

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 5, 2021
Rough Draft

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M. HANSEN: Welcome, everybody. We'll go ahead and get started. Welcome to the Government, Military and Veterans Affairs Committee. I'm Senator Matt Hansen from Lincoln and I am serving in Senator-- Chairman Tom Brewer's absence this morning. For the safety of our committee members, staff, and pages and the public, we ask the-- those attending our hearings to abide by the following procedures. Due to social-distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend your bill hearing in progress. The bills will be taken up in the order posted outside the room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room and for the pages to put the new bill number. We request that everyone-- utilizing the identified entrance and exit doors of the hearing room. Please note the exit door is on my right, the audience's left, and the entrance is the opposite. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. For committee members, it is up to your discretion to wear a face covering because of the plexiglass dividers and the social distance from the testifiers. Pages will sanitize the front table and chair between testifiers. Public hearing for which attendance reaches seating capacity or near capacity, the entrance door will be monitored by the Sergeant at Arms who will allow people to enter the hearing room based upon seating availability. Persons waiting to hear the hear-- persons waiting to enter a hearing room are asked to observe social distancing and wear a face covering while in the hallway or outside of the building. The Legislature does not have the ability, due to the HVAC project, of an overflow hearing room for hearings. For hearings with large attendance, we request that only testifiers enter the hearing room. We ask that you also please limit your handouts. The committee will take up the bills in the order posted on the agenda. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. The committee members might come and go during the hearing. This is just part of the process, as we do have bills to introduce in other committees. I'll note that the Government Committee has also gone paperless so senators might be on their computers and

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cell phones and that is where we have our bill materials and other materials. I will ask that you abide by the following procedures for better facilitate today's public hearings as well. This goes for senators too, but please silence or turn off your cell phones. No food or drinks in the hearing room. Please move forward to the reserved chairs when you're ready to testify. These are the first two chairs on either side of the first row. How a bill will work is that introducers will make initial statements followed by proponents, opponents, and neutral testimony. Closing remarks are reserved for the introducing senator only. If you're planning on testifying today, please pick up a green sheet that is on the table in the back of the room. Please fill out the green sheet before you testify and then please print and complete the form and when it is your turn to testify, please give the sheet to our page or committee clerk. This will help us for a more accurate public record. Letters for the record must be posted before 12:00 p.m., noon, the day before the hearing. If you do have handouts, please make sure you have 12 copies and give them to the page when you come up to testify and they will be distributed to the committee. If you do not have enough copies, to page will make-- have more. This got longer. When, when you come up to testify, please speak clearly into the microphone. Tell us your name and please spell your first and last name to ensure we have an accurate record. We will be using the light system for all testifiers. You will have five minutes today to make your initial remarks to the committee. When you see the yellow light come on, that means you have a one-minute warning. And when the red light comes on, it would indicate your time has ended. Questions from the committee may follow. No displays of support or opposition to a bill, vocal or otherwise, are allowed at the public hearing. And with that, we will then ask committee members to do self-introductions, starting on the right with Senator Blood.

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

SANDERS: Good morning. Rita Sanders representing District 24, Bellevue-Offutt community.

LOWE: John Lowe, District 37.

HALLORAN: Steve Halloran representing District 33, which is Adams and parts of Hall County.

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HUNT: I'm Megan Hunt. I represent District 8 in midtown Omaha.

M. HANSEN: Thank you all. I'll also note that we are joined by committee staff. To our right is committee legal counsel Dick Clark and at the far left is committee clerk Julie Condon. We're also joined by our pages for this morning. Our two pages for this morning are Jon Laska, who's a senior at UNL, and Ryan Koch, who's also a senior at UNL. And with that, I believe I've completed my introduction and so we will welcome up Senator Ben Hansen to open on LB435.

B. HANSEN: Thank you very much. Thank you, Senator Hansen, and thank you, members of the Government Committee. My name is Ben Hansen, that is B-e-n H-a-n-s-e-n, and I represent District 16, which includes Washington, Burt, and Cuming Counties. So let's be clear about one thing. LB435 is not a voter I.D. bill. It's about ensuring that the state of Nebraska continues to offer a superb electoral system and it mainly adds the Secretary of State's duty as well-- and office during election times, election cycles. LB435 would require an official watermark on all ballots under the Election Act under the purview of the Nebraska Secretary of State's Office. There's been an amendment added to this bill and with the attached amendment, the bill would do a few things. And they-- and I'll point those out here in a little bit about specifically where in the bill they put the amendments because they, they didn't separate them out from the bill, so I just want to point those out once we-- once I finish here. LB435 will require an official watermark on all ballots under the Election Act and designed under Secretary of State's Office. From there, the watermark will be on all election ballots and will take effect after January 1, 2024. Additionally, this, this also allows for any additional technologies that the state of Nebraska Secretary of State's Office would like to use in further assistance in counting ballots fairly and fully under the discretion of the Secretary of State's Office and is-- should he choose to do so, he or she. Let me state that I have full confidence in Nebraska Secretary of State Bob Evnen and the state of Nebraska's electoral system. I think we had a free and fair election in 2020 in the state of Nebraska. That being said, there were some discrepancies that need to be addressed from all over our country and seven to eight states, states in particular. This bill will further the confidence Nebraska has in our system by strengthening it across the board to ensure election integrity going forward. There are some concerns with the cost of watermarks, but I urge this committee to understand that the government has very few rights over the people and one of them is

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to ensure the integrity of our electoral system. And I think that's kind of where some of this came from, right? When people lose confidence in their electoral system, they lose confidence in people they voted for. When they lose confidence in the people they voted for, they lose confidence in the laws that they make. And when they lose confidence in laws that they make, then uncertainty and chaos can ensue. And so this isn't saying anything about what the state of Nebraska has done in the past. I think we're just trying to be a little proactive because we have to assume that there's going to be more mail-in ballots and so maybe there's something else, some kind of layer of certainty that we can give the people that when they go to vote with their mail-in ballot, that is authentic and they have trust in their government and the people that they're voting for. So with that-- well, before I close, I want to point out where those amendments are at. One of them is on page 2, line 24. We changed it to "all official ballots" instead of just mail-in ballots. So "all official ballots prepared pursuant to Election Act shall," etcetera. That was one of the amendments. The other amendment was that we wanted this to take place not until 2024 to give everybody time and the, the company that we go through to get our mail-in ballots time to-- with the process and creating the watermark so we're not rushing this. One other amendment that I think I'm going to try to even work a little differently because I don't like the way that the Bill Drafters did it-- it is on page 1, line 7 through 9. I would like to change the, the wording of that to say for any potential of technology that may be used for the purpose of ballot integrity as an alternative to watermarking ballots as proposed herein may be adopted by the Secretary of State. And so that-- I-- I'm going to do another amendment to kind of reword that, so I just at least want to bring people up to speed on what's going on with that. And that is for the potential of maybe some other technology that might come along that might be able to read mail-in ballots a little bit better, we're not stuck with just watermarking mail-in ballots. So if there's something more efficient or can save us more money with better integrity, that's one of the reasons. So it gives the Secretary of State just a little bit more option in the future. So with that, I will conclude and try taking questions as best I can.

M. HANSEN: Thank you, Senator. Are there questions? Senator McCollister.

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McCOLLISTER: Yeah. Thank you, Senator Hansen. Thank you. I'm sorry I missed a few minutes of your opening. Would this, this effort be considered to be an unfunded mandate on the counties?

B. HANSEN: That is something that we-- Secretary of State Bob Evnen might testify after me-- can maybe explain a little better. But I-- from my understanding, I thought-- and I could be wrong-- that the counties do fund this, but then they get reimbursed by the state.

McCOLLISTER: Well, in that case, wouldn't there be a fiscal note for us to look at?

B. HANSEN: Is there a fiscal note included with your guys'--

McCOLLISTER: Yes, there's a fiscal note, but it's-- indicates that it's a-- it's on the counties to fund the watermark.

B. HANSEN: I don't-- I just don't want to give you a, a wrong answer and so I can find out about that too if you need to and get back to you about that. Sorry.

McCOLLISTER: One other question. I'm just trying to figure out the, the reason for a watermark. Ballots are, are printed by the counties or are they printed by the state?

B. HANSEN: I believe they're printed by the state.

McCOLLISTER: I don't think that's the case.

B. HANSEN: Because they go through one, they go through one vendor for all of it. Again, I don't want to give you a wrong answer.

McCOLLISTER: But when a ballot issue-- is-- aren't there security measures taken? Signatures are verified--

B. HANSEN: Um-hum, yes.

McCOLLISTER: --things like, like that. Wouldn't that really be a, a sufficient safety measure?

B. HANSEN: It could be. This-- understand this is just one of those-- can add a level of not protection, but also for the people confidence

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in-- I think in what-- in who they're voting for, that it's, that it's authentic.

McCOLLISTER: OK, thank you, Senator Hansen.

B. HANSEN: Yeah, thank you.

M. HANSEN: Thank you, Senator McCollister. Senator Hunt with a question.

HUNT: Thank you. Can you tell me again the language that you want to put on page 1? And you were talking about 7 through 9 about adding new technology.

B. HANSEN: Um-hum. Let's see here, I tried to be as specific as I could, but not be too vague. But the, the wording that I would like to put in there is for any potential technology that may be used for the purpose of ballot integrity as an alternative to watermarking ballots as proposed herein may be adopted by the Nebraska Secretary of State.

HUNT: Is there anything preventing the Secretary of State or the county clerks, etcetera, from-- election commissioners from adopting technology to ascertain the, the security of our ballots? Because they're able to get, to get machines to, to read their ballots and that's like them within their departments.

B. HANSEN: But it--

HUNT: Like, does that need to be in statute?

B. HANSEN: I think to kind of make sure that the counties and the state are working together, possibly-- so if they're going to introduce some kind of new technology, I think the state might have to-- I don't know they would have to approve on it, but to make sure that everybody else is doing the same thing because we don't want certain counties doing one thing, other counties doing another thing. I think that's what helped us out, especially in this last election. Like, everybody was on page. Everybody was-- you know, the Secretary of State and the, and the counties worked very well together. I think that's why I think Nebraska is probably one of the best out of any state in the country when it came to integrity.

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HUNT: OK. Do you know if there are any other states that have watermarks on their ballots like this?

B. HANSEN: I don't think so, but I know there's states right now looking at it because they're seeing the-- you know, they're kind of reading the tea leaves about maybe what's coming in the future with more mail-in ballots and maybe some other things they can do. I think Washington just introduced legislation. I believe Utah or Idaho did. And from my understanding, there's a bunch of other states looking at it, asking their vendors about it.

HUNT: OK, is it this same bill?

B. HANSEN: No, no.

HUNT: OK.

B. HANSEN: No.

HUNT: Who brought you this idea?

B. HANSEN: I did.

HUNT: OK. Who did you work with to craft the bill and the language?

B. HANSEN: Myself and then once I finished everything up, I took it to the Secretary of State to make sure that the wording is correct and I don't want to be introducing stuff without making sure that I'm stepping over toes or doing things the wrong way. And so then I followed up with the Secretary of State. Nobody brought this to me.

HUNT: OK.

M. HANSEN: All right. Thank you, Senator Hunt. OK, Senator Blood and then Senator McCollister after that.

BLOOD: Thank you, Senator Hansen, and thank you for bringing this forward. It's so weird to say Senator Hansen twice in a row. Senator Hansen.

M. HANSEN: Come to Business and Labor sometime.

BLOOD: It gets confusing. So I'm looking at the fiscal note and it says that the ballots are purchased and paid for by each county and

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it's talking about the cost being as much as \$1.4 million statewide per election. So the question I would have in reference to this is how do the counties respond to this?

B. HANSEN: I haven't heard anything.

BLOOD: You haven't heard anything from-- did you go to the counties and say hey, would this be a financial burden for you?

B. HANSEN: No and we just got this fiscal note not too long ago, actually.

BLOOD: And so I've heard you say this before on the floor before-- on the floor before where a bill you think is a solution to a nonexistent problem.

B. HANSEN: Um-hum.

BLOOD: So you've just told me that we had very secure elections in Nebraska--

B. HANSEN: Um-hum.

BLOOD: --and the Governor has said that and the Secretary of State has said that. So why are we trying to solve a problem that doesn't need to be solved?

B. HANSEN: Well, it's problems that are happening around other states as well and I think this is what-- where they saw--

BLOOD: But, but we make laws for Nebraska.

B. HANSEN: I understand that and so--

BLOOD: So what-- tell, tell me, in Nebraska-- I, I, I have, I have problems and I have to be really honest, I brought bills forward like this before and I've learned from my mistakes. And I'm not saying that this is a mistake. I'm saying for me, all right? So why are we looking for a boogeyman that doesn't exist?

B. HANSEN: Not necessarily that it is a boogeyman right now, but I think-- OK, so when I talk, when I talk on the floor about some of that stuff, I also preface that sometimes with saying there's only

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certain things that our government should do. I mean, there are priorities I think our government should do, where taxpayer money should go towards, whether that's infrastructure for our state, whether that's taking care of the most vulnerable in our state, which is our DD waiver, which is not being funded, such as the electoral process in our state. I mean, there are certain things, I think-- and the safety and welfare of our citizens, such as the Corrections and penitentiary system. So I think this is one of the fundamental things that our state needs to focus on. And so--

BLOOD: To, to, to--

B. HANSEN: --to maintain the integrity of our electoral system and this is one of those--

BLOOD: Which is already maintained.

B. HANSEN: Yes and this is one of those things, those extra layer of protection that I think that people-- gives confidence because we have to-- I'm not going to assume, but I have to assume that we're going to see more mail-in ballots in the future. I'm not saying there's anything wrong with mail-in ballots. I'm saying this is one level-- because when this happens-- I mean, I don't want to-- I don't want us to turn into other states that have had this issue before, such as Pennsylvania, where people didn't have confidence in the electoral system.

BLOOD: But, but, but I-- is it a correct statement to say that because Nebraska-- I, I can tell you right now, I got a staff person in my office whose signature did not match his original signature and they sent back his, his ballot because of it. They invalidated it. So we know that the system is working. We know that in other states, the issues they've had with computers, we don't-- I mean, with the, the, the way that they-- their ballots are counted through the, the-- their computers is different than Nebraska because ours aren't connected to the Internet, right? I mean, we have put in place so many protections. I mean, this is-- to me, it's almost like maybe we need two airbags to blow up in our face for an accident or-- which, of course--

B. HANSEN: And that makes sense. You know, I, I, I-- what you're--

BLOOD: Do you, do you hear what I'm saying?

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B. HANSEN: --what you're telling me makes sense. I think this--

BLOOD: And, and, and so I question it because it's very different than what you usually say on the floor.

B. HANSEN: Um-hum.

BLOOD: And to be really frank, I, I would bet dollars to donuts when we have early voting ballots on the agenda this afternoon that they'll be saying that it's going to cost us millions and we can't make this happen. So it seems that voter suppression is more of an issue than voter fraud maybe.

B. HANSEN: OK.

BLOOD: So I, I, I guess-- I love us a creative bill. I think watermarks are kind of cool, but I, I think we're going to have to talk outside of these chambers, outside this room, because I-- I'm not seeing a need for it and, and do we really pay tax-- use taxpayer dollars on a problem that I can't see exists in Nebraska?

B. HANSEN: That's good and I appreciate your opinion. I mean-- and I think that's why we're here because-- to hash this kind of stuff out and debate whether we think it's appropriate or not, whether taxpayer dollars should go towards something like this or not. And so I do appreciate your opinion and I think it's kind of maybe just where we differ a little bit because, like, I feel like taxpayer money, it-- this is kind of what it's meant for primarily. And I just want to make sure that we have the best that we can get and so we don't-- and again, it's not happening in Nebraska right now. And, and you're right, I have, I have said on the floor, like, if we're not seeing a problem, why are we making a law for it? I mean-- but I also-- like I said before, you've heard me say on this-- on the floor many other times, like, there are certain things taxpayer money should primarily go funded towards to make sure that we have the best that we can get. And that's some of the issues that I also have with Corrections. I mean, so it's-- I'm not kind of apple-- or cherry picking-- here, so--

B. HANSEN: So I have one last question.

B. HANSEN: Um-hum.

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BLOOD: So knowing this, say that there is also voter suppression. Then our tax dollars should probably go towards that as well because that's a type of fraud, wouldn't you say?

B. HANSEN: Voter suppression is?

BLOOD: Um-hum.

B. HANSEN: It depends on the type of voter suppression you're talking about. I don't really know for sure.

BLOOD: Thank you.

B. HANSEN: Um-hum, yeah.

M. HANSEN: Thank you, Senator Blood. Senator McCollister.

McCOLLISTER: Yeah, thank you, Senator Hansen. What exactly is a watermark?

B. HANSEN: From my understanding, the Secretary of State might be able explain this a little better, but they actually have to change the roller when they produce the ballot and it puts this and press-- like, it's while the paper is still wet, it puts this impression-- it lays an impression onto the paper and it has to be specially made, the roll has to be specially made and replaced and it, and it kind of presses it onto the paper while the paper is still wet and it leaves an impression on the paper that's very unique to the seal that they're kind of making.

McCOLLISTER: You talked about an amendment that you're preparing with regard to changing technology, giving the, the Secretary of State a certain amount of discretionary authority to adopt different technology. Could-- I'm a little concerned that could be a Trojan horse-- horse and, and he could use that authority in some way that the Legislature didn't intend. How do you answer that-- to that issue?

B. HANSEN: That's a-- that's kind of a valid concern. And so I think the purpose behind that was so in case we have watermark-- like, a machine that might be able to read watermarks better or some other kind of technology that might be-- because I'm assuming or I'm hoping anyway-- I shouldn't assume anything-- that if it is going to cost the taxpayer money, then we still have to appropriate it. And so, like--

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instead of, like, going from this and then all of a sudden costing millions upon millions of dollars, the state still has to appropriate the funds, which we still have some control over. But I think it's just more to make sure that we're being efficient and so we don't have to go have a-- you know, bring this all up again during a special session or something else-- we find some other kind of issues with mail-in ballots, that the Secretary of State can make discretionary decisions to make sure that we're not wasting taxpayer money and we can kind of keep up with technology as, as it comes on.

McCOLLISTER: Yeah, well, not wasting taxpayer money and voter suppression could be-- they may not be mutually exclusive, so I think we need to take a very careful look at that, that rewrite that--

B. HANSEN: Sure.

McCOLLISTER: --you have coming.

B. HANSEN: And I'll work with you on that too. If I do anything--

McCOLLISTER: Thanks.

B. HANSEN: --I'll let you know.

McCOLLISTER: Thanks, Senator Hansen.

B. HANSEN: Yeah.

M. HANSEN: Thanks, Senator McCollister. Other questions? Senator Hunt.

HUNT: Thank you. This won't cost the state anything because it's the county that is responsible for printing and paying for the ballots. And the fiscal note estimates that this bill could cost over \$1.4 million to the counties per election. So how would that impact local property taxes?

B. HANSEN: I was a little surprised by the fiscal note myself. I didn't think it was going to cost this much, but like I said, I just recently got it. I can't say specifically what it's going to do to property taxes. It's a good question. I'm assuming the counties will probably be-- to discuss it after I am or to testify, at least I hope they will be. And like I mentioned before, I don't want to give too many wrong answers. And so I, I, I can honestly say I am not 100

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percent familiar to make sure who prints it off and, and when. I mean, so I feel like I'm 90 percent familiar, but I don't want to give a wrong answer.

HUNT: For that reason, I think we could call this an unfunded mandate to put that kind of cost back on our counties at a time when they're so strapped, especially with this pandemic.

B. HANSEN: That makes sense.

M. HANSEN: Thank you, Senator Hunt. Senator Halloran.

HALLORAN: Thank you, Senator Hansen. I'm quite excited to see the interest in unfunded mandates where there hasn't been that interest before, but the states-- I'm going to give you the opportunity to express your opinion. The states that were contested in the last general election, if-- in your opinion, if they would have had this in place in their states with the flurry of policies that they had with mail-in ballots, would they possibly been, been able to avoid some of the, some of the questions about the validity of their elections? Just your opinion.

B. HANSEN: Possibly. I can't, I can't say 100 percent because I'm a little unfamiliar with how the other states did it. I, I know some of the, the trials and tribulations they were dealing with during, during that whole process. This could have been one of those added layers of protection to kind of help validate, to maybe-- again, relieve some of the concerns from the citizens so there wasn't so much blowback maybe, you know? But I, I don't really know for sure.

HALLORAN: OK.

B. HANSEN: Good question.

HALLORAN: Thank you, Senator.

M. HANSEN: Thank you, Senator Halloran. Any other questions from the committee? All right, seeing none, thank you, Senator Hansen.

B. HANSEN: Thank you, appreciate it.

M. HANSEN: And with that, we'll invite up our first proponent for LB435. Is there anybody wishing to testify in support of LB435? Seeing

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none, we'll switch over to opponents. Is there any opponents for LB435? Hi. Welcome.

TRACY OVERSTREET: Good morning. My statement there says Senator Brewer. I apologize for that. I'll--

M. HANSEN: That's quite all right. Go ahead.

TRACY OVERSTREET: --address-- Senator Hansen and members of the Government, Military and Veterans Affairs Committee, thank you for taking my testimony this morning. My name is Tracy Overstreet, T-r-a-c-y O-v-e-r-s-t-r-e-e-t. I am the appointed election commissioner for Hall County and today I am speaking on behalf of myself, as well as the full Hall County Board of Commissioners and also the Nebraska Association of County Clerks, Register of Deeds, and Election Commissioners Organization of which I'm a member of that group's election law committee. I am here today in opposition to LB435. On the face of it, LB435 looks and sounds like a good bill. It's a bill that would create a watermark on ballots in the name of election security and election security is paramount. That's something that no one questions. But well intentioned as it is, LB435 would add more cost than it would security to Nebraska's ballots. Virtually every county in Nebraska has ballots printed by Election Systems and Software, known as ES&S, out of Omaha. The one county that prints its own ballots still purchases ballot stock from ES&S and would be affected by this as well. ES&S has estimated that adding a watermark to ballots would at least double and possibly triple the cost of ballot paper and ballot printing. I understand that LB435 seeks to add the watermark only to early ballots, at least that's the way it was written until we heard the amendment today from Senator Hansen. But still with just focusing on early ballots-- and he mentioned it several times this morning-- that's still a sizable increase because of the spike in popularity for early voting. In Hall County, we saw a more than 600 percent increase in early voting demand in the May 2020 primary. We normally would give out 1,700 early ballots. That increased to more than 12,000. That demand for 12,000 early ballots remained in place for the November general election and I think the increase in popularity will continue into the coming elections as well. That surge led to our county having to place multiple orders for additional ballot stock and it required a quick delivery during the early ballot processing. Quick delivery to meet the 2020 demand wasn't a problem because ES&S services about 50 percent of voting across the

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country and they had ample supplies, but it does have one primary paper manufacturer. If Nebraska required ballot stock with a special watermark, we would become a very small player in the supply orders with a very unique custom order and that could limit ballot paper availability in times of huge peaks that we saw in 2020. In talking with ES&S yesterday, my rep told me that currently no other state, no other state uses an embedded, human-detectable watermark on ballots. That would mean that Nebraska alone would bear the cost of creating, testing, and printing ballots with that type of watermark. The watermark itself, depending on design, could make less usable space on the ballot face and make ballot layout more time consuming and costly. The watermark could also pose challenges, expense for the new election equipment that Nebraska bought statewide last year, the ballot tabulators, and the express vote marketing devices. The express vote is particularly helpful to voters who have challenges with writing, with vision, or who want to have a ballot read to them privately. But the express vote uses thermal paper and I'm not sure how a watermark can be added to thermal paper. And quite frankly, our vendor, ES&S, isn't sure either. I was told yesterday that implementing a watermark on thermal paper that then has to be counted on our new tabulators would require months of testing and the paper-- after the paper was created-- that's if it can be created-- and may even then lead to the need for modification of the tabulator, which could trigger federal recertification of the tabulation devices. That's a process that's costly and very time consuming. LB435 focuses on the watermark for early ballots, as defined under 32-939.02 or even if we look at all ballots, a part of that section of state statute allows ballots to be faxed and ballots to be emailed to voters who are serving in the military and who are living overseas. In this last election, Hall County emailed ballots to Italy, Australia, the Republic of Georgia, Canada, Peru, Germany, France. We even had ballots that went to the U.S.S. Ronald Reagan aircraft carrier. I am concerned that a watermark requirement may place challenges on early ballots that need to be faxed or emailed to active military or to overseas citizens. The watermarked requirement for only early ballots may also pose confusion on what ballots are legal and valid, so I appreciate the amendment that Senator Hansen brought forward. Some voters already get early ballots. They don't return them and they go to the polls to vote. If they see something different from what they received at home, then to-- at the polling site, they may get confused and question why the ballots don't look the same and what's legal and valid. The bottom

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line is that Nebraska ballots already have a security measure in the form of the signature of the election commissioner or initials from election workers in the bottom of every single ballot. It's required to validate each and every ballot. Additionally, early ballots that are mailed or taken out by a voter or agent require a ballot envelope with a unique voter label and the voter's signature. Nebraska already has the gold standard in election security. It's the paper ballot. It can't be hacked. There's always a record of it. There may be ways to increase the security and integrity of our existing ballot paper that can be researched, but please don't add to the cost of our gold standard by adding the watermark as currently outlined in LB435.

M. HANSEN: Thank you for your testimony, Ms. Overstreet. Questions from committee members? Yes, Senator McCollister.

McCOLLISTER: Thank you for coming. What county do you hail from?

TRACY OVERSTREET: Hall County, Grand Island, home in the Nebraska State Fair.

McCOLLISTER: So--

BLOOD: Good job.

McCOLLISTER: --as the bill is currently written, you would not be subject to this, this this bill?

TRACY OVERSTREET: Every-- everyone would be subject to this bill. Everyone in Nebraska would be subject to putting the watermark.

McCOLLISTER: Did I, I hear you correctly that only urban areas would be subject to it or--

TRACY OVERSTREET: No, all areas.

McCOLLISTER: OK, thank you very much.

TRACY OVERSTREET: Um-hum.

M. HANSEN: Thank you, Senator McCollister. Senator Lowe.

LOWE: Thank you, Temporary Chair Hansen, and thank you for coming down today. How many ballots do you disqualify every year approximately?

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TRACY OVERSTREET: I would say in the last election was-- that we rejected probably less than 50. Most of those come in after deadline. There were a few that weren't signed. When we have a ballot that comes in that's not signed-- an early ballot with an envelope that comes in that's not signed, we try to contact the voter to have them come and make-- to cure it, to sign it so that we can count it. So it's a very small percentage.

LOWE: OK, so most of them are just because they, they're past the deadline?

TRACY OVERSTREET: Most of the ballots that are rejected-- well, we had some voters that-- well, that didn't sign them and that come in after the deadline. That is the majority of ballots that are not--

LOWE: OK.

TRACY OVERSTREET: --that are not accepted.

LOWE: All right, thank you.

TRACY OVERSTREET: We have about 35,000 voters in Hall County and I think we had, we had less than 50 that were rejected.

M. HANSEN: Thank you, Senator Lowe. Senator McCollister.

McCOLLISTER: Yeah, one more and thank you. And when you talked-- they came in after the deadline, you don't pay any attention to the postmark, do you, to determine that or is it-- it's when you actually receive the ballot?

TRACY OVERSTREET: So under Nebraska law, the ballots-- the early ballots would have to be in by 8:00 p.m. on election night to be counted.

McCOLLISTER: So the postmark--

TRACY OVERSTREET: A postmark is not--

McCOLLISTER: --is irrelevant.

TRACY OVERSTREET: That is correct. And, and the questions that were asked earlier, may I answer those? That-- for the previous speaker?

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M. HANSEN: Sure, go ahead.

TRACY OVERSTREET: It is counties that pay for the ballots and I think Senator Hunt maybe brought that up. The state does not reimburse for the cost of the ballots, with the exception of this last election cycle, because of the surge in early voting. The state had CARES grant money that counties could apply for reimbursement on some of their early ballot costs, but the state does not pay for ballot printing. It's the counties.

M. HANSEN: Yes, go ahead.

McCOLLISTER: But doesn't the state reimburse the counties for constitutional amendments that originate with the state?

TRACY OVERSTREET: No. So the cost of elections-- we can bill out some expenses, but the state and counties are not billable entities on the ballot.

McCOLLISTER: But some subdivisions of government get billed for the ballots then they, they-- initiatives that they produce, I recall-- NPD or OPPD.

TRACY OVERSTREET: You're correct, Senator McCollister. In state statute, entities that can be billed are school districts, city councils, ESUs, those lower ballot initiatives, but not anything on the top of the ticket, not any federal, state, or county.

McCOLLISTER: OK. You've been very helpful, thank you.

TRACY OVERSTREET: Yes, thank you,

M. HANSEN: Senator Lowe again.

LOWE: Thank you again, Ms. Overstreet, for being here today and traveling down. How long have you been the election commissioner for Hall County?

TRACY OVERSTREET: This is-- well, four years. I was appointed-- I started in the office in 2017 and was sworn in in 2018. I'm starting my fourth year.

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LOWE: OK and in those four years, how many ballots have you disqualified the signature on?

TRACY OVERSTREET: I, I would-- it's always less than 50-- 20-- oh for signature, you mean signatures that don't match?

LOWE: Just for signature alone.

TRACY OVERSTREET: Oh, OK. Signature alone, I don't think I've had any. We've had some cases like Senator Blood brought up where signatures don't match. We see this a lot in two age groups, really, college students where when they registered to vote-- maybe when they were younger, they had more of a printing kind of signature. Then they get out on their own and they've get this flamboyant signature and it doesn't match at all. And so several times in this last election cycle, we had college students who were newly out of college voters who we had to contact for a new verification of their signature because it didn't match what we had on file. The other age group that we see that signatures may not match, a lot of times as people get older, their signature changes or may have some shaky marks or something. And so people either come in sometimes and know this of their signature and ask to give a new verification of their signature or we'll notice it and we'll contact them for another proof of their signature.

LOWE: OK, thank you very much.

TRACY OVERSTREET: Um-hum.

M. HANSEN: Thank you, Senator Lowe. Any other questions? Seeing none, thank you for your testimony. We'll invite up our next opponent to LB435.

DANIELLE CONRAD: Hello, good morning.

M. HANSEN: Welcome.

DANIELLE CONRAD: Hi, Senator. My name is Danielle Conrad, it's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d, and I'm here today on behalf of the ACLU of Nebraska. The ACLU of Nebraska is a champion for protecting our democracy and facilitating voting rights. And I think really what's at the heart of this measure that is really so challenging before we get into the technical drafting issues and the

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fiscal issues and the practical and implementation issues, is that this is really about calling into question the integrity of our voting systems and we heard a lot of chatter about that, particularly in the last election cycle. And the evidence is clear, our elections are safe. And when we perpetuate those false narratives, it's dangerous. It undermines democracy, it inflames partisan tensions, and it destabilizes our system. Our systems work. We all care about election security and integrity. We have mechanisms in place to accomplish just that. There are a host of issues that are concerning with this legislation. And perhaps Senator Hansen didn't have an opportunity to, to dig in very far, but even just a quick Google search shows that this sort of issue is connected to the QAnon conspiracy theory. That has no place in our policymaking. And so I, of course, will give Senator Hansen the benefit of the doubt that he's trying to, to bring forward a new idea. But we, we do have to be really, really careful when we start to touch upon those areas, those darkest areas in our, our democracy. As noted, the fiscal note is problematic. Senator Hansen says that he'd like to put forward an amendment to apply to all ballots. That's going to double or triple the fiscal note before you. I think that, as written, it is particularly problematic to have different standards for mail ballots and for in-person ballots and it really raises the equal protection challenges the, the more differences you have for different kinds of votings and ballots. We have deep concerns about how this would impact the right of our military, men and women in uniform, to participate in our democracy, as Ms. Overstreet already covered. And I think it's, it's just really, really important to note we have significant penalties on the books for any sort of ballot tampering or any sort of issue that would impugn the integrity of our elections. And we can all agree Nebraska runs fair, free, safe elections. We have cycle after cycle after cycle. That's because we have good laws on the books. We have hardworking election officials all across the state. We have awesome poll workers and Nebraska voters take their rights and responsibilities seriously. This measure has no place before-- within the, the, the statutory framework that protects our democracy and we urge you to reject it in full. It sounds like it's not ready for prime time. I heard about three potential amendments that have not been posted anywhere and we'll be happy to work with Senator Hansen and other stakeholders to continue to strengthen our democracy.

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M. HANSEN: Thank you for your testimony. Senator McCollister with a question.

McCOLLISTER: Yeah, thank you, Senator Hansen. One of the amendment efforts apparently is to give the Secretary of State--

DANIELLE CONRAD: Yeah.

McCOLLISTER: --discretionary authority as technology changes. What dangers do you see in that kind of initiative?

DANIELLE CONRAD: Sure and, and I know how fast paced this environment is and how you're all under a lot of extra pressure this year. So I think Senator Hansen-- I'm going to assume Senator Hansen was working in good faith to maybe have some clarity beyond just a watermark for other sort of voter integrity options, but, a, we'd need to see the amendment so that we can see exactly what is being proposed there, but I would be very skeptical of providing kind of a carte blanche authority for any sort of future technology to be used. I think that needs to be thoroughly vetted by election officials and by policy makers, so it, it, it strikes me as, as perhaps problematic.

McCOLLISTER: You remarked that paper ballots are inherently secure.

DANIELLE CONRAD: Yes.

McCOLLISTER: So changes in technology, as we've seen before, often provides less security. Would you speak to that?

DANIELLE CONRAD: Yeah and, and Ms. Overstreet, I mean, she's on the front lines. She's an expert in administering elections and is speaking on behalf of those hardworking experts all across the state who have this practical experience and knowledge. But at the heart of it, Senator, you're exactly right. Nebraska takes a lot of pride in the fact that we have one of the, the safest election systems because it's, it's grounded in that paper ballot, which is not as subject to manipulation or technology issues or things like that. So we have to recognize that, number one. We have to recognize that there aren't problems with voter fraud in Nebraska, number two. Number three, we have to be careful that whenever we tamper with that-- and sometimes there's going to be good ideas to improve our, our democracy and electoral system and we want to be open to embracing new technologies, but anything that's really going to tamper with the, the sanctity of

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that paper ballot in Nebraska, I, I think should be looked at very skeptically.

McCOLLISTER: Thank you, thank you.

M. HANSEN: Thank you, Senator McCollister. Any other questions?

DANIELLE CONRAD: Thank you so much.

M. HANSEN: Seeing none, thank you for your testimony. With that, we'll invite up our next opponent to LB435. Welcome.

BETH BAZYN FERRELL: Thank you. Good morning, Senator Hansen, 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 appearing in opposition to LB435. I think Ms. Overstreet laid out the arguments that counties have on-- against this bill very well. We're looking primarily at the cost since counties would bear the cost for this. There would be an unusual, kind of a unique system in Nebraska and there would be excessive, probably, costs related to this. As she discussed, there are layout issues that could potentially increase more costs because of that-- what would need to be additional on the ballot. The equipment costs, the thermal paper, I think there's a number of issues that all add up to our reasons for opposing this bill just on the cost level, let alone the policy issues. So I would be happy to take questions.

M. HANSEN: Thank you. Are there questions? Senator Lowe.

LOWE: Thank you, Senator Hansen, and welcome back.

BETH BAZYN FERRELL: Thank you.

LOWE: How long are election officials required to keep the ballots once they are turned in?

BETH BAZYN FERRELL: That is a good question I probably should know the answer to.

LOWE: I should have asked that earlier.

BETH BAZYN FERRELL: I know it's a fairly extended period, but I don't, I don't know the answer to that.

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LOWE: OK, thank you.

M. HANSEN: All right, any other questions? Seeing none, thank you for your testimony. Are there any other opponents to LB435? Seeing none, if anybody wishes to testify neutral on LB435?

ROBERT WAY: I'm neutral.

M. HANSEN: Neutral? All right, we'll get you next.

ROBERT WAY: OK.

M. HANSEN: Hi. Welcome.

BOB EVNEN: Good morning, Senator Hansen. Good morning, members of the committee. My name is Bob Evnen, B-o-b E-v-n-e-n. I have the honor and privilege of serving as Nebraska's Secretary of State. I'm appearing here today to speak in a neutral capacity concerning LB435. I'd like to begin by thanking Senator Hansen for his concern, which he's followed up with action, as evidenced by this bill, for the security and integrity of our elections in Nebraska. I greatly appreciate and value that concern on Senator Hansen's part. A Rasmussen polled frequent voters across the United States in early December. He found that 47 percent of those polled, these were frequent voters across the country, questioned the integrity of the 2020 general election. It'd be a tremendous mistake simply to sweep their concerns under the rug. There was evidence-- not here, but in other states-- that counterfeit ballots were counted. I'm not here to argue or evaluate that evidence. Any investigation of that evidence ought to be left to the states where the claims were made. All the same, providing safeguards against the counting of counterfeit ballots obviously is a legitimate matter. This bill provides such a safeguard by virtue of using paper that is watermarked. It would be very difficult and expensive to produce counterfeits of such paper. As it turns out, however, it's rather difficult and expensive for a vendor to do so also. As the fiscal note, fiscal note discloses, there is a very large cost of producing watermarked ballot paper. This cost would be borne as our-- by our counties, as you've heard. In addition, there are supply chain challenges for the production of this paper, even at the higher cost. There are other challenges. Checking for the watermark on every ballot is very cumbersome. It should not be done at the time the envelopes are open because that would compromise the secrecy of the ballot.

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Checking at the time of counting the ballots would add a great deal of time to the process. We had more than 488,000 ballots cast early in the November election. Then too, we are not without some protection against counterfeiting today. First, the ballot paper that we're using today is produced to our vendor's detailed specifications by paper manufacturers under contract with our vendor. The look and feel of this paper is unique. Second, our ballot tabulating machines require coding tracks on the printed ballots that also meet exacting specifications. Variants of the coating tracks and copied ballots could well give away the counterfeits, sending them to the exceptions tray of the ballot machines. Third, all ballots that are sent to voters for early voting bear the signatures of election officials. Finally, substituting counterfeit ballots for the real McCoys during the counting process is hard to do for reasons that I won't take the time to go into now, but if, if, if-- but I'd be happy to if you ask. Now our vendor, Election Systems and Software, has received inquiries from more than our state alone about how to thwart counterfeiting of ballots and they're now in the midst of a concerted effort to develop paper and technology that will allow their ballot counters, of which we have the latest model statewide, to detect counterfeit ballots. So when we add all this together, it seems to me that we should be thoughtful about preventing counterfeit ballots, but we ought not to jump, jump in feet first to watermarking as the solution. I'd like to give our vendors some time to develop and propose a more serviceable answer. Now the, the amendment proposed by Senator Hansen goes a long way toward that end. The, the cost, however, remains a, a significant obstacle. Thank you for your time and consideration. I'd be happy to respond to any questions.

M. HANSEN: Thank you, Secretary Evnen. I saw Senator Blood with a question first.

BLOOD: Thank you, Senator Hansen, and thank you for your testimony. And by the way, Nebraska did an excellent job on the election this year. So I, I know that there has been so many people looking for boogeymen right now. That drives me a little crazy. You guys have done an exceptional job and thank you for that. But with that said, I have a question for you. So one of the things I do whenever we have multiple election bills in this committee is I start looking at fiscal notes and comparing them and I, and I think it's curious. And I'm hoping you can answer to me why there's such a discrepancy between, say-- like, LB435, there doesn't really seem to be any fiscal impact.

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LB285, I know that there's startup costs for ERIC and I'm a big supporter of ERIC. I think it's a great program. But then LB11, there's this outrageous fiscal note. I mean, it almost appears that the fiscal notes are lower on the ones that you support or that are more partisan and, and I find that concerning and so I'm hoping that you can give me a really great answer on that about why the fiscal notes are, are just so vastly different on, on, on the different bills today.

BOB EVNEN: I haven't, I haven't-- I'm not prepared to answer the details on each of them. I will be when we get to them. But what we ask, what I ask of the-- of our controller and, and the chief deputy, our deputy for elections, is that we get an honest appraisal of what the real costs of this are going to be. So that was-- that's what accounts for the discrepancies. It isn't because something's favored or something isn't. Although I will tell you that in general, I favor proposals that will increase election security at lower cost.

BLOOD: Can you give me an example of that--

BOB EVNEN: Well, I can-- you'll-- an example of that.

BLOOD: --that you favor concerning--

BOB EVNEN: I would like to--

BLOOD: --election security?

BOB EVNEN: An example of that, Senator, would be I would like to engage in further training on signature comparisons.

BLOOD: OK.

BOB EVNEN: Now I don't know what that would cost, but I don't think it would cost \$1.4 million, all right? So, so just-- and that's just my general attitude. So, so I-- nobody's putting their thumb on the scale in the Secretary of State's Office in terms of the cost of these things. The cost of this particular proposal, which if it were-- the cost of this particular proposal is generated by our vendor. We spent a lot of time talking with our vendor about this. What is this going to cost? How-- can you do this? How would you go about it? What would it cost to do it? And we've had a number of conversations with our vendor at some depth in order to look carefully and drill into this.

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That's true for every fiscal note that we bring. We try to, we try to look carefully at it and to explain what we've done and why the-- you know, where the expense is coming from. So hopefully that's, that's helpful to you.

BLOOD: And, and I certainly don't want you to think that I think otherwise. I just-- I like clarification and it sometimes can seem like I'm questioning your integrity and that is not the case. I think you did an exceptional job in, in the election cycle. I think our election commissioners did as well, so I just want to make sure that that's on record, so thank you.

BOB EVNEN: Well, I appreciate that very much and it-- and our elections did run very well. I wanted to just credit a credit to the election officials across the state of Nebraska--

BLOOD: Absolutely.

BOB EVNEN: --who worked very hard under very difficult circumstances. Let us not forget that we were in the midst of a, of a pandemic when this election was being conducted. This is in the general and the primary, so thank you--

BLOOD: Thank you.

BOB EVNEN: --for that.

M. HANSEN: Thank you, Senator Blood. Senator McCollister.

MCCOLLISTER: Yeah, thank you, Senator Hansen. Mr. Secretary, you spoke about the coding tracks. Can you describe what a coding track is?

BOB EVNEN: There's a-- there is a, a, a track line. There are track lines printed on our ballots so that they get lined up correctly and they're read correctly by our readers and they're very-- they're printed to very careful specifications. If the lines are out of place, then the ballot is going to go into the exceptions tray. Our ballot counters all have exception trays and the new counters-- I won't go into all the whistles and bells and try to sell you on it because you bought those last year and I thank you for that. But, but if you-- if these tracks are off, they don't have to be off by much, then the ballot counting machine will reject the ballot. That is it-- it doesn't reject the ballot and, like, it not-- doesn't get counted. It

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goes into a separate tray for further processing. And, and to-- if you're going to make a photocopy-- I mean, you can make some really high-quality photocopies now. For instance, one of the questions that was asked earlier is, well, who else does watermarking or something like that? And there, there's-- I think there may be one other state that does something like watermark. I'm not sure. The state of California puts color bands on their ballots at the last minute. And so, you know, that's, that's sort of their answer to watermarking. But the problem with that is that we have very sophisticated colored printers that can copy that easily too. But when you take a printer, if you-- if, if that printer is off at all with the, with these tracking marks, then, then that, that ballot-- in that case, that counterfeit ballot could be rejected for that reason.

McCOLLISTER: And those machines were provided by this-- by the state of Nebraska to the counties?

BOB EVNEN: Those, those machines were paid for out of HAVA funds that were appropriated by the State Legislature and for the use of purchasing those statewide, yes.

McCOLLISTER: We talked about the significant number of people, perhaps even in Nebraska and certainly nationwide, that they have to doubt the, the, the-- our election security and are looking for fraud in any place possible. What do we-- as state officials, senators, Secretary of State, how do we correct some of those per-- mistaken perceptions that, that our, our population has?

BOB EVNEN: Well, first of all, in the state of Nebraska, if, if I receive any kind of query or question about how our election proceeded, I answer it. I drill down into it and I answer it because I think it's important for people to have confidence. Look, it's a-- it is absolutely bedrock and fundamental that, that people have confidence in the security and integrity of their election systems. If we don't have that, our representative democracy cannot proceed. This is a bedrock thing for us. We can't-- OK, I'll stop with that because I could go on on that for a while, but, but-- so to me, I'll tell you how I would do this in an orderly fashion. If credible evidence of impropriety is brought forward, I would investigate it. If it turns out that that evidence-- if it turns out that there was some impropriety, I would address it and correct it. If it turns out that there was no impropriety, then I would dismiss the claim and say so

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and say why and I would, I would conduct such investigations. In those instances where there is credible evidence of some impropriety, well, now what's that like? That's like probable cause. You know, I spent [INAUDIBLE] years as a lawyer. Did you get that, Julie? And, and, and so, you know, maybe when you're a hammer, the whole world is a nail, but to me, this is the orderly way for us to, to get at the truth so that people have confidence in their systems. And that is if you find a claim that had-- that does not have credible evidence, then you don't bother with it. But if you have a claim for which credible evidence has been brought forward, sworn testimony, testimony by experts, an affidavit, a sworn statement under penalty of perjury, that provides facts, then that, that provides you for a basis to conduct some degree of investigation, then run it to ground, and that's how you do it.

McCOLLISTER: Well said. I, I will assert that Secretary of State John Gale said the same, essentially the same thing, and that he found no examples of fraud in our elections. In the two years that you've been Secretary of State, have you found any irregularities, examples of fraud or malfeasance in any way?

BOB EVNEN: I haven't-- I've, I've found very little, let's put it that way. I don't like never-- never say never. I've found very little. I haven't found anything material. Our elections are proceeding effectively, efficiently, and securely. And, Senator, I, I want to make sure we keep them that way.

McCOLLISTER: One last question. So what, what I hear you saying-- and you can tell me if I have a correct interpretation-- that this, this is-- there's no cost benefit to this water seal effort.

BOB EVNEN: Well, I, I, I wouldn't say it's there's no cost benefit. The question is, is whether the benefit is worth the cost that's exacted. It's a cost-benefit analysis that you have to do it. You have to prioritize. I-- the, the-- I've, I've, I've scoured the basement of this building. I haven't found any printing presses for money. And so the, the, the question is-- well, what, what the NACO representative, I believe, said was, to paraphrase, the juice isn't worth the squeeze. And if you have-- if you want election security, then you rank order the things that are most important to you. I think measures against counter-- I really appreciate the fact that Senator Hansen as-- has focused on trying to improve-- to, to keep positive and continue to

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improve the security of our elections. I very much appreciate that. If, if this could be accomplished in a way that was, was simple and inexpensive, I might have a different view. I'm neutral as it is. I'm not opposed to it, but it's, it's complicated and expensive. And so that's-- that, by the way, is the reason that I asked for this-- I've been speaking with Senator Hansen. I said look, can we find some other way besides watermarks to, to try to thwart counterfeiting that might be less expensive? And in talking with the vendor, the-- that's-- the vendor is, is trying to examine ways to introduce qualities into the paper that can be picked up by the counting machines. This-- the paper that we use, the ballot paper we use is manufactured to the specifications that are set forth by our vendor. This isn't just, like, you go buy a ream of paper from OfficeMax. This paper is manufactured. They, they print scores of millions of ballots in every election, our vendor, and the paper is manufactured to their specifications. So the question is whether they can introduce a specification that would not be so costly and that could be picked up by their counting machine that would help ford the-- any, any future problem of counterfeiting. And they're looking at that. That's why you have this, you have this amendment that says or some alternative technology as approved by the Secretary of State. And you know, I appreciate you don't want to give the Secretary of State carte blanche, much as I'd like to have it, of course, but I also respect the fact that that's, that's unwise, but that's the purpose of it. The purpose of it is to, to, to preserve an option in the event that our vendor comes up with technology that is, is far less costly and, and our existing equipment can-- see, you know, you know what watermarks are, Senator. I mean it's, you know, like that. You have to-- and you have to do that with every piece of paper. Is there a way that we can thwart the potential for counterfeiting without having to go through that process, either manufacturing the paper or checking the ballot? And that's the purpose of that amendment.

McCOLLISTER: Thank you.

M. HANSEN: Thank you, Senator McCollister. Senator Hunt.

HUNT: Thank you, Senator Hansen. You say that you're interested in finding a way to stop counterfeiting or to, to make sure that these ballots cannot be counterfeited, but then you also have said over and over that there has been no counterfeiting, that there's been no fraud in Nebraska. And that's what we're so proud of in Nebraska. We did

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administer this election in a pandemic and we are still in a pandemic, by the way, yet Douglas County and Lancaster County aren't sending out vote-by-mail applications. But if you believe everything that you've said about election integrity and what a great job everybody is doing, then why did you have Nebraska join that shameful effort to overturn the election?

BOB EVNEN: Well, that is a, a decision I made. My view was asked and I gave it. Let me just comment on, on two parts. First is our elections are secure, why are we doing anything? And then the question is why did I approve of Nebraska joining a friend of the court brief filed by Missouri in a case that was filed by another state? The way that you stay ahead of the curve is you, you have to pay attention to the potential for corruption of voting practices and voting systems. It isn't a static thing. It's, it's a dynamic thing and it's something that you have to work to stay on top of. So the-- so what you're-- what you are doing is you are looking for ways to further secure the elections without, without having-- we have very convenient ways of voting in our state, which we're going to maintain, but you are trying to look for ongoing ways to protect the security of the elections without suppressing votes and that's, that's the search. The Constitution-- in response to your second question, the Constitution of the United States says that it is, it is a matter for the states to determine the rules for their elections. There have been some notable exceptions to that that really relate to the Jim Crow South, which we've never been a part of. Article II of the Constitution says that states are responsible. They have a constitutional duty to establish rules and follow them. The U.S. Supreme Court has ruled in at least one case-- and maybe two that I'm aware of-- that when a state doesn't follow its own rules in a national election, that redounds to the detriment of every voter in every state. And the claim was-- it wasn't a claim that, that the voting machines were rigged. It wasn't a claim that phony ballots were counted. It was a claim that states were not following their own rules. Under the Supreme Court precedent that says-- under Article II, states are to establish rules and follow them, which was under that and under the Supreme Court precedent that says that when they don't, it redounds to the dent-- to the detriment of every voter in every state, I thought it wise that those claims ought to be examined.

HUNT: I'm, I'm aware of the argument and I'm totally aware of, of what the reasoning was of the people who joined that brief and I'm aware

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that you were fully enthusiastic about it. You were all over the news talking about what a great idea it was. And now after what happened on January 6 at the Capitol with the insurrection, everybody wants to forget that they were a part of it. But I think that if key leaders in top positions in our states would stop spreading theories that there has been widespread voter fraud, maybe the public would have more, more faith in our elections. You cite these statistics about, you know, what a great percentage of people don't have faith in our elections after this last cycle. A lot of that has to do with key leaders in top positions who are feeding those flames and who are stoking those fears, and that is what you are doing and that is what this bill is doing. That's my, that's--

BOB EVNEN: With all due respect, Senator, I'm not stoking flames or feeding fears. I'm trying to find an orderly way to address concerns by tens of millions of people who I don't believe are just simply being duped. I, I have no-- I don't, I don't defend what happened in the Capitol on that day. I don't-- I've never defended that and I've never said anything other than, than President Biden is our president. At the same time, I, I have articulated the reasons why I thought-- which I've just articulated to you again just now-- about why I thought that, that the lawsuit ought to be looked at. And I've just I've spoken to Senator McCollister about how, how would we go about addressing these concerns in an orderly, rational way to regain the confidence of voters? And I mean what I say and I, and I've-- and I said what I mean.

HUNT: I think one way to regain the confidence of voters is to say there was no fraud, the election was done well, and we trust our state to do it well. Thank you.

M. HANSEN: Thank you, Senator Hunt. Senator Lowe.

LOWE: Thank you and thank you, Secretary Evnen, for being here and for being our Secretary. You stated that the vendor makes a specific paper just for the ballots and it's secure and, and all. Is that paper made just for Nebraska or is it made for other states also?

BOB EVNEN: It's made for every state. It's made-- they, they have a specification, Senator, for, for their ballot paper, the manufacturing of their ballot paper, and that is the specification that is used for every state where they provide goods and services.

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LOWE: OK, so if somehow paper from some other state was to be missing, how would we say that that paper didn't make it into, into Nebraska, not, not officially?

BOB EVNEN: Well, it-- I'm not sure what you're asking. I'm sorry.

LOWE: I'm, I'm saying if you have-- several reams of this paper is taken from some other state and it is printed up to look like a Nebraska ballot and then integrated into our system. How, how do we know whether it's our ballot or an artificial ballot? But you say there's also barcodes and, and other things on--

BOB EVNEN: Right, the ballot paper then gets printed and so there are printed ballots, of course. The, the paper manufacturing is one part of this process and-- but then you take this paper and on the paper, you print the ballot text. And that varies, I mean, we have, we have, we have way more ballot texts than we have counties in our own state, ballot styles, they call them. So there's a-- so these are-- our vendor is required by us to secure that and then provide that to us. They print the ballots and then they provide them to us. So we're getting our ballots from our vendor. The thought that, that because this paper is available elsewhere, that someone could take that paper and print our ballots on them would require somehow getting access to the, to the, to the ballot software, the printing software that our vendor has. And they have, they have requirements of security for that under contract with us and just internally, it would be a real bad deal for them for that to happen.

LOWE: All right, thank you. And I asked this question earlier to Ms. Ferrell, how long are ballots kept?

BOB EVNEN: 22 months.

LOWE: 22 months, so two years.

BOB EVNEN: Ballots and for early ballots, ballot envelopes are required to be kept for 22 months in a secure location. They have to be secured.

LOWE: OK and by precinct?

BOB EVNEN: I don't know that they're-- I, I think they can be retained by precinct and the ballots themselves carry precinct-- that's part

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of-- those, those marks on the ballot carry precinct information so you know which precinct it's from.

LOWE: All right, so, so it can be sorted out later fairly easy?

BOB EVNEN: I believe so. I'm not absolutely certain about that, but I believe so.

LOWE: OK, thank you.

M. HANSEN: Thank you, Senator Lowe. Any other questions? Seeing none, thank you for your testimony.

BOB EVNEN: Thank you. Thank you, all.

M. HANSEN: All right. We're on neutral testimony for LB435. Hi. Welcome.

ROBERT WAY: Hello. My name is Robert Way, R-o-b-e-r-t W-a-y, and I'm just testifying as a private citizen. I really enjoyed listening to everybody speak here. I thought I was going to be able to tell you about the 22 months because I asked a smarter lady about it, but he beat me to it. I do think-- I do have a point of personal expertise that's relevant to this conversation. The government a while ago trained me about security for a while and gave me some good training. And there's a divergence of concepts that we-- this bill is examining. And I'll get to that in a second, but I want to say I agree with the statement about the fiscal note. I worry that if we give these counties more, more-- you have to do more with the same amount of money because nobody is raising property taxes. That would actually-- this could be self-defeating. I, I really enjoyed the Secretary of State's testimony, but I don't believe the legislation should ever hand anything over this important in carte blanche. That's-- because it's so important, we should always take the time to review. If you change the language that he can propose changes, that sounds good. Bring it back to you and you guys could think. I could see that. But to the point which is being, being unclear, there are ser-- security protocols and there is security. You're debating a security protocol. Security protocol, if it's static like somebody mentioned, can always be defeated, especially in this situation where all the details of it have to be public record. So whatever rules you make, you have to publish those rules, then somebody who is really, really motivated is

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going to be able to defeat that. And then you have actual security, actual security. This person is here in case something happens. He will react to a situation. If there is concern about the integrity of elections in this country, what-- the facts of that matter don't really matter anymore because I don't get to be the arbitrator of facts and I disagree with people about facts at this point and I see no way to fix that any time soon. But if you are worried about security and you're worried about it right now, then you need to focus on security and not security protocols. So take this money, a, I think the state should fund it because this is a state concern and you're bringing it to them and hire-- what I would suggest-- I don't think you can do this legally, but go find your old, retired sheriff's deputy in each of these counties, the guy who's done 20 years, the guy who knows when something's wrong because he can feel it, because he's got instincts, and hire him for the three months of elections. Just have him sit in the office because he'll know when something's wrong. That's what you get when you do 20 years in law enforcement. You know what's wrong. And you, you can give each state a security official for the same amount of money and he can use his instincts and his wisdom to make sure we're addressing this problem. And he can be defeated because you're going to have somebody trying this complex-- because it seems like it would be a complex procedure. You'd have to-- they'd be developing this complex fraud for the first time and they'd be facing somebody who's got years stopping people from acting like a fool because that's pretty much, most of the time, what our police officers do. They keep people from acting like a fool. That's all I got.

M. HANSEN: All right, thank you for your testimony. Any questions from the committee? Seeing none, thank you very much. And is there anyone else wishing to testify in neutral on LB435?

WESTIN MILLER: Senator Hansen, members of the committee, my name is Westin Miller, W-e-s-t-i-n M-i-l-l-e-r. I'm the director of public policy with Civic Nebraska. This year I don't get to be here as often, so this is my first time. So welcome to Senator McCollister, Senator Sanders, and Senator Halloran to what is obviously the most fun committee in the Legislature. I'm appearing in a neutral capacity on behalf of Civic Nebraska, which I don't think I've actually done before, and for reasons that were pretty well articulated by both the supporters and the opponents. We don't oppose this bill because if we can work out the logistical complications, having watermarks on ballots would not do anything bad. That's why we're not opposing the

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bill. If we can figure out how to not make the counties pay for it, which I think is a nonstarter, if we can figure out the printing complications, if we can figure out the overseas voters issues, I think nothing bad would happen. I don't know that anything good would happen, which is why we don't support the bill. And as it's written, it is very expensive. It is an unfunded mandate, but that's why we're in neutral. I mostly wanted to come address the way this bill is being framed, which is my actual point of concern. I don't have a problem with watermarks on ballots pending the logistical problems. I have a huge problem with how this bill is being approached. I was concerned that might be the case, so I showed up and now I have a lot of messy notes I'll try to get through as quickly as I can. Senator Hansen said two things I wanted to point out. First, he said that there are problems in other states that we need to address. And two, he said he's not really familiar with how other states do elections. Now neither of those statements in and of themselves are unreasonable or a problem. It does illustrate a huge problem, though, which is that folks who don't understand how elections are run in other states are just telling us definitively that there are election problems happening in other states. When you press folks on what those issues are, they'll tell you things like in Pennsylvania, I saw this database and there were voters in the registry and their date of birth 1800, that has to be fraud, or they'll tell you that I saw this post on Facebook that said there was a township in Michigan that had 120 percent turnout and I saw this other one said 480 percent turnout, that has to be fraud. Those are two of the most common things that we hear. At Civic Nebraska, it's a lot of just, like, input from the public on election concerns and those are the two most common instances we hear; Pennsylvania dates of birth, Michigan with over 100 percent turnout. I'd be happy to talk about why those things are not real, they're not fraud, they're not causes for concern. The theme of today is that people do have concerns about discrepancies, which is true. I think concern about fraud is a very real problem to solve. Confidence in institutions is extremely important to Civic Nebraska. I think Senator Hunt is right on that when she says that people are concerned about fraud because politicians are telling them to be concerned about fraud and I don't think there's anything partisan in that statement. If I call you and I say hey neighbor, someone's robbing your house, whether or not someone is robbing your house, you are now afraid of someone robbing your house and that fear is real. That fear is going to affect your behavior. That fear is going to

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affect how you sleep at night and it has nothing to do with what's actually happening. But because I told you and I said it loudly and I said it confidently and I have the credibility of being your neighbor, you're afraid your house is being robbed. Secretary Evnen covered very well, I think, why our current elections are very secure. I wanted to mention one thing that I think was kind of touched on a couple of times, but that's the unique barcode that goes on Nebraska ballots. So Senator Lowe, in your case, if another state got ahold of the paper, printed the ballots, every early ballot has a unique barcode printed on it that is coded to a specific voter. So kind of a broader statement I want to make about that is that the fear of what if folks get a ballot mailed to their house that's not eligible or what if the early ballot-- the early voting fear is usually about ballots arriving unnecessarily to places. Receiving a ballot in your mailbox that isn't yours, which will almost never happen because ballots are not "forwardable" mail, is not substantially different from me receiving the old owner of my house, their bank statement. I can't do anything with that statement. Me receiving that is not inherently dangerous. If I try to conspire with that document to hack their bank account, that's a crime. That's a problem, but I can't use that bank statement to do anything malicious. It's impossible to double-vote in Nebraska because of that barcoded situation. Oh, there's so many things to cover. What else can I talk about here? Two things really quickly. Senator Lowe, to answer your question about rejected ballots, there were 6,127 rejected ballots in total from the 2020 general election. The three reasons in order are number one-- which actually that number is inflated and our 1.13 rejection rate is inflated, which is great news and just shows how great of a job our elections team did. The biggest reason that counts as a rejection is you actually got a replacement issued because you lost it or spilled coffee. That's coded as a rejection. Number two, it was returned as undeliverable mail. And three, it was missing the signature, which is the biggest issue. There were 170 statewide that were rejected for actually not having a signature-- or sorry, for having a signature that was not matched and couldn't be solved by the curing process. If I could take two more seconds and just quickly say that administrative errors--

M. HANSEN: Just a few more seconds.

WESTIN MILLER: --are not fraud. Poor PR strategy is not fraud. Michigan and many other states certainly could take some notes on how to better communicate with the public about election concerns, but

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that's not the same as election fraud. So with that, I'd be happy to answer any questions.

M. HANSEN: Questions? Senator McCollister.

McCOLLISTER: Yeah, you talked about the so-called barcode or, or coding track. Is that voter specific?

WESTIN MILLER: I was under the impression that it was. I, I would have to-- Secretary of State would be the expert. My understanding is that when my ballot is scanned, when it's returned, it's for Westin Miller at 7151, blah, blah, blah. And so if that happens twice, it's going to, it's going to raise a flag for sure.

McCOLLISTER: And when is that, that voting track applied to the ballot? When it goes out to the person that requests a ballot?

WESTIN MILLER: I'm sorry. I'm not sure I understand your question.

McCOLLISTER: OK, when that coding track is applied to paper--

WESTIN MILLER: Oh, when it's actually printed on the ballot?

McCOLLISTER: Yeah--

WESTIN MILLER: OK.

McCOLLISTER: --is that when the voter asks for a, a mail-in ballot or an absentee ballot?

WESTIN MILLER: I actually don't know the answer to that question, I'm sorry. I'll find out and get back to you.

McCOLLISTER: Last one.

WESTIN MILLER: Sure.

McCOLLISTER: Would-- Secretary Evnen participated in that court suit that went to the Supreme Court. Can you tell us what the Supreme Court did with that, with that effort by the Secretary of State--

WESTIN MILLER: It was--

McCOLLISTER: -- with various red states around the country?

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WESTIN MILLER: It was dismissed pretty enthusiastically for lack of evidence.

McCOLLISTER: And what was the vote by the Supreme Court justices?

WESTIN MILLER: I think it was unanimous.

McCOLLISTER: It was unanimous, you said?

WESTIN MILLER: I'm pretty sure.

McCOLLISTER: OK, thank you very much.

WESTIN MILLER: Sure.

M. HANSEN: Thank you. A point of clarification, when you were referencing the barcode, are you referencing the barcode on the outside of a vote-by-mail envelope?

WESTIN MILLER: Yes. Oh, I-- I'm sorry. I mixed those together, yes. Separate code on the ballot and the envelope, two different, two different symbols. Thank you.

M. HANSEN: Perfect. So the, the barcode on the back of an envelope is two-- is what-- the voter's name to identify the envelope. But then the individual ballot can't be traced to an individual voter once it goes--

WESTIN MILLER: Thank you, that's-- yeah, wow, that was a big mess. Yes, the, the barcode on the envelope is specific to a voter at an address. There is no personal identifier on the ballot itself. Thank you very much for asking that.

M. HANSEN: Perfect. And for the record, we got a double thumbs up from Wayne in the audience.

WESTIN MILLER: Sorry, everyone. That was, that was--

M. HANSEN: All right, perfect. Any other questions? Senator Lowe.

LOWE: Thank you very much and thank you, Westin, for coming in and testifying in neutral today. And yes, there were a whole lot of people shaking their heads behind you, as you were saying--

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WESTIN MILLER: Yeah.

LOWE: --but--

WESTIN MILLER: I could feel. I was, like, what am I saying?

LOWE: Yeah, a little tense in here.

WESTIN MILLER: Yep.

LOWE: But does not the federal government print our money on a special -- it's not paper, it's linen-- a special paper and are there not people that counterfeit that money?

WESTIN MILLER: Sure.

LOWE: Why do they do that?

WESTIN MILLER: Why do they counterfeit money?

LOWE: For profit?

WESTIN MILLER: I would imagine so.

LOWE: For profit. How much is a country worth?

WESTIN MILLER: Which one?

LOWE: Well, preferably ours.

WESTIN MILLER: Oh, I have no idea. To who?

LOWE: Well, it-- would it be worth the profit to somebody that might want to do this?

WESTIN MILLER: I'm sorry. I'm not sure, I'm not sure I understand your-- would the, would-- counterfeiting ballots a profitable--

LOWE: Yeah, by counterfeiting a ballot.

WESTIN MILLER: Oh, I'm sure you could try to make money doing that, sure. You'd go to jail, but--

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LOWE: And do not the dollar bills that we have or the \$20 bills or the \$100 bills, aren't they individually numbered?

WESTIN MILLER: They are. They're also watermarked.

LOWE: And, and-- but they are watermarked.

WESTIN MILLER: Um-hum.

LOWE: This fiscal note that we've got-- and the way I figure it out, if we divide it up by the number of voters and the ballots that were put out, it would be \$1.30 per piece of paper. How do you make that work with a dollar bill?

WESTIN MILLER: Oh, for--

LOWE: If the dollar bill is watermarked--

WESTIN MILLER: --the, the cost of the actual printing?

LOWE: If a dollar bill is watermarked and-- I mean, it would cost more than a dollar bill to watermark that bill.

WESTIN MILLER: Yeah, I don't, I don't have the slightest idea how to assess printing costs, so, like, a dollar bill versus a ballot. I would imagine that one of the major costs is that this particular watermark doesn't exist yet. So that development, the mechanical fixes that will have to happen to be able to print it, I'd imagine that is very much not cheap and ES&S won't do it for free.

LOWE: No, I, I appreciate your testimony today and I appreciate everything else. Thanks for coming in.

WESTIN MILLER: Thanks, Senator.

M. HANSEN: Thanks, Senator Lowe. Any other questions? Seeing none, thank you for your testimony.

WESTIN MILLER: Thank you.

M. HANSEN: All right, anybody else wishing to testify in neutral? Seeing none, we'll invite Senator Hansen up to close. While he's coming up, I will note that we did have one written testimony from Mark Bonkiewicz from Nebraskans for Founders' Values. And Mark, I

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apologize for your last name pronunciation. And then we also have a number of position letters. We had eight proponents, seven opponents, and one neutral. Welcome back, Senator Hansen.

B. HANSEN: Thank you. I really appreciate-- I want to make sure I get the name right-- Ms. Overstreet who came and testified from Hall County. I, I, I really appreciate her coming because-- and shedding some light on some things that I-- even I was unaware of-- I'm never afraid to admit when I'm wrong or I don't understand something-- and helping clarify the bill and then its appropriateness or not. And so I appreciate her coming up here testifying. I also appreciate the Secretary coming up and answering a lot of questions that you guys had of him as well and all the rest of the other ones behind me. And Westin made some-- taught me maybe to be a little more clarifying with my statements maybe-- for being, you know, so observant. And so maybe instead of problems with other states, concerns would have been a better word that I probably could have used. And I do appreciate the valid concerns from those who deal with this every day and who are knowledgeable in this subject more than myself. And I, I just have to push back on one little thing I-- from Ms. Conrad. I don't think I was-- I don't feel like I was trying to perpetuate, perpetuate any false narratives by introducing this bill. I think I kind of mentioned that in my opening statement, that I feel like we did have free and fair elections in the state of Nebraska. And I-- and my intent was just to maybe-- if anything happened-- a springboard for a larger discussion, discussion of how we can find more cost-effective ways to make sure that we can not only stay ahead of counterfeiting, but also maintain voter integrity. If anything, that can hopefully, you know, start that conversation. And so I just didn't feel like I was trying to do any of the counter narrative besides, you know, make sure we have an extra layer of integrity in our process. So with that, I'll close and I'll answer any questions.

M. HANSEN: Thank you, any questions from the committee? Seeing none, I did have something-- and I apologize. This is more of a statement, but I wanted to bring up-- I know it's come up a couple times. A while ago, we had an election technology study committee of the Legislature and we're getting to the point where I think myself and maybe Senator Stinner, some of the last members in the body who still do this, and that was an opportunity where we had to tour ES&S and the Lancaster County election commissioners observe elections. So your bill I did appreciate, reminded me of that. And maybe that's an interim study or

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something we can do with the Government Committee, loop you in, and actually go see some of these vendors since we're so lucky that ESS is actually located in Omaha.

B. HANSEN: I think that's a good idea. I'm always open to any other options that we might have or potential-- you know-- more-- found out this may not be the most cost-effective way.

M. HANSEN: Sure.

B. HANSEN: And so I didn't really know until we got the fiscal note, but maybe there's some other ways that we can kind of stay ahead of things, at least have in our back pocket in case we see issues down the road, so--

M. HANSEN: Perfect.

B. HANSEN: --appreciate that.

M. HANSEN: All right. With that, I think that's-- no more questions, so thank you for your closing.

B. HANSEN: Thank you.

M. HANSEN: And yes, I already read letters and written testimony into-- for the record, so with that, we'll close the hearing on LB435 and we'll switch over to LB285 and we believe have Mr. Baker here to introduce since Senator Brewer cannot attend today.

TONY BAKER: Good morning, Senator Hansen and members of the Government, Military and Veterans Affairs Committee. My name is Tony Baker. That's spelled T-o-n-y B-a-k-e-r. I'm Senator Brewer's legislative aide. He was unable to attend this hearing today and he sends his regrets. This bill includes a number of election law updates brought to Senator Brewer's attention by the Secretary of State's Office. I will give a brief overview of these changes. For a more textbook technical explanation, the Deputy Secretary of State for elections is in the room today and he will follow me and help answer any detailed questions you might have. Section 1 would help create a legal framework for Nebraska's election officials to safely link up with a database operated by a nonprofit organization called ERIC, the Electronic Registration Information Center. ERIC was originally created at NYU as a way for states to share voter registration data.

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ERIC provides a secure way to improve voter file accuracy. As of last year, 20 states have joined ERIC and red-- from red states like Louisiana and Alabama to blue states like Rhode Island and Vermont. Section 2 is about preventing identity theft and harassment of registered voters. This bill would say that the voter lists shall not be posted, displayed, or made accessible on the Internet. This section does not prevent people from obtaining the voter lists directly from our election officials. Section 3 adds the Secretary of State to a list of officials that give notice to local government officials about election filing deadlines. Section 4 moves up certain candidate filing deadlines from December 1 to January 5. Sections 5, 6, and 7 delete some current language about processes involving write-in candidates. Section 8 adjusts the deadline for public power districts to get certain filings into the Secretary of State. Section 9 provides for notice to the Secretary of State when an educational service unit appoints someone to fill a vacancy in office. Sections 10 and 11 repeal the original sections of the statutes. As I said, this bill is our annual Government Committee cleanup bill brought to us by the Secretary of State. I believe the Deputy Secretary for elections is here and he can answer any questions you might have. That concludes my opening statement.

M. HANSEN: Thank you for your opening. And with that, we'll move over to proponents. It seems Wayne is already in the hot seat, so we'll invite him up. Welcome.

WAYNE BENA: Good morning, members of the committee and Chair Pro Tempore Hansen. I was brushing up on my Latin. My name is Wayne Bena, W-a-y-n-e B-e-n-a, and I serve as Deputy Secretary of State for elections here on behalf of Secretary of State Robert Evnen in support of LB2825. Thank you to Senator Brewer and his office for introducing this bill on behalf of the Secretary of State's Office. This bill is the annual elections cleanup bill that makes adjustments to the Election Act and adds administrative tools for our election officials. There are ten sections to this bill. I have four and a half minutes, so I'll try to do the best that I can, but I will answer any questions if I don't get there at all. Section 1 involves the Secretary of State's Office wishing to join a multistate collaborative called ERIC, which stands for the Electronic Registration Information Center, which currently actually now has 30 states and the District of Columbia. The goal of ERIC is to share data and better maintain the accuracy of voter registration lists. In order to accomplish this, states provide

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org-- the organization voter registration data, as well as the data from the Department of Motor Vehicles in order to receive back reports to help identify voters who may have moved out of the county, out of the state, have died out of state, and also to provide a list of eligible, but unregistered voters who are then sent a mailing by the state letting them know how they can register to vote. Because all the reports provided by ERIC utilize DMV data in some form, this information from DMV is heavily protected under state and federal law. Specifically, the Driver's Privacy Protection Act and the ERIC membership agreement recognizes these privacy protections of this DMV data and requires that the original reports not be disclosed. Section 1 of the bill allows us to remain in the privacy of this data, consider-- contains DMV data. Section 2 adds to the protections of the voter registration-- access to the voter registration list that a person may not post, display, or make the voter registration lists accessible on the Internet and adds similar language [INAUDIBLE] the person signs of changing the voter registration lists. And we don't want the list, in this digital age, being posted on the Internet for anyone to download and, and doing that would be a felony and we don't want that list out there except for the people that have specifically requested it and signed that out. Section 3 adds the Secretary of State to the list of election officials. It gives notice to political subdivisions of the filing deadlines of the statewide primary. This is something that the office already does and thought it best to add it into this statute. Section 4 makes some changes to the candidate filing process. First, it would change the start of the candidate filing period from December 1 to January 5 of the election year. This is being proposed for two reasons. First, since the deadline for political subdivisions to certify what offices are up for election is also on January 5, this will allow election officials to know for certain what offices will be on their ballot for that election and who the incumbents are when they're taking their cabinet and filings. There have been instances in which election officials do not-- will take a filing, but not know if that race is actually on the ballot yet because they have not been certified what races are on the ballot by the political subdivision. So it will also harmonize those deadlines. Second, there have been some issues in regards to C-1 filings of candidates in offices that have to file a C-1. If you file in the month of December, you not only have to file a C-1 with the Accountability and Disclosure Commission for the year prior to that, but also after the first of the year for the year before. And while we

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and our election officials tell that to the candidates for those offices that require that, there have been some instances of people that have not done that paperwork and they have been removed from the ballot. By providing that the election filing period starts in the election year, we don't have to worry about that extra paperwork that has to be done by those candidates, thus less likely for candidates to be thrown off the ballot. Our office doesn't want to throw off candidates just because of a C-1 filing requirement. The next change in Section 4 clarifies those candidates that file with the Secretary of State and choose to fax a copy of their filing form to our office prior to the filing deadline, that a copy of the filing fee must be included as well. The original filing form and filing fee still must be postmarked by the filing deadline and still be received by the office within seven days after the filing deadline. Section 5 removes language regarding undeclared write-in candidates who are elected to pay the filing fee within ten days of the canvas of the vote, as was-- legislation was passed in 2019 and now requires all write-in candidates to file an affidavit prior to an election to-- in order to have their votes be counted, so this language is no longer needed. So there is no such thing as an undeclared write-in candidate. Section 6 removes obsolete language about requiring a write-in line for delegates to county and national political party conventions on the ballot. Since these positions are no longer elected on the ballot, this language is obsolete and no longer needed. I see that my time is up.

M. HANSEN: If you'll-- go ahead and just finish your remarks since you're the technical expert.

WAYNE BENA: OK, thank you. Thank you, Senator Hansen. Section 7 is related to Section 5 and removes references to 32-107 that had language that previously allowed village and township officers' write-in votes can be counted, even if no one had filed a write-in affidavit. Again, all write-in affidavits are required for all offices now, so thus we don't have to have that exception. Section 8 cleans up previous legislation that required political subdivisions that elected officials on the general election ballot only to certify the number of positions to be elected and length of terms to the Secretary of State by June 15 instead of July 1, which it was previously. This date reference in 76-11 was missed when 32-404 was amended in 2017 and we're just harmonizing that deadline for those public power districts under 40 million. Section 9 requires educational service units file

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with the Secretary of State a notice of an appointment when a vacancy has been filled. It's important to have this information so we know who incumbents are during the firing-- filing period. There were a few instances in which when we received certifications, we saw that there were people on the ballot that we were-- never knew that were incumbents and we realized after the fact that they didn't even live in the district, so should not have been appointed in the first place. If we have those appointment letters, we're able to look at that information and provide feedback to the political subdivision. Finally, in Section 11, it outright repeals is 32-1006, which is an outdated statute regarding the handling of an over vote during the-- during the era of hand counting. This procedure is no longer needed as our counter machines detect over votes and is no longer needed. As I say each year, I know these bills are not glamorous and are not the reason for why you run for office, but they're important to the continued success of elections in your state. I thank you for your time and a little extra time and I would like to answer any questions that you may have.

M. HANSEN: All right. Thank you for your testimony and Senator McCollister with a question.

McCOLLISTER: Yeah, thank you. And I want to acknowledge the, the great relationship we've had in the past and what a great resource you've been. What exactly is an over vote?

WAYNE BENA: So that would be-- is if you voted for two people in a race where you voted for one--

McCOLLISTER: Oh.

WAYNE BENA: --so it only lets you vote for one. So in the case of a state senate race, you vote for one, but you voted for both people, that's an over vote and that's not counted. The procedure in, in this had to do with if you-- in the statute that this is repealing, if you put the-- you mark the oval next to the name of the person and then also on the write-in line, there was a procedure how you remade the ballot to folks that-- we don't remake the ballot for over votes. They-- the counting machines detect the over votes. They don't count the, the, the vote in that race.

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McCOLLISTER: I get it. There is a lot of verification process going on between the DMV and the election commissioners in the various counties. How exactly does that work?

WAYNE BENA: In regards to registration?

McCOLLISTER: Yeah, voter registration versus owner's license, registration, lice-- addresses, things like that.

WAYNE BENA: Yeah, so when you apply for a driver's license, you have the ability to register to vote. And if you choose to register to vote, that information is electronically transferred overnight to the voter registration system and that process by the counties. In addition, if you go into a, a DMV to change your address and don't affirmatively say that you don't want that address as your voter registration, that adverse change goes to-- into the voter registration system and process. So between those, that's how voter registration happens with the DMV. It used to be a paper system, but now it's an electronic transfer, which has become a lot more efficient.

McCOLLISTER: It sounds as though the communication goes one way, from the DMV to the election commissioner. Is there ever a communication go from the election commissioner to the DMV to verify information on a particular voter?

WAYNE BENA: It verifies, it, it verifies that the driver's license number provided matches the driver's license on file.

McCOLLISTER: So the election commissioner-- is it the Secretary of State's Office or does it come from a various county?

WAYNE BENA: It's the voter registration system.

McCOLLISTER: Say it again?

WAYNE BENA: The voter registration system verifies the accuracy of the data.

McCOLLISTER: And that's automatic?

WAYNE BENA: Yes.

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McCOLLISTER: I see. So anything changes with regard to driver's license, it's automatically transferred to the--

WAYNE BENA: No, no, no, no, it's-- the, the, the information is verified that the, that the driver's license number is, in fact, the driver's license number of the voter when it's-- like for example, on the paper form that comes in, the stuff that comes in automatically from the DMV is already verified because it's coming from the DMV.

McCOLLISTER: How many driver's license-- first off, how many registered voters do we have in the state of Nebraska?

WAYNE BENA: --1-- 1,200-- 636,000 as of February 1. I read-- I looked it up yesterday. It's, like, 1,238,638.

McCOLLISTER: OK. All right. How many driver's licenses do we have?

WAYNE BENA: Driver's licenses do we have? More than that.

McCOLLISTER: So there's, there's more people that have driver's licenses than have registered to vote?

WAYNE BENA: Yes, considering 16-year-olds, Senator.

McCOLLISTER: I see, but there's also some people that don't have any, any driver's license and they have not registered to vote, correct?

WAYNE BENA: Correct.

McCOLLISTER: Any, any clue how many people that is?

WAYNE BENA: Not off the top of my head, no.

McCOLLISTER: OK, that's all I have. Thank you, Mr. Bena.

M. HANSEN: Thank you, Senator McCollister. Any other questions? I have to congratulate you on the most specific answer I think I've ever seen. With that, thank you for your testimony and we'll invite up any other proponent of LB285. Hi. Welcome.

BRIAN W. KRUSE: Thank you. Acting Chairman Hansen and members of the committee, my name is Brian W. Kruse, B-r-i-a-n W K-r-u-s-e. I am here as co-chair of the Nebraska Association of County Officials' Clerks, Register of Deeds, and Election Commissioners legislation committee,

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as well as the Douglas County Election Commissioner. I'm here to testify in support of LB285. I would like to thank Senator Brewer and his staff for introducing the bill, which have several components that will help clarify election laws. I will touch on just a few of these items this morning. First, the bill addresses the voter list you've, you've already heard or voter file that is made available to the public. This section of the bill simply clarifies that once someone obtains this list, not only will they use it only for the specified reasons, but they will not post or display the list or make it accessible via the Internet. The next item I wish to speak about, and which may be one of the most impactful for election offices, is amending the first day candidates may file for our office for the primary elections from December 1 of the prior year to January 5 of the year in which the election shall take place. This will be especially important for the 2022 primary, as redistricting is occurring in 2021. With the likelihood that census data will be delayed in being delivered to states, a domino effect will occur regarding redistricting within political subdivisions. It is very likely that redistricting will not be fully completed until late December 2021. Therefore, candidate filing cannot occur until after new boundaries have been set to ensure individuals filing for office reside in the correct area. Beyond 2022, a January 5 beginning filing date will cause less confusion for candidates when submitting required NADC C-1 forms and will ensure the filing offices have the most up-to-date materials for the candidates. Another item in this legislation requests that when an educational service unit fills a vacancy on its board, it must provide written notice of the appointment to the Secretary of State's Office. These and the other items in this bill will help to ensure that elections are continued and ran freely, fairly, and accurately. So in conclusion, LB25 [SIC] does these things and I urge this committee to advance it to General File. Thank you for your time this morning.

M. HANSEN: Thank you, Mr. Kruse. Questions from the committee? I would have one related to the deadlines moving and I, and I get the rationale for moving December 1 to January 5. Currently in statute, when does the residency requirement start? How early do you have to live in a district to be able to run for it?

BRIAN W. KRUSE: Well, I think it depends on different residency requirements--

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M. HANSEN: OK.

BRIAN W. KRUSE: --for different offices and then it can also get a little hairy-- like, we have a charter in Omaha--

M. HANSEN: Sure.

BRIAN W. KRUSE: --so residency requirements may conflict with charter and state statute. So sometimes we have to get legal opinions on that--

M. HANSEN: Got it.

BRIAN W. KRUSE: --from city attorneys and county attorneys and we have to be-- you know, all try and become unified on it. But really, it depends on the office, I think, for some of them.

M. HANSEN: OK, perfect. It depends is, is a very fair answer, so-- all right, thank you. Senator McCollister.

McCOLLISTER: Yes, I'd like to thank you for being here and acknowledge the great work you do when I've had voters call questioning the election system in Douglas County. I've never had a callback saying that I didn't get the answers I wanted. Also, the, the tracking system that you have on ballots is very cool and thank you for that. That's-- most people don't realize that's available and it's, it's a good way to tell people that their ballots are, are being counted. Thank you very much.

BRIAN W. KRUSE: Yeah, absolutely. That's actually-- we link up to the Secretary of State's website. That's a statewide system, so voters all across the state can check to see if their ballot has been accepted--

McCOLLISTER: Thank you.

BRIAN W. KRUSE: --or not. So, yeah, you're welcome. Thank you.

M. HANSEN: Thank you, Senator McCollister. Seeing no other questions, thank you for your testimony.

BRIAN W. KRUSE: Thank you.

M. HANSEN: We'll invite up our next proponent for LB285.

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WESTIN MILLER: I am still Western Miller, W-e-s-t-i-n M-i-l-l-e-r, director of public policy at Civic Nebraska. I'd like to start by saying unequivocally that there is no personal identification-- identifying information on your ballot and the barcodes I referred to earlier absolutely, absolutely go on the envelope outside of your ballot. I hope I don't get fired for that one. All right, I think the important stuff has been covered, so I just wanted to quickly say thank you to Senator Brewer for bringing this bill, Tony, for introducing it, and thanks especially to Secretary Evnen and his elections team for just the incredible work behind the scenes that, as you can tell, is constant to keep our elections secure and updated. It's not lost on me that this work is infinite and it feels like especially this year, very thankless, so I just wanted to definitely say thank you. With that, we're most excited about Section 1, the, the ability for us to join ERIC. I think it's a great idea. I think it would improve the efficiency and the accuracy of our voter rolls. It's very cost efficient. So if folks have questions about that, I'd be happy to do my best. Otherwise, that's all I have. Thank you.

M. HANSEN: Thank you. Are there questions? All right, seeing none, thank you.

WESTIN MILLER: Sign your ballot, I mean your envelope.

M. HANSEN: All right. Any other proponents to LB285?

BETH BAZYN FERRELL: Good morning, Senator Hansen, 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 appearing in support of LB285. We'd like to thank Senator Brewer for introducing the bill. We'd like to thank the Secretary of State and his election team for all of the work that they do every year, accumulating all of these issues and putting them into one bill. As he said, it may not be the most glamorous bill, but it's always very helpful and it's very appreciated, so I would be happy to answer questions.

M. HANSEN: All right, straightforward. Any questions? Seeing none, thank you for your testimony. Are there any other proponents to LB285? All right, seeing none, we'll go ahead and ask for any opponents to LB285.

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DANIELLE CONRAD: Hello again, good morning. Hi, my name is Danielle Conrad. It's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d, and wanted to say hello again to members of the committee and of course, send our warm regards to Senator Brewer. As I understand, he was unable to be here today, but I know we're all thinking about him and appreciate his, his staff for, you know, filling in. We were always so grateful to have such a great staff to help us in, in our endeavors in this body and this important work. So I just wanted to be clear and I sent a quick note to Senator Brewer before we came in. You know, it's customary for the Chair of the Government Committee to bring forward kind of the tech-- annual technical cleanup bill, which clearly this measure is. So this is not a reflection on, on Senator Brewer and we appreciate that there are a lot of really noncontroversial, important technical updates in this legislation. But I did want to flag a couple of pieces that we are a bit concerned about to draw your attention to that perhaps could improve with some clarifying amendments. So first of all, in Section 1, it sounds like the general intent is to ensure that Nebraska can participate in this quote unquote ERIC system for short-- what they call it. We're talking a lot of acronyms, but overall, I, I think that's a, a, a worthy endeavor. But when you look at the actual language in Section 1, it just says an NGO and that could mean a lot of different things. So I would really encourage the committee to be explicit, to say what you mean there instead of a very, very broad grant. That could be a private corporation. That could be a partisan entity. I mean, I, I think it's just far too broad. Additionally, any time that there is a carve out in our state's strong public records law, we, we should be skeptical. Nebraska has a very long, strong, and proud tradition of open government. Now there are appropriate reasons to exempt some information in the public interest from those statutes and that's delineated in the, the public records law. It might be appropriate to do so in this regard, but again, I, I would be remiss if, as government watchdogs, we didn't safeguard that proud tradition by elevating that issue herein and began asking for that narrow-- that exception to be as narrow and as clear as possible rather than a broad grant. Additionally, when it comes to personal information regarding voting registration and DMV records, you don't have to look too far in the recent past to see some significant concerns that Nebraskans had. Say, for example, when the Kobach Commission was in place and they were trying to get voter registration records from different states and that was met with a great deal of appropriate skepticism along the way. You will see that Nebraska was one of the few states that entered

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into a data-sharing agreement regarding the census that Governor Ricketts authorized with DMV and other state agencies and the federal government that raised a lot of important and serious personal privacy concerns that we always have to be wary of when it comes to big government databases. So I just-- I caution you to proceed carefully in terms of this grant of authority to make sure that it's explicit and clear and is narrowly tailored as possible. That being said, efforts to improve the data is a good thing and can help to give information and notice to more Nebraskans who might otherwise be eligible to vote to re-up their registration and participate in the process. It helps when counties and states are working together to make sure our voter rolls are up to speed and accurate. So those are all really, really good things I want to be clear about, particularly considering that the ACLU did a, a fairly lengthy investigation and found an incredible amount of discrepancies within the Secretary of State's Office, actually, when it comes to the restoration of system-impacted voting rights. And they have acknowledged that there is a lot of problems with the data in terms of how they process voting rights for returning citizens, so anything we can improve-- do to improve the data helps to facilitate voting rights, but needs to be done carefully. The last piece that I would lift up is just that I think there's a drafting discrepancy between perhaps the section on line 4 and 5 and the sections on-- or I'm sorry, maybe-- yes, line 4 and 5 and then 8 and 9 where there's restrictions on how the voter registration information can be acknowledged. And Wayne did a great job talking about we don't want this posted on the Internet, but in the latter part, there's an additional word for distribution, which I think-- I'm sorry, my time's up. If I could just finish that sentence?

M. HANSEN: Please, please finish that thought.

DANIELLE CONRAD: I won't abuse it. I'll just finish that sentence. I, I think that it's, it's too restrictive. So I'd encourage the committee to look at those-- both, both of those components to harmonize that language because what that means is you wouldn't be able to email voter registration data to your campaign managers or to your volunteers or to others working in the campaigns and election space and that's critical First Amendment-protected activity and it just, it just doesn't square with the modern age for how we communicate with each other. So just check that distribution piece, please. Thanks.

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M. HANSEN: All right, thank you. Senator McCollister.

McCOLLISTER: Yeah, thank you, Senator Hansen. This morning, we heard about the so-called ERIC system.

DANIELLE CONRAD: Um-hum.

McCOLLISTER: Do you have any fears that that system could be utilized by some bad actor in the national government to get information about Nebraska?

DANIELLE CONRAD: You know, I'll, I'll be very clear, Senator McCollister, I am not an expert on that system, but as I noted, from a civil liberties personal privacy perspective, I think it's always important to be skeptical of large government databases and it's important to ensure that there are safeguards in place to protect privacy and to carry out the legitimate government interest therein. But particularly considering it is an NGO outside of some of the safeguards that would come with a governmental entity, that can be more challenging. And so I know many of our sister states have looked at some of these issues and decided to move forward and join. And I know that ERIC, of course, has safeguards in place as well for how that-- they, they may deal with some of this information, but I think it's important to ask those hard questions because I'm sure your constituents would be. Wait a minute, this state's going to turn over my information to some nonprofit someplace else? I think, I think that would, would cause Nebraska voters to be concerned. So it's important that we have clarity about that before we, we move down that road.

McCOLLISTER: Along those lines, should we be a little more specific, maybe draft the language in the bill such that we will not ever provide information at the behest of, of the national government?

DANIELLE CONRAD: Well, that, that might be kind of another, another point on the continuum there. I think that there can be valid reasons for information sharing between governmental entities, right, but I think that the, the instance that I-- the example that I mentioned was met with a great deal of skepticism, one, because it perpetuated these false claims about voter fraud that were widely dispelled and that were part of the, the Kobach Commission's charge. That was rightly met with a lot of skepticism from secretaries of state of both parties across the United States, including our former Secretary Gale, of

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course, who was very, very skeptical of that effort. So I wouldn't say never. I'd say-- I'd give you a lawyer answer, it depends.

McCOLLISTER: But Secretary Gale refused to provide the information, correct? But he was overruled by, by the Governor of Nebraska.

DANIELLE CONRAD: I don't think, in regards to the Kobach Commission, he was overruled. And then later, of course, that disbanded, but it-- there was a, a separate endeavor even more recently than that when Governor Ricketts spearheaded an information-sharing endeavor with the, the federal government in regards to the sensa-- census to try and, frankly, discriminate against immigrants in Nebraska. And so Nebraska was one of only a few states that went down that path and it raised a lot of privacy concerns across the political spectrum.

McCOLLISTER: But the Governor was asking the state to provide voter information and driver's license information, is that correct?

DANIELLE CONRAD: Yeah, it was a combination of all kinds of different, of different government databases. I believe there was perhaps HHS, DMV, voter information, and so I-- I would be happy to follow up with you and your office to get more clarity on that, but I think Nebraska was perhaps one of two or one of four states that, that went down that path. And, and all of our sister states said that was, was misguided and, and inappropriate from both a census perspective and a personal privacy perspective.

McCOLLISTER: Thank you.

M. HANSEN: Thank you, Senator McCollister. Any other questions?

DANIELLE CONRAD: Thank you so much.

M. HANSEN: Are there any other opponents to LB285? Seeing none, anybody wishing to testify neutral on LB285?

SHERI ST. CLAIR: Hello, sir. I'm Sheri St. Clair, S-h-e-r-i S-t C-l-a-i-r, and I am with the League of Women Voters and the league supports most all of the provisions in this bill, but we are neutral because of Section 1, item 6, the text that in the event that the Secretary of State becomes a member of a nongovernmental entity whose purpose is to share and exchange information, etcetera, etcetera-- but the name of that organization is not specified. The League of Women

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Voters has always been supportive of improving election administration, including management of statewide database systems, but the league has also opposed move to collect voter registration data in order to create a national database of registration names because of voter data privacy issues. So without details regarding the identity of that nongovernmental agency with whom that the voter registration data is to be shared, including how it's going to be maintained privately, securely, the league has a neutral position on this bill.

M. HANSEN: All right, thank you. Questions from committee members? Seeing none, thank you for your testimony.

SHERI ST. CLAIR: Thank you.

M. HANSEN: Is there anybody else wishing to testify on neutral to LB285? All right, seeing none. I presume no closing. With that, we will read into the record we have one written testimony, an opponent from Korby Gilbertson of Media of Nebraska, Inc. and we also have two position letters, one in support and one opposed. And with that, we will close the hearing on LB285 and we'll move over to LB514.

TONY BAKER: This has got to be the cleanest chair in this building.

M. HANSEN: Absolutely. Welcome back.

TONY BAKER: Thank you, Senator Hansen and members of the Government and Military and Veterans Affairs Committee. My name is Tony Baker, T-o-n-y B-a-k-e-r. I am Senator Brewer's legislative aide and he's unable to attend today, as we've mentioned. Before I begin, the Secretary of State wanted me to mention that Nebraska's voter file was not sent to the Kobach Commission and he agreed with former Secretary of State Gale's decision to do that, withhold that. This bill was brought to our office by the Secretary of State. It clarifies and streamlines the procedure for forming a new political party in Nebraska. This bill would require that all petition signatures and associated documents be submitted together for verification at one time. Petition signatures would become invalid if not submitted to the Secretary of State by July 15 before a statewide general election. It is important to specify the period when these signatures are valid. When the Secretary of State is working to validate petition signatures, it makes the job much more difficult if a signature is

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years old. The Secretary of State has to verify that a signer was qualified to sign the petition at the time of signing. Obviously, the further you get out from the date of the signature, the harder it is to verify that it is valid. The bill would also increase, from ten days to 20 days, the time authorized for the Secretary of State's signature verification after submission by the sponsor or sponsors. Finally, LB514 would move up by two weeks the deadline for filing the petition in order for the party to be included in a primary or general election. This bill makes the process for forming a new political party clearer and more workable for the Secretary of State's Office. It still protects the right to form a new political party. I believe that a representative of the Secretary of State's Office, the Deputy Secretary of State for elections, will follow me with any detailed questions. That concludes my opening statement.

M. HANSEN: All right. Thank you for your opening. With that, we'll move on to proponents and invite Mr. Bena back up. Welcome back.

WAYNE BENA: Good morning again, members of the committee and Chair Pro Tempore Hansen. I just wanted to do the Latin stuff. My name is Wayne Bena, W-a-y-n-e B-e-n-a, and I serve as Deputy Secretary of State for elections here on behalf of Secretary of State Robert Evnen in support of LB514. Thank you to Senator Brewer and his office for introducing this bill on behalf of the Secretary of State's Office. I think the original intent was to put this into LB285, but because of some timing issues, we had to-- we did it separately. And thank you to Senator Brewer and your office for taking on another bill. So I don't-- we were trying to do our best not to-- respect the number of bills that you guys had to go through this year. This bill intends to make some administrative adjustments to the petition process for creating a new political party based upon our review and wanting to give us some more time. The first adjustments are the deadline date for submission of petitions for a new party to be recognized for a primary and general election to allow for more time for signature verification by the counties. The date to submit signatures for verification for the primary moves from February 1 to January 15 and for the general election, it moves from August 1 to July 15. As previously mentioned, the pushing back of these dates to accommodate the change in Section 2 of the bill that allows more time for our county election officials for signature verification. Under current law, signatures must be verified in ten calendar days. The bill proposes to extend that to 20 business days. In order to do our work in the Secretary of State's

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Office to process the pages, get them numbered, mail them out, certify to the counties, coupled with well-publicized changes and postal delivery standards, ten calendar days is not enough time to get the petitions processed, sent off, and ultimately verified. These changes will allow more time for verification. The next two changes located in Section 1 of the bill codify that all petition pages, once submitted, are submitted as one instrument for verification and no other pages can be submitted after that. This is the, the general rule, but we wanted to codify that in the statute to make sure people notice when you turn them in, you turn them in, we verify them. You either make it or you don't. You don't get just to keep turning them in until you make it. Finally, it states that all new party petitions in circulation, but not filed by the July 15 of the year of the statewide general election would become invalid. It, it's kind of interesting. New party petitions are the only petitions in statute that don't have a shelf life and a time frame in which petitions become invalid. Recalls, you have 30 days or it becomes invalid. You have to start over. Statewide initiative petitions, you turn them in four months before. If you don't do that, you have to start over. Theoretically, you could find a new party petition for the Bull Moose Party in your grandfather's trunk, pull it out and continue to circulate those petitions and turn them in. That probably-- that, that causes a huge concern and verification problems because the longer petitions are out, the harder it is to actually verify those petitions because people move, quite frankly. And because the standard in new party petitions is they were registered voters at the time that they signed, it is very hard when you're signing Sarpy County's petition pages and then move to Douglas, Dodge, or what have you, four, five, six, seven years later, to get all those done and especially in ten days and in 20 days. So we wanted to put a window of time similar to what you see in C-1 initiative petitions in order to say it is turn them in by this date. If not, then you, you can start over. Thus we can accurately be able to do those petitions. I don't know where I came up with Bull Moose Party, but it was the first thing that came in effect. So again, these changes will help the, the verification process of these petitions and I appreciate the committee's consideration of this bill. Thank you for your time and I'm willing to answer any questions you may have.

M. HANSEN: Thank you. Are there questions? Senator McCollister.

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McCOLLISTER: Thank you, Senator Hansen. Before you came up and testified, Mr. Baker came up and indicated that new information was sent as a result of the Kobach initiative, is that correct?

WAYNE BENA: Do you want me to confirm that?

McCOLLISTER: Yeah, somebody from--

WAYNE BENA: Sorry, I missed the question.

McCOLLISTER: Was any information sent from your office or the Secretary of State--

WAYNE BENA: But, you know, that was--

McCOLLISTER: --in regard to--

WAYNE BENA: --kind of interesting. It was one of the first things that landed on my desk the day that I started was Kobach Commission and we looked-- a little context, Secretary Gale did make the decision he didn't want to give it out, but it was-- it would have been harder if we would have been sued to find exception to do that list. They never sent enough-- the \$500 check.

McCOLLISTER: But if they had, you would have sent?

WAYNE BENA: The-- I would say no. And the basis upon that is because of the provision in statute that it can't be copied or reproduced or handed out. The provisions of the presidential-- the documents by a president would have to be archived, that those could be accessed by people after and that's a violation of our statutes in regards to publicizing about this.

McCOLLISTER: Since--

WAYNE BENA: It was, it was-- so that's what we would have denied it on. However, that could have been subject to a lawsuit and I don't know how that, that would have, would have done, so--

McCOLLISTER: Elections are under the purview of each state.

WAYNE BENA: Correct.

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McCOLLISTER: By what authority could a national government ask for that information from a state? That's what I, I would like to know.

WAYNE BENA: We have, as, you know, Danielle said it, we have very broad public records statutes and the voter registration list is a public record. You sign the, the \$500 check and you get access to, to, to the list. We believe that under what the use of the list was being done from the Kobach Commission would be a violation of the oath--

McCOLLISTER: OK.

WAYNE BENA: --so--

McCOLLISTER: Subsequent to that, did the Governor initiate or agree to provide information to the federal government and did, did it-- was information provided?

WAYNE BENA: I am not aware of the voter registration list being provided to the census, at least not coming from our office. I'm, I'm not aware. I'm aware of the situation that Danielle mentioned, that the DMV gave DMV data to the census, but I'm not aware of voter registration data coming from--

McCOLLISTER: At, at the behest of the Governor and/or president?

WAYNE BENA: No.

McCOLLISTER: OK, thank you.

M. HANSEN: Thank you, Senator McCollister. Any other questions? Seeing none, thank you.

WAYNE BENA: Thank you.

M. HANSEN: All right, we'll take our next proponent to LB514.

BRIAN W. KRUSE: OK. I will make this short and sweet so we can all get on to dinner here and get a bite to eat. Acting Chairman Hansen and members of the committee, my name is Brian W. Kruse, B-r-i-a-n W K-r-u-s-e. I am here as co-chair of the NACO Clerks, Register of Deeds, and Election Commissioners' law committee, as well as the Douglas County Election Commissioner. I am here to testify in support of LB514. Thank you to Senator Brewer and his staff for introducing

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the bill, which will clarify the procedures for forming a new political party in Nebraska. Regarding the gathering of signatures, once the necessary number is collected, it would be a requirement that all signatures must be submitted as one instrument to the Secretary of State for verification. The deadlines for submitting the signature would also change from February 1 to January 15 for the primary election and from August 1 to July 15 for the general election. In addition, currently there is no period, as you heard, regarding the length of time an organization may gather the required signatures to form a new party. This bill would essentially allow two years for the process to be completed. Signatures would be invalidated if not submitted to the Secretary of State's Office by July 15 in even numbered years. To illustrate the importance of this change, recently, petition signatures were verified for a new political party petition with signatures dated almost four years from the date of submission. As you can imagine, it is extremely challenging for our office to verify these signatures, as voters move, names change, voters pass away, and a variety of other situations. Lastly, the length of time for signature verification would increase from ten days, as you heard, calendar to 20 business days, allowing the process to be more efficient by potentially reducing additional staffing and overtime for our offices to complete the task. In conclusion, LB514 streamlines new party petition processing and I urge the committee to advance this bill to General File.

M. HANSEN: Thank you. Any questions? Senator McCollister.

McCOLLISTER: Just a question. Good to see you again.

BRIAN W. KRUSE: Thank you.

McCOLLISTER: Somebody signs a petition, it goes to the election commissioner, and before you make a decision, that person dies. What do you do in that case?

BRIAN W. KRUSE: I know--

McCOLLISTER: Is that a valid signature?

BRIAN W. KRUSE: I believe I may have to defer to Deputy Bena on this, but I believe if they were alive at the time they signed, I believe that it would be considered a valid signature.

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McCOLLISTER: OK, thank you.

BRIAN W. KRUSE: We're-- I guess we--

M. HANSEN: All right, thank you, Senator McCollister. Any other questions? Seeing none, thank you for your testimony.

BRIAN W. KRUSE: OK, thank you.

M. HANSEN: Any other proponents? Hi, welcome back.

BETH BAZYN FERRELL: Good morning again. Senator Hansen, 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 appearing in support of LB514. I'll keep it short and sweet. We think that this would be helpful, as you've heard, to move the deadlines for submitting petition signatures and requiring all of the signatures to be submitted together. It would be a move for efficiency and just common sense to have them all at once, so I would be happy to answer questions.

M. HANSEN: Thank you. Are there questions? All right, seeing none, thank you. Any other proponents to LB514? Seeing none, are there any opponents to LB514? Seeing none, anybody in the neutral capacity on LB514? Seeing none, we get to waive and there are no written testimony and no letters for the record, so that will close the hearing on LB514 and close our morning sessions of hearings. See everybody back at 1:30.

[BREAK]

SANDERS: Good afternoon and welcome to the Government, Military and Veterans Affairs Committee. My name is Rita Sanders. I'm from Bellevue, Nebraska, District 45. And I will serve as your temporary, temporary Vice Chair for today. For the safety of the committee members, staff, and pages, the public, we ask those attending our hearings to abide by the following procedures. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend your bill hearing-- your bill hearings. The bills will be taken up in order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for

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public to move in and out of the hearing room. We request that everyone utilize the identified entrance and exits to the hearing room. Please note the exit door is on one side and the entrance-- the exit's on the other side of the hearing room. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist committee members and transcribers in clearly hearing and understanding for commute-- for testimony. For committee members, I will leave it to your discretion to wear a face covering because we are adequately, adequately protected by Plexiglas dividers and we have adequate social distance from the testifiers and the public. Pages will sanitize the front table and the chair between testifiers. Public hearings for which attendance reaches seating capacity or near capacity, the entrance door will be monitored by the Sergeant at Arms who will allow people to enter the hearing room based upon seating availability. Persons waiting to enter a hearing room are asked to observe social distancing and wear a face covering while waiting in the hallway or outside the building. The Legislatures do not have the ability of the overflow hearing room for hearings. For hearings with large attendance, we request only testifiers enter the hearing room. We ask you please limit handouts. The committee will take up bills in the order posted on the agenda. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. The committee members might come and go during the hearing. This is part of the process and we have bills to introduce in other committees. I ask you abide by the following procedures to better facilitate today's proceedings. Please silence your phone or turn off your cell phones. No food or drinks in the hearing room. Please move to the reserved chairs when you are ready to testify. These are the first two chairs on either side of the first row. Introducers will make initial statements, followed by proponents, opponents, and neutral testimony. Closing remarks are reserved for the introducing senators only. If you are planning to testify, to testify, please pick up a green sheet that is on the table in the back of the room. Please fill out the green sheet, sign-in sheet before you testify. Please print. It is important to complete the form in its entirety. When it is your turn to testify, give the sign-in sheet to the page or the committee clerk. This will help us make a more accurate public record. If you have handouts, please make sure you have 12 copies and give them to the page when you come up to testify and they will distribute those to the committee. If you do not

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have enough copies, the page will make sufficient copies for you. When you come up to testify, please speak clearly into the microphone. Tell us your name and please spell your first and last name to ensure we get an accurate record. We will, we will be using the light system for all testifiers. You will have five minutes to make your initial remarks to the committee. When you see the yellow light come on, that means you have one minute remaining and the red light indicates your time has ended. Questions from the committee may follow. No display of support or opposition on a bill, vocal or otherwise, are allowed at a public hearing. Committee members with us today will introduce yourself-- will introduce themselves, starting on my right with Senator Blood.

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

McCOLLISTER: John McCollister, District 20, central Omaha.

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

LOWE: John Lowe, District 37.

HUNT: Megan Hunt, District 8, midtown Omaha.

SANDERS: To my right is the committee legal-- to my left is the committee legal counsel, Dick Clark; and to my far left is committee clerk, Julie Condon. Our pages for the committees are Jon Laska, no, Caroline Hilgert, the afternoon, and Peyton Larson. Caroline is a junior at UNL, Peyton is a sophomore at UNL. And with that, we will begin our hearings for this afternoon. OK, we'll begin with Senator Halloran and LB362.

HALLORAN: Good afternoon, Vice Chair pro tempore, senators, members of the Government, Military and Veterans Affairs Committee. My name is Steve Halloran. For the record, S-t-e-v-e H-a-l-l-o-r-a-n. I represent District 33. I've introduced LB362 at the request of the Secretary of State. Current law provides that an agent may be appointed to request and pick up an early voting ballot for a registered voter from the election commissioner or county clerk. Current law provides that no person shall act as an agent in picking up a ballot for more than two registered voters in any election. LB362 extends the role of the agent

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and provides that a registered voter can appoint an agent to return a marked early voting ballot and provides that the agent can only return ballots for two registered voters in any given election. The legislation also prohibits a candidate and any person serving on a campaign committee for a candidate from acting as an agent to return a marked ballot unless the registered voter is a family member. Due to the pandemic and the increase in early voting, the Secretary of State feels that it is important to address early voting ballot returns, as the law currently does not specify any limit on the number of ballots that can be returned for other registered voters and does not set any parameters for those, or for who can return early voting-- voted ballots for other registered voters. Because the current law does not address these topics, mass canvassing of ballots by candidates, political groups, or others is allowed. This is concerning because it has a potential to increase the likelihood that a ballot will be lost, mishandled, or manipulated. When the ballot is voted in person, the chain of custody of the ballot is maintained throughout the entire voting process. The ballot is handed to the voter by a poll worker. The ballot is voted at the polling location and the ballot is then handed back to the poll worker and deposited in the ballot box where it remains until canvased and counted by the county canvassing board. Because this exact chain of custody cannot be maintained for an early voting ballot due to the nature of the process, additional safeguards are needed to protect the integrity of the ballot and to ensure voter confidence in the process. This legislation builds upon the existing statutory framework regarding agents and provides that just, just as an agent is limited to picking up two ballots, an agent may only return a ballot for two registered voters. This legislation, coupled with the other state laws which prohibit destroying, stealing, marking, or manipulate-- or mutilate-- mutilating a ballot after it has been voted and delaying delivery of a ballot are important tools to preserve the integrity of our election process. Following me today is Secretary of State Bob Evnen, who will be available to provide further information regarding this legislation. And I will take any questions you may have, but I will probably refer them to Secretary of State Bob Evnen.

SANDERS: Thank you, Senator Halloran. Are there any questions? Seeing none, thank you. We now move to proponents on this bill.

BOB EVNEN: Senator Sanders, members of the committee. Good afternoon, my name is Bob Evnen, B-o-b E-v-n-e-n. I have the honor and privilege

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of serving as Nebraska's Secretary of State. Senator McCollister, I'm going to move this. So we can see each other better. I'm appearing before you this afternoon in support of LB362. I'd like to thank Senator Halloran for sponsoring this bill and I would like to express my appreciation to him. LB362 is an important component of further assuring the integrity of our elections. It's a matter of ballot security and the prevention of voter fraud. Our state Election Act closely restricts third parties from picking up uncast ballots for others. Third-party agents are permitted to pick up uncast ballots for no more than two voters and, of course, must be authorized by the voter to do so. Those who work on campaigns are prohibited altogether from picking up ballots for anyone other than close relatives. But there's no restriction on the number of completed ballots that can be collected from voters to be returned to the county election official. LB362 provides parity with existing law by permitting an agent to return no more than two ballots. In a typical election prior to 2020, about 25 percent of our voters have chosen to cast early ballots. In the May 2020 primary, that percentage rose to more than 75 percent. In the 2020 general election, about half of the ballots cast were cast early. My belief is that as the coronavirus pandemic subsides as a result of vaccines and treatment, more people who prefer to cast their ballot at the polls will return to the polls. All the same, I also believe that early voting will account for a greater percentage of the ballots cast than what we experienced prior to the 2020 election. As we see this shift, it is, of course, absolutely essential that we stay focused on the security and integrity of our elections. To do so, we must focus on the early voting component of our elections. The Commission on Federal Election Reform was a bipartisan group chaired by former President Jimmy Carter and former Secretary of State James Baker. The report issued by the commission in 2005, said this about absentee ballots, "Absentee ballots remain the largest source of potential voter fraud." That's what the bipartisan commission chaired by President Carter and Secretary Baker said, "Absentee ballots remain the largest source of potential voter fraud." The bipartisan report noted the increased vulnerability of citizens who vote at home, at nursing homes and elsewhere. In the words of the commission, these voters are more susceptible to pressure, overt or subtle or to intimidation. The commission also noted the difficulty in detecting outright vote buying schemes. To thwart this form of voter fraud, the commission recommended this, quote, State and local jurisdictions should prohibit a person from handling absentee ballots other than the

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voter, an acknowledged family member, the U.S. Postal Service or other legitimate shipper or election officials. End quote. Two dozen states or so have limitations on who's allowed to return ballots. At least one state permits no one but the voter to do so. There are many stories of ballot harvesting in other states. It has occurred in our state, though, to our knowledge, not on a large scale. So people ask why address this? Maybe it's a problem elsewhere, but not here. And, Senators, the answer to that question is simple. An ounce of prevention is worth a pound of cure. If we wait for our voting systems to become hopelessly corrupted before we act, we will never rid ourselves of the corruption. The best way, the only way to protect our elections is to stay ahead of the curve. I thank you for your time and attention. I hope that you'll vote LB362 onto the floor. I would like to mention as well that there are, there are concerns that have been raised in our discussions with county election officials about the enforcement of this provision. And I'm going to continue to work with county election officials so that we have a, a good mechanism for enforcement. At this point, I do think that it is important. And, and if, if it's possible to do so, we may ask that the bill be amended in that respect. But at this point, I think it's important that we do have this restriction on the books. So thank you. I'd be happy to take any questions.

SANDERS: Thank you, Secretary Evnen. Senator Blood.

BLOOD: Thank you, Senator Sanders. So the question I have is the quote that you just used, because I want to make sure we get this on record. So the quote that you used-- I'm going through my notes, that's why I'm looking at my computer. So I apologize. Are you aware that Jimmy Carter pushed back on Attorney General Barr and the White House's use of that quote in that study after that was released when Trump was fighting against alleged fraud, that Carter did point out that that is no longer the case. And in fact, the Carter Center now endorses the use of mail-in ballots. Were you aware of that?

BOB EVNEN: Well, I don't think there's anything-- I wasn't aware of that, but I don't think there's anything wrong with the use of mail-in ballots. I have never come before this body or any other and said, let's eliminate mail-in ballots.

BLOOD: No, but you did say that there were--

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BOB EVNEN: The question is how-- the, the, the point remains, however, that as we have these mechanisms for casting votes, it is crucial that we have adequate security measures in place to prevent their abuse.

BLOOD: Right, which is exactly what President Carter now says is that the safeguards, safeguards have been put into place for ballot integrity and that, that there's little, if any, evidence of voter fraud now.

BOB EVNEN: Well, that's-- that, that-- I, I would agree that this is such a safeguard. This is a safeguard that his committee recommended.

BLOOD: Right, and was action not taken after that recommendation back in 2005 to, to eliminate those concerns?

BOB EVNEN: No, there's no-- there's nothing on the books in Nebraska that prohibits ballot harvesting. That's why I'm here.

BLOOD: All right. I'm not sure we're communicating correctly here in what, what I'm asking and what you're responding to.

BOB EVNEN: OK. I'm sorry. I, I-- maybe I misunderstood you, Senator.

BLOOD: No, and, and maybe how I'm asking, too. It's not really good communication for me to be looking at my computer and trying to talk to you. So I apologize. So, so you use that as a quote for the reasoning that we need to have this bill. And my concern is that the research that you referred back to in 2005 is no longer consistent with what members of that particular committee are saying now. That's my concern. And I was curious if you were aware that he had since, since rescinded that.

BOB EVNEN: I don't think that he's rescinded it. I think that what he said is that those concerns have been addressed. And that's what I'm seeking here, is, is for us to address those concerns in this particular manner.

BLOOD: All right. Fair enough.

SANDERS: Senator McCallister.

McCOLLISTER: McCallister.

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SANDERS: McCollister.

McCOLLISTER: Thank you, Senator. Maybe I missed it. Can you define harvesting, ballot harvesting?

BOB EVNEN: Well, it's-- it-- it's a practice in which a partisan will go out and collect ballots from a number of voters. And in the process of collecting the ballots attempt to affect the way that those ballots are cast and it is also the selective collection of those ballots. So the, the response to this is to limit the number of ballots. Just as we limit the number of ballots that any one person can go in and get on behalf of another person, we limit the number of ballots that they can return.

McCOLLISTER: OK, to that point, you say authorized by a voter.

BOB EVNEN: Right.

McCOLLISTER: So how does a voter authorize somebody else to pick up their ballot? Is that-- do I have the use of the word right?

BOB EVNEN: Yeah, well, the authorization that I would contemplate in an early ballot situation, which is the only situation that arises is that the person who's authorized would put their name on the envelope. We have a place for them to put their name on the envelope.

McCOLLISTER: Even though that may not be the voter?

BOB EVNEN: No, it's-- the point is the voter still signs the envelope. It's in addition to the voter's signature.

McCOLLISTER: And that's--

BOB EVNEN: Here's this, here's this agent who certifies that they are authorized to return this ballot on behalf of the voter and they write their name and they sign their name.

McCOLLISTER: Is there a record somewhere, an election commissioner with those authorization?

BOB EVNEN: There would be. There's a record that, that election commissioners keep now of people who come in to obtain ballots.

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McCOLLISTER: For a third party.

BOB EVNEN: Right. So they keep a log of those people. And this would be a similar log of people who return them.

McCOLLISTER: And you also mentioned enforcement as being an issue. In Douglas County, I know for a fact there are, there are boxes--

BOB EVNEN: Right.

McCOLLISTER: --stationed around the community.

BOB EVNEN: Right.

McCOLLISTER: So how would you know whether or not a person is bringing in a single ballot or 20?

BOB EVNEN: Well, one, one step in that direction is to have their name and signature on the return envelope.

McCOLLISTER: That, that, that so-called agent?

BOB EVNEN: Correct.

McCOLLISTER: OK, but how would you know if, if an agent brought in 20 and just simply failed to, to put that notice on the envelope?

BOB EVNEN: Well--

McCOLLISTER: But you would never know.

BOB EVNEN: Yeah, these are issues that we have to work through.

McCOLLISTER: I see. And--

BOB EVNEN: That would be cheating, Senator.

McCOLLISTER: Yeah.

BOB EVNEN: That, that would be--

McCOLLISTER: And it's not cheating now?

BOB EVNEN: It is not.

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McCOLLISTER: And that's--

BOB EVNEN: There's no restriction now in this respect.

McCOLLISTER: I see. And we're, we're not sure if it's a problem or not?

BOB EVNEN: Well, we've seen it. We know that it's occurred and we know that it's occurred in other jurisdictions.

McCOLLISTER: Have you seen it in Nebraska?

BOB EVNEN: Yes. Oh, yes, it's occurred here.

McCOLLISTER: Can you cite some examples?

BOB EVNEN: Sure. There was a, a bond issue in the, in the Millard schools where proponents of the bond stood out on the corner and collected ballots from people by the schools. That's, that's vote harvesting. There was an example at a campaign rally for a presidential candidate in the 2020 election where, where ballots were collected and then brought in to the election commissioner. That's an example of it.

McCOLLISTER: [INAUDIBLE]

BOB EVNEN: There was another example that-- that's under investigation by the, by the Nebraska Attorney General in connection with, with a federal campaign that's related to this.

McCOLLISTER: Are you free to give the details?

BOB EVNEN: I don't think-- no, I would-- I don't, I don't think so because it's under investigation by the Attorney General.

McCOLLISTER: OK, thank you, Mr. Secretary.

SANDERS: Thank you, Senator McCollister. Senator Hansen.

M. HANSEN: Thank you. Thank you, Senator Sanders. Secretary Evnen, just to clarify. So when you talk about ballot harvesting, you used [INAUDIBLE].

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BOB EVNEN: I should, I should, Senator-- and I apologize for interrupting you. I really shouldn't use that term.

M. HANSEN: OK.

BOB EVNEN: Because it's a loaded term and I, and I don't, I don't want to load this one up.

M. HANSEN: Well, that's, that's where, that's where I'm trying to, to clarify what you mean, because at one point you implied that harvesting inherently was tied to some sort of manipulating or selecting of ballots as opposed to, say, just offering to run it over to the post office. So the situations that you're describing are just-- or the situations you've described, the example you described just, where people basically had a, a, a basket where they collected them and then all took them to the election commissioner or drop box, as opposed to ripping open envelopes and rifling through them. Are those--

BOB EVNEN: I don't know about ripping open envelopes, but, but this is the-- I, I agree with what the bipartisan report suggested about the potentials for abuse with respect to absentee ballots, generally. They, they open things up. We, we lose control of the ballot. When we put a ballot in the mail, we lose control over it, and in a way that we don't lose control at the polls. We don't really know what happens to it. We don't know where it goes or who's handling it or when it comes back. We have one, we have one place of, of, of control and that's checking the signatures. This is, this is a way, this is a way of reducing a, a potential avenue of abuse.

M. HANSEN: To put a point on it, I guess, just to be adequate, if, if I follow all of your statements that you've made here today, you've basically accused the President Trump campaign of manipulating ballots at their drop box because you said ballot harvesting is inherently a problematic and self-selecting. And you've also said that they did that. So that's what I'm trying to get you to clarify.

BOB EVNEN: Yeah, it's-- it-- what, what was done was completely lawful.

M. HANSEN: OK.

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BOB EVNEN: It, it was a practice that our state law doesn't prohibit. I don't know that there was any particular manipulation that went on in that particular effort. But that's an example of vote harvesting, if you want to call it that. I hate the term.

M. HANSEN: Sure.

BOB EVNEN: You know, we wind up trying to have shorthand notations for, for certain things that happen. And those terms wind up getting heavily laden and totally loaded in ways that-- and so, you know, help me out with another term. I'd be happy to adopt some other nonloaded term. The point is that that sort of conduct, I'm not saying that it occurred then, but that sort of conduct can lend itself to abuse. And the best way to address it, in my view, is just not let anybody do that anymore.

M. HANSEN: OK. And I guess I was not critiquing your term so much, just wanted to make sure that the term you were using was consistent throughout your testimony. So I appreciate you clarifying that at the end. Thank you.

SANDERS: Thank you, Senator Hansen. Senator McCollister.

McCOLLISTER: Thank you. We talked about enforcement. I don't see any penalties in this bill that would, that would address this issue of vote, vote harvesting by some, some person conducting that kind of effort.

BOB EVNEN: There's a general penalty for violating the Election Act. There's a general penalty section that I think would apply to this. But I, I would say that the enforcement side of this concept is one that we need to further refine.

McCOLLISTER: Is this bill ready for prime time, as they say, without that, without that being better explained?

BOB EVNEN: Oh, I think it is. I think that we can, we can take this in steps and, and continue to refine it. I would prefer to continue to work with the counties on refining this in ways that we could potentially ask the committee to consider, ask Senator Halloran to consider in terms of amendment.

McCOLLISTER: Thank you.

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SANDERS: Thank you, Senator McCollister. Senator Lowe.

LOWE: Thank you, temporary Chair. And thank you, Secretary Evnen, for being here today. How are retirement homes handled where people are pretty much confined to a single space and it's just hard for them to get out?

BOB EVNEN: Yeah. Well, most retirement homes have mailboxes, so it's not a difficult thing for a, a resident of a retirement home to put their early ballot in the mail. Retirement homes in, you know, in pre-COVID times and hopefully in post-COVID times, which I hope and pray will be soon, then relatives can come in and pick up, you know, a, a, a son or a daughter can come up and pick up the parents' ballots and turn them in. Some-- there are some practices in retirement homes where the retirement home itself is in the business of collecting ballots, and that's something that I would want to know more about before I would say that's OK. Because that once again, we, we want to think of that as a benign practice. But there's-- but you want to look at that.

LOWE: Yeah, you know, I, I, I know several people in a retirement home and their family doesn't come to visit, so I, I think that's an important part that we need to think about when, when you're analyzing this.

BOB EVNEN: I agree and I appreciate you bringing that up.

LOWE: I'm, I'm, I'm getting there to that age myself one of these days.

BOB EVNEN: Senator, I would hate to be in the position of having to dispute you about that or any other topic.

SANDERS: Thank you, Senator Lowe. Are there others? Seeing none, thank you, Secretary Evnen.

BOB EVNEN: Thank you, Senator.

SANDERS: Are there any proponents? Any opponents?

WESTIN MILLER: Senator Sanders, members of the committee, my name is Westin Miller, W-e-s-t-i-n M-i-l-l-e-r. I'm the director of public policy with Civic Nebraska. I am here to express Civic Nebraska's

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opposition to LB362. I do want to start, though, by sincerely thanking Senator Halloran for bringing this bill because we actually agree wholeheartedly with the premise behind the bill. It's the implementation we have concerns with. Our current ballot return system does absolutely need to be changed, needs to be improved. There is irrefutable evidence from states like North Carolina that campaigns can and will try to exploit a system that neither allows voters to track their ballot nor have any sort of regulation on that collection. Having said that, it might be strange that I'm opposing this bill, but I do have two reasons, so let me get into those really quickly. The first is that we need a plan before we pass any sort of change like this. We need a plan to address the impact this change will have on our current ballot collection process. Most voters do not use a third party to return their ballots. Most of us do it in person or by mail or by drop box. But for those who do use a third party, it's usually an essential option. I'm talking about homebound voters. I'm talking about voters who can't drive. I'm talking about voters who have unexpected circumstances the day of a deadline. Those are the folks who will be affected. And I think this is not a forever obstacle to LB362. I think we could create a plan to mitigate that. It would be pretty complicated, but we could give it a try. Until we do that, though, I think that's something to seriously consider before advancing this bill. Secondly, and most importantly, I think especially given the consequences I just mentioned, we simply think there's a better way to accomplish the same goal that LB362 seeks to accomplish. The reason that the bad actors in North Carolina, for example, were able to just about get away with their election fraud was because voters in North Carolina had no way of knowing that something was going on in the first place. In other places and other cities, other counties, some other states, this problem would have been flagged immediately because the state or the city had a robust ballot tracking system. In North Carolina, the voters just gave their ballot to a stranger. And that was pretty much the end of the conversation. They had no way of following up with that measure. Now if we integrate our ballots with-- and our envelopes, I will clarify from this morning with USPS smart tracking technology, you can track your ballot like you track a package. You can get proactively notified when your ballot is sent to you. You can get notified when your ballot is received by the election commissioner and when it's officially counted. Or if it's rejected, you can be notified with instructions, almost certainly because you forgot to sign the envelope, telling you

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how to get that problem solved. Secretary Evnen said that the central issue here is that we lose control of the ballot. I would agree. I would simply maybe phrase it as the central question here is where is my ballot? I think voters should be able to answer that question at all stages of the process. Senator McCollister, you asked Brian Kruse earlier, correctly that we, we do have a system, but if you don't know how to use it, it's not very helpful to you. I can track my ballot because I know where the website is and I do this for a living. So I don't mind checking it four times a day. It's not actively promoted and our current system does not proactively notify you, which is an essential change. It also doesn't offer you instructions for how to cure a rejected ballot. So again, I really do appreciate this conversation. I think it's important. I appreciate Senator Halloran for bringing an election's bill, for which there is absolutely an evidence-based problem. I just think the solution in this case is helping voters answer the question, where is my ballot? And if they can answer that, then this kind of manipulation will never get out of control in the first place. Thanks for your time, and I'd be happy to answer any questions.

SANDERS: Are there any questions for Mr. Westin-- Westin Miller? I see none.

WESTIN MILLER: OK, thank you.

SANDERS: Thank you very much. Are there any other opponents?

DANIELLE CONRAD: Hello. Good afternoon. My name's Danielle Conrad. It's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. I'm here today on behalf of the ACLU of Nebraska. Want to thank, temporary Chair, I guess is the official title we're saying, Senator Sanders and members of the committee. Also thanks to Senator Halloran for the opportunity to bring forward this issue and, and have a full vetting by our process in our Legislature. So the ACLU is a stalwart protector of voting rights and has particular concerns about facilitating the right to participate in our democracy for vulnerable populations, voters of color, voters with disabilities, young people, rural voters, military voters who historically have faced a lot of barriers and challenges to participating in, in our process. And I think it's incumbent upon all of us to remove barriers to participation in, in voting rather than to erect new walls and challenges. I think that it really needs to be crystal clear in regards to this question. I agree with the Secretary

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and I'm glad to see he had a change of heart today that ballot harvesting is not an appropriate term, even though he used it very frequently throughout the past year, including, you know, making comments about that to Channel 3 News on October 15, while also in the same breath acknowledging there is no misuse of this practice in Nebraska. Then again to the Omaha World-Herald on October 1 of this year. So I think let's call it what it is, it's ballot collection and ballot collection is important, particularly for vulnerable populations. It's been used a lot for indigenous voters. It's been used for rural voters and particularly for people that are far away from the polls or the ballot boxes or that might have a last-minute emergency in their ability to return the ballot. And they need to tap a friend or a trusted community partner to help them participate to ensure that their voice is heard. So again, we already have a host of laws and penalties on the books for people who are bad actors in our democratic system. Those are appropriate deterrents to protect our system. This measure, I think, raises significant questions about enforcement that we, we definitely would want to learn more about. But then again, to put a clear point on it, we have to stop perpetuating myths about fraud in our, our voting system. We have to stop perpetuating myths about misuse of, of our ballots because it undermines our democracy and it mist-- and it breeds mistrust in the system. And that is wrong. And the facts are clear and it is incumbent upon state leaders and state thought, thought, thought leaders to speak clearly and unequivocally and say, we have fair and free elections, we run safe elections. Your vote matters, your vote counts, your vote is safe. And anything that undermines that is wrong. And we've got to call that out very, very clearly and specifically. There is-- there have-- other states have moved in this direction. There has been civil rights litigation around laws like this coming through the Ninth Circuit, for example. I believe that's pending at the Supreme Court right now. So it would definitely behoove this body to wait and see what the resolution of that might be. And I know that there has been litigation in Montana as well, in particular, as applied to indigenous voters. So this is something that I think you need to proceed very, very cautiously with. And just because there were anecdotal examples in another state years ago that were identified by the current processes, I think we should be very cautious about putting restrictions on voter participation in Nebraska because of that incident that was caught and that was appropriately dealt with. So with that, I think it's also just really troubling. The Secretary

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of State, you know, is, is making a lot of concerning claims about this practice. But then in the same breath is counseling a presidential campaign for how to do this this fall. And that's not my opinion. That's documented, again, in the news. So we're always happy to work with all stakeholders to improve our system. But, but we have to be honest and start with the same set of facts. And that's our democracy matters, our democracy is safe. Thank you so much.

SANDERS: Questions for-- Senator McCollister.

McCOLLISTER: Yeah, thank you, Senator Sanders. In an effort to control such vices as this, cities often reduce the number of drop boxes to virtually zero just so they can actually see the votes coming in. I think it was at Houston that ended up with one drop box in order to, to control these perceived issues. Can, can you speak to that?

DANIELLE CONRAD: Yeah, I, I think that that raised a lot of concerns when we were all reading those, those headlines. And I think that we, we all appreciate and understand that our hardworking election officials were under a lot of pressure this year in the pandemic to try and, and figure out how to facilitate, you know, a huge interest in the presidential race and local races of course. And any time that you're removing opportunities for participation, it's going to raise concerns about voter suppression. And you have to look carefully about where those things are happening. Are they in neighbors-- are they in neighborhoods where, say, for example, they're predominantly black voters or voters of color? And I think that just the sheer volume of what was happening in that instance in Texas raised a lot of flags. I think it was subject to litigation. There were a host of additional developments after that point. But I think it was perhaps even Senator Brewer years-- maybe a couple of years ago, Dick, has said maybe I'm on the right track here that had legislation put forward that says in Nebraska every county has got to have at least one ballot box out there so that people can return, you know, in a real accessible way, which is a great commonsense idea to set that, that kind of minimum threshold. And then, of course, many of our counties actually go far above and beyond that, providing a lot of creative and innovative and accessible ideas. And, you know, libraries, for example, I, I think was one that popped up in our community here recently, which also kind of raises the question about enforcement here, like, are you going to have an armed guard at each of those ballot boxes, like, checking to see who's dropping off ballots for who? I mean, I, I think the one

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thing we agree on with Secretary Evnen in this regard is ballot should-- voters should not give their ballot to somebody they don't trust. But there's a lot of people in our life that we do trust that are trying to help us vote. And we don't want to-- we got to strike the right balance there.

McCOLLISTER: The Secretary brought up an issue that, that is worth discussing. Is there a jurisdiction that you're aware that's addressed this issue in a way better than we're looking at?

DANIELLE CONRAD: Yeah, I think that we can always learn from the great laboratories of democracy that are our sister states. And it's my understanding that, you know, that states fall into basically, let's say, like three buckets in terms of how they approach this. States like Nebraska, I think 1 of about 13 that are, are silent on the, the legal infrastructure around ballot collection. There's, I think, one very restrictive state like Alabama that only the voter themselves can return the ballot. And then there's a, a host of kind of states in the middle that have some restrictions on who can return ballots for folks. Sometimes it is partisan actors, but a lot of times it's, it's trusted friends, neighbors, good government groups might happen in the, the nursing home situation that Senator Lowe rightly brought forward. So we just-- we got to be careful there. But we also shouldn't run to address, you know, craft solutions in, in search of a problem kind of thing. You'll hear that a lot. Right? And I think that this is like a, a classic example of that. The Secretary, the Governor note that this isn't a problem in Nebraska, but yet are rushing forward to address it and restrict participation in the process. That's, that's concerning.

McCOLLISTER: Yeah, is the cure worse than the--

DANIELLE CONRAD: Yeah. Yeah, you got it.

McCOLLISTER: Thank you.

DANIELLE CONRAD: Yeah.

SANDERS: Thank you, Senator McCollister. Senator Hunt.

HUNT: Thank you, Senator Sanders. Speaking kind of to that solution in search of a problem.

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DANIELLE CONRAD: Thank you. I was a little jumbled there.

HUNT: Do you, do you remember last year when I reached out to you after that news story came out about the Trump campaign collecting ballots at the rally in Omaha? And I said, is this legal? Is this right? Like, should something be done about this? And we went back and forth with it a couple of times and you did bring up those examples of the, the underrepresented and disadvantaged groups that have trouble getting their ballots in for whatever reason. And can you speak to some of that?

DANIELLE CONRAD: Yeah, exactly. I mean, I think it--

HUNT: Because I, I feel like I was on the precipice of basically bringing this bill. I got talked out of it.

DANIELLE CONRAD: Right, right, right, right, right. And I, I, I think it's, you know, elections are, are always a really stressful time. Right? Because the stakes are high and we all feel really passionate about our, our candidates and, and want to see them succeed. But I think what was really concerning about the example that we saw pop up in Omaha this fall was a couple of things. The fact that the campaign was involved in ballot collection in and of itself is not a problem. But they put out multiple communications that said they had official ballot boxes from Douglas and Sarpy County, and that raised a ton of red flags because that really would be quite unprecedented, actually, right, to have official election officials coordinating to gather ballots at a campaign rally. Like that-- so I think that, that that was a huge problem. And the other thing that was confusing, of course, was that, you know, there was voters coming in from all over the state to, to see the candidate that they were excited about. So, you know, I think it, it could have been problematic, say, if you're driving in from Cherry County and then they saying, like, bring your ballot. But we've only got ballots for Douglas and Sarpy County. They're like, how do we ensure that those get back to the right place kind of thing. It just-- I think it was problematic that it was billed as official gathering point. It was not. I think it lacked clarity for voters, particularly outside of the metro area. And I think it was just really concerning because it's a classic, like, do what I say, not what I do. When the Secretary is saying this practice is bad, this practice is bad, this practice is bad, and then is counseling the campaign on how to do it. And then, you know, there's existing penalties if you

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mislead people about the official nature of your engagement in the ballot process. To the best of my knowledge, I don't think anything was ever pursued in that regard, which, again, undermines the sense of fairness in the system when one party is treated differently than others. And that's, that's a real problem.

HUNT: Thank you.

SANDERS: Thank you, Senator Hunt. Senator Lowe.

LOWE: Thank you, Danielle, for being here,--

DANIELLE CONRAD: Good to see you.

LOWE: --and for explaining some of these things to us. And I like the term ballot collection--

DANIELLE CONRAD: Me too.

LOWE: --better than the ballot harvest. It's a much more acceptable term, I think. So as far as ballot collection, how many ballots can a person collect and then bring them to a ballot box or to an election official?

DANIELLE CONRAD: Yeah, let me, let me do my best there, Senator Lowe. And I know it's so strange, I mean, because words do matter. But here we are in Nebraska, we, we love the word harvest. Right? Like that's something that's so familiar to our lexicon. But I do think ballot collection is, is a better description for it. I, I don't know how many ballots are returned under this method in Nebraska, but I think that there is a little confusion sometimes in conflation between the rules for what we call being an agent for, for a voter, where the agent says, I, you know, I can't get in for-- or the voter says, I can't get in for whatever reason. I'm going to designate Senator Lowe or my niece or my hospice worker to go in to the election commissioner, get me a ballot, bring it. I vote, they take it back in. So that kind of process is regulated. There's restrictions for campaigners can't, can't get involved in that unless it's their family member. I think it's restricted to two voters that you can serve as if you're doing that official agent work. But this is a little different than agent work. This is the voter themselves had already secured the ballot and just need help getting it back in. So that's maybe clear as mud, but I think they're similar, but also different. Yeah.

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LOWE: This would still allow for that, wouldn't it?

DANIELLE CONRAD: I, I, I think so. I think, I think that it would allow--

LOWE: For up to two.

DANIELLE CONRAD: --for the existing agent provisions to continue forward. Yeah.

LOWE: So but as far as collection wise, if you're collecting ballots that are already sent out, how many can a person at this time collect?

DANIELLE CONRAD: I don't think that they're-- I, I think Nebraska law is silent on that. Yeah.

LOWE: Doesn't that seem to be a problem too, though?

DANIELLE CONRAD: I don't, I don't know. I'd like to think more about that and explore more about how other states go about that. But say, for example, like whenever you draw a line, it, it can be arbitrary. Right? So we'd hate to have the limit set at 10, and then the 11th person at the nursing home in Kearney doesn't get their ballot returned, especially if there's no nefarious behavior underneath there. Right? So I think that we need to, to perhaps just maybe hit the pause button here and all learn a little bit more about how other states handle this and see if we could strike a better balance.

LOWE: When my father drew a line, it was not arbitrary. It was pretty much solid black line. The-- you know, you, you said-- mentioned several times that you want to help a friend out and you want to be able to help them out when they call and ask for your help. I think this still covers that where you can still go get that friend's ballot and they make you the, the person that can turn it in. That's perfectly fine. That's still covered in this. But what's not covered in this is you-- a nursing home says, hey, come and get our ballots. You come and get the ballots. That would be a problem. But every nursing home has a, a mailbox so it would just be that day of the election would pretty much or that whatever the time period is, the three or the four--

DANIELLE CONRAD: Right.

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LOWE: --would, would be the problem.

DANIELLE CONRAD: Yeah, and I, I think that you, you really did a great job identifying, you know, just some of the, the questions about potential implementation because say, for example, a, a voter has the best intentions to, to get their ballot back on their own and then for whatever reason, a crisis pops up or an unexpected emergency or the car breaks down and you're out in a rural county or I don't know what it could be, but we'd hate to put unnecessary restrictions on that voter's ability to ask somebody for help that they trust to vote in those kinds of exigent situations when the clock's running. Right? I think the agent opportunity is a little bit different. Right? When you have a little bit more time to plan, you know you're not going to be able to vote in the other ways or return it on your own. So then you can document all of that with the, the agent kind of piece. So there's probably a happy medium out there someplace that I think we could-- all these smart people here could, could work together to figure out.

LOWE: All right, thank you very much.

DANIELLE CONRAD: Yeah.

SANDERS: Thank you, Senator Lowe. Are there others? Seeing none,--

DANIELLE CONRAD: Thank you so much. Good to see you.

SANDERS: --thank you.

DANIELLE CONRAD: I promise I'll only bug you one more time today.

SANDERS: Are there any other opponents?

EDISON McDONALD: Hello, my name is Edison McDonald and I'm the executive director for the Arc of Nebraska. E-d-i-s-o-n M-c-D-o-n-a-l-d. We're a nonprofit with 1,500 members covering the state. The Arc promotes and protects the human rights of people with intellectual and developmental disabilities and actively supports their full inclusion and participation in the community throughout their lifetimes. We oppose LB362 because we believe it will discourage participation in our electoral process by people with disabilities. In 2018, the Secretary of State's office asked us, along with several other organizations, how to prioritize HAVA, or Help America Vote Act, funding and what locations needed further modifications. We had a

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handful of answers, but wanted to expand our data set to really better answer the questions. So in partnership with Civic Nebraska and other organizations, we worked to collect data on a variety of sites. I've handed out to you all the 2018 report. We're still working on compiling and analyzing all of the 2020 data. We ended up with what is now the most comprehensive data set on election accessibility in the nation. We then worked with the committee to clarify and improve statutory definitions passed in LB733 and amended into LB411 to improve accessibility based upon this data. And thanks to the Secretary of State and thanks to this committee, I can tell you that there was significant "improvals" across the state in terms of accessibility of our polling locations that previous-- well, do still have a great many barriers. The onset of COVID heightened the importance of ensuring accessibility and alternative options like vote by mail and ensuring that we could help get people's ballots in. We have to thank the Secretary of State's office for their proactive outreach to stakeholders to discuss modifications in a safe and accessible fashion. This led to significant amendments that helped to ensure a greater number of individuals with disabilities had the ability to vote. While we are still analyzing that 2020 data, I do really think that that-- those modifications helped significantly in the area of 5 to 10 percent "improvals" in compliance across the state from what we've seen and in particular in terms of privacy, we saw a significant spike in terms of the privacy protections for people with disabilities. We're concerned that LB362 will place limitations on our ability to help our members vote and on community members who will help to provide key opportunities for inclusion. In particular, this will limit our capability to help our members, and particularly we're worried about direct service professionals who are frequently called to help, like the earlier example of the nursing home. We've appreciated the collaborative nature of this committee and the Secretary of State's office to help improve accessibility. However, we're concerned that if we see legislation like this passing, that we're going to see continuing increased issues with making sure that we're compliant with the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and the Help America Vote Act. Just kind of off of a quick number run off of what that would look like. We counted up 171 violations of those 3 acts of federal law in this last election. Average cost of those is about \$45,000 per violation. So quickly you can run up a, a pretty large ticket there if we don't have these alternative accessible tools available. When you don't have a

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site, some of the best tools available are those allowing people for ballot collection, allowing for accessible vote by mail, and allowing for curbside voting. With that, I'll stop and answer any questions.

SANDERS: Thank you. Are there any questions? Seeing none, thank you very much. Are there any other opponents? See none. Neutral? Do we announce it now? OK. We did have one opponent, Meg M-i-k-o-l-a-j-c-z-y-k from Planned Parenthood, an opponent.

DAVID SHIVELY: Good afternoon, Senator Sanders and members of the 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 also serve as co-chair of the Election Law Committee of the Nebraska Association of Clerks, Register of Deeds and Election Commissioners. I am here today in a neutral capacity on LB362. My comments on this legislation are going to be very brief. LB362 as drafted would limit the number of early vote ballots that one voter may return on behalf of another voter. All the members of our association understand the concerns that have been raised by the supporters of this legislation. Our concerns are on how election commissioners and county clerks would enforce the practice. It's not in my statement, but we'd be more than happy to work with the Secretary and members of the committee on anything that they might think would help this out. But that's our concern as drafted. We don't understand the enforcement part of this, and that would be probably our responsibility.

SANDERS: Thank you. Senator McCollister.

McCOLLISTER: Yeah, thank you. Thank you for coming this afternoon. Would it be fair to say you think the ball is in the Secretary of State's court to resolve this issue before we move forward?

DAVID SHIVELY: I think it would be a combination of all, all the players in, in this. You know, this bill was brought by the Secretary of State so certainly that's where it would start. But I think all of us would play a part in that.

McCOLLISTER: Thank you for your testimony.

SANDERS: Thank you. Are there others? Seeing none, thank you very much. Are there others that would like to testify in the neutral? Thank you.

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BETH BAZYN FERRELL: Good afternoon, Senator Sanders, 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 neutral on LB362. Our concerns are the same ones that, that Mr. Shively had pointed out. They deal really with the enforcement and how election commissioners would work with that. We would be happy to work with Senator Halloran, Secretary of State, and the election commissioners. And if there's a way we can figure out how to make things work, we'd be glad to be a part of that.

SANDERS: Thank you. Are there any questions? Seeing none, thank you. Are there others that would like to testify in the neutral? See none. We do have position letters, seven proponents and five opponents and zero in the neutral. Senator Halloran to close.

HALLORAN: Thank you, Senator Sanders. I can see now I've got to eliminate one more word in my politically incorrect lexicon when I go back this next fall to harvest by corn. I will now be collecting my corn. And I'm not saying that to be cynical, but, but sometimes words are important, sometimes they don't make any difference. If it's the word that defines the same practice, it's the same practice. I think if we could go time travel back in time and look at all the, the laws that have been put in place by past Legislatures that center around keeping the election process, the integrity of the election process in place, some of those laws were put in place because they found a problem and they fixed it. Some of those laws were put in place because they anticipated a problem and they fixed it. This, this is not a referendum on, on early voting or absentee voting, but that's a trend. It's, it's been demonstrated that that's a growing trend. And as, as Mr. Evnen said, a pound of cure is worth is, is, is, is more than-- a pound of prevention, I should say, is more than a pound of cure. It's just like anything we do if we can prevent something from becoming a problem, it's, it's worth looking into. And I think most of our laws that are in place that we're all very proud of, having protected the integrity of our voting process, were put in place in the same fashion. This, this bill, what it, what it does is it mirrors-- it's a mirror's image of what we have in statute now on picking up ballots and delivering them-- limiting them to two people, or two registered voters. And it's a mirror's image of that for delivering the ballot. This is not some kind of conspiracy, it's, it's a pretty much straight out commonsense approach to an issue. There has been some problems that have been brought up or suggestions that they

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may be problems and they clearly could be. And I'm, I'm confident that, that we can remedy those in conjunction with those people that brought those problems to our attention. I would like to assure the ACLU that there will not be armed guards at the collection boxes to ensure that the agent signatures [INAUDIBLE]. I think it's signatures agent on the ballot would be something that could be quantified and tracked to make sure that they're not bringing in more than two ballots. This isn't rocket science. I think it can be done. And I think it's something we should anticipate, we should anticipate with a growing trend of absentee ballots and, and with the voting by mail. In any fashion, I think it anticipates, anticipates a potential problem that we should, should, should look into remedying. Mirror-- mirroring, mirroring the, the, the, the laws that are in place, I think is a wise thing to do. And we will, we will work to remedy the issues that were brought up and, and bring it back in the form of amendments. So if there's any questions, I would be glad to try to address those.

SANDERS: Thank you, Senator Halloran. Senator Blood.

BLOOD: Thank you, Senator Sanders. After hearing Senator Lowe and hearing some the conversation and rereading the bill, I finally have a question on this bill. So help me get my head wrapped around this. How is collecting a ballot from Grandma Moses down the street and taking it to the ballot on her behalf, different than taking ballots from Grandma Moses and taking them to the mailbox? Why-- how are they different? Because I'm not-- I'm a little-- I'm not sure that's really defined in the bill. So lots of times, as candidates know, I'm sure, they'll get calls and say, you know, oh, I just, I just had hernia surgery. I'm actually using a real example. I actually had to just have hernia surgery. I don't have any stamps. I want to get this in the mailbox. Can you take this to the post office? So, so I'm not clear in this bill, if there's a difference, should there be a difference? Can you kind of walk me through this? What's the difference between me taking them physically to the ballot box at, say, Sarpy County Election Commission Office or me driving to the Bellevue Post Office and dropping them in the mail on behalf of those folks?

HALLORAN: Right. Senator Blood, I don't think there would be any difference what this bill would be proposing and Secretary Evnen can-- he won't have a chance to come up and clarify this, but my

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understanding would be that there would be an agent, a location on the ballot that says so-and-so is my agent to do this. And then that-- so whether they're dropped at any location doesn't matter.

BLOOD: So does it matter if it's via mail or be a--

HALLORAN: No.

BLOOD: --ballot box?

HALLORAN: But it-- but on--

BLOOD: How will you know that?

HALLORAN: But on the-- well, on the ballot, it will have a signature for the agent. Right? And those names will be collected, tracked so that if there's more than two, then, then that's a problem.

BLOOD: OK. So I'm not sure it's clear in the bill that they can also mail them. So that might be something we want to talk about later.

HALLORAN: OK.

BLOOD: All right. Thank you.

HALLORAN: All right. Thanks, Senator.

SANDERS: Senator McCollister.

McCOLLISTER: Yeah. But the post office itself is not an agent, correct?

HALLORAN: No, that's correct.

McCOLLISTER: And so you'd see evidence of their efforts in delivering the ballot by the stamp is, is indicator or a postmark on the stamp or the envelope, correct?

HALLORAN: Right.

McCOLLISTER: OK, thank you.

SANDERS: Senator Lowe.

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LOWE: Thank you. Thank you, Senator Halloran. There's nothing in this bill that if I got sick, my wife got sick, I call a friend up, say, hey, tomorrow's the election day. I can't make it down. Can you come and get my ballot? And he comes and grabs my ballot and takes them to the post office or to the ballot box, there's nothing in this bill that would stop that.

HALLORAN: To my understanding, no.

LOWE: Unless he's collecting for the neighborhood who was all sick, it, it would be limited to just the two.

HALLORAN: Correct. And then it's-- yes. And we won't, we won't get into the lexicon of, of describing what that practice would be, but, yeah, that would not be right. I'm glad you asked a question, because, Senator Lowe, if you end up in a nursing home, I'd be glad to be your agent to deliver your ballot.

LOWE: I'm going to think twice.

SANDERS: Thank you, Senator Lowe. Are there others? Thank you, Senator Halloran.

HALLORAN: Thank you, Senator Sanders. Thank you, committee.

SANDERS: Closes LB362. Oh, yes, we do have written testimony. No these-- here-- we have written position letters, seven proponents, five opponents, and zero neutral. I think we're set for LB11. Welcome, Senator Blood. Welcome.

BLOOD: Well, good afternoon to the members of the Government, Military and Veterans Affairs Committee. My name is Senator Carol Blood and I represent District 3, which is western Bellevue and southeastern Papillion, Nebraska. My name is spelled C-a-r-o-l, B as in boy -l-o-o-d as in dog. And I appreciate, appreciate the opportunity to speak to you today about LB11. So LB11 does several simple things. So first, LB11 adds a permanent vote-by-mail request on the vote-by-mail request card. Currently, several counties have, have and maintain a permanent list by mail. That's redundant. Maintained a permanent vote-by-mail list. This bill simply includes the addition of a box offering the opportunity for voters to request their name be placed on a permanent vote-by-mail list available to their respective county election commission. After checking this box, a voter is added to a

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list of voters in the same county who have opted in to receive a vote-by-mail application each election cycle. This more visibly makes the Nebraska allowable option of vote by mail accessible to those wishing to use it. Secondly, LB11 provides for consistency across Nebraska. It standardizes the vote-by-mail applications, making it easier and less confusing for voters to request a vote-by-mail application. Uniformity for state ballots, driver's licenses and other government documents and applications to receive them ensure that we provide clarity and ease of use for Nebraskans. A new application created, maintained, and published by the Secretary of State with input from our county election officials instead of a county-by-county approach, will decrease voter confusion. Right now, each county and their election officer creates a v-by-m application, vote by mail. I would like to respond to those who have reached out to us stating that they believe LB11 somehow encourages voter fraud as a small handful of opposition letters have stated that they have already-- that they already have early voting ballots allowed across Nebraska. That doesn't make any sense. Let's try this again. I'd like to respond to those who have reached out to us stating that they believe LB11 somehow encourages voter fraud. So there's been a small handful of opposition letters that have stated such, and they need to know that they already have early voting ballots across Nebraska that are allowed. And this just makes the process streamlined and consistent across Nebraska to actually prevent fraud. Secondly, both our Governor and Secretary of State have stated that we have not experienced election fraud in Nebraska, and that's included in your handouts. Consistency in policy instead of piecemeal rules from county to county is actually an important tool in preventing fraud. Thirdly, LB11 requires the Secretary of State and Department of Motor Vehicles to create a portal for an online vote-by-mail application. We have seen our DMV and Secretary of State do an excellent job maintaining and validating the online voter registration portal. And this is the next step to bring Nebraskans greater access to the vote by mail through option with technology. Now I believe that we can accurately update voter registration online and provide an online portal for vote-by-mail applications. I also believe that we can get this done for far less than what the Secretary of State's office claims it would cost. Now I'm sure you've seen the fiscal note for LB11. And like me, I did a double take at first glance. However, I did a deeper dive and I looked at the rationale behind the number, and I feel like their office could make this work for quite a bit less. Now I do understand

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that building a new database will take an investment of capital, but I'm having a really hard time understanding the need to hire someone at nearly \$100,000 a year to oversee this slight change to early voting. I'd argue as well that handling voter questions is something that the Secretary of State's office does now. You'll notice, by the way, on that fiscal note that the DMV is being tasked with something they believe will require 340 hours of programming time. Despite this need for additional work hours, that department also said they could absorb it into their existing budget. So I'm confident that the Secretary of State's office could do something similar. Lastly, LB11 requires local election offices to electronically notify vote-by-mail applicants other application status accepted or denied. Now if denied, the voter shall be notified of the denial and when, how, or if their application can be fixed. Currently, voters must call their designated county election office or verify the status online to ensure an application was mailed. Now these steps can lead to voter confusion, and some voters may wait several weeks to know whether their application has been mailed. These changes also mitigate heavy lifting for our county election staff, who must respond to voter inquiries regarding vote-by-mail applications. They have enough to deal with without the additional burden. So LB11 really is a commonsense bill which changes current law to make the process less confusing and more uniform for voters and their-- those hardworking county election officials which administer our elections. According to recent public policy research by Holland Children's Institute, 39 percent of Nebraska voters prefer voting by mail, and 90 percent believe the process of voting in the 2020 election was accessible and convenient, with 83 percent saying Nebraska's election process worked well. Nearly 7 in 10 Nebraskans, 67 percent, thought the vote-by-mail process was a good addition to the ways in which Nebraskans can cast a ballot. LB11 seeks to standardize our elections process, helping voters continue to have faith in their elections and the process that makes those elections work. It should be safe, secure, and easy for Nebraskans to elect to receive a vote-by-mail application. And LB11 does just that. I know that some of you are also concerned about if these lists will be updated when it comes to people who pass away. So you should know that the exceptional staff in these offices are empowered to, to, to check that list daily if they choose to. And the State Office accomplishes this at least once a week. Also, the following counties: Douglas, Gage, Hall, Lancaster, Lincoln, Madison, Perkins, and Scotts Bluff already have permanent vote-by-mail lists. Counties can stop or

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start a permanent vote-by-mail lists without the Secretary of State's approval or knowledge. So this list may even get bigger. So I'm happy to work with anyone and everyone who may have concerns, concerns, suggestions, or ideas to improve the elections process here in Nebraska. Thank you. I'll take any questions you may have at this time. And I apologize for deleting one of my sentences earlier in my opening and not remembering what I was trying to say. Thank you.

SANDERS: Thank you, Senator Blood. Are there any questions? Senator Halloran.

HALLORAN: Thank you, Senator Sanders. So how-- there apparently is a, a means now of cross-checking for people that have-- are deceased.

BLOOD: There are. And that was one of the things when people were calling my office, I had added this just yesterday, whether they felt that dead people were going to be voting and we needed to assure them that that was not the case, that they check regularly and make sure--

HALLORAN: So should that be--

BLOOD: --that people are deleted that have passed away.

HALLORAN: I'm sorry for interrupting. Should they-- should that be required instead of it's, it's possible to do now?

BLOOD: You know, I don't know that it's not required or what the, the policy is. That would be a, a Mr. Evnen question.

HALLORAN: OK. What about--

BLOOD: I just know that they do it.

HALLORAN: They can do it.

BLOOD: They-- everybody that we talked to is doing it.

HALLORAN: What if someone, what if someone moves? Say, I move to a different state, but I previously had applied for ballots to be sent to me in the mail and I moved to another state and I don't inform my local jurisdiction that I've moved and that ballot still comes to my address. Is that an issue?

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BLOOD: Well, that happens now, Senator Halloran. I can talk about some in the military. I had a constituent who wanted to vote in the most recent election. She was a military spouse and they had moved to Hawaii. She requested her, her ballot because she wanted to, to vote one last time for Nebraska and was disappointed because she got it too late after the election. What happens is that if you move, you do a forwarding address, likely it would be forwarded to you. But what you're going to find is that this isn't any different than what's already happening now and, and what-- it's mail. Mail comes to your house and you don't live there anymore. Either you put return to sender on it or you-- it gets forwarded on to the next person or you throw-- unfortunately, people throw away mail, too, which I hate to say, but we know it happens.

HALLORAN: Will you or I wouldn't do this,--

BLOOD: We wouldn't.

HALLORAN: --but could it be possible for someone to get my ballot and use it?

BLOOD: Well, but then we have these well-trained people who would say the signature doesn't match and it would be rejected. Correct?

HALLORAN: If you saw my signature, it would be easy to match.

BLOOD: I-- you know, someone told me you write like a serial killer, but I haven't seen it yet, so.

HALLORAN: Thank you, Senator.

SANDERS: Thank you, Senator Halloran. Are there others? Senator McCollister.

McCOLLISTER: Yeah, thank you Senator Sanders. When, when Election Commissioner Kruse testified earlier today, he, he talked about a fairly robust electronic system for tracking ballots. So in essence, what this, this bill tries to do is initiate that early ballot from the, the Secretary of State, rather than the local election commissioners. Do I have that right?

BLOOD: Yes, sir.

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McCOLLISTER: OK, I, I just wanted to make sure I understood the [INAUDIBLE] of the bill and that's it.

BLOOD: And I would add that I think that any time we have some people that are concerned about fraud, be it real or not, that any time that we are consistent in our policy, any time we streamline a process, then we actually are preventing fraud because there aren't a hundred different hands involved in it. There's one source.

McCOLLISTER: So what you're saying is that the ballot would then be mailed by the Secretary of State rather than the local election commissioner?

BLOOD: They're generated by the Secretary of State. But your, your county people would still be responsible for getting out the ballots.

McCOLLISTER: Wouldn't it simply be easier for the Secretary of State to transfer that request to the local election commissioner?

BLOOD: OK, I think I misunderstand our conversation here. So, so the-- all of these are going to be filtered through the Secretary of State.

McCOLLISTER: Right.

BLOOD: But ultimately, it's my understanding unless I'm not reading my bill correctly, it's still going to be the county who's responsible for mailing out and counting those ballots.

McCOLLISTER: I'm just trying to figure out this fairly large fiscal note if, if, if, in fact--

BLOOD: Yeah, the fiscal note is very confusing. And I think the fiscal note has to do with the database and somebody who's going to be hired to answer questions, which I, I don't-- is there not somebody in the Secretary of State's office already answering those questions?

McCOLLISTER: But this current verification system we have is from the Secretary of State. Correct?

BLOOD: Yes.

McCOLLISTER: OK, thank you.

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BLOOD: Yeah, I'm confused, too, but I'm sure that we'll have people come up and clarify what's going on.

SANDERS: Thank you, Senator McCollister. Are there others? Seeing none, thank you, Senator Blood.

BLOOD: And I will stay for the closing.

SANDERS: Thank you. Any other-- any proponents?

JOEY ADLER: Good afternoon, Senator Sanders and members of the Government, Military and Veterans Affairs Committee. My name is Joey Adler, J-o-e-y A-d-l-e-r, and I'm here on behalf of the Holland Children's Movement, a nonpartisan, not-for-profit organization striving to fulfill its vision for Nebraska to become the national beacon and economic security and opportunity for all children and families in support of LB11. Senator Blood stole some of my thunder with that point that she quoted earlier, but I would be more than happy to go over any specifics about that and, and meet with your office to go over it, if you would like to discuss that end further. We believe it's important for all eligible Nebraska voters to have equitable access to the ballot box. And increasing accessibility to the vote-by-mail process is just one important way that Nebraska can increase participation for Nebraskans in the electoral process, and it helps to ensure that all voices are heard. According to an NBC article from July of 2020, a survey also highlighted the challenges to participating in the election because it's being held during a national health crisis. Young voters aren't getting a clear and accurate information about online registration and mail-in voting, and a third said that they did not know whether they could register to vote online in their states. Among those who said that they did know, 25 percent were incorrect. In addition, only 24 percent of those polls had voted by mail before. Also in the 2020 election year, it was a historic triumph for elections in Nebraska. We applaud all state government entities for helping increase access to Nebraska voters in the election, which also yielded some of the highest state election participation levels. We know Nebraska can expand its access to voting by mail, and that Nebraskans trust the system. Increasing access to voting by mail also increases voter participation. According to an article by the Hill, turnout during the Iowa primary saw a 10 percent increase in voter participation. Of the 524,000 votes cast, 411 were vote by mail, which is nearly 1,000 percent increase from 2016. Here

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in Nebraska, 966,000 voters of the 1.2 million registered participated in the 2020 general election. Of those, nearly 489,000 were early voting, 47,000 were in all-mail precincts, and 417,000 were in person. By contrast, only 706,000 people participated in the 2018 general election and nearly 187,000 voters voting early. And in 2016, 860 voters participated with 613 voting in person. With almost 100,000 more people participating in the 2020 general election versus the 2016 general election, increasing access to vote by mail clearly was a factor in increasing voter participation. And recently a group of researchers found that we can-- quote, We can confirm important conventional wisdom among election experts. Vote by mail offers voters considerable convenience, increases turnout rates modestly, and has no discernible effect on party vote shares or the partisan share of the electorate. In addition, contrary to the belief of some, there is no considerable evidence that any increase in numbers of voting by mail leads to any form of voter fraud. In fact, the Heritage Foundation, who does a considerable amount of research on this issue, have found only 1,285 proven cases of voter fraud in the United States. The data they collected on these cases is extensive and made publicly available as well. The Brookings Institute has used some of that data to examine vote-by-mail numbers in five states that have used no excuse rule for vote by mail for several years, one of them being Oregon. In Oregon, the first state, which was to adopt the universal vote-by-mail system, the Heritage researchers found, to cover a period of 19 years in order to find just 15 cases of voter fraud. They also noted, quote, In any case of voter fraud is serious and guilty party should be caught and prosecuted. But the evidence presented by the Heritage database does not make the case that voter fraud is a major problem in America. Nor does it make the case that mail-in ballot systems are riddled with fraudulent activity. Voting by mail is safe, secure. The Nebraska voters trust our election process and the officials who administer it, and they were largely supportive of the 2020 efforts to make it easier to vote. We believe LB11 would help increase turnout, and we ask you guys to support it. Be happy to take any questions.

SANDERS: Are there any questions for Mr. Adler? See none. Thank you--

JOEY ADLER: Thank you.

SANDERS: --very much. Are there any other proponents? Welcome.

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SHERI St. CLAIR: Good afternoon, committee members. So it's nice to come here just so I can take my mask off. I'm Sheri St. Clair, S-h-e-r-i S-t C-l-a-i-r, and I'm here this afternoon on behalf of the League of Women Voters of Nebraska. The League is supportive of LB11. As you know, the League promotes many proactive election reforms, including secure online voter registration, permanent and portable statewide voter registration, expansion of early voting, and electronic streamlining of the process. The League has also supported motor voter programs for well over 30 years. We support electoral methods that include-- encourage participation and engagement, are verifiable, audible, auditable, compatible with acceptable ballot-casting methods, including vote by mail. LB11 will assist in expanding voter access across Nebraska in both primary and general elections. It will help centralize voter registration for permanent vote by mail through use of a standard ballot request form, thus eliminating the cumbersome task of requesting vote by mail for each-- every election. This overall should diminish the need for county clerk and election commission resources to respond to such requests. Permanent vote by mail registration should be a particular benefit to older voters and voters who reside in rural areas. Allowing the voter to make a permanent mail-in ballot request as a component of the motor voter registration process is also an efficiency enhancement. As shown in the November elections, Nebraskans turned out in record fashion. Secretary of State Evnen, as we've heard many times today, indicated that early ballots either mailed or dropped off were cast securely. Advancement of LB11 to General File will support increased accessibility to the electoral process, thus ensuring a representative process and the right of every citizen to vote. We were able in the past election to cast votes securely by mail, which is very popular and expanded overall participation in the election. We would urge the committee to advance LB11 to General File.

SANDERS: Thank you. Are there any questions for Director St. Clair?

SHERI St. CLAIR: OK, thank you.

SANDERS: See none. Thank you. Are there any more proponents?

WESTIN MILLER: Hello, again, Senator Sanders, members of the committee. My name is Westin Miller, W-e-s-t-i-n M-i-l-l-e-r. I'm the director of public policy with Civic Nebraska. I wanted to make a quick statement about the part of this bill that we like the most and

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then make several comments based on the testimony that we've heard so far just to clarify a couple of things. Our favorite part of this bill is the online ballot request portal. We think that's a really essential step in modernizing our early voting system. Nebraska system of requesting a card to request your ballot is not a standard in a lot of states. And I think it is-- and this is absolutely not the fault of anyone in this room, but is objectively a pretty inefficient way to go about our early voting system. Online ballot requests would, I think, reduce our reliance on these expensive cards, which the state does pay to mail to voters who use them. They're also one of the most important improvements we could make to improve our early voting system, making it as safe and as convenient as possible. I'm absolutely not a digital security expert, but I do get the chance to talk to several of them in this world. And they say that online ballot requests rely on the same data sharing and security measures as online voter registration, which Nebraska has done successfully for many years. And as a reminder, for those who are concerned about ineligible voters registering, because of something we've heard about this bill, online ballot requests, just like online voter registration, require a valid state ID or driver's license to use the portal. So if that is a thing that alleviates your concerns, I just wanted to make sure that everyone is aware that's a component of this. Twenty-six states have an online portal for online ballot request. So this is not new. It is not controversial. It would be an essential part of a safe and effective early voting system. A couple of notes based on the testimony. I wanted to mention that my colleagues on the voting rights team who work on our election protection program, field calls from voters, have confirmed that voters do get really confused by the different kind of registration forms we have throughout the state. So I think there's a lot of validity in kind of unifying that form. Second, the permanent list requirement component, we just need to make sure that this doesn't adversely affect all-mail counties, of which there are several. I don't know logistically how that would work with their rules. I just wanted to flag that for the committee. Third, Senator Halloran, the concerns you mentioned about making sure that dead people aren't voting. I just wanted to kind of shamelessly plug back to Senator Brewer's LB285, that ERIC system we're trying to join, one of the best parts of that is that they give us access to a national death registry that updates very, very quickly. Fourth, I wanted to clarify that ballots are not forwardable mail. So you couldn't get somebody else's ballot at your house if they, like, previously lived there and moved.

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The post office is not allowed to forward that to your home. Fifth, I want to make a quick fiscal note, note, and this is absolutely Westin's opinion, not Civic Nebraska's, because I didn't clear this with anybody. But this is just something I, I care a lot about. I, I get pretty, I think, supportive of Secretary Evnen's fiscal notes that involve new workload for his staff. I think that an overworked election staff is harmful to both the accessibility and the security of our elections. So I definitely have no concerns with when there is significant work being added that we should hire somebody to, to do that. Finally, and I think most significantly, and I-- this doesn't change my position because I think this is just a drafting error, but it's a pretty significant one. So if I'm misunderstanding, I very much apologize and this will be embarrassing for me, but page 4, line 11. In my conversations with advocates for this bill, I was under the impression this was a provision about making a statewide vote-by-mail request list. So like, like those counties that Senator Blood listed just make this statewide instead. The way this is written, though, it's not a request, statewide request list. It's just a statewide ballot list. So I was told we were keeping our current system where, like Douglas County, for example, I'm on their permanent vote-by-mail list. So every election they send me a card to request my permanent ballot. I don't have to additionally request that card. This is written so that I would just automatically get a ballot rather than getting that card in the first place. I don't think that was on purpose. I'm pretty sure. And if, again, if I'm wrong, I apologize. But that is a pretty substantial difference that the committee might, might want to check out. So again, that's page 4, lines 11 through 13. With that, I think I've covered my messy notes, and I'd be happy to answer any questions.

SANDERS: Thank you. Senator McCollister.

McCOLLISTER: Yeah, thank you, Senator Sanders. Just want to refer to the comment you made, Mr. Miller, about different registration standards.

WESTIN MILLER: I'm sorry, registration forms.

McCOLLISTER: Forms?

WESTIN MILLER: Yeah, so there's like a standard statewide form. But Douglas County also has the Douglas county registration form, and

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we've had voters call and get worried that they used the wrong one or that one of them was fake or something like that.

McCOLLISTER: How many different forms are employed in the state? Do you know?

WESTIN MILLER: I don't know. I think some counties just use the state standard, so I'm not sure about that.

McCOLLISTER: OK, thank you.

SANDERS: Thank you, Senator McCollister. Are there any other questions? See none.

WESTIN MILLER: All right. Thank you.

SANDERS: Thank you. Are there any other proponents?

EDISON McDONALD: Hello again, excuse me. Hello again, my name is Edison McDonald. I'm the executive director for the Arc of Nebraska. We advocate for people with intellectual and developmental disabilities. I'll keep this brief. Most of my comments are pretty much the same as the previous bill. We're supportive of LB11, because we believe that it helps to expand accessibility to voting for people with disabilities. We see across the state consistent errors in terms of access to polling locations. We also have tremendous issues for most of our members in terms of access to transportation to ensure that people are able to get to their ballots, get to an early voting location, or get to a polling location. In particular, we've heard these complaints strongly in the central Nebraska region and in the northeast Nebraska region. Making sure that we continue to have better opportunities to expand vote by mail and expanded knowledge and clarity within our vote-by-mail system, will help to ensure that more people with intellectual and developmental disabilities are able to vote. Again, you know, we currently do have a significant amount of violations of the ADA, Section 504 of the Rehabilitation Act, and the Help America Vote Act. Some of the easiest ways, you know, ultimately, we want to make sure that those are fixed. Not only because those locations are polling locations, but also because they're civic hubs, they're libraries, they're churches, they're community centers. But in the meantime, kind of to go and help us bridge the gap, vote by mail, curbside voting, and making sure that people can transport others'

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ballots are kind of your, your key tools to make sure that you can offer some alternative pathways so that people with intellectual and developmental disabilities can participate in our democracy. And with that, thank you to Senator Blood, to the committee, and for the Secretary of State's office for continuing efforts to collaborate and expand accessible voting. Thanks. Any questions?

SANDERS: Are there any questions for Edison McDonald? I see none. Thank you for your testimony. Are there any other proponents?

DANIELLE CONRAD: All right, last hurrah today. Hi, my name's Danielle Conrad, it's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. I'm here today on behalf of the ACLU of Nebraska. And this is so fun, I never get to come see you all in Government this much. So our, our lobbying assignments changed a little bit. And I think it, it was, it was really my good fortune. So we're here today on behalf of the ACLU to support LB11. Thank Senator Blood for her leadership on this key issue. And I think this is really important as we learn from the experiences that we've just gone through it, particularly with the 2020 election cycle where we saw professional, heroic, creative, innovative efforts by the Secretary of State and the county election officials to facilitate the right to vote in our democracy amid public health concerns. Because I think we can all agree that nobody should have to choose between the right to vote and their health. And so what we need to do is learn from that experience. Nebraskans really embraced these alternatives to traditional polling places for a lot of different reasons, some public health concerns, some accessibility. Some Nebraskans just like to take a little bit more time with their ballot and do a little bit of research at home or maybe can't get down to their polling place on, on election day. I do think that this really helps to provide more opportunities for people to vote by mail. And just to echo what our good friend Westin and, and Edison said, our legal intake line gets a lot of questions about voting rights issues. And there is a fair amount of confusion, I think, about automatic all vote by mail, vote-by-mail applications, early vote, absentee vote. We heard in the, the last dialog, you know, discussions about ballot collection. So I, I think that in general and I-- this has already been brought up and we can hear what Senator Blood's intent is perhaps more so clearly when she closes. But I, I think either way, it's a good thing whether or not we establish a permanent all-mail list, and that might be an option worth pursuing. We have already afforded that opportunity to 11 counties in Nebraska, and it works very, very well.

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If this is meant to establish uniformity for a permanent vote-by-mail application list, I think that's something that easily you can work together on from a drafting perspective. But I will also tell you that does pose a lot of questions, too. We get a lot of folks calling and saying, but I'm on the permanent absentee list. Why am I not getting my ballot? Well, you got a card so that you can request it again. And so I think that's perhaps the inefficiency that was mentioned before. But the bottom line is this is an effort to facilitate voting rights. This is an effort to tear down barriers to participation. Those are good government commonsense measures that we all should be working together on, because I think we can all recognize the right to vote is fundamental and it is the cornerstone upon which our civil rights and civil liberties rest.

SANDERS: Thank you.

DANIELLE CONRAD: Thank you so much.

SANDERS: Are there any questions for Danielle Conrad? I see none. Thank you. Are there any other proponents? Opponents? We do have a written letter, written testimony, Meg M-i-k-o-l-a-j-c-z-y-k with Planned Parenthood Advocates of Nebraska; and Al Davis, Nebraska Chapter for Sierra Club.

BOB EVNEN: Good afternoon, Senator Sanders, members of the committee. Like Miss Conrad, it's a pleasure to be with you today over and over again. My name is Bob Evnen, B-o-b E-v-n-e-n. I have the honor and privilege of serving as Nebraska's Secretary of State. I want to begin by being very clear about my understanding, my reading of this bill, and, and what this bill does. This bill doesn't create a permanent list of people to whom early ballot applications are sent. This bill creates a permanent list of people to whom ballots are automatically sent. That's what this bill does. It's a bill to create a list of people statewide who can ask to have ballots sent to them automatically for every election. So with all due respect to Senator Blood, this afternoon, I rise in opposition to LB11. LB11 should not be enacted into law. Let me go through my reasons with you. First, we don't need the bill. Our May 2020 primary in the midst of the coronavirus pandemic set a record for ballots cast. More than 75 percent of our primary voters requested, received, and cast their ballots early. In the November general election last year, turnout was more than 76 percent. Nearly 967,000 Nebraska voters cast ballots.

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About 488,000 of our voters cast their ballots early. More than 50 percent of the ballots cast. Nebraska voters know how to vote when they wish to do so. They know how to request an early ballot. Automatically sending them a ballot is unnecessary. Second, this, this bill is cumbersome. You've heard a number of the requirements already that are created by this bill: amending the current voter registration form to include an additional question, require the answer to the question to be included in the public voter file, require the Secretary to create a new early voting application and publish it on the website, request the Secretary to create an electronic process in conjunction with DMV, requires our local election officials to send an, an electronic acknowledgment as to whether the request was approved, and if it's denied, sending a written notice regarding the denial. There's no process in the bill that outlines how a voter could remove themselves from the permanent list if they choose to want to go on to their polling site. If they receive a ballot under this process and choose to go to the polls instead, then you have people voting provisionally, which has more time and, and more administrative cost to county election officials. The current voter file, it isn't necessary to add any questions to the current voter file, which is a matter of public record already. And the Secretary of State's office includes-- has a template for early voting ballot applications. It's available to the public on the-- on our website. Having our office publish an application in each county's newspaper of record rather than a county election official doing it themselves, limits what other information can be listed, including contact information for the local election office itself. The electronic process for requesting an early, an early voting ballot in this bill may not be in compliance with a requirement that these applications can only be accepted 120 days before each election. And the electronic acknowledgment written denial letter isn't necessary because we already have an electronic vote tracking system in our state. Every voter in our state can go and look themselves up and see what the status is of their ballot when they've requested early voting. Just a cumbersome bill. Third, the bill is contrary to best election practices. We know that automatically sending ballots to voters poses a major risk to election security. The negative effect of incorrect addresses and errors in voter registration list is magnified by automatically sending voters ballots. Elsewhere, we regularly hear of errant ballots being sent to addresses where the addressee no longer lives. And there are other issues with automatically sending ballots out as well, which we

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touched upon earlier. Fourth, the simple expedient of our current law if the voter needs to ask their county election official for an early ballot greatly reduces that security risk. It allows us to make sure that our addresses are up to date, gives us another data point for signature comparison. And Nebraska voters have demonstrated that they know how to ask when they wish to do so. Next, this bill is expensive as set forth in the fiscal note. I won't go into detail here. The fiscal note states the-- each expense component and the basis for it. And finally, this bill would take us on a big step toward all mail-in voting statewide to which I am fundamentally opposed. And so for these reasons and with all due respect, this bill should not be enacted. Thank you for your consideration. I'd be happy to try to answer any questions.

SANDERS: Thank you, Secretary. Senator McCollister.

McCOLLISTER: Yes, thank you, Mr. Secretary. Do any states have such systems as described in this bill where ballots are sent directly to the voters?

BOB EVNEN: I don't, I don't know of any state that has some voters have ballots sent to them automatically and other voters don't. There are-- the states have requests. You can request an early ballot or go to the polls, which is what we do. And there are a small number of states that have all mail-in voting.

McCOLLISTER: Well, the transaction, I think we have in Nebraska is you-- if you have voted by mail in the past, the county sends you a card and you simply respond, tear the card, sign it, and all that. Put a stamp on it, send it back. That's, that's a long transaction and perhaps more expensive than what we're describing here. I, I don't know.

BOB EVNEN: Well, there are-- you're always balancing expense with security. And there are, there are a small number of counties in our state that have permanent request lists. So when an election comes along, you'll get a-- an application in the mail to return to receive an early ballot if you wish to do so. That to me is a, is-- and then in other parts of the state, it's just if you want an early ballot, you go ask for it whether you had one before or you didn't. If you want one for this election, you ask for it. That is a really serviceable way to go and it's worked really, really well. And the,

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the, the elections that occurred, the primary and general election in 2020 demonstrate that. I see no reason to change that. That part of our system has been very successful.

McCOLLISTER: Thank you, sir.

SANDERS: Thank you, Senator McCollister. Are there others? See none. Thank you, Secretary.

BOB EVNEN: Thank you.

SANDERS: Are there any other opposition opponents?

DAVID SHIVELY: Good afternoon, Senator Sanders and members of the Government Committee. My name is David Shively, D-a-v-i-d S-h-i-v-e-l-y. I'm the Lancaster County Election Commissioner. I also serve as co-chair of the Election Law Committee for the Nebraska Association of County Clerks, Registers of Deeds and Election Commissioners. I am here today in opposition to LB11 as drafted. LB11 as drafted would allow any voter to be placed on a list to have an early vote ballot mailed to them. It would also require the Secretary of State to provide a mechanism for voters to be able to request an early vote ballot electronically. In 1999, the Nebraska Legislature made a positive change in state law, which allowed any registered voter to request an early vote ballot. Since then, all counties in Nebraska have seen consistent increase in early voting. Several counties in Nebraska have established an early vote request form list. Prior to each election, voters in those counties who have asked to be on that list are sent an early vote request form. It is then the responsibility of the voter to, to determine if they want to vote early and if they do, they complete that form and return it to the election office. This is very simple and it works well for us. The voter can even update their information on the form if they have moved or changed their name. However, let's talk a little bit about some issues that concerns us if we would automatically send an early voter ballot to voters: One, a voter's residence address may have changed and has not updated the address with our office. Early vote ballots are not forwardable and the ballot would be returned to the election commissioner as either undeliverable or with a forwarding address. It would then be the election commissioner's responsibility to reach out to the voter to try to get the address updated. Two, ballots are mailed to-- if ballots mailed to an address where the voter didn't

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file a change of address with the Postal Service. Will that ballot be returned to us or will it be filed-- be, be placed in the voter's old mailbox, even though that voter may no longer live there? Then we've lost track of that ballot and who is in possession of it. Three, voters who split their time between two homes. For instance, those that may spend the winter months in a warmer climate and the summer months in Nebraska. How do we know which address to mail that ballot? Finally, voters who use a postal box as a mailing address. That voter may have moved residences but has maintained their postal box as a mailing address. If they received a ballot for an old residence address or an old address and they are now at a new residential address, they may not receive the proper ballot for their addresses. Most of the issues that I have listed above can be easily resolved by having a voter request a ballot for each election instead of automatically mailing them a ballot. As I indicated earlier, state law allows us-- allows a voter request-- I lost track here. As I indicated earlier, state law allows us to correct a voter's information from the early vote request form. The second part of the bill, which would require the Secretary of State to provide a means for a voter to request an early vote ballot electronically to be-- appears to be a very expensive change. The fiscal note on this is, is over \$300,000 and carries additional ongoing costs for the Secretary of State's office. If that type of money is available for the use by Secretary of State, I would recommend we find a better use for the money. Perhaps, updates to our voter registration system or additional training for election officials. Finally, I do, I do not know of any county that was contacted regarding the fiscal impact to them. While we don't know specifically how it would affect our offices, we know that it would add additional cost to, to mail ballots. I would also anticipate a larger number of unreturned ballots that we currently see. In Lancaster County, depending on the type of election, we, we have seen anywhere from a 3 percent nonreturn rate to a 25 percent nonreturn rate. I appreciate your time. We encourage you not to advance LB11 to General File.

SANDERS: Thank you for your testimony. Senator McCollister.

McCOLLISTER: Thank you. Can you request an early ballot by telephone or email?

DAVID SHIVELY: You cannot request it by telephone. You can request it by email. You can scan a copy of the form and email a copy of the

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scanned form or take a picture of it. Now, that's been more recently where we have a lot more people take a picture of their form, signed form and will email that to us. It can also be faxed to us.

McCOLLISTER: And that's serviceable?

DAVID SHIVELY: Yes. Yep.

McCOLLISTER: But if I just send an email to Election Commissioner Kruse, he won't send me a ballot?

DAVID SHIVELY: Not unless you had attached a copy of a signed form--

McCOLLISTER: OK.

DAVID SHIVELY: --or a picture of a signed form. We have to have a signed form to do that.

SANDERS: Thank you, Senator McCollister. Are the others?

DAVID SHIVELY: Can I just add, there's two places, I just make sure, because this is what, what-- our concerns. On page 4 of the bill it says: Permanent request form for ballot for early voting. Do you want a ballot for each early voting, for early voting to be mailed for every statewide primary and general election with boxes that checks no? It does not say a request form. And it also says that on page 7. So that's where our opposition says we're doing as it was, as it was drafted. And on page 7, on line 21 it says, "Whether the registrant has requested to be placed on the list to receive ballots for early voting for statewide primary and general elections." It doesn't say to receive a request form. So it was-- what Senator Blood said earlier was a little different than what we read it in the, in the stat-- in the, in the bill.

SANDERS: Matt-- Senator Hansen, sorry.

M. HANSEN: Yeah, thank you. Thank you, Senator Sanders. So just to, just to put a 100 percent clear, fine point on it, if this was expressed that it was ballot request forms, you wouldn't have any opposition?

DAVID SHIVELY: I have not-- when those have been introduced before, I've not-- I've testified in opposition to that personally as a-- as

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Lancaster County Election Commissioner, because I didn't think it was our-- we should be telling every county how to do it. We aren't-- we didn't read it that way. So that was never in our discussion. So I can't speak for our association on that.

M. HANSEN: OK, got you. Thank you.

SANDERS: Thank you, Senator Hansen. Are there others? See none. Thank you for your testimony.

DAVID SHIVELY: Thank you.

SANDERS: Are there other opponents? Welcome.

BETH BAZYN FERRELL: Good afternoon, Senator Sanders, 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 appearing in opposition to LB11. As we read the bill, as Commissioner Shively said, we looked at this as requesting an early voting ballot rather than requesting an application for an early voting ballot to be sent. So I think we have a, a little bit different interpretation than what Senator Blood had initially talked about or intended. So that may be something we need to look at. Our concerns were the same as you've heard about what do we do with address changes and ballots that can't be forwarded? What do we do with removing someone from the list if they would prefer not to get an early voting ballot? Those kinds of things. I would be happy to answer questions.

SANDERS: Are there any questions? Seeing none, thank you very much for your testimony. Are there others? Any other opponents? Neutral? Neutral testifiers? Seeing none, Senator Blood, for closing.

BLOOD: All right, so much love in this room. Before I close, I want to say that Westin is right, there's problematic language. But as we know from past experience, problematic language can be corrected with an amendment. And you'll note that this number on this bill is LB11. So we reached out to many of the stakeholders a long time ago, including the fact that they've had several weeks to review this bill and are hearing the concerns for the first time today. So I find that really unfortunate, especially with the open door policy that we have where they can literally walk into our office without an appointment and talk to me about any issue. So I want to put that out there that we

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are aware that there is problematic language. We are open to changing any of it. And with that, I'm going to close. The importance of one person, one vote was proven over and over again in the 1960s in the U.S. Supreme Court. We know from these rulings that we must make voting accessible and give everyone an opportunity not only to vote, but to be careful not to dilute that vote when we redistrict as well. Each citizen deserves to have an equally effective voice. We can continue to shore up those principles by making sure that everyone who wants to vote can vote. If their only mode of transportation is public transportation, they may want to request a ballot to vote by mail. If they are Nebraskans with a disability, they may want to request a ballot to vote by mail. If our senior citizens who may not be able to wait in line or transport themselves, they may want to request a ballot to vote by mail. There should be no reason they can't ask to permanently receive their ballot in each election by mail. If the process to stop this request is not clear, that is easily amended. You'll note that the Lancaster County Election Commissioner said, as drafted. Unlike our Secretary of State, who threw out words like cumbersome. They shared actual concerns that we can address. This bill is more about starting a conversation and possibly cherry picking what we can possibly do to make it easier for Nebraskans to vote and not just throw the baby out with the bathwater. I'd also like to point out to the counties that our office is not responsible for who asked to contribute to the fiscal note. It was not our office that left them out of the fold on that. So, yes, without these changes, people can still vote by mail. We're not saying differently. But with that said, why do we not want to support their right to use this vehicle and make it easier? Why wouldn't we want to cut the government red tape that forces them to ask at each election cycle for a mail-in ballot? They're American citizens. This isn't Russia where they stuff the ballots or the Philippines under Marcos where the voting was rigged, or Turkey where there was not only fraud but vandalism and violence at the homes of their candidates. People right here in Nebraska fought and some paid the ultimate price to protect our right to have a voice. We use that voice on Election Day. Election Day, where we are all equal, one voice, one vote. So I do thank you for your consideration on LB11. I hope you do vote it out for full debate on the floor. I want to remind you that we've had many bills that have been problematic, that we've been able in Exec Session to amend and fix. And there are good things in this bill that make it easier and things

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that we can fix. So with that, I know it's Friday and you all want to go home, I will close my comments.

SANDERS: Are there any questions for Senator Blood? Senator Halloran.

HALLORAN: Thank you, Senator Sanders. Just for clarity sake, then, what is your intent? Is it a request for a ballot to be sent?

BLOOD: It is a request for a ballot to be sent.

HALLORAN: For a ballot to be sent?

BLOOD: It's a permanent request for you to receive a ballot for both the primary and the general election until you ask for it to be otherwise.

SANDERS: Any other questions? Seeing none, I do have position letters. We have eight proponents and nine opponents and zero neutral. Thank you, Senator Blood.

BLOOD: Thank you.

SANDERS: And this closes our hearing for today. Have a great weekend.