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Government, Military and Veterans Affairs Committee
January 21, 2016

[LB728 LB741 LB876]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Thursday, January 21, 2016, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB741, LB728, and LB876. Senators present: John Murante, Chairperson; Tommy Garrett, Vice Chairperson; Dave Bloomfield; Joni Craighead; Mike Groene; Matt Hansen. Senators absent: Tyson Larson and Beau McCoy.

SENATOR MURANTE: Welcome to the Government, Military and Veterans Affairs Committee. My name is John Murante. I'm the Chairman of this committee and state senator for District 49, which includes Gretna and northwest Sarpy County. We are here for the purposes of conducting a series of public hearings on legislative bills. We will be taking the bills up in the order on which they appear on the agenda, which is located on the outside of this room. Before we begin some of our formalities, let me introduce the members of the committee and our staff. To our far left is Sherry Shaffer, she is our committee clerk. Next to Sherry is state Senator Joni Craighead of Omaha, Nebraska. Next to her is state Senator Beau McCoy, who is not with us today; he is in Maryland...Delaware. He's in Delaware having accepted the presidency of the Council for State Governments. So it's an honor for him and good for the state of Nebraska that he's there. Senator Matt Hansen to my immediate left from Lincoln, Nebraska. To my immediate right, Andrew LaGrone is the research analyst for this committee. To his right, state Senator Tommy Garrett of Bellevue, Nebraska. Senator Garrett is the Vice Chair of this committee. To his right, state Senator Dave Bloomfield of Hoskins, Nebraska. To his right, Senator Tyson Larson from O'Neill. And finally, Senator Mike Groene from North Platte, Nebraska. If you intend on testifying on any of the bills before us today, we ask that you fill out this green sheet, which is located on both the sides of the room and submit it to the bin in front of Sherry, our committee clerk's table. If you are not going to testify, but would like to register your opinion about a piece of legislation, simply fill out this form which is also located on either corner of the room indicating your support or opposition of the bill. When you testify, please state and spell your name for the record. The order of proceedings is we'll proceed with the introducer making initial remarks. We'll follow it up with proponents, then opponents, followed by neutral testimony, and then the introducer will have the opportunity to give closing remarks. We ask you to listen very carefully and try not to be repetitive with testimony that comes before you. We do use the light system here in the Government Committee. Each testifier will be given four minutes to testify; that is indicated by the green light. When the amber light illuminates, you have one minute remaining and we ask that you begin closing your remarks. When the red light comes on, we ask that you end your testimony, at which time we'll open the committee for any questions they may have of you. At this time I would ask everyone to...including the members of the Legislature to turn off your cell phones and silence any electronic devices. If you have a prepared statement, an exhibit, anything you'd like to share with the committee, we ask that you provide us with 12 copies. Give it to Sherry; a page will distribute it to the remainder of the committee. If you don't

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have 12 copies, again, give it to us and we'll have a page make copies for you. So with that we will proceed to our first item on the agenda--LB741, Senator Hansen.

SENATOR HANSEN: Thank you. Good afternoon, Chairman Murante, and members of the Government, Military and Veterans Affairs Committee. My name is state Senator Matt Hansen, M-a-t-t H-a-n-s-e-n, representing District 26 in northeast Lincoln. Today, I'm here introducing LB741. This bill is intended to clarify our electioneering statute. Specifically, it would allow for yard signs to be displayed on private property within 200 feet of a polling location. The situation I was envisioning was a homeowner who wishes to display a yard sign for a candidate or issue, which is a very common method of political participation, as we all know, whose property is directly adjacent or otherwise close to their polling location. Under our current reading of our statute, they would be prohibited from doing so, but a neighbor a few houses down would likely be able to engage in this form of political participation. The section that is being changed, Section 32-1524, is our only section related to electioneering. And as you can see, there is not, necessarily, specific definition of what actions or items are covered. Further, from both personal experience and what has been shared with me, I feel that there is a need to clarify that this law is not always applied consistently. Within my own district, I've heard from a constituent who feels that they cannot display a yard sign in the yard because they live across from the front door of an elementary school that is also a polling location. And in the past, election officials have asked them to take their signs down; but know that others living within the 200-foot bubble of other polling locations have never had any issue with displaying their signs. This is why I feel clarity is needed on this issue. Closing summary: LB741 would clarify electioneering statutes to allow political yard signs within 200 feet of a polling location. With that I will be happy to answer any questions from the committee. [LB741]

SENATOR MURANTE: Thank you, Senator Hansen. Are there any questions? Senator Bloomfield. [LB741]

SENATOR BLOOMFIELD: Thank you, Chairman. Senator Hansen, were I to happen to own a vacant lot right next to the polling place, which in small-town Nebraska happens pretty regular. [LB741]

SENATOR HANSEN: Um-hum. [LB741]

SENATOR BLOOMFIELD: Could I sell that to the highest bidder for placing signs? I guess "rent" would be a better word than "sell." Could a committee or a campaign or an office-seeker come and offer me \$500 to put a big sign there? [LB741]

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SENATOR HANSEN: I would imagine as long as it's private property, yes. I will note it does say "subject to any local ordinance." So if your local ordinance is zoned residential, you're not, necessarily, allowed to put up an 80-foot tall billboard with flashing lights and sound. [LB741]

SENATOR BLOOMFIELD: Okay. And along that same line, subject to any local ordinance, if small town were to pass the same thing that we have in the state now that says you can't do it at all within 200 feet, have we improved anything? [LB741]

SENATOR HANSEN: I will say, I'm hesitant to have the case in front of me, but...there...I do know there's a case involving a yard sign and political speech that if you allow yard signs of any kind, you're typically allowed to...you're required to allow political yard signs. So if you're displaying a political yard sign, which is the same size and shape as a for sale sign or a for rent sign or other things we allow on property, community probably could ban all signage. But, currently, we have a situation where unarguably a for sale sign would be allowed, but a political yard sign may not be. [LB741]

SENATOR BLOOMFIELD: Okay. In reading some things on this, and everybody else has seen it too, there's a courthouse that says you can't have a sign by it because they're allowed to vote there for a week or two. [LB741]

SENATOR HANSEN: Um-hum. [LB741]

SENATOR BLOOMFIELD: How would that apply under your...? [LB741]

SENATOR HANSEN: Under my bill, you would be allowed to have a yard sign if it was allowed in other places. Talking about the, you know, an early polling location, if you're...the example of a house across from a courthouse where early voting happens, in reading our electioneering statutes, you'd be required to take your yard sign down starting...when early voting starts. And your neighbor who is two or three houses down could have one up all the way through election day. [LB741]

SENATOR BLOOMFIELD: Okay. Thank you. [LB741]

SENATOR MURANTE: Thank you, Senator Bloomfield. Are there additional questions?
Senator Garrett. [LB741]

SENATOR GARRETT: Thank you, Senator Murante. Senator Hansen, I think you're an attorney, right? [LB741]

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SENATOR HANSEN: Yes. [LB741]

SENATOR GARRETT: This almost argues with, if the local statute is contrary to what we've authorized in the state statute if there ought not be a supremacy clause much like what we're about to debate on LB289 kind of thing. Have you thought about that? I mean, if a local municipality passes an ordinance that prohibits this, I guess...I kind of got a problem with that. I'm just...just a thought. [LB741]

SENATOR HANSEN: That's a...just kind of expanding on that--my initial thoughts are, typically, things of this nature are more of a local ordinance that we delegate what size, kind of land-use zoning, things of that issue are, typically, more local control issues. If there was a situation where a particular town or something brought some concern, I could see that coming before the Legislature. But that wasn't necessarily what I had in mind when I introduced this bill. [LB741]

SENATOR GARRETT: Okay. Thank you. [LB741]

SENATOR MURANTE: Senator Hansen, along those lines, it seems to me that the ultimate supremacy clause that we have before us is the Constitution of the United States. In your view as an attorney, is someone placing a yard sign on their own personal private property protected First Amendment speech such that this bill that you have before us does nothing more than codify the First Amendment and protect people's First Amendment rights to political speech? [LB741]

SENATOR HANSEN: I think that is a very good summary and I would agree with that. [LB741]

SENATOR MURANTE: Okay. All right. Any additional questions? Seeing none, thank you, Senator Hansen. [LB741]

SENATOR HANSEN: Thank you. [LB741]

SENATOR MURANTE: Are there proponents wishing to speak on LB741? Proponents? Are there opponents wishing to speak on LB741? Welcome back. [LB741]

NEAL ERICKSON: Thank you. Two days in a row. Good afternoon, Chairman Murante, members of the committee. For the record, my name is Neal Erickson, N-e-a-l E-r-i-c-k-s-o-n, and I'm Deputy Secretary of State for Elections. I'm here today to testify on behalf of Secretary of State John Gale in opposition to LB741. LB741 would amend current electioneering

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prohibitions that provide a 200-foot influence-free zone as the voter travels to and from their polling place. Specifically, LB741 would end the 200-influence-free zone at the property line, assuming the adjoining property is not owned by the same entity that owns the polling place property. This proposal is very similar to one of the provisions either from last year's LB224 by Senator Harr, which our office also opposed. Should the proposal become law, it is possible that a property line is within a few steps of the entrance to a polling site. As LB741 does not define yard sign, a potential voter could be faced with a string of 4X8 signs along the property line advocating for a particular candidate within mere steps of the polling place entrance. Secretary of State Gale strongly believes that the 200-foot influence-free zone is a strong and appropriate public policy to ensure that voters are able to travel to the polling site and to cast their ballot without the distraction of campaigns fighting for that last chance to influence the voter. Accordingly, we oppose LB741 and would encourage the committee not to advance the bill. Thank you for your time and I'd answer any questions you might have. [LB741]

SENATOR MURANTE: Senator Bloomfield has a question. [LB741]

SENATOR BLOOMFIELD: Thank you. Mr. Erickson, the question I rose about the First Amendment. [LB741]

NEAL ERICKSON: Um-hum. [LB741]

SENATOR BLOOMFIELD: I think we probably have an issue there. In my...my bigger concern is not the 4X8 sign, it's somebody standing there... [LB741]

NEAL ERICKSON: Right. [LB741]

SENATOR BLOOMFIELD: ...harassing the guy as he walks in, but I...boy, that First Amendment is pretty clear. [LB741]

NEAL ERICKSON: Well, I can tell you that in the early '90s, in '92 actually, the United States Supreme Court did allow a 100-foot exclusion area around the polling site. Now, in that decision, they did not mention anything regarding private property. Since then, there have been some jurisdictions that...the most recent one is from last year, a Sixth Circuit case that had a Kentucky law. And it was kind of interesting because they had struck down a 500-foot limitation in 2005. And in that particular statute, they did say that it did not apply to private property. When the state of Kentucky reduced it to 300 feet, they didn't include that exception for private property. And the court struck down the 300 foot as being too far. And there have been other cases that looked

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at 300 feet as too far as well. But that 1992 decision by the U.S. Supreme Court did uphold a hundred foot limit around the polling site. [LB741]

SENATOR BLOOMFIELD: And we're dealing with 200. [LB741]

NEAL ERICKSON: Right. And so, you know, whether the 200 will be the same fate as what happened in Burson, the U.S. Supreme Court case, you know, that particular case had a hundred foot. Is 200 foot unallowable? You know, we don't have a decision on that specifically. [LB741]

SENATOR BLOOMFIELD: Okay, thank you. [LB741]

SENATOR MURANTE: So, I have a question for you. [LB741]

NEAL ERICKSON: Sure. [LB741]

SENATOR MURANTE: And it's sort of based on the situation that we have in Nebraska, as it exists, both the Douglas County and the Sarpy County election offices...in the case of Douglas County, houses are located within 200 feet of the Douglas County election office, just right across the street. And in the case of Sarpy County, now we have an entire apartment complex that is located in same general vicinity, but well within 200 feet. So I'm not an attorney, I'm not going to use legal terminology, but I will say from a philosophical standpoint, what harm could come in the case of an apartment dweller who wants to put a sign in their window. Or in the case of Douglas County, someone who wants to put a yard sign in their yard that is way too far away to intimidate any individual, what harm comes from allowing that and what is the compelling interest from the state Legislature to impede on someone's ability to demonstrate to the public who they support for a public office? [LB741]

NEAL ERICKSON: Well, and if it was simply a sign, that may not be the case. There may not be the level of harm that would be, if say, there was a crowd there. And I think Senator Bloomfield pointed out the point--what's to stop somebody from selling there, or, I guess, would be a renting or leasing for them to do things on election day or when votes are cast. So, you know, the courts have recognized that there is a state interest in creating that influence-free zone around polling sites. Now, you can debate about whether 500 is too far or 200 is too far, the court said a hundred is okay. [LB741]

SENATOR MURANTE: Does the court make a distinction about the type of political speech? [LB741]

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NEAL ERICKSON: No. [LB741]

SENATOR MURANTE: So whether I'm, you know, a yard sign versus an activity that we would all agree is intimidation by nature. [LB741]

NEAL ERICKSON: Somebody, no. Some kind of audio component or something like that? [LB741]

SENATOR MURANTE: Sure. [LB741]

NEAL ERICKSON: Well, you could have a yard sign that has a speaker attached to it and not have a person there. So, you know, it's one of those things that you almost have to look at case by case what's going on with that and the ability of creative minds to think of new ways around a particular statute. [LB741]

SENATOR MURANTE: Okay. Senator Groene. [LB741]

SENATOR GROENE: Thank you, Chairman Murante. Clarify--you can put that yard sign in there until election day. [LB741]

NEAL ERICKSON: Yes. [LB741]

SENATOR GROENE: Then you can take it down. [LB741]

NEAL ERICKSON: Right. [LB741]

SENATOR GROENE: My concern is this--where the polling places are. It's in schools, who lives around schools? The employees. Churches, who lives close to a church? Those people who congregate at that church. You have a certain political viewpoint of...you can demonstrate to those folks close to by...so one opponent doesn't see that viewpoint, he's going to have a very big disadvantage of getting a yard sign up that close. Now, if it was in a government building I could see it, but a courthouse, but you got to look at everything. I like 200 foot. I can live with it because of that...what the polling place is. Do you see anything...maybe that's part of the reason the state did that? [LB741]

NEAL ERICKSON: Yeah, and why the original termination of 200 feet existed, I'm not certain exactly what that was. You know, was it arbitrary? Or was...there was an actual...200 feet is

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better than 150 at that point in time. I don't know. But you're exactly right. And, you know, you look at school situations. Often, well...sometimes there is more land around a school area, but, for example, the polling place I go to, which is the temple at 33rd and Sheridan, the parking lot and the entrance to the polling place is within mere steps of the property line. And somebody, theoretically, could put up signs for just one candidate right along that line. Does that create a fairness issue? [LB741]

SENATOR GROENE: So then you could...one candidate could say I'm running in this district; my polling place, because of the school property, I can't put it on the school property, I can't put signs within a hundred foot because I got to stay off the property of the polling place, right? [LB741]

NEAL ERICKSON: Right. [LB741]

SENATOR GROENE: And the next one, the guy says, well, I'm 50 foot... [LB741]

NEAL ERICKSON: Under this proposal it is. [LB741]

SENATOR GROENE: ...50 foot away, then he can put a sign 50 foot away and influence the electorate. [LB741]

NEAL ERICKSON: Theoretically, under this proposal, yes. [LB741]

SENATOR GROENE: Yeah. So that's not free speech, that's not equal protection under the law. [LB741]

NEAL ERICKSON: Well, you're exactly right. I mean the restriction applies while voting is going on at that location. [LB741]

SENATOR GROENE: The first restriction is you cannot do it on the property of the polling place, right? [LB741]

NEAL ERICKSON: Well, under current law? Under current law there is a 200-foot influence-free zone around the polling place. Under this proposal, there would still be the 200 foot, but it would be limited whenever there is a property line that might be closer than 200 feet. And it could be as close as 15, 20, 30 feet. [LB741]

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SENATOR GROENE: Clarify that. If I'm at a church and they've got a big campus. [LB741]

NEAL ERICKSON: Right. [LB741]

SENATOR GROENE: If you sign up to be a polling place, there can be no political signs on that property? [LB741]

NEAL ERICKSON: Within 200 feet of the polling place. [LB741]

SENATOR GROENE: Oh, so you could do it out in the parking lot of the church. [LB741]

NEAL ERICKSON: Yes, if it was more than 200 feet away. [LB741]

SENATOR GROENE: So the church could influence the election and say you put a... [LB741]

NEAL ERICKSON: Yes, they could. [LB741]

SENATOR GROENE: I didn't realize that. All right. [LB741]

NEAL ERICKSON: The restriction is only on the 200 feet at that time. Now, I think most, and I don't even know if they include this in agreements, but certainly the common practice is that the polling places don't put those up there. And I'm not going to say that applies to everywhere. [LB741]

SENATOR GROENE: Kind of political etiquette. [LB741]

NEAL ERICKSON: There are some exceptions out there where, you know, a private location may say that, okay, you can't have your signs within 200 feet, but if my property goes farther than 200 feet, I can choose to allow signs or not, depending on that situation. [LB741]

SENATOR GROENE: Thank you. [LB741]

SENATOR MURANTE: And I want to clarify one thing that I said earlier. When I was referencing the election offices, the purpose of bringing that up is that this applies to election day. But when you're in an election office, all of the early voting period is election day. So that means no yard signs for almost a five-week period before that. So that's why I... [LB741]

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NEAL ERICKSON: Well, I mean, it's while votes are being cast. And we have seen situations in the past where, you know, the clerk's office is open from 8:30 to 4:30 to cast early voting ballots, but rallies have been held on that property outside that time frame, in the evening, let's say. [LB741]

SENATOR MURANTE: So in your view, the electioneering statute only applies when the...so a person could, theoretically, who lives across the street from the election office can wait until the election office closes at 4:30 and then put their sign out? [LB741]

NEAL ERICKSON: Put their sign back up. And they can have it up...and if they live across from a polling site, they could have it up until 7:59 in the morning on election day. [LB741]

SENATOR MURANTE: That law doesn't strike you as being at all silly? [LB741]

NEAL ERICKSON: Well, you know, I think the purpose is is to create a zone around that polling place when people are traveling to and from the polling place. To, you know, not have to deal with influence as to how they're going to cast their vote...vote at that point in time. [LB741]

SENATOR MURANTE: Senator Craighead. [LB741]

SENATOR CRAIGHEAD: Hi, Mr. Erickson. Okay, the Douglas County Election Commission's office is in my district, District 6 in Omaha. Okay? Across the street which is not 200 feet away, are residential houses. Those people ask me to put up yard signs. I had to tell them "no." So knowing that, how does that affect their civil liberties as citizen and mine as a candidate? [LB741]

NEAL ERICKSON: Well, and like I said, you know, the U.S. Supreme Court has ruled on this and says there is a state interest in protecting that area around the polling site. And, you know, Nebraska has chosen to have that level at 200 feet. [LB741]

SENATOR CRAIGHEAD: Even though these people are taxpayers and property taxpayers? [LB741]

NEAL ERICKSON: Yeah. [LB741]

SENATOR CRAIGHEAD: And they're citizens? [LB741]

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NEAL ERICKSON: That's correct. [LB741]

SENATOR CRAIGHEAD: Just because they're being penalized because they're within 200 feet of an election office? [LB741]

NEAL ERICKSON: Well, and that's...and that is because that is a function that goes on at that office. And it is an important function the courts have recognized, you know, do warrant some level of protection at least. [LB741]

SENATOR MURANTE: Okay. I can't tell if Senator Garrett is trying to get my attention or he's ready to punch somebody, but Senator Bloomfield. [LB741]

SENATOR BLOOMFIELD: Thank you again. Just a clarification, and I think Senator Groene and you touched on it, the polling place, again, going back to small-town Nebraska, the courthouse sets in the middle of the block. Is the polling place at the beginning of the courtyard or is it at the beginning of the courthouse? [LB741]

NEAL ERICKSON: The polling place is the building itself. So it would be...it's not like where their property line is, it would be where the building is that will contain entrances and exits to that building. [LB741]

SENATOR BLOOMFIELD: Okay, thank you. [LB741]

SENATOR GROENE: To the front door. [LB741]

NEAL ERICKSON: Front door, actually, it could be a back door too, depending on the situation. [LB741]

SENATOR MURANTE: Okay. Any additional questions? Seeing none, thank you very much for your testimony. [LB741]

NEAL ERICKSON: Thank you. [LB741]

SENATOR MURANTE: Is there additional opposition testimony to LB741? Is there any neutral testimony? I assume Senator Hansen will waive closing. Senator Hansen waives closing. And that will close the hearing on LB741. We'll now proceed to the next item on the agenda. We'll wait patiently for Senator Johnson to get here. But I will let everyone who wishes to testify...we

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are going to hold the public hearings on LB728 and LB876 together so that...it seems easier, two questions that are fundamentally the same in nature so you don't have to come up and testify twice on either side. I guess to expedite things, we...I will introduce first and then we'll let Senator Johnson do his thing. Senator Garrett. [LB728 LB876]

SENATOR GARRETT: Okay. Senator Murante, welcome to your Government, Military and Veterans Affairs Committee. [LB728 LB876]

SENATOR MURANTE: It doesn't always feel that way, but thank you very much. Members of the Government Committee, my name is John Murante, J-o-h-n M-u-r-a-n-t-e. I'm state senator for District 49 and I'm here today to introduce LB876. LB876 is a proposal which was brought to us by a number of political subdivisions which simply deals with how elected officials and public bodies are able to record their votes. To be clear, this does not have anything to do with the election process. It doesn't have anything to do with how these people are elected or the conduct of elections. This has to do with the votes taken at public meetings. Basically, what we are allowing to...current state statute identifies the political subdivisions which are allowed to use similar to the buttons that we use upstairs to record our votes. What we are doing here is striking that, the language which specify the political subdivisions and just use the definition of public body which is defined in statute, basically, is our political subdivisions in the state of Nebraska. So we believe this will allow voting to be done in a more expeditious manner. And I encourage your support of it. [LB728 LB876]

SENATOR GARRETT: Thank you, Senator Murante. Are there any questions? [LB728 LB876]

SENATOR BLOOMFIELD: There are, in fact. [LB728 LB876]

SENATOR GARRETT: Senator Bloomfield. [LB728 LB876]

SENATOR BLOOMFIELD: Does this touch on the realm of whether or not you need to be in the facility to cast your vote? We had some things come up last year wanting people to be able to vote when they weren't there. [LB728 LB876]

SENATOR MURANTE: Right. Quorum laws remain the same; attendance laws remain the same. This just deals with how votes are recorded. [LB728 LB876]

SENATOR BLOOMFIELD: Just how they're recorded. You cannot, under this idea, vote if you're not at the meeting. [LB728 LB876]

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SENATOR MURANTE: No. There still requires a quorum; there still requires all other presence laws and those sorts of things remain intact. We're not touching those laws. [LB728 LB876]

SENATOR BLOOMFIELD: Thank you. [LB728 LB876]

SENATOR GARRETT: Senator Groene. [LB728 LB876]

SENATOR GROENE: Thank you, Chairman. If somebody is in the meeting...the city council meeting or whatever, they know who voted...if they vote on something, they know sitting in the crowd, how they voted, right? [LB728 LB876]

SENATOR MURANTE: Yes. [LB728 LB876]

SENATOR GROENE: It doesn't change any of that? [LB728 LB876]

SENATOR MURANTE: It just changes how. Instead of having a roll call vote, imagine if we had buttons on our desks where we could... [LB728 LB876]

SENATOR GROENE: But it has to show on a board somewhere... [LB728 LB876]

SENATOR MURANTE: It's all public record. Nothing is being... [LB728 LB876]

SENATOR GROENE: I'm not talking public record. Right at when they take the vote, it has to show on a board like we do, that the people sitting in the crowd knows how they voted. [LB728 LB876]

SENATOR MURANTE: I don't know that the bill requires...it certainly requires the... [LB728 LB876]

SENATOR GROENE: I mean, it isn't a button and it just goes to the clerk and it says, well, Joe voted this way; it has to be right there that the person knows... [LB728 LB876]

SENATOR MURANTE: I can't envision an incident where that wouldn't happen. I don't if anything in the bill mandates that a political subdivision have a screen which broadcasts that... [LB728 LB876]

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SENATOR GROENE: You haven't been to one of my school board meetings. [LB728 LB876]

SENATOR MURANTE: No, I haven't, Senator Groene, to be perfectly candid. But... [LB728 LB876]

SENATOR GROENE: Some entities would like to do everything in private and just... [LB728 LB876]

SENATOR MURANTE: Sure. But this doesn't deal with the public records of what's happening or the disclosure of these votes. Those all remain the same. [LB728 LB876]

SENATOR GROENE: I just want to make sure it's instant that the people who attend the meetings can see the vote at that instance, that's all I care about. [LB728 LB876]

SENATOR MURANTE: Sure. [LB728 LB876]

SENATOR GROENE: Instead of verbally, they can see it. Thank you. [LB728 LB876]

SENATOR GARRETT: Any other questions? Thank you, Senator Murante. Like to entertain any proponents at this time. [LB728 LB876]

SENATOR MURANTE: Let Senator Johnson... [LB728 LB876]

SENATOR GARRETT: Okay, go ahead. Okay. [LB728 LB876]

SENATOR JOHNSON: Good afternoon. [LB728 LB876]

SENATOR GARRETT: Good afternoon. [LB728 LB876]

SENATOR JOHNSON: Jerry Johnson, District 23, Senator, J-e-r-r-y J-o-h-n-s-o-n. It's not a companion bill, but I enter this, basically, the same thought process. We did not communicate. And that was not a bad thing, we just had it presented to us by the NRD districts and it's on behalf of the Nebraska Association of Resource Districts. Some of them have 20...19 to 20 board members. And by the time you go around with the roll call voice...roll call vote each time, it's time consuming. What I know, it's going to be mirrored exactly like the state Legislature. There will be a light board; it will show up there. Somebody could call for it to be recorded and then it would go through the process of actually stating your vote publicly so there is full transparency.

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Doesn't mean they have to use this, but it's available, in this case, to the natural resource districts. I would...this, maybe, would be considered on its own, if for some reason Senator Murante's bill would not move forward, then I would like for this to stand alone, but I'm not going to fight his bill. We're together on this. But if there were some concerns out there, I would like at least to be separated from the standpoint of it...natural resources districts. That's not an opening, that's a support of my bill and trying to tie it together with his. [LB728 LB876]

SENATOR GARRETT: All right. Thank you, Senator Johnson. Senator Bloomfield. [LB728 LB876]

SENATOR BLOOMFIELD: Thank you. Senator Johnson, is your understanding then that there would have to be some sort of a board up there that indicated how they voted so that people in the crowd could see it instantly? [LB728 LB876]

SENATOR JOHNSON: Yeah, the way it has been explained to me, there would be electronic board, just like we have in the Legislature. That would be an expense to the individual entity, or in this case, to the natural resource district for that cost. So there's no fiscal note to the state. [LB728 LB876]

SENATOR BLOOMFIELD: Thank you. [LB728 LB876]

SENATOR GARRETT: Thank you, Senator Bloomfield. Any other questions? [LB728 LB876]

SENATOR JOHNSON: No? [LB728 LB876]

SENATOR GARRETT: Okay, thank you, Senator Johnson. At this time we'll entertain any proponent testimony. [LB728 LB876]

JOHN SPATZ: Good afternoon, Senator Garrett, members of the committee. My name is John Spatz, it's spelled S-p-a-t-z, but believe it or not, it's pronounced "Spots" (phonetic). And I represent the Nebraska Association of School Boards and we are here in support of both bills. We conduct open meetings, workshops around the state. And at our open meetings and all workshops we invite all political subdivisions to come. So we have NRDs; we have cities; we have counties; we have library boards. I think once we even had a cemetery board, believe it or not, at one of our meetings. And the question has come up--are we allowed to vote electronically? And I would have to ask--well, which political subdivision are you in? Because state statute, as currently written, only allows municipality, a county, a learning community, and a couple others; and so, the question would come to us--well, why can a county do it but a NRD

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or a school board can't. And my response is--I don't know. I don't know why some can or some can't. And Senator Groene had a good question. And the law goes on to state, which utilizes electronic voting device, which allows the yeas or nays of each member of such public body to be seen by the public. So it would be...the vision would be just like what you do here at the Legislature. So, by law, everything has to be seen by the public. And really, during our open meetings, our workshops, when the question arises about voting, I've always said--there's two things that are critically important: number one, that everybody in the crowd knows how you voted. If you go to the meeting and there's a vote, everyone has to know how you voted; that's important. The other thing is that if you're reading the record, if you're reading the record, you have to know how everybody voted. If you accomplish those two things, in my opinion, if you raise your hand, if you push a button that shows on the screen, if you do the roll call vote, I'm not sure if it matters a whole lot. So, really, I appreciate Senator Murante bringing the bill for everybody; it would eliminate one question that comes to me during these workshops as to why one can do it and one can't because I don't know the answer to that. [LB728 LB876]

SENATOR GARRETT: Okay. Thank you, Mr. Spatz. Any questions? Senator Bloomfield. [LB728 LB876]

SENATOR BLOOMFIELD: Thank you. Mr. Spatz, when Senator Johnson introduced this, he mentioned the board, similar to what we have up here. Do you have such a thing at your school board meeting? [LB728 LB876]

JOHN SPATZ: Some do, yes. And if you look out over the last ten or so years, there's more and more political subdivisions that have the ability to do this. And, in fact, we have a program...a paperless board meeting, and within that you can display on the screen the votes. And it's used by NRDs and cities and counties and school boards. And for school boards, for example, they have to shut that function off, but a city can use that function. And I...yeah, so yes. The ability is there. And a lot of school districts could use this if they wanted to. But as Senator Johnson said, this isn't mandating that usage. And quite frankly, if this passes this year, we're not going to see a lot of districts use this. But over time, I anticipate more and more districts using a system like this. [LB728 LB876]

SENATOR BLOOMFIELD: Okay. Can they use a computer screen just do so...? [LB728 LB876]

JOHN SPATZ: Yep. [LB728 LB876]

SENATOR BLOOMFIELD: Are we looking at the possibility of a 10-inch screen up there that can record this? [LB728 LB876]

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JOHN SPATZ: Well, by the law it has to be readily seen by the public. If the public can't see it, then you wouldn't...you would be violating statute. So, it's incumbent upon the whatever political subdivision to have some display that can be seen by the public. [LB728 LB876]

SENATOR BLOOMFIELD: Okay. I just want to get on the record here that it cannot, necessarily, go to your own personal laptop. [LB728 LB876]

JOHN SPATZ: Oh, no, no. [LB728 LB876]

SENATOR BLOOMFIELD: You have the ability to see it there only if you have the laptop. [LB728 LB876]

JOHN SPATZ: Yep. Yep. For example, you could push a button on the laptop that would show on the screen. And like I said, if a school board or any political subdivision had a system where the public couldn't see how people are voting, then we all have a problem. That's not the intent of all this...our intent, or anyone's intent. [LB728 LB876]

SENATOR BLOOMFIELD: Just a little clarification. [LB728 LB876]

JOHN SPATZ: Yeah, that's good. I appreciate that. [LB728 LB876]

SENATOR GARRETT: Any other questions? Thank you, Mr. Spatz. [LB728 LB876]

JOHN SPATZ: Thank you very much, appreciate it. [LB728 LB876]

SENATOR GARRETT: Any other proponent testimony. [LB728 LB876]

JOHN MIYOSHI: (Exhibit 1) Senator Garrett and members of the Government Affairs Committee, my name is John Miyoshi, J-o-h-n M-i-y-o-s-h-i. I'm the general manager of the Lower Platte North NRD located in Wahoo. My testimony is for the Nebraska Association of Resources District and my own NRD and is in support of LB728. By statute, any political subdivision of the state and governing bodies are permitted to use electronic voting in place of roll call votes as long as certain restrictions are followed. Unfortunately, natural resources districts are not named among the group that can use this method of tallying votes. In 2014, our board made the bold move to go paperless for our elected members with ease and speed of moving to i-Pads, a question soon arose--why can't we vote electronically just like the Legislature does? The answer was--we're not permitted to, even though municipalities and

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counties are. By statutes, NRDs have some of the largest boards of any political subdivisions being allowed to have boards as large as 21 members. In 2015, we averaged 15.17 votes over our 12 monthly meetings. At one-and-a-half minutes per roll call vote, we averaged spending 23 minutes per meeting, or 4.6 hours over the year-long voting rather than focusing on more important issues. We appreciate sponsorship of this bill by Senator Johnson, who is our local representative in the Legislature. This is permissive legislation that gives NRDs another option to streamline our operation while presenting in full public view how each director voted. This is currently an option for other similar units of governments we feel should be authorized for use by the NRD. Over the past six months, I have not visited with a single individual that is opposed to this permissive legislation. Mr. Chairman, we've reviewed your proposed legislation, LB876, that we feel makes our suggested legislation even better. LB876 takes the authority we're asking for in LB728 and extends it to all public bodies. We're committed to support and pass LB728 or LB876 that allows public bodies in Nebraska to streamline their meeting processes. [LB728 LB876]

SENATOR GARRETT: Thank you, Mr. Miyoshi. Questions from the committee? [LB728 LB876]

JOHN MIYOSHI: Oh, you're too easy. [LB728 LB876]

SENATOR GARRETT: No questions. Thank you, Mr. Miyoshi. Any additional proponent testimony? Any opponent testimony? Testimony in the neutral capacity? Okay, I don't know who wants to close. Senator Murante waives closing. Senator Johnson waives closing. This concludes the Government, Military and Veterans Affairs Committee meeting and I thank you all for coming. [LB728 LB876]