

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 22, 2019

BREWER: Welcome to the Government, Military and Veterans Affairs Committee. I'm Senator Tom Brewer, representing the 43rd District of western Nebraska. I'm the chairman of this committee. We'll start by introducing our committee members starting with Senator Blood.

BLOOD: Good afternoon, I'm Senator Carol Blood and I represent District 3, which is western Bellevue and southeastern Papillion, Nebraska.

LOWE: John Lowe from District 37: Kearney, Gibbon, and Shelton.

HILGERS: Mike Hilgers, District 21: Northwest Lincoln and Lancaster County.

La GRONE: Andrew La Grone, District 49: Gretna and northwest Sarpy County.

BREWER: We've got senators presenting this afternoon, so they'll come and go. We have our legal counsel, Dick Clark; and our committee clerk, Julie Condon. And we have Kaci and Preston as our pages. Today, we are going to have public hearings on LB342, LB101, LB175, and LB618. That said, we have some administrative things to run through quickly. I would ask that you mute your cell phones or other electronic devices. Senators will be using their either computers or iPhones to coordinate if they need to be in other committee hearings. If you wish to record your attendance, the white sheets are at the back on the table. If you are going to testify, the green sheets are there. Please fill them out. If you do not wish to testify but want to record your position, you can do that on the white sheets. If you have materials you pass out, please provide 12 copies or let the pages know and they can provide copies to you. A letter submitted to the committee need to be submitted by 5:00 pm the day before. Those letters should include your name, address, bill number, and your position, and a request to have it in the official record. Mass mailings will not go into the official record. If you're going to speak on a bill, the current bill that's up, please come forward so we have a head count on how many are going to speak on it. When you do come up, please state and spell your name for the record. Speak clearly into the microphone. After the presenting senator is done with his opening comments we'll go to proponents, opponents, and those the neutral capacity. And lastly, the senator will be allowed to come back for closing. We'll be using five-minute light system. The amber light will come on with one minute to go and the red light when it's time to

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cease. There will also be an audible alarm. With that said-- I tell you what, why don't we go ahead and knock out quick introductions for the two senators that just came in. Senator Hunt.

HUNT: I'm Senator Hunt. I represent District 8, which includes the neighborhoods of Dundee and Benson in Omaha.

M. HANSEN: Matt Hansen, District 26: Northeast Lincoln.

BREWER: With that said, Senator La Grone, welcome to the Government, Military and Veterans Affairs Committee. You may begin.

La GRONE: Thank you, Chairman Brewer, members of the committee. My name is Andrew La Grone, A-n-d-r-e-w L-a G-r-o-n-e, I represent District 49, which is Gretna and northwest Sarpy County. LB342 is a cleanup bill brought on behalf of the Secretary of State. I should say I think it's a cleanup bill. Essentially what the bill does is it provides the administration of the election of MUD board members will be conducted by Secretary of State's Office instead of the election commissioner of a county in which a city of the metropolitan class is located. Right now, obviously, that's only applicable to Omaha. So the history on this essentially is that way back in 2014-- I might be wrong on that year-- MUD, the MUD board used to be elected on an at-large basis. Then, under a Murante bill, I believe in 2014, it was split into district elections. Now the result of that is that there are, there's districts outside of Douglas County. And so right now Douglas County is running an election for an entity that's not contained entirely in Douglas County. Because it's in multiple counties it would make a lot more sense for that to be done by the Secretary of State's Office. So this would simply move that to the secretary of state's office. I know there were some concerns from MUD board members who want to be able to file in Douglas County. I have heard from the election commissioner there, they would be more than happy to assist with getting that, the proper information, to the Secretary of State's Office. So with that, I'd take any questions.

BREWER: All right, thank you for your opening. Questions on LB342? Seeing none, thank you for your opening. We will go to proponents. Welcome to the Government, Military and Veterans Affairs Committee.

BRIAN W. KRUSE: Thank you.

BREWER: Please have a seat. Sit down.

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BRIAN W. KRUSE: OK, I won't make myself too comfortable. This shouldn't take too long. Chairman Brewer and members of the committee, my name is Brian, B-r-i-a-n, W. Kruse, K-r-u-s-e. I'm the Douglas County Election Commissioner and I'm here to testify in support of LB342. I would like to begin by thanking Senator La Grone for introducing this bill. The seven-member metropolitan utility district MUD board of directors involves Douglas, Sarpy, Saunders, and Washington counties. Currently, the official filing office for all MUD board candidates is the Douglas County Election Commission office. In 2017, the MUD board changed from being elected at-large to being elected by seven subdivisions or sub-districts. The boundaries for subdivision 1 through 6 are partially or wholly within Douglas County. However, subdivision 7 lies completely in Sarpy County. Therefore, it makes sense to move the official filing office from Douglas County to the Secretary of State's Office. A candidate for an office which only represents Sarpy County should not have to come to the Douglas County office to file. Equally, a candidate who lives in Saunders or Washington County should not be required to visit the Douglas County election office to file. With this change, MUD would join other entities that cross county lines and whose candidates file with the Secretary of State, such as public power districts and natural resource districts. Currently, candidates for offices that represent voters in Douglas County and file officially with the Secretary of State's Office may receive assistance from our office. We are happy to provide candidates with the necessary filing forms, provide assistance in completing them, and answer questions to the best of our ability. As a convenience, our office provides a self-addressed envelope to the Secretary of State's Office for the candidates. In conclusion, LB342 will eliminate confusion as to where candidates for the MUD board should officially file and establish consistency based on the official filing locations for other similar political subdivisions. I urge this committee to advance LB342 to General File. Thank you for your time, and I'd be happy to answer any questions.

BREWER: Thank you for your testimony. Questions? Senator Blood.

BLOOD: Thank you, Chairman Brewer. Just a quick question.

BRIAN W. KRUSE: Sure.

BLOOD: What is the filing fee for folks on MUD?

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BRIAN W. KRUSE: You know, I don't know off the top of my head. I could find out for you.

BLOOD: Probably look it up on the computer.

BRIAN W. KRUSE: Wayne may know. I'm sorry, but I don't know that.

BLOOD: No worries.

BRIAN W. KRUSE: We've got hundreds of offices and I don't have all of those memorized.

BLOOD: I thought it might just like roll off your lips.

BRIAN W. KRUSE: No, sorry.

BLOOD: No worries, thank you. That's my only question.

BREWER: You failed the test. All right, additional questions? All right, seeing none, thank you again for your testimony.

BRIAN W. KRUSE: Thank you.

BREWER: All right, any additional proponents? You do realize there will be questions you will need to have answers, right? All right, with that said, welcome to Government, Military and Veterans Affairs.

WAYNE BENA: Thank you, Chairman Brewer and members of the committee. My name is Wayne Bena, W-a-y-n-e B-e-n-a, Deputy Secretary of State for Elections, here on behalf of Secretary of State, Bob Evnen. Thank you to Commissioner Kruse for outlining the majority of what this bill would do. They approached us to consider taking over the administration of this election, and it does make complete sense given the fact that it is now districts instead of at-large. So candidates would file with our office, we would, whether the MUD would certify the election to our office. We would take the certificate, we would take the filing forms, the filing fee. We would then show those results on our reporting Web site and the State Board of Canvassers would then certify that election and we would provide the certificate of election much like U.S. state senators get from our office. In regards to Senator Blood, I was gonna bring this up. This is the first time in my career that I've worked on a bill that has a positive fiscal impact. I will be bringing \$25 per filing fee to the state of Nebraska. If in 2020 we anticipate, if two candidates for each one of the three districts, we are bringing in literally tens of dollars to

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the state of Nebraska. Budget crisis solved, we can all go home. So \$25 per filing fee going forward. With that, we're happy to take over the administration of this election, and I would answer any questions you may have.

BREWER: Well, that is-- thank you for your testimony. That's refreshing. We don't get people to come in that have a positive balance for things. So it's welcome. Questions. Well, you did a good job. Thank you. Any additional proponents? Any opponents? Any in the neutral capacity? All right. Welcome to Government, Military and Veterans Affairs Committee.

MARK MENDENHALL: Thank you, Chairman Brewer. Good afternoon. Good afternoon to the members of the Government, Military and Veterans Affairs Committee. My name is Mark, M-a-r-k, Mendenhall, M-e-n-d-e-n-h-a-l-l, and I am appearing on behalf of the Metropolitan Utilities District of Omaha. I am the general counsel for the district. And I am testifying here in the neutral capacity on behalf of LB342. As many of you know, the district is a political subdivision of the state of Nebraska with the charge of providing potable water and natural gas to a variety of communities. As Mr.-- Chairman Kruse had stated-- Commissioner Kruse, excuse me, had stated that we do provide these services primarily within Douglas and Sarpy Counties, but we do provide services outside of that to Saunders and Washington County. In that respect, the district's board of directors serves constituents in four different counties. MUD has worked with the Secretary of State's Office, and specifically Mr. Bena, who I'd like to thank, to address the questions and concerns that our board of directors have had regarding LB342. And we appear today in a neutral capacity on this bill and certainly understand the Secretary of State's interest in the uniform application of our state's election laws. And as was already mentioned, bringing the district in line with other political subdivisions that serve constituents in multiple counties. There were some concerns with no longer being able to file in person at the Douglas County Election Office. However, it is our understanding that local county election commissioner offices will continue to provide assistance to prospective district board candidates and be able to answer any questions and provide filing assistance. And with that, I would answer any questions that this board may have.

BREWER: Thank you for your testimony. Senator Blood.

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BLOOD: Thank you, Chairman Brewer. Just real quick. So MUD has no issue with this whatsoever?

MARK MENDENHALL: I would say the issues that we had were concerns regarding changing something that seems to already work. And again, our primary, the primary district that we serve was, is in Omaha and Douglas County. And so I think that there's a default to, well, if it doesn't work, why would we why would we consider changing it? But again, through discussions with Mr. Bena and, and a willingness to collaborate with the Secretary of State's Office I think we've addressed those and understand and appreciate that those concerns have, I guess, lessened so.

BLOOD: OK, thank you.

BREWER: All right, any additional questions? Seeing none, thank you.

MARK MENDENHALL: Thank you, Chairman. Thank you.

BREWER: All right, any additional in the neutral position? Seeing none, Senator La Grone waives closing. We have no letters. That completes the hearing on LB342. And we will transition to LB101. Welcome back to your committee on Military, Government and Veterans Affairs [SIC], Senator Wayne.

WAYNE: Thank you. Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha northeast Douglas County. LB101 will allow elected members of cities, villages, and school districts to participate in voting on matters if there is a conflict relating to their service as a member of one board or association. Practices can vary by political subdivisions currently, but in some, some cases elected officials are having to abstain from votes on payments of bills or dues to associations in situations where organizations share board members. Currently, if a conflict arises, the board member must file a written statement describing the conflict and then the conflict of interest statement is filed and made public. This bill doesn't change any of that. LB101 will allow a vote to proceed once the first two steps are completed. I think, like, for example right now board members have to abstain for paying dues to an association like the League of Municipalities or Nebraska Association of School Boards because they're on the board and they're on the other board and it could create a conflict. So that's just one example of it just doesn't

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make sense why we couldn't make that go away. Once the disclosure has been made, they still have to do disclosure, and it isn't some outrageous conflict-- like voluntary service on a board is not outrageous-- they can go ahead and allow [INAUDIBLE] and proceed on that. I would ask for a green light on this and-- oh, I got the green light, but I would ask for a vote on this so I can proceed to the floor and have floor debate on it. It's Friday.

BREWER: It's Friday. It's been a long week.

WAYNE: It's been a long week.

BREWER: Senator Blood.

BLOOD: Thank you, Chairman Brewer. Just a quick question. So have you met with Mr. Daley on this?

WAYNE: No, but the person who brought the bill-- this is a bill we heard last in this committee too. And it was voted out and it's with no opposition. But I understand he's here today in neutral testimony with a slight support testimony. I just, I added that part.

BLOOD: Even if he hasn't said that, you're going to say that, right?

WAYNE: But no, this is from, brought to us by the School Board Association and they'll be here to testify on it. But it's a common thing among the school boards.

BLOOD: Was there a reason you didn't meet with Mr. Daley?

WAYNE: No, I just totally forgot. And I know that he was here last year in neutral capacity, slightly supportive, and I figured the bill had not changed, just the exact same bill so.

BLOOD: Does Mr. Daley know you're speaking on his behalf?

WAYNE: He does now because he's listening. And he'll probably clarify that he's just in a neutral position.

BLOOD: Thank you, Senator Wayne.

BREWER: How many bills have you presented so far this year?

WAYNE: I don't know.

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BREWER: That's probably why you're asking for green lights. Senator Hunt.

HUNT: Thank you, Chairman Brewer. Thank you, Senator Wayne. I have a naive question because I'm just more curious than like critical or concerned about anything. On page 3, lines 22 to 27, it's, it's this part: If the potential conflict of interest is based on a business association and dot, dot, dot-- can you give me some examples of like what would, what would some examples of this be for A, B, and C in that section there? Because I was kind of reading this and I'm like, what would an example of that be?

WAYNE: So--

HUNT: Hypothetically.

WAYNE: OK. So the city, or a school, so as a school board member we were a part of a Nebraska school board association. And there are oftentimes we have to vote to pay our dues and that sometimes we have to vote as another member to pay something else. And so there's, there's a conflict. But the conflict really isn't there. Because when I sit as a school board member association, I'm sitting as a school board member. But I'm only there because I'm on the school board. And so sometimes even legislatively there's different positions they might take on different things where OPS might like one and I have to put my other hat on as a national, or as a Nebraska school board member, and they might take a different position. There is still a conflict there. And so some board members feel reluctant to, to vote on it because there is a conflict. And it's not clear in the law where that stands. Another example is I was on a nonprofit board in which I received no benefits, I received nothing. But on the school board there was payments that had to be made to them and they dealt with special ed students. And so I always abstained but we had enough board members who could still vote. But some county boards, some city boards, there's only three. And if a bill is due and one person has to abstain then you could potentially have a 1 to 1 tie and that bill doesn't get paid. So that's the extreme position. But the school board and the OPS School Board is it is an easier one that isn't, there isn't real conflict there. It's just the perception of a conflict.

HUNT: Thank you. Sometimes you read these things and it's like, I know what these words mean in this order but can someone explain this to me in practical terms? So that's really helpful, thank you.

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WAYNE: And again, I have somebody behind me who deals with a lot more because I was only on the Nebraska school board for like one year and then they kicked me off. So it happens.

BREWER: How long, you were on--

WAYNE: I was on OPS for longer but I only served--

BREWER: Only on OPS?

WAYNE: Yeah, I was on OPS for seven years, six years.

BREWER: And how many members are there of Omaha?

WAYNE: When I started, there was twelve. When I finished, there was nine.

BREWER: And it was planned to be that way?

WAYNE: No. This committee actually kicked out a bill to require the shrinking of Omaha Public School boards from 12 to 9.

BREWER: Are Omaha school board members paid?

WAYNE: They are not paid, nor are they reimbursed.

BREWER: All right, thank you. Additional questions? Thank you. You'll stick around to close?

WAYNE: Yes.

BREWER: Thank you. I think we've officially found someone who is paid less than we are.

JOHN SPATZ: That's right. That's right.

BREWER: Welcome to the Government, Military, Veterans Affairs.

JOHN SPATZ: Thank you, Senator Brewer and members of the committee. My name is John Spatz, S-p-a-t-z, but it is pronounced Spots [PHONETICALLY]. I'm the Executive Director of the Nebraska Association of School Boards and I really appreciate Senator Wayne introducing this bill today. And hopefully I don't speak too much on Frank Daley's behalf either, but this issue arose a couple of years ago. NASB, we have 19 regional board members that are made up of school board members from around the state. And they're, how they're placed on our

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board is very is based upon legislative district lines. So every 10 years when the Legislature changes its district lines we realign. So right now, Lincoln Public Schools as an, as an example, has two automatic seats on our board. We also have four officers, so there is somebody from Lincoln who is an officer. So Lincoln has four people on, or excuse me, three people on our board of directors right now. There's a total of seven people on the Lincoln Public Schools so under the, under the practice as it is now, if there's a bill to NASB to pay dues or somebody attended a workshop, an opinion by NADC a couple of years ago I think rightfully said, because it's in a business association, those folks have to abstain. So using that Lincoln example, if three people have to abstain on a board of seven and if somebody is gone, they can't conduct business. So school board members are not paid anything. And I pay just as well as the school boards do, we don't pay anything for them to serve on the Nebraska Association of School Boards. So I really appreciated being able to work with Frank Daley's office on this to come up with some language. So if this bill passes, I look at this as kind of a technical clean up because now you still have to disclose, but the way the law says now is you have to abstain. This would enables members to vote on, on these types of issues if, if they disclose. So we would appreciate this coming out, and be happy to answer any questions.

BREWER: All right. Thank you for your testimony. Questions? To the right, to the left, no questions?

JOHN SPATZ: Nothing?

BREWER: All right, thank you.

JOHN SPATZ: OK. Thank you.

BREWER: Next proponent. Welcome back.

CHRISTY ABRAHAM: Hello, Senator Brewer and members of the Government Committee. So nice to see you again. My name's Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m, here representing the League of Nebraskans Municipalities. We want to start by just thinking Senator Wayne for introducing this bill. This bill really only applies, as far as we can tell, Senator Hunt, in that convoluted language, it's meant to narrow it down to the League of Nebraska Municipalities and the Nebraska Association of School Boards. These are the two entities that this bill addresses. And as Mr. Spatz explained so well, we have elected officials that sit on our board. And what Opinion 203 said two

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years ago was that that's actually a conflict. So what was most concerning to the League is that meant that our mayors couldn't sign or veto their budget because the League dues were in that document and that was a conflict. So with this language has done is, as they have already explained, it does allow the elected officials that sit on the League board to vote on their budget and claims when there are League dues involved. So again, thank you to the School Board Association who did so much work on this bill and to Frank Daley for his expertise.

BREWER: All right, thank you for your testimony. Any questions? Questions? Seeing none, thanks.

CHRISTY ABRAHAM: Thank you.

BREWER: All right, any additional proponents? Are there any in opposition, you are in the positive. We thought Senator Wayne was pulling our leg. [LAUGHTER] Sir, welcome to the Government, Military, and Veterans Affairs Committee.

FRANK DALEY: Thank you, Senator Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Frank Daley, D-a-l-e-y, I serve as the Executive Director of the Nebraska Accountability and Disclosure Commission. I'm here to express the commission's position in support of, though leaning neutral on LB101. Senator Wayne's bill essentially create, crafts a common-sense solution, a very narrow exception to the conflict of interest provisions of the Nebraska Accountability and Disclosure Act. Currently, if a city, village, or school board, school district-- excuse me, if a city, a mayor, city council member, or village board member is a member of an organization or serves on the board of directors of an organization of which the city, village, or school district is a member, that official has a business association with that entity. And a conflict of interest is defined by law as being faced with taking an official action or making an official decision which could result in a financial benefit or detriment to a business with which they're associated. So as was described to you, if bills come up involving the Nebraska Association of School Boards, the person on the school board that knows the most about that organization because they're serving as the representative to that association, they can't participate or vote. So under the bill they're still required to disclose that they have this business association but they can go ahead and vote. I will point out that this is modeled after an exception to the conflicts of interest law which was crafted for state commodities boards back in the 1990s and is still part of our law. So

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it's very consistent with that. That's all I have. Thanks for the opportunity to testify.

BREWER: All right, thank you for your testimony. Senator Blood.

BLOOD: Thank you, Chairman Brewer. Now, this is just for clarification.

FRANK DALEY: Yes.

BLOOD: Was it his subliminal message that made you go positive?

FRANK DALEY: It was not. It was actually the decision of the commission to send me here to testify in a positive manner.

BLOOD: You say that now, but I don't know. Thank you.

BREWER: All right, any other questions? Seeing none, thank you, sir.

FRANK DALEY: Thank you very much.

BREWER: All right. Are there any in opposition? Any in the neutral position? With that said, Senator Wayne waives closing. There are no letters in opposition or neutral. So with that, we will close a hearing on LB101. And next up is LB175, which is Senator Chambers. And I don't see him yet, so we'll just kind of stand by until he's available. Oh, I guess if we have to we can always substitute the next guy. Well, they probably didn't expect that one to go quite that fast. All right, we'll take a short break here.

[BREAK]

BREWER: We're powered up, that's good. All right. Senator Chambers, we took a slight break there because it had been a stressful day and we just needed to take a break so.

CHAMBERS: Before more stress is heaped upon you? I'm trying to lighten the mood.

BREWER: We will, we will go ahead and start the hearing on LB175. Senator Chambers, welcome to the Government, Military and Veterans Affairs Committee.

CHAMBERS: Do you know, I brought the wrong statement of intent. But I can tell you what the purpose of the bill is.

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BREWER: I figured you could do it extemporaneously anyway.

CHAMBERS: This is a bill which is designed simply to say that when an individual has unexpended funds from his or her election commission or candidate commission, committee, that cannot be funneled to another campaign committee for a different person. Then when it comes to a campaign committee, it cannot make any contribution to another campaign committee or assist, funnel any of those funds to a different campaign committee. And the premise is that if I, as a contributor, contribute something to candidate A, that does not authorize candidate A to funnel some of that money to candidate B. Were I of an inclination to do that, I could make such a campaign contribution. I probably or perhaps are more suspicious than many people are. But having observed the way campaign committees operate, individual candidates operate, and very wealthy people operate, this idea of dark money, as they call it-- you can't trace the origin-- if you allow this transfer or funneling of money from one committee to another-- I'll give an example. Let's say that the Koch brothers wants, want to give some money to candidate A. Candidate A would be harmed if he or she made a report or the committee made a report, as the case may be, that this contribution came from the Koch brothers it would hurt that individual. But the Koch brothers could give me or my committee a contribution because either I'm not going to run again, it doesn't make any difference to me. Thank you. There is magic in this committee. Think something, express something, and it's granted without you even asking for it. So I, whoever is responsible, I appreciate it. But I didn't lose my train of thought as old as I am. If the Koch brothers give me the money or my campaign committee the money, then I funnel it to candidate A, all candidate A has to report is that the money came from me, my campaign. The Koch brothers will have used me as a pass-through to give a contribution to candidate A, who would be harmed by receiving it directly from the Koch brothers. Maybe nobody had thought about using this existing process to launder money but being a politician, I campaigned-- that I can put my hand on for sure-- one time, and that's the first time I ran for this office. Then there was an occasion when I ran for two offices at the same time. I ran for the U.S. Senate, and I was on the ballot; and I ran for this office as a write-in. And there were people who donated and I didn't mind that happening because I wasn't going to use the money. And when I got through running there was an organization, the Black Police Officers Association, that I would give anything to and I reported that. So I'm not experienced in terms of the ins and outs of large contributions and the origin of them. But I do watch the news, I

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read newspapers, I think about matters, and I've come to become, I've come to be very skeptical about transfers of money from one political entity to another. And in order not to prolong the committee by me giving a lengthy opening, I will answer any questions that you put to me at this point.

BREWER: Thank you, Senator Chambers. And for having absolutely no notes, that was amazing. All right, questions? Well, that's a pretty good indicator you made a pretty clear statement there.

CHAMBERS: Just--

BREWER: Thank you, and you'll stick around for close?

CHAMBERS: Yes, I will. There was a former senator-- I may as well to her, Senator Jan McKenzie, and she asked me could she have something put on one of my sweatshirts. And I said, sure, because I knew it wouldn't be obscene or anything like that. And on the back she put "Termin" and then "8" and "er": Terminator. I kind of like it.

BREWER: I'm sure that sweatshirt would be worth a lot of money. OK, first proponent? Welcome to the Government, Military and Veterans Affairs Committee.

JACK GOULD: Thank you, Senator Brewer. Senator Brewer, members of the committee, my name is Jack Gould, that's J-a-c-k G-o-u-l-d, and I am here representing Common Cause Nebraska. I also want to testify to the fact that I do watch Senator Chambers' campaign account and he's never received anything from the Koch brothers.

BREWER: I'm pretty sure I can believe that.

JACK GOULD: This bill is a relatively short bill. It's fairly easy to explain. The original Accountability and Disclosure Act prohibited the exchange of campaign funds between candidate committees. And the actual language of the original statute said: A candidate committee shall not make a contribution to or an independent expenditure in behalf of another candidate committee. But in the early '80s it was a bill that changed that and added this section to the, to the bill saying: Except that a candidate committee may make a contribution to another candidate committee for the funding event, for a funding event of such other candidate committee. I know that's a little confusing but that's the exact language that's there. At the time of the change contributions were relatively small, between \$50 and \$100. As you can

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see on the chart, the attached chart, many contributions or ticket purchases now range between \$500 and \$1,000. A single contribution during the 2016 election cycle reach \$20,000. And that was not the only contribution from that account. There were thousands of dollars beyond that that went to other candidates. In fact, \$70,000 moved from 27 campaign accounts to 77 candidate committees. These contributions were not small donor contributions. Every contribution exceeded \$250, the \$250 reporting threshold. The current rules allow a, officeholders to become major players in our election process. Unfortunately, they are actually using other people's money. The donors to those campaigns did not expect their money to be transferred to any other candidate or to any type of petition effort. They expected that money to be used by the candidate. It's important to consider the intent of the original donor. Did he or she expect the contribution to a senator to be donated to the mayor's race, the governor's campaign, a local school board election? The original language was there to protect the original donor not to facilitate money exchanges. It's reasonable to ask what should a candidate do with their campaign funds as they leave office. And the current law allows for a number of things that can be done. You can keep a campaign account open and run for another office or you can donate it to a political party. My favorite is that you would take that money and donate to the Cancer Fund or to help to feed the poor. I mean, these are all options that are open. But no one is saying that it's a good idea to give to another political candidate. Under the current rules the original donor has no idea that the contribution could become part of an insider exchange. So I hope you'll look at the chart. It's-- and I hope I don't offend anybody. If you find your name on there, I'm sorry about that. But I hope that you look at the, the amount of money that was moving, \$70,000 is a lot of money for, for, for a campaign. And when we're dealing with thousands of dollars to individual candidates, that's not a small donor. The, you're all involved in fundraising so you know you're always grateful for that thousand dollar contribution. That's it.

BREWER: All right, thank you for your testimony. Actually, this is kind of fascinating to hear how some of this works. Mostly because I didn't have a lot of money, I guess I didn't think about what I would do if there was any left when I was done. So as the rules are right now, I finish my four years out, there's money left in an account.

JACK GOULD: Right.

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BREWER: I could donate to a charity. I can donate to a party, or you can do it currently, you can donate to another individual who is running or someone who is a sitting senator?

JACK GOULD: Right. And you can donate right now if you wanted to. You don't have to wait until the end of your term. I mean, if you choose to take some of your money at the next election and help someone you, you can do that.

BREWER: Probably got to figure out if I'm going to run again if I do that. All right, questions? All right. Thank you, sir. Oh, sorry. Senator Blood.

BLOOD: No worries.

BREWER: We got to go higher here. Very good.

BLOOD: Thank you, Chairman Brewer. I'm kind of looking at this. Would it be your opinion based on your research that money is being transferred as well? Like perhaps say that Senator Brewer and I are friends and he is friends with Senator Hunt but I've already donated a considerable amount to Hunt and I don't want to show up on any DC necessarily. So I donate to Senator Brewer, who then donates to Hunt. Would you say there's that stuff going on?

JACK GOULD: That would be pretty hard to trace. I mean, I--

BLOOD: I mean I can see at least one issue on here already that shows me that that's probably happening.

JACK GOULD: It probably could happen. It would be, but it would be hard for anyone to know that that had happened because usually the other recipient has a fairly large account anyway. So when that money goes in there, it's in the pot. And when they make a donation to someone else-- it would have to happen pretty close time-wise. And I didn't put the dates on this, you know. But, but it could be done I think.

BLOOD: I mean, especially if you, you've donated \$249, anything over that, right?

JACK GOULD: Yeah.

BLOOD: It's pretty visible.

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JACK GOULD: Two-hundred fifty is the threshold for reporting but it's also smaller amounts. I mean, you could give \$200 and it wouldn't show up on the, on your report. However, I know Accountability and Disclosure requires you all to keep a record of even \$50 donation.

BLOOD: Right.

JACK GOULD: And so if you were audited, it would show up. But for the average citizen, no one would know what was going on.

BLOOD: Thank you.

BREWER: You change your mind, did you? Senator Hunt.

HUNT: Thank you, Senator Brewer. I just have more of a comment. This absolutely happens. And I can say when I was a first-time candidate a strategy that I had was to go to candidates who were done and ask them if they had any money left. And I didn't have a lot of luck with that because I'm a Democrat who ran against another Democrat. But this definitely happens and it raises some questions that I hadn't really considered in terms of accountability and, you know, where donors know their money is going. And so thank you for this.

JACK GOULD: I think it's important that that this get a discussion on the floor. I mean, if the committee can advance into the floor it certainly makes the public more aware of what can happen. And at the same time, it's a very responsible thing for the body to do to ensure that the integrity of the campaign finance system, that something of this sort is, is a concern of the body so that they can take some action.

BREWER: All right. Yes?

HUNT: Can you think of a, this-- I don't know if you should speculate but do you think that hypothetically a candidate could, maybe if they know they're going to lose or something like that, they could drive real hard fundraising knowing that they won't win with the intention of donating it to somebody else? Maybe for, maybe for not good reasons?

JACK GOULD: No, you don't know intent. You know, you can't really dig through that. So it's, it's possible. Any of that would be possible.

HUNT: I guess I'm just wondering on the record. So thank you.

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JACK GOULD: Appreciate that.

BREWER: All right. One more time around. Thank you for your testimony.

JACK GOULD: Thank you.

BREWER: OK. Additional proponents? Frank, welcome back to Military, Government and Veterans Affairs.

FRANK DALEY: Thank you, Chairman Brewer and members of the committee. My name is Frank Daley, D-a-l-e-y. I serve as the Executive Director of the Nebraska Accountability and Disclosure Commission, and I'm here to express the commission's support for LB175. The original Accountability and Disclosure Act included an absolute prohibition against one candidate committee transferring funds to another candidate committee. And the rationale generally went that it was intended to prevent a situation in which a member of a legislative type body who was in a safe seat and had the ability to raise money could not then turn around, donate money he or she didn't need to another candidate such that the new candidate coming into the legislative body was beholden to the well-funded candidate. That was the rationale behind it. In the late '70s, very early '80s there was some dissatisfaction with this and that resulted in a minor change to the law which had a big effect. Number one, you could donate money from one candidate committee to another candidate committee when the first candidate committee was dissolving, the candidate was no longer going to run. But probably the more important one was you could donate money to another candidate committee for, as the statute says, a fundraising event. Now, looking at the legislative history at the time the rationale was, well, I'm running for office and I'm running for Legislature. There's someone running for governor, I want to go to that fundraising event for my own campaign purposes so that I can meet with the right people and maybe solicit contributions to my own campaign. So that was the rationale at the time. However, the language in the current statute isn't very good. It doesn't say something like: tickets to attend a fundraising event. It just says "for a fundraising event." So that's very, very open language which allows a lot of what transfers to take place. So that's kind of what we're talking about now is eliminating those two exceptions, or at least one of those exceptions. I guess my thought is if you believe that the prohibition against candidate committee to candidate committee transfers is appropriate then you ought to advance this bill. If for some reason you don't like the bill at it, as is, at the very least you ought to really consider tightening up the language such that it makes it very

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clear you can only transfer funds for a fundraising event so that you can buy a ticket for you and perhaps your spouse or a campaign worker. So that it's a lot more restrictive and so it's for the original purpose of the exception. So thank you very much for the opportunity to testify. And thank you, Senator Chambers, for bringing this bill.

BREWER: All right, thank you, Mr. Daley. OK, questions? All right, sir, thank you.

FRANK DALEY: Thank you very much.

BREWER: All right. So we've had three in support. Are there any more in the proponent category? Is there any opposition? Are there any in the neutral? Wow, it's gonna be an easy day. Senator Chambers, would you care to close?

CHAMBERS: I try in the interest of brevity to find a maxim for every situation. This is one where it would be pointless to try to gild the lily. Thank you.

BREWER: Thank you, sir. And there is one letter in support and no other letters. That closes our hearing on LB175. And the next one is LB618, and that will be our very own Senator Hilgers.

HILGERS: Thank you, Chairman Brewer, members of the Government, Military and Veterans Affairs Committee. My name is Mike Hilgers, M-i-k-e H-i-l-g-e-r-s. I represent District 21, which includes northwest Lincoln and Lancaster County. I will be very, very brief. I believe there are at least two testifiers behind me who will speak to this. This bill, LB618, is to put a definition of "electioneering" into our state statutes. Currently, Nebraska State Statute bans electioneering at certain locations, including polling locations. And in 2018, there was a Supreme Court decision, Minnesota Voters Alliance v. Mansky, in which the court struck down some restrictions on electioneering in, at the polling booth and put down some guidelines. In light of that decision it seemed wise that we would include a definition in our state statutes to provide some clarity and precision to make sure that we're not running afoul of the court's decision. I have worked with the ACLU and the Secretary of State's Office on LB618. The language is not in its final form. We're still working through maybe some potential tweaks. I don't have an amendment to bring to the committee at the moment, but I hope to in the near future. With that, I will allow for certain if there are any questions, I'm happy to entertain them. As I mentioned, the ACLU and I

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believe the Secretary of State's Office will also testify but behind me and you can ask them questions as well. Thank you.

BREWER: Senator Blood.

BLOOD: Did you say Senator Blood?

BREWER: Senator Blood.

BLOOD: Sorry. Thank you, Chairman Brewer. So I wasn't sure you said my name. So I don't necessarily take any issue with this, but I'm such a literal thinker that I'm having trouble with it. And maybe you're going to change that with the new language. So "For purposes of this section, electioneering means any activity done to persuade voters to vote or not vote for a particular candidate, ballot question, or political party which appears on the ballot at the election for which the voters are appearing to vote." So say that-- and I'll make sure I use both parties so nobody thinks I'm like preferencing anything. So say that President Trump is not on the ballot next time. Somebody can wear their "Make America Great Again" hat into the polls?

HILGERS: I'm pulling up the language so I have it in front of me, Senator Blood.

BLOOD: All right, I'll save my second question until you answer the first.

HILGERS: OK, one second.

BLOOD: I just-- I'm, I'm just trying to figure out if it's not on the ballot what can I wear? Can I wear, you know, vote, "vote only for a pro-life candidates" on my t-shirt? Can I put "stop the patriarchy" on a t-shirt and going to the polls?

HILGERS: Well--

BLOOD: Where, where's my gray area between First Amendment rights and how I'm influencing an election? And I just, I'm-- that's my only concern with this. I believe in what you're doing, I think a definition is awesome. I don't think there should be anybody that on any, in any party trying to influence others that are trying to vote. But by not being more specific, since this is only on the ballot, it says, does that allow them to do whatever the heck they want otherwise?

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HILGERS: So, so to answer your question I would answer it two ways. One is we are looking to provide some additional clarity. Under your hypothetical in which President Trump is not on the ballot and assuming, if I might, for purposes your hypothetical that whoever was on the ballot was not also using that slogan in a similar way, I would argue that that would not necessarily be done to persuade voters to vote and would not fall under here.

BLOOD: So if I wear a t-shirt that said "vote only pro-life candidates" or put, or "support only pro-choice candidates"?

HILGERS: Well, and then that, and those-- for a, for a particular candidate, again, it is under the current language. And so to the extent that it's not clear in our amendment that we're currently drafting doesn't capture, or doesn't provide the requisite clarity to address that question. I would say for a particular candidate, ballot question, or political party saying "vote for pro-life candidates" arguably it would fall under there. But under the actual text of the statute, I'm not sure what--

BLOOD: See and, and, you know, I don't tend to be a lawyer. You guys know all the "lawyerly" stuff but I'm just having a hard time trying to definitively think that this is the total language that we should have if we can make it better.

HILGERS: Well, and I-- so we were going to try to do that. And I will, but I will say that there's, or there's going to be-- I don't know if you could completely address every single hypothetical that could occur. And I certainly think yours are--

BLOOD: And I don't want to nitpick at all. I'm just--

HILGERS: But no, I don't-- but I think, and I certainly think those are, the hypotheticals you have posed are ones that are either more likely to happen or certainly are closer to the line. But you could imagine, in fact, before I walked in I was speaking with an individual about a hypothetical about what happens if someone's just wearing a shirt with an elephant on it? Is that close enough to the line of the Republican Party? Or a donkey, just to say for instance. Is that too close? Well, we're going to try to do is get as much provision to give-- precision that's within the contours of that Supreme Court decision that I referenced but also give people enough notice. I think that's, that's a critical part of this and so.

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BLOOD: Is that based on the one that started in Minnesota?

HILGERS: That's right.

BLOOD: OK.

HILGERS: That's right.

BLOOD: See, I actually do read stuff.

HILGERS: I know you do, Senator Blood.

BLOOD: Thank you.

BREWER: All right, additional questions. Speaking of lawyers, Senator La Grone.

La GRONE: Thank you, Mr. Chairman. Thank you, Senator Hilgers, for bringing this bill. Just real quick off of Senator Blood's question, weren't the hypotheticals she was bringing up essentially the exact issue, the exact circumstances at issue in the Minnesota Voters v. Mansky case?

HILGERS: I don't know if it was the Mansky--

La GRONE: I believe it was very similar. I believe it was--

HILGERS: The Tea Party was--

La GRONE: "ID me" or something to that effect?

HILGERS: Right, that sounds correct.

La GRONE: So point being, essentially, that that hypothetical is what, based on that Supreme Court decision essentially, I know it focused mainly on a discernable standard, but essentially that's what the court decided was allowed under a similar law to ours.

HILGERS: I think that's a fair description of the court's opinion.

La GRONE: Thank you, Chairman.

BREWER: All right, there you go. Additional questions? Seeing none, thank you for your opening.

HILGERS: Thank you.

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BREWER: All right, those that are proponents of LB618, come on up. Welcomed to the Government, Military and Veterans Affairs.

SPIKE EICKHOLT: Thank you, Chairman Brewer. Good afternoon, members of the committee. My name is Spike Eickholt, S-p-i-k-e, last name is E-i-c-k-h-o-l-t, appearing on behalf of the ACLU of Nebraska in support of LB618. And we want to thank Senator Hilgers for introducing the bill. I'll acknowledge that I perhaps drafted the first version of this so maybe I can answer some questions. But what Senator Hilgers summarizing in his opening is accurate. In June of 2018, the U.S. Supreme Court struck down on the Minnesota statute that banned in part the wearing of political badges, political buttons, or political insignias at a polling place. And the facts were, as Senator La Grone just indicated, the facts were there were a number of people who were, I think that they were actually associated with the Tea Party, but they were wearing shirts and buttons that asked them to be IDed that said "please ID me" because they supported the concept of voter ID. And even though then Minnesota, and I don't know frankly what they do now, but then at the time Minnesota didn't have a voter ID requirement. There was nothing on the ballot about a question of whether there should be voter ID but they were making a political point, and that has to probably demonstrate how easy it was to produce ID to vote. They were asked by election officials to remove them, cover the badges, come back in and whatever. And they refused to do so. They were allowed to vote but they were cited and convicted of some sort of misdemeanor crime of electioneering, similar to what we have. And the Supreme Court said essentially that states can't do that. That you don't check all of your rights to political speech when you go to vote. It is a balancing test, and the court sort of instructing the states to do that. That the states do have some ability to restrict disruptive behaviors of a political nature. So you can't shout people's names and intimidate people who are in line to vote. You can restrict speech that's relating to candidates on that ballot or ballot questions on that ballot. But general political expression cannot simply be prohibited by the states. We have, in 32-1524 a prohibition on electioneering. But it's not defined. And as suggest, as we suggested to Senator Hilgers when we asked him to do the bill, perhaps the Legislature should provide for a definition of electioneering to provide some sort of guidance to the election officials around the state. The draft, as Senator Hilgers indicated, and as Senator Blood noted in her questioning, perhaps could use some improvement. We have worked with the Secretary of State's Office. They have some additional proposals and I think we're awful close to

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getting something worked out. But I think this committee and the Legislature really should provide some sort of guidance because you can think of different scenarios and you don't really want to let this be figured out if you, according to election officials, on a case-by-case instance this next election cycle. So I'd encourage the committee to work on this and advance the bill.

BREWER: All right, to questions. Senator Blood.

BLOOD: Thank you, Chairman Brewer. So I counted I think seven or eight lawyers in this room that I could hit with a rock right now, so I know there's a lot of you in here. Now everybody is counting. So help me with your brilliant legal brain.

SPIKE EICKHOLT: Well, you already lost me.

BLOOD: Just trying to compliment you so you answer the question. Where, so where in law, and I know it exists, do we decide what's First Amendment rights and what's the rights when it comes to electioneering? Where will I find that in law?

SPIKE EICKHOLT: Well, what the court held is that in some, in First Amendment law the court generally separates sort of areas into traditional public forums in which your First Amendment rights are very great. For instance, in some regard, what we're doing now is maybe a legit-- limited public forum. The Chair can't stop me from saying things about this subject that he may disagree with, you can't stop me either. I can be stopped from interrupting other people testifying. But the content of what I'm saying on this subject generally can't be restricted. What the court said in *Mansky* was that the polling place is an area that's a limited public forum. It means it's a public area, it's not someone's private business or home but it's open to the public. But the government can restrict it somewhat. And the line there is unclear. It's not a traditional public forum like a street corner or a university or a capitol steps where you can stand up and rally and advocate for a particular cause. But the court held that in *Mansky* that the polling place is similar to a public school. And they actually draw a reference to a *Des Moines* case that was decided years ago where some public students were wearing black armbands to promote the Vietnam War. The schools disciplined those students and the Supreme Court struck that action down, holding that kids still have a right of political expression as long as it doesn't disrupt the teaching of stuff, of instruction in schools and as long as it doesn't contribute to any bad behavior in the schools kids can

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have some political expression. And the court drew a parallel to the voting place. As long as you are not interrupting or influencing or intimidating other people to actually vote, you can wear shirts that say "vote for women" or "vote pro-life". As long as you are not tying that to a ballot question or to an actual candidate on the ballot.

BLOOD: So if we had Title X on the ballot, which is never gonna happen. But if I wore a "vote pro-life", "vote pro-choice" shirt could I do it when Title X is on the ballot?

SPIKE EICKHOLT: Well, I suppose--

BLOOD: I, I'm, I'm truly trying to understand this. I'm not trying to trip anybody up. I just see scenario after scenario in my head and I, I want to see the language tightened up because I think if we put in, push a bill forward that's not tight that it's gonna come back to bite us somewhere where I don't want to say on the mike.

SPIKE EICKHOLT: I agree with you. And the reason I laugh is not because of your question. It just reminded me of the conversation that I've had last couple of days with Wayne Bena for the Secretary of State talking about these various scenarios. Because you're right, a definition needs to be drafted that hopefully is general and loose enough--

BLOOD: And by the way, I meant Title Ten [PHONETIC], not Title X. I do that all the time.

SPIKE EICKHOLT: No, you said Title X.

BLOOD: Did I say Title X? OK, saw the x in my head.

SPIKE EICKHOLT: At least I heard that. So it really depends on--

BLOOD: Sorry, it's the end of the day.

SPIKE EICKHOLT: To use your example, if it's a Title X question on a ballot, I suppose if you said "vote pro-life" that would be, that would matter to a certain extent if there was a, if there was a--

BLOOD: A ballot.

SPIKE EICKHOLT: --committee, a ballot, a group supporting it that was labeling that terminology. And then that might matter for instance. So one of the things you could do in this definition is provide that you

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can't advocate for a particular ballot question by using any of the supporters or opponents phraseology for instance.

BLOOD: What if there's all the men on the ballot and I wore my "vote out the patriarchy" shirt?

SPIKE EICKHOLT: Well--

BLOOD: I'm just saying.

SPIKE EICKHOLT: That is true. Well, I don't know. If it's all men on the ballot then I think you could still wear that shirt because you're not asking anyone to be voted as an alternative to any of the male candidates.

BLOOD: That's true.

SPIKE EICKHOLT: So I think you probably could do that.

BLOOD: We'll let them stay then.

SPIKE EICKHOLT: OK.

BLOOD: I just, I see-- first of all, I believe people should wear-- we've had this discussion before in this committee. And I think that if we're going to put our foot down and say what they can and can't do that we have to be more specific and make sure that we're not violating. And I know that you're all about that, not violating their First Amendment rights. So you said you are bringing additional language forward?

SPIKE EICKHOLT: That's right, we have, absolutely. And think Senator-- or I think that Wayne Bena from the Secretary of State will also be speaking as well. We are working with them. I think ultimately you have nothing now in statute. I mean, something probably needs to be drafted to provide some guidance. And it is difficult because when you think about the different examples you mentioned, you think, well, people wearing "ID me" badges, that's a political statement. And in some respects it's aligned with a certain political party. But the Supreme Court says, unless it relates to an actual candidate quest, or question on the ballot you can't limit that.

BLOOD: So we'll have to train all of the poll workers also, right, to learn the difference between what somebody's First Amendment right is?

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SPIKE EICKHOLT: That's the hope.

BLOOD: And that they darn well better know what's on the ballot in their particular area?

SPIKE EICKHOLT: That's the hope.

BLOOD: Is that going to create additional legal problems for us if they're wrong?

SPIKE EICKHOLT: I can't-- I don't know about legal problems. I can't speak for the Security of State but I--

BLOOD: You're a lawyer aren't you?

SPIKE EICKHOLT: Well, I-- well, sort of. They do provide--

BLOOD: You guys make all this money. You guys should know this.
[LAUGHTER] No, that's fine.

SPIKE EICKHOLT: But I think the Secretary of State does provide some guidance that local election officials now generally anyway for election cycles, and presumably this would be something that they would include as well.

BLOOD: Well, I appreciate you entertaining my questions. It's just I'm having a hard time getting my head wrapped around the language and as it is.

SPIKE EICKHOLT: I understand.

BLOOD: So I appreciate that, thank you.

BREWER: Imagine Senator Hilgers is glad she mauled you and not him. All right, Senator La Grone.

La GRONE: Thank you, Chairman Brewer. And welcome back, Mr. Eickholt. So just real quickly, you mentioned the form analysis but I just want to make sure we're analyzing this under the correct standard. I believe in the Minnesota case we're under a non-forum, a non-public forum analysis, correct?

SPIKE EICKHOLT: What did I say, limited public forum? OK, I misspoke.

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La GRONE: Yeah, because that obviously has a huge impact on Senator Blood's questions of whether the content is restricted or not. Yeah, with that, and then I'm good. Thank you, Mr. Chair.

BREWER: All right. Thanks for keeping all your stuff straight. Thank you for your testimony. All right, next proponent. You see how we bundle these things together so you only have to come on certain days?

WAYNE BENA: It's, it will be much better now that I work down here, as before I'd have to travel down here as much as for mostly--

BREWER: Welcome back to Government, Military and Veterans Affairs.

WAYNE BENA: Thank you, Senator. And thank you, members of the committee. For the record, my name is Wayne Bena, W-a-y-n-e B-e-n-a. I serve as Deputy Secretary of State for Elections here on behalf of Secretary of State Bob Evnen in conditional support of the bill today. Why I say conditional support is that the Secretary of State's Office does believe that an electioneering definition should happen in the state of Nebraska. But as you've heard from previous testifiers, we are still working on specific language and concerns. And, but what I will say, this is not contentious. This is some of the most enjoyable work I've done this year, working with Senator Hilgers and the ACLU. Maybe not something you've seen in the past in other bills. So we're close. We just kind of ran out of time before today's hearing. But we are committed to getting this done so that we have something solid prior to the next primary election in 2020. With that, want to take those questions if you have any.

BREWER: All right. Well, I'm probably going to need you guys to kick it into overdrive because if we want to get this out before we get too late in the season and it makes it harder for it to survive. All right, questions? All right, seeing none, thank you. Next proponent. Come on up. Welcome back to Government, Military and Veterans Affairs.

WESTIN MILLER: Thank you, Chairman Brewer. Members of the committee, my name is Weston Miller, W-e-s-t-i-n M-i-l-l-e-r. I'm the policy and communications associate for Civic Nebraska. Civic Nebraska is a nonpartisan, nonprofit organization that work with the Legislature on elections and voting rights legislation. And I'm thrilled to tell you that I am not a lawyer. Yeah, it happens a lot. That's maybe an insult. So I am here in support of LB618. And I do want to thank Senator Hilgers for bringing some much-needed clarity to this statute. One of Civic Nebraska's major projects outside of the Legislature is a

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nonpartisan election observation program. So what that means is for us, in 2018, for example, we trained and deployed 120 nonpartisan volunteer observers. What they do is they go to various polling places, they kind of take a shift at a polling place. They're there as a resource to answer questions for voters and they're also there to just document when things go awry at the polling place. Whether someone thinks they're unfairly turned away. We had an instance several years ago where somebody was incorrectly asked to show an ID. And they're there to just kind of report and so we can try to resolve those situations. In 2018, one of the major themes of issues that we saw were issues stemming from confusion surrounding the actual definition of electioneering in the polling place. Specifically, what was and was not allowed to be discussed or worn. Specifically, we heard of poll workers who were unclear on what kind of slogans counted as electioneering; what volunteer observers were and were not allowed to say to voters in the polling place; and my favorite one is whether a red or blue "I voted" sticker constituted electioneering. This confusion, even though I think it all arises from genuine misunderstanding, it does nonetheless erode public trust in the election process for everybody involved. And thus I do think it's a problem worth solving. So I think that LB618 would provide a much clear definition than currently exists in statute, since right now we basically have a "No soliciting" sticker and that's about it. So I do encourage you to advance this bill because this clarity will help reduce confusion for both voters and for poll workers. It will protect our election observers and it will generally improve public trust in the, in the Nebraska elections. This has been kind of discussed, so I'll reference two specific instances we encountered in 2018. One was with a "Make America Great Again" hat and another one was with someone wearing a sweater that said "Support women's rights". These were two reports we received from voters that kind of people just weren't really sure what counted and what didn't count. In both cases the voter, the voters kind of just voluntarily changed their clothing as to not cause a scene. So we didn't have to pursue it super far. But I do think that this demonstrates the need for this issue. My understanding, and I know the language is evolving, my understanding is that because "Make America Great Again" is a pretty specific campaign slogan I think in 2018 that should have been just fine because it is not for that particular candidate. And I think the "Support women's rights" sweater, in my opinion is, is an ideology, which would not be banned really under any circumstance. So I think there's different opinions, I think, on maybe what should and shouldn't be limited. But nonetheless we really support having some

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kind of a definition beyond just the word "solicitation" because that's just kind of adding to the confusion. So I'd be happy to answer any other questions.

BREWER: Senator Blood. Your hand is up higher now, it's easier to see.

BLOOD: Two questions. I'm sorry that I'm like beating this to death, I really do apologize. But did you just say that you thought they were both OK?

WESTIN MILLER: In 2018, yeah, I think they were both OK.

BLOOD: Was Trump on the ballot in 2018? I have no-- 2016. Yeah, see, I have no concept of time. OK, then that does make sense to me.

WESTIN MILLER: Yeah, I think 2016 the hat would have not been OK.

BLOOD: So you heard some of the examples that I gave. And when I'm reading this the way it is it's that if it's on a ballot. So we're gonna put poll workers in a position where they have to decide whether it pertains to what's on the ballot or not, right?

WESTIN MILLER: And, I mean, I think hopefully that that would be a task best handled by the Secretary of State's Office to kind of promulgate some rules to say, OK, given what's on the ballot, here are some major red flags. Here's things to avoid. And I also know that, I think one of the things that makes our elections run so well is there is a fairly specific chain of command. So if a poll worker has a question, they ask the poll site captain. If they have a question, they can call the election commissioners. And so there are-- I don't think it will be up to an individual poll worker to just say, take off that hat, get out of here. There is a--

BLOOD: But you know it's going to happen.

WESTIN MILLER: Absolutely.

BLOOD: I mean, and that's the issue that especially people that have been there for like decades.

WESTIN MILLER: Yeah.

BLOOD: I know in my mom's part of town they've been doing it for 30, 40 years so.

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WESTIN MILLER: And I think you did bring up, I think, maybe the glaring question which is what do ideological statements like both pro-choice or pro-life, what does that mean if they're--

BLOOD: If it's on the ballot.

WESTIN MILLER: If it's on the ballot or if it's just like--

BLOOD: That's the thing I'm concerned about, no matter which side.

WESTIN MILLER: --if there's one candidate who is clearly pro-life and clearly pro-choice, like what does that mean? I think it's always safer to air on the side of we should let people-- or air on the side of not restricting speech certainly.

BLOOD: See, I think of immigration, I think of the death penalty, I think of reproductive rights. I just, I need to see better language because I'm, I just think it's too easy. Especially with somebody who's ornery like me to get around this the way it is right now. Not that I would want to do that.

WESTIN MILLER: Sure. And I do think there's an element of, of trusting that we will never, nor should we, like eliminate all, like elements of obviously politics at the voting booth. That would, that would not be possible.

BLOOD: Right.

WESTIN MILLER: But I do think that if we can clearly distinguish between like you're, you're allowed to, you know, clearly be conservative or clearly be liberal, whatever that looks like in clothing. I think that should be OK. But that's way different than saying you've got to vote for Senator so-and-so because they're a liberal or because they're conservative.

BLOOD: I mean, the whole issue is what's on the ballot, right?

WESTIN MILLER: Absolutely.

BLOOD: And really good training for poll workers.

WESTIN MILLER: Yeah, I think, I mean, that's essential always. And I think the more clear the statute can be, I think that allows the secretary to provide even more specific training. So I think what

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Senator Hilgers is doing will enable the Secretary of State to give more specific training to poll workers.

BLOOD: Yeah, I don't disagree in any way with what he's trying to do. I support it. I just am worried that we can do better.

WESTIN MILLER: Yeah, absolutely.

BLOOD: Thank you.

WESTIN MILLER: Sure.

BREWER: All right, additional questions? Thank you for your testimony. OK, we are still on proponents. Any additional proponents? Seeing none, we will go to opponents. Any in the neutral capacity? Senator Hilgers. Really?

BLOOD: Do you have a question?

BREWER: Can I ask you a question here?

HILGERS: It's your committee.

BREWER: This, this bill is necessary just to, to make it so that it's clear? What I'm saying is we should do something with this. What you're doing to modify it, like Senator Blood has, has identified, that you think you can do in a fairly timely manner? Because, I mean, if it's something that we actually need to be dealing with, I don't want to push it too far down the road here because I think we will hit a point where it's gonna be harder to get bills enough life to get through in this year. Do you think that's doable?

HILGERS: I think so. And I think we have agreed language I think, given that we don't have a definition currently and given the stakes of not, and I shouldn't overstate it, but given the Supreme Court's decision and given that we have a current ban on electioneering that's undefined, I would like to think this could be a consent calendar bill if we have agreed language.

BREWER: If, I think if we can put together what looks right, that's realistic. Senator La Grone.

La GRONE: Thank you, Chairman Brewer. And sorry to ask you a question when you.

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BREWER: It's all right. He's doing a great closing.

HILGERS: Are questions still allowed at this point?

La GRONE: I just wanted--

BREWER: You are closing?

La GRONE: I just, I just wanted to--

HILGERS: Yes, sir.

La GRONE: I just wanted to clarify something real quick. So you can either respond yes or no or completely not answer. It's totally fine. On Senator Blood's question about the poll workers, the whole point, as I understood it, of the Mansky case, and I'll just quote from it. The court's holding essentially ruled it was fair enforcement: requires that a poll worker to maintain a mental index of the platforms and positions every candidate and party on the ballot is not reasonable. Essentially, anything that we would have that would require them to do what Senator Blood is concerned about would be unconstitutional under Mansky and so that's the whole point of what we're trying to do here is avoid that.

HILGERS: I think it's a fair statement.

BREWER: All right, yes, Senator Blood.

BLOOD: Thank you, Chairman Brewer. Can you translate that lawyer speak?

HILGERS: Not, not on Friday. Can I waive closing? Just to make the record clear, the reason I waived closing was to not have to address any more questions. I'm kidding.

BLOOD: I am kind of serious though.

HILGERS: What's-- I'm sorry, Senator Blood.

BLOOD: Do you remember what Senator La Grone just said?

HILGERS: He was recusing, what I interpreted him saying was just recharacterizing a portion of what the court was doing in its opinion.

BLOOD: Gosh, you guys are lawyers.

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HILGERS: Which I agreed with, but he might have to restate it.

BLOOD: So to recharacterize it, what were they recharacterizing?

HILGERS: Who's they, I'm sorry?

BLOOD: Who's on first?

HILGERS: They be, why I said Senator La Grone was characterizing the opinion, you said they were characterizing, you're talking about the court.

BLOOD: What, what are they characterizing? I don't understand what they're characterizing. So, so there's, you were speaking to me to answer my question. I'm not sure I understand the answer.

HILGERS: I was only agreeing with Senator La Grone's characterization of what the court was doing.

BLOOD: I give up. Thank you. I'll--

HILGERS: Whether it answer your question or not.

BLOOD: It did not.

HILGERS: Then that would--

BLOOD: But thank you.

HILGERS: Fair.

BLOOD: I was looking for translation sincerely, not being a smart aleck.

HILGERS: No, I know you're not. I'm, and then neither am I. I hope you understand that. I wasn't, I wasn't agreeing with Senator La Grone's characterization as to whether it answered your question or not. I was only agreeing with his characterization of the opinion.

BLOOD: Thank you.

BREWER: And I understand.

HILGERS: I don't know which question I was trying to answer.

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BREWER: I just wanted to make sure that if this was something that we needed to act on relatively quickly that we, we put the right things in motion to do that. Because I did, I didn't want it to get pushed to the back and then all of a sudden we, we get into a position where we can't get it on a consent calendar or on the floor. So anyway, thank you for your amazing closing on LB618. And there are, there is one letter in the neutral position, no opponents, and no proponents. Thank you. And that closes our hearing on LB618 and closes our hearings on Government, Military and Veterans Affairs.