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Government, Military and Veterans Affairs Committee
February 14, 2018

[LB929 LB959 LB1015 LB1065 LB1068]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, February 14, 2018, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB929, LB1015, LB1068, LB959, and LB1065. Senators present: John Murante, Chairperson; Tom Brewer, Vice Chairperson; Carol Blood; Tom Briese; John Lowe; Theresa Thibodeau; and Justin Wayne. Senators absent: Mike Hilgers.

SENATOR MURANTE: (Recorder malfunction)...Affairs Committee. My name is John Murante. I'm the state senator for District 49, which includes Gretna and western Sarpy County. And I'm the Chairman of this committee. We are here today for the purposes of conducting several public hearings, we'll be taking those bills up in the order on which they appear on the agenda on the outside of this room. If you're here and you wish to testify for any of the matters before us, we ask that you fill out one of these green sheets of paper, which are located on either side of the room. If you're here and wish to express support or opposition for any of the matters before us but you do not wish to testify, we ask that you fill out one of these sign-in sheets that are also located on either side of the room. If you do testify, we ask that you begin by stating and spelling your name for the record, which is very important for our Transcribers Office. The order of proceedings is that introducers will be given an opportunity to open, then we will listen to proponent testimony, followed by opponent testimony, then neutral testimony, and then the introducer will be given an opportunity to close. We ask that you listen carefully and to try not to be repetitive. In the Government Committee, we do use the light system. Today, each testifier will be allotted four minutes to testify. When the yellow light comes on you have one minute remaining and we'd ask that you begin concluding your remarks. When the red light comes on, your time has expired and we will open the committee up to any questions they may have of you. At this time I'd like to encourage everyone to turn off or silence any cell phones or other electronic devices, anything that makes noise. If you have a prepared statement, an exhibit, or anything you would like distributed to the committee, provide...please provide 12 copies to one of our pages. If you don't have 12 copies, provide what you have to our pages and they will make copies for you. Our pages for today are Kylie Kotouc of Lincoln, Nebraska, and Bailey Dehning...who might not be here. Maybe she will be, we'll find out soon enough. So, with that, we'll proceed to introduction of members. Senator Lowe.

SENATOR LOWE: John Lowe, District 37.

SENATOR BRIESE: Tom Briese, District 41; nine county areas stretching from central into northeast Nebraska.

SENATOR BREWER: Tom Brewer, District 43; 13 counties of western Nebraska.

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR THIBODEAU: Theresa Thibodeau, District 6; Omaha.

SENATOR BLOOD: Carol Blood, District 3; western Bellevue and southeastern Papillion.

SENATOR MURANTE: And the gentleman walking towards us right now is Andrew La Grone. He is the committee's legal counsel. And to the far left is Sherry Shaffer. She is the Government Committee's clerk. Senator Brewer, who will be introducing the first bill, is the Vice Chair of this committee. Senator Brewer, welcome to your committee on Government, Military and Veterans Affairs. [LB929]

SENATOR BREWER: Thank you, Mr. Chairman and fellow members of the Military, Government and Veterans Affairs. I am Senator Tom Brewer from the 43rd District, T-o-m B-r-e-w-e-r. And I'm here today to introduce LB929. This bill is a very basic bill to support the National Guard. As many of you know, I spent a number of years as a member of the Nebraska Army National Guard. Four of the rights listed in this bill are not new; they are existing ones that are currently part of the statute. The problem is that because of the unique status of National Guardsmen we ask them to function not only as a soldier or airman but to also be prepared to do a number of additional duties. So, for example, you may be a truck driver but when there is a fire...as we have had in western Nebraska and we've also supported fires in Wyoming, as we have had snow storms, riots in Sioux City, and I even commanded the task force that went to Katrina. Those responsibilities become unique to whatever that mission is. So, we ask them to do a number of very difficult missions above and beyond that of being an airman or a soldier. The problem that we have run into is that there have been times throughout my career where soldiers have faced situations where their membership in the National Guard has caused one or more of these rights to be put into question. One of the things that haunts Guardsmen and Reservists is something called the Hatch Act. The Hatch Act was never designed to affect Reservists and Guardsmen; it was meant to prevent those on active duty from functioning in capacities associated with political events. As a result of that, many are kept from participating in the political process, and that goes all the way down to the local level. The first reason that I bring this bill is to quantify all of these rights in Chapter 23 of the state statute so that it is clear what a National Guardsman's rights are. The second reason I bring the bill is in line 6 page...line 6 and 7 of page 2. I commanded the National Guard Counterdrug Task Force for five years. We provided direct support to law enforcement, local sheriffs, Nebraska State Patrol, to the federal law enforcement communities of the DEA and also the local postal service. In order to do that mission, we provided resources to law enforcement so that they didn't have to buy it. So, imagine this: if you are a local sheriff or even the Nebraska State Patrol, the cost to buy night vision is astronomical. The cost to buy long-range binoculars, spotting scopes...all of this is an asset that the military has that can be used in support of law enforcement and doesn't affect the ability of the military to still do their mission. So by...verbalizing, I guess, in this law how we support that, we're able to do that direct support to law enforcement. The language allows the Adjutant

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

Government, Military and Veterans Affairs Committee
February 14, 2018

General to establish policy which authorizes the Guard to participate in asset seizure program along with other law enforcement agencies. That is simply all that this bill does, is clarifying those issues. Subject to your questions, that concludes my testimony. [LB929]

SENATOR MURANTE: All right, and thank you for your testimony. Are there questions? I see none. [LB929]

SENATOR BREWER: Thank you, sir. [LB929]

SENATOR MURANTE: Thank you. Are there proponents wishing to speak on LB929? Any proponents? Is there opposition testimony to LB929? Is there any neutral testimony to LB929? [LB929]

LARRY DIX: Good afternoon, Senator Murante and members of the Government and Military Affairs Committee. My name is Larry Dix, I'm executive director of the Nebraska Association of County Officials appearing today in a neutral capacity. One of the things Senator Brewer spent a significant amount of time on the bill on page 2 where, in the what I call the upper section, but, in essence, lines 1 through 12. The part that I want to just have a brief discussion with the committee is in the lower section, where it talks about the ability of a National Guard member to...similar to what we saw a year ago, was Senator Wishart's bill to remove their name once we're searching on some of the websites. And, certainly, we don't have any qualms if that's the policy of the committee, that's the policy of the committee. Right now we host a number of county websites for a majority of the smaller counties. I do want to just sort of report for the benefit of the committee that we've received information from about 17 counties...and we probably host maybe 40-some counties' Web site's information. We've received information from 17 different counties that there were approximately 80 law enforcement folks that had made the request to have that information withheld when doing a search on the Web site. And I believe, if I'm reading this bill correctly, Senator Brewer's asking the same for the...for members of the National Guard to make that application. That is fine. One of the things that I...a year ago, we talked to the committee who had said we sort of need a way to identify who those are. And with law enforcement, they have a unique identifier. When they go through training they get a unique identifier. I'm happy to work with Senator Brewer to try to find out if there is a unique identifier for National Guard members that is part of the database in the way that we're able to connect that with their primary residence so that information doesn't come forward. And, like I said, we're more than happy to try to work that out. That was just something that we thought we should make...brought forward, because right now I think the bill just says "as prescribed by the county assessor." And we don't want the situation where we have 93 different ways of each assessor saying; well, this is the information I need from National Guard members. We would like to see that very consistent across the state. That would just help in making this function much

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

Government, Military and Veterans Affairs Committee
February 14, 2018

smoother. So, truly neutral as far as the policy decision on anything above that. And I just wanted to make reference to the bottom half. I'd be happy to answer any questions that you may have. [LB929]

SENATOR MURANTE: All right, thank you for your testimony. Are there any questions? I see none. [LB929]

LARRY DIX: Thanks. [LB929]

SENATOR MURANTE: Thank you. Is there additional neutral testimony to LB929? Seeing none, Senator Brewer. [LB929]

SENATOR BREWER: All right. Actually, that was a good point. I'm glad he brought it up. The individuals we're talking about, because if you were just making an open statement that the National Guardsmen would fit in to that category, that would be a pretty monstrous list because of Nebraska, that's thousands. This would only be those that apply, and how we would be able to do that is they're issued identities by the law enforcement agency. The primary one is Nebraska State Patrol. If they are in direct support missions. So, when the adjutant general did that statement, he could include the names. Which, again, would be very small, only maybe a couple dozen at the most. And then they would have that as a reference to go back to and who those names are. Yes...oh, sorry, that's your job (laughter). [LB929]

SENATOR MURANTE: Thank you, Senator Brewer. Senator Blood. [LB929]

SENATOR BLOOD: Thank you, Chairperson Murante. I like this bill, but I have a question; it's an easy one... [LB929]

SENATOR BREWER: Good. [LB929]

SENATOR BLOOD: ...so, if they donate to political parties, then their information is going to be available on NADC. Do you have any issues with that? [LB929]

SENATOR BREWER: They would be, and that...the problem is you really can't have it both ways... [LB929]

SENATOR BLOOD: Right. [LB929]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR BREWER: ...and so they would need to understand that if what they do in support of law enforcement is critical that their identity be kept limited, then they would just have to use a little common sense with that. I understand that, in ways, it's two different things because... [LB929]

SENATOR BLOOD: Right. [LB929]

SENATOR BREWER: ...I rolled them together for clarity in that a lot of Guardsmen don't know where to go to understand what they can and can't do. So, we've brought it together so it's clear to them. But no, good point. But, I don't think the two would cross just because those that do those mission are very, you know, integrated in with that law enforcement responsibilities where they support and provide resources to them. [LB929]

SENATOR BLOOD: And, again, I have no issues with this bill. I was just concerned that their names are going to be...and addresses, that they're going to be available should they support that political party. [LB929]

SENATOR MURANTE: Okay, any final questions? I see none. [LB929]

SENATOR BREWER: Thank you. [LB929]

SENATOR MURANTE: Thank you. With that, we close the public hearing on LB929 and proceed to our next item on the agenda, LB1015. Senator Briese, welcome to your Committee on Government, Military and Veterans Affairs. Welcome. [LB929 LB1015]

SENATOR BRIESE: (Exhibits 1 and 2) Thank you and good afternoon, Chairman Murante and members of the Government, Military and Veterans Affairs Committee. I'm Tom Briese, T-o-m B-r-i-e-s-e, and I represent the 41st District. And I'm here to present to you today LB1015 and to offer AM1927 which addresses some of the concerns of folks in the labor community. And it's my desire that the amendment essentially becomes a bill and so you should be receiving a copy of the amendment plus we also have a letter here from an individual in support of this bill. This is a bill to provide a measure of confidentiality for first-injury reports on private citizens filed with the Nebraska Workers' Compensation Court. Nebraska Revised Statutes Section 44-144.01 requires that "In every case of reportable injury arising out of and in the course of employment, the employer or workers' compensation insurer shall file a report thereof with the Nebraska Workers' Compensation Court." These reports typically contain the name of the injured, the name of the employer, and the nature of the injury, among some other items. And these are the kind of details that in any other situation would be governed by HIPAA and a myriad of other

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

Government, Military and Veterans Affairs Committee
February 14, 2018

federal and state programs to protect a person's medical history and their identity. But in these cases, these reports essentially become a public record. Nebraska Revised Statutes Section 84-712 makes available for examination by citizens all public records of the state or any political subdivision. Section 84-712.05 provides exceptions to our open record act by allowing entities to withhold from public view various categories of records. There's currently 20 such categories. AM1927 amends both of these statutes to restrict access to first-injury reports. First, AM1927 amends Section 48-144.01 to make such reports confidential unless such disclosure is required in newly created paragraph (21) of Section 84-712.05. And that's what the second portion of AM1927 does. It establishes paragraph (21) of Section 84-712.05 to create a new category of exception to the open records act. And this exception is for those first-injury reports required by Section 48-144.01. But AM1927 provides that such records shall be available for inspection in limited circumstances, and those circumstances include requests by first the employee or his or her agent; second, the employer, workmen's comp insurer, risk management pool or third-party administrator that is a party to the report, or the agent of any of the above; third, by a party identifying the number and nature of injuries to employees of employers identified in the request so long as the names of the employees are redacted; and fourth, request by a nonprofit for providing counseling, grief counseling or memorials in the event of an employee death. And the amendment further provides that such records shall be made available for any federal or state investigation or compilation of statistical information so long as that personally identifiable information is redacted to protect privacy. And I submit to you that this is good legislation. What it does is protect the privacy of our citizens. By doing so, it can also encourage workers to come forward to disclose minor injuries they might otherwise be reluctant to disclose. I maintain that disclosure of this information really is not necessary. Others testifying later will perhaps disagree with that assessment. But the Workers' Compensation Court has an 800 number which employees can call to access information regarding their rights. Injured workers already have adequate access to information regarding legal representation. And the vast majority of these injuries don't result in litigation anyway. So my question is, what's the need that's so compelling as to warrant this intrusion into the privacy of these employees? And I submit there is no such need. And I do note that 37 other states have some sort of restriction on this information including several of our surrounding states including Iowa, Kansas, Missouri, and South Dakota. The bottom line is an employee should not be required to surrender the right of privacy to have the court provide recourse. I'd ask for your support in moving this bill forward. Thank you. [LB1015]

SENATOR MURANTE: Thank you, Senator Briese. Are there questions? Senator Blood. [LB1015]

SENATOR BLOOD: Thank you, Chairperson Murante. Just a quick question. You talk about some of the other states and how some of them have similar laws. Can you give me some examples of those laws? [LB1015]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR BRIESE: I can't give you any examples. I think I named off the three adjoining ones, but I don't know what the specifics of that. [LB1015]

SENATOR BLOOD: Okay. What were the states again? [LB1015]

SENATOR BRIESE: You know someone could find that certainly, but I don't know the specifics of those. [LB1015]

SENATOR BLOOD: So you said Iowa? [LB1015]

SENATOR BRIESE: Iowa, Kansas, Missouri, and South Dakota to my understanding. And 37 states in total again, not sure on the details. [LB1015]

SENATOR BLOOD: On the magnitude of it? [LB1015]

SENATOR BRIESE: Yeah, yeah. [LB1015]

SENATOR BLOOD: Okay. [LB1015]

SENATOR BRIESE: You bet. [LB1015]

SENATOR BLOOD: Thank you. [LB1015]

SENATOR BRIESE: Sure. [LB1015]

SENATOR MURANTE: Thank you. I see no additional questions. [LB1015]

SENATOR BRIESE: Thank you. [LB1015]

SENATOR MURANTE: Thank you. Mr. Hallstrom, welcome to the Government Committee. [LB1015]

ROBERT HALLSTROM: (Exhibits 3 and 4) Chairman Murante, members of the Government, Military and Veterans Affairs Committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today as registered lobbyist for the Nebraskans for Workers' Compensation Equity and Fairness and also for the National Federation of Independent Business to testify in

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

Government, Military and Veterans Affairs Committee
February 14, 2018

support of LB1015. As Senator Briese has indicated, the bill is principally designed to provide confidentiality of first-injury reports filed with the Workers' Compensation Court and it accomplishes this purpose, at least with the green copy, by providing that those reports of injury under the Workers' Compensation Act that reveal the identity of the employee who is the subject of the report are not public records. Senator Briese has indicated 37 states have similar types of restrictions on access. Senator Blood, in response to your question, many of those have an outright confidentiality. Others put it into the public records law. There are some that have a balancing test with regard to the invasion of privacy of the employee. And there have been some specific determinations in some of those states with regard to specific workers' compensation records that it does invade the privacy and, therefore, those records are not disclosed. In my testimony, I've got attached copies of the unemployment insurance statutes 48-612 and 48-612.01. In each of those, there are specific exceptions, but the general rule is that communications involving the discharge or termination of employment or an employee under our unemployment insurance laws are confidential as well. We would submit that providing that type of protection for unemployment insurance situations applies equally and should apply with regard to workers' compensation first-injury reports which can contain some type of information regarding medical records or medical conditions I should say of the injured employee. With regard to what you're going to hear after me I suspect this afternoon with regard to the supporters is we do have some individuals who are going to come up here and provide you with their experiences, recount the frustrations and concerns that they had with being contacted and probably more so with the surprise that someone knew that they had been injured and they'd gotten information regarding their condition or the situation involving their injury. So I think hopefully that will be dramatic in terms of explaining what their concerns are. In most cases, they contact the employer and say why are you releasing this information? And the answer is under current Nebraska law we are required or at least that information does get into the hands of third parties. As Senator Briese has indicated, I think everyone has knowledge of how they contact an attorney and if they need an attorney in the event of an injury that there's plenty of options and avenues. There are many law firms that do good work in the workers' compensation arena that do not go through this process of combing the workers' compensation records and then contacting through an advertisement or a solicitation, if you will, those injured employees. As Senator Briese indicated, the amendments are designed to provide exceptions that I think are logical with regard to issues involving litigation where the employee or their attorney or the employer, their insurance carrier or their attorney can get access to that information. We've also had situations arise where a defense counsel or a plaintiff's counsel has indicated that they are concerned about being able to get aggregate information if in the course of discovery an employer denies that a certain type of injury has occurred in the workplace. We have an exception that says they can get information with redacted employees' names to access that number and nature of injuries. So I think that should adequately address that concern. With that, I'd be happy to address any questions of the committee. [LB1015]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR MURANTE: All right. Thank you very much for your testimony. Senator Blood. [LB1015]

SENATOR BLOOD: Thank you, Chairman Murante, and thank you for your testimony, Bob. So you also lobby for the bankers, yes? [LB1015]

ROBERT HALLSTROM: Yes. [LB1015]

SENATOR BLOOD: So don't bankers get public information when people move into a new community? I know they do. [LB1015]

ROBERT HALLSTROM: In terms of... [LB1015]

SENATOR BLOOD: Like I assume they get it from the county who has moved into their area so they can send them information on the bank. [LB1015]

ROBERT HALLSTROM: They may very well, Senator. I'm not familiar with that nor am I here on behalf of the bankers today, just to make sure... [LB1015]

SENATOR BLOOD: No, the reason I ask that question... [LB1015]

ROBERT HALLSTROM: Yes. [LB1015]

SENATOR BLOOD: ...thank you for clarifying that. [LB1015]

ROBERT HALLSTROM: Yes. [LB1015]

SENATOR BLOOD: The reason I ask that question is how is that any different? [LB1015]

ROBERT HALLSTROM: Well, Senator, I'm not sure that they do get that information or what access they get it to. I think it's the expectation of the employees in this particular scenario that information relating to their injury at the workplace which is medically related are things that they would not expect in that case for those...that type of information be released. [LB1015]

SENATOR BLOOD: But it's still public information. I mean bankers and insurance companies and physicians that have clinics in an area that you move, they all get that information from the

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

Government, Military and Veterans Affairs Committee
February 14, 2018

county. They know that you live at a certain address and that you recently moved there. And that public information is available so they can solicit for their business. And that's basically the concern we have here. Is that not true, they're soliciting services? [LB1015]

ROBERT HALLSTROM: I would suggest, Senator, there's a difference between where you live which is obvious and public by observation as opposed to something that is contained within a record that someone might not want to have other individuals have access to. [LB1015]

SENATOR BLOOD: But aren't they just using it to get business? I mean, that's how they...just like people go to networking events and...I guess for me that's the gray area that I'm seeing is that I see bankers do it, I see insurance companies do it, I see doctors with clinics do it. They get your personal information and they try and sell you something. And no offense to the attorneys, but they're trying to sell their services. This is their livelihood and that's their area of specialty. I don't like my personal information out either. I had a really bad accident and my mailbox was full, but I also had the choice of throwing those away. [LB1015]

ROBERT HALLSTROM: Um-hum, certainly. [LB1015]

SENATOR BLOOD: So...all right. Thank you for the answer. [LB1015]

ROBERT HALLSTROM: Thank you, Senator. [LB1015]

SENATOR MURANTE: Thank you. Senator Thibodeau. [LB1015]

SENATOR THIBODEAU: Just to kind of differentiate, though, between advertising services and what's happening here in these public records is this person's as far as medical attention that they received or any type of, you know, what we looked at would be protected by HIPAA. Is some of that information available when they are doing these public records requests? [LB1015]

ROBERT HALLSTROM: With regard to the first-injury report, Senator, you're not going to have a traditional medical record or a doctor's report that would be included there. But there would be information regarding the circumstances surrounding the injury, what the type of injury is, and so forth that are still personal to the individual. And depending on the gravity of the injury or the type of injury, certainly we could consider and imagine things that people just wouldn't want to have public knowledge about the type of injury that they may have incurred at the workplace. [LB1015]

SENATOR THIBODEAU: Okay. Thank you. [LB1015]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

ROBERT HALLSTROM: Thank you. [LB1015]

SENATOR THIBODEAU: Thank you, Mr. Chairman. [LB1015]

SENATOR MURANTE: Thank you, Senator Thibodeau. I see no additional questions. [LB1015]

ROBERT HALLSTROM: Thank you, Senator. [LB1015]

SENATOR MURANTE: Thank you for your testimony. Still on proponent testimony to LB1015. Mr. Sedlacek, welcome. [LB1015]

RON SEDLACEK: Thank you, Chairman Murante and members of the Government, Military and Veterans Affairs Committee. For the record, my name is Ron Sedlacek, that's spelled R-o-n S-e-d-l-a-c-e-k. I'm here today on behalf of the Nebraska Chamber of Commerce, and we have in the past and continue to be supportive of this particular legislative initiative. As said in previous testimony, there are 37 states that have public policy that says this particular type of record should be held confidential. In regard to other public records, as was mentioned by Senator Blood, such as real estate information that you can easily access now on the Internet and that lends to solicitations of various kinds. This is a situation where quite often employers have talked with us (inaudible) particularly those that move from other states and trying to get familiar with our system saying...and one of the biggest complaints we get is when there's minor injuries and we're getting solicitation, their employees getting solicitations. Why? What's going on here? And we explain that's the public policy we've had in Nebraska for many, many, many years and so it does take some getting used to in that regard. We've also fielded telephone calls from employees on occasion wondering why they're getting those types of solicitations, rather have their medical information or at least that type of information not publicized. So for those reasons, we would support the concept of the legislation. [LB1015]

SENATOR MURANTE: All right. Thank you for your testimony. Are there any questions? I see none. [LB1015]

RON SEDLACEK: Thank you. [LB1015]

SENATOR MURANTE: Thank you. Mr. Otto, welcome to the Government Committee. [LB1015]

JIM OTTO: Thank you. Senator Murante, members of the committee, my name is Jim Otto, that's J-i-m O-t-t-o. I'm a registered advocate for the Nebraska Retail Federation, the Nebraska

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

Government, Military and Veterans Affairs Committee
February 14, 2018

Restaurant Association, and the Nebraska Grocery Industry Association; and I speak today in support of LB1015 on behalf of all three associations. I don't need to bore you with repeating what previous testifiers have said. We're in support of this legislation for the same reasons that have already been articulated. I just thought I would relate a couple personal experiences that show how things have changed. I'm so old that I can say I was actually injured at work 30 years ago. And I asked Mr. Hallstrom if this has always been public information and he said, yes, which surprised me because 30 years ago I don't recall getting any letters after getting hurt at work. And then about two years ago my wife and I were in the state of Virginia with a rental car. Because of her misdirection, I was going 61 miles an hour in a 40-mile-an-hour zone, which in the state of Virginia 20 miles over is reckless driving. So anyway, I was a little frustrated. We get home and I'm thinking, well, I actually asked for advice from local attorney friends as to who I should contact in Virginia because I obviously didn't want reckless driving on my record. But I bet you I got 50 letters from Virginia attorneys to help me out with that reckless driving situation. Now reckless driving would always be public information, but I was just surprised how the process has certainly changed. With that, I'll shut up. [LB1015]

SENATOR MURANTE: All right. Thank you for your testimony. Senator Blood. [LB1015]

SENATOR BLOOD: Thank you, Chairperson Murante, and thank you, Mr. Otto. Mr. Otto, I'm going to tell you a really brief story and then I'm going to ask you a question. [LB1015]

JIM OTTO: Okay. [LB1015]

SENATOR BLOOD: So literally on Saturday I spoke to one of my favorite folks at my local grocery store, a gal who had worked for that grocery store for almost 30 years, who ended up with a hernia lifting items in the back storeroom, chose not to get an attorney and now the grocery store is refusing to pay for her surgery saying that she worked through it and was lifting after she initially got hurt and so they don't owe her any money. Are you not concerned that because people have this opportunity to speak with a lawyer when they're injured that they might miss out on that opportunity if they go at it on their own? Because that's what I've seen with her. She's as honest as the day is long, she's a hard worker, she's been a good employee for them. And now, excuse my terminology, she's basically screwed. [LB1015]

JIM OTTO: Well, she surely...absolutely. I'm not an attorney so I can't answer the legal question. [LB1015]

SENATOR BLOOD: No, and I understand that. But does that concern you at all? [LB1015]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

JIM OTTO: But I would think she still has that opportunity and shouldn't she have received these letters? With the present situation, it is public information. [LB1015]

SENATOR BLOOD: She did receive the letters and she chose to work with her organization just as if she'd not received the letters. Now hindsight she wishes she'd taken advantage of that. So I look at people like that, that my mom was hit by a train and almost killed. It was the railroad's fault. My parents are not the type of people that sue. They didn't want to pay for her bills and threatened to sue her for a bent train step. I mean there are honest people that get hurt that will not seek out an attorney's help. [LB1015]

JIM OTTO: Well, I don't know that's...I can only relate my personal information. And when I was injured 30 years ago, my employer refused to pay. I then went to an attorney and was referred to one by a good...right here in town and so 30 years ago at least it wasn't too late for me to do that. I don't know if it's too late for her or not. [LB1015]

SENATOR BLOOD: Well, and again, my concern is it's already overwhelming. And you told me you had to go and find an attorney to help you out with the thing with Virginia, but you know attorneys. [LB1015]

JIM OTTO: Not in Virginia. [LB1015]

SENATOR BLOOD: No, but here, yeah. So I guess the concern I have and I'm not saying I'm for or against this bill, I'm...what I'm hearing is an opportunity for people to get help and I'm just wondering...I don't love that our information is out there. I'm not a big fan of people getting public information in reference to our personal lives. But I'm also not a big fan of people not being able to get help so I was just curious if that concerns you. [LB1015]

JIM OTTO: Well, yeah, I would submit that they are able to get...just for the heck of it, I today just Googled "injured at work" and it's like... [LB1015]

SENATOR BLOOD: Attorneys have that algorithm down really well. [LB1015]

JIM OTTO: Yeah. [LB1015]

SENATOR BLOOD: Yeah. Good for them, they pay big bucks for that so. [LB1015]

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Transcriber's Office

Government, Military and Veterans Affairs Committee
February 14, 2018

JIM OTTO: Yeah. So I mean, there are...it's very easy to find assistance if you want assistance. I don't know for sure if the letters help with that assistance. I mean you have a good point. [LB1015]

SENATOR BLOOD: I appreciate that. [LB1015]

JIM OTTO: Yeah. [LB1015]

SENATOR BLOOD: Thank you. [LB1015]

JIM OTTO: Thank you. [LB1015]

SENATOR MURANTE: All right. Senator Lowe. [LB1015]

SENATOR LOWE: Thank you, Chairman. Thank you, Mr. Otto, for being here today. Just clarification, did I just hear you throw your wife under the bus on Valentine's Day? (Laughter) [LB1015]

JIM OTTO: That was a little tongue in cheek. She was reading the map, however. [LB1015]

SENATOR LOWE: Okay. [LB1015]

SENATOR MURANTE: Happy Valentine's Day. (Laughter) So any additional questions? I see none. [LB1015]

JIM OTTO: Thank you. [LB1015]

SENATOR MURANTE: Thank you. Are there additional proponents wishing to testify? Welcome. [LB1015]

STEVE HILBERS: Senator, my name is...I'm nervous so. My name is Steve Hilbers. I'm from...H-i-l-b-e-r-s. I'm from Stanton, Nebraska. I work for Tyson Foods in Madison, Nebraska. I've been over there for about 30 years. I've been hurt one time in 30 years and my mailbox was full of these letters from these lawyers saying, oh, I could claim money and all that stuff. I never called. I went to my nurse, got help, got healed, no problems. I wonder why they got my name, made me pretty upset. I was pretty upset so I think it shouldn't be public record at all. That's all I have to say. [LB1015]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR MURANTE: All right. [LB1015]

STEVE HILBERS: I'll take any questions. I'm just (inaudible) nervous. [LB1015]

SENATOR MURANTE: Thank you. No problem. Thank you for your testimony. Senator Lowe. [LB1015]

SENATOR LOWE: Do you know about...thank you, Chairman. Do you know about how many letters were sent to you? [LB1015]

STEVE HILBERS: About five or six. [LB1015]

SENATOR LOWE: Okay. [LB1015]

STEVE HILBERS: Just for a minor wrist injury I had, just a small little lump, wasn't nothing. They said, oh, I can claim this and this and this. I go, what for, just for a minor wrist injury? I wasn't paralyzed. I'm perfectly healthy now. I'm doing my job. I'm full time. I'm healthy. They helped me out quite a bit. [LB1015]

SENATOR LOWE: All right. Thank you. [LB1015]

STEVE HILBERS: Yes, ma'am. [LB1015]

SENATOR MURANTE: Senator Blood. [LB1015]

SENATOR BLOOD: Thank you, Chairperson Murante. I have to wait for him to give me permission. [LB1015]

STEVE HILBERS: Oh, I'm sorry. [LB1015]

SENATOR BLOOD: It's all right. And thank you for being such a good citizen and coming forward to testify today. [LB1015]

STEVE HILBERS: Yes, ma'am. [LB1015]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR BLOOD: I love it when people do that. So I have a question for you and I don't mean this in a harsh way. [LB1015]

STEVE HILBERS: Oh, that's fine. [LB1015]

SENATOR BLOOD: So like any other advertisement we get, don't we just have the right to throw it away? [LB1015]

STEVE HILBERS: Yeah, you do. [LB1015]

SENATOR BLOOD: I mean, it's annoying. It's just as annoying as all the other ads we get. [LB1015]

STEVE HILBERS: I get junk mail in the mail. [LB1015]

SENATOR BLOOD: And you throw it away. [LB1015]

STEVE HILBERS: I just throw it away. I read it, you know, I thought it was interesting but, you know, it's my right. I got hurt. You know, why somebody says, oh, I can get...you know, it's between me, my doctor, and my company. [LB1015]

SENATOR BLOOD: Right. So you chose not to deal with it. You threw that away and... [LB1015]

STEVE HILBERS: I got the help. I stayed on my job. The nurse...I went to the doctor, you know, and it was just a minor wrist injury. [LB1015]

SENATOR BLOOD: Did it change your life in any way that you received those letters? [LB1015]

STEVE HILBERS: It made me mad. I didn't like it. [LB1015]

SENATOR BLOOD: Okay. That's valid. [LB1015]

STEVE HILBERS: Huh? [LB1015]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR BLOOD: That's valid. (Inaudible). [LB1015]

STEVE HILBERS: Why should some lawyer say I'm promised millions and millions of dollars for a minor injury? [LB1015]

SENATOR BLOOD: They killed a couple of trees to do it too so, all right. [LB1015]

STEVE HILBERS: Big deal. [LB1015]

SENATOR BLOOD: All right. Thank you. [LB1015]

SENATOR MURANTE: Thank you. Are there any additional questions? I see none. [LB1015]

STEVE HILBERS: Thank you. [LB1015]

SENATOR MURANTE: Thank you. Much appreciated, thanks for coming down. Additional proponent testimony to LB1015? Welcome. [LB1015]

ANN FARRAR: Welcome. Thank you. My name is Ann Farrar, F-a-r-r-a-r. I am the nurse manager at Tyson Fresh Meats in Madison, Nebraska. I have been in this position for 12 years. I deal with all the work comp claims on a weekly basis. I deal with people bringing me fliers to work, saying why as a company did you release this information to these attorneys because they do list specific body parts, which I feel is a HIPAA violation. Also I have team members that bring me these fliers and say I called this number to find out how they got my information. Now I'm being told I'm litigated. I don't want to sue the company. I'm better. I want to go back to work and now they're telling me I'm litigated. Can you help me fire these people? Understand I work in the business where we have lots of different languages and people don't understand. I had a lady just this morning who has a sprained ankle sitting in my nurse's station doing light duty work and she brought me a magnet to put on a refrigerator with attorney information on it. She again, a Spanish speaking team member, said what is this? I don't understand. Since her injury last Monday, she has gotten 15 fliers in the mail. And I do believe it is a HIPAA violation. And if team members feel they need litigation, that is...there's plenty of social networks that they can get that information. All they have to do is turn on a TV. But as far as team members getting fliers releasing public information with specific body parts and if that team member chooses not to go litigate it right away, Nebraska law, two-year statute of limitations. They will get more fliers in the mail at one month prior to that two-year statute of limitations to try again to become litigated. [LB1015]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there questions? Senator Blood. [LB1015]

SENATOR BLOOD: Thank you, Chairperson Murante. And I'm sorry, what did you say your title was? [LB1015]

ANN FARRAR: Nurse manager. [LB1015]

SENATOR BLOOD: So I have a question. As nurse manager, isn't it your job to report any HIPAA violations? [LB1015]

ANN FARRAR: How... [LB1015]

SENATOR BLOOD: I mean you keep referring it to as it being a HIPAA violation. [LB1015]

ANN FARRAR: It is because those attorney letters and when we submit the FROI in the first report, we have a specific body part listed. [LB1015]

SENATOR BLOOD: And so you call the federal government and you report that there's these HIPAA violations, yes? [LB1015]

ANN FARRAR: I have to follow Nebraska work comp law and submit the FROI and enter that specific body part. [LB1015]

SENATOR BLOOD: Okay. But you keep saying that it's a HIPAA violation so you must be reporting this to the federal government, yes? [LB1015]

ANN FARRAR: No. I'm following Nebraska law and reporting a FROI to my workmen's compensation adjuster and list the specific body part. Any time you list any body part, specific or not specific, it is a HIPAA violation in my eyes. [LB1015]

SENATOR BLOOD: Which you are required by law to report to the federal government, yes, ma'am. [LB1015]

ANN FARRAR: I don't make the Nebraska work comp laws, but I have to submit the FROI... [LB1015]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR BLOOD: We're not talking about state law. We're talking about federal law. HIPAA law is federal law. Yes? [LB1015]

ANN FARRAR: It is. [LB1015]

SENATOR BLOOD: Okay. And so isn't it your job to report that to... [LB1015]

ANN FARRAR: And also with our team members we give every team member a copy of Nebraska rights and responsibilities law pamphlet so any information they need as far as anybody to contact, that number is listed (inaudible) so if they need extra help there are still services available. And for the lady that you said hurt her back, that's terrible that their company did not take care of that worker and that should be the company's responsibility. If they care for their workers... [LB1015]

SENATOR BLOOD: I agree. [LB1015]

ANN FARRAR: ...then they shouldn't have litigation problems. [LB1015]

SENATOR BLOOD: Here's my concern and I'm not trying to be combative in any way... [LB1015]

ANN FARRAR: Yeah. [LB1015]

SENATOR BLOOD: ...is that you kept saying this is HIPAA violation, this is HIPAA violation. And it's my understanding under HIPAA that if you're aware of a violation, it is your responsibility, regardless what state law is, to report any violations. [LB1015]

ANN FARRAR: Well, that is my personal opinion. I do not make up the HIPAA laws, but I do know when these fliers are sent out specific body parts are listed, along with the date of injury and the company they work for. [LB1015]

SENATOR BLOOD: I'm guessing we probably have some attorneys in here today so maybe they can answer that part for me. But that's just a concern I have when somebody throws something like that out is that if indeed that's a violation it's my understanding under federal law you need to report that. [LB1015]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

ANN FARRAR: I feel it's...okay, personally, I feel that people's medical information should not be released. [LB1015]

SENATOR BLOOD: And I appreciate your testimony. Thank you. [LB1015]

ANN FARRAR: Thank you. [LB1015]

SENATOR MURANTE: All right. I see no additional questions. Thank you for your testimony, much appreciated. Additional proponents. Welcome. [LB1015]

TREVOR MOMAN: Thank you. My name is Trevor Moman, M-o-m-a-n, and I'm going to try to avoid sounding redundant. Senator Briese pretty much stated the way I felt. I was injured September 29. Right after that, maybe a week, week and a half, two weeks, I received a couple of letters in the mail soliciting my business. For a split second maybe I overreacted. I was kind of mad, you know, that my privacy was just put out there like that. I mean, you know, some people they elect to not have their phone numbers put in the phone book. What's going on with my personal health between myself and my employer to me that's overstepping privacy boundaries in my opinion. I mean, it's almost...to me, it's a no-brainer, privacy is a no-brainer. That's all I have. [LB1015]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there questions? I see none. [LB1015]

TREVOR MOMAN: All right. [LB1015]

SENATOR MURANTE: Thank you. Additional proponents. Welcome. [LB1015]

DEWEY DYCHES: Thank you. My name is Dewey Dyches, D-e-w-e-y D-y-c-h-e-s. I've been a laborer all my life, physical labor; and I've been at Tyson for 10 years, almost 11 now. And I would have to say that I felt like I was a superman most of my life, being able to work and work hard, you know. And when I ended up having a pinched nerve in my wrist, it was very demeaning to me. You know, I wasn't as strong maybe as I thought that I was. Maybe I'm not capable of this kind of work anymore and I'm only 40 years old. I'm still young. I still have a long way to go. Personally, it has impacted my life and I've been taken care of. I've had my surgeries already. But when I received the mail, it just kind of added insult to injury to me, you know. And being a man working in a very physical place and working with many, many coworkers, it takes a toll, you know, because a lot of them looked up to me. A lot of them are like, yeah, this guy. I mean, I had a nickname. One of my supervisors used to call me super

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

Government, Military and Veterans Affairs Committee
February 14, 2018

wedo, which means, you know, white boy, but, you know, I mean, that was me, you know. And I would outwork the younger people and everything and I felt really good about my job and everything. So when I received the mail, it was damaging. Now I have two young children. And anybody in America can tell you if you feel wrongfully injured or if something has happened to you, sue--sue. Get an attorney. Everybody knows that, even little kids. I mean if you get hurt and you feel that you've been wrongfully injured or haven't been taken care of, everybody knows. It's an American way. And I feel that this encourages people who really were seriously injured honestly at their job, I think that it encourages people to take maybe a payout or an easy way out. And I honestly don't know if it being public record also would affect them to get prior employment. If they were to apply somewhere else and they say, oh, well, this guy had been injured. I don't think that we can hire him. Obviously, they're not going to say that. But if it's public information, it might contribute to me not getting another job somewhere, which would contribute to poverty. And the encouraging of poor work ethic, I mean, America is just...we're suffering in this. I mean, like the senator said, 30 years ago when he got injured, there's no mail. But I guarantee you he was taken care of. My parents, they worked hard. They worked hard and they never had any issues, you know. But the work ethic today is different because people are looking for that easy payout. People are looking for it. I see it in my company. I see it in my wife's company. I see it in other...some of my kids' parents. They're looking for a payout. How can I get a payout for this accident or this thing or that thing? And I think it's bad for our state and I think it's bad for our company. And I agree with you. I agree the company should be held accountable, you know. If that individual, your friend, wasn't taken care of, the company should be held accountable. I believe that 100 percent, you know. But anybody who is injured or wrongfully hurt or anything is wrong, they know exactly what to do. I mean it's all over the TVs. You can't watch a half an hour show without seeing maybe three or four different commercials about it, you know. And so, I mean, it did hurt me. I felt that it was like an insult to injury. Any questions? [LB1015]

SENATOR MURANTE: All right. Thank you very much for your testimony. Senator Blood. [LB1015]

SENATOR BLOOD: Thank you, Chairman Murante, and thank you for your testimony. I'm a little curious. I think you're the fourth person from Tyson. [LB1015]

DEWEY DYCHES: Um-hum. [LB1015]

SENATOR BLOOD: What motivated this group to come forward today? [LB1015]

DEWEY DYCHES: Well, at first when I first had got injured, it was about two months ago. And when I had decided to go see a doctor, when I first got the mail, I went directly to my supervisor,

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

Government, Military and Veterans Affairs Committee
February 14, 2018

to the plant superintendent. I was like, who gave my information out? I was like...because and me, that was kind of an insult to me because I've always been a hard worker. I'm not looking for an easy payout. I'm not looking for easy money, you know. I want to work. I'm going to do my job. It makes me feel good about myself, you know, so I was very upset. So when I heard that this was happening, I wanted to be a part of it. [LB1015]

SENATOR BLOOD: So did you guys as workers all get together or is this something... [LB1015]

DEWEY DYCHES: I don't know any of those. I only know her because I rode up with her. I'm from a whole different plant. [LB1015]

SENATOR BLOOD: Okay. But you're all Tyson. [LB1015]

DEWEY DYCHES: Yes. [LB1015]

SENATOR BLOOD: Okay. And so how did you hear about it? [LB1015]

DEWEY DYCHES: I just heard about it from my human resources lady. She had asked me. [LB1015]

SENATOR BLOOD: If you would come and testify? [LB1015]

DEWEY DYCHES: No. She said, hey, this is what's going on. Would you be interested? I was like, yes, because she knew that I was already upset about it. I was like, absolutely. [LB1015]

SENATOR BLOOD: Interesting, okay. Thank you very much. [LB1015]

DEWEY DYCHES: Any more questions? I'll be happy to answer anything I can. [LB1015]

SENATOR MURANTE: How about that Husker basketball team, right? [LB1015]

DEWEY DYCHES: Yeah, there you go. [LB1015]

SENATOR MURANTE: All right. I see no additional questions. Thank you for your testimony. [LB1015]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

DEWEY DYCHES: Thank you. [LB1015]

SENATOR MURANTE: Additional proponent testimony to LB1015? Welcome. [LB1015]

DAVID WILLIAMS: (Exhibit 5) Hello. Get my glasses on here so I can read. And I will not be saying bad things about my wife. (Laughter) Senator Thibodeau would be sure to tell her about it. Good afternoon, Chairman Murante and senators of the Government, Military and Veterans Affairs Committee. My name is David Williams, D-a-v-i-d W-i-l-l-i-a-m-s, and I'm here in support of LB1015. I've been in the workers' compensation insurance claims world for 28 years. I've held several positions as adjuster, managed a self-insured, self-administered work comp operation, and I was also on the broker side advising various businesses that we represented. Today I'm currently director of risk management for Father Flanagan's Boys Home. So these so-called solicitation letters that everybody has been talking about, they've been around since 19...mid to late 1990s. When I worked for Werner Enterprises, we were targeted by a few attorneys because our drivers were high wage earners and that usually meant higher fees for the plaintiff attorney. I, as well as others in the insurance world, take pride in helping injured workers, providing them every benefit that's available to them under the Nebraska Workers' Compensation Act. In order to educate workers that are injured as to what workers' compensation is, I developed the work comp FAQ form that you have currently in your hands. We currently use this at Boys Town and I shared this document with several other employers that I've represented while at Aon. I feel it's important that the injured worker know their rights under the Workers' Compensation Act as well as some various company information that, you know, who do I call when I return to work? What do I do if I receive medical bills at home, things like that. And I also, if you notice on there, I give the injured worker the court's information, who to call and their Web site, things like that. And I also draw your attention to page 2 of that document--do I need a lawyer? And the wording that I used I took directly from the workers' compensation Web site. So over the years I've had injured workers call me concerned that their information has been given out to attorneys. They asked if I did it. I said, no. Was it my doctor? No. Well, who did it? Well, I said they get this information from the court. I also attached...if you're not familiar with the first report of injury, I've also attached that to the back of that form that I use just so you can see the information that goes out to the lawyers. So one letter that I received starts off, I'll read it for you: The Nebraska Workers' Compensation Court has provided records which indicate you injured your back at work. The Workers' Compensation Court has provided, it sounds to me like they are sending that information out to people without being asked for it. So to talk about a personal situation, in September 2017 I was traveling for work and I was in an airport, I lifted my bag improperly, and I hurt my back. And so I had to file a first report of injury and I knew once I filed that the slew of letters would come and that's what I have right here. So I got that from eight law firms, and they all came in advertisements like this. There's no personal information or anything like that on the outside of the envelope. But then after a couple of weeks, I received these two mailings, postcards, and that's when I became upset

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

Government, Military and Veterans Affairs Committee
February 14, 2018

about that process. And one of these postcards was inadvertently delivered to my neighbor who I politely call "Gladys Kravitz" because she knows everything and spreads all kinds of information about people in our neighborhood. And pretty soon everyone in the neighborhood knew that I had gotten injured at work. So attorney ads are all over the TV, phone book, newspaper so people have several avenues to find an attorney. But I believe this practice needs to end in this day and age of trying to protect our personal injury...our personal information and privacy. I would also ask you to encourage the opposition to ask how they safeguard the information they receive from the court. Do they have an information security policy? Do they have cyber insurance? How will they respond if someone breaches their computers? Thank you. [LB1015]

SENATOR MURANTE: Thank you for your testimony. Senator Thibodeau. [LB1015]

SENATOR THIBODEAU: Well, first, I'll just say I'll make sure I tell your wife that you spoke very highly of her. [LB1015]

DAVID WILLIAMS: Thank you. [LB1015]

SENATOR THIBODEAU: First I'll comment and then I have my question. This went way above and beyond of letting employees know their rights under workmen's comp so thank you for sharing what question and answer that you had done. Also being an employer myself, I do know we keep visibly posted in our break room and it is required by all employees to keep visibly posted in the break room their rights under workmen's comp claim. Are you familiar with that poster and what's on there? [LB1015]

DAVID WILLIAMS: Yes. [LB1015]

SENATOR THIBODEAU: Okay. And in that poster gives the 800 number to call. It does say if they feel that they need to seek an attorney then they, you know, that avenue will help them find an attorney to assist them in the claim, correct? [LB1015]

DAVID WILLIAMS: We do. I can't remember verbatim what the form says from the Work Comp Court, but we do post the required postings by the court. Then we also have on our internal intranet what to do if I'm injured, who do I tell, things like that. [LB1015]

SENATOR THIBODEAU: Great. Thank you. [LB1015]

SENATOR MURANTE: Thank you. I see no additional questions. Thank you for your testimony. [LB1015]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

DAVID WILLIAMS: Thank you. [LB1015]

SENATOR MURANTE: And we are still on proponent testimony to LB1015. Are there any additional proponents? I see none. Opposition testimony to LB1015. Welcome. [LB1015]

MICHAEL DOWD: Good afternoon. May it please the committee, my name is Mike Dowd, M-i-k-e D-o-w-d, I represent the AFL-CIO. I will also be speaking from my own personal experience of almost 29 years now working in the workers' compensation area of the law. One of the first things that struck me was a statement of the senator earlier about what the expectations were that kind of set in motion this bill. And the expectation of privacy, well, I'm going to tell you that from my experience the expectation that really is in question here is an expectation of being treated fairly. We have a series of individuals that have come up from Tyson. I can tell you over the 28 years I have filed countless cases against Tyson Foods in situations which were unfair. I'm glad that these individuals have been treated fairly and they probably were, I guess, upset if they had received information at a point in time that they were being treated fairly and they thought why are we going to be bothered with this? The question is those that are being treated unfairly. Are they being provided with information that can assist them to make sure that their situation, in fact, is treated in a fair manner? We're talking about education. Education ensures fairness. Education takes someone who is disadvantaged because of the lack of understanding of their rights and empowers them with information as even the one individual said, I found it interesting, probably because he probably learned a little bit more about what he was, in fact, entitled to. I'm glad that he was able to speak with his employer and maybe go ahead and secure those rights. But to go ahead and prevent information being disseminated to someone who is injured who maybe has been denied medical care, denied a wage replacement, denied the ability to be paid properly for a permanent injury, denied the ability to be retrained if they cannot go ahead and continue to perform the type of work they did before are tremendously important rights that someone can be and needs to be educated about to the fullest extent. It's interesting Dave Williams and I have worked on the opposite side of the table for years and years and years. I know Dave, he's a very nice guy, worked for a company called Werner Enterprises. Guess what? Werner Enterprises at the time Dave worked for them had a requirement within their contract that any of these outstate truckers that were injured, guess where they had to litigate their cases, even though they might be from California or Washington or Florida, they had to litigate those in Nebraska. Hmm. I wonder who is going to provide the information as to what their rights are to those truckers that aren't even within its jurisdiction. The question is, is there such an invasion of privacy that it outweighs those persons that can be saved by giving them some information as to what their rights are? It's not disinformation. If they have the understanding of the right to see their own treating physician, boy, that's awful important. They have a right to be paid for time that they've missed from work. That's awful important. Here's what your entitlement is for a permanent injury. How is that somehow harming that person? Or is the true harm in going ahead and stripping away the ability of that person to be correctly

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

Government, Military and Veterans Affairs Committee
February 14, 2018

informed and going ahead and placing that burden with the employer or the insurance carrier? You really have to be careful when you start to consider those factors. So that will conclude my comments. If there's any questions, I'd be happy to answer the senator. [LB1015]

SENATOR MURANTE: All right. Are there any questions? Senator Wayne. [LB1015]

SENATOR WAYNE: So let's say a hypothetical here, individual walks into an emergency room and is hurt. That doctor proceeds to call someone and tell them that they're hurt, call an attorney and say they tell them that they're hurt. Is that a HIPAA violation? [LB1015]

MICHAEL DOWD: Because it is a medical provider, if there is a disclosure of treatment information, yes. Is the first report of injury a HIPAA violation? The answer is no. There is no treatment record that's involved nor is the information being disclosed by a medical provider, which is what the HIPAA violations are meant to control so it is not a HIPAA violation. [LB1015]

SENATOR WAYNE: So it's... [LB1015]

MICHAEL DOWD: In your situation, yes, it well would be. [LB1015]

SENATOR WAYNE: But if that was you or a client of yours, wouldn't that person feel betrayed that their medical condition got disclosed without their knowledge, even the cause of their medical injury got disclosed--specifically I broke my arm, I went to the hospital and that doctor ended up telling somebody that my arm is broken? [LB1015]

MICHAEL DOWD: Okay. [LB1015]

SENATOR WAYNE: Would that betray the trust of that institution? [LB1015]

MICHAEL DOWD: The institution in terms of your treating physician, yes, and there's laws that govern that. But this is not what the law that we're talking about... [LB1015]

SENATOR WAYNE: Right. So why is it okay for the court or any form, any employer, to disclose that same injury? [LB1015]

MICHAEL DOWD: Well, let's assume that you are talking about an individual who was a child that's on a playground and broke his arm or you're riding a bike and you break your arm on a

path. Does that particular event strip you from your ability to work? Does it take away your ability to earn a wage? Does it allow for the employer to start to control your medical care and treatment and possibly manipulate it through case managers? Those are the factors that can go ahead and come into play when you talk about a workers' compensation case that are tremendously different than simply a situation where someone has a personal injury of their own that does not carry with it an entitlement to certain rights. So what we're looking at in this instance is a means of communication to allow for someone to understand rights that do exist that are meant to protect them. [LB1015]

SENATOR WAYNE: So what if the Supreme Court or through the Workers' Compensation Court just provided those rights--that you have a right to an attorney, you have a right to those things? Why do attorneys need to provide that information? And I'm an attorney and I practice personal injury. I don't send letters out, but nevertheless, I know a lot of colleagues who do. Why does that right extend to an attorney? Why not give that right to the government to say here are your rights in a workers' compensation claim? We...I'll give you an example. Criminal cases--you have a right to an attorney. They advise you of those rights. And they ask you if you can't find one we'll appoint one to you, but they advise you of those rights. Why not allow that same advisory to happen from the institution itself rather than give that information directly to the attorneys? [LB1015]

MICHAEL DOWD: Well, the information that is provided obviously can be supplementary information from the court. Let's assume that you have a 1-800 number to the court. Think back at some of your criminal clients. Are they going to call the court for the information as to how to protect their rights? [LB1015]

SENATOR WAYNE: No. But if we have a pamphlet that says you have a right to an attorney, usually all of my clients get suspicious, well, I have a right to an attorney. And the judge also reads them the penalties and everything else regarding what could happen to them and their rights. And at that point they have an informed decision whether to proceed or to hire counsel or to go with the public defender if it's that case. What I'm saying is where do we find the balance between the individual's right for privacy versus the...which I don't think the attorney needs, but the Supreme Court through the Workers' Compensation Court to provide information to give you that balance? Why do you need that information versus the court saying there is a claim filed, here are your rights, you're entitled to this under the law and then send the letter themselves instead of the multiple letters that the individual gets? [LB1015]

MICHAEL DOWD: Well, I guess one thing I'd like to obviously distinguish is there isn't a right to counsel to be appointed to represent someone on a workers' compensation claim. This isn't a criminal matter and there isn't a public defender's office that exists that allows for us to go ahead

and say we're going to ensure that your most basic rights are provided for. That doesn't exist. The reality what happens in these cases is that most employees are fearful for the loss of their jobs. God, why am I going to file this workers' compensation case? If I do that, I'm going to be seen as a liability rather than an asset. Any information that is given to them that tells them, listen, you do have rights. You don't have to have that fear for that loss of that employment. Any of that information that is being provided to them that will give them that assurance that they're not going to simply waive that right I think is very important. That active line in communication I think is very important, even if it's redundant. The simple option that exists is I've been fully informed. I decided that I'm just going to go and pass on further consultation with anyone, but thank you for the information you've given me. I think it's... [LB1015]

SENATOR WAYNE: I guess I'm still not getting an answer. The answer is why can't the court do that? Why can't the court give...and although there isn't a right to counsel for workers' compensation, there's nothing stopping this body from creating that right to counsel in statute. So I can create that with Briese's bill...Senator Briese's bill as a vehicle to say you have a right to be informed of your legal things under the law... [LB1015]

SENATOR THIBODEAU: Options. [LB1015]

SENATOR WAYNE: ...options under the law. Thank you, I couldn't think of the word. But why not have...because if I get a letter from the Supreme Court saying or the Workers' Compensation Court saying here are all my rights and, by the way, you should contact an attorney to...I'm going to get on Google who's workers' compensation attorneys and I'm going to call them. Why can't that 1 letter go out versus the 15? Why does it have to come from attorneys? I can't...I need an argument to get me there as a fellow attorney, but I can't get there right now. [LB1015]

MICHAEL DOWD: And the basis upon which I have been speaking to this committee is based upon what is written here, which doesn't include what you're suggesting. [LB1015]

SENATOR WAYNE: That's the beauty of public hearings. [LB1015]

MICHAEL DOWD: That's right. So the question is what would be the nature and the extent of that disclosure and what would be a full and fair representation of those individuals' rights? When would it go out? Would it ensure that it would go out? So the timing and the release of that information will obviously be important. And I raise that because one of the things that's very unique to the workers' compensation laws is the right to control medical care. [LB1015]

SENATOR WAYNE: Right. [LB1015]

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Transcriber's Office

Government, Military and Veterans Affairs Committee
February 14, 2018

MICHAEL DOWD: Once that accident happens, if that employee does not exercise their right to go ahead and seek treatment from a family physician and allows for that to then be controlled by the company, they lose that right to go ahead and control their care. So the question of the timing and the release of that information and their understanding of that information is very important. If the court can do that in an effective manner that fully describes their rights and entitlements and there's no delay that causes harm to those employees, you've suggested an alternative. [LB1015]

SENATOR WAYNE: Thank you. I agree with those issues, those definite issues that occur in workers' comp that deviate from what an employee can and can't do after that step is crossed so I agree with that part, yeah. [LB1015]

SENATOR BREWER: Thank you, Senator Wayne. Senator Blood. [LB1015]

SENATOR BLOOD: Thank you, Senator Brewer, and thank you for your testimony today. So I was listening a little bit to what you were talking about, about how people feel after they're injured, how people feel like they might be a liability. I see both sides of this argument. But one of the things I've noticed and I guess I'm asking for verification as your answer, either a yes or a no, when people are in crisis, they don't always know where to turn. So telling somebody just basically, hey, you have a right to an attorney or you have the right to have assistance from an attorney--and by the way, I knew we were going to have lots of lawyers speak today because we have so many lawyers in the room--in some ways having people send these letters because like I know a lot of lawyers, but I don't know what kind of law they do. I just know, again, they do a lot of lawyer speak. And if I were and I have been injured, I mean, for me the benefit of being able to go on-line and research these lawyers because good grief, you guys are everywhere. I mean I would think a victim...would that not be beneficial to have some choices as opposed to just you have the right to call a lawyer? [LB1015]

MICHAEL DOWD: Yes. [LB1015]

SENATOR BLOOD: And has it been your experience that when people are injured that many of them feel overwhelmed by that injury itself and trying to just juggle everything, trying to figure out how everything works? [LB1015]

MICHAEL DOWD: And I agree wholeheartedly. I think they need to have comfort in terms of the way that that person is able to express themselves. I don't think...I would hope not that an injured employee with some solicitation that has dollar signs all the way across the top is going to be as impressed by someone that says, here. Here's what you're entitled to. Here's my background. Here's my experience. If you need me, call me. If you don't, sorry for the intrusion.

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

Government, Military and Veterans Affairs Committee
February 14, 2018

I think that if you go ahead...and this goes back to my days in the public defender's office, someone said why are you at the public defender's office? Why are you trying to keep all those guilty people out of jail? And the answer is I'm trying to keep that one innocent person out of jail. The same thing. If you're going to go ahead and have that solicitation that's going to capture that one person who's being treated unfairly, think about not going to the case manager and actually finding out what their true rights are, you're going to save that person. You're going to help that person. It may go ahead and upset some people that are being treated fairly or maybe can fight for themselves more effectively than others. That's not who we're trying to protect. [LB1015]

SENATOR BLOOD: Yeah. Frankly, I think it's a lot more annoying to get political mail than it is...just saying. [LB1015]

SENATOR WAYNE: We can agree on that. [LB1015]

SENATOR BLOOD: I'm a public servant and I think that so. All right, thank you. [LB1015]

SENATOR BREWER: Additional questions? Thank you for your testimony. You have the con. [LB1015]

SENATOR MURANTE: Welcome. [LB1015]

DENNIS CRAWFORD: (Exhibits 6 and 7) Thank you. Thank you very much. Good afternoon. I'm Dennis Crawford, D-e-n-n-i-s C-r-a-w-f-o-r-d, testifying on behalf of the Nebraska Association of Trial Attorneys against LB1015. I've practiced personal injury and workers' compensation law in Nebraska since 1986. Between 1997 and 2017, I sent out letters of advertisement for both workers' compensation and personal injury cases. I mean this bill is about the constitution, the First Amendment, and the free market. Advertising is protected as commercial speech under the First Amendment. Starting in the late 1970s, the Supreme Court said that businesses have the right to advertise under the First Amendment. I would submit that LB1015 violates the First Amendment because commercial speech has been recognized as free speech for 40 years now. I also see LB1015 as an unnecessary and burdensome regulation of the free market and small business owners. I'm a small business owner that happens to represent people who are injured in car accidents and on the job. Other small business owners rely upon public information in order to send out letters of advertisement. If you buy a house, you get letters from title companies and other businesses, insurance companies, for example. I bought a house in 2014. I got a bunch of letters of advertisements from insurance agents and title companies. I just pitched them, put them in the trash can. It was okay. If you have a baby, you get letters from life insurance agents. So why should we discriminate against small business

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

Government, Military and Veterans Affairs Committee
February 14, 2018

owners who provide legal services but not try to take away advertising rights from those that perhaps represent insurance companies or insurance agencies? If you take a look at the letter I sent out between 1997 and 2017, it's a pretty straightforward pitch. You know, if you're hurt on the job, you need help, give me a call. It's pretty low key. It's pretty ethical. Advertising letters are heavily regulated by the State Supreme Court and by the Bar Association. They have to be truthful. They have to be accurate. And if you break the rules, you could end up with a bar complaint. And, you know, one of the unspoken...well, the major rationale for the bill I've been hearing about so far is so-called worker privacy. Okay? If you take a look at the medical authorization, this is from Werner Enterprises, if you file a comp claim, you don't have any worker privacy. If you want to make a comp claim against Werner and many other employers, you have to sign this medical authorization allows Werner to get access to your STD records, your psych records, your mental health records so these claims of worker privacy ring hollow in light of this invasive medical authorization that Werner and other employers want you to sign. The other unspoken assumption, perhaps behind the bill, there's some kind of litigation or work comp crisis, we're a litigious society, there's too many lawsuits. Fortunately, that's just not the case. If you look at the excerpt from the annual report from the Work Comp Court, reported injuries are down by 20 percent over the last decade. The numbers of injuries are going down. The incidence of litigation is down. So there's not a workers' compensation crisis that would justify limiting the rights of workers to have access about attorneys. And if you also look at the 2016 Oregon Workers' Compensation Premium survey, Nebraska has low insurance premiums for workers' compensation. We're number 30 out of 50 in the country so our premiums are below average. And I also enclosed in my packet of information a press release from the Comp Court from 2016 saying that Nebraska's workers' compensation system maintains low insurance premium rates so there's no workers' compensation crisis to justify this kind of invasion of our First Amendment rights and the rights of access to information for injured workers. And then lastly, I have a questionnaire from Werner Enterprises, they're a proponent of this bill usually. They basically discourage people from hiring attorneys. I mean, the rationale for the bill that I see is the employers would prefer that people remain unrepresented. Because if you don't know your rights, you're less likely to collect what you're entitled. So I just think this is a violation of the constitution and unnecessary government regulation of small business owners and that's why I oppose the bill. So thank you very much for your time. I'm ready for any questions you may have for me. [LB1015]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? I see...oh, excuse me. Senator Wayne. [LB1015]

SENATOR WAYNE: So you stated that there was a Werner example that if you...you don't have privacy right or? [LB1015]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

DENNIS CRAWFORD: Yeah. Take a look at the authorization to disclose health information, Senator. [LB1015]

SENATOR WAYNE: Isn't this yours? [LB1015]

DENNIS CRAWFORD: Let me see. May I approach? (Laughter) I'm used to being in court. I'm used to being in court. This is a new venue for me. [LB1015]

SENATOR MURANTE: I need a gavel is what I need I think. [LB1015]

SENATOR WAYNE: Yeah, I understand that you got. [LB1015]

DENNIS CRAWFORD: It's right here. I'm sorry. (Inaudible). It's this here. This is from Werner Enterprises. [LB1015]

SENATOR WAYNE: Okay. I got it. Thank you. [LB1015]

DENNIS CRAWFORD: Yeah, yeah. I didn't mean to intrude on your space. [LB1015]

SENATOR WAYNE: No, no. Now this release only applies...you're only releasing your medical records to Werner. Werner can't put it in the paper. They can't... [LB1015]

DENNIS CRAWFORD: Yeah. Werner would have access to the records. But I'm just telling you that they're going to have access to your STD records and your psych records which have nothing to do with a back injury or a knee injury or a shoulder injury. [LB1015]

SENATOR WAYNE: That's only if you check the box, I mean. [LB1015]

DENNIS CRAWFORD: Well, they won't pay your claim unless you check the box. That's just the reality. [LB1015]

SENATOR WAYNE: That's a different issue. [LB1015]

DENNIS CRAWFORD: Yeah, I'm... [LB1015]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR WAYNE: But this is if you have questions about my disclosure, I can...so, yeah, this isn't really Werner though. This is what... [LB1015]

DENNIS CRAWFORD: It's from Werner Enterprises, Senator. If you look at the back page... [LB1015]

SENATOR WAYNE: You work for...what's your name? [LB1015]

DENNIS CRAWFORD: Dennis Crawford. I represent injured workers who make claims against Werner. If you look at page 2, Brad Shidler is the attorney for Werner Enterprises in paragraph 5. [LB1015]

SENATOR WAYNE: Right. But it says in here if you have any questions to contact you. [LB1015]

DENNIS CRAWFORD: Where do you see that? [LB1015]

SENATOR WAYNE: On page 2. [LB1015]

DENNIS CRAWFORD: Which number? [LB1015]

SENATOR WAYNE: Paragraph 7. [LB1015]

DENNIS CRAWFORD: Well, yeah. They contact Brad Shidler, the attorney for... [LB1015]

SENATOR WAYNE: No, no, number 7. [LB1015]

DENNIS CRAWFORD: Oh, I see that. That's what they do is they'll send me this authorization if I represent a worker and say your client needs to sign this authorization or else we're not going to pay the claim. [LB1015]

SENATOR WAYNE: Okay. So you're already representing... [LB1015]

DENNIS CRAWFORD: Correct. Correct. That's right, sir. I'm sorry I didn't see that. [LB1015]

SENATOR WAYNE: This...that changes...no other questions. [LB1015]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR MURANTE: Yes. Senator Thibodeau. [LB1015]

SENATOR THIBODEAU: Thank you, Mr. Chairman. So I understand probably your concerns with this disclosure of information. Do you have any examples in which Werner has used this information against an employee or have just used it to help in actually the work comp claim? [LB1015]

DENNIS CRAWFORD: Well, just for my own personal experience in representing Werner workers. I mean, because I'm an attorney, I kind of know the rules of game and I'll tell their lawyer, I'll say, listen, Brad. We ain't signing this thing about the STDs. Will you still pay the claim? And he'll kind of like back off and say, okay, you know, Crawford, we'll still pay, all right, okay. But, you know... [LB1015]

SENATOR THIBODEAU: Okay. So they're still being...so Werner is still, and I don't mean to be putting Werner on trial here. It's just you're using them as an example... [LB1015]

DENNIS CRAWFORD: Right. [LB1015]

SENATOR THIBODEAU: So they're still willing to work with you and things are working out and... [LB1015]

DENNIS CRAWFORD: Sometimes they work with me, sometimes they don't, you know. Sometimes they don't pay the claim. We end up in front of a comp judge who decides the rights of the parties. It all just...every case is a little bit different. I mean, most cases eventually get settled out of court. I'll be honest with you. [LB1015]

SENATOR THIBODEAU: Okay. And then second question quickly because you did refer to the First Amendment right as far as advertising. And, yes, you do have a right to advertise. [LB1015]

DENNIS CRAWFORD: Yeah. [LB1015]

SENATOR THIBODEAU: However, Mr. Williams had given us...this is what's on the first report of alleged occupation injury or illness. [LB1015]

DENNIS CRAWFORD: Um-hum. [LB1015]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR THIBODEAU: And in there it states the type of injury or illness, part of body affected, and how the injury or illness occurred. [LB1015]

DENNIS CRAWFORD: Correct. [LB1015]

SENATOR THIBODEAU: So this is information that the attorneys that are soliciting business are receiving. [LB1015]

DENNIS CRAWFORD: Correct. [LB1015]

SENATOR THIBODEAU: So they are receiving private health information that then is not protected by HIPAA because HIPAA does not apply to work comp. [LB1015]

DENNIS CRAWFORD: Here's what happens when somebody gets hurt on the job. As the employer, you file a first report with the Comp Court and then that becomes open for public inspection. You just write down the name of the worker, their address, and then, you know, the part of the body injured, like back, left knee, right knee, hernia. I mean there's no medical records attached to it. Then you might have a short description of the accident: worker strained his back lifting a box. But there's no medical records attached to it so it's no HIPAA violation. [LB1015]

SENATOR THIBODEAU: So the physician that I see after I am injured at work does not attach their medical report to this report. [LB1015]

DENNIS CRAWFORD: No, absolutely not. It's filled out by the employer and the employer only. It's just a bare-bones description of the injury and how it happened, you know, type of injury: back. How did it happen? Crawford lifted a box and strained his back. That's about all there is to it. [LB1015]

SENATOR THIBODEAU: What about a small employer who's not used to filling out work comp claims? Could they actually give way more detailed information than really what should be put in there... [LB1015]

DENNIS CRAWFORD: No. [LB1015]

SENATOR THIBODEAU: ...because they want to be thorough and they're not used to filling out a work comp claim? [LB1015]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

DENNIS CRAWFORD: Well, I've looked at thousands of these first reports in my 32 years and I've never seen more than just a bare-bones description. I think the Comp Court is available. You can go to their Web site or call them and get help on how to fill it out, but I've never seen any details on any of them. They're usually pretty sketchy, pretty bare bones. [LB1015]

SENATOR THIBODEAU: Okay. So sorry, one last question. So as an employer, you're saying I can go on to the Work Comp Web site and get information on how to fill this out. [LB1015]

DENNIS CRAWFORD: Yeah. [LB1015]

SENATOR THIBODEAU: So as an employee, I can also go onto the Work Comp Web site and figure out how to obtain legal counsel, correct? [LB1015]

DENNIS CRAWFORD: Well, you can go to the Work Comp Court Web site to look at your rights under the work comp laws. But the court is barred from providing legal advice to the workers. They're barred from making referrals to attorneys. They have to scrupulously be neutral and they always have been, as long as I've been in the practice of the law. [LB1015]

SENATOR THIBODEAU: Okay. [LB1015]

DENNIS CRAWFORD: I mean, you know, the Comp Court Web site spells out what your rights are under the comp laws, but I haven't looked at them for awhile. I've had conversations with the in-house counsel with the Comp Court before. They never tell you what happens if it's denied. They never say, king's X, if ABC company wants to deny your claim, you could end up getting nothing. It's usually, the premise of what's on the Comp Court, it's like if the employer is cooperating the claim, paying the "bennies," paying the medical bills. They never really explain what happens if the employer says no, then, you know, then what do you do, where do you go, so. [LB1015]

SENATOR THIBODEAU: Okay. Thank you. Thank you, Mr. Chairman. [LB1015]

SENATOR MURANTE: Thank you, Senator Thibodeau. I see no additional questions. [LB1015]

DENNIS CRAWFORD: Thank you, everybody, for your time. I appreciate it. [LB1015]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR MURANTE: Thank you. Thank you for your testimony, much appreciated.
[LB1015]

DENNIS CRAWFORD: Have a great day. [LB1015]

SENATOR MURANTE: Welcome. [LB1015]

SHAWN RENNER: Thank you. Good afternoon, Senator Murante, members of the committee. My name is Shawn, S-h-a-w-n, Renner, R-e-n-n-e-r. I'm a lawyer at the Cline Williams Law Firm here in Lincoln and I'm representing Media of Nebraska, Inc., today. Media of Nebraska, Inc., is a nonprofit corporation that advocates on behalf of Nebraska's press and broadcast news media. I'll be very brief. This is an issue that's been around for at least the last 20 years in various forms. It's come before this committee and a couple others, actually. The news media as a general matter opposes the creation of additional exceptions to the public records act, which this does, and I understand that general principles don't go very far in terms of crafting public policy and legislation. But I wanted to make that clear that that is one of the goals of my organization is to keep the exceptions to the public records act to the lowest number as possible. More importantly here, of the 20 exceptions to the public records act that Senator Briese mentioned, not a single one of them focuses on a court record or document. Some of them may apply to portions of records that would appear in court records. This would be the only exception that says, even though this is a public process, even though this is a court, this record that is required by the court to be filed is not available to anybody but the parties. That would be a new aspect to Nebraska law that exists in no other place. For good or ill, the workers' compensation system is sometimes described as a bargain. Employees give up the right to go sue in court and obtain larger amounts of money in exchange for a court system that is geared towards workers' compensation claims. And that bargain process has resulted in both sides, employers and employees, giving up some things throughout the years. We don't have a private justice system. Justice is done publicly in the state of Nebraska, has been for 150 years. In fact, we have a provision in our constitution that says all courts shall be open. This would provide an exception to that. I think that's bad public policy. There's a reason that courts open...operate in the open and that's so that the public, who is served by the justice system, knows what's going on. My clients do not report on first reports of injury. I'm not aware of a newspaper or a broadcast entity ever reporting on a particular first report of injury, but they do watch what happens in the Workers' Compensation Courts and they do obtain information so that they can understand how that court process works and, to the extent there is some aggregate information or information that indicates something has gone wrong or questions are raised, that information is available and can be reported on. This would remove some of that information from the public record. And again, I think that's bad policy. Last comment, we've had some comments about HIPAA and how it may or may not apply here. I'm certainly no HIPAA expert, but I think it's very clear that HIPAA does

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

Government, Military and Veterans Affairs Committee
February 14, 2018

not apply to court records, generally, and this is not a HIPAA issue from a legal standpoint. That's all I have to say. [LB1015]

SENATOR MURANTE: All right. Thank you for your testimony. I do have one question. So it's true, as far as I am aware, that public records exemptions have not applied to court documents. I can think of a couple examples off the top of my head where we say there are...there's information contained in files that are held by the government but they cannot...and they are public records, but they cannot be used for commercial purposes. Is that something that your organization would support more, rather than going the public records route? [LB1015]

SHAWN RENNER: There's another bill pending in the Legislature still, I think, LB319 from last session, that did not create an exception to the public records statute but did most of the other things that Senator Briese's bill would do. And as part of the discussions in that, my clients have indicated to the stakeholders there that if there's any exception for the news media so that they can get access to these records, they don't have a problem with it. The news media doesn't have a dog in the fight between employers and personal injury attorneys, employers and employees. My client's concerns are being able to have access to information that the public needs to know if the courts are operating correctly or not. [LB1015]

SENATOR MURANTE: Okay. [LB1015]

SHAWN RENNER: And I think creating an additional exception to the public records act is probably not the way to go there. [LB1015]

SENATOR MURANTE: Understood. I see no additional questions. [LB1015]

SHAWN RENNER: Thank you. [LB1015]

SENATOR MURANTE: Thank you for your testimony. Welcome. [LB1015]

MIKE DYER: (Exhibit 8) Thank you. My name is Mike Dyer, M-i-k-e D-y-e-r. I've been an attorney in Nebraska since 1991. As mentioned earlier, there is another...LB319, that was heard last year in the Business and Labor. And Business and Labor, for about the last ten years, has rejected enacting that version that provides for confidentiality of and access to certain injury reports under the Nebraska Workers' Compensation Act. That section has got seven subcategories. This has got five. But they're basically the same. The pamphlet that I've sent out, I send out to injured workers. There's ethical rules that were discussed about what can be sent and it's got to say this is an advertisement. And it's employee-driven information about their rights

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

Government, Military and Veterans Affairs Committee
February 14, 2018

under workers' compensation. Many hardworking Nebraskans who are injured at work, doing construction or cleaning bedpans, don't possess basic computers or smart phones and, if they do, they lack a lot of the technical abilities to be able to research and properly find out what their rights are. There's limitations on accessibility to the Internet too. The workers' comp rights that are found in Section 48 are not something that a laborer or a truck driver or a nurse would ordinarily know until they're injured and at that point they have to kind of guess what their rights are. We've already talked about some of the rights that you heard about: the choice of a physician and benefits you'd be entitled to. But there's no obligation for the workers' comp carrier to advise an injured employee of their rights. In fact, if the workers' compensation carrier fails to communicate pertinent information or doesn't give accurate information, the claimant is prohibited from bringing a claim for bad faith against a workers' compensation carrier in Nebraska. If the workers' compensation...if the injured worker looks to the Work Comp Court for advice, as was mentioned, they're limited on what can be given. The Work Comp Court cannot tell an injured worker how the statute specifically applies to their case. If they did, they'd be practicing law. So they can say, here's what the rules are, good luck, but they can't advise them and, as was mentioned earlier, they can't recommend attorneys, either. When an injury occurs to a worker, they're embarrassed, they're concerned about being considered a fraud or faker or an exaggerator, so they've got this pressure on them to begin with. But they've got nobody who is going to be able to tell them or has an obligation to tell them what their rights are. Me mailing out something like that, and other attorneys mailing in information, it gives them information it wouldn't have had otherwise. Passage of this bill would prohibit people from getting employee-driven information and they'd have to rely on the insurance company or locker room gossip of coworkers, and none of those have to be accurate. For many years, I, along with other attorneys, have sent these mailings out. The information we have sent out is a spreadsheet that's provided by the Workers' Comp Court. We don't get the first report that was attached to Mr. Williams' exhibit. We don't comb through the first reports to find ones we like. We're sent a list from the Workers' Comp Court that could then be converted into a mailing list. I've routinely received positive feedback from a number of injured workers who have told me that the information has been very helpful and something that they were unaware of. And if they don't like what they get in the mail, they can throw it away, as was already mentioned. That's about all I have. [LB1015]

SENATOR MURANTE: All right. Thank you, very much, for your testimony. I see no questions. Oh, excuse me. I do see a question. [LB1015]

SENATOR THIBODEAU: Sorry. [LB1015]

MIKE DYER: Yes. [LB1015]

SENATOR MURANTE: Senator Thibodeau. [LB1015]

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Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR THIBODEAU: Yes, thank you, Mr. Chairman. I'm just curious because we did hear earlier testimony about the information possibly not being safeguarded. So how do attorneys safeguard the information that they receive so as to people's information isn't out there and other people knowing, you know, that they have been hurt at work? [LB1015]

MIKE DYER: Well, it's downloaded into the lawyer's software program and the safeguards that an attorney takes with information is protected. It's electronic information, so I work with pretty good computer people who safeguard all my confidential information. [LB1015]

SENATOR THIBODEAU: Okay. So then but if that's going out by mail, how do...how is it ensured that it's not accidentally getting delivered to somebody else? [LB1015]

MIKE DYER: You mean if the mailman brings it to the wrong person? [LB1015]

SENATOR THIBODEAU: Correct. [LB1015]

MIKE DYER: I don't know. [LB1015]

SENATOR THIBODEAU: Yep. [LB1015]

MIKE DYER: I mean, if they make a mistake, I don't know what the rights are as far as postal carriers. [LB1015]

SENATOR THIBODEAU: Okay. Thank you. [LB1015]

SENATOR MURANTE: Thank you, Senator Thibodeau. I see no additional questions. [LB1015]

MIKE DYER: Thank you. [LB1015]

SENATOR MURANTE: Thank you for your testimony. Welcome. [LB1015]

JOHN LINGO: (Exhibit 9) Good afternoon. My name is John Lingo; it's L-i-n-g-o. Any of you that may have met me before, if you were listening to my voice, you would recognize that it's me getting over a bad cold, so what I did is give you a letter that I put together this morning, when I wasn't sure I was going to be able to get through my talk today, that you can read at your leisure. And I want to bring up a couple additional points that haven't been raised yet today. There has

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Transcriber's Office

Government, Military and Veterans Affairs Committee
February 14, 2018

been some discussion about LB319. I found it interesting when this bill came up this year that it was in a different format in an attempt to amend a different statute, which then brings us in front of a different committee, because for going on 15-20 years this bill has come up and this bill has never gotten out of committee. I've been practicing law in Omaha, Nebraska, for 27 years. I grew up in a John Deere diesel shop in North Platte, Nebraska. My letter talks about my typical client. I call him "Joe Schmuckatelli." I am Joe Schmuckatelli. The problem, one of the problems that we have with this bill and where it takes us, I want to look at this from a slightly opposite angle. Senator Thibodeau, you mentioned that you are an employer. [LB1015]

SENATOR THIBODEAU: Um-hum. [LB1015]

JOHN LINGO: If you have somebody that applies for a job at one of your businesses, you or an HR person or somebody like that is going to go through a background check of that employee. One of the places that that employer is going to go check, if he or she is worth their salt, is going to be with the Nebraska Workers' Compensation Court. And what are they going to look for? They're going to look for the first-report-of-injury form, the identical form that we're talking about here today. So it's not as if the people like me, who send out these letters, are the only ones that use these forms. Every single potential employer in the state of Nebraska that wants to do a background check on "Schmuckatelli" Lingo is going to check with the Nebraska Workers' Compensation Court to see if "Schmuckatelli" Lingo has ever filed a first report of injury for any accident on the job. They're also going to check at the DMV. What are they going to find at the DMV? They're going to find a motor vehicle accident report that's going to have more information on it than a first report of injury has on it because, guess what, folks, that's got our date of birth on there, that's got the body part injured on there, that's got way more information on it from a privacy standpoint than this form has that comes to me. And I, again, Dyer just mentioned, we don't get the form. We get a spreadsheet that has certain little tiny bits of information that we can look through to say, I just want to send back injury letters to people in Douglas County, Nebraska, and I can limit the letters that I send to those folks, which is basically what I do. So this is a thinly disguised bill hiding behind some argument about privacy. But the simple fact of the matter is that the same privacy is going to be attempted to be bartered away, if you will, by any potential employer who wants the same information that's contained in these forms. We are regulated by the Supreme Court very severely on this. And one last thing that you'll see on the second page of my letter, near the very end, I've sent about 39,000 of these letters over the last 15 years. I've gotten one complaint, telephone call from a nice gentleman, wondered, first of all, how did I get his information. I explained to him how I got it from the Nebraska Workers' Compensation Court. He said, okay. He says, well, I guess my information is probably out there, all over the place. I said, yeah, Bill (phonetic), probably is. And then he had a couple questions for me and relatively nice guy and I'm used to giving out free legal advice and Bill and I get to talking about it. Lo and behold, Bill wasn't getting paid what Bill was supposed to be getting paid. Didn't hire me as his lawyer, but I hope to goodness that he called that comp

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Transcriber's Office

Government, Military and Veterans Affairs Committee
February 14, 2018

claim adjuster back and got paid what he was supposed to be paid. So that was the upshot of my one objection that I've had over these many years that I've sent these letters. So it's another attempt to do the same thing that's been attempted so many times before and I just simply ask that you don't break down this line of communication between us and injured Nebraska workers, let people make their own choices. Senator. [LB1015]

SENATOR MURANTE: All right. Thank you for your testimony. Senator Thibodeau. [LB1015]

SENATOR THIBODEAU: Thank you, Mr. Chairman. Just a couple of things that you mentioned,... [LB1015]

JOHN LINGO: Go ahead. [LB1015]

SENATOR THIBODEAU: ...one, yes, I am a business owner. I employ 48 people. I actually do quite extensive background checks because of the nature of business that I own. I have actually never once even contemplated doing a work comp background check. It's mainly, you know,... [LB1015]

JOHN LINGO: Maybe you should. [LB1015]

SENATOR THIBODEAU: ...toward the safety and security. But actually wouldn't that be almost even an additional reason for this bill, so that an employer could not use a former work comp claim against somebody who is applying for a job? [LB1015]

JOHN LINGO: It seems to me that that's the double standard, Senator. If the employer wants to hide behind the privacy but the same...is the employer willing to trade that off... [LB1015]

SENATOR THIBODEAU: Well, I... [LB1015]

JOHN LINGO: ...in the rest of the bargain that we've been talking about earlier? [LB1015]

SENATOR THIBODEAU: And I guess in closing the senator can maybe address that, but it would seem to me that this bill would cover the privacy of, you know, of this person's...that an employer could not go out there and get that information, as well as attorneys. That's how I read the bill. [LB1015]

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Transcriber's Office

Government, Military and Veterans Affairs Committee
February 14, 2018

JOHN LINGO: And that may be an unintended consequence of this legislation, which I say that on this open forum to talk to my opponent friends...proponent friends, I should say. Do they really realize that what they're doing with this bill? If they claim...if this door is closed, it's closed for everybody. It's closed for me as a plaintiff's attorney, it's closed for a potential employer, it's closed, period. Are potential employers willing to make that deal and take that bargain? My experience from thousands and thousands and thousands of workers' compensation claims, is that employers are desperately interested in the past work activities, experiences, injuries, troubles, everything under the sun that they can get about a potential employee, before they're on the books. [LB1015]

SENATOR THIBODEAU: However, when looking at hiring an employee, wouldn't that be considered discrimination if you didn't hire them because they had filed a work comp claim? [LB1015]

JOHN LINGO: No way--part of your background check, no different than a felony conviction is going to stop somebody from working for your company, no doubt about it, no chance. [LB1015]

SENATOR THIBODEAU: Well, I...there's...I would leave that to other attorneys in this room, I guess. [LB1015]

JOHN LINGO: Any smart... [LB1015]

SENATOR THIBODEAU: But for me, as an employer, I would call that probably discrimination because it has nothing to do with whether or not they can perform the necessary functions of the job. [LB1015]

JOHN LINGO: Let's...let me speak more specifically and let's not kid ourselves, no employer in their right mind is going to tell a potential employee I'm not hiring you because I searched your name and found out that you've made two prior workers' compensation claims, not going to happen. I'm just simply going to say this is a hire-at-will, fire-at-will state, I choose not to hire you for the job, and that information stays confidential in my file. [LB1015]

SENATOR THIBODEAU: Right. [LB1015]

JOHN LINGO: That discussion is never going to be had. Is that decision being made all the time? You bet your bottom dollar that it is. [LB1015]

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Transcriber's Office

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR THIBODEAU: Okay. Well, thank you. Thank you, Mr. Chairman. [LB1015]

SENATOR MURANTE: Thank you, Senator Thibodeau. Senator Brewer. [LB1015]

SENATOR BREWER: Thank you, Mr. Chairman. All right, you've intrigued me now, so we're going to backtrack a little bit here. [LB1015]

JOHN LINGO: Good. [LB1015]

SENATOR BREWER: All right. So you said as you do this check, you do the workers' compensation check and then DMV. What else do you use to... [LB1015]

JOHN LINGO: I do not. I just use workers' comp. I'm saying that that...my colleagues who do personal injury work go to...I'm from Omaha. They go to the Omaha Police Department. They fill out a form on a day-by-day basis and they see actual copies of motor vehicle accident police reports. They study those reports, write down that information, actually take an electronic photocopy of that information back to their office, generate a letter with that information to Mr. Schmuckatelli who says, hey, I know that you were injured in a motor vehicle accident on thus and such a date at thus and such a location, I'm an injury lawyer, please call me. [LB1015]

SENATOR BREWER: And any of those injuries that happened outside the state of Nebraska, you wouldn't have any visibility on them, would you? [LB1015]

JOHN LINGO: I'm not sure I understand your question. [LB1015]

SENATOR BREWER: Well, if you're trying to...if you lived, and say you lived in Council Bluffs and you had worked there and been injured and all,... [LB1015]

JOHN LINGO: Okay. [LB1015]

SENATOR BREWER: ...there's no way for that to be in a network that you would have available to see other... [LB1015]

JOHN LINGO: From a workers'... [LB1015]

SENATOR BREWER: ...businesses or...yeah, for work. [LB1015]

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Transcriber's Office

Government, Military and Veterans Affairs Committee
February 14, 2018

JOHN LINGO: From a workers' comp standpoint? [LB1015]

SENATOR BREWER: Right. [LB1015]

JOHN LINGO: We only receive first reports of injuries of injuries that occur with...that happen inside the state of Nebraska. [LB1015]

SENATOR BREWER: State of Nebraska. [LB1015]

JOHN LINGO: Now, to your point more specifically, do I have clients that live in the state of Iowa and get hurt working in the state of Nebraska? Yes. But I've only received their first report of injury because they got hurt in the state of Nebraska. [LB1015]

SENATOR BREWER: Okay. Thank you. [LB1015]

SENATOR MURANTE: Thank you, Senator Brewer. I see no additional questions. Thank you for your testimony. [LB1015]

JOHN LINGO: Thank you all. [LB1015]

SENATOR MURANTE: Is there additional opposition testimony to LB1015? I see none. Is there any neutral testimony on LB1015? Welcome. [LB1015]

TONYA FORD: Thank you very much, Mr. Chairman and Senators, for allowing me to speak. I kind of have a different view of it. I did come in here originally...oh, I'm sorry. My name is Tonya Ford, T-o-n-y-a F-o-r-d. I originally came in here in opposition today. However, with the amendments, I have changed it to neutral capacity since the amendments. So, again, my name is Tonya Ford and I am the executive director of a national nonprofit organization known as United Support and Memorial for Workplace Fatalities. We are a family-based organization that offers support, guidance, and resources to families that have forever been affected by a work-related incident. Although we are a national organization, many of the families, including myself, reside here in Nebraska, and I am here today, more importantly, as a family member. It's very important to know that names received from workers' compensation are those of workers killed immediately from their incident and others may be of workers survived but, sadly, succumbed from their injuries months, if not years, later. Not all workers' related incidents are newsworthy, causing them to go unnoticed. On January 29, I became a family member of USMWF after my uncle was fatally injured at Archer Daniels Midland when he fell 80 feet off of a belt-operated man lift. We had so many questions, not only about what happened that day, what caused the

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Transcriber's Office

Government, Military and Veterans Affairs Committee
February 14, 2018

horrific accident, or incident, I'm sorry, but also what is next: Who is investigating it? Who do we talk to? Who do we not talk to? Why won't the company talk to us? Do we accept the burial benefits from workers' compensation? Do we have to open an estate? But most importantly, who can we turn to for help? We soon realized we were not alone. My uncle's was the 11th fatality injury Nebraska worker in 2009 and we were only 29 days into the year. USMWF soon reached out to families and assisted us in the many unanswered questions we had. I took USMWF's warm embrace and began my journey and joined the cause. Through the extensive research and the names I received through Workers' Compensation public records, I've been able to reach out to 450 families across Nebraska since 2009 that have been affected. I have been their shoulder to cry on and I have been able to help them find the answers to many of their questions, questions such as: How long does OSHA investigate the incident? Why didn't OSHA investigate my loved one's incident? Why won't the local law enforcement give me the investigation report? Why can't I sue the company? Who is my state senator? How do I contact them? Should I have my question directed to a federal representative or state representative? The public records allow USMWF not only to assist families, but it also allows us, for the past nine years, to honor and remember our fallen workers on Nebraska Workers' Memorial Day Candlelight Vigil held on April 28. Without their names, we will no longer be able to honor those that helped build and develop our great state to what it is today and what it will be tomorrow. Without these public records, families from this point forward will be forgotten. Nebraska family member victims are truly amazing. They walked in parades. They have told their stories in hopes to make a difference and give true understandings of their loss of preventable, similar incidences. They have held the hands and embraced new family member victims as they are lost with the understanding of what is going through. No matter what list our loved ones' names are on, it doesn't change the fact that they are gone; however, allowing these records to remain public will let family member victims receive the help they need after their loss, whether it be from USMWF or from a local attorney. Nebraska will be able to continue honoring and remember our fallen workers. Nine years after my family's loss, I continue to know and understand the importance of the names that make this list I receive from Workers' Compensation. They're not just numbers or statistics. They are the son, Ryan Hitchler; the husband, father, and son, Jason Weston; father and brother, David Ball; a brother, Keith Everett; and a son, Rodney Bridgett. I again ask you to remember those that will be affected by not allowing this information from being public record and workers that will never be forgotten. Thank you again for your time and I would be willing to answer any questions. [LB1015]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? I see none. [LB1015]

TONYA FORD: Thank you. [LB1015]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR MURANTE: Thank you very much for coming down. Additional neutral testimony on LB1015? I see none. Senator Briese, you're welcome to close. [LB1015]

SENATOR BRIESE: Thank you again, Chairman Murante and members of committee. Heard a lot of great testimony today, heard a lot of great questions from everybody, and had a good chance to flesh this out. I want to address a couple of things I heard and then go through some of my comments. I heard a concern earlier that we've always had a public system of justice and I don't think enactment of this bill has an impact on that to the extent something ends up in litigation. We still have a public system of justice here. That really shouldn't be a concern. I heard a First Amendment concern. I was a little bit puzzled by that. I'd have to have that explained to me a little more, but it doesn't seem to me like we are...well, we're not restricting the commercial speech of lawyers, in my view. They still have the opportunity to advertise all they want within the confines of restrictions they face on that. But it doesn't restrict their First Amendment rights in my view. There was a suggestion we're discriminating against small businesses, but here we have to remember that we're talking about medical, not medical history but some medical components to these reports, along with identities. This isn't phone book information we're talking about or simply address information. Future prospective employers have access to this information. There is a perception this information can be used to the disadvantage of the injured workers we're talking about here. And disclosure of this can have a chilling effect on reporting of these injuries. I believe this is good legislation. It protects the privacy rights of the workers we're talking about here. And some suggested, well, but we're making employers guess at their rights, but I submit we're not giving employers enough credit here. They, a lot of those folks, know more about their rights than you or I would. They have access to information concerning their rights, whether we're talking about ads, whether we're talking word of mouth, Workmen's (sic) Compensation Court Hotline, pamphlets, things of that sort, social media. Most of them have family lawyers that can put them in the right direction. They have an idea of what's going on. We're not giving them enough credit. They're capable of discerning their rights if they don't already know them. And from the testimony, it's clear that rank-and-file doesn't want this disclosed. They don't want future employers browsing these records. They don't want an avalanche of lawyer solicitation letters and this...and a lack of confidentiality makes some of them reluctant to submit reports. And I didn't hear anything to suggest a compelling need for disclosure of this information. There's no evidence that lack of disclosure will lead to less representation of injured employees. There's no evidence that a lack of disclosure will result in any harm to employees. Any suggestion to the contrary, I maintain, is simply speculative. This bill balances the need for protecting the privacy rights of individuals with the need for this information in a limited set of circumstances by setting forth the exceptions to nondisclosure. And I think it's a good...most of what we do in this body is balance competing interests, and I think this is a good balance of competing interests, and I'd ask for your support in moving this bill forward. Thank you. [LB1015]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR MURANTE: And thank you, Senator Briese. Senator Blood. [LB1015]

SENATOR BLOOD: Thank you, Chairman Murante, and thank you, Senator Briese. [LB1015]

SENATOR BRIESE: Sure. [LB1015]

SENATOR BLOOD: I'm curious. We have such an enthusiastic group from Tyson. Did they bring you this bill? Was it their suggestion to do this bill? [LB1015]

SENATOR BRIESE: The folks from Tyson? [LB1015]

SENATOR BLOOD: Um-hum. [LB1015]

SENATOR BRIESE: Not to my knowledge. If they were involved in it, I don't know that they were, but... [LB1015]

SENATOR BLOOD: They had...what brought this bill to your attention? [LB1015]

SENATOR BRIESE: A group. I was approached by Bob Hallstrom who represents a group. He probably indicated the group he's with. [LB1015]

SENATOR BLOOD: Okay, thank you. [LB1015]

SENATOR BRIESE: Sure. [LB1015]

SENATOR MURANTE: (Exhibits 10 and 11) All right. I see no additional questions. I do have two letters in support of LB1015, one from Curtis Ruwe of Crete Carrier and one from Andy Hale of the Nebraska Hospital Association. With that, we will close the hearing on LB1015, move to our next item on the agenda where we'll talk about elections and, accordingly, clear the room. (Laughter) [LB1015]

SENATOR BREWER: All right, we will...we will go ahead and move to LB1068. Senator Murante, welcome to your Committee on Government, Military and Veterans Affairs. [LB1015]

SENATOR MURANTE: Thank you, Senator Brewer. Members of the Government Committee, my name is John Murante, J-o-h-n M-u-r-a-n-t-e. I am the State Senator for District 49, which

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

Government, Military and Veterans Affairs Committee
February 14, 2018

includes Gretna and western Sarpy County. And I'm here today to introduce LB1068. LB1068 is our annual bill brought on behalf of the Secretary of State. I will be very brief in my introductory remarks, as the Deputy Secretary of State for Elections, Wayne Bena, is here and will testify following me, into a great deal of the specifics of the bill. I do want to highlight three of the provisions which I think are most important in my view in the bill. First, there is...there was, last year, some confusion as to the voter registration list and what on the voter registration list is publicly available information. What we are doing in this bill is putting what is...has been the standard practice of the Secretary of State's Office, codifying that into law and outlining in a transparent way what exactly is public information on the voter registration list. Next, in Section 5, this is an important loophole, I believe, that needs to be closed which deals with individuals, 17-year-olds, who will turn 18 before the date of a special election which entitles them to vote. There is a loophole that the voter registration deadlines, in some instances for these special elections, are past the point in which a 17-year-old...they haven't turned 18 yet, so they can't register to vote. So, we're trying to close that loophole to ensure that 18-year-olds...all 18-year-olds when they turn 18 on or before the date of a special election, they are allowed to register to vote and vote in that special election. They are legally entitled to, but we need to make sure that that's clear. And, finally, what I think is a good common-sense cost-saving measure for the Secretary of State is allows their signature verification for initiative petitions to stop after they have counted 110 percent of the number of signatures. The logic here is once we already know...once you have a petition that's given to the Secretary of State, there's sufficient signatures so that we know that that issue is going to be on the ballot anyway, they don't have to continue counting, we've accomplished the end and there's no real benefit once you've crossed the threshold to keep counting. So, that'll be a good cost-saving measure for the Secretary of State. So, that is a brief overview, but, again, Secretary Bena will be passed this to talk in somewhat greater detail. [LB1068]

SENATOR BREWER: That concludes your introduction? [LB1068]

SENATOR MURANTE: That's it. [LB1068]

SENATOR BREWER: Thank you for your introduction. Questions? Senator Blood. [LB1068]

SENATOR BLOOD: Thank you, Senator Brewer. And I only have one, really easy question. [LB1068]

SENATOR MURANTE: Um-hum. [LB1068]

SENATOR BLOOD: So, page 9, Section 5, number 3; I'm not disagreeing with any of it. Isn't there an easier way to do this without...it's an either/or, and/if, and I don't know how anybody

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

Government, Military and Veterans Affairs Committee
February 14, 2018

could possibly understand it if they're just regular citizen. Is there any way to simplify that?
[LB1068]

SENATOR MURANTE: That's a great question, I'd be happy to work on language. I know that the window that we're talking about is fairly narrow in terms of those instances where the filing deadline occurs at a point where 17-year-olds would be closed off from registering to vote before the 18th birthday. I'm happy to look at that. The policy outcome is what I'm achieving, so I'd be happy to take a look at that language and simplify. [LB1068]

SENATOR BLOOD: But, you can see what I'm... [LB1068]

SENATOR MURANTE: Yeah, I see the point. [LB1068]

SENATOR BLOOD: If you're a 17-year-old reading that, you probably would just say; I guess I can't vote. [LB1068]

SENATOR MURANTE: Yes, although if they're reading the Election Act, I'd be very proud of that 17-year-old (laughter). [LB1068]

SENATOR BLOOD: Thank you. Thank you, Senator Murante. [LB1068]

SENATOR BREWER: Thank you. Additional questions? Seeing none, thank you. [LB1068]

SENATOR MURANTE: Thank you. [LB1068]

SENATOR BREWER: You're sticking around? [LB1068]

SENATOR MURANTE: Oh, yeah. [LB1068]

SENATOR BREWER: Welcome. [LB1068]

WAYNE BENA: (Exhibit 1) All right. Good afternoon, members of the committee. It's the bill you've all been waiting for. My name is Wayne Bena, W-a-y-n-e B-e-n-a, Deputy Secretary of State for Elections, here representing the Secretary of State John Gale, a proponent of LB1068. As you are aware, and many years on this committee, you've had a Secretary of State's omnibus bill, you've had a clerk's omnibus bill. This is all in to one. I started some of this work as Election Commissioner of Sarpy County and I ended the writing of this bill as the Deputy

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

Government, Military and Veterans Affairs Committee
February 14, 2018

Secretary of State for Elections. And I appreciate all the work that my team at the election division as well as my county counterparts, as well as voter advocacy groups to craft a bill that hopefully we all can be very proud of. When I start these bills, there's usually about six different themes that we start with, and then it's all put in to one bill. And, as you know, when you put 5 different themes and 15 different provisions into one omnibus bill, things get moved all over the place depending upon which statutes you're changing. So, we provided you this index of the provisions of LB1068 in regards to the six different themes that are in there that we're addressing, and then the specific changes to election law that each one of those themes has, and then what section and page number you can find all those, if you have any questions regarding this. After me, we do have election commissioners from Douglas, Sarpy, and Lancaster Counties that will be available to answer your questions in regards to some of the administrative aspects of some of this bill. And I want to answer any questions that you, or anybody, might have in regards to this legislation. So, going down the line; first, voter registration list access. Last summer, or this past summer, the Secretary of State's Office received the most phone calls in the history of Secretary Gale's tenure in regards to requests for access to a voter registration list by a commission, the Presidential Commission on Election Integrity. Many of the things that we realized during this process is, is that many of the things that the commission was requesting would never have been given out in a public records request anyway. But there was nothing in state...there was nothing that we could show, right off the bat, to prove this. Even though we never would have. What this does in the voter registration list access laws is list every specific item that is included in a voter registration list that's publicly available so that if this were ever to happen again, we can show; go to (statute) 32-330, and the information that was subject to (inaudible) not wanting to be released would never have been released. So, the information that has always been public is specifically listed so we can go there. It would also give the Secretary of State specific authority to provide the list. When reviewing the statutes, with me coming on board, even though the Secretary of State's Office is provided the voter registration list, it wasn't specific in this statute and we wanted it to be as specific as we could that the Secretary of State as well as the county election commissioners and clerks would be able to give this list out. And also, it strengthens the information that's provided in the affidavit that people sign to get access to this list so we have more information to go off of, including what is the purpose of this list to make sure that you're requesting this list for the correct purposes under state law. Now, this does not solve the issue of whether or not a certain individual or entity were to gain access to the list, but it's a starting point to start this conversation. I wanted to build the framework of what the actual list looked like first so we could go to various voter advocacy groups. I could take a look at other laws across the nation of how a list could be restricted, what powers the Secretary of State could have to list...to stop access to a list because of a certain situation. But I can't think of everything right now, I wanted to build the framework because those groups that applauded Secretary Gale's decision not to release the list were also applauding the not releasing of public-available information. So, I want to make sure that we started with that framework first. Have that framework of the voter list and then we'll move to access to this...how we access that list

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

Government, Military and Veterans Affairs Committee
February 14, 2018

going forward. Next is in regards to legislation regarding initiatives and the petition processes. What the first...and some of this might be some of the more controversial parts of this bill. And I'm willing to work with anyone that has any suggestions on how to make this a better processes, but some of the processes I've seen I wanted to strengthen then a little bit. And the first one, in regards to...is to extend the confidentiality of an initial petition or initiative filing to go through the Revisor review period. Currently, right now if you submit a petition, initiative petition or referendum, we submit that to the Office of the Revisor. And they go through the bill and provide suggestions and comments. And those comments are protected, confidential, for five days and then all of that is made public... it can be made public through records request. We'd like to extend that period to the initial...from the initial filing of that referendum and petition to the point of the five days of the Revisor review. And the thought process behind this is is that the initiative process is, many times, public driven: it's the second house. And many times, those that are doing these need that review from the Revisor to see some issues that might have come up that they didn't realize. And someone being able to access that initial filing before you're even given the opportunity to see the Revisor's review gives another...some other entity the opportunity to set the narrative before you even know there might be any problems with the bill. So, again, we're not trying to limit the access of the information. The access is just confidential until the end of the five days after the Revisor has reviewed the petition. Also, it would provide that the sponsor of an initiative petition referendum would sign an affidavit, signing that they have the minimum number of petition signatures or be liable for cost of the signature review process if the minimum threshold is not met. And the reasoning behind this is this last summer there were three petitions sent to county election commissioners for review. Two of those petitions, if every signature would have been accepted there still would not have been the minimum number of accepted signatures to allow that to go on to the ballot. But we heard from our county election officials that this was a complete waste of time, resources, and taxpayer money to review these. So, the thought process was that the sponsor of these petitions count the number of signatures you have before having taxpayer money, resources, and expenses used to verify a petition that never would have made it on to the ballot even if every signature was accepted. Finally, it allows the Secretary of State to stop the signature verification process after 110 percent of the required number of signatures have been obtained. This was the process used by the Secretary of State's Office prior to 2015 after an Attorney General's opinion was requested by the Secretary of State's Office and realized that they did not have the authority to do so in the same regard that county election commissioners and county clerks do in their own internal county petitions. They can stop at 110 thousand (sic--percent). The Attorney General's Opinion stated that it did not...that the 110 percent did not extend to the Secretary of State's Office. Thus, with the death penalty petitions and the three casino petitions (inaudible) and outside of what had been done in the past, they had to do all of them, every signature, even beyond the 110 percent. This would allow the Secretary of State may stop the process. If you ever get to a petition that gets way ambitious and has double the amount of signatures, or we have multiple ones that are going on that year, it allows us to stop the process after 110 percent so they can move on to

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

Government, Military and Veterans Affairs Committee
February 14, 2018

something else or move on to running the business of an election. The next section is something that I have the most pride in, helping to close a loophole that's...I found in Attorney General's Opinions dating back over 20 years. There's a loophole in state law that would prevent an 18...17-year-old who turns 18 in a special election in the months of January in an even-numbered year and in the months of January, November, and December of an odd-numbered of not having the ability to be able to register to vote and vote at a special election held in those months. For all other months out of the year, a 17-year-old is protected under statute that starting in January 1st of a given year, that they can register to vote at any point if they're going to turn 18 before the Federal Election Date, which is the first Tuesday after the first Monday in November after every election year. So, this would extend that same courtesy in those four months that are not...when special elections are held on the second Tuesday after the first Monday in a given month. So, those voters...those 17-year-olds will be able to fill out a provisional ballot either at their election office or at the polling site and have their ballot counted. And Senator Blood, the reason for why some of the confusion in regards to how that's written, the Revisor's Office had some difficulty trying to...when the oath is signed on a provisional ballot envelope, some of the things you swear to is that you are a registered voter, because that's the normal provisional process. A 17-year-old isn't actually a registered voter yet until they actually fill out that form. That language is put in there so they would not be criminally liable for any of...for signing that oath and they would not have to fill out...the clerks would not have to do additional envelopes for provisional ballots. So, that was the reason behind that. Next, in the provision regarding recalls. Recalls got very interesting in the state of Nebraska this past year, and there were two court cases...filings that called into question the administrative access...aspects of the recall process. The first portion of the recall statutes is to change the name of the recall affidavit to "the filing form." There was one case in which, while not disputed...while not actually ruled upon, was that calling it a recall affidavit, the form itself did not meet the legal...the legal definition of an affidavit, thus an election commissioner couldn't sign said document. What we're trying to say is it's not necessarily meant to be a legal document, it's supposed to be the filing form to start the process and give notice to the person being recalled that a recall process has started. It would also make this form the form that trigger...that can only be filed six months into an incumbents term or six months before the incumbent filing deadline. Because of a process change a few years ago, a calendar can be manipulated by one party or another depending upon when they turned in certain documents that would prevent petitions to be turned in by the six-month deadline. It was the opinion of our office and our election administrators that the six months should apply to the form and not the...when petitions are actually turned in. A court in Custer County disagreed with this and threw out a petition process that was three days after the six-month deadline even though it was within the 30-day window that the petitioners could grab signatures. This would just codify into the law that this form is what's the triggering mechanism in the first six months or in the last six months. It would also reprove the requirement that the form be typewritten, much like your candidate filing forms. We're just saying is they can actually be handwritten. And if we have any questions over what the form actually says we can talk to the sponsor to find out what it says.

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

Government, Military and Veterans Affairs Committee
February 14, 2018

Finally, it changes the date of when recall elections can be held from 30 to 75 days, to 50 to 80 days. This was kind of the last date range that we found in statute that didn't allow for a 50-day window, which special elections to be held by mail is the minimum number of days that notice needs to be held. And that will ensure that that can be held in a given month prior to any black-out period with any normal primary or general election. It would also allow the recall election to be canceled 24 days prior instead of 16 days prior, and the reason before that is because many of these elections are being conducted by mail. If the person being recalled chooses to resign, at 16 days at that point the ballots would have already been mailed out. If we do it at 24 days, the counties do not have the costs or the political subdivisions don't have to worry about the cost of actually the postage of mailing out the ballots. A couple of sections of special elections by mail, it provides that a written plan that's required anyway under statute to be delivered to the Secretary of State's Office five days within being notified of a political subdivision that an election needs to be held. Currently, there was no deadline. This allows our office not to be a rubber stamp of the process, but actually to look into the statute what issues might arise if the application is not complete. Finally, it harmonizes a deadline in which ballots can be replaced by mail in a special election, similar to a primary and general election, as the second Friday before the election. And a late addition that we were asked by Sarpy County to add some language in regards to political subdivision boundary adjustments. And you'll hear from Sarpy County in regards to why this needs to be strengthened a little bit in regards to the notice requirements that a political subdivision should provide when requesting a boundary adjustment under state law. I know these bills aren't what you signed up for when you wanted to be a state Legislature...in the state Legislature. I do recommend that if you're having trouble sleeping at night, these are the bills that will help you fall asleep. But they're very important in regards to the election administration that our county clerks and election commissioners do on every basis. And after every election we learn something new, and that's why we bring these omnibus bills to make little tweaks in the administrative aspects. With that, thank you for the courtesy of being able to go over the many provisions of this law and I'm willing to answer any questions that you may have. [LB1068]

SENATOR BREWER: Thank you for your presentation. And I do like the way that you've done this with just quick bullets so it's easy to reference, so for those of us that don't like a lot of complicated things you made it very easy. Questions? Senator Blood. [LB1068]

SENATOR BLOOD: Thank you, Senator Brewer. And thank you for your testimony. I just need more clarification, actually. I wasn't referring to the provisional ballot part... [LB1068]

WAYNE BENA: Oh. [LB1068]

SENATOR BLOOD: Here's what I'm referring to: a 17-year-old... [LB1068]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

WAYNE BENA: What's the page? [LB1068]

SENATOR BLOOD: Page 9. Section 5, page 9, line 3: 17-year-old resident of Nebraska who will obtain the age of 18 years on or before the day of a special election but after the second Friday preceding the special election when such an election occurs in the month of January in an even-numbered year or in the month of January, November, December of an odd-numbered year may appear in person at the polling place. I think that's confusing because right here you go, applicable voter can cast a provisional ballot in special elections in January, November, and December of odd-numbered years, and January of even-numbered years. That's the part that I'm talking about... [LB1068]

WAYNE BENA: Okay. [LB1068]

SENATOR BLOOD: ...I think that's wonky. [LB1068]

WAYNE BENA: And the reason before this is we wanted to limit...the loophole is just for 17-year-olds that turn 18 in those months after the voter registration deadline, before the special election. Every other election and every other month, they're protected under the statute that they can register at any point right now. 17-year-old, if they're going to be 18 before the November election, they can register right now. The other ones the possibility exists. [LB1068]

SENATOR BLOOD: But I think you're misunderstanding me, though. I'm not questioning the reasoning at all. I'm questioning the wording because I think it's confusing. I'm just asking if you can simplify it. [LB1068]

WAYNE BENA: Absolutely. [LB1068]

SENATOR BLOOD: That's all I'm asking. [LB1068]

WAYNE BENA: And we'll work with Revisors to see if we can do it. We just don't want to extend the benefit to someone who already has the protection of being able to register to vote now. [LB1068]

SENATOR BLOOD: Not questioning the logistics, not questioning anything about it except that the phrasing is confusing. [LB1068]

WAYNE BENA: Okay. [LB1068]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR BLOOD: Thank you. [LB1068]

SENATOR BREWER: Additional questions? Seeing none, thank you again for your testimony. All right, proponents: first up. Welcome to the Government Committee. [LB1068]

BRIAN KRUSE: (Exhibit 2) Thank you. Good afternoon. Chairman Murante and members of the committee, my name is Brian W. Kruse, B-r-i-a-n W. K-r-u-s-e. And I am the Douglas County Election Commissioner. I am here to testify in support of LB1068. I would like to begin by thanking Senator Murante for introducing the bill. The bill has numerous components that will help clarify election laws. I will touch on three of those items this afternoon. I would like to start by talking about the voter list or the voter file that is made available to the public. The clarifications in this section of the bill clearly states what information will be made available on the voter file. There is also additional language which was added to the oath to help ensure the voter information will only be used for the prescribed purposes set forth in statute 32-330. The next item is somewhat obscure, but nonetheless one that needs to be corrected to help ensure all eligible voters have the opportunity to register to vote. This would affect only special elections and correct a small time frame in which 17-year-olds turning 18 by Election Day would be able to vote using a provisional ballot. This would allow an individual who turns 18 after the second Friday before the election but on or before Election Day, the opportunity to vote provisionally. An example of this is from a previous election held for the Millard Public School District in November of 2017. If an individual would have turned 18 years after November 3, which was the second Friday prior to the election, but on or before November 14, Election Day, they would have then been able to vote using a provisional ballot. Another item of importance regards the statewide petition verification. Upon being signed into law, petition gatherers would have to sign an affidavit certifying the petition has at least the necessary number of signatures. In 2016, there were two petitions submitted for statutory changes, and the minimum number of signatures statewide were not collected. This resulted in Douglas County spending over 3,200 hours and more than \$37,000 of taxpayer funds via temporary employees, knowing full well there was no possibility of successful verification. Not to mention motivating 25 temporary employees to try and do a job in which they are fully aware the petitions would fail before they began. This was just the cost of time and money to Douglas County and not statewide. This was a true waste of tax payer resources. In addition, there is a provision which would allow the Secretary of State's Office to cease petition verification upon 110 percent of the necessary signatures being verified. This would clearly result in a savings to the citizens of Nebraska. In conclusion, LB1068 helps to clarify numerous issues that will result in a win-win for both voters and election officials in the future. I urge this committee to advance LB1068 to General File. Thank you for your time this afternoon. [LB1068]

SENATOR BREWER: Thank you for your testimony. Questions? I have one. On the... [LB1068]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

BRIAN KRUSE: Okay. Thank...oh, oh, sorry. [LB1068]

SENATOR BREWER: Well, don't be going nowhere. [LB1068]

BRIAN KRUSE: (Laughing) Nope, nope. [LB1068]

SENATOR BREWER: On the one that you discussed on the petition; 3,200 hours, \$37,000... [LB1068]

BRIAN KRUSE: Yes. [LB1068]

SENATOR BREWER: ...how short was it of reaching the number it needed? [LB1068]

BRIAN KRUSE: You know, I got that information from the Secretary of State, and so I have it here in an e-mail from them. Of the two that failed, the first there were 82,031 signatures required. And on the first petition 78,157 were turned in, so that was a deficit of 3,874. And the second one, there were 73,617 turned in, which was a deficit of 8,414. So it was...and that's statewide. [LB1068]

SENATOR BREWER: All right. Do you consider yourself kind of an expert? [LB1068]

BRIAN KRUSE: Myself? [LB1068]

SENATOR BREWER: Yeah. [LB1068]

BRIAN KRUSE: Yes... [LB1068]

SENATOR BREWER: Good... [LB1068]

BRIAN KRUSE: ...depending on the subject matter (laughing)... [LB1068]

SENATOR BREWER: Good answer. Elections? [LB1068]

BRIAN KRUSE: In elections? I pretend to be one some days. [LB1068]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR BREWER: Of the elected positions in the state of Nebraska, what are the ones that cannot be recalled? [LB1068]

BRIAN KRUSE: I would have to go back and refer to the law, honestly. [LB1068]

SENATOR BREWER: All right. [LB1068]

BRIAN KRUSE: I'm...unfortunately, I'm sorry I can't... [LB1068]

SENATOR BREWER: Tell him that you failed miserably, so (laughter). [LB1068]

BRIAN KRUSE: ...but I can certainly let you know. [LB1068]

SENATOR BREWER: Sorry, it was the military side of me coming out there. [LB1068]

BRIAN KRUSE: No, no, that's fine. [LB1068]

SENATOR BREWER: All right. One more shot? No additional questions, thank you again for your testimony. [LB1068]

BRIAN KRUSE: I would...very good. The answer is probably none. [LB1068]

SENATOR BREWER: It's all right, I'll catch you later. We'll get it. [LB1068]

BRIAN KRUSE: Thank you. [LB1068]

SENATOR BREWER: All right, not that I want to influence the next person up (laughter), come on up. Have questions. Welcome. Welcome to the Government Committee. [LB1068]

MICHELLE ANDAHL: Vice Chair... [LB1068]

SENATOR BREWER: Relax, you're good to go (laughter). [LB1068]

MICHELLE ANDAHL: It's my first time, so I'm a little nervous. Vice Chairman Brewer and members of the committee, my name is Michelle Andahl, M-i-c-h-e-l-l-e A-n-d-a-h-l. I am the Sarpy County Election Commissioner. I'm here to testify in support of LB1068. I'll focus on two

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

Government, Military and Veterans Affairs Committee
February 14, 2018

sections of the bill that recently impacted Sarpy County. First, I want to quickly address the sections of the bill that relate to filing forms used to begin recall petition campaigns. As Deputy Secretary Bena addressed, recently a question was raised by the presiding judge during the initial legal process of a recall election petition as to what constitutes the use of the term "affidavit." In his statement, the judge wrote that the current filing forms used to initiate a recall petition campaign are not true affidavits by the fact that the contents are not stated to be true and correct and are not stated under oath and penalty of perjury. Rather, the initial filing forms completed by the principal circulator of the petitions are only an application to commence a recall effort. On page 3, line 7 of LB1068 it amends the language which currently addresses the form as a recall affidavit and simply changes the document name to a "recall petition filing form." This change will harmonize the language with that of other wording found in statute related to the initiation of any other election. Additionally, state statute currently requires that such recall petition filing forms be typewritten. No such requirement is made in statute for the filing of other election filing forms to be typed out. In the requested amended language, again in LB1068, will harmonize language regarding petition filing form requirements with the sections of statute related to other election filings. The next area of the bill that I'd like to review relates to requests by political subdivisions to move election district boundary lines. We've had quite a bit of experience with that in my short tenure as election commissioner. Section 4 of the bill, beginning on page 6, line 30 through page 7, line 6 amends Section 32-552 of state statute which addresses the requirements for political subdivisions requesting the adjustment of election boundaries. The current language simply reads "At least five months prior to an election, the governing board of any political subdivision requesting the adjustment of the boundaries of election districts shall provide written notification to the election commissioner or county clerk." This language is very vague and it does not clarify what documents or steps demonstrate adequate action by a political subdivision to warrant such changes. The lack of clarity has caused issues in Sarpy County for cities trying to annex and asking to have their boundaries changed. The words "written notification" leave room for interpretation by political subdivisions and election officials. We've had requests for boundary changes submitted that range everywhere from a simple letter stating; well, we eventually are hoping to change the boundary lines if we can get an annexation approved, to cities who have submitted a complete ordinance approved by their city counsel with an additional approved election map that shows the new election district boundary map changes. So it goes quite the range and then it leaves the election commissioners and the political subdivisions a bit unsure of which is exactly required. It's important to understand the election offices immediately begin the moving of the boundary lines of election districts upon acceptance of such requests. It becomes a dangerous practice to move boundary lines based on notification of intent to eventually submit an approved annexation. The new language in 32-552 just more clearly states "at least five months prior to an election, the governing board of any political subdivision requesting the adjustment of the boundaries of election districts shall provide written notification to the election commissioner or county clerk (a) written notice of the need and necessity of his or her office to perform such adjustments and (b) a revised election district

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

Government, Military and Veterans Affairs Committee
February 14, 2018

boundary map that has been approved by the requesting political subdivision's governing board and subjected to all public review and challenge ordinances of the political subdivision." And it has been the practice of Sarpy County to only accept or deny the boundary change request based on property ownership because you need to note no political subdivision can govern property that they don't own. So, it's a fair request. Election officials are administrators of election law and the amended language removes the burden of interpretation by election officials in political subdivisions along with removing the chance of unintentional inequitable treatment from case to case. The sections I've addressed today are simple clean-up language amendments that will harmonize the sections mentioned with other election statutes. Ultimately making the process easier for the citizens of our state to utilize. And in closing, I'd like to thank Senator Murante for introducing the bill and thank the members of the committee for your time today. And I do ask that you will advance this bill to General File. [LB1068]

SENATOR BREWER: Thank you. Questions? Go ahead, Senator. [LB1068]

SENATOR THIBODEAU: Thank you, Vice Chairman. This will be short, so I think before I comment I have to ask you a question. You used to work for my predecessor, is that correct (laughter)? [LB1068]

MICHELLE ANDAHL: Correct. [LB1068]

SENATOR THIBODEAU: And I just wanted to say that, being nervous you could not tell and you provided very good testimony (laughter). So, thank you for being here today. [LB1068]

MICHELLE ANDAHL: Thank you. I was just a little nervous. [LB1068]

SENATOR BREWER: All right, I'm going to ask a question that requires an answer... [LB1068]

SENATOR WAYNE: That's unusual. (Laughter) [LB1068]

SENATOR BREWER: (Laughing) Wow. Harsh. [LB1068]

SENATOR THIBODEAU: (Laughing) My question required an answer, it just was a simple one. [LB1068]

SENATOR BREWER: What is the current population in Sarpy County, ballpark? [LB1068]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

MICHELLE ANDAHL: Do you want to know the registered voters? We have 109,000 registered voters currently. [LB1068]

SENATOR BREWER: And if we were to compare it with a total population of the county, what would that be? [LB1068]

MICHELLE ANDAHL: It's about a third. [LB1068]

SENATOR BREWER: Okay, thank you. [LB1068]

MICHELLE ANDAHL: Well, no, it's not. It's about half, excuse me, it's half. [LB1068]

SENATOR BREWER: Okay. Questions? Seeing none, thank you for your testimony. [LB1068]

MICHELLE ANDAHL: Okay, thank you. [LB1068]

SENATOR BREWER: And you didn't look nervous. All right, additional proponents? Welcome to the Government Committee. [LB1068]

DAVID SHIVELY: (Exhibit 3) Thank you, Senator. Good afternoon, Senator Brewer, members of the Government Committee. My name is David Shively, D-a-v-i-d S-h-i-v-e-l-y. I am the Lancaster County Election Commissioner and also cochair of the Election Law Committee of the Nebraska Association of Clerks, Election Commissioners and Register of Deeds. I am here today in support of LB1068. I would like to thank Secretary of State John Gale, Deputy Secretary of State of Elections Wayne Bena, and Senator John Murante for their efforts in drafting and their support of this bill. LB1068 contains numerous provisions of changes in state election law that election officials from throughout the state have suggested to the Secretary of State's Office. I am not going to take up much of your time as I agree with statements made by my previous supporters of this bill. However, I do want to focus on one section of the bill. Section 14 which deals with initiatives and referendums. The bill would require that at the time of filing of the petitions with the Secretary of State, the sponsor of the initiative or referendum would certify that they have at least the minimum number of signatures necessary to place the issue on the ballot. In 2016, my office verified the signatures from petitions on three separate issues for the state. Two of those issues did not contain signatures with the minimum number to be required to be placed on the ballot. In Lancaster County we spent over \$16,000 to verify signatures on all three petitions. While, my office did not account separately on the cost of each of the three petitions, I think it would be safe to say it was close to \$10,000 for the two petitions that didn't have the minimum number of signatures required. Again, I would like to thank Chairman

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

Government, Military and Veterans Affairs Committee
February 14, 2018

Murante and members of the Government Committee for your time and consideration of LB1068. I urge you to advance LB1068 to General File. Thank you for your time. I'd be happy to answer any questions you may have. [LB1068]

SENATOR BREWER: Thank you, Commissioner Shively, for your testimony. Questions? We must be wearing them down. All right, thank you, again, for your testimony. Additional proponents? Welcome to the Government Committee. [LB1068]

BETH BAZYN FERRELL: Thank you. Good afternoon, Senator Brewer and members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials. I'm appearing in support of LB1068. We'd like to thank Senator Murante for introducing the bill. We'd like to thank Senator Bena...excuse me, not Senator Bena, Mr. Bena (laughter) for all of his work drafting the bill when he was an election commissioner, and as well as in the Secretary of State's Office. And, with that, I think the bill has been covered very well, so I would just offer our support and try to answer questions. [LB1068]

SENATOR BREWER: Thank you for your opening. Questions? Seeing none, thank you, again. All right, additional proponents? Seeing none, opponents? Seeing none, those in the neutral capacity? Senator Murante...waives closing. And that will end LB1068 and we will go to LB...oh, oh, we've got letters. [LB1068]

SENATOR WAYNE: It's already closed. (Laughter) [LB1068]

SENATOR BREWER: I've got them hid here. [LB1068]

SENATOR MURANTE: Depends on what the letters say. [LB959]

SENATOR WAYNE: Yeah, so if they're in favor it's already closed. (Laughter) [LB1068]

SENATOR BREWER: (Exhibits 4, 5, 6, and 7) All right, LB1068. Proponents: Diane Olmer, Platte County Election Commissioner and Joann Fischer, Knox County Clerk. Opponents: Mary Boschult, let's see...that's League of Women Voters, Lancaster County. Neutral: Danielle Conrad, ACLU of Nebraska. Now going to LB959. Senator Murante. [LB1068]

SENATOR MURANTE: Thank you, Senator Brewer. Members of the Government Committee, my name is John Murante, J-o-h-n M-u-r-a-n-t-e. I'm a State Senator for District 49, which includes Gretna and western Sarpy County. Here today to introduce LB959. LB959 is the result

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

Government, Military and Veterans Affairs Committee
February 14, 2018

of an issue that was brought up in a bond election that was conducted by mail in Douglas and Sarpy County last year. And in that there was a campaign tactic that was used that appears, at least in my observation, to be growing in frequency. One in which volunteers are collecting ballots which have been sent to voters by mail, they've been completed by...filled out by the voters, put in their security envelopes and signed, and then the voters give the ballots to a volunteer with the understanding that those volunteers would deliver the ballots to a local election administrator. The question that arose in that instance was what legal burden or requirements do these volunteers have? And, simply put, the state law did not speak to the subject matter. It was not clear whether by virtue of giving your ballot to a stranger it's a voter beware situation and that stranger had the authority, if they wanted to, to throw the ballot in the garbage can. What we're saying with this bill is if you are collecting ballots on behalf of another person, you have a legal requirement to turn that ballot in to an election administrator. We have sort of two different deadlines. One in the instance of at least Douglas, Sarpy, and Lancaster County where we have drop-off locations and any person can show up to their local election office and drop off a ballot 24 hours a day. The other, if they don't, it would be a requirement to turn it in within the next business day. Candidly, the time in which the volunteers have to turn these ballots in are not as consequential to me as ensuring that if there are bad actors out there who are collecting ballots and not turning them in to an election official that we have a law that we can prosecute them and we can ensure that the public's confidence in the election is in hand. So, that's my goal with the bill, and I'd be happy to answer any questions that you may have. [LB959]

SENATOR BREWER: Thank you for your testimony. Questions for Senator Murante? Senator Blood. [LB959]

SENATOR BLOOD: Thank you, Senator Brewer. I just want to make sure I'm clear and I understand this one part. So, they have a day to return it? So, and I need to read this further...so, if I picked up a ballot at 4 o'clock as a volunteer and the election commission office closed at five, would I only have that window of one hour, because it says the same day? [LB959]

SENATOR MURANTE: Same day, so, no, you would have to do it...I think in a practical world, if you were to drop it off at any time within the next 24 hours, there is no harm that is going to come to you. But that would probably, in legal essence, by the end of the day. [LB959]

SENATOR BLOOD: So, if we said within one business day, we could possibly change that to within 24 hours? [LB959]

SENATOR MURANTE: That's fine, yeah. [LB959]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR BLOOD: Thank you. [LB959]

SENATOR MURANTE: Um-hum. [LB959]

SENATOR BREWER: Okay, additional questions? Seeing none...oh, sorry. Get your hand up higher so I can see it (laughter). [LB959]

SENATOR WAYNE: So, are you creating a new criminal offense (laughter)? [LB959]

SENATOR MURANTE: Oh, dear. Yes, yes, I am. [LB959]

SENATOR WAYNE: No, I was just wondering. I hope defense attorneys are here, because they were against mine any time I created a new criminal offense (laughter). So, I just want to make sure that they're on record. Okay, thank you. [LB959]

SENATOR MURANTE: We don't need help getting opposition to my bills, Senator Wayne (laughter). [LB959]

SENATOR WAYNE: Well, I just cosponsored it (laughter), so you might get more opposition now. [LB959]

SENATOR BREWER: All right, any additional questions? Seeing none, thank you, Senator Murante, for your opening. Now we will go to those in proponents for LB1068 (sic--LB959), proponents? Seeing none, those opponents? Ah, a familiar face. Welcome to the Government Committee. [LB959]

JOHN CARTIER: Thank you. Members of the Government, Military and Veterans Affairs Committee, my name is John Cartier, spelled J-o-h-n C-a-r-t-i-e-r. I just briefly wanted to highlight some issues that we had with this bill. I don't think we're against the idea of possibly attaching some sort of provisions that would ensure that drop-off ballots, mail-in ballots reach the place that they're supposed to. However, with that being said, I think there might be an issue with timing and enforcement of this bill. Timing issue might arise if...I think on the mail-in ballots, for the envelope it's dated to a degree, so whether it goes by the date of the ballot itself or when you hand it over to the volunteer that might be an issue. We also, I think, might need to provide for a longer period to get it to a drop box. Seven days sounds like it could account for all acts of God that might be able to delay someone from getting to a drop-off box. I can imagine someone's car breaks down, they get hurt, they end up hospitalized...I don't know. I think there needs to be some leeway for individuals where life just happens. And, with that, those are our

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Transcriber's Office

Government, Military and Veterans Affairs Committee
February 14, 2018

two short issues with this bill. But, again, I just want to reiterate, I think the idea behind this providing the security for our ballots is important. Thank you. [LB959]

SENATOR BREWER: All right, thank you for your testimony. Questions? Senator Thibodeau. [LB959]

SENATOR THIBODEAU: Thank you, Vice Chairman. Asking for seven days, wouldn't that give more of an opportunity for someone to, like, lose a ballot under the seat of their car or something like that? And inadvertently... [LB959]

JOHN CARTIER: Right. [LB959]

SENATOR THIBODEAU: ...not turn one in. So, I think, I would say what Senator Blood and Senator Murante were talking about earlier; a 24-hour time period would be more reasonable. [LB959]

JOHN CARTIER: It might be more reasonable. And then...if that's the case, then I would think a provision that includes if someone, you know, ends up in the hospital or they just can't, you know, for whatever reason, get the job done. I want to forward those people some protection in the future. [LB959]

SENATOR THIBODEAU: Okay, thank you. [LB959]

SENATOR BREWER: All right, additional questions? (Inaudible) I got a personal comment. [LB959]

JOHN CARTIER: Yes? [LB959]

SENATOR BREWER: Last time you were in here, what I found in this building is a lot of people that make promises but they don't follow through with them. You promised to give me a copy of your testimony, and you delivered that. I thank you for your promptness (laughter) and keeping your word, it means a lot. [LB959]

JOHN CARTIER: Any time, Senator. That's all we have, our word, right? (Laughter) [LB959]

SENATOR BREWER: All right, thank you for your testimony. [LB959]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

JOHN CARTIER: Thank you. [LB959]

SENATOR WAYNE: Can we delete that from the record? It was talking about me. (Laughter)
[LB959]

SENATOR BREWER: Welcome to the Government Committee. [LB959]

EDISON McDONALD: (Exhibit 1) Hello my name is Edison McDonald, E-d-i-s-o-n M-c-D-o-n-a-l-d, and I am the executive director for the Arc of Nebraska. We are a nonprofit with 1,500 members covering the state. We are advocates for ensuring the most integrated lives possible for people with intellectual and developmental disabilities. We focus on community inclusion because it ensures that we offer the most cost-effective, best treatment possible and brings the most back to us as a society. We oppose LB959 because it will make it harder for people with disabilities to vote. According to a 2016 election study by Rutgers University, voter participation among people with disabilities has gone down over the past two presidential elections, from 57.3 percent in 2008 to 56.8 percent in 2012 and 55.9 percent in 2016. This is not the direction that we want to be headed in. An October study by the Government Accountability Office, indicated that nearly two-thirds of the 137 polling places they inspected across the country on Election Day 2016 had at least one impediment to people with disabilities. We need to make it easier for people with disabilities to vote, not harder. Getting to a polling place is enough of a barrier with steep ramps and poor surfaces to travel across. That is if they can get transportation to the polling location or a ballot drop-off at all. We can't continue to make this a more difficult process. I have personally participated in the process of helping to collect and return absentee ballots. For a young, able-bodied individual like myself it's no problem. However, the process of getting there for many others is a struggle. I think particularly of one individual who I helped in Hastings who had a disability who I helped to deliver her ballot. She was older and had a wheelchair. In order to load up it would take about ten minutes, then in order for her to be able to unload out of her car it would take another ten minutes, then to work her way up the ramp, you know, you're adding another five to ten minutes there, and the same with getting back out. That's a long process just to be able to vote, to be able to get your ballot in. And we're not as lucky...you know, I think Lancaster and Douglas County really do have more accessible locations. I think a lot of the county courthouses don't, as much. But for me that whole process takes about three minutes. I can go hop up, get in, get out, it's no problem. I didn't live with her, but I was happy to help ensure that her vote was submitted. The idea does not take into consideration, also, that the federal government is looking at dismantling the ADA, currently HR620 is coming up probably tomorrow that would significantly decrease the protections afforded in the Americans with Disabilities Act that basically ensures that buildings are accessible. We'll be working this cycle on helping ensure people with disabilities are able to vote. And I want to ensure as easy of a possible...process is possible. I also wanted to address some of the earlier thoughts and concerns, particularly in terms of time line. I was thinking, you know, something a bit more like seven

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

Government, Military and Veterans Affairs Committee
February 14, 2018

days, especially in, like, Senator Briese's or Senator Brewer's districts because typically, you won't have a staff for just in each county. You would have a staff who would cover a region. It'd be far easier and far more beneficial for them to be able to collect that and not have to go to each county clerk's office every single day, but to give them a little bit of leeway. Please do not make it harder on our individuals with disabilities to be able to vote. Voting is a centerpiece of our democracy. And please ensure that it's available for all citizens. Thank you. [LB959]

SENATOR BREWER: Thank you, Mr. McDonald, for your testimony. Questions? Question from Senator Briese. [LB959]

SENATOR BRIESE: Thank you, Vice Chairman Brewer. Thank you for your testimony. Would you be supportive of this bill, this concept, if you had more time, seven days for example? [LB959]

EDISON McDONALD: That would make it more palatable, undoubtedly. I still think...I appreciate the concept of trying to ensure that our elections are secure, but the truth is anybody who has ever worked an election, they want to make sure more people vote. We have a detrimental state of our union where the engagement in our voting process is tremendously low. So, you know, I'd be open to it. I think that that would definitely make it more useable. But I think, still, specifically for my constituents, it would be concerning and I think that it would still make the process a bit harder for them and put up more restrictions. [LB959]

SENATOR BRIESE: Okay, thank you. [LB959]

EDISON McDONALD: Yeah. [LB959]

SENATOR BREWER: Senator Blood. [LB959]

SENATOR BLOOD: Thank you, Senator Brewer. So, I agree there needs to be maybe a little bit bigger window of time, I'm somewhere in between seven and a day. [LB959]

EDISON McDONALD: Um-hum. [LB959]

SENATOR BLOOD: But, you'd want it to be before the election...I mean, by the end of the day on the Election Day, right? [LB959]

EDISON McDONALD: Yeah. [LB959]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR BLOOD: I mean, you wouldn't want seven days... [LB959]

EDISON McDONALD: Yeah. [LB959]

SENATOR BLOOD: ...because... [LB959]

EDISON McDONALD: Yeah, no, well...and I...yeah. I definitely would make that concession. There would need to be some language limiting it up until the election, but, you know, vote by mail has a pretty large time frame. [LB959]

SENATOR BLOOD: Right. [LB959]

EDISON McDONALD: So, I think, you know...and as you're kind of going through that process you have this constant turnover. And, you know, depending on the complexity of a campaign you may be going and getting very involved and engaged and it may be that you have an operation that can go and turn something over in, like, a day. Especially if you have a like a large, statewide sort of race. But if you've got, you know, a county supervisor race in Clay County, that's not going to be the case. [LB959]

SENATOR BLOOD: Okay. I'm kind of glancing at this again and I'm not sure I see that it has to be--and I'm sure Senator Murante will point out where it's at--turned in by the end of the day on the election day. I mean, I want to make sure that that's in there. [LB959]

EDISON McDONALD: Yeah, no, I think that would need to be a modification. [LB959]

SENATOR BLOOD: But yeah, Nebraska is a pretty broad place. And... [LB959]

EDISON McDONALD: Yeah. [LB959]

SENATOR BLOOD: ...you know, we've both worked enough campaigns to know what a challenge it can be to pick up ballots. Thank you. [LB959]

SENATOR BREWER: All right, thank you, Senator Blood. All right, I'm going to dive in there since you brought it up. [LB959]

EDISON McDONALD: Oh... [LB959]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR BREWER: Yeah, don't... [LB959]

EDISON McDONALD: ...you've got more questions for me. Great. [LB959]

SENATOR BREWER: You're not dismissed yet. [LB959]

EDISON McDONALD: Okay, okay. Thank you, Colonel. [LB959]

SENATOR BREWER: The issue at hand is, and I'll just say, for example, I'll take my mom. She's in a wheelchair... [LB959]

EDISON McDONALD: Um-hum. [LB959]

SENATOR BREWER: ...and if I understood the opening correct, the main piece that we're concerned about here is the security of that ballot and making sure that person is responsible and gets it from the individual to where it needs to be dropped off to be counted. [LB959]

EDISON McDONALD: Um-hum. [LB959]

SENATOR BREWER: And I guess I'm trying to visualize if she has a trusted individual, and in her case where she's in a home, they have a person who does that shuttle mission. I'm not sure how it's going to hinder them. The bill seems like it would make sure their vote got counted and that that person was responsible who was the conduit to get it there. But the way you described it, it seemed like because of the limitations, you know, in essence it makes sure if you can't get around very well, if you have limitations, your vote gets counted because you don't have to get out in the ice and the cold, or whatever it might be. That they're getting that vote to the right place, and we just want to make sure that it does get there... [LB959]

EDISON McDONALD: Yeah, yeah, no, no, and I... [LB959]

SENATOR BREWER: And I understand your point with the time line, because you're right. In Cherry County, Sheridan County, some of those kind of places, it's a long ways from nowhere. So, that we can take a look at, I'm sure. [LB959]

EDISON McDONALD: Um-hum. [LB959]

SENATOR BREWER: But do you see where I'm thinking... [LB959]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

EDISON McDONALD: Yes, and I understand the intent to secure the process of the ballot. But, I've worked a lot of campaigns and I've never seen a campaign staffer who has gone and said; no, I'm not going to turn this in. Like, I don't want to turn this in, I want to have fewer votes. Like, on a standard campaign survey-sort of question, I say there's typically like a one through six scale: one, they really support your guy; five, they're really opposed; and six is the worst of all, that person's not voting. I think encouraging that opportunity to vote no matter how...what sort of form it takes, I think, is ultimately the process that every campaign volunteer and every citizen feels is part of their civic obligation when they volunteer and support a candidate. [LB959]

SENATOR BREWER: All right. Any additional questions? Seeing none, thank you for your testimony. [LB959]

EDISON McDONALD: Thank you. [LB959]

SENATOR BREWER: And you may depart (laughter). Okay, additional testimony. Welcome to the Government Committee. [LB959]

BETH BAZYN FERRELL: Thank you. Senator Brewer and members of the committee, for the record my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I am with the Nebraska Association of County Officials, appearing in opposition to the bill basically for the same reasons that you've heard from the other testifiers. That it's an issue of timing, it's not an issue of making sure that the ballots get returned. It's looking at how those ballots get back and making sure that if there is a new criminal penalty applied that someone doesn't inadvertently have a violation when they're really trying to, maybe out of the goodness of their heart, help out their neighbor or someone else. So, I would be happy to try to answer questions. [LB959]

SENATOR BREWER: Okay, thank you for your testimony. Questions...Senator Wayne?
[LB959]

SENATOR WAYNE: Oh, no. No, no questions. [LB959]

SENATOR BREWER: Okay. All right, seeing none, thank you. All right, additional opponents? Seeing none, those in the neutral capacity. Come on up. Welcome back to the Government Committee. [LB959]

DAVID SHIVELY: Thank you, Senator Brewer. Members of the Government Committee, my name is David Shively, D-a-v-i-d S-h-i-v-e-l-y. I'm the Lancaster County Election Commissioner and also cochair of the Election Law Committee of the Nebraska Association of Clerks, Election

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

Government, Military and Veterans Affairs Committee
February 14, 2018

Commissioners and Registers of Deeds. I'm here today as neutral to LB959, which would provide requirements for returning a vote by mail ballot for someone else. I just basically want to talk about some of the concerns that I heard from some of our officials throughout the state regarding the bill, and we certainly would be willing to work with the committee to address any of those. But some of the things that I heard from some of our election officials were...is would it be our job to monitor this? Is it our job...is enforcement on it...is it...would be the election officials responsibility to enforce it? Is it...it would be complaint-driven? So, if we received a complaint, would we be required to do the investigation or would we turn it over to law enforcement for investigation? One other issue we had, just wanted to clarify, the language on the warning on that is to be required on the...with the ballot. Is that to be on the envelope that the voter is returning, so if someone is returning it for them, they would see it, or could it be included in the instructions, which may not be a part of the outside envelope depending on the county? Sometimes that could be...so those were some questions. One other thing I did want to bring up as I thought about this as I was sitting back here, on the other end of mailing out ballots, voters...we do have a requirement...statute that an agent can only serve as an agent for two voters to request an absentee ballot for that voter. And in addition, if you're a candidate, you can only be an agent for members of your own family. That is in state law. So there's...on the other end mailing the ballots out, we do have some requirements on that. And I'd just like to make sure that you were aware of that as well. With that, I'd be happy to answer any questions if you have any. [LB959]

SENATOR BREWER: All right, Mr. Shively, thank you for your testimony. Questions? Questions? All right, seeing none, thank you. [LB959]

DAVID SHIVELY: Thank you. [LB959]

SENATOR BREWER: Any additional in the neutral capacity? Seeing none, Senator Murante. [LB959]

SENATOR MURANTE: Thank you, Senator Brewer. I will, again, be brief in my closing. So, the point of contention appears to be twofold. That the timing of it, candidly, through the drafts of the bill...we started off with not having any timing at all. Just create a legal burden, tell them they have to turn the ballot in and that will be good enough. The challenge that we have is when you have vote by mail, voters have the capacity to go online and check the status of that ballot. They have the ability to figure out whether it's been turned in or not. So, the question that I think we're going to have to grapple with--and I'm absolutely open to discussing what this time frame is--is if I were to turn my ballot over to a stranger I would be checking online to see when that ballot got turned in. There is going to come a point where voters are looking, they're seeing that their ballot is not going...has not been turned in, and they're going to call their election official

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

Government, Military and Veterans Affairs Committee
February 14, 2018

and ask for another ballot. So we want to create...we don't want to create a situation where we're getting a lot of requests for duplicate ballots and then that creates a challenge. So we just want to make sure that there's a standard there. With respect to the concept of will election commissioners be forced with enforcing and prosecuting these people. Of course not, the election commissioners do not have prosecutorial powers, so this would be up to the local law enforcement agencies and county attorneys to determine what...whether prosecutions take place or not. So, happy to work with the committee on timing. I think that's a logistical issue. And I want to be clear especially when it comes to disability rights; I understand that the disability community...disabled community disproportionately votes by mail because of its ease. My goal with this bill is not to discourage people from the disabled community from voting by mail and turning their ballots in to good organizations who collect ballots...as a matter of fact, one of the first iterations, when it came...when the issue was brought to me by a concerned member of this Legislature, the thought was to just ban it. That volunteers...you could...if you wanted to get a ballot by mail, you, the voter, were responsible for turning that in and that there wouldn't be an intermediary. I didn't go for that because I could come up with reasonable situations when...like the organization you heard, behind me, when they're collecting ballots as a public service. That's...and it's certainly laudable. But we want to make sure that...we understand that there are bad actors in this state, right? Of the 1.9 million Nebraskans, some of them commit crimes. And we want to make sure that if one of them ventures in to this particular area of the law that the voters are protected. And that especially goes for our disabled community, ensuring that nobody is manipulated and that, if they are, those who throw away those ballots are prosecuted to the extent of the law. And that's my...that's my goal here. So, to the extent that anything needs to be finessed, I'm happy to do that. [LB959]

SENATOR BREWER: (Exhibits 2, 3, 4, and 5) All right, thank you for your testimony. In closing, questions? Questions? Seeing none, we have letters. LB959 opposition: Diane Olmer, Platte County Election Commissioner; Joann Fischer, Knox County Clerk; Tessa Foreman, Nebraskans for Peace. And the neutral capacity: Heath Boddy from Nebraska Health Care Association. And with that concludes LB959. And we will then go to LB1065. Senator Murante, for your opening. [LB959]

SENATOR MURANTE: (Exhibit 1) Senator Brewer, 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 the state senator for District 49 which includes Gretna and western Sarpy County, here today to introduce LB1065. You have before you a white copy amendment, and I'd like to go over initially the objectives of the bill and it's severalfold. First of all, it is to authorize the use...this is really, in my view, the first step of when we talk about election technology, and we have for a number of years in this committee, this is step one of that election technology enhancement. This permits the use of electronic poll books in the state of Nebraska and that is an important, I think, first step of our election technology discussion. As it relates to the use of digital images for

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

Government, Military and Veterans Affairs Committee
February 14, 2018

confirmation of voters identity, this is a concept that I've been working on with NCSL and my cochairman...I'm the national cochairman of the elections and redistricting standing committee of that organization. My cochair, Senator Ivey-Soto, implemented a comparable piece of legislation in New Mexico which is to say, if the objective of those proponents of voter identification laws, which is you know I am, is to ensure that voters...that there is a picture in polling places on election day of everyone who shows up to vote, this is a technologically based means of making that happen without requiring voters to do anything. This says the state of Nebraska has the list of registered voters. We have the list in the Department of Motor Vehicles of people who have driver's licenses. We know that 97 percent of Nebraskans who are registered to vote have picture IDs, standard government-issued photo identification already with state government. Technology exists to put those two lists together and that solves 97 percent of our voter identification problem. So if you've never seen a electronic poll book, it is basically an iPad. And there is an increasing number of states who are moving to electronic poll books. What this bill certainly intends to do, it was not...and it clearly has been inferred by some of the opponents of the bill in the letters that I've received and in some of the testimony that this requires voters to get their picture taken or requires the Secretary of State to go out and get pictures taken of those 3 percent of Nebraskans who don't have a standard government-issue photo identification. That is not my intent, and I believe the white copy amendment makes clear that is not my intent. This simply says of the 97 percent of registered voters who have picture ID, they will have a digital image on an electronic poll book in the polling places on election day. Specific to the issue of electronic poll books, there are a lot of different forms; there's a lot of different companies that manufacture them, there's a lot of different forms, and it's really up to the Secretary of State to determine which system is utilized. But ES&S is the current provider for Nebraska's election technology and it's a Nebraska-based company. Their studies show that when states transfer to electronic poll books off of the paper poll books, it reduces lines by...it increases the speed in which lines are processed in polling places on election day by 25 percent. So by going to electronic poll books, we actually expedite the process of getting voters into and out of the polling places and having their ballots cast. With the white copy amendment, in my discussions with the Secretary of State, it nearly eliminates the fiscal note and makes clear that we're just...it doesn't...this bill does not capture everybody. It does not capture 100 percent of the people who are registered to vote in the state of Nebraska and puts their pictures on electronic poll book on election day, but it does cover 97 percent. And if you are part of that 3 percent who doesn't have a picture on file for whatever reasons, you don't have a driver's license or a religious exemption, you are just allowed to vote. You're processed, there's no provisional ballot, you would vote as normal. So nobody would get turned away from the polls; no voter is required to show any form of identification. This is simply two agencies of government, the Secretary of State and the Department of Motor Vehicles, using technology to put their lists together to solve what I think is an important problem. And as I said, the white copy amendment addresses the vast majority of the fiscal note. So that's my goal with the bill and I'd be happy to answer any questions that you may have.
[LB1065]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR BREWER: All right. Thank you for your opening. Any questions? Senator Blood. [LB1065]

SENATOR BLOOD: Thank you, Senator Brewer. Senator Murante, I have two really easy questions. The first one is my concern about lack of broadband in western Nebraska. So is it just your goal to only do this in communities that have good Internet service? [LB1065]

SENATOR MURANTE: Okay, so electronic poll books come in a variety of different forms and fashions. Some of them are connected to the Internet; some of them are not. Some states do it where it is just...it is a hard drive, it's not connected to the Internet, but each precinct has a poll book that contains all the information that would be in the paper and nothing other than what would be in the paper poll book on election day. And some have it connected electronically. Some states do vote anywhere technology, election on demand, so it requires the electronic poll books to be connected to the Internet. What I would contemplate is we're probably not ready for that in Nebraska, and these are probably just hard drive driven, not connected to the Internet i-Pads that it's kind of a more of a basic slim down version. That's sort of what I envision. But that's not...that would be a decision for the Secretary of State's Office to come up with. [LB1065]

SENATOR BLOOD: So has it been your experience...I mean, obviously, those would have to...even on hard drive, they'd have to be backed up. So do you know what type of technology it's built on that the average software person like it would be built on? It would prevent like cybercrime. [LB1065]

SENATOR MURANTE: Oh, I will tell you that the election technology community and the election policymakers take the security of the data, the cybersecurity, extremely seriously. And they are some of the most secure forms of technology that we have out there. This...I think most of the members of this committee have not had an opportunity yet to come and tour ES&S and go through all of the different back safeguards that they have put in place, but that is a...we have layers upon layers of fallback plans, the Election Systems Commission, the Help America Vote Act. The Secretary of State's Office also has a very strict cybersecurity policy with the voter rolls that we have. That is, I think, that is as secure as technology can be in this space. [LB1065]

SENATOR BLOOD: And I don't question that, I really, truly am just trying to find out do you know what technology they use in general? [LB1065]

SENATOR MURANTE: I'm not a tech guy. I mean, I couldn't tell...I've been there... [LB1065]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR BLOOD: I respect that. [LB1065]

SENATOR MURANTE: I've seen it and I've seen the data, but I couldn't tell you what processor they use or something like that. [LB1065]

SENATOR BLOOD: Thank you. I didn't mean to laugh at processor. [LB1065]

SENATOR MURANTE: I don't know. It's probably an Apple. [LB1065]

SENATOR BREWER: All right. Thank you, Senator Blood. Questions? Seeing none, thank you for your opening. And we will start with proponents? One more time for proponents? Opponents? Oh, I just about went to the neutral. Welcome back to the Government Committee. [LB1065]

JOHN CARTIER: Members of the Government, Military and Veterans Affairs Committee, for the record my name is John Cartier, it's spelled J-o-h-n C-a-r-t-i-e-r. I'm testifying in opposition to LB1065 as introduced in my official capacity as director of voting rights for Civic Nebraska. We took issue of LB1065 for three reasons: one, the cost of implementing the necessary infrastructure to support electronic poll books. Two, the strong likelihood that it would increase provisional ballots. And three, the restrictions placed on using the provisional ballots themselves. However, before today's hearing, Senator Murante showed us the amended version of this bill. Civic Nebraska requires additional time before taking official stance on the new, amended version. However, we do appreciate the senator's willingness to bring us to the table and we look forward to continued discussion on how we can make LB1065 something we can support. The bill as introduced though did place a substantial burden on the Secretary of State's Office to track down a digital photograph for each voter. Now for voters that are registered in the DMV's system, there was a provision that would include those. However, for the voters that are left out on the rolls that did not have a...were not in the DMV's system, they were naturally left out. And that's what led to the high fiscal note going throughout all the counties and setting up work stations. But with the amended version, I believe that does address that concern, so we appreciate Senator Murante taking care of that before this reaches the floor. Now, even if this does work as intended, we do have some questions and concerns. Even if on election day the election official decides I don't look enough like my digital photo, I will cast a provisional ballot. After that I have to appear before the election commissioner or county clerk in person within seven days to confirm I am who I am. This means I would have to take a day off work to appear in person, produce a photo ID, which according to this bill would necessarily require that same photograph is in the system, because it would be the same photo ID, if you're using your driver's license. One more concern that was briefly mentioned is because the system is expanding to include a digital image and digital signature of registered voters, it is important to keep in mind this type of

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

Government, Military and Veterans Affairs Committee
February 14, 2018

information would be quite valuable to hackers. I'm aware that the Secretary of State's Office already does an excellent job of keeping our voter rolls secured from outside actors, but with the inclusion more data could attract some more sophisticated tax on our security. Creating a new system such as this that has a direct link to electronic poll books may require an additional security audit to ensure information is kept safe. Civic Nebraska will say that LB1065 does have some potential to help our outdated election systems instead of the provisions where we provide for additional address verification, mandatory language for the Secretary of State, track down a digital image for every voter. Electronic poll books could be invested in by the state as part of a larger election modernization packet. Electronic poll books were discussed in a Nebraska Secretary of State report to the election system advisory task force dated April 10, 2017, as a potential way to eliminate cumbersome paper precinct books. However, if the state does want to move towards an all-mail voting model in the future, e-poll books would be a waste of money. I think before we move on electronic poll books, we need to be sure what we want our next election system to look like for the next couple of decades. And just in closing, I want to reiterate that I appreciate Senator Murante's addressing some of our issues before this bill is passed through the committee. And we'll be happy to continue the work to make sure we get something that benefits all of Nebraska's voters. Thank you. [LB1065]

SENATOR BREWER: Thank you for your testimony. And that was borderline neutral testimony. Proud of you. (Laughter) [LB1065]

JOHN CARTIER: Soft...soft (inaudible). [LB1065]

SENATOR BREWER: Soft neutral. All right, questions? Seeing none, thank you. All right, any additional opponents? Come on up. Welcome to the Government Committee. [LB1065]

SHERRY MILLER: Yeah, my question is why is it always the last bill? (Laughter) [LB1065]

SENATOR BREWER: Well, because... [LB1065]

SHERRY MILLER: (Exhibit 2) I know, it's the way it works. My name is Sherry Miller, S-h-e-r-r-y M-i-l-l-e-r, and thank you for my opportunity to testify against LB1065 representing the League of Women Voters of Nebraska. And we oppose for the following reasons: County election offices across Nebraska need updated election equipment now. Implementing an electronic poll book system will take time and money, lots of money. While the electronic system may be an idea, and a good idea, to contemplate for upgrading our election systems in the future, I hope without digital images, 2018 is a crucial midterm election year, which it is hoped will bring much renewed voter attention to the process, and in 2020, even more so. And I think with that renewed interest, we're really going to have to think about doing something about upgrading

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

Government, Military and Veterans Affairs Committee
February 14, 2018

the election equipment for the counties across our state. Secondly, voters deserve a measure of privacy. Furthermore, facial features can change from one election cycle to another through surgery, accidents, and plain old aging. I looked at my driver's license before I came up here, it's almost ten years old, because I had a license for five years and I renewed it by mail for five years. So the photo on that driver's license is ten years old. Trust me, I don't look the same as I did ten years ago. I wish I did. So I'm asking how often would voters have to re-register to assure compatibility with the digital image or would that happen every time you renew your driver's license, which as I said might be a ten-year gap. And the money has already been mentioned. It could be a very expensive measure to implement. And to sum up, it's our position that current election systems must be updated in a timely way to meet their more immediate needs and not risk failure of our equipment while waiting for an electronic system to be put in place. And if I'm reading the bill correctly, it's a system that would not be mandated to be used by the counties. Did I read that correctly? I think I did. [LB1065]

SENATOR BREWER: It would not be mandatory. [LB1065]

SHERRY MILLER: It would not be mandated to be used by the counties. Okay, thank you. And so please vote no to LB1065 or make it better is what I would say. Thank you. [LB1065]

SENATOR BREWER: All right, Ms. Miller, thank you for your testimony. Questions? Questions? Well, you got off easy; thank you for your... [LB1065]

SHERRY MILLER: You're welcome. [LB1065]

SENATOR BREWER: All right, next up, opponents? Welcome. [LB1065]

DONNA ROLLER: Hi, good afternoon. It's late in the day, you had to put this bill last, just a joke, sorry. I don't know if I understand this bill correctly, so I'm just going to...I made a lot of notes and made changes here like I always do. So I hope I'm going to address something maybe that you haven't thought about. [LB1065]

SENATOR BREWER: Can we get your name and spell it. [LB1065]

DONNA ROLLER: Oh, I'm sorry... [LB1065]

SENATOR BREWER: You're good. [LB1065]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

DONNA ROLLER: Donna Roller, D-o-n-n-a R-o-l-l-e-r. Last night's news was kind of disturbing, the FBI testified in Congress and their elections and they're definitely compromised by the Russians and they're actively doing that for the 2018 elections. That really, really scares me. And secondly, the FBI is doing their responsibility in reporting the security breach, but nothing is being done about it. So how does that relate to Nebraska? Well, I don't think we should be instigating any computer nothing, and we need to stick to our paper ballots and not making any changes right now until we are addressing what is really the problem. And I think this bill, to me, leads toward voter fraud, our voter ID which I'm dead set against. So let's look at what we need to secure elections, because it's not fraud, it's hacking. And so let's look what we need to do to secure the elections in this state. And I think we're safe in keeping the method that we have. I personally really object to having my picture in the Secretary of State's Office. It feels like a mug shot to me. And then what about that being...like somebody mentioned already, hacked, or maybe you pass a bill that this list could be shared, my picture be shared, crossed with other agencies; nationally my picture is out there. It's just another avenue for my identity to be compromised in some way. And I've lived at 2000 Twin Ridge Road for 27 years; our districts are small, they know me. I walk up the street and I vote, there's not an issue. We don't have a voter problem; we don't have a voter fraud problem. We don't have anybody trying to masquerade, so why is this picture supposed to be on a book. So I agree with the previous testimony that we need to look at ways to update our system and do it right. And I think we need to do some more research and study on that. And so...and I'm also...this is going to cost a lot of money, so we can't make our budget right now. And down the hall they're wanting to cut millions from the UNL and they're not...we're not funding our K-12, and so here we are messing around with some kind of electronic face recognition. And I don't think that's where our focus needs to be. And, you know, maybe we ought to do just mail by ballot, everybody--make it paper, make it count. And I guess I don't have anything more to say. [LB1065]

SENATOR BREWER: All right, well thank you for your testimony. Questions? I heard the report last night from the FBI too; that is a little concerning that there seems to be a lot questions about what the Russians are doing. So we'll hopefully find out. [LB1065]

DONNA ROLLER: I know, and while this threat is here, I'm losing sleep on it, Senator Brewer, and let's not make any drastic changes here because, you know, it was reported that they definitely hacked into the voter registrations. Right? And then my next concern is when are we going to know that they actually voted...that the machines were hacked. And I read one report, I don't think it's reliable, but that may come out yet, too. So let's not go to any machines, okay. [LB1065]

SENATOR BREWER: We're hoping that we get all the answers. Thank you, again, for your testimony. [LB1065]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

DONNA ROLLER: Thank you. [LB1065]

SENATOR BREWER: All right, have a good day. All right, additional opponents? Welcome back. [LB1065]

BETH BAZYN FERRELL: Thank you. Good afternoon, Senator Brewer, members of the committee, for the record my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials. I'm appearing in opposition to the green copy of the bill. We haven't had an opportunity to review the white copy of the amendment that Senator Murante was discussing. That may address a number of our concerns, but I will just mention the concerns we had about the green copy of the bill. One of them was the issue that Senator Blood raised about not necessarily having Internet access in all parts of the state. And we do believe that the Secretary of State's Office, if they would use a method of a poll book...electronic poll book that wouldn't require Internet if it came to that. But that is certainly something that we need to keep in mind. We also had some concerns about the fiscal note and the, kind of, the thought that if there would be that much money available to do the electronic poll books and all the things that came with that, maybe it would be a better investment to look at the election equipment that we currently have that some county officials are just sort of limping those along and keeping their fingers crossed that it's going to make through the next election. But with the white copy amendment, that would take care of the fiscal note on that. I'd be happy to try to answer questions. [LB1065]

SENATOR BREWER: All right. Thank you for your testimony. Questions? Questions? All right, thank you again. All right, additional opponents? Come on up. Welcome to the Government Committee. [LB1065]

JULIE NICHOLS: This won't take long. Thank you. I love that we get to do this actually. A lot of things...a lot of concerns that I have...oh, name...sorry. [LB1065]

SENATOR BREWER: Very good. [LB1065]

JULIE NICHOLS: Julie Nichols, J-u-l-i-e N-i-c-h-o-l-s. A lot of the concerns that I have about this, which this seems to return every year like a bad penny, they've already been mentioned. I don't think that I think, you know, the evidence that we can hack Sony, Target at Christmas time, and the Pentagon would recommend that we don't go down that road. There is no system that's ever been devised that can't be hacked. So that I'm uneasy about that. I have always been concerned since I cast my first votes at 18 that traditionally and for a very long time, maybe forever, I didn't look up the stats, we have been electing local, state, and federal officials with a minority of eligible voters. I think that our concentration should be in getting more people to the

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

Government, Military and Veterans Affairs Committee
February 14, 2018

polls and not dissuading them through various procedures that they need to go that people have already mentioned. I'm concerned about this. In fact, as...I don't know, late 20s, early 30s, I was so discouraged by the fact that we were not electing presidents, senators, city council members by a majority of our eligible voters. I feel as if the concentration we should place is on getting our voters to the polls. I, too, having known people who have had...been subjected to identity theft; particularly someone that...my cousin is a teacher, her identity was stolen and it turned up on a prostitute on Colfax Avenue in Denver. Because she's a teacher and because her identity was stolen, she has to go through an FBI check every single year in order to prove, once again, that she is who she is. So I think that there's sort of a pebble in a pond effect that can happen from stashing people's images and certainly having the possibility of abuse as has been pointed out by other systems. There's no guarantee that hackers or even other agencies would not use these or misuse these types of registrations. I would like to see...I kind of feel like there's so little evidence of fraud, and that's certainly has been presented by various senators in committee. We talked about the one vote, there's one vote and everybody's vote counts, and yet it's very, very rare that that happens. And so I kind of feel like this is really moot and unnecessary. And I'm also proud to say that my 17 year old is going to be able to vote for the first time this year and I'm really glad that that exists, because we have a lot of young people who are becoming active citizens and I'm really excited about it. But I would like you to seriously reconsider updating our system in a way that serves our communities and does not create electronic systems that are vulnerable. [LB1065]

SENATOR BREWER: All right. Thank you for your testimony. And, Julie, you looked right at me when you mentioned the Pentagon being hacked. I just want you to know... [LB1065]

JULIE NICHOLS: Did you hack the Pentagon? [LB1065]

SENATOR BREWER: I was not at the Pentagon when it happened. I take no responsibility (laughter). Senator Blood. [LB1065]

SENATOR BLOOD: Thank you, Senator Brewer. Even I actually do share some similar concerns, but in defense, believe it or not, of Senator Murante's bill, I made a quick search after he presented it and this technology is actually based on...it's called encrypted digital technology. [LB1065]

JULIE NICHOLS: Yes. [LB1065]

SENATOR BLOOD: And it is a type of disruptive technology that had it been used, Equifax would not have happened. So it's a very safe technology. In fact, I have... [LB1065]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

JULIE NICHOLS: Is the Pentagon using it? [LB1065]

SENATOR BLOOD: Actually, they're looking into using it. [LB1065]

JULIE NICHOLS: Good. [LB1065]

SENATOR BLOOD: I actually have a bill that identifies it as legislative intent that we can embrace it in Nebraska, which is good if we were ever to move forward. Much of the voting equipment that you're concerned about being hacked, which I am too, this is the technology that they want to base it on because of the type of technology it is. It makes it virtually...I mean, I would say virtually impossible. [LB1065]

JULIE NICHOLS: Yes, there is that. [LB1065]

SENATOR BLOOD: Right. But because of how it works, it really truly makes it virtually impossible to hack. [LB1065]

JULIE NICHOLS: So does that cover also the databases in which voter registrations are stored and maintained? [LB1065]

SENATOR BLOOD: I mean, I can't speak for every public entity in the United States... [LB1065]

JULIE NICHOLS: Well, I know that. [LB1065]

SENATOR BLOOD: ...but I can tell you that there are products out there that utilizes technology, the ones that Senator Murante is talking about, from the research I did, many of them are utilizing that type of technology. If we were to go to electronic voting, the vast majority of the most successful products are also based on that technology. So I just want you to feel...I know technology is a scary thing, especially with what's happened lately. [LB1065]

JULIE NICHOLS: Well, it's a great thing when it works. [LB1065]

SENATOR BLOOD: Exactly. And when it's safe. [LB1065]

JULIE NICHOLS: Right. [LB1065]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR BLOOD: And that's one of the wonderful things about...they use encrypted ledger technology which is basically distributed ledger technology. [LB1065]

JULIE NICHOLS: Okay. [LB1065]

SENATOR BLOOD: So I guess you'll be doing some Googling tonight. [LB1065]

JULIE NICHOLS: Well, maybe not tonight, maybe tomorrow. (Laughter) [LB1065]

SENATOR BLOOD: But I did want to say in Senator Murante's defense that what he is promoting is a safe product. [LB1065]

JULIE NICHOLS: Okay. I'm reassured by that. I also don't know that I want my photo floating around. [LB1065]

SENATOR BLOOD: I hear that. Thank you. [LB1065]

JULIE NICHOLS: So, all right. [LB1065]

SENATOR BREWER: All right. Senator Blood, thank you for those kind words about Senator Murante. (Laughter) [LB1065]

SENATOR BLOOD: You're welcome. [LB1065]

SENATOR BREWER: All right. Any additional questions? [LB1065]

JULIE NICHOLS: Anything else? Thank you. [LB1065]

SENATOR BREWER: All right, thank you for your testimony. [LB1065]

JULIE NICHOLS: Thank you. [LB1065]

SENATOR BREWER: All right, any additional opponents? Seeing none, we will go to those in the neutral...oh, you're an opponent? [LB1065]

RICHARD HALVORSEN: I'm an opponent. [LB1065]

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

Government, Military and Veterans Affairs Committee
February 14, 2018

SENATOR BREWER: All right, come on up. You got your green sheet? [LB1065]

RICHARD HALVORSEN: My name is Richard Halvorsen, H-a-l-v-o-r-s-e-n. I've worked on election boards for close to 30 years and not once have I ever run across a case of voter fraud. And maybe...I missed the opening, but I don't see a...a financial...I don't know if the senator mentioned how much it would cost to implement this. I mean, this would not be cheap. In fact, as it is now current vote counting machines they have are wearing out and we're not sure how we're going to replace those, where the money is coming for that. So I mean that's one thing to consider, again the...my experience, zilch, with 30 years not one case of, you know, people come...they've come to the wrong precinct by mistake, but not once has anybody presented themselves as other than what they are registered. Again, sometimes they're crossed off because they didn't vote. And again, like the bill says, in that case you vote a provisional ballot. We've had cases like that where people are at the wrong place or they say, well, no I haven't moved, I'm still there. But it's not fraud, it's that they cast provisional ballot and I guess the election office checks it out. So again, like I say, I don't think the cost of this is worth it. I mean, it's just not a problem in Nebraska. I'll fill out the green sheet before I leave. [LB1065]

SENATOR BREWER: All right, yeah, as long as you do it. Hang on here, we'll see if we got some questions for you here. All right, any...thank you for your testimony. Questions? All right, seeing none. If you could do the green sheet, we'd appreciate it, sir. Thank you for your testimony again. [LB1065]

RICHARD HALVORSEN: You're welcome. [LB1065]

SENATOR BREWER: All right, any additional opponents? Seeing none, we will go to neutral, those in the neutral? So close... [LB1065]

EDISON McDONALD: Sorry, I'll make it really quick so you guys can get out of here. [LB1065]

SENATOR BREWER: All right, you're a good man. Have a seat. [LB1065]

EDISON McDONALD: Hello. My name is Edison McDonald; I'm the executive director for the Arc of Nebraska; Edison, E-d-i-s-o-n, M-c-D-o-n-a-l-d. I want to express a couple of concerns, mainly, the fiscal note. Obviously, I'm usually out here at committee hearings, well, across the hall asking for funding. I think the use of this funding versus life-saving causes always kind of want to encourage a balanced budget and this is not exactly headed in that direction. Then of those 3 percent that Senator Murante mentioned that don't have IDs, 11 percent of those are

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

Government, Military and Veterans Affairs Committee
February 14, 2018

members who...of my organization, people who have disabilities, and that really higher level leads me to a concern that...I've seen how these local elections work. I've seen how, you know, volunteer, precinct captains are there; they're trying to go and be the best advocates that they can to protect the system. And more often than not, they're more likely to try and turn someone away. And if you have 97 percent of the people who do have a picture, and then that 3 percent that don't, the concern is then, well, are they more likely to turn people with disabilities away improperly. But on the positive side, I do really want to praise Senator Murante for the increase of technology, more joint use of data, the quick access to our outdated system needs to be repaired. The Nebraska Secretary of State's Office has really failed to keep up to the standards of the twenty-first century. It makes it tremendously difficult to allow for research understanding. And the joint use of finding the resources from the DMV and the Secretary of State's Office is very impressive. It's tremendously frustrating to see when you have so many systems that don't work together well and to have that system work together well would be of tremendous benefit. Thank you. [LB1065]

SENATOR BREWER: Thank you for your testimony. And I would agree that it would be nice to see all of Nebraska's agencies work together. I have seen some challenges we have with Game and Parks and our DMV and so I'm hoping that will change. Questions? Thank you, Mr. McDonald, for your testimony. All right, any more opponents? [LB1065]

EDISON McDONALD: I was neutral. [LB1065]

SENATOR BREWER: (Exhibits 3, 4, 5, 6, and 7) You were neutral, jeez, boy I gave that one away, didn't I? All right, any additional neutral? It was the praising of Senator Murante that should have gave it away. Seeing none, Senator Murante...is waiving closing. That concludes LB1065. We do have letters to read in. In opposition: Diane Olmer from Platte County Election Commissioner; we got Joann Fischer, Knox County Clerk; Connie Benjamin, AARP; and we have Rose Godinez from the ACLU-Nebraska. In neutral capacity: John Gale, Secretary of State. Thank you. That concludes our Government Committee for today. [LB1065]