

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 20, 2022
Rough Draft

M. HANSEN: So perfect. All right. Welcome to the Government, Military and Veterans Affairs Committee, everyone. My name is Matt Hansen and I'm the Vice Chair of this committee. Senator Brewer is presenting a bill in Judiciary, so he'll likely be gone for today. For our business day, 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 just part of the process as we have bills to introduce in other committees. I'll ask you to abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. Please move to reserved chairs when you're already. They are the first chairs in the front row. 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 to testify, please pick up a green sign-in sheet on the table in the back of the room. Please fill out the green sign-in sheet before you testify. And please print and complete this form in its entirety. When it's your turn to testify, please give the sign-in sheet to a page or committee clerk. This will help us keep a more accurate public record. If you do not wish to testify today, but would like to record your name as being present at the hearing, there is a separate white sheet on the table so that you can sign for that purpose. These will be a part of the official record for the hearing. If you have handouts, please make sure that you have 12 copies and give them to the page. When you come up to testify, they will be distributed to those on the committee. If you do not have enough copies, the page will help you make more. When you come up to testify, please speak clearly into the microphone and tell us your name, and please spell your first and last name to ensure that we get an accurate record. We'll 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 displays to support opposition, vocal or otherwise, are allowed at the public hearing. We will now start with allowing committee members to introduce themselves starting on our right with Senator McCollister.

McCOLLISTER: John McCollister, District 20, central Omaha.

SANDERS: Rita Sanders, District 45, the Bellevue, Offutt community.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 20, 2022
Rough Draft

LOWE: John Lowe, District 37, southeast half of Buffalo County.

HALLORAN: Steve Halloran, District 33: Adams, Hall, and Phelps County.

M. HANSEN: Thank you. I'll note as I mentioned, Senator Brewer is presenting a bill in another committee and Senator Blood will be absent today due to personal reasons. To my right is committee legal counsel Dick Clark, and to the far left is committee clerk Julie Condon. Our pages for today are Sophia Lovell, a sophomore at UNL from Alpha, Minnesota; and Joseph Schafer, who is our substitute page for today. And with that, we will invite Senator Cavanaugh to open on our first bill of the day, LB734.

J. CAVANAUGH: Good afternoon, Vice Chairman Hansen and members of the Military, Veteran-- Government, Military and Veterans Affairs Committee. My name is Senator John Cavanaugh, J-o-h-n C-a-v-a-n-a-u-g-h, and I represent Legislative District 9 in midtown Omaha. I'm here to introduce LB734, which sets a \$5,000 contribution cap, cap, cap for candidate committees. Nebraska currently has no maximum cap on contributions, whether they come from individuals or businesses or other committees. According to NCSL, as of 2021, Nebraska is only one of five states that had no limits on contributions to candidates whatsoever. The other states are Alabama, Oregon, Utah, and Virginia. At one time, Nebraska had spending limits coupled with public matching funds, but those were repealed in the wake of the Citizens United decision. And while there have been attempts to stem the flow of dark money, such as Senator Blood's LB8, there's been little effort to place any constraints on contributions. There have been many examples of politicians from both parties taking contributions in the six-figure range from one contributor. Such large contributions erode public confidence in our institutions, and I believe would cut away at the independence of our Unicameral and it has allowed spending by candidates to grow out of control. I brought LB734 because I believe some reasonable limit on campaign contributions is good public policy, not only to restore public confidence that elected officials are working for their constituents and not the largest contributors, but especially in the age of term limits the degree-- to decrease the influence from outside the body and reassert the Legislature's independence. It seems out of proportion that half of-- that all of us ran for a job that pays \$12,000 a year, and we raised and spent much more than that to get here. There can definitely create a perception in the minds of the public. I don't expect this to be a popular bill. If, if I did a look at the campaign statements of all 49 senators, I'd expect to find 49

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Rough Draft

who received contributions in excess of \$5,000. I'm no exception. And there are some valid criticisms that rise-- that the rise of independent expenditures in the wake of Citizens United is a bigger problem than spending on candidate committees. But I believe this is-- that this is a discussion that deserves the attention of the Legislature. A candidate for Governor of Nebraska could raise unlimited sums of money from one contributor. He could dissolve his campaign committee and give the entire balance to another candidate for Governor. He could in-kind every campaign expense from a business that he owns and operates. All of these are perfectly legal under current Nebraska law, but a candidate for the United States Senate to reach the same exact electorate is limited to \$2,900 for the primary and \$2,900 for the general. Reasonable restrictions on campaign contributions have long been upheld by the United States Supreme Court since Buckley v. Valeo in 1976. The \$5,000 limit in this bill is comparable to the federal limit in law, and we would-- actually I got to correct this part here. After speaking with Mr. Daley, the \$5,000 limit would actually apply only in the election cycle if you read the bill. In the previous year, my understanding the interpretation of the, the Commission would be donations would still be unlimited in nonelection years, based off of the way the bill is written currently. I would consider an amendment to that if we were going to proceed, but that's the way, the way it's written at, at this time. So it would actually, in fact, allow higher donations than the \$5,000. This bill does, does not do something that I think some proponents of campaign finance reform would like to see. Does not cap, cap contributions to party or political committees other than candidate committees. Does not rein in, in independent expenditures, and it is does not ban, ban direct corporate contributions to candidate committees. But it does place a reasonable limit on virtually unrestricted money in Nebraska campaigns since the repeal of the state spending limit. If this bill does move forward, I would offer technical amendments to provide an effective date of January 1, 2023 to allow for ease of enforcement and to coincide with the calendar year. I'd ask for your support of LB3-- LB734 to restore public confidence and decrease influence of money in our campaigns. Thank you and I'd be happy to take any questions.

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

LOWE: Thank you, Vice Chair. John, thanks for bringing this bill. Before I ran for election, I would have been all for this. It just makes common sense to me. But after running an election and PACs come out against you with unlimited sources of funds, you need some sort of funding to, to tell the truth. And so I'm not sure which way I'll go

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Government, Military and Veterans Affairs Committee January 20, 2022
Rough Draft

on the bill. I just, you know, when, when you have to compete against somebody you can't see or touch, it's, it's a little tough.

J. CAVANAUGH: I, I totally agree with that. And if I were able to constrain that, that other portion, I would bring a bill to do that. But in light of Citizens United, as it currently is written, we don't have control over that so I'm, I'm attempting to address the issue that I think we have power to address.

LOWE: OK.

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

McCOLLISTER: Yeah, thank you, Vice Chair Hansen. I ran for the PSC in 2008, and I-- at that time, NADC had a, had a limit and candidates could abide or not abide. I didn't abide, but my opponent did. And the way that process worked, she got state money because I went over the limit. So I kind of agree with Senator Lowe, this is-- this kind of statute here is almost an incumbent protection act. Do you want to respond to that?

J. CAVANAUGH: I-- well, I, of course, I want to respond. I would say that there is a fair-- that is a fair statement, that it is-- it's always easier to raise money as an incumbent. And it is easier to raise large sums of money as an incumbent. I, I would actually think that in some circumstances, it might curtail incumbency advantage because someone who currently sits in this body running for reelection probably has an easier time getting a \$10,000 check than a new person running would to get a \$10,000 check. This would say that the most anybody who wants to ensure that an incumbent gets reelected can give would be \$5,000 in an election year, of course, as I discovered the interpretation would be. So I think that there's always, there's always going to be a built-in advantage to incumbency for the reason that there is. But I, I actually think this might have an effect of leveling that playing field a little bit.

McCOLLISTER: But shouldn't we also deal with those third-party interest groups saying they are support or try to defeat a particular candidate? This is one, one piece of the reform, but there are certainly others that we should consider.

J. CAVANAUGH: I 100 percent agree with that, that we should deal with those third-party interest groups. I would say I think Senator Blood's dark money bill addresses some of the shedding light on, on the money.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 20, 2022
Rough Draft

But the federal interpretation under Citizens United would prevent us from limiting those contributions to those third-party issue campaigns. So I personally think we should extend campaign limits to those third-party groups. I don't think that we have the authority under the current federal constitutional interpretation to do that, but we do have authority to limit this.

McCOLLISTER: Thank you, Senator.

M. HANSEN: Thank you, Senator McCollister. Senator Cavanaugh, when-- I guess just to clarify, would your intent be to bring an amendment to cap it at \$5,000 per calendar year kind of regardless election year or not or something else?

J. CAVANAUGH: That was our intent in the writing of this bill. And basically the word-- what happens is the wording of it is such that it says \$5,000 in an election calendar year.

M. HANSEN: Sure.

J. CAVANAUGH: And the Commission's interpretation of that would be that the limit would only extend to the election year and that there would still be no limit in the nonelection years. So my intention if we're-- if we do move forward, would be to bring an amendment or to ask for the committee to amend it as such to just make it a \$5,000 limit per year.

M. HANSEN: OK, perfect. Thanks. Senator Halloran.

HALLORAN: Thank you, Senator Hansen. I, I, I concur with Senator McCollister and Senator Lowe. I mean, frankly, this doesn't apply to me or wouldn't have applied to me. I always felt lucky to get enough campaign funds to buy 100 palm cards. But, but that being said, it takes a lot of \$100, \$200, \$300 campaign checks from individual constituents in your district to make up for the PAC fund monies that come rolling in for other people. And I don't know, it seems like we're, we're trying to control something at our level and we're going to get beat up on, on the other end of it with PAC money, but that's just for the record, I guess.

J. CAVANAUGH: And I don't disagree with you and I, and I couldn't stress enough that I agree that we should limit those expenditures. And I would if I could bring that bill. But, yeah, I think that we are hamstrung in terms of what we can.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 20, 2022
Rough Draft

HALLORAN: So we're hamstrung by the federal government?

J. CAVANAUGH: By the federal government. I know that--

HALLORAN: I rest my case.

J. CAVANAUGH: --there's few, there's few people around here who think we should constrain the reach of the federal government, but--

M. HANSEN: Thank you, Senator Halloran and Senator Cavanaugh. Any other questions? All right, seeing none, thank you for your opening. With that, we'll move to proponent testimony.

LOWE: You can just ad-lib, can't you?

GAVIN GEIS: I, I could, but I'd rather have what I'm giving you.

M. HANSEN: Welcome.

GAVIN GEIS: Senator Hansen, members of the committee, my name is Gavin Geis, spelled G-a-v-i-n G-e-i-s, and I am the executive director for Common Cause Nebraska. Common Cause is a nonprofit, nonpartisan organization dedicated to upholding the key tenets of American democracy. And we're here in support of LB734. Our support is based on much of what Senator Cavanaugh laid out beforehand, and I will reiterate all of his answers in regards to independent PAC contributions and all of the above, we are hamstrung in Nebraska. That doesn't mean we shouldn't do what we can to stop the outsize influence of campaign finance or campaign spending and contributions in our elections. Despite the fact that often the media narrative would make this out to be a partisan issue, it is not a partisan issue amongst voters. There are voters across the political spectrum-- continuously over the past ten years, polls have shown that voters on both sides of the aisle support restrictions on campaign finance. The average person believes that campaign finance is outside their scope, that they have no influence on elections, that they stand no chance because big donors have such an impact, and that those big donors who can contribute more than \$5,000, as the senator said up to six figures and more in Nebraska that those big donors have more of a say and get what they want out of government and the average person doesn't. A good place to start with this in Nebraska, if we want to curtail that, curtail the amount of campaign finance is right here with individual donor caps. There are many other states across the nation that have varying degrees of campaign finance contribution caps. A \$5,000 limit is actually fairly-- I'll say it's fairly generous. There are many

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Government, Military and Veterans Affairs Committee January 20, 2022
Rough Draft

states that limit it below \$5,000 down to \$1,500. In Nebraska, \$5,000 would go a long way even for the biggest donors, and all of us know that the average person is going to get nowhere near that amount in their contributions. So the question is not whether I can throw my pen cap over there. The question is not whether, whether people think that campaign finance is out of control or that it should be reeled in. The question is whether politicians and those elected officials who oversee this, all of you, want to change the equation. That is nothing personal. I know most of you realize the system is out of control and you feel overwhelmed by PACs, by outside spending. But something we can do at the practical level in Nebraska is put a cap on the biggest donors. We're not talking about the mom and pop down the street. We're not talking about your average voter. We're talking about the big spenders. So polls show this is supported, right, and Nebraska-- Nebraskans continue to see increases in the amount of money spent on our campaigns. News just recently spoke about the Governor's election and how much both candidates, Pillen and Herbster, are raising and spending millions of dollars on elections that they-- and that is a great deal of increase over even the previous gubernatorial election and the elections before that. Year over year, we see more money raised, more money spent that comes right here to the legislative level where in 2020, and this is no dig at these senators, but in 2020, now Senator Bostar spent \$492,000 on a legislative race, and Speaker Hilgers spent \$375,000 on his reelection bid. Those numbers will just continue to increase. Donors will continue to give more and spending will continue to increase unless something is done to curtail this. And speaking-- this comes to mind, and I want to mention it, mostly because-- well, Senator Halloran is here and is a, a great supporter of the Article V movement, which he knows we are not. But every year, when supporters of the Article V movement come in here, when the Constitutional Convention supporters come in they speak about how much campaign finance is a problem, how much they, as individuals feel overwhelmed by campaign finance and their inability to affect the system. I think that just goes to show that no matter what side of the political spectrum you're on, it's not a question of whether you're Republican or a Democrat or an independent. It's a question of whether you feel cut out of the system and unable to buy the politicians, as many, many have said. And so this-- I will conclude by saying this is not a partisan issue, nor should it be in Nebraska. I think this is an area where we can come to some agreement on what is a logical limit, how much should we allow big donors to influence our elections and how high of a ceiling do we want our campaigns spending when it comes to elections. The average person is cut out. They feel disconnected and

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Government, Military and Veterans Affairs Committee January 20, 2022
Rough Draft

unable to affect the system. It is my hope that this committee can realistically discuss what should those limits be. Maybe it's \$5,000, maybe it's more, but there needs to be some limit placed upon how much we spend on campaigns in Nebraska or the disconnection, the disenfranchisement, and the hurt of average voters is not going to subside anytime soon. Sorry, my light is on. Thank you all for your time. I always appreciate the opportunity to speak with you.

M. HANSEN: Appreciate it. Any questions? Senator Lowe.

LOWE: Thank you, Senator Hansen. And, Gavin, good to see you again. What have other states done to control the spending? And especially with the PACs and other organizations that come in and fight against you.

GAVIN GEIS: Yes. You know, the biggest, I think the biggest maneuver we can do as a state in terms of PACs or outside spending is to increase the disclosure required for those entities. We cannot go in, unfortunately, as Senator Cavanaugh noted, we can't go in and say they can't spend money. But we can say is, you need to report on every dime you're spending. You need to tell us who you are, where you're spending that money, where it comes from. And when you put out an advertisement, you need to claim it. Clearly, this is from us. This is who funded this advertisement. That's what other states are doing. Everybody's hands are tied when it comes to PACs. But we can say, you got to tell us every single thing about you where this money is coming from. At least that allows you to know who's attacking you, even if it doesn't allow you to stop it.

LOWE: So they would still be allowed to spend 20, 30, \$100,000 against you, but they would be disclosing it.

GAVIN GEIS: But they would, they would be disclosing it at a level that we don't currently require in Nebraska.

LOWE: And yet we're reducing the amount of money we can raise.

GAVIN GEIS: There-- I, I will make a distinction here you're-- we would be reducing the amount of money you could raise from one donor, right?

LOWE: Yes.

GAVIN GEIS: From-- and that is definitely true.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 20, 2022
Rough Draft

LOWE: You have to work extra hard to go get--

GAVIN GEIS: It is.

LOWE: --a lot more donors.

GAVIN GEIS: It is harder to go get more donors. It is, it is a level of difficulty added to your job in reelecting or running an election.

LOWE: Yeah.

GAVIN GEIS: I totally appreciate that and the difficulty here. At the same time, I don't think saying, well, then we'll do nothing and let the ball continue rolling. Maybe as elected politicians, as candidates, that makes sense for the average person. I don't know if they see the distinction between that money and PAC money. They see it all as political spending--

LOWE: Yeah.

GAVIN GEIS: --that is polluting the system.

LOWE: But they wouldn't see it coming as my opponent spending that money against me, it would be the PAC's money-- PAC spending. So it would still be money against the person that it was being spent for.

GAVIN GEIS: That's certainly true. And the sad fact here is unlimited spending leads to more spending, which leads to more spending.

LOWE: Yeah.

GAVIN GEIS: And where do we-- when is enough enough and when is too much, too much.

LOWE: And, and, and a PAC could come in support and spend an atrocious, atrocious amount of money where the candidate would not have to raise any money also. And, and actually look like the good guy, but-- correct?

GAVIN GEIS: Correct, correct. There are complications. Completely agree.

LOWE: Yeah.

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

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 20, 2022
Rough Draft

HALLORAN: Thank you, Senator Hansen. This is, of course, specifically to individual candidates in elections, right?

GAVIN GEIS: Correct.

HALLORAN: Help me out on this. Do, do we have anything at the federal level that restricts PAC funds to nonprofits?

GAVIN GEIS: PAC funds to nonprofits. No, we have-- the PAC funds are because of the Citizens United decision, very, very open. Unfortunately, they can spend and pretty much however they want to. So yes, this is individual candidates.

HALLORAN: So Common Cause at the national level or Common Cause Nebraska could receive large PAC fund support?

GAVIN GEIS: I'm trying to think if-- you know, I may have to check that. We do not. I'll tell you, my budget is very small.

HALLORAN: But you would take it if you, if you--

GAVIN GEIS: I would take PAC funding?

HALLORAN: --if it was offered? No?

GAVIN GEIS: No, I, I don't see why I would. I don't think so.

HALLORAN: OK, just asking that.

GAVIN GEIS: I don't, don't see the reason I would.

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

McCOLLISTER: Yeah, thank you, Senator Hansen. In your recollection, we have seen bills that would require those third-party groups, those PACs to disclose donors.

GAVIN GEIS: Yes.

McCOLLISTER: What's been the legislative history of those efforts?

GAVIN GEIS: Unfortunately, they have stopped in this committee. Those efforts have-- the bills consistently come before this committee and do not make it out. There-- that is basically the legislative history of most of those efforts to put some sort of disclosure on PAC spending. Beyond that, not-- there has years, how many years ago? I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 20, 2022
Rough Draft

want to say seven or eight years ago, one didn't make it out to the floor for debate, was opposed by a variety of different interests and didn't make it through, Catholic Church showed up and brought opposition to the effort. But for the past, I would say, seven, eight years, there has been a bill consistently before this committee in regards to some of that dark money political spending. But, yeah, that's to my knowledge.

McCOLLISTER: OK, well, Mr. Daley is here, perhaps he can enlighten us.

GAVIN GEIS: He might-- I think he might be hiding on this one, we're not sure.

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

GAVIN GEIS: Thank you.

M. HANSEN: All right. Any other proponents in LB734? Seeing none, any opponents to LB734? Seeing none, any neutral? Welcome.

FRANK DALEY: Thank you, Vice Chairman Hansen and members of the Government, Military and Veterans Affairs Committee. My name is Frank Daley, D-a-l-e-y. I serve as the executive director of the Nebraska Accountability and Disclosure Commission, and I'm appearing today in a neutral capacity. The Commission has taken the position that this is a significant issue, whether or not to limit campaign contributions, and it is by far a pure public policy issue. And that's why the Commission is not taking a position and thinks a public policy issue really needs to be left to the Legislature. However, I decided to testify just because I heard a few questions about how the campaign finance system runs now. And so listening to your questions, let me respond to a few of them. I think Senator Lowe, you were talking about PACs and so forth and so on. Currently, PACs, Political Action Committees, file reports with the Commission, they disclose where they've gotten their money, they disclose how they spend their money. And PACs registered in Nebraska may only use their money for the purpose of supporting or opposing candidates, supporting or opposing ballot questions, and for certain internal administrative expenses. I think what sometimes we get a little confused. There are groups out there which we refer to as issue ad groups. And what they do is they often put out ads shortly before the election in which they criticize something perhaps that an incumbent officeholder has done during his or her career. But they never make reference to an election, they don't say vote for.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 20, 2022
Rough Draft

They don't say vote against. And so the U.S. Supreme Court has said those aren't campaign ads, those are issue ads. And those are the things that I think we've been really concerned about because the public takes them as campaign ads that are intended to affect elections. They do affect elections. But because they are not campaign ads, they're not subject to the jurisdiction of the Accountability and Disclosure Commission. There's no disclosure requirement. The Supreme Court has said we can require those things by statute, by a separate statute, and I think that is Senator Blood's bill, LB8, which tries to pull those into the reporting system. So at any rate, that, that's kind of the global thing that we have at the moment. Other than that, other than clarify those things, I don't have anything else unless you have questions about something.

M. HANSEN: Thank you. Are there questions? Seeing none,--

FRANK DALEY: Thank you very much.

M. HANSEN: --thank you for your time. Any other neutral testifiers? Seeing none, we'll invite Senator Cavanaugh back up if you'd like to close. While he's coming up, I'll note for the record, we did have four-- sorry, we did have a series of position statements-- is that correct-- position statements: two proponents, three opponents, and no neutral. And those will be noted for the record. With that, Senator Cavanaugh, welcome to close.

J. CAVANAUGH: Thank you, Vice Chairman Hansen. I just wanted to clarify a few things that I feel like I didn't quite make clear. One, this would apply to candidates for every office, not just the Legislature, the City Council, School Board, Governor. I think Mr. Daley kind of cleared up the confusion about the, you know, PACs and issue groups and the disclosure part, and that it's my understanding that this committee does have the opportunity to vote out a bill that would do the thing we can do on those sort of third-party expenditures. And then just the question about the PAC expenditures to nonprofits, my understanding because there's a reporting requirement associated with PACs that I don't think would be in their interest to give to a nonprofit. The money that comes into a PAC often comes from somebody else who maybe would-- they could give directly to nonprofit and then drive maybe a tax benefit from that, as opposed to giving it to a PAC where I don't think they could derive a tax benefit. So I don't think that that's a likely scenario, although, I don't know, I just thought-- that struck me so I thought I'd bring it up. But I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 20, 2022
Rough Draft

appreciate your consideration. If anybody had any other questions, I'm happy to answer them.

M. HANSEN: Thank you. Are there questions? All right. Seeing none, we'll close the hearing on LB734 and we'll have Senator Cavanaugh to open up on LB733.

J. CAVANAUGH: Well, good afternoon again, Vice Chairman Hansen, members of the Government, Military and Veterans Affairs Committee. My name is John Cavanaugh, J-o-h-n C-a-v-a-n-a-u-g-h, and I represent the 9th Legislative District in midtown Omaha. Today, I'm here to introduce LB733, which prohibit foreign nationals from making contributions to ballot question committees. LB733 was prompted by a Federal Election Commission ruling last year that stated initiative and referendum campaigns were not elections as the term is defined in federal law. Federal law prohibits foreign nationals from spending or contributing on elections. This prohibition applies to all elections, state, local, and federal. But as a result of this FEC ruling, it does not apply to ballot measures. LB733 seeks to close this loophole. It mirrors the definition of foreign national and federal law and regulation. It contains language to ensure domestic entities that are subsidiaries of foreign entities are still allowed to make contributions, provided that the foreign national parent entity does not provide the funds for such contribution. I want to thank Frank Daley from the Accountability Disclosure Commission for working with my office on the language to this bill to make sure it achieves the intended purpose. Congressional action on this issue is unlikely, so it's up to us as a state to make sure that our initiative and referendum process remain free from foreign influence. I thank the committee for your time and ask you to move LB733 forward and I'd be happy to take questions. But I just want to-- I guess a few other things struck me while I was reading my intro. This was the state of the law until July of last year, when the FEC basically changed the definition of election to exclude these type of events. And there are places where it's already becoming an issue in Maine. There is an incident where a Canadian company is, is funding a ballot initiative to build a power transmission line through Maine because Maine doesn't have this on the books at this point. And so this bill is basically I would consider almost a cleanup or technical bill, and I think Mr. Daley will come and testify on this as well to get us back to where we were, which prevents foreign national entities from putting, putting money into issue campaigns. It's already-- you can't do it in election candidate campaigns. It just would be opened up for issue campaigns. So that's it, and I'd be happy to take any questions.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 20, 2022
Rough Draft

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

HALLORAN: Thank you, Senator Hansen. So to be clear up just until recently, this was a law at the federal level precluding foreign nationals from contributing to initiatives?

J. CAVANAUGH: It is still the-- well, it's still the law at the federal level. But because of how the, the Federal Election Commission interprets election, they now exclude ballot initiatives. So up until they changed that interpretation, it was excluded. As a result of federal law, it was excluded at the state level.

HALLORAN: Thank you.

M. HANSEN: Thank you, Senator Halloran. Seeing no other questions, thank you for your opening. With that, we'll invite up our first proponent on LB733. Welcome.

FRANK DALEY: Thank you, Vice Chairman Hansen and members of the Government, Military and Veterans Affairs Committee. My name is Frank Daley, D-a-l-e-y. I serve as the executive director of the Nebraska Accountability Disclosure Commission, and I'm here today to express the Commission's support for LB733. By way of background, for many years, there has been a provision in federal law which prohibited foreign nationals from making contributions or expenditures or otherwise participating in federal, state, or local elections. It has always been clear that this law applied to the nomination or election of candidates, and there's always been somewhat of a difference of opinion as to whether or not this applied to ballot questions on the state and local level. As Senator Cavanaugh indicated last year, the Federal Election Commission came to the conclusion that the federal prohibition on foreign participation in U.S. elections only applied to candidates so the nomination or election of candidates and, therefore, did not apply to ballot questions on the state and local level. So what that means is at the moment, the federal law has no applications to foreign companies, foreign nationals or, frankly, even foreign governments that want to come into the U.S. and affect ballot questions. Right now, I think there are 16 ballot questions circulating in the state of Nebraska, initiative petitions. I believe, as of today, there are eight constitutional amendments proposed by members of the Legislature. And at the moment, there is nothing to prevent a foreign national or foreign government from coming in and trying to affect those elections. Think of the possibilities here. Let us say, we all recall the pipeline, and we have a lot of different

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 20, 2022
Rough Draft

opinions as to whether that was a good idea or a bad idea. But the fact is that the pipeline, in order to get rights of way, had to go to county governments. In some cases, city governments so they can move their pipeline across rights of way. Under Nebraska law, a recall election is a ballot question. And so if a foreign government had a real interest in some sort of project crossing the U.S., if there were some local public official that didn't seem to be voting the wrong-- but didn't seem to be voting the correct way, there would be nothing to prevent the foreign government, the foreign company, the foreign national from instigating and funding a recall election. So there are obviously a lot of potential possibilities for harm. This, at its heart, is an election integrity bill. And as I'm sure you can imagine, there's no real possibility that we're going to see quick action from Congress on this. And so it really is left up to the individual states to take steps to protect the integrity of their own elections. And that's what this bill is all about. So I seriously recommend that you advance this bill to General File. I do appreciate Senator Cavanaugh bringing this bill and the opportunity to work with him and his staff. And thank you for the opportunity to testify on this. I appreciate it.

M. HANSEN: Thank you, Mr. Daley. Any questions from the committee? Seeing none,--

FRANK DALEY: Thank you very much.

M. HANSEN: --thank you. Invite up our next proponent.

GAVIN GEIS: Once again, my name is Gavin Geis, spelled G-a-v-i-n G-e-i-s, and I'm the executive director for Common Cause Nebraska. I will be extremely brief only to say we are in full support of LB733. Foreign entities should not be contributing to Nebraska's or any state's elections. That goes for candidates and has forever. It should go for ballot questions. There is absolutely no advantage whatsoever to having foreign entities giving money in our elections. I don't think any Nebraskan would disagree with that, and I hope none of you will disagree with that. Please advance this bill. We think it's a commonsense, bipartisan thing. Everyone can agree, Americans should be the ones controlling our elections, not foreign entities and not foreign nationals. That is, that is it. Thank you all for the time.

M. HANSEN: Perfect. Any questions? Senator Lowe.

LOWE: Thank you. And thank you, Gavin, again. Since Mr. Daley brought up the pipeline. What would-- if, if we pass this, what would stop the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 20, 2022
Rough Draft

people from the pipeline or the people against the pipeline coming in from buying dinners for the townsfolk that want-- they don't want that elected official there?

GAVIN GEIS: That is a valid question. It's a good question, but it's-- yeah, this would certainly not stop that, right? This would not stop that sort of-- I don't, I don't know the technical term for it.

LOWE: Influence.

GAVIN GEIS: Influence. I won't call it quite bribery, but that is true at every level of government, right? Currently, legislators, can have dinner bought by any lobbyist in the Capitol and that wouldn't stop for a, a foreign national from doing the same thing. You bring up good things that maybe we should look at, PACs and contri--

HALLORAN: And rare chicken.

LOWE: Rare chicken.

GAVIN GEIS: Yes, exactly.

LOWE: Thank you.

GAVIN GEIS: Thank you.

LOWE: I just wanted clarity on that.

M. HANSEN: Thank you, Senator Lowe. Seeing no other questions, thank you.

GAVIN GEIS: Thank you.

M. HANSEN: All right. I guess not, but any other proponents? Seeing none, any neutral? Seeing none-- oh, sorry, any opponents? Seeing none, neutral? None. For the record, everybody who's sitting in this room has either testified or is for the next bill. With that, we'll invite Senator Cavanaugh up to close.

J. CAVANAUGH: Thank you, Vice Chairman Hansen, and thank you committee for your consideration of this bill. As you heard from Mr. Daley, how bad it could be if we don't pass this bill. Foreign governments could start participating in recall elections in the state of Nebraska, which does not seem like a thing that we want to have happen. So I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 20, 2022
Rough Draft

would ask you to act quickly on this bill and pass it out of committee, and I'd take any other questions.

M. HANSEN: Perfect. Are there questions? Seeing none, thank you. Before we close, I'll note for the record we did get four position statements. Sorry, five position statements: four proponents, one opponent, and no neutral. And with that, we will close the hearing on LB733. With that, we move to LB787 [SIC--LB786]. And we invite Senator Groene up. Welcome.

GROENE: Thank you, Vice Chair Hansen and members of the committee. This is a real simple little bill that many of you know is from a personal experience I had. The intent is to clarify Nebraska Political Accountability and Disclosure Act to amend Section 49-1496 to define in law that any real property used as a residence is not subject to the reporting requirements of the statement of financial interest. I had a complaint against me because I did not include my Lincoln residence as a piece of property because it was a residence. In my mind, it was residence. And anyway, we went through the process and Accountability and Disclosure Commission ruled in my favor. I pointed out that in Black's Law Dictionary, the factual place of abode living in a particular locality, a New York appellate court decided for the following legal conclusion as domicile and residence are usually in the same place. They are frequently used as if they had the same meaning, but they are not identical terms for a person may have two places of residence as in the city and country, but only one domicile. Residence means living in a particular locality. But domicile means living in that locality with intent to make it a fixed and permanent home, rather than simply require bodily presence as, as an inhabitant in a given place. While domicile requires bodily presence in that place and also an intention to make it one's domicile. There's a couple of Nebraska court cases. There's Supreme Court cases in a lot of issues. For example, there's one about inheritance tax where the person lived, one, where should, should the person paying inheritance tax here and which county and they, they, they defined it as a domicile versus residence. And but our present law says the nature and location-- when you're reporting on the statement of financial, the nature and location of all real property in the state. Remember just the state, except any such real property used as except a residence of the individual. I read that and I said, I have a residence in Lincoln and my wife is back in our residence in North Platte. There's many of us senators have a residence here because of the distance. We used our per diem money to pay for it. You could rent a place or you could buy a place, not as an investment, just to buy-- live there. Instance--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 20, 2022
Rough Draft

interestingly, it's only in the state. We know many senators and the American dream that have residences in Florida, Minnesota, they don't have to report that, it's only a residence in the state, and I've never understood that. So I have to report. And you know with the political climate, no matter what side of the aisle you are, sometimes you don't want people to know where you live, where you, where you reside sometimes. I've had threats, and plus just for fairness. If you live close by, you don't have to report your residence, but I have to, my one in Lincoln. So after talking to-- Mr. Daley will testify. I believe they concur now, after doing the research, I believe-- they'll explain it. I believe they're going to change the form that any residence you have, you don't have to report. But I think we need to clear up the law for future legislators, for individuals who want to file a claim against one of us that says you didn't support-- report this property. That as long as it's used as a residence, you don't have to report it. So anyway, it's simple language, we changed it to add "except any such real property used as a residence of the individual." There's confusion about residence. There's a residence definition in, in election law that's a different chapter because then you have to prove that residence. But this is not. This is about where we live at that moment in time to do our job. So anyway, I appreciate-- I'd love to see-- I don't know if there's going to be-- I'd love to see consent calendar. The change, the change is probably going to happen anyway by the Commission. I want to clarify it in law also. Thank you.

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

McCOLLISTER: Yeah, thank you, Vice Chairman Hansen. I was a part of the residency challenge for Ernie Chambers, I was part of the Executive Committee. So you're saying it's in two chapters of law that defines where you live because how will you know where a particular candidate lives if you don't have an address of somebody?

GROENE: I don't think-- well, I will. I have a address. You have to have your, your main, your domicile residence has to be where you were elected from. And I have that.

McCOLLISTER: Right.

GROENE: So does Senator Lowe. So does Brewer, Williams. I can go down the list who owns a place down here to reside while serving in the Legislature. Senator Chambers wasn't-- had a rental. He was living in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 20, 2022
Rough Draft

a place, he only owned one place in Omaha. So you don't have to own it. It's where you reside.

McCOLLISTER: Right.

GROENE: This is different. This isn't reporting where I reside. I do that with the local county clerk when I file that this is where I live. This is reporting assets. This has nothing to do with your standing as Senator Chamber was where he lived. This is about reporting your assets.

McCOLLISTER: But if a citizen wanted to know where a particular candidate lived, how will they know if we, if we delete the [INAUDIBLE]?

GROENE: All you have to do is go back to your local county, go to the voting records and see where you're registered to vote at. Simple as that. And if you're not registered to vote there, you can't run as a candidate, I don't believe if you're not registered and you have to have address.

McCOLLISTER: Yeah, I understand the thrust of your argument. It makes sense to me, but I'm just trying to figure out how we reconcile those, those two elements of law.

GROENE: There's two different sections of law. You're talking about running for office. This is just reporting the assets.

McCOLLISTER: OK. Thank you, sir.

GROENE: So I still have a residence, and it's easily provable in Lincoln County.

McCOLLISTER: Understand.

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

LOWE: Thank you. Senator Groene, you have a place here in Lincoln and a place back in North Platte. You're not allowed to vote in the one here, here in Lincoln.

GROENE: Nothing to do with election law.

LOWE: Domicile in North Platte.

GROENE: Domicile is, is--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 20, 2022
Rough Draft

LOWE: So that would be kind of the clarification of the two.

GROENE: Yeah. If I tried to register to vote here, people would have a, a concern, I believe.

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

McCOLLISTER: Thank you, Senator Hansen. Just want to clear, you have one place in North Platte or two?

GROENE: One.

McCOLLISTER: OK.

GROENE: Well, I have another place, a cabin, but, but I have one.

McCOLLISTER: So your residence is, is the, is that what's on the voter [INAUDIBLE].

GROENE: My domicile is the place in North Platte.

McCOLLISTER: In the city.

GROENE: But I have three, actually, I have three residences to be honest with you.

McCOLLISTER: Yeah.

GROENE: I don't know if you own one in Florida, like a couple of senators do.

McCOLLISTER: I wish.

GROENE: Or that's-- see, but I don't know that and neither does the voter. But if you happen to own in Nebraska, you have to report it. That makes no sense to me.

McCOLLISTER: Thank you, Senator Groene.

GROENE: If you're concerned about a senator not being a citizen in your district, I would be more concerned if he spent all its time in Florida than not in Lincoln or, or North Platte, but we don't report that. But I'm not-- I'm asking you to change that.

M. HANSEN: Perfect. Thank you, Senators. Any other questions? Seeing none, thank you for your opening.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 20, 2022
Rough Draft

GROENE: Thank you.

M. HANSEN: With that, we will switch over to proponents. Welcome.

FRANK DALEY: Thank you, Vice Chairman Hansen and members of the Government, Military and Veterans Affairs Committee. My name is Frank Daley, D-a-l-e-y. I serve as the executive director of the Nebraska Accountability and Disclosure Commission, and I'm here in support of LB786. LB786 is what is known as remedial legislation. That is, we're putting something into the law that we thought was already there, and maybe some question has arisen. Essentially, what this does is it clarifies the fact that a person may have more than one residence. And this issue, as Senator Groene mentioned, came up in the context of a contested case which came before the Nebraska Accountability and Disclosure Commission. And in the process of investigating that case, it became clear to us that Nebraska case law recognizes the fact that a person may have more than one residence and so that what this statute does, it makes it clear that what we're referring to residence, it could be any residence, not the single residence. I know there were some questions about how does this interact with the election law? And the answer is that under the election code, there is a definition of residence which is specific as to the election code. In other words, it applies only to the election code. And to be honest with you, I think the election code does something which is very common. It sort of uses interchangeably the term residence and domicile. Domicile is the place where that's my home, that's the place I will always go back to, that's my permanent place. A residence can be a place simply where I live at different times, maybe different times of the year, someone may have a residence in Florida for the winter and a residence in Nebraska for the summer. The Governor of the state of Nebraska has a residence across the street here in Lincoln and also has a residence in Omaha. But he is domiciled in one of those places, and I guess he gets to choose which that is. So that's the long and the short of it. This when all is said and done, we strike one word, add five for the purpose of clarifying a statute. Thanks for the opportunity to testify today.

M. HANSEN: Thank you, Mr. Daley. Any questions? Seeing none, thank you.

FRANK DALEY: Thank you very much.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 20, 2022
Rough Draft

M. HANSEN: Seeing as you're the only person in the audience, I will figure there's no more testifiers. With that, Senator Groene, would you like to close?

SANDERS: Are there any letters?

M. HANSEN: Oh, and I'll note, there are no position statements on this bill for the record.

GROENE: I think Senator Brewer is where the crowd is.

M. HANSEN: Yeah.

GROENE: Anyway, no, it's any political times, it was just frustrating that I had to let people know where I resided when I wasn't doing business in Lincoln. And it was bad enough that my wife was home alone, and then all of a sudden they were-- because I, I got some threats and they knew-- and, and I'm not trying to fool you, they can go down to Lancaster County assessor's office anytime they want and, and look up my name or any of our names and see if we have a residence here. But anyway, this just levels the playing field with those who own properties outside of the state and those of us that own properties for, for to fulfill our duties as a public citizen. So thank you, and I would appreciate your vote and, and get it on consent calendar.

M. HANSEN: Perfect.

GROENE: The-- they do plan costs and everything, and I know Frank owns a really tight budget, but I was told they do plan to change the wording on the form also and when they run out of the old forms for the next whenever somebody changes it or whatever. Anyway, thank you.

M. HANSEN: Great. Thank you. All right, with that, as I said, no position letters. And with that, that will close the hearing on LB786 and close our hearings for today. Thanks, everyone.