571]

KATHY McKILLIP: Right. And I'll try to address that in a couple of different ways. First and foremost, LB684 was the legislative directive to create a statewide strategic plan for us, and that was in 2011. Out of the 18 recommendations that came back for that strategic plan, the commission has completed 16 of them. Two of them we could not complete. One was the acquisition of land for tourism attractions. The second one was \$2.8 million recommended ginormous electronic signs that would engage the traveller at points of entry to our state which, one, we can't afford, and, two, the Supreme Court ruled out as clutter with regards to the Lady Bird Johnson's Highway Beautification Act. So in answer to your question, I would see that that's probably the role of the committee to look at what would qualify through a process. It's not to say that every other five feet there's going to be a sign for a private business, but what's unique and very difficult to find. Also, in reference to Ole's on your way to Ogallala on I-80, I know that Ole's does have signage which is in the private sector which is what we would also still strongly encourage is those types of billboards. I believe somebody referred to Pioneer Village, but Ole's does a very good job of that. We would not be permitted to go within that section of the federal highways along I-80. A few years ago, two years ago actually, we worked with Department of Roads to...do you remember the green signs from the seventies that stated, an example was "Black Hills Yellowstone via the Sandhills." Big green signs. In other words, these were signs that were saying here's the quickest way to get out of Nebraska to get to these attractions. We worked with the Department of Roads to go back and I don't want to say modernize because it's all...it was all grandfathered with the federal government, but to clean up the language and the image of those signs. You could never replace a sign once it's down according to the federal government. And in addressing this bill, what our partnership was with the Department of Roads was we paid for the signage in that case. There were 38 signs that we replaced across the state of Nebraska, and the project cost us about \$400,000. Really expensive. I think that's really expensive, but they look great. And they have that reflector image on them that you can see them also at night, not during the day. About the reimbursement for one of those signs, and those are very, very large signs, was about \$4,800 with the Department of Roads. And that varied

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depending on what type of equipment they would be bringing in to erect the signs, whether it was on an angle, whether it was on a slant. So we would anticipate that that cost would not be near that high for such signage for this. We would not be going into federal right of ways. We couldn't. But when it came to the selection process and competition with the private sector, that would probably be up to the decision making and the criteria of the committee. I don't see too much competition happening with that. I think this is truly reserved for those really unique facilities that get you someplace where it's very difficult to find, even maybe with a GPS system. [LB571]

SENATOR GROENE: Thank you. [LB571]

KATHY McKILLIP: Thank you for the question. [LB571]

SENATOR MURANTE: Senator Garrett. [LB571]

SENATOR GARRETT: Thank you, Speaker (sic) Murante. Thank you for your testimony today. I'm struck by the number of visitor spending in Nebraska. It dwarfs Wyoming and South Dakota. Where primarily are visitor spending their money in Nebraska? [LB571]

KATHY McKILLIP: Well, those come in from tax revenues that are generated and reported in, and the U.S. Travel Association does an assessment on every state nationally. It's kind of like, for our industry, it's kind of like the mother ship. It's at the national level, the federal level. And they work with Congress to look at these numbers. Where that spending is occurring is in pockets. There is no doubt that some of that spending revolves around some of our main events. Depending on the years, we will see that go up and down. It does go up when we host such events like the U.S. Olympic swim trials. We have people in the CWS, College World Series, that are in here, guests that are spending. But we're seeing really strong pockets of travelers. Not to entice Senator Bloomfield here to go onto a topic, but as they travel on different motor...across our state to other events, we're seeing a lot of spending in those pockets as well, specifically in the...what they would call the high country, the northwest part of our state and also down into some of where our more known festivals and gatherings are, such as in Lincoln County, which would be NebraskaLand Days, as well as the central flyaway migration zone. That is anywhere. You can really look at Lincoln County all the way over to Hall County up into the Broken Bow-Burwell-Sandhill-cusp area and down to Harlan County. The central migration flyaway zone is just really raking it in. And good for them. I mean, they're doing a very, very good job of promoting. We love the numbers and there's birdwatchers and environments (sic) like that do like to spend money. They come in. They spend the night. They dine out. And they're...it's helping our revenue go up. Specifically for the other two states, quite frankly, Senator Garrett, those

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really are numbers that focus on their two big things--Yellowstone and the Black Hills. What's great about Nebraska is we're seeing diversification across the state in pockets. [LB571]

SENATOR GARRETT: Thank you. [LB571]

KATHY McKILLIP: You're welcome. Thanks for the question. [LB571]

SENATOR MURANTE: Although I appreciate the promotion, Senator Garrett, I am not the Speaker of the Legislature. (Laugh) Senator Bloomfield. [LB571]

SENATOR BLOOMFIELD: Thank you, Chairman. And a couple of questions. Do you see spending fluctuate with the...and this is going to seem silly, with the quality of the football game and the football team? I assume we get a lot of visitor money from that in this, particularly in Lincoln. [LB571]

KATHY McKILLIP: Senator Bloomfield, are you asking me to take a stance on the fact of if the Huskers have a successful season or not and how that impacts our economy? [LB571]

SENATOR BLOOMFIELD: Yes. [LB571]

KATHY McKILLIP: I would prefer to decline. (Laughter) I would...I think there's no doubt that first and foremost that what's great about our Nebraska amateur sports environment is that we are a very passionate state. And though we may be more excited in different seasons than others, we still support it. We still have travelers that come in. There are former Nebraskans that build their vacations around that experience of a Husker home game. They miss it. They crave it. They come back for it. Now how that impacts our playing schedule on any field whether it's volleyball, softball, baseball, basketball, I think we're in a very, very strong conference with the Big Ten. Part of the plus of being part of the Big Ten is it's very, very mobile conference and some of our promotional efforts with the Big Ten network have reaped very, very high benefits for us. We're having a spike in our markets with the Illinois market, with the Michigan market, and with Minnesota. So I could only say that it's just good business for all of us no matter what our team's record is. [LB571]

SENATOR BLOOMFIELD: Okay. Thank you. And the other question, and you tactfully tried to avoid my bill, but I'm going to...we were told at some point and I don't know if it's this committee or somewhere else that western Nebraska didn't have the infrastructure to handle additional tourism. There weren't enough motels and weren't enough restaurants for people to eat

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in. Do you see that being an issue or do you think that if we have the customer base new facilities would possibly be built? [LB571]

KATHY McKILLIP: Senator Bloomfield, that's a good question, and it is kind of like the chicken and the egg, the horse and the cart, or if you build it, they will come. There is no doubt that as we are raising these numbers that we should discuss do we have product and do we have enough product and how are we supporting and helping product either flourish, grow, and nourish it. As Nebraskans, are we supporting Nebraska's product? Are we making a conscious effort of going out and supporting our own products? In certain sections of Nebraska, I would say that we probably do lack when it comes to car rentals. When you go in or you fly in and you rent a car, do you have the ability to rent some, you know, vehicles while you're there if you're there for a family vacation or if you need to do so? Lodging establishments, I think that, you know, you want to be careful when you expand on those. You want to make sure that you're building a product. You want the rooms filled. But as we're getting the word out, especially with the media tours and we're bringing travelers in and are crossing, we're seeing things book out and sell out at a much higher rate than they ever have before. Regarding infrastructure, physically as roads, as in that type of embodiment, I think that some of the charm and uniqueness of Nebraska is, one, we've got great roads. I know that we can all complain about some roads at different levels, counties, and such not, but we really do when you travel in other parts of the country. And some of the character of part of Nebraska is those unique scenic and historic byways that are really captivating for the traveler. So it's a yes and a no to your question, and about how we tactfully go to discussing how we build this industry because when we built this industry and we're growing this industry, we will be growing Nebraska and we will be needing to grow product. [LB571]

SENATOR BLOOMFIELD: If I might follow up a little bit. Senator Groene touched upon just a little bit and I wasn't completely content with your response. [LB571]

KATHY McKILLIP: Thank you. [LB571]

SENATOR BLOOMFIELD: If...you mentioned a golf course out in western Nebraska. If you put up a sign for that golf course, what's to keep the golf course in South Sioux City saying, put up a sign for them, why can't we have one? [LB571]

KATHY McKILLIP: Well, at this point in discussion probably nothing. I think that it would be...it'd go back to the criteria. And we have criteria that we establish for our grants where, is the facility of a caliber that can handle that type of information. I believe that in Senator Brasch's district and I don't hope to speak out of turn and maybe she can correct that, there's a bed and breakfast there that could benefit from some signage. I think that some places that are uniquely

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not on the true travelled road would benefit from this. And if the Sioux City golf course is on a very visible road may not need it as much. So I think it would be a case-by-case basis, especially based upon what the criteria would be for the grant application. You still didn't like that answer, did you? [LB571]

SENATOR BLOOMFIELD: No. I just wonder if you won't see lawsuits and everything else from people who think they're being snubbed when you give money to this... [LB571]

KATHY McKILLIP: Well, I hope not. [LB571]

SENATOR BLOOMFIELD: ...golf course and you didn't give any signage for theirs right along the highway as well. [LB571]

KATHY McKILLIP: Well, I hope not. That would be disappointing, but it would... [LB571]

SENATOR BLOOMFIELD: Yes, it would. [LB571]

KATHY McKILLIP: I think that there's a lot...we have more than \$800,000 requested from our marketing program, which is cash funds for grants for marketing efforts across the state. We fund only \$180,000 of that. So unfortunately there are a lot of those that are very, very good applicants that don't necessarily receive those funds. So there probably is a balance system there that we would have to consider. [LB571]

SENATOR BLOOMFIELD: One more question. Initially, how many signs would you be looking at? [LB571]

KATHY McKILLIP: I do not know. I think that's up for the committee to decide. Again, it's probably who can raise the money to pay for the signs and the quality over quantity would be the factor. [LB571]

SENATOR BLOOMFIELD: Thank you. [LB571]

KATHY McKILLIP: You're welcome, Senator Bloomfield. Thank you. [LB571]

SENATOR MURANTE: Thank you, Senator Bloomfield. Senator Craighead. [LB571]

SENATOR CRAIGHEAD: Thank you, Mr. Chairman. Hi! Welcome back. [LB571]

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KATHY McKILLIP: Thank you. [LB571]

SENATOR CRAIGHEAD: So since Omaha is the number one zoo in the world, are we going to capitalize on that? Buy some new signs? [LB571]

KATHY McKILLIP: Do you think we should, Senator Craighead? I think the... [LB571]

SENATOR CRAIGHEAD: I think you should do big things with that one. [LB571]

KATHY McKILLIP: That's probably one of those big ones, isn't it? I think that the intent of LB571 is to assist those in, like I said, the travel components that it's very hard to find. Right now I believe that the Omaha Henry Doorly Zoo and Aquarium does have great visibility. I believe that they would probably not necessarily want a road sign. Again, most of their access comes off of a federal interstate. So I think that that would probably be the differentiation in this, however, that would probably be what the committee would have to discuss. [LB571]

SENATOR CRAIGHEAD: Thanks. [LB571]

KATHY McKILLIP: You're welcome. [LB571]

SENATOR MURANTE: Thank you, Senator Craighead. Senator Bloomfield. [LB571]

SENATOR BLOOMFIELD: I asked Senator Loudon this and they were going to look into it a little bit, but what is the differential between a state highway and a U.S. highway when it comes to like U.S. Highway 20 or 77, 75? [LB571]

KATHY McKILLIP: I don't know the answer to that. I would probably have to yield to the Department of Roads. I really...I don't know. I know that when we come to promoting it and when it comes to grants and marketing, there is no, you know, difference. We promote the scenic byways as a collective scenic byway package. So if Highway 20 is part of the, you know, historic scenic byways, we promote scenic byways as such. [LB571]

SENATOR BLOOMFIELD: Okay. Thank you. [LB571]

KATHY McKILLIP: Thank you. [LB571]

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SENATOR MURANTE: Thank you. Any final questions? Seeing none, thank you very much for your testimony. [LB571]

KATHY McKILLIP: Thank you all very much. [LB571]

SENATOR MURANTE: Additional proponents wishing to speak on LB571. Mr. Pollock, welcome back to the Government Committee. [LB571]

ANDY POLLOCK: Thank you very much, Senator Murante, members of the Government and Military Affairs and Veterans Committee. My name is Andy Pollock, A-n-d-y, Pollock is P-o-l-l-o-c-k. I appear before you today as a registered lobbyist for the Nebraska Travel Association. It's a group that represents interests, groups that are interested in the travel industry across the state. We come in strong support of LB571 and I'd like to thank former-Senator LeRoy Louden for coming up with the idea, Kathy McKillip for embracing it, and Senator Brasch for introducing the bill. And I'd thank Senator LeRoy Louden and Senator Brasch for also asking us to assist in some of the drafting of the bill. It's a pleasure to work with them and take part in that process. The bill is important for the simple reason that as Senator Garrett recognized, Nebraska really does not spend enough either money or attention on its third largest industry, tourism, in the state of Nebraska. We could do a lot more with just a little bit more, and I think this is a step in the right direction in terms of focusing attention on some of our key tourist attractions in the state. To address a question that I believe Senator Bloomfield asked, can we accommodate tourism, additional tourism in Nebraska, I would point to my home town and the page's home town of Ogallala, Nebraska. If you look at the number of hotels in the area around Ogallala and compare that to Lexington, Cozad, similar towns, similar-sized towns along Interstate 80, you'll see a lot more hotels in that area. And the reason there are more hotels is because it has one of the number one attractions in the state in Lake McConaughy. It draws hundreds of thousands of tourists, literally, from...a lot from Colorado every year. So if you build it, they will come. And so I don't think there's much danger in promoting tourism more in the state of Nebraska. For us as an association representing a diverse group from across the state, it's important to have uniformity built into this bill. On page 2 at the very bottom in the last line, it talks about how these tourism markers are to be uniform. I think that's very important to making this bill work and making these historic markers or these tourism markers work. If you think of the historic markers along the highways of the state today, you know before you read a letter on those markers that it's a historical marker. And that would be the same thing with respect to these markers. Our group, the Travel Association, as Senator Brasch recognized and I appreciate her bringing that up, does have some concerns about whether this bill might be read to interfere with the ability of local entities, private or public, from erecting their own science promoting tourism in the area. We don't want that to happen. I think with a few changes in the language, maybe defining what a highway tourism marker is, we can address that concern. Here, I'm trying to take my lawyer hat off and put my humble pizza maker hat and trying to read this with some common sense. But I

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think some minor changes might be in order in that regard, and I appreciate Senator Brasch's willingness to work in that regard. I would just, before I conclude, I would...I'd say another important element of this is that it calls for on page 3, it calls for local participation in what these markers identify and where they're located. That local participation is important to our group. And then, finally, I wish Senator Bloomfield was here, the bill does in no place refer to state highways. It refers on page 3, I think, to...yeah, on page 3, line 20, 21, to public streets, roads, highways in the state. So it doesn't rule out U.S. highways. With that, I'd be glad to try to answer any questions the committee might have. [LB571]

SENATOR MURANTE: Thank you, Mr. Pollock. Are there any questions? Seeing none, thank you very much for your testimony. We'll proceed to additional proponents on LB571. Anyone else in favor of LB571? Are there any opponents? Are there any neutral testimony? Senator Brasch, you're recognized to close. [LB571]

SENATOR BRASCH: I'll be very brief. I wanted to take the final opportunity to thank Senator Loudon on his work. He's been a great man for our state and has a great passion for all of Nebraska, and also for Kathy coming forward today, and for Andy on their helping crafting the bill. And I did want to add one more thing. I want to thank Senator Loudon. This is the third year I've spent in what has been his office, and not once has he mentioned the word rent or raising it. So (laughter) thank you. If there's any questions, I'll try to answer them and we will continue to just fine tune the concern that Mr. Pollock had. Anything? No. [LB571]

SENATOR MURANTE: Thank you very much, Senator Brasch. [LB571]

SENATOR BRASCH: Thank you. [LB571]

SENATOR MURANTE: With that, we close the hearing on LB571 and patiently await the arrival of Senator Davis. And the Government Committee welcomes back Senator Al Davis for the introduction of LB140. Senator Davis, welcome back. [LB571]

SENATOR DAVIS: (Exhibit 1) Good afternoon, Chairman Murante, members of the Government Committee. I'm Senator Al Davis, D-a-v-i-s, and I represent the 43rd Legislative District. Today, I'm introducing LB140. LB140 removes the party affiliation label from the ballot for a county primary races in counties under 10,000 people. The top two candidates for county office regardless of party affiliation would advance to the general election where there would be...where they would be elected on a partisan-based ballot. In large parts of Nebraska, county offices are largely decided in the primary. In Nebraska's smaller counties, there are large numbers of Republican voters and very few Democratic voters. With the partisan nature of the balloting, only one person will advance from either party to the fall ticket in most races. The

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exception would be the county commissioners race where two or more seats might be open. In that situation, the number advancing from each party ticket corresponds to the number of open seats. The intent of LB140 is to shift the primary balloting process in counties below 10,000 residents to a nonpartisan ballot. Those advocating...those advancing to the fall general election would be the top two vote getters regardless of party affiliation. However, at the fall election, the party affiliation would be attached to the candidates so that voters could use party affiliation in aiding decisions on casting their ballots. In large part, the primary balloting process is not about political parties in Nebraska's smallest counties. In those locations, almost everyone has a personal relationship with the individual who is running for that office and knows their capabilities and their drawbacks. The state parties do not engage actively in these races, preferring to devote most of their efforts in locations where the majority of the population resides. For most of those employed in smaller counties as clerks, treasurers, commissioners, or the like, political party issues play an insignificant role in the lives on the local level. LB140 would open the primary election for county officials to all registered voters in a county. It should increase voter participation in both the primary and the general election. Primary voters will turn out knowing that the candidate they prefer needs to rank in the top two in order to proceed to the general election. General election voters will turn out knowing that the candidate they prefer needs their vote. The election will no longer essentially be over once one candidate advances to the general election ballot on one side of the ticket. Retaining the partisan ballot in the fall also permits the candidate to show his partisan colors and will give the state party system the muscle they might want to help elect key officials. As is often the case, the idea and the bill do not always meet in a seamless and successful resolution and I understand that there may be some problems with implementing the bill as it is written. The Secretary of State's Office has suggested there is an issue with removing the party affiliation note from the voter registration application on page 4, line 28 through 31, and on page 5, lines 1 through 5 of the bill. We were advised by Bill Drafters to remove this note as it would become lengthy and confusing for those registering to vote by taking into account the limited provisions of the bill. But we can propose a simpler way to add to the note and to restore the language. I believe this could and should be resolved by the committee before considering advancement of this bill to the floor. Finally, I know that Senator Sullivan introduced a somewhat similar bill, LB326, which takes a different approach to resolving the same issue. Our two bills are not dissimilar and I would support selecting the best parts of each bill and combining them before advancing one or both to the floor. Senator Sullivan and I have both visited about this and I think both of us feel that that might be an appropriate solution. I would appreciate...I appreciate your attention and will take any questions. [LB140]

SENATOR MURANTE: Thank you, Senator Davis. Are there any questions? Senator Craighead.
[LB140]

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SENATOR CRAIGHEAD: Thank you, Mr. Chairman. Hi, Senator Davis. So to me what you're proposing sounds pretty much like a legislative race up until the general election, correct? [LB140]

SENATOR DAVIS: Correct. [LB140]

SENATOR CRAIGHEAD: Okay. So why would you not want the uniformity and the continuity of the same type of race all the way through? I mean, I've heard you say the thing as far as political parties getting involved, but having just lived through that I think political parties get involved no matter where the R, D, or I is behind a candidate's name. [LB140]

SENATOR DAVIS: So what I was trying to do in this case was to advance two people to the general election so that there would be someone to vote for besides just the one person. And if you look through the handouts, you'll see that that's often the case. So the election is really over with in May. So it makes for a better election and it gives all the voters an opportunity to vote rather than just those people who are in the partisan party. So it gives the Independents and the Democrats a chance to vote. Now saying that, I did visit with Neal Erickson this morning and Neal's advice was, you know, this could get a little bit cumbersome. He said, I understand what you're trying to do to enable the parties to use their clout if they want to. But he said, to be honest with you, I think you'd be better off to go to a partisan...a nonpartisan structure all the way through. And I think that probably is what Senator Sullivan has suggested. [LB140]

SENATOR CRAIGHEAD: That would be based just on my limited experience, but I would recommend for the simple reason that, you know, looking historically if there are two candidates of the same party in a general election, oftentimes the political party will choose to stay out of the race because they're both of the same party, which from what you're telling me you want their involvement. Sometime...it almost sounds like this might be a way to get that to backfire. [LB140]

SENATOR DAVIS: Well, in reality, in almost all the rural counties I can think of, the party does not take an active role. You know, the party is interested in...in the smaller counties, it's very interested in the congressional races, the governor's race. But whoever is running for county clerk, it's not a big deal. It's like I know that Mary is the best person for the job, and it doesn't matter whether she's a Republican, a Democrat, or Independent. If Mary's the best person for the job, she's going to get it and the parties stay out of that. [LB140]

SENATOR CRAIGHEAD: Okay. Thank you. [LB140]

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SENATOR MURANTE: Thank you, Senator Craighead. Senator Garrett. [LB140]

SENATOR GARRETT: Thank you, Chairman Murante. Thank you, Senator Davis. I guess I'm having a hard time grasping the whole concept of it. By taking R's and D's after our names, I mean, the vast majority of our folks are conservative and they're Republican. The fact that you take off the R or the D after your name, the point is moot because you're just extending something that if that person has got the majority of the votes to begin with, the outcome is pretty much going to be determined anyway. The only thing I think taking the R's and D's off is it obfuscates the decision for the folks that maybe aren't as attuned to who their candidates are. I mean, I just went through an election because we're nonpartisan where my entire campaign was to demonstrate to the constituents in my district that I was the R and that my opponent was the D. That was the focus of my entire campaign because I'm from a predominantly conservative Republican district, but they didn't know me from Adam Soska because I was new to this. My opponent, they knew, but they didn't necessarily know that she was a D and I was an R. [LB140]

SENATOR DAVIS: And so in my race, Senator Garrett, my opponent would knock on somebody's door and say I'm the Republican in the race. Well, we were both Republicans. But the implication was that I was not. So, you know, that's the way nonpartisan things are. But this is really all about smaller counties where the parties don't play an active role. You know, let's just take Box Butte County, which is in, you know, I think you probably got the population there, but that's my biggest county. Alliance is the town there, about 9,000 people. So when you go to the county convention in Alliance, the Republican county convention, there was one woman about 40, one about 50, two older folks about 85, and a man about 65. And that's the extent of the party there. And then there are a lot of other counties that really have unorganized parties. There may be a chairman there, but they're not having functions. So the parties are in many respects not playing a role there. It's all about who's the best person. So there was an election in southwest Nebraska in which I think there were some...two people running, and so one of them obviously advanced off one side of the ticket on the primary election. When the general happened, that person got elected because he was the only person left, but the Independents and the Democrats never had a chance to vote for anybody else except for a write in. That's the only other way to do it or by petition. So I think that this just helps our smaller counties have a broader group of people to choose from and makes an exciting election in the fall rather than having it be over and done with by May 3 or May 5. [LB140]

SENATOR GARRETT: I understand what you're saying, however, the result, the outcome is still going to be moot, and because the person getting the most votes in the primary is still going to carry the day. And so what I see us doing is just spending a lot more money on campaigning and everything else. If it's over and done with in the primary, you know, the people have spoken. [LB140]

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SENATOR DAVIS: Some of the people have spoken. Only... [LB140]

SENATOR GARRETT: But again the point would be moot. When you go into the voting booth in November, if you're one of those minority parties, yeah, you've got a name that you can put a ticket to but you're going to lose. I mean... [LB140]

SENATOR DAVIS: Well, let's say you got two people running in the primary on the Republican ticket and none on the Democratic ticket. So one person advances off the Republican side and he is going to win in the general because he's probably...he's the only person on the ballot. Now if you take two people advancing, the top two vote getters whether they're Democrat, Independent, Republican, and they advance to the ticket off the spring primary, then in the fall you have a much broader electorate that's casting a ballot. And that's what I'm trying to get to. Am I making myself clear or am I confusing you? [LB140]

SENATOR GARRETT: No. I think so. I still think the outcome is going to be the same. I just...I see us spending more money on elections than what maybe is necessary because I think the primary vote getter is going to carry the day. [LB140]

SENATOR DAVIS: And so here's how they run for election in most of these counties. They've got a little local newspaper and they buy about three or four ads a month before the primary and that's pretty much it. You know, so they spend about \$150 or \$200. It's not like it's a major cost to them. And I think we're going enfranchise more voters by doing this. [LB140]

SENATOR GARRETT: Thank you. [LB140]

SENATOR MURANTE: Thank you, Senator Garrett. Senator Bloomfield. [LB140]

SENATOR BLOOMFIELD: Thank you. I'm going to be pretty much opposed to this. I think it goes back to something we talked about last year with somebody getting a second or third bite at the apple. If...and I know we're talking about Democrats and Republicans here. The Democrats don't have anybody to come forward and put their name on the ballot, should we punish the Republican by making him run twice? It's not the Republican's fault the Democrats didn't put somebody up. [LB140]

SENATOR DAVIS: Well, you know, I really have some issues with the whole process because these are county officials. This is not...has nothing to do with what party you're in. This has to do with doing the job of running the county. I'm not sure it really should be...there should be any party involved with it because to me it's more about competency in the job rather than your party

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affiliation. But I think if you've got...okay, so if most...if we've got 20 percent of the voters in a county are Independent and 15 percent are Democrats, so that's 35 percent, and they're not participating in the real election because it's all over and done with by the primary, I think that we're making a mistake by doing that. I think it would be better for all if everybody had a more vigorous election process and I think we'd have better turnout for our other elections too.
[LB140]

SENATOR BLOOMFIELD: I'm not going to get into a philosophical debate with you here. We could spend the afternoon... [LB140]

SENATOR MURANTE: And god bless you for it, Senator Bloomfield. (Laughter) [LB140]

SENATOR DAVIS: All right. You could be in Revenue where we're talking about tax credits.
[LB140]

SENATOR MURANTE: There's a time and a place and this is not that time or place. Senator Groene. [LB140]

SENATOR BLOOMFIELD: Billy's, 7:00. [LB140]

SENATOR GROENE: Thank you, Chairman. But if you're a hard-nosed, fiscal conservative, social conservative in a Republican Party, and then there's a moderate Republican, something like how we get chairmanships here, and you have those two running and you throw in the 30...I'm talking partisan here, and you throw in the 30 percent Democrat and the 15 percent moderate, that hard-core Republican isn't going to win because they'll vote for the moderate Republican. So if you're a hard-core fiscal conservative, I think you'd like it the way it is.
[LB140]

SENATOR DAVIS: You know, Senator Groene... [LB140]

SENATOR GROENE: I mean, I'm just saying if you're a Republican Party person, you want that fire of the Republicans picking your candidate of that primary. You don't want somebody else picking...I'm talking we're a partisan country. That's why we have a two-party system and that's why we have a primary system. But I'm just being philosophical here. So, anyway, do you see the point? [LB140]

SENATOR DAVIS: Well, I do but I'd like to answer that because I'm going to talk about Grant County where we had a woman who was a very liberal Democrat who is a county commissioner

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there for 16 years I believe, and why she was, was she did a really good job. She went to the meeting. She made sure the roads were taken care of. She took care of this and that. She secured funding to do some renovation at the airport there. That's what people cared about. They cared about the fact that she did the job well. It didn't make her...she...it's not a partisan issue. Those jobs are really not partisan issues. And so I think enfranchising all the voters in those smaller counties would make just a lot of sense. You know, I don't think anybody there is thinking about whether somebody is a more hard-core conservative or a moderate conservative. It's not relevant. All you want is somebody...and I've said this earlier, all you really want is somebody who can really run the Clerk's Office in an efficient manner is friendly, courteous, and helpful. [LB140]

SENATOR GROENE: Thank you. [LB140]

SENATOR MURANTE: Thank you. Any final questions? Seeing none, thank you very much, Senator Davis. [LB140]

SENATOR DAVIS: Thank you. [LB140]

SENATOR MURANTE: And we'll proceed to proponent testimony on LB140. Seeing none, any opposition testimony to LB140. Any neutral testimony to LB140? I'm not quite sure how to take that committee chairman comment either, Senator Groene. (Laughter) I don't know how to interpret that. [LB140]

SENATOR GROENE: Did I say that? [LB140]

SENATOR MURANTE: Welcome. [LB140]

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 LB140. As I said yesterday in my testimony on Senator Sullivan's bill, NACO does not have a position on whether or not county elections should be on a nonpartisan basis or not. We are neutral on that. And if the committee would choose to advance either this bill or Senator Sullivan's bill, we would be happy to work with you. And I'm happy to take questions. [LB140]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down today. Additional neutral testimony on LB140. And welcome back to the Government Committee. [LB140]

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SHERRY MILLER: Thank you. My name is Sherry Miller, S-h-e-r-r-y M-i-l-l-e-r, president of the League of Women Voters of Nebraska, and I chose a neutral stance, I read the bill several times and had a little difficulty getting my head around it, too, I have to admit to Senator Davis. But if...I think it would be...if it's an experiment that actually goes through it will be very fun to observe to see if it would indeed spur more voter participation because that's what we're all about in the League is simply getting people excited about a potential election coming up. Again, I'm not saying we're supporting it any way except saying that if something like that could be studied, proposed, advanced, tried, and if it really helps with voter participation, why that's a good thing. That's about as neutral as I can get. (Laugh) Okay? [LB140]

SENATOR MURANTE: All right. Sounds great. Thank you for your testimony. Any questions? Seeing none, thank you very much for your testimony. Any additional neutral testimony on LB140? Seeing none, Senator Davis, you are recognized to close. [LB140]

SENATOR DAVIS: And then I'll just stay here. (Laughter) [LB140]

SENATOR MURANTE: Sounds very efficient. [LB140]

SENATOR DAVIS: So I think there are a couple other things you can say about it. And so in response to your question, Senator Garrett, you know, okay, it's not...it may be the same, the same person may be elected, but the process isn't the same because we got more candidates. We're going to have two people coming forward. It's going to be a better and more interesting race, and I think it will drive participation. And the other thing that might happen is it might encourage other people from the other party to, say, jump in. So that's all I'm going to say. I'd hope you'd all look at it seriously and love to visit with you off the floor. [LB140]

SENATOR MURANTE: Okay. Senator Garrett. [LB140]

SENATOR GARRETT: Thank you, Chairman. Something struck me what you said earlier about a lady who's a county clerk who's been doing the job, been doing a great job and who's a Democrat. Wouldn't that person still...wouldn't the Democratic Party still run that? You know, I'm not so hard-core partisan that I won't vote for a Democrat. I mean, if in fact that lady is the best candidate, then wouldn't the Democratic Party be...if she was an incumbent still have that candidate on the ballot? [LB140]

SENATOR DAVIS: Oh, sure. I'm sure they would. Yeah. [LB140]

SENATOR GARRETT: Okay. [LB140]

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SENATOR DAVIS: But she would run...you know, in the fall, she would run as a nonpartisan basically. You know, so it would be...I mean, she would still get elected. She'd be a Democrat but, you know, her party affiliation is kind of irrelevant. [LB140]

SENATOR GARRETT: Okay. Thank you. [LB140]

SENATOR DAVIS: Thank you. [LB140]

SENATOR MURANTE: And that closes the hearing on LB140 and we'll proceed to the final item on the agenda, LB202. Again, Senator Davis. [LB140]

SENATOR DAVIS: (Exhibits 1 and 2) Just FYI, your page was a young boy in Hyannis when I was...and his parents were good friends of mine, so I always have to tease him when I see him. [LB202]

SENATOR MURANTE: He's doing a great job. [LB202]

SENATOR DAVIS: Chairman Murante, members of the committee, I'm Al Davis, D-a-v-i-s, and I represent the 43rd Legislative District. Today, I'm introducing LB202. This bill would amend Nebraska's election law to allow registered voters who have not declared a party affiliation to vote on a partisan ballot of their preference at primary elections. We tell ourselves that the voting public speaks by way of the election ballot. Winners of elections frequently claim they have received a mandate from the voters to fulfill their campaign promises. But is that really true? Who's voices do we hear? Our primary elections can call for votes on 36 selected offices and ballot items, and I've handed out a list of them. Sixteen of those are only partisan ballots. This means that the undeclared and Independent voters are shut out of almost half the ballot items, including the presidential primary. Nebraska is not alone in allowing the parties to have a say in who can vote in their primaries, but I would suggest if this is not working to bring every voter to the polls. The percentage of voters who register as Independents has risen steadily over the last several years, but their turnout in primary elections has not kept pace. In the 2014 primary, 40 percent of registered Republicans voted, 21 percent of registered Democrats voted, but only 9 percent of registered Independents participated. This in spite of the fact that over the past 25 years Independent registration is the only category that has grown significantly as a proportion of all registered voters. In 1980, almost 5 percent of registered voters chose to be nonpartisan. Currently, just over 20 percent are registered nonpartisan. Democratic Party registration has fallen from 45 percent in 1980 to 31 percent today. The proportion of Republican Party registrations has stayed basically flat, around 49 percent. We should consider the fact that electors who register but do not declare a party affiliation are telling us two things. First, they want to be involved in the process, otherwise they would not bother to register and vote. Second,

they are for some reason not ready to affiliate themselves with either of the two main parties. LB202 would give voters who want to vote but are not interested in or ready to declare a party affiliation the opportunity to cast their vote on a partisan primary ballot. If these voters are given more reason to turn out and vote, they may become more engaged in the process and more inclined to choose a party affiliation in the future. A mere 28 percent of registered voters cast a vote in the 2014 primary. Allowing our nonpartisan voters to weigh in would inject more energy and input into our elections and, even more importantly, ensure that we are providing those voters more of a voice. They represent 20 percent of our voting population. As this upward trend in Independent voter registration continues, we need a better way to hear their voices. Those of you on the committee last year are aware that this is a reintroduction of a bill brought last year. There were some concerns about administering the bill and I would like to offer some suggestions about how these could be addressed to safely secure an electoral process which is sound but inclusive. NACO expressed concerns that there would be problems in Nebraska's all-mail precincts where voters are mailed their ballots without requesting a ballot. NACO's concerns were that the election commission would not know which ballot to mail to the voter, the Democratic or Republican ballot. This problem could be resolved by amending the bill to require the election commissioner to notify voters in all-mail precincts that they must request a specific ballot, and those not requesting that ballot would not receive a ballot with partisan candidate choices. NACO also had concerns about the cost of the extra ballots. While I recognize that there would be increased costs associated with adding extra ballots, the cost seems insignificant to me when you consider that 20 percent of voters are effectively being excluded from participation in the process simply because they have chosen to not affiliate with any particular party. If we want to encourage involvement in the political process and encourage a good turnout in the primary election, then a few hundred dollars of extra expense for each election does not seem like such a large impediment to changing the process in a way that would significantly increase participation. Young Independent voters may decide to become involve in the process simply because they like a candidate. We know that those who begin to vote at an early age are more likely to vote regularly and become more engaged in the process. This bill would further that goal. There were also objections from party chairman about the bill last year. That discussion centered around party involvement with the claim that Independent voters were not building a party so they should be excluded from participation when the party chooses candidates. I believe this argument demonstrates that the party system is inherently unfriendly to Independent voters because they are not able to use them to their benefit. Perhaps someone registers as an Independent because he doesn't want to receive the endless supply of negative advertising about the candidates or the negative telephone calls at all hours of the night. But that doesn't mean he isn't keenly interested in the outcome of an election and there is a high probability that he would elect to cast a ballot if he were given that opportunity. And this is not just a hypothetical situation. This is what I...some people that I do know who register as Independents because they are tired of the negative campaigning. Let's remember that the primary election is largely organized and conducted for partisan voters in the existing party

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system. There is already a mechanism in place in Nebraska for Independent voters to select a partisan ballot for the United States Senator and United States Congressional Representative. Independent voters simply announce that they want to cast the partisan ballot and they are handed one. I believe this bill will increase voter turnout and engage a significant number of voters in the process. A healthy voter turnout is an important tool to preserve and strengthen the voting process and I would encourage you to move the bill to the floor. Thank you and I'll take any questions. [LB202]

SENATOR MURANTE: Thank you. A couple of questions for you. So the current law permits the political parties to allow Independents, people registered not partisan, to vote in their primaries. [LB202]

SENATOR DAVIS: Actually, the Democratic Party which I believe a caucus last year after this bill was introduced, they waived their opposition. So Independents were able to participate in their process. [LB202]

SENATOR MURANTE: So the only thing that your bill really accomplishes is it forces the Republican Party to allow nonpartisans to vote in their primaries. [LB202]

SENATOR DAVIS: It forces both parties to do so. [LB202]

SENATOR MURANTE: The Democrats have already chosen to. [LB202]

SENATOR DAVIS: Well, that's true. The Democrats could reverse that decision at any time though. [LB202]

SENATOR MURANTE: But at the moment, status quo, the only thing we're doing is forcing the Republican Party against their will... [LB202]

SENATOR DAVIS: The bill is designed to force all parties to have an open primary. [LB202]

SENATOR MURANTE: Okay. Thank you. Senator Garrett, then Senator Groene. [LB202]

SENATOR GARRETT: Thank you, Chairman Murante. I'm by nature not a very trusted person. I spent a career as an intelligence officer and continue to do some of that kind of work. And if I'm a person who's being devious and I'm a, quote, unquote, Independent but I really want the Democratic Party to win, I'm going to declare to be a Republican for the primary and I'm going

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to vote for Binky the Wonderdog, you know, (laughter) the worst possible Republican candidate because I want the worst possible Republican candidate to run against the guy I'm really supporting over on the Democratic Party. [LB202]

SENATOR DAVIS: Well, if you're going to do that, though, you're...you know, people say that happens. I just don't...I think there are other states that have open primary situations and I don't think that happens. [LB202]

SENATOR GARRETT: I think as an Independent ultimately you're going to have to make a decision because it's going to be an R or D more than likely. You're going to have to go one way or another, so commit to it and call yourself an R or an D for this election, you can change that and you can still vote however you want in the booth. But you got to be leaning one way or another, and so why not just declare that and get with it. I just don't understand the... [LB202]

SENATOR DAVIS: You know, Senator Garrett, I can't explain that either but there are a lot of people that feel very strongly they don't approve of the party situation and structure as it is today and they are registering as Independents and we're seeing that increase every year. More and more people seem to be doing that. And it's largely young people who are doing that. So I think opening this process up and letting them vote in the primary would also encourage them to become regular voters, which is a good thing for a democracy. You know, we have one of the lowest voter turnouts in the world here and the greatest democracy and the most to lose I think. [LB202]

SENATOR GARRETT: I just...I think at one point or another you got to make a commitment, and so this whole Independent thing and I want to vote in your primary kind of thing, it just...it would make me very uncomfortable because I would think that...and this is politics. All things are...you know, nothing nastier than politics. And, you know, you going to stack the deck for your favorite candidate by voting in somebody else's primary and trying to get the worst candidate possible for them to run against. [LB202]

SENATOR DAVIS: Well, and, you know, if you can show me that that's happened, I would love to know where that has happened because I just don't think there's any evidence that it's taken place. [LB202]

SENATOR GARRETT: Politics. [LB202]

SENATOR DAVIS: You know, I think in large part people go and vote for the person they like the best. You know, I think rather than say I'm going to take this tack over here and vote for this

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guy because I want this guy to win over here, most voters are going to say, boy, I really like that guy. I want to take the time to go vote for him. He's a good guy. [LB202]

SENATOR GARRETT: I got to tell you, as a Republican, I would be totally opposed to an Independent voting in our primary. [LB202]

SENATOR MURANTE: Senator Groene. [LB202]

SENATOR GROENE: Thank you, Senator Murante. I think Senator Garrett about said it all, but the purpose of a party is so you have core beliefs. Purpose that you register as an Independent because you don't have those core beliefs. So then now you're a party with core beliefs, why would you let somebody vote in your primary that does not have those core beliefs? I don't understand that. [LB202]

SENATOR DAVIS: Well, I think part of the reason that I think this is a valuable exercise, Senator Groene, is that the county...the taxpayers have to pay for these elections. So these Independent voters have to pay for this election that takes place in their county, but they have no ability to go and cast a ballot. So that's part of the reason I think we need to look at this. But my long-term goal is to drive up participation in the process because I'm concerned about low voter turnout. And with higher and higher Independent voters in numbers, without anything much to vote on in the spring they're just not going to do it. And we need to keep people engaged. [LB202]

SENATOR GROENE: But they can vote in November. [LB202]

SENATOR DAVIS: They can, yes. [LB202]

SENATOR GROENE: Thank you. [LB202]

SENATOR MURANTE: Thank you, Senator Groene. Senator Bloomfield. [LB202]

SENATOR BLOOMFIELD: Thank you. To Senator Garrett's point, I think we've seen that actually happen in presidential elections where there are states allow open voting that the one party has gone in and tried to affect who the winner of that primary might be. And that has happened particularly in the eastern third of the state. But to me, this whole bill looks like a...let's say the Democrat Party bill. It...the Independents' numbers have grown. The Republican Party has grown, though not as rapidly as they have in the past. And the Democrat Party has fallen off. Looks to me like the Democrats are losing people and this is their effort to, well, let's get the

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Independents. And if they can't reach the Independents with the ideas of their party, why should we get them into the Republican Party? [LB202]

SENATOR DAVIS: I guess I'm not getting your question, Senator. [LB202]

SENATOR BLOOMFIELD: Well, just look at the...let's go back just three years. The Democrats have lost voter registration every year. The Republicans have gained voter registration every year. The Independents have gained. The Independents are fleeing the Democrat Party, otherwise those registrations numbers wouldn't be going down. [LB202]

SENATOR DAVIS: I think there's some of that that's going on and I also think that all younger people are registering... [LB202]

SENATOR BLOOMFIELD: So why would we want to let the Democrat light vote in the Republican primary? [LB202]

SENATOR DAVIS: Well, I don't think they're...I think you're making a mistake if you think that the Independents are Democrats in large part. I don't think they are. I think Nebraska is a very conservative state and probably a lot of them lean Republican but they don't choose to join a party and register as a member of the party. [LB202]

SENATOR BLOOMFIELD: But they're obviously fleeing the Democrat Party because those numbers are going down consistently. [LB202]

SENATOR DAVIS: Well, maybe some of them are. [LB202]

SENATOR BLOOMFIELD: Thank you. [LB202]

SENATOR MURANTE: Thank you, Senator Bloomfield. Any final questions for Senator Davis? Seeing none, thank you very much for your opening. [LB202]

SENATOR DAVIS: Thank you. [LB202]

SENATOR MURANTE: And we'll proceed to proponent testimony to LB202. How many proponents do we have to LB202? A handful. Okay. Will you guys filter your way forward, kind of sit in the front couple of rows? We will get to all of them. And welcome to the Government, Military and Veterans Affairs Committee. [LB202]

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TODD WATSON: Well, thanks for having me. I'm Todd Watson, ran for United States Senate this year as an Independent here in Nebraska. [LB202]

SENATOR MURANTE: Could you spell your name out for us, please? [LB202]

TODD WATSON: Yeah, T-o-d-d W-a-t-s-o-n. And got to see a lot of your beautiful areas that you all represent. I want to thank Senator Davis from beautiful windmill country for introducing this bill and fully support of it. A few points I want to make. Let me start by saying I am the Independent and I was a Republican. I am still a very strong conservative, but I do not believe in the party anymore. So I fundamentally reject the label that all Independents are fleeing the Democrats. I actually went the opposite way. And so long on the record for that, I think if you followed the campaign, no one would question my conservative ideals, but I do have some moral issues with both parties and that is why I do not support either party. I believe in taxation. You know, this country was founded on taxation without representation, and that's exactly what's going on. I am taxed. I have to pay state taxes to fund polls for the...or fund elections for these two parties and that do not represent me more at a national level. I morally object to some of the social proponents usually proposed by a Democratic Party. And from a Republican Party on a national standpoint, completely supported by Wall Street which has our monetary system held hostage against the original Constitution that was created. And I think that keeps a lot of the poor people down. So from a moral component, I don't believe in supporting either party and do not, but I still keep my conservative ideals. But you can only...you just have to look back at history to know the situations we can be in. There was two dominate parties before Republican ever existed. There were Whigs and there was Democrats and both had platforms of slavery and both supported slavery platforms. There was no third option. Republican was invented and driven by a few men who believed that we needed a party free from slavery and the platform, and that was the foundations of the party. But if you were to go back at that time and force every citizen to pay for two primary elections where only two parties of pro slavery existed, hopefully you could see the moral conscience arguments into having to fund those two options. And so these are some of the options I see today. We have again what I believe are laws, and Wall Street is really on both sides again with their monetary system completely controlling those candidates at a national level that really advocate for monetary policies that were never in the Founding Fathers' design. And so to support either party platform based on supporting that is wrong. And so I just think as taxation, I should not have to fund a primary election system if I'm not allowed to participate in who I choose. And yet I find candidates I proactively vote for, I don't vote against something, I think you see that in the Independent movement, of who I like best that represents a Founding Father value. And I can see that in Ron Paul but like a lot of the others maybe I don't resonate with as much because I think he speaks to that. And I would like to vote for him. But on a state and local level which is what we're talking, I don't have any options to choose from. Senator McCoy is not here. He may have been an option I would have liked for what he stood for knowing some of the religious dais I speak on, but again I couldn't proactively vote for him

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because I was not given the choice. So it's based on my belief sets as an Independent and I don't speak for all Independents. We all have different views and let them speak for themselves, but that is why I believe in and act the way I do because I disagree with some of the things going on. I see the red light is on. If you have further questions, I'd be happy to answer. [LB202]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? Senator Bloomfield. [LB202]

SENATOR BLOOMFIELD: Thank you. You speak back to when the Republican Party was formed and I don't disagree with you. What keeps you from going out and creating the "We Gotcha Party", registering as candidate, starting the party? [LB202]

TODD WATSON: It's more of a belief that, again, the parties, the approval percentages are in the teens, more at a national level, and, again, I think we have more satisfaction at the state level. But believing parties fundamentally get taken over by the monetary interests that be and it doesn't represent the citizens anymore. That could change in how I feel in the future, but at this present point in time I don't believe so. [LB202]

SENATOR BLOOMFIELD: So you would probably like to see nonpartisan on everything statewide? [LB202]

TODD WATSON: Well, again, I believe people should have the right to organize but I believe our rights as Independents need to be expanded in the primary so we have voice in who we choose to go in there, and it's a...with regards to this bill, so it's a proactive choice I would like to make on who I believe in. [LB202]

SENATOR BLOOMFIELD: Okay. Thank you. [LB202]

SENATOR MURANTE: Thank you. Seeing no additional questions, thank you very much for your testimony. Continuing with proponent testimony on LB202. And welcome to the Government Committee. [LB202]

JIM PARTINGTON: Thank you. Chairman Murante, members of the committee, thank you for the opportunity to testify in support of LB202. My name is Jim Partington, P-a-r-t-i-n-g-t-o-n, and I'm a registered nonpolitical Independent in Nebraska. I have been since I first registered to vote. Shortly after I left the University of Nebraska and went into flight training and spent the next 33 years in the military. During that time, I wanted to be registered as an Independent because I wanted to not convey the idea that any of the presidents of any political party I served

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under or any other political leaders could construe that I had anything politically interested in my service. I'd also like to comment that during that time my core beliefs were duty on our country, and I think during that 33-year period I lived up to those not perfectly but fairly well, certainly average. So I don't believe it's appropriate to say that Independents have no core beliefs. I support this bill because I believe that the 20 percent or so of Independent voters in Nebraska should have the right to vote in an election, in a primary election. And I think that...I understand that the end result is going to be you're going to vote for an R or a D. I think we ought to have some say in who those R and D's are as we reach that conclusion and that decision. I have to confess that during most of my life during most of my military service, I was a pretty reliable Republican voter. Two of my favorite presidents are Ronald Reagan and George H. W. Bush. Since then, I've become a little more towards an Independent cycle and I have a little broader perspective on things, but I think that generally goes along with maturity. But I still am a...I consider myself a conservative, right of center conservative, and my vote will probably be...will tend in that direction. But I do think I ought to have the right to vote in the primary election to have some influence over who the final candidates are. And I say that in support of the other 20 percent or so of the Independents that are in the state of Nebraska. And I'll be happy to take any questions you may have. [LB202]

SENATOR MURANTE: Thank you very much. Are you representing any organizations here today? [LB202]

JIM PARTINGTON: Nope. I'm representing myself. [LB202]

SENATOR MURANTE: Okay. Senator Groene has a question. [LB202]

SENATOR GROENE: Thank you, Chairman. I'm not sure what the law is but I think you can go in and change your registration pretty close to the election. [LB202]

JIM PARTINGTON: I can but that wouldn't subscribe to my core beliefs. [LB202]

SENATOR GROENE: But you already by that time know that there's one of those candidates you like, either Democrat or Republican. [LB202]

JIM PARTINGTON: But I'm not going to change my party just...you know, I think I should be able to vote without making a party change and then changing back to an Independent the next day. I don't think it would be fair to ask me to do that. [LB202]

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SENATOR GROENE: Well, I know a few of my friends that are Democrats that register as Republicans because they say that's the only time they get to vote for the guy who's actually going to be the candidate. But, anyway, no, I just...we all make exceptions to fit in, so. [LB202]

SENATOR MURANTE: Thank you, Senator Groene. Any final questions? Seeing none, thank you very much for your testimony today. [LB202]

JIM PARTINGTON: Thank you. [LB202]

SENATOR MURANTE: Additional proponent testimony to LB202? And welcome to the Government Committee. [LB202]

JIM JENKINS: (Exhibit 3) Thank you, Chairman Murante and members of this committee. Before I get started and I'll just read a fairly short statement, but I'm grateful as an Independent to have the...oh, I'm sorry. I forget to announce myself. My name is Jim Jenkins, J-i-m J-e-n-k-i-n-s, and I'm from 43055 Road 791 up in Callaway, Nebraska, Matt Williams, Senator Williams' district. Before I start I'd just like to tell you that it's...as an Independent who has now been an Independent for several election cycles, I'm grateful to have had the opportunity to vote in primary elections in I know in at least one case for two Republicans and Democrats won, two Republicans went forward. Both of them happen to be very good friends of mine. And of course I had to make a final decision in both elections. I had to make a decision in the primary and the general election. School board, same situation. So there is precedent with this body for nonpartisan elections. It's pretty straightforward and most Nebraskans are used to it. Now with my formal testimony. First of all, I want to thank Senator Davis for introducing LB202 which would allow unaffiliated voters to vote in partisan primary elections. This piece of legislation is important because it addresses citizen's right to access the ballot box in taxpayer-funded state-sanctioned elections. This legislation is important because fair, open, and transparent elections are the foundation on which any free society is built. Our nation has a long history of debating and changing election laws to facilitate a more Democratic election process whereby all of its citizens have access to the ballot box regardless of race, gender, or economic status. The act of voting is one of our most important and fundamental rights and there are few legislative responsibilities of greater importance than that of ensuring that our election system is open and fair. The rationale for LB202 is to enable every registered voter in Nebraska regardless of their political affiliation to participate in primary elections. Present election law in Nebraska excludes over 20 percent of registered voters from fully participating in the critical first half of our two-step election process. This means, for example, as a registered nonpartisan voter in Custer County that I am excluded from the selection process that determines which two candidates go on to the general election for most state and county offices. This is not insignificant to me as a taxpayer and as a citizen who has actively served my community in a number of capacities, and

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who has close to a 100 percent voting record in both primary and general elections. Every election is important and election laws should be designed to encourage participation from all registered voters, not prevent participation. As a taxpayer and registered voter, I should not be forced to stand on the sidelines in government-sanctioned primary elections waiting for the legally sanctioned political elites of society to pick which candidates go forward to the general election. Economic, religious, and political freedom is what makes our country great. It is, therefore, ironic that in a country whose culture and society is the most innovative, creative, and competitive in the world that our political system no longer reflects many of those attributes. Fully one-third of the nation's voters are treated as second-class citizens under current election laws. The true debate and collaboration that was a hallmark of our country's constitutional convention and which enabled our political leaders throughout our country's history to forge compromises critical to our country's success and survival is largely missing in today's political system. Instead of innovative ideas need to solve a myriad of problems facing our country, we have unending gridlock caused in part by a political system that fails to embrace diverse views and perspectives and which locks out a significant segment of the voter population from meaningful participation in the entire political process either as voters or as candidates. I'm registered as a nonpartisan voter in Nebraska because I do not believe either political party reflects my views or values. As a businessperson and community leader, I've seen the power of people with diverse backgrounds and opinions coming together to solve challenging problems. Narrow political agendas hurt and undermine the effectiveness of both organizations and government entities. The best solutions come about when everyone is engaged and has a stake in the outcome. Political parties have every right to exist, but they should not have the right to marginalize independent-minded people like me who truly do not wish to be associated with either party. No political system should have the right to limit voter choice to one or two parties just as we should not be limited in our religious choices or our economic choices. Present election laws clearly limit the freedom of voters to choose none of the above and yet retain their rights to fully participate in our Democratic process. I see I'm past the red light. I apologize for that. Thank you to this committee for taking up this debate. [LB202]

SENATOR MURANTE: Any additional questions? Seeing none, thank you very much for your testimony. Additional opponents wishing to speak on LB140 (sic), excuse me, proponents. (Laughter) [LB202]

SHERRY MILLER: (Exhibit 4) Sherry Miller, S-h-e-r-r-y M-i-l-l-e-r, with the League of Women Voters of Nebraska. This is going to be a funny testimony. I thoroughly support opening primaries, gentlemen and lady who's gone on the committee. I just feel it would simplify things so much to do that. Now the point I want to make here is that nonpartisan registered voters do vote, so they are going to the polls and they are voting on those offices they are allowed to vote on. And if they want to vote for a senator or a congressional representative, they're requesting the appropriate ballot. But they're going to be shut out of, like they said, about half of the different

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offices they could vote for. I just want to point out that they do vote. There are 235,984 voters registered in the 2014 as nonpartisan out of an overall total of 1,159,085. In the 2014 primary elections, 235,922 of them participated. In the general elections of 2014, 231,622 nonpartisan voters participated. They're voting where they can, and I'm sure many of them would really like to be able to vote on a lot more things than they can in the primaries. Over 20 percent of all registered voters are now nonpartisan, an increase from 16 percent since 2008. Why is this increasing? And someone pointed out they might be fleeing the Democratic Party. Having registered a lot of new voters I'm saying they're just choosing to be Independents. We're Nebraskans, after all. You know, and I think they just don't know that they want to come down on the side of either party, be partisan any way. To me, the increase up to 20 percent signals a shift in political philosophy or political attitudes, whatever you want to call it that should be recognized as LB202 would do. And it would give all voters full access to a primary ballot. I urge you to place LB202 on General File for discussion. I didn't put it in my testimony, but I want to point out that our new First Lady of Nebraska is a registered Independent, and she changed her registration to vote for her husband last year in the primary. I just wanted to point that out to you. Okay. I thought it was interesting. (Laugh) I read stories about, is it Shore, she goes by Shore, and it was an article in the World-Herald and there was an article in the Journal Star and it was just interesting to read about this very interesting woman. And then to come across the fact that, by golly, she's a registered Independent. I just thought that was very, very interesting. I just wanted to bring these statistics to you. I believe that we should have an open primary to increase voter participation, especially in those offices that are now considered to be partisan only. Okay. [LB202]

SENATOR MURANTE: Thank you very much for your testimony. [LB202]

SHERRY MILLER: You're welcome. [LB202]

SENATOR MURANTE: Senator Bloomfield. [LB202]

SHERRY MILLER: Yes. [LB202]

SENATOR BLOOMFIELD: Thank you. Does that not, the fact that the First Lady changed her registration, prove that they can vote if they really want to? [LB202]

SHERRY MILLER: Yeah... [LB202]

SENATOR BLOOMFIELD: Thank you. [LB202]

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SHERRY MILLER: ...she could, and they do. And I think that's what's happening with a lot of these Independent voters. I will agree with you on that, that they are probably requesting a ballot or they are going and changing to...I'm sorry, I'm backing up, but they may be changing and changing back. But I think this was an actual...I think you're going to find that's just the exception to the rule personally, so. [LB202]

SENATOR MURANTE: Okay. Thank you very much for you testimony. [LB202]

SHERRY MILLER: You're welcome. [LB202]

SENATOR MURANTE: Additional proponents wishing to speak on LB202? Are there any remaining proponents? How many opponents do we have? Okay. [LB202]

JIM OTTO: (Exhibit 5) Mr. Chairman, members of the committee, my name is Jim Otto, that's J-i-m O-t-t-o. I am a lobbyist for some associations here, but I am not speaking on behalf of any association, just myself. And I'm here to testify in favor of LB202. Very briefly, I've been...worked with members of the Nebraska Unicameral for approximately 13 years now, and when I go to other states and visit with my peers in other states who do the same thing and we talk about what we go through, there is just no question that the Nebraska Unicameral is the best system in the entire United States. And, I mean, I just truly believe that and I believe that is because of the nonpartisan, officially nonpartisan, nature of the Nebraska Unicameral and how it goes forward with the top two. So based on that, I think that would be healthy if we expanded that, and that's why I'm here to support LB202. I also handed out...oh, one of the other things I think is worth mentioning is that fact that how we're kind of weird on what's partisan in Nebraska and what isn't partisan in Nebraska. The Legislature is nonpartisan. Most city elections are nonpartisan, but county sheriff is partisan. And I don't...I have never voted for a county sheriff based on whether or not they were Democrat or Republican. I've voted for county sheriff based on who could do the best job. And so I think we do have that...that's worth taking a look at, is which elections are partisan and which elections aren't partisan as another thing. I also thought it was interesting since we have talked about what other states do as I went to the National Conference of State Legislatures' Web site and got their information on just what all other states do, totally open primaries are the top ones and a totally open primary is not what's being proposed here. A totally open primary, Senator Bloomfield and Senator Groene, I understand your concerns about an Independent choosing a Democrat or Republican ballot, but in the totally open primaries, a Democrat can choose a Republican ballot or a Republican can choose a Democrat ballot, which is way beyond what this bill is. But it is surprising how many states, some 8 states there or, excuse me, 11 states actually have totally open primaries. So...and then what we would be doing is down at the bottom would be a hybrid primary not going...what LB202 would do as I understand it. So I just thought it was interesting. If you'd like to know

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what other states are doing, and it seems to be, I guess, some of the things that have been pointed out as concerns, I guess we'd have to ask people in those states if those have actually been concerns with the various parties. Some of them I think might be...I don't know if they're all red or all blue, but anyway. With that, I'll shut up. [LB202]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? Seeing none...oh, excuse me, Senator Groene. [LB202]

SENATOR GROENE: Just a quick one. I thought the trend was back away from that, that that was a trend, and a few states have returned back to closed primaries. [LB202]

JIM OTTO: That could be. I'm not aware of the trend. [LB202]

SENATOR GROENE: I'd have to look at the facts but I'm almost certain it's happening. [LB202]

SENATOR MURANTE: Okay. Thank you very much. Thank you for your testimony. [LB202]

JIM OTTO: Thank you. [LB202]

SENATOR MURANTE: Additional proponents wishing to speak on LB202? Welcome. [LB202]

MARY BOSCHULT: Thank you, Senator Murante, members of the committee. I'm Mary Boschult, M-a-r-y B-o-s-c-h-u-l-t, and I'm representing the League of Women Voters of Lincoln and Lancaster County. I'm the current president and the voter services chair, so organizing voter registrations and participating in many of them. But I will be brief and mainly I just want to be on record for the League that we support LB202 introduced by Senator Davis because we believe it will increase participation in elections, and that's what we support. [LB202]

SENATOR MURANTE: Okay. Thank you very much for your testimony. Any questions? Seeing none, thank you very much for coming down today. Much appreciate it. Additional proponents wishing to speak on LB202? Seeing none, opponent testimony for LB202. Welcome. [LB202]

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 in opposition to the bill not to the policy aspects of the bill. We are neutral on those. Our opposition is simply to the implementation of it. Election commissioners and county clerks want to make sure that they run

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the most accurate, best elections that they can, and that includes making sure that they have enough ballots for everybody that wants to vote. LB202 would require extra ballots to be printed for nonpartisan voters, and our concern is that the more ballots that are printed, there is a cost and in some counties the cost no matter how large or small is going to seem significant in their budget. So I would be happy to answer questions. [LB202]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down today. Additional opponents wishing to speak on LB202? Seeing none, any neutral testimony? Seeing none, Senator Davis, you are recognized to close. [LB202]

SENATOR DAVIS: Thank you, Chairman Murante. A breath of fresh air to get out of the Revenue Committee. (Laughter) We're crunching numbers all the time. First of all, I want to thank the people that came to testify today. I didn't solicit people to come and testify for this bill. Having done that last year, I just wanted to show that I...we presented and I appreciate the time and effort that everybody has made to come. I think...one thing and I think I alluded to this earlier, but I do think it's worth saying, if we want our young people engaged in the process, we should make it as easy as possible for them to do that. And getting started in the primary election is a good way for young people to become lifetime voters. If you're disenfranchised and disillusioned, you don't vote and that's not good for the country. High participation will make a stronger democracy. Thank you. [LB202]

SENATOR MURANTE: (Exhibits 6 and 7) Thank you, Senator Davis. Any final questions? Seeing none, before we close the hearing on LB202--thank you very much Charles--I have one letter of support from a woman who came and testified and a letter of opposition from Diane Olmer, the Platte County Election Commissioner. And with that, we'll close the hearings on LB202, and that ends the hearings for the day. Thank you, everyone, for coming down. [LB202]