

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee March 14, 2019

**BREWER:** Good afternoon, ladies and gentlemen, and welcome to the Government, Military and Veterans Affairs Committee. My name is Tom Brewer. I'm the Chair of this committee. I represent the 43rd District of western Nebraska. We will start by introduction of our committee starting on my right with Senator Blood.

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

**LOWE:** John Lowe, District 37.

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

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

**M. HANSEN:** Matt Hansen, District 26, northeast Lincoln.

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

**BREWER:** And Senator Kolowski will be joining us shortly. And just some additional introductions: Senator La Grone is the Vice Chair; Dick Clark is the legal counsel; Julie Condon is the committee clerk; and behind her are our pages, Kaci and Preston. They'll be the ones you give any materials to. With that said, we are gonna have public hearings today on three bills: LB718, LB687, and LB733. Some quick administrative things, please mute your cell phones or electronic devices. Please keep in mind that the senators will be either on their laptops or cell phones coordinating their requirements to be at other committee hearings. If you wish to record your attendance today, there are white sheets on the table back there. If you wish to testify, there are green sheets. Bring those forward when you come up to testify and give them to the committee clerk or to one of the pages. If you have materials to pass out, you'll need 12 copies. If you don't have 12, please get the materials to the page-- pages and they will get copies made of those. Letters being submitted to the committee for official record need to be in by 5:00 the day before the hearing. Those letters should contain your name, your address, the bill number, your position on the bill either for or against or neutral, and a request to have it placed in the official record. With that said,

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today we will use the five-minute light system so we will go four minutes with the green light, one minute with the amber, and then to the red. Once the senator presents the bill, we'll start with the proponents, opponents, and then those that want to speak in the neutral capacity. There will be an audible alarm after the red light comes on in case you didn't notice the red light. With that said, Senator Hunt, welcome to the Government-- your Government, Military and Veterans Affairs Committee.

**HUNT:** Thank you, Chairman Brewer. And good afternoon to my fellow members of the Government, Military and Veterans Affairs Committee. I'm Senator Megan Hunt, M-e-g-a-n H-u-n-t, and I represent District 8 in midtown Omaha. Today, I'm presenting LB718, a bill to expand access to the vote for working Nebraskans by requiring counties with a population of 100,000 or more to provide additional hours for early voting. The additional hours would include at least four hours on the two Saturdays preceding the day of the election and at least five hours during each week of the two-week period in addition to normal business hours. I'd like to begin by providing you with a little background on this bill. Senator Vargas introduced a version of this bill that would have expanded early voting hours and increased the required number of early voting locations in these counties in 2017. He collaborated with the Douglas, Lancaster, and Sarpy County election commissioners to produce this compromised version of the bill that I have today which addresses the fiscal and logistical concerns with the original bill. Extending the hours of operation at the election commissioners' offices will enable Nebraska voters who work or who go to school during normal office hours 8:00 to 5:00 Monday through Friday to have the same opportunity to cast their ballot early as other voters who have more flexibility in their daily schedule or live and work closer to the election commissioner's office. This is an opportunity that Nebraska voters will no doubt take advantage of. We have seen in other states that allow early voting and have hours on weekend days, election officials report is their busiest time. In 2012, North Carolina saw nearly 17,000 voters in the first week of early voting with 11,000 of them on Saturday. On the final Saturday for early voting, 21,000 people turned out to vote. New Mexico reported Saturdays as the most popular voting day across the state. Not surprisingly, states that provided additional hours for early voting reduced their lines for early in-person voting as well. The reason we have early voting in the first place is to ensure that people who cannot afford to take time off work, find child care, or pay transit fees so they can get to the polls on election day are

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still given the opportunity to partake in our electoral process. But we are not solving this issue if we don't provide weekend hours because people will just continue running into the same barriers. This is actually a conversation that I had frequently with voters at the doors when I was campaigning, especially in the Benson neighborhood where residents face a 40-minute round trip to the election commissioner's office if they'd like to cast an early ballot. Douglas, Lancaster, and Sarpy are big counties in both geography and population so this isn't just a problem for my district. Senators that represent all parts of these counties have historically supported similar efforts because their constituents face the same issues. This bill carries very little fiscal impact to counties and none to the state. Doing something that seems so small as adding 18 hours of extra voting time can make a big difference for Nebraska voters and for participation in our elections. And with that, I will take any questions.

**BREWER:** All right. Thank you for your opening. Questions? Senator Blood.

**BLOOD:** Thank you, Chairman Brewer. Thank you, Senator Hunt, for bringing this bill back. And so you said that this was a compromise, and so are the counties in support of this bill to your knowledge?

**HUNT:** The counties are-- they, they accept this form of the bill, yes.

**BLOOD:** And I noticed we have some election commissioners here.

**HUNT:** Um-hum.

**BLOOD:** Would you say that in order for a democracy to function properly and for government to, to provide fair representation that it is important that we remove every hurdle possible for people to vote?

**HUNT:** Absolutely.

**BLOOD:** And is that why you're bringing this bill forward?

**HUNT:** Absolutely. I think that everybody who is able to vote and wants to vote, should not be impeded by government from carrying out that right.

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**BLOOD:** What demographic do you believe in your research is affected the most by limiting the hours of, of the voting ability-- the ability to vote?

**HUNT:** From my research the people who are most limited by voting hours that are just from 8:00 to 5:00 Monday through Friday are young people, so students and people who don't have flexibility in their jobs. And so that's typically single parents, people in poverty which disproportionately affects people of color.

**BLOOD:** Thank you.

**HUNT:** Um-hum.

**BREWER:** OK. Additional questions? I've got one on the fiscal note here. I see there's a \$3,607.95 from Lancaster County. Was there no other impact financially anywhere else?

**HUNT:** Not that, not that anybody was able to, to put together. No.

**BREWER:** OK. Then you'll stay-- yeah, I assume you're gonna stick around for close.

**HUNT:** I will. I have a-- I have another bill up in Health and Human Services so it depends on when that comes, but I'll be here.

**BREWER:** OK. Thank you.

**HUNT:** I don't have a lot of testifiers or anything so I guess they're all here.

**BREWER:** Yeah, give me the wave if you have to go--

**HUNT:** You got it.

**BREWER:** --and we'll make it work.

**HUNT:** Thank you, Chairman.

**BREWER:** You bet. Thank you. OK, LB718. We'll start with proponents, proponents? There you go, don't be shy. Come on up. Welcome to the Government, Military and Veteran Affairs Committee.

**WESTIN MILLER:** Thank you, Chairman Brewer and members of the committee. My name is Westin Miller, W-e-s-t-i-n M-i-l-l-e-r. I'm the policy and communications associate with Civic Nebraska. We are a

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nonpartisan, nonprofit organization. We work with the Legislature on elections and voting rights legislation. I just want to really quickly note our support for LB718. Reading through testimony on a similar bill from two years ago, I noticed two things that I think are worth mentioning. Number one, this is a really, really efficient bill. This is a very small burden that could have a really high impact. I think that Senator Hunt alluded to one of the main problems we're solving here is time constraints. But also, more practically, just really long lines that people have to interact with. Those are some of the most like, I think, common sense and foundational barriers to voting, are time constraints and long lines and this bill really efficiently gets at both of those problems. Secondly, I noted from reading up on the kind of negotiation process and the conversation in committee last time. I think that LB718 represents a really good faith negotiation to a better version of what was introduced in 2017 that clearly caused the county some stress and, of course, it's not my place to say whether or not it is enough for them to support. But I do think the progress that was made on this bill is tremendous and was a really honest good faith negotiation. Civic Nebraska has seen firsthand through our election observation programs how monstrous some early voting lines can get and there's really nothing more discouraging for voters than to make the effort to go to vote and then realize that that effort is gonna end up taking them several hours just because the line is long and there's nothing, nothing that they can do about it. So I think that LB718 is a really efficient way to improve the voter experience and that's why we support it. I'd be happy to answer any questions.

**BREWER:** Thank you. All right. Questions? Senator Blood.

**BLOOD:** Thank you, Chairman Brewer. This is just a quick question, and you may not have the statistic, but I'm curious in the states that have done this, do you have an idea as to the percentage of increase in voters it's, it's created?

**WESTIN MILLER:** I don't. But I'd be happy to find that and send it to you.

**BLOOD:** I'd be interested in that. Thank you.

**WESTIN MILLER:** Sure.

**BREWER:** OK. I guess I got a quick question for you.

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**WESTIN MILLER:** Yeah.

**BREWER:** So right now, don't we already have early and absentee voting?

**WESTIN MILLER:** Um-hum.

**BREWER:** So if you couldn't get in during the week, you'd still have an option to be able to get your vote counted, right?

**WESTIN MILLER:** Yeah, I, I think it's definitely possible. I think that our interest here is that this does though just make it easier and make it less of a burden to get that counted. I think that as someone who-- before this job I worked in the service industry for several years, like the fact that just because we're open on a Saturday or just because we're open on weekends doesn't necessarily mean that, oh, great, I can just go, no problem. You know, because my double shift on a Saturday doesn't really allow for that. So we just want to make it as easy as possible.

**BREWER:** OK so--

**WESTIN MILLER:** So yes, I don't, I don't think that this bill will let more people vote who just like under no circumstances could vote before. But I do think that the barriers are substantial and this would make it less of a burden because we just think as just as a philosophy we don't think that an eligible voter casting a ballot should be a arduous process.

**BREWER:** No, I, I guess the point being that if, if it's the 8:00 to 5:00 crowd that we're, we're looking at there--

**WESTIN MILLER:** Um-hum.

**BREWER:** --and there's an inability to get in because the last two-- well, last time I, I did the early vote--

**WESTIN MILLER:** Um-hum.

**BREWER:** --and it seemed fairly painless, but I'm not voting somewhere that has a huge numbers like Lancaster or Douglas might have. So--

**WESTIN MILLER:** Sure.

**BREWER:** All right. Additional questions? All right. Seeing none, thank you.

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**WESTIN MILLER:** Thank you.

**BREWER:** OK. Next proponent? OK. Next opponent? Come on up. Welcome to the Government Committee.

**BRIAN KRUSE:** Thank you, Chairman Brewer and members of the committee. My name is Brian W. Kruse, B-r-i-a-n W. K-r-u-s-e. I am the Douglas County Election Commissioner. I am here to testify in opposition of LB718, which would require counties with a population of more than 100,000 inhabitants: Douglas, Sarpy, and Lancaster to establish additional hours for in-person early voting prior to an election. While I am not opposed to expanding early voting hours, I do not believe it should be codified in state statute. Currently, there is no law that prohibits offering additional in-person early voting hours. In other words, election officials may already do this. I do not believe it is necessary to create a law and more regulations to authorize something already in practice. Local election officials understand best practices for their jurisdictions. They need the ability to see what works and what doesn't work for each election cycle without being bound by specific time frames. For example, elections with higher anticipated turnout may require more hours. However, lower turnout elections may not. These are decisions that can best be made at the local level. Douglas County has added in-person early voting hours on the Saturday immediately preceding each election excluding special by mail elections from 9:00 a.m. to 1:00 p.m. These additional hours were prompted by feedback received from community members via our stakeholders' group in Douglas County. While this has been successful as a convenience to voters, we certainly have not had the demand that warrants further additional hours. In addition, this would be an unfunded mandate from the state of Nebraska requiring Douglas County to spend nearly \$10,000 per election year. In conclusion, each election is different and local election officials should be allowed to choose what works best for their voters. I urge the committee to not advance LB718 to General File. Thank you for your time this afternoon.

**BREWER:** Thank you, Mr. Kruse. All right. Questions? I'll start on the end and move this way. Senator Blood.

**BLOOD:** Thank you, Chairman Brewer. Thank you for coming again. It's always nice to see our elected-- or our election nearing people. So did you just say that it was gonna cost \$10,000? Can I ask you why you didn't submit a fiscal note?

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**BRIAN KRUSE:** We were not asked to. I understand Lancaster County was asked by the Fiscal Office to submit one. If, if we were asked, it went to the county and the county never asked me to submit one to the state. So my office either didn't receive the request or was not asked, but I did this on my own.

**BLOOD:** And, and as we heard in the opening, did Senator Vargas' office reach out to you guys?

**BRIAN KRUSE:** No, after we were all kind of surprised by that. I think it's fair to say the big three counties did not agree to this compromise. We were never contacted about this compromise. It was on a different bill last time requiring additional polling-- physical polling place locations--

**BLOOD:** Right, I remember the bill.

**BRIAN KRUSE:** --and hours. And then after our testimony, there was an amendment that was put on that we were not consulted on. And then we were-- heard today that that amendment is now this bill. But you'll hear all three of the big counties will be in opposition to this today, I think, as well as NACO. We were not consulted on this compromise.

**BLOOD:** So-- and I, I certainly don't fault a freshman senator who may have been told differently. So--

**BRIAN KRUSE:** Sure, sure. No, I'm not--

**BLOOD:** So, so I just want to clarify this and I just want to make sure-- and I'm not trying to like badger you in any fashion.

**BRIAN KRUSE:** No, no.

**BLOOD:** So there was no communication with you and Senator Vargas in the crafting of the bill or the amendment that was brought forward previously?

**BRIAN KRUSE:** Not that I recall. We were, were talking about it back there a little bit. Not that any of us recall.

**BLOOD:** Interesting. All right. Thank you.

**BREWER:** Senator Hilgers. Oh, Senator Hilgers is waving. All right. I guess the thing that we get beat up on here, and probably justifiably

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so, is, is local control. So right now if it is a requirement that you hear from your members of the county, that's why you adjusted to this Saturday schedule that you just talked about?

**BRIAN KRUSE:** Correct. I have a stakeholders' group that during election years meets monthly and then in, in off years like this year they meet three months and it's made up of a variety of individuals. And that's where we got the feedback after the '16 election that they'd like to see some Saturday hours. So we implemented for the city elections in '17, and then last time. So that's where our initial Saturday hours grew out of. And we also consulted with Lancaster County because they currently do Saturday hours as well on their own.

**BREWER:** Well, and you heard when I asked a question when, when I looked at this. Obviously, if you have people work additional hours, there's gonna be a fiscal note of some type. And when there--

**BRIAN KRUSE:** Correct.

**BREWER:** --didn't, that's why I, I made a note on that.

**BRIAN KRUSE:** And-- yeah.

**BREWER:** You can't do it for free, so there's gonna have to be some cost involved.

**BRIAN KRUSE:** Correct.

**BREWER:** OK. No other questions? Thank you for your testimony.

**BRIAN KRUSE:** Thank you.

**BREWER:** Good afternoon, and welcome to the Government Committee.

**MICHELLE ANDAHL:** Thank you, Chairman Brewer. Chairman Brewer and members of the Government, Military and Veterans Affairs 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. And I'm here to testify in opposition to LB718, which would require counties with a population of, or greater than 100,000 to add additional office hours for early voting. Election officials are always looking for ways to create ease of access for voters and create smooth and easy voting service from our election staff, while also being careful not to spend taxpayer dollars on unwarranted staffing and overtime. It's about-- it's a balancing act that we all face in all levels of government. Every county has

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different volumes of early voting activity and the officials running those offices know best how to accommodate those voters. In some elections, early voting has high turnout warranting extra hours. Other elections see very low early voter registration activity. County officials are able to gauge that need and to add hours and workers based on their registration increases and early vote by mail requests. We are able to use those numbers to gauge what the turnout will be overall. Based on early voting activity in 2016 and 2018 election cycles, Sarpy County has already implemented an additional early voting hours for the 2020 presidential election cycle. The extended schedule will have the office open from 8:00 a.m. to 2:00 p.m. on Saturdays prior to the election day and adding extended hours from-- on Tuesdays and Thursdays until 7:00 because we feel like as a outlying county where people are driving into Omaha and back, even being open until 6:00 doesn't always allow you the convenience with traffic and such to get there on time. These type of adjustments need to come from the local level. One of the things I would like to say is, we did not have contact from any of the senators, and freshman or not, I, I understand that. But to state that we were contacted, we were not. So we were not consulted, and so we would have been able to work with them on this and let them know the hours that we have already implemented. The additional costs for Sarpy County to satisfy the unfunded mandate of LB718 would be right at \$7,000 per election regardless of actual voter needs. Putting a required, putting a required schedule into state statute does not-- that does not fit the needs for each county affected seems like a bit of an overreach by state government. And because of that, I respectfully, respectfully urge the committee to not advance LB718. And that's it. Thank you.

**BREWER:** All right. Thank you for your testimony. Senator Blood.

**BLOOD:** Thank you, Chairman Brewer. And it's nice to see you, again. I have to say before I ask you the question--

**MICHELLE ANDAHL:** Sure.

**BLOOD:** -- that I spoke with Teresa [PHONETIC] today in reference to your AutoMARK machines and whether-- your AutoMARK machines, and had a great conversation. Staff is always so helpful at Sarpy County, and they have always been that way. So kudos to them. You can pass that on, please.

**MICHELLE ANDAHL:** Thank you.

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**BLOOD:** So would you be interested-- you-- and I, I should have asked this of the first testifier as well, in speaking with Senator Hunt or her staff before you leave today to, to kind of discuss what you're testifying on and I, I just I like to stand up for the women in the room. I, I don't think she necessarily said that she had spoken with you, I think that she said-- thought it was her understanding that Senator Vargas' office had, had already discussed this with you and, and I think it's kind of a deer in the headlights thing, it's unfair to her. So I think would be great if you guys could find some time to maybe speak with her.

**MICHELLE ANDAHL:** Absolutely. And our doors are open to the senators anytime that you want to reach out to us, especially on something that affects us, that would be great. I do have a meeting to go to but I would actually like to have a sit down meeting. We could schedule one if that works where we could get more time.

**BLOOD:** You'll, you'll have to work that out with her, her staff.

**MICHELLE ANDAHL:** Yeah, that'll be great.

**BLOOD:** All right. Thank you.

**MICHELLE ANDAHL:** OK. Thank you.

**BREWER:** All right. Additional questions? Seeing none, thank you for your testimony.

**MICHELLE ANDAHL:** Thank you.

**BREWER:** OK. Additional opponents? Welcome to the Government Committee.

**DAVID SHIVELY:** Thank you very much. Good afternoon, Senator Brewer and members of the Government, Military and Veterans Affairs 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. I'm here today in opposition to LB718, which will require counties with population of more than 100,000 inhabitants to establish, establish additional hours for early voting prior to an election. Lancaster County has voluntarily offered additional hours for early voting for over 20 years. This has included additional hours on the Saturday prior to each election, as well as additional hours during the week. As a staff, we evaluate and predict what type of turnout we expect and we will adjust our additional hours accordingly. We have always included hours, hours on the Saturday morning prior to every election and we have extended hours on the

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Monday prior to the election to assist any voter who may realize at the last minute they may not be able to get to their polling location on Election Day. Numerous times during the past 20 years there have been election cycles where we've offered even more additional hours and only have a small number of voters participate. These early vote opportunities were well publicized. My staff would inform voters on-- of our additional hours when they would call on the phone with questions. Voters knew we were open. However, very few voters showed up to vote during those extended hours. Please remember that voters have a number of options to vote early. If they are unable to vote on Election Day or vote early in person, they can receive their ballot through the mail. We curr-- we, in Lancaster County, currently have 30,000 voters who receive an early vote by mail request form at least six weeks prior to that election. As you can see by the fiscal note, I provided-- I estimate that the cost to provide the hour's required in LB718 would be a little over \$6,000 for a statewide primary and general election. Counties must adhere to maintaining any budget restrictions that our county boards would, would place on us. I agree with my predecessors that I believe this is an issue of local control. It is an unfunded mandate to the counties. If the state is going to require our offices to be open additional hours, the state should, should fund those hours. Election administrators are best able to evaluate and decide on what works best for our counties. I thank you for your time today, and I encourage you not to advance LB718 to General File. Thank you.

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

**BLOOD:** Thank you, Chairman Brewer. Thank you for coming today.

**DAVID SHIVELY:** You bet.

**BLOOD:** So two questions for you. How, how did you find out about the fiscal note? Was it sent from your, your county clerk or your finance office? Do you--

**DAVID SHIVELY:** I think it came from the county-- it, it came from the county board office. The county board office forwards-- whenever there is a fiscal note, and it, and it affects one of-- an agency within the county, they have the agency ask for that information. I fill that out, send a copy to the fiscal office, and also then a copy back to our county board office.

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**BLOOD:** I'm curious since we didn't see that from the other bigger counties. So-- or I guess you're-- you are one of the bigger counties.

**DAVID SHIVELY:** Yes.

**BLOOD:** I apologize. Sorry,--

**DAVID SHIVELY:** Looks like the biggest.

**BLOOD:** I always think-- to me Sarpy's really big. So--

**DAVID SHIVELY:** Yes.

**BLOOD:** And secondly, I'm gonna ask you the same question. Would you be willing to meet with Senator Hunt's office and discuss this one on one since obviously there was a misunderstanding in reference to previous negotiations?

**DAVID SHIVELY:** Right. I do remember-- I'd be happy to whatever, to sit down to talk with anyone about these types of issues. I do, I do remember the bill when it was introduced two years ago, and I was unable to testify due to a family issue. My, my mother was very sick at the time so I wasn't here that day on the, on the testimony, and I don't-- but I don't recall really being consulted after that to come up with-- I, I know there was some change because the original bill required additional voting sites. They wanted us to put different voting sites throughout the county.

**BLOOD:** I remember it very clearly, yeah.

**DAVID SHIVELY:** Yeah, yeah. And, and, and, and had there had been an amendment on that-- maybe there had been but I-- the bill didn't get out of committee so maybe nothing ever, ever, ever materialized from that further. But I'd be more than happy to visit with anyone about this.

**BLOOD:** And that's fair, I'm not, I'm not trying to point fingers. I'm-- you know, we can all be friends.

**DAVID SHIVELY:** Sure.

**BLOOD:** I'm just hoping that you can--

**DAVID SHIVELY:** Exactly.

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**BLOOD:** Thank you.

**DAVID SHIVELY:** You bet.

**BREWER:** All right, quick question for you. We had the testimony from Douglas and Sarpy and \$10,000 and \$7,000, you said \$6,000. If I read the pink slip here for the fiscal note right, I read it as \$2,400-- \$2,415.77. So we may have to--

**DAVID SHIVELY:** I had-- there were, there were two fiscal years there and one was I believe was \$3,600--

**BREWER:** Oh, you rolled the two together?

**DAVID SHIVELY:** Yes, yes.

**BREWER:** Oh, OK.

**DAVID SHIVELY:** Yep. It was the two fiscal years merged together.

**BREWER:** All right, then your math is correct.

**DAVID SHIVELY:** OK, that's good to know.

**BREWER:** Any additional questions?

**DAVID SHIVELY:** When you talk to someone that's counting ballots, we want to know that the numbers [INAUDIBLE]. [LAUGHTER]

**BREWER:** Actually, it's reassuring that, it's reassuring that your math is correct. All right. Thank you for your testimony.

**DAVID SHIVELY:** You bet. Thank you.

**BREWER:** All right. Good afternoon, and welcome to the Government Committee.

**BETH BAZYN FERRELL:** Thank you. Good afternoon, Chairman 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, and I'm testifying in opposition to LB718. I would just echo the comments of the election commissioners. We think that this is an issue that election commissioners are addressing individually as the needs are appropriate and we would like to see it continue that way. So I would be happy to answer questions.

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**BREWER:** You bet. All right. Thank you for your, for your testimony. Questions? Well, that was quick and easy. Thank you. OK. Any additional opponents? Any here in the neutral capacity? All right, Senator Hunt, you want to close and then we can get you headed to your next event.

**HUNT:** Thank you, Chairman Brewer. And I want to thank the election commissioners and the folks from the counties who came to talk about this. That obviously went differently from a year ago. And I, and I-- you know, I can poke fun at myself and I have good humor about this and I may have been it taken for a little bit of a ride. But I think that all of us share the values of an open and free and fair democracy, and that we know that to instill confidence in our democratic institution in Nebraska, we have to make sure that people can vote. And the testimony in opposition that we heard today did not reflect what I understood to be the case. And I, I hope it's obvious that I'm totally open to working with the counties to, to do something that works for them. As a proponent of local control, which is why I proposed a bill to allow counties to do vote by mail if they want to, I think that we need to end as many barriers to voting as we can. And the more local control there is to do that the better. So I have a pretty good sense of what's gonna happen with this bill, and I think that we'll just take some time to, to get it right next time.

**BREWER:** All right.

**HUNT:** Thank you, all.

**BREWER:** Thank you for your closing. Questions? Senator Hunt I would tell you that we all have been sometimes challenged when we take on bills that may not be exactly what we thought they were when we took them on. So anyway, thank you for your close.

**HUNT:** I'll add the first one to the pile for me. Thank you, all.

**BREWER:** All right. We do have letters to read in for LB718. We have two letters as proponents, none as opponents, or in the neutral capacity. With that said, we will now close LB718 and go to LB687, Senator Vargas. We were just talking about you.

**VARGAS:** Yeah, I heard.

**BREWER:** Welcome to the Government, Military and Veterans Affairs Committee.

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**VARGAS:** Good afternoon, Chairman Brewer, members of the Government, Military Affairs Committee. It's first time here for this year. My name is Tony Vargas, T-o-n-y V-a-r-g-a-s. I represent District 7, the neighborhoods of downtown and south Omaha. You know before we start on, on my testimony-- you know, maybe the one thing I'll say here is that, I think the general spirit of what at least I view as election and democracy is, as Senator Hunt described this is, we're trying to make things as easy as possible. And I'm not making a-- I don't want to make a broad statement that that means that either policies are right or wrong, but we and those sitting in here are evaluating when policies are reasonable. Sometimes we don't always agree on those entities. I, I will tell you when we sit in Appropriations, we're looking at agencies and sometimes we bring bills that agencies are not in support of because it's something that we have heard from constituents and problems that we've heard that are not yet getting fixed. And we believe there's a need to fix them. And sometimes we're trying to figure out a way to operationalize things and we're trying to find and look at some good scenarios the state and best policies and best practices across the country that get us to that point. So I want to preface that because I know there's gonna be opposition to this bill. There was opposition last year and we will continue to work on what I believe are the systematic inefficiencies that we, we, we saw in the bill in the first time around. But there still is the underlying what are we trying to solve here. So now that I've said that, and I do think it also applies to what we talked about in the last hearing regarding voting locations and the number of hours, I don't, I don't think we could put a, a large price tag on trying to provide some codified statutes for, for hours for voting locations. But for LB687 as the next step, which I think it is the next step for our state to modernize our elections and make them more secure. Again, we're not the first to be doing it in this specific way. We are doing it a little bit in our own way. LB687 would switch our current opt-in voter registration system to an opt-out process. Improving access to our electoral process and participation in our democracy goes in hand with that. Now currently as mandated in the National Voter Registration Act, Nebraskans are asked on their driver's license or state ID application if they would like to register to vote. LB687 flips that. Instead, would ask individuals if they would like to opt-out of registration. The person's interaction at the DMV would largely remain the same. They would still provide their name, birth date, and address as part of whatever application they were completing. The individual will then be prompted to either affirmatively opt-out of voter registration or to register, update, or

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affirm the registration. If the person chooses not to opt-out, they would then select their party registration, confirm they are at least 18 years of age, or will be before the next Election Day and that they are a U.S. citizen that is eligible to vote and provide their electronic signature. The DMV would then send the electronic files for individuals who are both self-identified as eligible and opt-out-- not opted out of voter registration to the county election official for the sole purpose of voter registration. The county election official would then review the files to determine the verify-- and verify eligibility prior to registration. If eligible, the individual's registration is then processed and the voter is sent a voter registration confirmation card. Just to clarify that, we are requiring people to opt-out, and then DMV would send the electronic files for individuals to the county election official. County election officials will then review and determine the eligibility for the registration. And if they are eligible, then the registration will then be processed and then there is a voter registration confirmation. Now aside from the common goal that I believe we all share of more easily registering eligible voters and improving participation in our democracy, I think there are two other added benefits. The first is, that it highly increases government efficiency by allowing the electronic sharing of information between agencies. Currently, information can only be shared for voters who answer the opt-in registration question on their DMV applications. LB687 makes it easier for the DMV and counties to share more information. I think the second benefit is that it raises the level of data integrity in our elections. Allowing the DMV to share new and updated address information will: one, cut down on the number of provisional ballots on Election Day; and two, clean up on the county voter rolls ensuring people vote where they actually live. Nationally, six states and Washington, D.C. have made serious efforts to increase their voter turnout. Oregon is one example that adopted major voting reforms in this arena and several followed since. The 2018 midterms saw record turnout in states that had similar measures to what I'm proposing, which is in an effort to increase voter registration. Now I hope that LB687 will increase voter turnout for future elections in Nebraska. Now for those of you on this committee previously, you may remember I introduced a similar bill in 2017, LB290. My staff met with officials at the DMV to figure out how we can address their technical concerns to make this bill work for them. Those changes are reflected in LB687 and I will provide a little clarity to, to that as well. Last year with LB290 when we heard some of the operational challenges to making this work, we talked with the DMV, Secretary of State, to figure out operationally how we can

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address some of those issues. That did not mean that they were in support of the bill or the underlying policy recommendation. But ultimately, we want to make sure it is working to address some of the operational challenges it presented. And so the amendment that we worked on led into what we have here. I am happy to say-- oh, I, I did get a chance to talk with the DMV and it-- what we brought and what you see includes the amendment from last year. If there is a discrepancy from the white copy amendment from last year to this year, that is something I'm more than happy to work on and address. And if there, if there is some changes-- and I, I believe she'll testify that there are some differences. There was no intent behind that. It might have been something in terms of what we received from language or recommendations from bill drafting. But again, it doesn't change necessarily what the recommendations were last year, but we wanted to make sure it works. What I'm asking you and what we'll get to is the underlying policy recommendation. Do we want to make it easier to get more people registered to vote and increase some of our voter file information? And the last thing I'll say, I also have had some good, good conversation with Secretary of State and Deputy Secretary of State, Wayne Bena. And you know, I'm comforted by the fact Secretary of State is taking some necessary steps to continue to improve voter information and registration. I think you'll hear that we're moving towards an ERIC, a collaboration many other states, I think 25-plus, are in this and that's gonna help address some of the voter file pieces of information. And it's also gonna help us address some of just the duplicative amounts of voter files that we have. And I think you also hear that from some of the counties that this may create some more work. So I'm putting this all on the front end because I want to be really frank. Still-- I still believe that the underlying reason is we want to make it easier for people. We want to get more people registered to vote, and anything that we can do to do that. And as simple as making this opt-out, it's gonna add more people to our voter rolls. This is not a partisan issue. And we're-- we would not be the first state to do this. I think this is a good policy and I encourage your support of this bill and I'll welcome any questions you may have.

**BREWER:** All right. Thank you for your opening. Questions? Well, hey, you're here, let me hit you up with a couple.

**VARGAS:** OK.

**BREWER:** Our primary responsibility here is to make laws.

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**VARGAS:** Um-hum.

**BREWER:** And we make laws because something is broke, something is wrong, something, something needs fixed. Is that generally how you see it?

**VARGAS:** Yes and no. It depends on what you determine as something broke or fixed. I mean, we have laws that are gonna create incentive programs. And, and sometimes we have laws that create new special benefits incentives. Sometimes we create laws that are addressing and fixing and making efficiencies. But I would venture to say, it is a bigger gamut in terms of what, what we put forward in laws.

**BREWER:** OK, in your opening you talked about people-- we need to make sure that people are voting where they're supposed to. Is there currently a problem with that? Otherwise, are we fixing something that needs fixed?

**VARGAS:** I think that when we have hundreds-- and obviously, I'm really gonna say thousands obviously of individuals that are not registered to vote that could be registered to vote. But that is an inefficiency in our democracy. And if one of the reasons why they are unable to vote is because of something in our system that we can potentially both increase some of the data that we have on our voter rolls and then also make it easier for them to then acknowledge the fact that they're opting out of voting so that it's not something that they easily forget when they're going to a system and then trying to update their DMV information and then just don't see it. I think that is creating some inefficiency and is important for addressing a problem of voter participation.

**BREWER:** Well, let, let me give you an example.

**VARGAS:** Um-hum.

**BREWER:** In the military, we have a designated voting officer and for that battalion or that brigade or that division that they're the ones who you go to. You go through the process of, of registering to vote and then normally we would vote early because of the delay from when you vote to when it's being counted. But our standard for who got a vote wasn't who had heartbeat and respiration, it was who actually wanted to vote. Who came there, filled out the paperwork, and said, I want to be a part of this system and vote. And I don't think we were denying others the ability to do that. It was just they had no desire

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to do it. So maybe our numbers weren't always great, probably not 50 percent range. But if you wear the uniform, if you go and do those kind of things-- you know, you would hope that they would want to vote. But again, they didn't end up being one of those who were given a ballot if there was no desire on their part to do that. Otherwise, I think to be a part of the process, you should have a desire to be a part of the process. And is, is there something broke that doesn't let them be a part of that?

**VARGAS:** I would flip it a little bit, and only because I understand what you're asking, Chairman. I don't want to make this correlation that because people are not registering to vote on the form that people don't want to register to vote or want to-- don't want to-- don't care about the civic process because there could be a lot of different reasons why people did not register to vote on that form. I don't want to make it as like-- it's like saying, you know, parents that don't go to the parent teacher conference don't care about their kids' education. There are a lot of-- maybe they didn't actually know or were notified. Maybe they didn't have enough time. There's a lot of different reasons why they might have missed it. What I'm saying is, I want what you just said. If we put on the, on the application and say that you're opting out-- you, you actually do not want to register to vote, check this box.

**BREWER:** But right now if they want to vote, they can go register and vote. Right?

**VARGAS:** If they want to vote, you can register to vote. But what you're saying is, are there some potential operational-- even, even in just the form of barriers, I think there are. And if somebody is looking at this-- unless everybody out-- I'd venture to say if you ask people in the general public right now, if, if they know that this is something that is possible on that form, not everybody is gonna to say, yes. They're coming for a specific reason. But if they have to check off and say, you know what, I actually do not want to register to vote. Well, we've really made sure to exhaust all those efforts to make that happen. And this is not a new concept, I, I will-- without going into too much detail, we, we have-- this is something that is utilized in state government and other entities, not in this place. What we're trying to do is make sure more people are actively saying, I'm not-- I do not want to register to vote. And that's what this would do. It's not forcing them. It would just say, you have to say, I do not want to register to vote.

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**BREWER:** Yep, I'm seeing that. All right. Well, you, you answered my question. Thank you.

**VARGAS:** Thank you very much, Chairman.

**BREWER:** Any additional questions? Yes, Senator Kolowski. No, you're senior.

**KOLOWSKI:** Well, thank you.

**BREWER:** Age has privileges.

**KOLOWSKI:** I wish. [LAUGHTER] Senator, thank you for being here. One of my two sons lives in Colorado and they have a mail-in ballot.

**VARGAS:** Yeah.

**KOLOWSKI:** He and his wife send it in religiously and get that taken care. And when you think of our aging population, seniors especially, and getting out in all sorts of weather, such as this week that we're having in Nebraska, everything from mountains of snow out west to floods in the east. What would, what would urge them to get out and make that dangerous trip to a location to vote on an X day they have to be there compared to, I'm registered, it's mailed to me, I mail it back? It makes such sense.

**VARGAS:** And, Senator Kolowski, I just want to make sure that I'm not-- I may be-- to answer your question, I may be responding to a different policy recommendation which is more on vote by mail.

**KOLOWSKI:** I understand, I understand.

**VARGAS:** Yeah. And I can, but I wouldn't relate to this because this, this won't interact with vote by mail. This is not vote by mail. We're not changing anything with the vote by mail process. But I do hear what you're saying. If you still want me to answer the question, I can. I just don't think it applies to the bill.

**KOLOWSKI:** I understand. Thank you.

**BREWER:** OK. I'm sorry, Senator Hilgers, is older. Go ahead. [LAUGHTER]

**VARGAS:** Is this how you run your [INAUDIBLE]? [LAUGHTER]

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**HILGERS:** I was just following up-- just to follow up on Chairman Brewer's question,--

**VARGAS:** Yeah.

**HILGERS:** --is, what's the problem trying to fix-- and you sort of touched on it, which you said, there may be lots of reasons why. And I think just to flesh that out, what are some of the reasons why that you think that folks may not, is, is it not enough education at the-- you know, at the DMV or is it, or is it not a big enough, bold enough--

**VARGAS:** Yeah.

**HILGERS:** You know, like a label that says, this is what you need to do to register or is it something else? I'm just kind of curious what you thought there.

**VARGAS:** Yeah. So now I am going to try to answer his question because his is good. OK. So I'll tell you one of the reasons why I'm, I'm generally not-- all vote by mail isn't something that I'm particularly supportive of. And in my experience, lower-income populations or populations that are lower socioeconomic which tend to be people of color when you look at the data. I'm really concerned that one of the barriers is going to be more education. I, too, often saw vote by mail was an example that were sitting in people's mail and they didn't even know it existed. And then they didn't even know that that was what they needed to then fill out and they couldn't just go and vote and it would be counted the exact same. And I bring it up with that analogy because I don't know and based on some conver-- you know, qualitative conversations that individuals going to this registration form know that that's something that they can do. They may just be going to then update something regarding to their driver's license. So I see little harm with saying, you have to check off this box saying you don't want to register to vote. We just want to capture all that information, because that information is so valuable. It is a gold mine that will help us address a lot of different other pieces of information on, on the election side. That's, that's the way I, I kind of see it. And, and the other side of this is, having been somebody that's grown up in a lower income background and worked with a lot of families, I'm not entirely sure that we have provided enough education regarding process and what you can and cannot do in some of these systems. It's not saying that we-- that agencies are not doing their job, I'm saying that it is more difficult and we need to do more to then address some

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of those barriers. So to answer your question, I do think there's some barriers that come along with it. More education would be great. And I think any more education with-- and I think we saw that with some of the counties. You know, I'll always give credit where credit is due. You know, seeing some of the counties do some of the mail-in ballots, they're trying to do more education on the front end which I think is the right thing. I, I would-- since we're not doing that in this arena, that's one of the reasons why I'm looking to do this opt-out provision.

**HILGERS:** I guess maybe in another way to answer-- ask the question would be, is there a more narrowly tailored way of addressing the problem than doing opt-in to opt-out? And maybe the answer-- your answer is, no. I-- but I-- that's the question.

**VARGAS:** I think there are more. I think there are ways I think some of them can be more expensive and arduous. I mean, technically we can provide like educational workshops across communities where we have the lowest voter participation or lowest voter registration numbers. We can send letters to people's homes in every single certified letter and tell them that here's your registration ballot, and here's the best way to go about doing it. We can do-- call follow up and make sure people-- all people are registered to vote. We could go down that route, but that seems very arduous. What I'm saying is, not even retroactively. If you go to the DMV and you want to update some information, you're gonna have to check that box and say you want to opt-out to vote.

**HILGERS:** Thank you.

**BREWER:** Senator La Grone.

**La GRONE:** Thank you, Mr. Chairman. And thank you, Senator Vargas, for being here. And thank you also for your work on this topic. I know that, while we may not see eye to eye on this issue, I know you and I see eye to eye a lot when it comes updating our election technology so I want to thank you for your work on that. Getting away from more of the, the policy reason, more of the mechanics of this, you mentioned hope-- hopefully Nebraska moving to the, the ERIC setup. Now obviously, last time when you brought this bill, there were some concerns about less maintenance and I know that you've tried to address some of that in this draft. I'm curious-- and this might be a question better directed to some of the people behind you, and that's fine if that's the case. But I'm just curious to how-- what would the

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differences be in how our current process would work if we were to join ERIC verses the process you're proposing here?

**VARGAS:** I know that Wayne Bena will talk about this--

**La GRONE:** OK.

**VARGAS:** --because he is extremely knowledgeable. One, one thing I will say is, the amendments that we made from last year to this year, we're really trying to address some of-- again, some of the operational like to, to make it work-- not necessarily to then like it, to make it work. And what ERIC in, in my, in my time what I've learned is going to address a larger problem that we are seeing with duplications and registration efficiency and in turn voter security. It is a very good thing that we're doing it. It was something that I remember 2017, I'm like why are we not part of it? And so I was very encouraged that the Secretary of State is going down that route. However, in, in doing this-- and I think what you'll hear is, we may go down a route of contacting every single person via mail or some other way to then get their voter registration. I think we can still do that if that's the route we want to go. However, at the point where people are interacting with some of our government systems, specifically the DMV, wouldn't it be really great if we can get that information and make sure it's updated and then sent over and verified to this-- to the election commissioners. I think that's really what the intent is here. So he'll talk a little bit more about the good things that will come out of ERIC. And one thing I will say-- and I know will-- that there'll be-- there's a letter, I don't know if it'll be testifying in opposition specific to this point, this will create more work for counties. I won't, I won't lie. It will create more work for counties. Because if there's more information inherently coming, more people are updating their information. And as a result, more of that updated information means it goes to Secretary of State. And then there is more verifying of the information that needs to happen and then it's-- then eventually the, the right information will be sent. It's-- there's still verification that needs to happen at different levels so it's gonna be more work. I completely recognize that. But to your point--

**La GRONE:** And I don't mean to cut you off on that. I mean, I gonna have to jump out to go to Judiciary and--

**VARGAS:** OK, go, go, go.

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**La GRONE:** --there's another aspect that I wanted to ask about real quickly.

**VARGAS:** Yeah, yeah.

**La GRONE:** And that is, you mentioned-- it kind of piggybacks off of Senator Hilgers' question of, is there a less restrictive way to do this? And you'd mentioned one of the issues that this could address is the issue of, of people going to the wrong polling location. But that seemed to be what I got from your answer to Senator Brewer.

**VARGAS:** No, that was a question he phrased. But I was looking back on my testimony, I didn't state that, Senator La Grone. Yeah, it's not--

**La GRONE:** OK. Sorry, I misunderstood. But--

**VARGAS:** Yeah, yeah, and I'll try to make sure to address that, Chairman.

**La GRONE:** And do you think that-- well, along that line, do you, do you think that, that, for example, the e-poll book legislation we passed last year could address-- I know it wouldn't address your voter registration issue but do you think it could address some of the auxiliary issues that you're trying to solve with this bill? I would simply ask that in the context of that might be a less restrictive form of doing so.

**VARGAS:** Well-- so it's a good question. I'll recognize the fact that I think the electronic poll books, at least as in the conversation we had last year, will provide some efficiency-- and, and again this is my own understanding of it, specifically, when you're going and voting and for streamlining the process. If anybody has voted and you've been at the long lines this last year-- and if you're specifically in Douglas County, we had a lot more people voting and we had really great people working at polling locations. And it was-- we had some higher turnout and that means it's longer lines. I imagine some of the electronic aspect is gonna help it. I don't know, and I don't remember in our dialogue last year on the, on the mike or even the negotiations how the electronic polling book will, will help or, or not addressing the specific problem. But I do know Secretary of State is working on trying to address some of the duplications here. But that won't address trying to get more people to be registered to vote.

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**La GRONE:** And that's even if we could find the money for it. I'm, I'm sorry, I have to bail on you--

**VARGAS:** No, no, that's OK.

**La GRONE:** --and I have to get to Judiciary, but I look forward to continuing this conversation with you.

**VARGAS:** I would-- yeah, and that's finding the money for everything right now, so that's not just this.

**BREWER:** Yes, we need our Appropriations Committee to be very efficient.

**VARGAS:** Right.

**BREWER:** No pressure.

**VARGAS:** You're, you're talking-- OK. No pressure.

**BREWER:** All right. Any additional questions? All right, will you stick around for close?

**VARGAS:** I'll stick around, yeah.

**BREWER:** All right. Thank you. OK. We will start with proponents to LB687? Welcome to the Government Committee.

**WESTIN MILLER:** Thank you, sir. Chairman Brewer, members of the committee, I'm still Westin Miller, W-e-s-t-i-n M-i-l-l-e-r, Civic Nebraska. Senator Brewer, I'm gonna just quickly note here that I do want to talk about the-- your question specifically of what is this problem that we're actually fixing. I do believe there is one. I'm gonna kind of go through my prepared testimony that I think I'll have some extra time to talk about that at the end. I think that LB687 has two really significant benefits today that will warrant its adoption. Number one, LB687 will make a current government function more efficient. And number two, it will improve the accuracy and thus the security of our voter rolls. Senator Vargas explained the mechanics really well. Essentially, LB687 makes a really small change to a process created by the 1993 National Voter Registration Act. Motor voter is the process by which Nebraskans can register, update, or affirm the registration while they're already interacting with the DMV. LB687 is gonna improve this interaction by making it more efficient. So right now if you're at the DMV, you'll be asked a

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question, hey, do you want to register to vote while you're here? And a lot of people will say, yes. A lot of people will say, no. And they say, no, for a lot of reasons. Sometimes it's because they're just in a rush and they got to go. I think there's a huge perception issue that I don't think will make it clear how simple this interaction really can be. So it's, I think, presented as potentially a lot of work so people get a little bit skittish about that. The problem this bill seeks to fix, Senator Brewer, is that when people say, no, to that question, there is a tremendous opportunity cost for the state. And I say that because updating or affirming registration while you're already interacting with a government agency is the most cost effective and efficient and convenient way to keep these voter rolls accurate. This has a serious financial implication because these interactions reduce the need for provisional ballots. They reduce confusion on Election Day and they also help our voter rolls easily keep up with the voters who move both into and within our state. And I'll talk about those provisional ballots more here just a second. All this bill does is change the interaction from opt-in to opt-out. So the conversation is now gonna be, hey, you're already here, we're already collecting this information, we're gonna go ahead and use this to update your registration while you're here. Check no, if you really don't want us to do that-- or check this box if you really don't want us to do that. That's literally all that it does. But there is ample evidence from the 12 other states and the District of Columbia who have this policy that this simple change will increase the number of records processed. I've mentioned several times now to this committee that the four major goals that Civic Nebraska has when it comes to elections are high turnout, security, efficiency, and public confidence in the process. This is one of the very rare bills that touches on all four of those components at once. And it manages to do so without creating any new programs and without implementing any burdensome regulations. It simply makes a small modification to a process that's been in place for now more than 25 years. LB687 is an easy way to improve the accuracy of our voter rolls and it reduces government waste. To get more specific to your question, Senator Brewer, that opportunity cost that I mentioned is a problem that we're fixing. The problem is that our current interaction in our current motor voter process is not nearly as efficient as it could be. And in addition to the problems that has the voter experience, it's also expensive. It's expensive because-- I think to another question you might have asked Senator Vargas, like-- you know, what is our concern with like people going the wrong place to vote or things like that, and does happen a lot. It actually has happened to me before, because

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I forgot to update my registration after I renewed my driver's license and I moved to a new place. When that happened, I showed up to a polling place and they said, you're not on our list. And I said, I'm pretty sure I'm supposed to be. And so they issued me a provisional ballot. Turns out I was wrong, so that ballot did not count. But provisional ballots are really expensive to process. The National-- the Coalition of State Legislatures estimates that provisional ballots cost \$3.89 per ballot to process. And that's because they require a tremendous amount of staff time to figure out. So whereas a normally cast ballot you just-- it's verified, it's counted, it's good to go. A provisional ballot, there's a number of new questions that have to be answered. Which is number one, am I actually registered. Number two, am I registered at the right place. And number three, am I registered somewhere else where I'm not supposed to be. County staff have to answer all of those questions and that time is expensive and valuable. So that's how reducing the number of provisional ballots can save our state significant amount of money. To the conversation about other solutions like ERIC or e-poll books, ERIC is amazing. I'm so happy the Secretary of State is interested in joining. I don't think that-- that any redundancy that LB687 and ERIC will have will be a positive redundancy to ensure that our, our lists are as accurate as possible. There is-- ERIC is a tremendous system. There is little evidence that I've seen that will-- that guarantees it. It very well might. But there's little evidence that ERIC is going to increase our voter registration in the same way that there is proof from 12 other states that this policy change would make. To e-poll books specifically, e-poll books can definitely increase efficiency at the polling place. But they do nothing to actually-- it essentially means we can use iPads at polling places. It doesn't do anything to actually affect our registration system itself. So the problem we're trying to fix Senator Brewer is that our current process is not as efficient as it could be. This is an easy change. It's very cost efficient, and long-term will save our state money by reducing the number of provisional ballots. Thanks for your time, and I'd answer any questions.

**BREWER:** All right. Thank you for your testimony. Questions? All right. Well, let me hit you with one--

**WESTIN MILLER:** Yeah.

**BREWER:** --because you were going so fast, I could not keep up with you.

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**WESTIN MILLER:** Sorry.

**BREWER:** You said that there was a minimal cost and minimal requirements for programming. I guess, I would think that the, the programming part of it is gonna be fairly extensive, isn't it?

**WESTIN MILLER:** No, sir, because this system is already in place. We're just gonna increase the number of people who use it. Now LB290, the old version of this bill, that's now been amended down. That was a whole other thing, because we were looping in other, other departments that aren't currently networked in. This interaction with the DMV and Secretary of State is already happening. We're just gonna change it from opt-in to opt-out to increase its use. So the fiscal note comes almost entirely from the Secretary of State's estimation that we need a new employee to handle the increased number of applications. And as I talked here before, I think that's great, we want Secretary Evnen to be as well staffed as he can be. And this will, like Senator Vargas said, this will create more work. No doubt about it. But it's a work that is, I think, very useful because it's gonna increase the accuracy and, thus, the security of our voter rolls.

**BREWER:** OK. Thank you for your testimony.

**WESTIN MILLER:** Thank you.

**BREWER:** All right. Additional proponents? Welcome back to the Government, Military and Veterans Affairs Committee.

**GAVIN GEIS:** Chairman Brewer, members of the committee, my name is Gavin Geis, G-a-v-i-n G-e-i-s, and I am representing Common Cause Nebraska. Now I would reiterate that two goals of this bill are, of course, increasing the accuracy of our voter records and increasing registrations. Now we can discuss whether that's a valuable goal, but increasing the accuracy of our records, I think, is something that we all want. Looking at two states that have implemented this policy, Vermont and Oregon, and they've implemented it long enough ago that we could have valuable data from those states. Looking at Vermont, they began in 2016, and then in 2017, could give us data from that election cycle after implementing it. In-- so in 2016, they only had 7,000 new registrations and updates to the records. But after putting in place a policy very similar to this, they had 12,000. And that's particularly interesting because 2016, large election; 2017, not a very large election. So they saw just a really huge rise in registrations and updates to existing registrations after putting this policy in place.

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Oregon on the other hand, this was passed in 2015 in Oregon, implemented in 2016. And then when we got data out of Oregon in 2017, they had a much larger increase. They saw 375,000 additional registrations and updates to their records. Of those 375,000, it's estimated that 116,000 were people who wouldn't have been registered otherwise. So populations, basically individuals that wouldn't otherwise have been registered. So needless to say, these are-- these do-- the system does reach people, update records that you don't get to otherwise. A few things I think that are worth noting, and differences that need to be pointed out. First of all, ERIC is only data between states. This is a system that would be interesting, right? We just want to make that point that ERIC is comparing the data between our state and other states. This system would help us look at the data inside of Nebraska comparing the records of our own citizens in this state. And the e-polling books that were mentioned, there-- those would not have any data update abilities. They would help us at the polls, likely process faster through the polling places, increase expediency, but we couldn't update records of individuals at polling places using those. So those wouldn't increase the accuracy of voter records in any way. They would just make polling places perhaps more efficient. It was mentioned previously that we have quite a few provisional ballots. I wanted to note that there were-- the last cycle, we had 10,000 provisional ballots cast. And of those, only 2,000 were actually counted. So we had 8,000 that were thrown away. So hopefully with more accurate voter records, we could increase that number. I think it'd be great to not have 8,000 votes thrown away. In Sarpy County alone, we had 640 cast, but only 119 actually counted. So there is a substantial number of votes we're throwing away because of records aren't accurate and people don't necessarily know where they're supposed to be or whether they're registered. So increasing actual registration, getting more accurate records, it has value. There are real votes being thrown away today. That's what I have. Thank you.

**BREWER:** All right. Thank you for your testimony. Questions? I got to hit your point again, I can't let you go. Like for example Oregon, when you talked about the 300 and-- was it 75,000.

**GAVIN GEIS:** Yes.

**BREWER:** Did they keep track of their percent of registered voters that voted after they changed the number of registered voters?

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**GAVIN GEIS:** I can get you that number. I-- yes, they did. They, they, they had-- they did see an increase in turnout as well as a-- it wasn't one-for-one, of course. That would be really miraculous, but there was an increase in turnout.

**BREWER:** All right. OK. No-- you know, you can get that to me whenever.

**GAVIN GEIS:** I will.

**BREWER:** All right. Thank you. Any other-- yes, Senator Lowe.

**LOWE:** Thank you, Chairman. Thank you, Mr. Geis, for testifying today.

**GAVIN GEIS:** Of course.

**LOWE:** That seems like a high number of provisional ballots that weren't counted.

**GAVIN GEIS:** Yeah.

**LOWE:** Do you know in what areas that was-- they weren't counted in?

**GAVIN GEIS:** It's kind of across-- I mean, it's across the board, everybody, everybody has a little bit. But I could get-- if you'd like to know exactly where they are, we can get that for you.

**LOWE:** Yeah, that would be great.

**GAVIN GEIS:** OK. Yeah.

**LOWE:** Thank you.

**GAVIN GEIS:** For sure.

**BREWER:** All right. Any additional questions? All right. Gavin, thank you for your testimony.

**GAVIN GEIS:** You're very welcome.

**BREWER:** OK. Additional proponents? OK. Additional proponents? Opponents? Come on up. Welcome back to the Government Committee.

**DAVID SHIVELY:** It's Election Day, right?

**BREWER:** It is. We try and put this together so you only have to make one trip.

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**DAVID SHIVELY:** Thank you. I appreciate that. Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs 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 cochair of the Election Law Committee of the Nebraska Association of County Clerks Election Commissioners and Registers of Deeds. I'm here today in opposition to LB687, which would provide for automatic voter registration through obtaining a driver's license or state identification card. Our association has concerns with LB687. I'd like to share those with you. Our first is the funding. Senator Vargas has introduced LB531, which would transfer funds out of the election administration fund and create a new fund. It is our understanding that the funding for LB31 [SIC] will be used to fund LB687. However, according to the Secretary of State's office, the funds in the election administration fund have been committed to the state matching dollars for the federal HAVA funds distributed to the states in 2018. As an association, we take pride that Nebraska has one of the easiest and simplest voter registration systems in the country. Nebraska has an 85.6 percent of its voting age population registered to vote. We believe our current system works well and since the passage of the National Voter Registration Act in 1993. Currently, the applicant must specify whether they want to register to vote in conjunction with updating or renewing a driver's license or state identification card. The applicant simply checks yes or no to register to vote and then completes a new federal-- a few additional information fields to complete the voter registration process. The following day our offices receive electronically the records of voters who have opted to register to vote. Each registration is forwarded to us and is processed. An acknowledgement card, card is then sent to each voter whether there have been, been any changes or not. If there are any issues with the application, those addressed-- are addressed by our staff. The supporters of this bill believe that we'll have cleaner voter lists. As election officials, we don't share that optimism. People who have a driver's license are required by state law to update the driver's license within 60 days of moving to a new residential address. However, many do not comply with that law and will wait until it's time to renew their driver's license to make any change because of cost. From 1999 to 2016, I also served as the Lancaster County Jury Commissioner. We have mailed summons to 800 to 900 potential jurors for each jury term. For each mailing, approximately 150 to 200 summons would be returned to us as undeliverable or with a forwarding address. My experience was that most of the bad addresses came from the driver's license list as opposed to the voter registration list. As

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election commissioners, we are concerned about the increase in duplicate registrations that will be a result of this legislation. Our association has raised the duplicate issue with the Secretary of State due to the increased number of duplicate registrations that we have received through the on-line voter registration system. We've been told that eliminating duplicate registrations is not a simple or easy fix. In March of 2017, the Secretary of State estimated that statewide there would be between 200,000 and 400,000 duplicates annually if automatic voter registration was passed. In Lancaster County, we had 2,684 duplicates in 2014, and that was before on-line voter registration. In 2016, after the implementation, we had 9,212. Douglas County saw an increase in duplicate registrations from 7 percent to 14 percent. Federal and state law require that we compare our voter files with the national change of address program at least twice a year. If the comparison indicates a change of address for a voter, then our offices will generate a mailing to the voter requesting the voter update, update his or her information. If the voter has moved outside of the county and fails to reply or vote after two federal election cycles, that voter will be removed. If the voter has moved within the county and fails to reply, the voter remains on the voter list in an inactive status. Per federal law, we have no ability to remove that voter and the voter will remain in our system indefinitely. We believe that AVR will increase in number in that inactive status. In September 2017, the Public Interest Legal Foundation contacted seven counties in Nebraska accusing them of having more registered voters than eligible residents according to the U.S. Federal Census. We believe that the number of counties could increase with the passage of LB687 because we will have an increased number of voters in that inactive status per the federal requirements I mentioned earlier. The Douglas County Election Commissioner believes that his office will need to hire an additional staff person to assist with processing of voter registrations at a cost between \$25,000 and \$50,000 plus benefits in order to fully implement LB687. I believe that my office will need to add either an additional part-time staff member and/or a temporary staff member during election cycles as a cost of \$25,000 to \$30,000 annually. I did want to mention-- and it's not in my prepared statements, the comment about provisional ballots. I'm not sure where Mr., where Mr.-- where Gavin has gotten his information, but we count about 80 to 90 percent of provisional ballots. I'm not sure where he's coming up with his, his information. But in Lancaster itself, we counted 80-- 82 percent, I believe, in 2016. Anyway-- in 2018. Thank

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you for your time today. I encourage you not to advance LB687 to General File.

**BREWER:** OK. Wow. You said a mouthful there. Let's go back. You had a couple sentences that kind of caught my attention. You said in Lancaster County, we had 2,684 duplicates in 2014 before on-line voter registration. In 2016, after implementing it, we had 9,212. And Lancaster County [SIC] saw an increase in duplicated registrations from 7 percent to 14 percent. Ouch. Is there an obvious reason for that change? I mean, I understand the process that you implemented there, but that's all just duplicate?

**DAVID SHIVELY:** It's, it's a full duplicate. It means that when the voter registered to vote, they didn't change it. Nothing was changed on their record. Their, their name didn't change, their address didn't change, their party affiliation didn't change. Nothing changed, that was-- that would be a full duplicate.

**BREWER:** OK. Questions? Senator La Grone.

**La GRONE:** Thank you, Mr. Chairman. And thank you, Commissioner Shively, for being here. Just a couple real quick to piggyback off of Chairman Brewer's question along the provisional ballots. One, I think Mr. Geis was clearly indicating that he made a misstatement on that so your numbers are probably accurate, but I did have a question on that, that I think I know the answer to but I just want to get it on the record, record, and that is, when we're talking about provisional ballots, what's the single largest cause of a voter casting a provisional ballot that you've seen in your county?

**DAVID SHIVELY:** The biggest is that they aren't currently registered in our county.

**La GRONE:** OK. And is that often because they were previously registered somewhere else?

**DAVID SHIVELY:** It could either-- they could have either been previously registered in another county in Nebraska or they were registered-- could have been registered in another state. It's a variety of each.

**La GRONE:** Right.

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**DAVID SHIVELY:** Either, either we, we have no record of that voter or it's a record that was in another county.

**La GRONE:** And that part-- the reason I wanted to start with that is it parlays into the question I was gonna ask which is-- and if this has already been covered since I was upstairs, I apologize. But it's what I started talking with Senator Vargas about before I left, and that's the ERIC setup. Obviously, that would help in that problem.

**DAVID SHIVELY:** Sure.

**La GRONE:** And so my question is with list maintenance issue-- and if you don't know the answer to this that's totally fine, I can talk with the Secretary of State's office at another time. How would our current system work with the ERIC setup rather-- as compared to this system?

**DAVID SHIVELY:** My understanding-- there's a couple things with ERIC-- and I'm gonna say, I will recommend you talk to the Secretary of State, but I'll try to tell you what I-- the way I understand it. The first is, is that there would be that comparison amongst other states. And so if someone has a registration in Nebraska but also had a registration in Iowa we would get that information and that's shared between the two counties and then we could follow up with that, whether-- what the instructions will be from the Secretary of State, how we do that. We would follow up with that voter either-- we would notify Iowa to let them know that they have a more current registration in Nebraska or vice versa. You know, so that they can be removed and in the appropriate state. It's all my-- also my understanding with ERIC that the, the state will-- is required once they belong to ERIC that they will have to send a letter or some type of information to anyone who currently has a driver's license in Nebraska but is not currently registered to vote and give them their options on how, how to register a vote. I'm gonna assume that they could send them a paper copy and probably also instruct them that there is the on-line version to do that. Or they can go to their election office and do it, they'll probably give them some instructions. Those are two things of my understanding of-- about ERIC. It's also my understanding when I talked about the national change of address program, we do that now twice a year that ERIC will give us the ability to do that maybe monthly and so instead of us doing a mailing we do it-- it's usually January and June, we do it in conjunction with the Secretary of State. We'll have anywhere from 4,000 to 6,000. It just depends on the year. If it's right after a big presidential election, we don't have quite as many because a lot of

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people updated for the presidential election. But then we get outside where, where people may not be updating it. That number tends to grow. And we've been doing that in Lancaster County even before the state was assessing us. Even when we were on our old system, and we don't get as big a response from it as we used to. We, we used to get about 65 to 70 percent response rate and now that's a little bit lower. I just think people don't look at their mail like they used to.

**La GRONE:** And that's my understanding of ERIC as well-- and one further point on that if I'm-- if I might that I'd like to get your thoughts on, is my, my additional understanding of ERIC is that once we get past that and it gets all the data points that are going into it, that database is only as good as those data points going into it. And so if we have more duplicates in our system, those data points obviously aren't gonna be as good because our list isn't as accurate and that might decrease the effectiveness of, of a system like that. So I just wanted to hear your thoughts on how that relationship between the database and, and list maintenance might work. And again, that might be a, a question that I pose for--

**DAVID SHIVELY:** I think that might be a better question for the Secretary of State. He's had more-- at least Wayne-- I know Wayne Bena has had more conversations with the staff with ERIC and has a little bit more information on that.

**La GRONE:** Thank you. Thank you, Mr. Chairman.

**BREWER:** OK. Any additional questions? Seeing none, thank you for your testimony. Next opponent? Welcome back to the Government Committee.

**BETH BAZYN FERRELL:** Thank you. Good afternoon, Chairman 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 LB687. Commissioner, Commissioner Shively-- excuse me, his letter and his testimony laid it out very well. We have concerns about the number of duplicates and the number of inactive voters that could be part of the system if there is an opt-out versus an opt-in motor voter process. I would be happy to try to answer questions. But again, we do oppose the bill.

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**BREWER:** All right. Thank you. Questions? Questions? All right, you're gonna get off easy. All right, now we have a familiar face. Rhonda, welcome to the Government, Military and Veterans Affairs Committee.

**RHONDA LAHM:** Thank you, Chairman. Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. I'm Rhonda Lahm, R-h-o-n-d-a L-a-h-m, director of the Department of Motor Vehicles, appearing before you today to offer testimony in opposition to LB687. When a resident enters the DMV to apply for a driver's license or state identification card, the person completes a data form. The form doubles as a voter registration form and includes an option for the person to register to vote and to choose a party affiliation if they desire. On occasion, an individual completes the DMV data form to obtain a credential, only to discover they have insufficient documentation to prove their identity. This means we are unable to complete their application for the driver's license or state, state identification card. However, the federal National Voter Registration Act considers an application to register to vote to have been made when the applicant signs the voter registration form. Once signed, the department must transmit the information within ten days. An applicant may or may not have been able to provide sufficient documentation to verify their identity within ten days. LB687 would require the department to verify a person's citizenship status before transmitting the information. In the situation I just described, LB687 would prevent the department from transmitting the data if the person failed to provide appropriate identification documents. This would place the department in contravention with federal law as there is no provision to allow the Motor Vehicle Department to withhold an application on this basis. Federal law is also quite clear responsibility for assessing eligibility to vote lies with state election officials and not with the DMV. The role of the DMV is to provide the opportunity for a person to register to vote. The bill would transfer part of that assessment about stability to the DMV and away from state election officials. The DMV has and will continue to provide voter registration information to election officials. However, increasing the role of the department to the extent of assessing eligibility is concerning. In a conversation with Senator Vargas, he expressed his desire to make the bill a technically correct bill. Thank you for your time today. I'd be happy to answer any questions the committee may have.

**BREWER:** All right. Thank you for your testimony. Senator Blood.

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**BLOOD:** Thank you, Chairman Brewer. I hate to ask that, but can you repeat that last sentence again in reference to Senator Vargas? I couldn't hear you.

**RHONDA LAHM:** In conversations with Senator Vargas he expressed his desire to make the bill technically correct.

**BLOOD:** I'm not sure what you're saying when you say that statement.

**RHONDA LAHM:** So, so what the-- so what the bill does this year is different than what they proposed in their technically correct amendment last year, is it requires us to transmit-- requires us to verify their citizenship status before we transmit it. That's done through identity documents. So there's some different scenarios that play out that are actually fairly common. So someone can come in and apply and mark that they're a U.S. citizen. And then within ten days-- and say I want to register to vote and fill it out. Within ten days, we must transmit that to the election official. If they have not given us good enough identity credentials for us to be comfortable to issue them a license or an ID card, we're not gonna issue because we're gonna do some further verification, but we're still required to transmit that. So in this case, we may or may not have their citizenship status verified before that's transmitted. But under the way the bill is written now, it would require us to do so. So that's where the conflict comes in. In the previous one, it just says if an applicant comes in and they tell us they're a citizen then we transmit it, which is what we do now. That's consistent with the practice now.

**BLOOD:** All right. Thank you.

**RHONDA LAHM:** Um-hum.

**BREWER:** OK. Additional questions? Rhonda, just out of curiosity, how many years did you serve in the Nebraska State Patrol?

**RHONDA LAHM:** Twenty-five and a half.

**BREWER:** Twenty-five. Well, thank you for your service there, and thank you for continuing to serve Nebraska.

**RHONDA LAHM:** Thank you. I can address that if you want me to a little bit, the duplicate numbers why they went up.

**BREWER:** Yes, please.

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**RHONDA LAHM:** So each year-- even though the law provides that people have to change their address with us within 60 days of moving, I know it's shocking, but not everyone complies with that. So once a year, we verify our database with the United States Postal Service to see if we have the same current addresses. And normal-- I think the last year we sent out a little over 96,000 that were not current and asking them to come in. So that's where-- when the Commissioner testified, that's where that comes from, is that people don't always keep their addresses current with us. And then that's what causes there to be the inaccuracies sometimes when it's from our records. So that's one of those things that we just can't-- I mean, we can't force people to come in, and then we send a postcard and then we do get them to come in. And then the other thing that happens is if somebody comes in and for some reason they're not issued a credential and they come back and they fill out the data form again because they-- they're, they're supposed to bring the paper that we give them with them, but some don't always bring it. So then they have to fill out another data form and then that's entered in again, and so then they-- that same information is sent again. So that's what creates some of those duplication of records that come from our system into theirs. So--

**BREWER:** All right. Thank you. Senator Kolowski.

**KOLOWSKI:** Thank you, sir. Ma'am, of those 96,000, how many turn the mail back to you-- return that to you?

**RHONDA LAHM:** So what we do when we send those out we send them out based on what we have for our current address. Some come back and we can use that. And I don't have the exact percent but we get-- I would say 25 or 30 percent that come in. What we track are those that come in and actually do respond to that request to get their address up to date. Some people don't realize it. They don't realize that the law says that when you-- if you just move in town from one place to another that you have to get it current. They know if they move out of state or something they've got to get a current, but some people really honestly they don't realize-- not an excuse, but they really don't. So they're not trying to not follow the law, they just don't realize it.

**KOLOWSKI:** OK. Thank you.

**BREWER:** All right. Any additional questions? Seeing none, thank you, Rhonda.

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**RHONDA LAHM:** Thank you.

**BREWER:** OK. Additional opponents? Are there any in the neutral capacity? Seeing none, Senator Vargas. Welcome back for your closing.

**VARGAS:** OK. I'm just gonna reiterate a couple of different points, and then I want to address a few things. So just some general reminders here. There is something that we need to fix. And I know there's general definitions on what we need to fix. But I want you to just think in your head all the bills that you brought, some of them were the intentions even though problems may not have happened yet, you still think it's a problem to be fixed. They might be rules that allow certain things that you don't want to be allowed or things that you want to be allowed, flexibilities or autonomy for agencies. Sometimes things that you may think agencies shouldn't do. It kind of runs the gamut. What I'm proposing here is-- again, I, I always give credit where credit's due. There are specific things the Secretary of State is doing and is, and is gonna move forward on that's gonna help with some of these duplications. That still means that we can be missing out on information. In the testimony yesterday in the Appropriations Committee, we had a lot of back and forth, in one of the conversations about ERIC, which is a very good step in the right direction. But at the end of the day, we still need to then update our voter registration information. What Secretary of State said is that there's gonna be an effort to then send letters to every single person that's not registered to vote. Now you don't know this but we, we are fortunate enough to have HAVA grants from the federal government. HAVA money that's gonna help us to pay for some of these things. But it is something that's-- that is being done. And I question whether or not-- not whether or not we do that-- that doesn't mean we shouldn't do other things. We still have the opportunity to capture information when people are interacting with our-- let's say, the DMV and make sure the information that we receive then goes and is updated in voter files so that we're continuing to address more duplications. This is trying to improve our voter registration process, trying to improve the information we receive from people. And I think it is a pragmatic step forward. And so I've already kind of laid out some of the opposition testimony, but I still think at the end of the day our job is to make it easier for people to register to vote and not, not necessarily assume that they are not wanting to do it because they aren't registered to vote. But identifying what are some of the things that we could do to make it potentially easier. I do want to react to two things. And I did have a conversation with, with the DMV. So and,

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and I'll talk with her about this afterwards because I did have a chance since then, since I came up before, to then look at the white copy amendment from last year, AM1684 on LB290 that was worked on back and forth, and we have e-mail correspondence, and LB687 as it currently exists. That language is the same. I'll be providing you with copies of this afterwards, and I'll print them so that you can see the language that I currently have. Those that was worked out is the same. If there is something that we didn't then get communicated in the white copy amendment from last year, which could be the case, that might be an explanation as to why there's a discrepancy. But to address-- because it was stated that it does something entirely different. This amendment from last year from LB290 and AM1684 has the same language that I included in LB687 from this year. I just want that in the record. This is not a partisan issue. So I thank you for acknowledging the fact that this is just a way to get all people, no matter their party affiliation, registered to vote. It's also not a partisan issue when you look at states. We see other states, Alaska and West Virginia, that have led efforts in this arena as well. I ask the committee to work to identify this as a policy that can help improve voter registration in the state of Nebraska in addition to the other efforts that are gonna be had in Secretary of State and other efficiencies in other agencies. I think this is a good step-- pathway forward. Thank you very much.

**BREWER:** All right. Thank you. Questions? Well, listen since, since this was brought up, you should be given a chance to kind of address it. We look at the testimony from Lancaster County, in his second paragraph he talked about, our concern is with funding. Senator Vargas has introduced LB531, which would transfer funds out of the election administration fund and would create a new fund. It is our understanding that the funding for LB531 would be used to fund LB687, and however, according to Secretary of State's office, funding in the election administration fund have been committed to the state matching dollars for the federal-- is it HAVA-- is that how it's pronounced, funds distributed to the states in 2018. Can you simplify that?

**VARGAS:** Yep. We have cash funds. We have General Funds. And we, we do have federal funds that come to us. HAVA funds are federal funds. There's a grant-- there's a match that needs to be, 5 percent match that we need to then access these federal funds. They, they-- the match can come in different ways. The match can come from money that we, that we put in a separate election administration cash fund so that we get the remaining amount \$3.4 million, I think is off top of

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my head. The intention of this specific-- what you're referencing, is more to set aside some of the grant dollars from the HAVA fund. And the HAVA fund-- one of the purposes isn't to prove-- improve the voter registration process and to improve election security. This fits in within that. So at times what we do with the different cash funds is create them for a specific set aside purpose. The intent of the cash fund is to improve and enhance motor voter fund that would improve voter registration information. That's what the intent of that fund would be. Not to take the money from the existing election administration cash fund so that they couldn't provide the match. So we will be working on changing some of that intent language and-- but that's-- it's kind of hard to explain. All I want you to know is we're not taking 5 percent matched funds so that they can't access the grant funds. That's not what's happening. The intention is that we have existing \$3.4 million that's coming in to help us with election security. And specifically, voter registration is one part of that. And this fits cleanly within the ability to do that, and so I'm trying to make sure that we have some funds to be able to do things like that.

**BREWER:** OK. Well, I'm glad you cleared that up. All right. Seeing no other questions, thank you for your closing on LB687. We do have some letters to read in on LB687. We have two proponents and ten opponents and none in the neutral. With that said, we will close on LB687. And next we will go to LB733, which is Senator Kolowski. We'll just hang on.

**LOWE:** He's coming.

**BLOOD:** He's coming. I think he took a break.

**BREWER:** OK. We'll just hang on. He'll be here momentarily. Perfect timing.

**KOLOWSKI:** Ready to go.

**BREWER:** You're all ready to go. Welcome to your committee on Government, Military and Veterans Affairs.

**KOLOWSKI:** Thank you, Mr. Chairman. Chairman Brewer and fellow members of the Government, Military and Veterans Affairs Committee. For the record, I am Rick Kolowski, R-i-c-k K-o-l-o-w-s-k-i, representing-- pardon me, District 31 in southwest Omaha. In current Nebraska statute, we have requirements for complying with the federal American

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with Disabilities Act for public spaces. The ADA has been in place for almost 20 years. In 2002, the Help America Vote Act was passed to require accessibility of all polling locations and to make it as easy as possible for persons with disabilities to cast their vote and participate in elections. LB733 incorporates the standards of the Help America Vote Act into Nebraska's statutes. The Help America Vote Act spells out certain standards for parking, signage, exterior and interior routes and services, the size of doorways needed to accommodate a wheelchair, how the voting booth needs to be oriented to provide privacy for voting and for the minimum standards for ramps, lifts, and elevators. Something as simple as the type of doorknob on a door can hinder or enable a person with a disability. Nebraska has actually done very well in complying with accessibility standards. In the urban areas of the state, we've done a better job of compliance with disability standards than in rural areas. But all geographic regions of the state have areas that need improvement. This committee has already had some discussions about polling location accessibility. LB733 gives us the opportunity to focus on this issue in full. A group of our nonprofit organizations in our state recently gathered information about the current state of accessibility at polling locations in Nebraska. You will hear more about that survey and the results in their testimony. Making changes in public buildings takes planning, time, and money. However, the ADA has been in place for 20 years already and we should be continuing to routinely improve the accessibility of our public spaces. Federal dollars have been made available through grants to improve the election processes, security, and accessibility. The Nebraska Secretary of State's office is involved in such a grant currently. I commend them for their efforts. Secretary of State's office has some concerns about the specifics of the accessibility standards being spelled out in statute. My office met with Wayne Bena of the Secretary of State's office and Edison McDonald of the, of the Arc of Nebraska to find language acceptable to all parties. AM738 is that compromised language. It takes out the specifics that were of concern to the Secretary of State, yet leaves in the main themes of those standards. The amendment also adds a requirement for the Secretary of State to update and publish a training manual on accessibility for polling locations. I believe Wayne Bena, of the Secretary of State's office, is here and he will tell you more about that later. The amendment also clarifies that the training asked for can be accommodated within the current biennial training conference. With these changes, I believe the fiscal note will be eliminated. We still have work to do to enable the almost 13 percent of our population who have disabilities to vote in facilities

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that are in compliance with accessibility standards. Advancing LB733 is one way we can provide further guidance on how the accessibility of polling locations needs to be improved to allow our citizens with disabilities to participate in the election process. LB733 also brings our statues-- statutes into compliance with federal law. I'd like to thank the Arc of Nebraska and Civic Nebraska for spearheading the survey, for shedding light on the issue and for encouraging us to improve the accessibility of polling locations in our state. I also thank the Secretary of State's office for the commitment to accessibility issues at polling locations and for working with me on the amendment. I ask for your support of LB733 and AM738 by advancing this bill to General File. I'm happy to try to answer questions, but some of the testifiers coming after me would better answer specific questions of the standards themselves. Thank you very much.

**BREWER:** Thank you for your testimony. Senator Blood.

**BLOOD:** Thank you, Chairman Brewer. And it's nice to see you again, Senator Kolowski. It's like I just saw you recently.

**KOLOWSKI:** I know that.

**BLOOD:** So I have a lot of questions.

**KOLOWSKI:** Sure.

**BLOOD:** Are, are one of your testifiers-- are they gonna be an attorney?

**KOLOWSKI:** Within limits, I think so. [LAUGHTER]

**BLOOD:** I, I didn't say a good attorney.

**KOLOWSKI:** I believe they should be able to answer most things.

**BLOOD:** OK, so I'll, I'll try and filter through the questions and I have a lot of questions and I apologize. But I want you to know that I was here at 7:30 researching this. So--

**KOLOWSKI:** Sure. Thank you.

**BLOOD:** So reading this item of legislation, the question that I have for you is, with things the way they are now, would you say that in

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many instances people with disabilities are separate but not equal because in a way we're segregating them when they vote?

**KOLOWSKI:** Well, I think you're, you're on the track to something that is a reality today. Depending on the county, depending on the part of the state you're in,--

**BLOOD:** Um-hum.

**KOLOWSKI:** --depending on the accessibility and what kind of locations you might be able to go to, we have such a variance across the board that I wonder about the, the voter-- citizen who wants to go but knows it's a real struggle to go--

**BLOOD:** Right.

**KOLOWSKI:** --by wheelchair or crutches or any other main reason that might be hindering their accessibility, their movement that they know that if I have to go to X, Y, or Z in the city to, to go vote, it's a very difficult thing for me. You add in weather, you add in time of the year, you add in darkness in the evening early, you add in a lot of different things, and some people might just say, it's not worth it for me to do that right now and they would back off. I had a voting place at Millard West High School for all the time I was there,--

**BLOOD:** Um-hum.

**KOLOWSKI:** --15 years. We used it as a teaching location. We'd bring students down and put them in a corner and say, this is where people get their ballots or they vote or-- all this takes place. And that worked well for quite a while until we got larger, and then we ran out of parking space outside. We usually blocked off parking locations for people to come up right next to the building and, and park there. But all of that caught up with us over time, we eventually had to ask them to go to other locations. Security is also an issue when you're a high school.

**BLOOD:** Right.

**KOLOWSKI:** And so you had all those kind of things that were-- balls that we're juggling and trying to get that worked out and I wish we still had that at the location where they could visualize and see people voting in that matter.

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**BLOOD:** But I'm gonna bring you back to--

**KOLOWSKI:** Sure.

**BLOOD:** --the people with disabilities.

**KOLOWSKI:** Sure.

**BLOOD:** So again, reading this bill and, and another impression I had-- and again, I'm, I'm looking for your opinion, that when we force people with disabilities to vote in like a nonpublic manner. For instance, I think it's wonderful-- and Sarpy County does a pretty good job.

**KOLOWSKI:** Um-hum.

**BLOOD:** I'm-- I did a lot of research on what we do in our county like the AutoMARK machines. But I look at like the, the curbside voting. And it really robs that voter of a private and independent ballot. I know in Sarpy County, they send out one Republican and one Democrat to Grandma Moses's car, who can't get out of the car. And I think that that's a wonderful thing.

**KOLOWSKI:** Um-hum.

**BLOOD:** But are we sending a harmful message about full inclusion when we don't allow them the same privilege that you and I have?

**KOLOWSKI:** Well, I think, I think you are. I think we are when we do that and as I mentioned earlier knowing there are states where they have a mail-in ballot, you don't have to worry about weather, a location, time, all of those kind of things--

**BLOOD:** Um-hum.

**KOLOWSKI:** --as far as sending your ballot in. You get it in the mail and you're registered. And there it is. You fill it out, lick it closed, and send it in.

**BLOOD:** But that can create even another hurdle depending on the type of disability that you have.

**KOLOWSKI:** Sure.

**BLOOD:** I thought it was really interesting that the Pew Research study that I read, amongst other things, actually featured Kathy Hoell from

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Nebraska, whose impression that she was awfully-- often referred to as basically just being stupid. She's one of the smartest women I know based on her disability. And I just want to make sure that when we do this, we do this right. One of the other things I noticed is that there's been a lot of laws passed in reference to people with disabilities. The 2002 Help America Vote Act that mandated that all states and localities upgrade their election procedures. And part of that was, shall be accessible for individuals with disabilities. You talked about HAVA, which we do participate in. I know we have the AutoMARK machine that helps people who are visually impaired. It also has the sip-and-puff ability. And those are wonderful things. But why do you think-- and there are several others that I won't name off. Why can't we get it right?

**KOLOWSKI:** Well, I think we're trying to. And I think this update of the entire state to the, the possibility of what this bill was all about will help us to guide that toward a direction of, of greater accessibility and greater participation with all voters rather than hit-and-miss situation in some counties or some cities or wherever you might be. It's, it's a, it's a challenge outstate, it can be an even greater challenge--

**BLOOD:** Right.

**KOLOWSKI:** --trying to find a location that can handle the accessibility of wheelchairs and crutches and getting into a building, and getting out of a building, how far you're parking away, all those kind of things come into play.

**BLOOD:** Stairs and curbs.

**KOLOWSKI:** Stairs-- all those, all those are part of it. And that, that becomes a real handicap for many people. And I certainly understand that trying to find some place that's got all the accessibility is not an easy task.

**BLOOD:** And so I was speed reading your amendment and I'm a little concerned. So under HAVA, via Secretary of Health and Human Services who sits on the President's Cabinet,--

**KOLOWSKI:** Um-hum.

**BLOOD:** --they're authorized to make payments to us for making polling places accessible. And when you look at the list it's-- it more

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mirrors what your original bill was than what your amendment was: half the travel, entrances, exits, voting areas, including the blind and visually impaired in the same manner as the voters.

**KOLOWSKI:** Um-hum.

**BLOOD:** Also provides voters with disabilities information about the accessibility of polling places. Much-- everything that you're asking for including outreach programs to informed individuals about the availability of accessible polling places and training election officials. That was one of the questions I had. Training election officials, why can't they do it through-- like they do telemedicine, through TelePrompTers, as opposed to spending \$3,000 on food for the day, or however much that was in the fiscal note? That seemed kind of silly to me.

**KOLOWSKI:** I don't know what their decision was on that or how that came about but those are certainly questions that can be looked at.

**BLOOD:** Seems pretty fancy to me personally. Poll workers and election volunteers on how best to promote access--

**KOLOWSKI:** Um-hum.

**BLOOD:** --and I do know that-- again, in Sarpy County, and I'm sure probably Douglas County and Lancaster County, they do their best to, to do that already.

**KOLOWSKI:** Sure.

**BLOOD:** But knowing that this was the parameters, why the amendment?

**KOLOWSKI:** If, if you look at the amendment, there were certain words that were changed and that made it access-- acceptable to the new standards that were brought forward that we are looking at and want to adopt into this particular bill.

**BLOOD:** What were their concerns that caused you to change this?

**KOLOWSKI:** From the--

**BLOOD:** From the, from the original--

**KOLOWSKI:** From the original?

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**BLOOD:** --document to the amendment.

**KOLOWSKI:** We compared the, the updated standards to the, the current ones we had and found it deficient.

**BLOOD:** Fair enough. I think I will save the other questions for the fancy lawyers that come forward.

**KOLOWSKI:** That's good.

**BLOOD:** All right.

**KOLOWSKI:** They'll probably have good answers.

**BREWER:** All right. Additional questions? Seeing none, thank you. And you'll stick around for close?

**KOLOWSKI:** Yes, sir.

**BREWER:** All righty. All right. We will start with proponents for LB733. Welcome to the Government Committee.

**EDISON McDONALD:** Hello, my name is Edison McDonald, E-d-i-s-o-n M-c-D-o-n-a-l-d. I'm the executive director for the Arc of Nebraska, an organization that advocates for people with intellectual and developmental disabilities. We're appearing in support of LB733. As Senator Kolowski talked about-- you know, this has been a project of ours for a while now. Ultimately, I think things can't move forward by government alone. I think a lot of times it's important to go and make sure that you have nonprofits, for-profit businesses, and other entities going and partnering up. This was really our attempt to go and find good ways to make sure that we were moving forward the cause of election accessibility working with a variety of partners. First being, the Secretary of State's Election Assistance Council. And in talking with them and consulting over the usage of the HAVA funds that they were planning on designating, one of the things that Deputy Secretary Bena and I talked about was the lack of knowledge about where exactly were some of the issues. So we said, well, we'll go ahead and we'll start looking to go ahead and train our volunteers, work with a variety of stakeholders and go and collect data on that. So now we have the largest state study on disability election accessibility information in the nation thanks to this report. So kind of moving on from there, what we originally hoped to accomplish was educating, training people, getting that data, figuring out the issues. One of the things that we found out on election night as we

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were looking to answer a question of a confused voter, was that the current statute is pretty insignificant if you look at the current statute of 32-907, you've only got about a paragraph. The way it's written now almost seems to imply that, that-- it says the ADA-- and then we haven't updated since HAVA, so it's probably been previous to 2002. And it seemed to almost imply that the only requirement legally that we could justify was that, well, there's the ADA stuff which is vague and all over the place and not really designed. You don't have a good resource to look at for voting. So we went to go and try and put, put it all into one place, clarify some pieces and make sure to go and have it also in Nebraska's state statute, because we thought that that would be a better way, and a better resource, especially for county clerks, poll watchers and election observers. We ended up with a compromise to go and instead just refer to the sections. So instead of just referring to talking about a wheelchair, we talked about the general sections. That was a, a compromise to make sure that the Secretary of State and NACO-- you know, and us could all get on board and find a common place to move forward. I think with that-- the, the sections that we didn't go and just limit completely, we went and still included pieces clarifying where it's not completely clear in federal cases so like curbside voting is justified based upon a court case. And instead of having that, we figured, well, let's go ahead and put it clearly in statute and let's also make sure that if somebody drives up, they're not going to know that they can curbside vote or how they can curbside vote. What are they gonna do, honk really loudly and hope somebody comes out? So we wanted to go and make sure there was a way to access that with a phone number. So those are the sections that we left. Everything else still refers to federal law because the original intention of this was to make sure we were harmonizing with federal statute. I think-- let's see, other important pieces I'd really take a look at, making sure-- on the training, that was another part of the compromise making sure that we had a guide so that we were able to go and say, well, here's a reference. So then if statute changes-- or if regulations change federally, then it would be easier to continue being in compliance with state statute. That was our original goal. And I think this bill still takes a significant step forward without raising alarms from the Secretary of State's office. And as to the biennial training, that is nothing new, that's already required in Section 32-329. And the Secretary of State will talk about-- they already do provide training to the county clerks biannually. So all this was really meant to go and kind of work together and make sure to make it easier especially for rural county clerks without as many resources and see if we could kind of bring

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together a more sensible partnership. I hope in conclusion that you'll support LB733. Any questions?

**BREWER:** Yeah, I'm sure we will. OK. Questions? Senator Blood.

**EDISON McDONALD:** OK.

**BLOOD:** I wasn't gonna ask one. Hopefully, this will be a quick question,--

**EDISON McDONALD:** Yeah.

**BLOOD:** --quick answer. The fiscal note is just kind of sticking in my craw.

**EDISON McDONALD:** Yeah.

**BLOOD:** Do you know how many people they would be training based on this fiscal note?

**EDISON McDONALD:** So the, the fiscal note-- number one, I think it's gonna be pretty much eliminated because it is really already part of the training they already do. However, and I'll take blame for this, Deputy Secretary Bena and I had a misunderstanding about when we were meeting to discuss this. And so he wrote the fiscal note without understanding that the intention was to go and have it already in the training they're already doing.

**BLOOD:** Doesn't the-- I thought the federal funds covered training?

**EDISON McDONALD:** They, they do, but the Secretary of State already has a training for county clerks that covers all sorts of issues. This just regulates that there be a specific section on accessibility. So it's not really anything new in there.

**BLOOD:** So what I hear you saying is to ask Wayne Bena.

**EDISON McDONALD:** Yeah.

**BLOOD:** Thank you.

**BREWER:** OK. Additional questions? Seeing none, thank you for your testimony. OK. Additional proponents? Welcome to the Government Committee.

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**JOHN CARTIER:** Good afternoon, Chairman Brewer. Good afternoon, committee members. For the record, my name is John Cartier, spelled J-o-h-n C-a-r-t-i-e-r. I'm testifying today in my capacity as a director of voting rights for Civic Nebraska. Civic Nebraska's mission is to promote nonpartisan election reforms across the state and to also protect the voting rights of all Nebraskans. I have the pleasure today to discuss with you today a bill that I'm very proud to support. LB733 was the culmination of countless hours of hard work by advocates and partners. Through the coordination of over 100 people, organizations such as Civic Nebraska, the Arc of Nebraska, Disability Rights Nebraska, and Common Cause of Nebraska set a national record in the amount of polling locations surveyed for ADA compliance and accessibility. Last month, I shared with you a copy of Civic Nebraska's election report over the 2018 general election. We were able to acquire this data to publish this report through the efforts of volunteer election observers. A part of what our observe-- observers did was fill out these surveys during the primary and general elections for each polling place they visited. Thanks to the work, we were able to identify both reasons to celebrate, as well as our areas for improvement. Furthermore, because of the diligent work by former Secretary of State John Gale, we already have federal money allocated for making significant improvements to polling places that need attention. This means community centers, churches, and many other places where Nebraskans congregate will get the upgrades necessary to ensure all Nebraskans can access these places. Whether that is on Election Day or any other day. A large part of what Civic Nebraska does is work on reforms that help increase voter partici-- participation rates. Accessibility to polling places is paramount to conducting elections in Nebraska. LB733 helps accomplish this by codifying already existing laws in a way that makes it very clear what the expectations are on the government to provide fair access by all to all polling places. Please advance this bill out of committee and carry it to the Governor's desk. Thank you.

**La GRONE:** And thank you, Mr. Cartier. Are there any questions? Senator Blood.

**BLOOD:** Thank you, Vice Chair La Grone. I saw the letters J.D. after your signature, what does that stand for?

**JOHN CARTIER:** Juris, Juris Doctor. I'm a doctor.

**BLOOD:** Would you say that you do lawyer speak?

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**JOHN CARTIER:** Sometimes, mostly with Senator Hilgers.

**BLOOD:** I would be really surprised if he doesn't chime in. I do have several questions for you again.

**JOHN CARTIER:** Absolutely.

**BLOOD:** So what I want to start with is, are you familiar with what happened in the fall in Omaha, the 87 businesses that cited-- were cited for discrimination for people with disabilities?

**JOHN CARTIER:** No, I'm not familiar with that.

**BLOOD:** So slope parking lots, handicapped spots too narrow, tables, counters too high for them. Now it's my understanding that states are protected by sovereign immunity under the Eleventh Amendment. Is that correct?

**JOHN CARTIER:** It-- yeah, I believe so.

**BLOOD:** Feel free to look around at your lawyer friends.

**JOHN CARTIER:** I'm not sure which amendment it is, but sovereign immunity, that is-- that does apply to the government in some, some cases.

**BLOOD:** But hasn't it been-- I mean, it's been definite on Title I for the ADA,--

**JOHN CARTIER:** Um-hum.

**BLOOD:** --but there have been exceptions made on Title II under the ADA. Would you say that's correct?

**JOHN CARTIER:** Quite frankly, I'm not very familiar with that specific part of the law.

**BLOOD:** What good are you? No, I'm just teasing.

**JOHN CARTIER:** I just-- I only know the constitutional convention stuff. [LAUGHTER]

**BLOOD:** That sounds like nightmares to me. So I'm gonna-- then I'm gonna present the same knowing your background and what you represent. When I read this bill, to me the concern that I have is that we are sending out a harmful message about full inclusion when we don't offer

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everybody the same benefits that you and I have when we go to a polling place. Would you say that that's true?

**JOHN CARTIER:** Yeah, in, in a sense. And if you let me respond to the issue you have with the curbside voting, Senator. One story we highlighted in our election report was an 88-year-old woman. She went to the wrong polling place, stood in line for 30 minutes. When she got there, they told her wrong spot. She hadn't voted since they changed the polling places before. And she was redirected to go to another place and she didn't end up voting that day because she didn't go to the other extra spot. She was already pretty much spent from waiting in line that long,--

**BLOOD:** Sure.

**JOHN CARTIER:** --and it was a long day for her. So I think curbside voting is probably gonna be a necessity for a lot of people that-- I mean, we take for granted just walking. But you know, there's people that really struggle to even set foot out of a car door. Curbside voting, I, I don't think it segregates people in a way, I think it shows that we're willing to-- you know, step out and meet them where, where they can go to.

**BLOOD:** So I, I talked to some people from the disability community, and I agree that curbside voting is, is a great thing. And what I've seen in Sarpy County is where usually-- you know, some 60-year-old drives their 80-year-old mother or father to the polls. They go in. They go get somebody. They have to send out both a Democrat and a Republican and whoever is waiting in line sometimes has, has to wait because of that, and, and that's not usually an issue, at least in our county. But it's not a private independent ballot. And so it is-- you know, we want them to be included. I, I don't disagree with you that, that curbside voting is a wonderful thing. But if we are truly trying to follow every law that they keep spitting out in the federal government and never really making sure happens-- I mean, if we're truly trying to follow the four or five that I found, then isn't-- again, separate is not equal. And if we segregate the way they vote, how will we ever make it equal?

**JOHN CARTIER:** To respond a little bit to that, we're not eliminating the option for them to go in person to their polling place which is allowing them--

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**BLOOD:** Right, and that's not what I'm saying.

**JOHN CARTIER:** Right.

**BLOOD:** What I'm saying is-- and maybe that's a question for another day.

**JOHN CARTIER:** Um-hum.

**BLOOD:** But I, I respect what you're doing. When Mr. Bena was in Sarpy County, they did an excellent job of addressing people with disabilities. I mean, I can't speak for his job now because I only see him here. But-- and that was not meant to be offensive in any fashion. But the concern that I have is that you are definitely addressing important things like, how do I get into a polling place? How do I get out of a polling place? Don't put my wheelchair in front of stairs and tell me it's up there. And those are, those are all good things. But are we truly doing the job that we are supposed to be doing under HAVA and, and all the other acts that Help America Vote Act, if we are not giving them full inclusion? And I don't think we are. And I question whether this bill needs to go a step further.

**JOHN CARTIER:** Um-hum. To put something on your radar that-- I know, we've had conversations with Arc of Nebraska about this and some other groups. Right now if you're overseas military, you can vote on-line through e-mail.

**BLOOD:** Right.

**JOHN CARTIER:** And that option is afforded. I might be wrong but I think there are states right now that have expanded that to people who have disabilities. And I think that would be a really, really good thing to look into. Because I think, like at the end of the day, it's all about options. The more options we can give the voter, the better-- when we treat it as-- you know, a customer service type deal. The more options, the more variety, the better. And if we can do it in a way that doesn't make feel-- people feel like they're excluded from society, that's, that's something we'll happily work with you on, Senator.

**BLOOD:** So again, an 80-year-old curbside-- I mean, again another nice amenity. And, and no offense to the Arc, because I'm, I'm not saying anybody did anything wrong here. I'm saying for my constituents, and from what I've seen and from what I know from working with people with

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disabilities, separate is not equal. And this bill needs to go a little bit further. And I don't see it being a big expense or big burden for any county to just take things a step further to make sure that people have true and full inclusion otherwise they become less then. And that's not something I can support.

**La GRONE:** Thank you, Senator Blood. Are there any additional questions? Seeing none, thanks for coming down.

**JOHN CARTIER:** Thank you.

**La GRONE:** We'll take the next proponent? Mr. Geis, welcome back to the Government Committee.

**GAVIN GEIS:** Vice Chair La Grone,--

**La GRONE:** Don't worry, this isn't a Article V bill so we won't ask you questions about democratic legitimacy.

**GAVIN GEIS:** --members of the committee, my name is Gavin Geis, G-a-v-i-n G-e-i-s, and I'm here representing Common Cause. First of all, to-- I want to answer Senator Blood's line of questioning here. You know, I-- to a certain degree agree with you Senator Blood. But the issue we're facing down that road is that we're gonna have to, we're gonna have to have a lot of funding to fix all of the other issues that were brought up in the study we did. I think we would have to, to alleviate the need for curbside voting. And let's just, let's just call it what it is, we only have curbside voting because there's a need for it. If our polling places had perfect accessibility, and we had polling places that didn't need curbside voting-- if they had ramps, if they had elevators, if they had the accessibility that we need. And maybe that's a bill that needs to be brought. But for right now, it is the moderate answer that we have to get the accessibility we need today. And we-- that's where we're at. It's at a point of getting the accessibility we need today. And maybe the next step is getting the funds to pay for perfect accessibility, and maybe that's a sad reality, but it's-- it is the compromise of taking that first step. By other before-- before I wanted to talk about that, I was gonna say I-- in talking with other states-- other Common Cause states about this, I just wanted to note that this is not a thing a lot of other states are talking about, and that's not a bad thing. I think this is a novel and important issue we're addressing. Other states have kind of forgotten about, about harmonizing these provisions. They've accepted the reality that the federal government addressed

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this and they are, I think, hoping their polling places are doing a good job. But as was noted, we have one of the most comprehensive studies on this issue. I don't know if they're studying this. They're just crossing their fingers and hoping that it's going well. They were a little surprised to hear we were introducing a bill here about this and found it novel. So we should be happy we're on the forefront of this and take it seriously that we get a chance to be the first to harmonize provisions and lead in this area. So I just wanted to tell you that I'm sorry I don't have other state laws to give you that are doing this and to model this after. We get to maybe do it first. So that is-- that's what I've got.

**BREWER:** OK.

**GAVIN GEIS:** Thank you.

**BREWER:** And Gavin, just two, two quick issues. One is, I didn't run out of here because you were coming up, and,--

**GAVIN GEIS:** I'll take that.

**BREWER:** --and I agree with you. Senator Blood.

**BLOOD:** Thank you, Chairman Brewer. And thank you for your testimony. True or false. Separate is not equal?

**GAVIN GEIS:** True.

**BLOOD:** OK. So when-- and I, and I know your intentions, they're all very good. Everything about this is a good intention. You're seeing the accessibility that we need today. Isn't this the accessibility we needed yesterday?

**GAVIN GEIS:** Unquestionably.

**BLOOD:** OK.

**GAVIN GEIS:** Unquestionably.

**BLOOD:** So-- and that happy that we are in the forefront. I am happy that we are in the forefront, but I am unhappy that we are not addressing full inclusion. And I think when it comes to the money, the things that we're talking about such as curbside voting are easy fixes, I don't think we're gonna be building carports for people to drive in so they have the privacy to vote. I think there's easy

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solutions. And sometimes I think we get so embedded in the policy, we forget to step outside of that policy and look for easy answers. And although I know there's nothing easy about full inclusion and accessibility,--

**GAVIN GEIS:** Right.

**BLOOD:** --I do know that we're not reinventing the wheel.

**GAVIN GEIS:** True.

**BLOOD:** All right. And so I ask you again, do you stand by the statement the accessibility we need today?

**GAVIN GEIS:** That's a tough one. It's the step maybe, the step in accessibility.

**BLOOD:** So, so how long do we wait for this? Because how long-- well, it's been what over three decades, right, for the ADA?

**GAVIN GEIS:** Right.

**BLOOD:** Right? So we know what building should be accessible,--

**GAVIN GEIS:** Right.

**BLOOD:** --bathrooms should be accessible, parking lot should be accessible. Right?

**GAVIN GEIS:** True.

**BLOOD:** Are those not some of the issues that we're addressing in that bill?

**GAVIN GEIS:** True.

**BLOOD:** OK.

**GAVIN GEIS:** So maybe,--

**BLOOD:** And what was your thinking--

**GAVIN GEIS:** --maybe you're right, and maybe this isn't--

**BLOOD:** No, and I'm not looking to be right. I'm, I'm, I'm looking to get things on the record.

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**GAVIN GEIS:** I know. But you're making, you're making fair points.

**BLOOD:** I, I think we can do better. And so I'm gonna ask you that-- one more question if I can still find my notes. So did you hear the part in reference to potential lawsuits? That-- and, and there seem to be some question whether this is true or not and maybe you have the answer. Because I don't know what kind of attorney you are in particular. There seems to be a lot of different kinds.

**GAVIN GEIS:** Yes, many flavors.

**BLOOD:** And [INAUDIBLE], and I'm not doing any jokes. So states are protected by sovereign immunity I heard, correct, under the Eleventh Amendment. And so when it comes to Title I and the government being sued, the courts at the federal level and the district probably basically said no. But on Title II, they-- this looks like from what I-- my research-- and again not an attorney, have said, yes. Is there concern that if we don't do this right that we potentially face a lawsuit?

**GAVIN GEIS:** And when you say, don't do this right-- and do you mean not implementing it, or implementing it wrong?

**BLOOD:** Not implementing it in a way that creates full inclusion.

**GAVIN GEIS:** There is-- that is a-- now that is topic for a lot of debate. I think by implementing it this way, I don't think we open ourselves to lawsuit. In implementing it this way, I doubt we open ourselves to lawsuit.

**BLOOD:** OK.

**GAVIN GEIS:** By not implementing it--

**BLOOD:** Oh, most definitely.

**GAVIN GEIS:** --and continuing to go down the road--

**BLOOD:** Yeah.

**GAVIN GEIS:** --we go down, that's another, that's another question.

**BLOOD:** Do you think there is potential to, to work with Mr. Bena, whomever, to come up with a resolution-- an amendment that could potentially be more inclusive?

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**GAVIN GEIS:** You know,--

**BLOOD:** And maybe I should be asking Senator Kolowski about that.

**GAVIN GEIS:** --it's all about money. But--

**BLOOD:** Yeah. Well, \$3,000 for sandwiches kind of sticks in my craw.  
But--

**GAVIN GEIS:** Maybe the sandwich money is the, is the answer.

**BLOOD:** Could be really good sandwiches. All right. I appreciate your time. That's the only questions I have.

**GAVIN GEIS:** OK.

**BLOOD:** Thank you.

**GAVIN GEIS:** Thank you.

**BREWER:** All right. Additional questions for Gavin? Nope? All right.  
Thank you, Gavin.

**GAVIN GEIS:** Thank you.

**BREWER:** Any additional proponents? Come on up. Welcome to the Government Committee.

**WAYNE BENA:** Thank you, Mr. Chairman. 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 regards to supporting LB733. First, I'd like to apologize for yesterday. I was scheduled to appear in the Appropriations Committee. And I received a text message as I was sitting down that said on, which made me go as fast as is humanly possible. And that's why I ran out of here, and my mother appreciated your comments and laughed after because she watches. So she thought that with great amusement. I got to the Appropriations Committee and saw that the next text message was, oh, sorry. OK, I'll let you know when you're up. So I ran, got scolded by building, by buildings for running in the hallways. But I did make it over there. It was my birthday yesterday, and even one year older, it was nice to know that I can still run that fast. So I do apologize for it. But for that, again reiterate yesterday we were in support of that bill and the amendment to further those efforts. So Senator Blood, you mentioned a study by Pew that was from Rutgers University. That's

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something that I took great pride in when it was released in February of 2008. And in that study in which Kathy was quoted, Nebraska had the highest participation rates of people-- persons with disabilities in the country at more than 70 percent. But that doesn't mean we're done.

**BLOOD:** Right.

**WAYNE BENA:** And I will say I, I appreciate the things that you said in regards to Sarpy County as that's where I came from. You called my former team and I'm glad that they still are providing that great level of service to those that ask. What I learned about ADA came from Kathy, and the best decision I ever made, my Chief Deputy Deb Davis, who you recommended to me, who are huge advocates in that community and something that I took very seriously and it was-- and I took seriously coming into this job. As well, Secretary of State Bob Evnen is committed to the ADA accessibility of our polling sites. And like Secretary Gale before him approved the program narrative that the state put together for the HAVA funds in regards to making some of those funds, approximately \$500,000 in the next five years going specific to the ADA accessibility of our polling sites. It was something that was important to me, and we had our stakeholders meeting which included members of the disability community that I was giving the different things that we were gonna spend this money on. Kathy would not let me speak for 45 seconds before she interrupted and said, you know you can use this for ADA, right? And I said, there's a slide in about 15 minutes you're really gonna like then. And it was something that I, I hope that she approved of and I wish I could do more, but this is what I have and this is the commitment that we have that again \$500,000 of the HAVA funds and our narrative are committed for the ADA accessibility of our polling sites. And when Arc came without that study I said, tell me what polling sites we need to fix? How we need to fix them? And let's figure out a way to do it. If the county can't do it, let's figure out a way we can help. And we did provide some ADA, and we're, we're figuring out what we need to do and what the county's need, and I'm looking to the stakeholders to help. I, I just don't want to buy toys to buy toys. I want to find the stuff that actually is going to work. Hall County, in the November election asked for doorbells for doors that might have a little bit harder to open but let's fix the door. Let's fix the door handle. I'm willing to use that money to do that. I just need to be told how to use it. This bill itself-- let's get back to the bill itself. It was a great collaboration. There was a miscommunication about a, a meeting that probably would have solved some of this stuff early on. I waited as

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long as possible for the fiscal note and a meeting that was supposed to happen didn't happen, and I didn't hear why. And before this hearing, I was reached out to that miscommunication was corrected. We figured it out and I'll-- I'm about to be done here, but I'll answer the questions about the fiscal note and the training and what the thought process is behind there. We found a guidebook while moving to the new facilities that hadn't been updated since 2006. And I'm like, I would like to have this book updated and sent to the counties. And that was part of the compromise instead of listing each one of these things out. Let's put it in this book. So if anything changes, we can change the book instead of coming back to you every year, because I know you guys love me talking about a very long omnibus bill for 20, 30 minutes at a time. And this compromise, as we talk about, we will-- we, if approved by this committee, will remove the fiscal note in its entirety from the Secretary of State's office. So with that, I appreciate the time. The Secretary of State's office, but more personal, my commitment to ADA accessibility is unshakable. I appreciate your and welcome your questions. Thank you very much.

**BREWER:** Thank you for your testimony. And actually I, I, I was very pleased at your short presentation yesterday and I apologize for your not being given an adequate Happy Birthday yesterday. So happy belated Birthday.

**WAYNE BENA:** Thank you, sir.

**BREWER:** All right. Questions? Senator Blood.

**BLOOD:** Thank you, Chairman Brewer. And I guess I have to say it now, too. Peer pressure. Happy Birthday. And hello to your mom, because you always say she's watching. So I'm gonna ask you the same question and, and I'm glad you're listening to what I had to say because I, I don't think that you're doing a bad job. I think you try really hard. You definitely took your job seriously when you came to Sarpy County. I have nothing but props for you. So and I love Deb, you know that, or I wouldn't have recommended her. But I have the same question that I have for everybody. And the reason I'm asking this question is because I really want you to think about what-- how you move forward. Do you believe that separate is equal?

**WAYNE BENA:** No. But I would believe that curbside voting is not a solution to ADA problems at the polling sites. It's another method to

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be able to vote. The-- to, to me, the great equalizer is the AutoMARK.  
And that is the--

**BLOOD:** I agree that does help.

**WAYNE BENA:** --that is, that is what it is supposed to be. Because every voter regardless of disability has the same right to vote on the AutoMARK as everyone else. That's the great equalizer to me. And to me, curbside voting isn't meant to replace ADA responsibilities. It's another option.

**BLOOD:** And I do understand that clearly. Are the AutoMARKs all separated as much as the voting booth is? Like, do they have privacy or are they out in the open?

**WAYNE BENA:** The way I train my poll workers and the way the trained poll workers are supposed to be trained, is that the AutoMARK is supposed to be facing in a way that cannot be seen by another voter. But if not, the worst case scenario, if it's facing the, the poll workers that have that-- you know, signed an oath, then that would be the solution. Does it happen all the time? No. But I train them to do that. I spend a great deal of my time-- Deb and I did in Sarpy County training.

**BLOOD:** Right.

**WAYNE BENA:** And we started a district inspection program that went to every polling site to make sure it happened and it was on their checklist. Does it happen all the time? No. But just to get to the point of the curbside voting, to me curbside voting is another option. And, and I'm gonna give you the, the example of why it was important to me and why of everything that-- you know, Edison believed that that was gonna be the number one thing that I opposed in this in regards to the signs. And I didn't because I think it is important. And I'll, I'll give the example why. I moved a polling site-- we had a few polling sites at Southroads Mall, and I wanted to move one of those out just because of voter confusion. And the old Richman Gordmans just down the street-- it's your district I believe, [INAUDIBLE] is that?

**BLOOD:** Nope, that's Senator Crawford's.

**WAYNE BENA:** Senator Crawford.

**BLOOD:** But that's OK.

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**WAYNE BENA:** Close enough-- Bellevue.

**BLOOD:** We all look alike.

**WAYNE BENA:** Yeah, OK. The old Richman Gordmans was bought by Herman's Nut House for their corporate headquarters, and they have a great little facility and he was-- their CEO was all for being a polling site. And that was fantastic because he didn't have to be.

**BLOOD:** Right.

**WAYNE BENA:** You know, private companies can tell me to pound sand. And so as we were getting ready for that election, I literally woke up in the middle of the night with sweat. Well wait a minute, what if someone had a nut allergy and wanted to go vote? And that, and that,--

**BLOOD:** That's valid.

**WAYNE BENA:** --and that scared me. And so we put a sign at the front of the door that said, nuts are made in this facility. If you have an issue, call this number, the inspector will come out and bring curbside voting-- to bring the ballot to you. And that did happen once. I wasn't afraid of a lawsuit. I wanted to make sure that there was an option for that person. Now the option could have been, they could have early voted. They could have. But you know, if that-- you can't do that on Election Day.

**BLOOD:** Right.

**WAYNE BENA:** So to me your, your scenario that you're bringing, this isn't an ADA solution, this is an extra piece of the puzzle. It's making the-- what I'm trying to do is spend money to make polling sites more accessible to make it easier to get into the AutoMARK which is the great equalizer.

**BLOOD:** And I, I do appreciate that. And if I'm giving the impression otherwise, I do appreciate that. I-- what I ask is that after more than three decades-- and I'm not saying just us, everybody should have this right by now. By not getting this right by now, we've really made that community feel less than. And that's not something that I'm personally supportive of. And so all I ask as you move forward and you, and you continue to meet with this community, is that you remember what I continue to pound into everybody's head which is separate is not equal. It doesn't mean that offering curbside voting is not an important tool. It just means that everything that I'm able

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to do, people with disabilities should be able to do in the same private fashion. And that's the goal that I'd like to see for Nebraska.

**WAYNE BENA:** I don't have all--

**BLOOD:** Does that sound fair?

**WAYNE BENA:** Yes. I don't have all the answers. And as I've told everyone that comes in my office, give me the ideas because I don't know, what I don't know.

**BLOOD:** Oh, you don't want to do that. But thank you.

**WAYNE BENA:** Well, I-- yeah, maybe I can't pay for everything.

**BLOOD:** Stop by, I'll buy you a cup of coffee. We'll talk.

**WAYNE BENA:** OK.

**BLOOD:** All right.

**BREWER:** Additional questions? Senator La Grone.

**La GRONE:** Thank you, Mr. Chairman. Thank you, Deputy Election-- or Deputy Secretary of State Bena-- it'll still take me a few years to get over the election commissioner part, for being here. Just real quick. Just trying to understand the framework. Obviously, with HAVA, there's a few other provisions we're operating under-- for lack of a better term, a grandfather clause. I'm not as familiar with the ADA portions of that so I was just wondering, is there a similar provision that we're operating under like a grandfather clause provision as it relates to this? And if not, how does this fit into that framework then?

**WAYNE BENA:** In regards-- I, I do believe-- you know, if, if, if you have a new building, they have to be ADA accessible. And many-- and if you do remodeling and a building permit, it has to be ADA accessible and there's a lot of buildings throughout our state that might be the only possible way you could go to, to a polling site. And it may not fit every one of those definitions. I am committed to using those funds to do everything I can to make those facilities ADA accessible or encourage the county commissions to find possibly something else. So yeah, now even though that a building-- they might not be required to, but I encourage our election officials to find places that are ADA

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accessible to as many degrees as possible. And if they're missing one item, let's use the money to fix the last item if we can.

**La GRONE:** Thank you.

**BREWER:** All right. Additional questions? Seeing none, thank you for your testimony.

**WAYNE BENA:** Thank you.

**BREWER:** All right. Any additional proponents? Welcome to the Government Committee.

**BRAD MEURRENS:** Good afternoon, Senator Brewer, members of the committee. For the record, my name is Brad B-r-a-d Meurrens M-e-u-r-r-e-n-s, and I am the public policy director at Disability Rights Nebraska. I'm here today in strong support of LB733. And I'll keep this short, given the time we're at, and I don't know if my voice is gonna last so I will be quick. Having a disability does not automatically disqualify an individual from voting. And a web of federal laws including the American Disabilities Act, the Help America Vote Act, and the Voting Rights Act help guarantee that people with disabilities of all types are not denied the right to vote. LB733 and with the amendment, which I have not had a chance to look at, but I'm confident that it would provide increased awareness of the rights of persons with disabilities to vote and the obligation of the state of Nebraska to provide an accessible means for Nebraskans with disabilities to vote. It would solidify the progress that Nebraska has made in terms of making voting more accessible for persons with disabilities. The bill would be a constant reminder that Nebraska must both be diligent and vigilant in its efforts to not only secure the voting rights of persons with disabilities, but to ensure that voting is accessible to all eligible Nebraskans regardless of their disability status. We urge the committee to advance the bill. I'd be happy to answer any questions if you have any.

**BREWER:** All right. Thank you for your testimony. Questions? All right. Seeing none, thank you. Additional proponents? Seeing none, we'll go to opponents? Seeing none, we'll go to those in the neutral? Come on up. Welcome to the Government Committee.

**BETH BAZYN FERRELL:** Thank you. Good afternoon, Chairman 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

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Association of County Officials. I'm appearing neutral on the bill and the amendment. We have had an opportunity to review the amendment and we appreciate the work that Senator Kolowski and Mr. Bena and Mr. McDonald have done. We think this is a more moderate approach than the bill was originally introduced. And for that reason, we're neutral on the bill. I'd be happy to take questions.

**BREWER:** All right. Questions? Oh, easy duty. Thank you. All right. Any additional in the neutral? Senator, come on up and close.

**KOLOWSKI:** I want to thank everyone who testified today and for the attention of the committee as well to the issues that are before us and what we're, we're trying to do here is a lifelong battle that all of us have probably faced in many ways in many issues. The ideal versus the real. Where are we with the current situation that we have as far as voter accessibility, and where would we like to be in the most perfect situation that might exist where the desire and the will to cast a ballot dominates in our thinking and in all that we do. I, I certainly appreciate the comments from everyone across, across this committee as far as the-- where we are. We're, we're making steps, we're getting better, and we're moving down to a better place as far as the election possibilities that we would all have any time in our future. The other hand-- on the other hand, if we don't realize there are those in this society and in our situation, that are trying to diminish or take away that voting privilege. If you don't believe that to a certain degree, then you're not thinking realistically. And I say that with all due respect to everyone that we work with and deal with. But if you don't have part of that in your head as far as looking at the issues that are before us, then you're naive. I think we have to be realistic about these things. We have an advanced direction that we can head with this particular bill to take the voting accessibility and privilege from where it used to be to a better place. But we're not at the most best place yet. And I think we have to keep that in mind. We've made many, many great gains in Douglas and Sarpy and Lancaster counties where our great population of the state-- greatest amount of the population exists, but we're not done. I want to care, care about and, and see this also take place in the smallest county that we're dealing with wherever that might be in the 93-- 90-some counties that we have in our state. So I'll stop there. And thank you very much again for the opportunity, the privilege of bringing this forward. And I believe it's the right step in the right way at this point in time. And we'll be even better in the future. Thank you.

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**BREWER:** Thank you. Questions? I like your bill and I think it's the right thing to do. We have a 24-hour policy on "Execing." Are you OK if we Exec on this tomorrow?

**KOLOWSKI:** Absolutely.

**BREWER:** All right. With that, let's read into the record. LB733 has three letters that are proponents, no opposition, and no neutral. With that said, that closes our hearing on LB733. And that closes our Government, Military and Veterans Affairs hearings.

**KOLOWSKI:** Thank you, sir.