

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 2, 2022
Rough Draft

BREWER: Good afternoon and welcome to the Government, Military and Veterans Affairs Committee. I'm Senator Tom Brewer from Gordon representing the 43rd Legislative District and I am the Chair of this committee. The committee will take up the bills in the order posted on the agenda. Our hearing today is our public part-- your public part of the legislative process. This is your opportunity to express your position on proposed legislation before us today. The committee members might come and go in the hearing. This is just part of the process. They have bills in other committees to present. I ask you to abide by the following procedures to better facilitate today's, facilitate today's meeting. Please silence or turn off your cell phones or any other electronic devices. Please move to the reserved chairs when you're ready to testify. There will be chairs in front for those that are next up to testify. Introducers will-- introducer will make the initial statement followed by proponents, opponents, and those testifying in the neutral. Closing remarks are reserved for the introducing senator. If you're planning to testify, please pick up a green sign-in sheet that is at the table at the back of the room. Please fill out the, the green sheet before you testify. Print and complete the form entirely. When you turn in the sheet, be sure and give it to-- either to the page or the committee clerk. If you do not wish to testify today, but would like to record that your presence-- your presence here, there are white sheets at the back at the table. Please sign in those and that will go into the official record. If you have any handouts, we'd ask that you have 12 copies. Give them to the pages when you come forward with your green sheet and if you don't have 12 copies, we will have the pages help you get more copies. When you come to testify, please speak clearly into the microphone. Tell us your name and please spell your first and last name to ensure that we get it recorded accurately. And you will have to introduce yourself for each bill that you want to speak in. Today, we'll be using the light system. You will have-- how many here are planning to testify? Raise your hands. All right, we'll go five minutes for your initial remarks. When you see the yellow light, you have one minute remaining. When the light turns red, you'll need to end your presentation. Questions will follow. No displays of support or opposition to bills, vocal or otherwise, will be allowed. Committee members that are here with us today will be introduced, starting on my right with Senator Blood.

BLOOD: Good afternoon. Senator Carol Blood, representing District 3, which is parts of Bellevue and Papillion, Nebraska.

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McCOLLISTER: John McCollister, District 20, central Omaha.

SANDERS: Good afternoon. Rita Sanders, representing District 45, which is the Bellevue-Offutt community.

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

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

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

HUNT: Hi. I'm Megan Hunt and I represent District 8, which is the north part of midtown Omaha.

BREWER: Dick Clark, the committee--

DICK CLARK: Legal counsel.

BREWER: --legal counsel, that's it. Julie Condon, the clerk, and today-- let's see, we got a substitute-- Ashlyn over here and Bhagya and that will be our two pages. And with that, we will have our first presenter come up for LB779. Senator Gragert, welcome to Government, Military and Veterans Affairs.

GRAGERT: Thank you. Chairman Brewer and members of the Government, Military and Veterans Affairs Committee, I'm Senator Tim Gragert, T-i-m G-r-a-g-e-r-t, representing District 40 in northeast Nebraska and here today to introduce LB779. LB779 removes the ten-year limitation on access to state tuition assistance for members of the Nebraska National Guard. Members of the Nebraska National Guard are eligible for free tuition from the University of Nebraska, state colleges, community colleges, and certain independent colleges when obtaining a bachelor's degree, associate degree, diploma, or certificate and a 50 percent reduction in tuition for a graduate degree. Reimbursement for tuition costs at an independent college cannot be more than what UNL charges. Currently, National Guard members are eligible for this benefit for a period of ten years from the date of their initial membership. This period could be extended up to five years due to, due to deployment. There are statutory caps on the amount of funding, \$900,000, and the number of members, 1,200, that qualify for this benefit during any fiscal year. Members receiving tuition assistance must maintain satisfactory performance with the guard and agree to serve three years after completion of the courses for which tuition assistance is granted. LB779 would harmonize

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the Nebraska National Guard with the active selective reserve component having no lifetime limit on tuition credit. Last year, Senator Briese introduced LB4, which removed a provision preventing any member of the Active Selective Reserve with more than ten years of military service from using tuition credit. Currently, if LB779 were to pass, it is estimated that an additional nine members of the National Guard would qualify to use tuition assistance for graduate school at a projected cost of \$13,800. The National Guard is not seeking an increase in funding to implement LB779 as they feel it is workable within the current funding level. The idea for this bill was initiated due to interest expressed among members wanting to pursue a later-- a degree later in life. This could serve as a recruiting retention tool for the right for the National Guard as well as provide a new level of continuity for highly skilled certification or degree-necessary professions within the guard. LB779 does not increase state costs, it benefits the members of the National Guard, and it may attract future members. Therefore, I urge your favorable vote on the advancement of LB779 from committee. If there are any questions, I'd be happy to answer them. Nebraska Military Department Deputy Director Richard Dahlman is here today to respond to questions as well. Thank you.

BREWER: Thank you, Senator Gragert. Questions for Senator Gragert? Guess you did a good job. You're going to stick around for close?

GRAGERT: I'll be here.

BREWER: Good. Thank you. All right, we will start with proponents to LB779. General, welcome to the Government Committee.

RICHARD DAHLMAN: Thank you, Chairman. Appreciate that and good afternoon as they-- I'll just give them a moment to hand this out so you can follow along.

BREWER: You can go ahead and start.

RICHARD DAHLMAN: OK. Good afternoon, Senator Brewer and members of the Government, Military and Veterans Affairs Committee. I'm Richard Dahlman, R-i-c-h-a-r-d D-a-h-l-m-a-n, the deputy director of the Nebraska Military Department, and I'm testifying in support of LB779 and we'd like to thank Senator Gragert for introducing this bill. LB779 seeks to eliminate the existing limitation that prevents members of the Nebraska National Guard with more than ten years of military service from utilizing the state tuition assistance. This change would

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harmonize the National Guard's tuition assistance guidelines within the requirements set for those in the other reserve components who are eligible for state-funded tuition credits through the Nebraska Department of Veterans' Affairs. Nebraska Military department uses state tuition assistance as an appealing recruiting tool for potential members and a retention incentive for existing members. This benefit is unique due to the influence it can have on socioeconomic and personal development for the service members who would like to use the state tuition assistance program. I believe that it is important to also address the fiscal impact of this change will have. Our projection is that this change can be absorbed within our current levels of appropriation. I also note that 85-505 of the revised statutes states, the total number of the National Guard members who may use the program in any fiscal year is \$1,200 and the amount of tuition credits granted should not exceed \$900,000 in any fiscal year. Our agency supports the Senator's recommendations because the current Nebraska National Guard is not what it was when this ten-year limitation rule was written as part of this tuition assistance program. The Nebraska National Guard serves as the primary reserve for the National Guard-- serves as the primary reserve of the Air Force and the army. This means our participation in state and national responses are frequent and sometimes last long durations. We are always ready and always there when our fellow citizens are overwhelmed by disasters or crises within our own state borders. Just this year, many of your Nebraska National Guard members are deployed in support of federal contingencies in camps in Djibouti, Qatar, and Kuwait. This is in addition to the state-focused responses this past year to assist with COVID-19 testing and case management, ensuring peaceful demonstrations, responses to floods and wildfires across the state, and ensuring the right to vote is exercised by assisting in voter registration and polling activities in 2020. National Guard members understand when they took an oath to protect and defend the Constitution of the United States and the state of Nebraska, that they would be asked to sacrifice on various levels and willingly accepted. These calls to action often disrupt, disrupt normal life for all of our members, especially those who are pursuing educational opportunities while continuing to serve their state and nation. It's our firm belief that educational endeavors and the desire for professional and academic growth should not have an expiration date for anyone, especially not our members who have earned this benefit through their honorable service of members. The Nebraska National Guard who have an interest in pursuing educational prospects should be able to do so whenever they have the opportunity to include later in

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life, in their-- and also in their military service. Senator Brewer, committee members, that concludes my testimony and I would be glad to answer any questions you may have. Thank you.

BREWER: Thank you. General Dahlman, on the issue of this timeline, if you have ten years in service-- let's say you're an officer, you have ten years in service, you're going to be a senior captain or a major.

RICHARD DAHLMAN: Correct.

BREWER: So if you want to be competitive, whether it be for brigadier, general, colonel, or even lieutenant colonel, you need to have a graduate degree. Would that be a fair assessment?

RICHARD DAHLMAN: That is correct.

BREWER: So the way it is now, you're going to have to pay out of your own pocket in order to have the ability to get that degree even though to be competitive in the military, you need to have the degree.

RICHARD DAHLMAN: That is correct. And as you know, the majority of-- you get major and above-- do-- they are pursuing that competitive degree. There are some federal programs that are available, but they don't cover down on everything as the expenses are considerable.

BREWER: OK. Questions? All right. Well, I guess you do your job too. Thank you for your testimony.

RICHARD DAHLMAN: Thank you, Senator. Appreciate it.

BREWER: All right, we're going to continue with proponents to LB779. Ah, a familiar face. Welcome back to the Government, Military and Veterans Affairs Committee.

RYAN McINTOSH: Chairman Brewer, senators, my name is Ryan McIntosh, R-y-a-n M-c-I-n-t-o-s-h. I'm here today as a registered lobbyist on behalf of the National Guard Association of Nebraska. National Guard Association of Nebraska represents the current commissioned officers and warrant officers of the Nebraska Air and Army National Guard, as well as a large number of retirees as well. I've also been asked to testify today on behalf of the Enlisted Association of the National Guard of Nebraska as well. I will be brief and I won't cover things have already been said. One thing I do want to point out is the-- that there also exists federal tuition assistance. Under state law, current law, and under this bill, federal tuition assistance must be used up

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first. Tuition assistance is one of the most significant incentives that we as soldiers and airmen have and it's very important for both the initial enlistments as well as retention. Currently, members of the Nebraska National Guard may receive federal tuition assistance as well as state tuition assistance to the state Nebraska. Two key points. Again, there is a cap on both the dollar amount and the number of service members that may use tuition assistance each year and also that service members must exhaust all federal tuition assistance first before dipping into state tuition assistance. Federal tuition assistance will cover up to 16 credit hours per semester and up to \$250 per credit hour. For reference, the current cost for tuition at the University Nebraska-Lincoln is \$259 per credit hour. University in Nebraska-Omaha is \$235 per credit hour. So service members seeking a bachelor's degree at the University Nebraska-Lincoln taking a standard 15 hours per semester would have nearly all of their tuition already covered by the federal tuition assistance. State tuition assistance would cover the balance and this does not include any books, fees, room and board, and any other costs. So the ten year, the ten-year mark has been-- this ten-year limitation has, has been an impediment to retention of soldiers and airmen that we wish to keep in our ranks. We place significant demands on our service members, as General Dahlman mentioned. LB779 provides incentive to keep our best soldiers and airmen in our ranks. With that, I ask for your support for LB779 and urge the committee to pass it on to General File. Thank you.

BREWER: Thanks, Ryan. Now, if-- I know you're not recruiting, but if we were to pick a window where we'd lose members of the National Guard, it's probably between the six-year and, say, 14/15-year mark. That's when the ones that we have trained and we need to keep, we lose. And so this is basically just another incentive to make sure that as they have invested in the guard, they have options in a way of benefits that we can't offer them currently.

RYAN McINTOSH: That's correct. So depending on whether it's an officer or an enlisted-- officer with prior service might have a couple more years, but in that six- to ten-year window is, is where-- and really up to 13 years is where, where we see the biggest loss in our best soldiers and airmen.

BREWER: Right. All right, questions? Senator McCollister.

McCOLLISTER: Yeah. Thank you, Mr. Chairman. If applications exceed resources, how do you choose who, who gets the funding and who doesn't?

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RYAN McINTOSH: There is a, there's a criteria based on, on, on who's used it before, but other than that, I do think it's on a first-come-first-serve basis. I can get that specific information to you right after this hearing, Senator. I, I do have a-- our current, our current statutes and the current policy guidance with me so I'll, I'll look at that and I'll get that to your office.

McCOLLISTER: Thank you.

BREWER: All right. Additional questions? Senator Hunt.

HUNT: Thank you, Mr. Chairman. Thanks for being here today. Do you have any idea how many people are likely to take advantage of this benefit if, if we pass this?

RYAN McINTOSH: I believe Mr. Dahlman testified that the Military Department is estimating an additional nine per, per year--

HUNT: OK.

RYAN McINTOSH: --for this and so if you recall, LB450 passed two years ago that, that did significantly expand our, our tuition assistance program and made it available to officers and then for a second bachelor's in any sort of graduate program. And so that's something that's still new and still being pushed out to our members, but I believe nine per year is the current estimate.

HUNT: Thank you.

BREWER: Yes, Senator Sanders.

SANDERS: Chairman Brewer, thank you. Good afternoon and thank you for your service.

RYAN McINTOSH: Thank you.

SANDERS: Question that I have is where will they likely attend class? Is it online? Is it at a local university?

RYAN McINTOSH: So for the, for the post ten years, it's going to depend on the individual. Most of our, our officers, by the ten-year mark, have a bachelor's degree. In order to be promoted to captain, you need to have that bachelor's degree. So within the officer ranks, I don't have any statistics. Anecdotally, I'll say a lot of those individuals are working full time already and it's going to be evening

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classes and a lot of online classes. You know, for me myself, I'm currently enrolled in the Command and General Staff College. If I so chose to, I can roll those credit over-- credits over and do an online course to finish a master's degree. For our enlisted soldiers that maybe don't have that or soldiers who have just made the transition to the officer side that are hitting that ten-year mark, it may be, it may be an in person, but for the most part of that ten, ten-year mark, I would I would guess that it's online classes.

SANDERS: Thank you.

BREWER: Additional questions? I got one quick one for you. Normally we have a chance to talk senators who represent us in the guard at an event. Do you guys have one scheduled this year?

RYAN McINTOSH: We do. It is February 15. it will be right at the conclusion of committee hearings at five o'clock, if you'd like to sneak out early and--

BREWER: Sometimes they notice when I do that.

RYAN McINTOSH: Historically, it's been at the Ferguson House. This year, it is at the Scottish Rite building just across the street by the state office buildings.

BREWER: All right. Well--

RYAN McINTOSH: February 15.

BREWER: --we'll probably have more questions for you then, but thank you for your testimony. Anything else? All right, thank you.

RYAN McINTOSH: Thank you for the plug.

BREWER: OK. All right, any additional proponents? All right, seeing none, any opponents? Anybody in the neutral? Senator Gragert.

GRAGERT: Unless there are any questions, I'll just waive closing.

HALLORAN: I'm waving.

BREWER: All right. Thank you for that and let me give the numbers here.

GRAGERT: Thank you.

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BREWER: It's underneath there. All right, we have no letters in the neutral and no letters in opposition and we have one proponent letter. We will now transition to LR268CA and welcome Senator Briese. Senator Briese, welcome to the Government Committee.

BRIESE: Well, thank you. Good afternoon, Chairman Brewer and members of the Government Committee. My name is Tom Briese, T-o-m B-r-i-e-s-e. I represent the 44th Legislative District. I'm here today to introduce LR268CA, a proposed constitutional amendment to allow for voters to recall state senators and governors. Nebraska's constitution places a strong emphasis on the power of the people who are oftentimes referred to as a second house of the Nebraska Legislature. We are the only state in which every single bill gets a hearing where the public is allowed to weigh in and our government operates with a level of transparency which is rarely seen elsewhere. I believe that LR268CA is in keeping with these traditions, which a vast majority of Nebraskans support. Some folks have questioned the necessity of this bill, citing the fact that elections for our legislative and gubernatorial offices occur every four years and that the process to initiate a recall-- collect signatures, get the question on the ballot-- could take a year. But I would counter that a bad actor in an elected office can do a whole lot of damage to our rights, our programs, our constituents' faith in government in that extra two to three years. And this bill isn't about anyone in particular, obviously. This idea actually was brought to me by a constituent from my district. I don't anticipate this measure being used often, especially given the fact that the parameters to get the question on the ballot, how many voters in each part of the state or legislative district would need to sign on to the petition, how long they would have to collect signatures, etcetera would be left up to the Legislature. But I think a large majority of Nebraskans would still support having this measure added to our constitution. Currently, 20 other states allow for the recall of a governor and 19 allow for the recall of state representatives. Only two governors have ever been successfully recalled. Governor Lynn Frazier of North Dakota in 1921. I think most of us remember that Governor Gray Davis of California was recalled in 2003. But those were instances where I think it was a good thing that the people, a majority of whom did not want those gentlemen in office, were able to have their wishes carried out. And only 22 state legislators have been successfully recalled from office since 1913. But again, those were clearly instances in which the people who those legislators were elected to represent clearly did not feel that they were accurately representing them. As I just mentioned, it was a good thing that those

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folks had the ability to control how they were represented. So I would ask the committee to consider this resolution and I would be happy to try to answer any questions.

BREWER: All right. Thank you for that opening. Questions for Senator Briese on LR268CA? Senator Lowe.

LOWE: Thank you, Chairman Brewer, and thanks, Senator Briese. Are you sure you weren't thinking of any certain senator you were maybe contemplating?

BRIESE: Not at all.

LOWE: OK.

BRIESE: But, but certainly not. You know, this is a procedure that I think Nebraskans would use. You know, I respect the wisdom of Nebraskans and I think it's a process that they would use judiciously. And I-- it would be a process that would be rarely used, but I think it's a process that the, that the voters deserve to have, have in place. And that's, that's why I really support this idea and I think most Nebraskans would support the concept of stop. But no, I didn't have any one particular-- Senator Halloran-- in mind, no. Let the record reflect that Senator Lowe was pointing to Senator Halloran when he asked that question.

BREWER: All right. Additional questions? All right, here's some trivia for you. The first state Governor of Nebraska was removed from office for stealing school funds. That was an impeachment.

BRIESE: OK.

BREWER: It was David Butler.

BRIESE: Yeah.

BREWER: There you go.

BRIESE: I wasn't aware of that.

BREWER: Well, we're here to make you smarter.

BRIESE: You bet.

BREWER: All right, any other questions? You'll stick around for close?

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BRIESE: Yes, I will.

BREWER: All right. Thank you.

BRIESE: You bet.

BREWER: Doug, welcome to the Government, Military and Veterans Affairs Committee.

DOUG KAGAN: Thank you. Senator. Good afternoon. Doug Kagan, D-o-u-g K-a-g-a-n, Omaha, representing Nebraska Taxpayers for Freedom. We believe this amendment would provide, provide uniformity and accountability by including the statewide elected offices in the recall process, a matter of fairness Citizens already can recall local officials, but not state officials. Our members are often both angry and upset that candidates for whom they vote do not follow their campaign promises once elected. Some of these feelings pertain to state senators. We cannot take back our votes given on Election Day to candidates who fail to keep campaign pledges. Yes, the Legislature, by two-thirds vote, can expel a sitting senator. That's in the institute-- constitution, but we, the virtual second house of the Legislature, may have our own reasons for initiating a recall. There exists a number of reasons why our citizens may want to utilize recall: malfeasance and misconduct in office, misuse of office, failure to perform duties, incompetence, conviction of a serious crime or felony, or a violation of oath of office. Citizens can lobby and criticize sitting state senators and vote for incumbents or new candidates, but we cannot exercise a recall option now available to citizens in 19 other states and the District of Columbia also, but including neighboring Colorado and Kansas. Also, citizens in additional states are seeking permission to recall higher state elected officials. Our voters, like those in 19 other states, should not have to wait until the next scheduled election to remove top state officials, especially during this time of deep political frustration and discontent. Although it is difficult to measure nationally, the recall process encourages sitting public officials to be more accountable and responsive to their constituents. We believe this amendment would reduce voter alienation and actually stimulate them to play a more important monitoring role over their elected officials. More citizens will become involved in the political process, strengthening our state government. Thank you.

BREWER: All right, thank you. Questions? Senator Hunt.

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HUNT: Thank you, Mr. Chairman. Thanks for being here. Senator Brieese, in his introduction, said that he thought this would rarely be used, but you seem raring to go. What do you, what do you think about that? How many, how many state elected officials are you ready to recall?

DOUG KAGAN: I'd rather not answer that question, but I'll split hairs here and say this. I think the discontent is out there and I think a lot of people would really like the ability to recall. But again, when it comes to actual recalling a state senator or a governor, I honestly don't think it would be used that often.

HUNT: Thanks.

BREWER: All right. Senator McCollister.

McCOLLISTER: Yeah. Thank you, Mr. Chairman, and good to see you, Doug. You mentioned the Governor and legislators, state senators.

DOUG KAGAN: Right.

McCOLLISTER: Why not the Treasurer, the Auditor, other state officers?

DOUG KAGAN: Well, that would be fine too.

McCOLLISTER: OK.

BREWER: So you're looking at any elected official who has failed in some way to meet the requirements of the office or--

DOUG KAGAN: Correct.

BREWER: OK, let's say in the case of-- let's use the Governor. How would you define the criteria that would be used to have him removed?

DOUG KAGAN: That actually varies in various states, Senator. In some states, there are particular-- a finite number of particular reasons to recall a governor or a state senator. Some states say it would have to be, you know, some kind of criminal conduct. Other states say it would be criminal conduct plus, you know, a terrible number of absences, someone not doing the job at all. And in other states, there's no particular reason. People could initiate a recall for any reason. But once this goes on the ballot and passes, that would be the Legislature's job of defining the reasons unless the petition for, you know, getting it done would, you know, specifically say the reason or reasons.

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BREWER: All right, thank you. All right. Any additional questions for Doug? Senator Lowe.

LOWE: Thanks, Chairman. Thanks, Mr. Kagan, for being here. I'm assuming the removal of a governor would be by the vote of the whole state and then for each legislature [SIC], it'd t be by just their district alone?

DOUG KAGAN: Yes.

LOWE: So the district would have to be unhappy with their state senator.

DOUG KAGAN: Right.

BREWER: That's-- until you address the issue of the voice of the representative of the district, that's-- all right. Anything else? Thank you, Doug.

DOUG KAGAN: Thank you.

BREWER: All right. We are still on proponents of LR268CA. Next proponent.

DENNIS SCHLEIS: Greetings. My name is Dennis--

BREWER: Welcome to the Government Committee.

DENNIS SCHLEIS: Thank you. My name is Dennis, that's D-e-n-n-i-s, last name is Schleis, S-c-h-l-e-i-s, from Omaha. I have been a registered voter all my life and I vote in every election. Before I vote, I take time to read about the candidates and listen to what they say so I am sure about who I am voting for at the election. I follow election officials during their term of office to see if what they said and wrote about during their campaign is matching what they do and vote for after they are elected. In most cases, their votes and behavior match their campaign promises. However, once in a while, the two don't match. This leaves me frustrated and angry because I do pay attention to campaign promises and try to vote for candidates whose campaign pledges match my particular political views. Unfortunately, there are times when elected officials, including state senators elected from my district, do not abide by their campaign pledges and vote contrary to them. This makes me angry, again because as I said, I pay attention to who I vote for. This resolution would give me the opportunity to help expel a state senator for whom I voted for, but who, but who betrayed

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my vote by voting contrary to his or her past promises with his or her voting record. Thank you.

BREWER: Thank you. All right, questions for Dennis? All right, well, thank you for your testimony.

DENNIS SCHLEIS: You're welcome.

BREWER: Continue on proponents to LR268CA. Additional proponents. Welcome to the Government Committee.

ALLIE FRENCH: Good afternoon, everybody. My name is Allie French, A-l-l-i-e F-r-e-n-c-h. I'm here today to share the support on behalf of Nebraskans Against Government Overreach, especially over the last two and a half years as we've witnessed elected civil servants imposing regulations and rules and whatever they decide fits the wind of scientific evidence that day, is deliberated on to the people so we would like the ability to hold those elected officials accountable. As well, we can look outside the whole COVID pandemic and constant barrage of overreach in that area and simply make this statement that we would like to be able to hold elected officials accountable when they violate the campaign statements that they run on. So that is all we have to say. Thank you.

BREWER: All right. Thank you. Questions? Thank you for your time.

ALLIE FRENCH: Thank you much.

BREWER: OK. Any additional proponents to LR268CA, come on up. Welcome to the Government Committee.

JENNIFER HICKS: Thank you. My name is Jennifer Hicks, J-e-n-n-i-f-e-r H-i-c-k-s, and I am a proponent for this legislative resolution and I just would like to point out, first of all, what this is. What, what you're being asked to determine here is whether or not the voters get a right to decide, whether or not the voters get to-- the right to have a say here. This isn't up to you. This is, this is do you believe that the voters have a right to decide this at the ballot box? And so let's emphasize that, that that is what this is about. This isn't about making a determination over whether or not this should happen. It's whether or not the voters get to decide. And I, I strongly think that we need this because I'm not sure we'd have any, any senators or Governor left in our, in our government if we were to be able to hold you to your oath because you're not following your oath of office, your oath. And so we absolutely deserve the right to decide at the

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ballot box whether or not we get to hold you accountable. There's not been a whole lot of accountability in our government, whether it has to do with the COVID response, people's rights have been trampled upon, whether it has to do with our election integrity. Our state is rife with corruption when it comes to our elections and no one is addressing that fact. So yeah, I absolutely do support this and I, I think it speaks volumes if you don't support the right of the people to have this on the ballot to decide for themselves because you work for us.

BREWER: All right. Thank you, Jennifer. All right, questions for Jennifer? All right, well, thank you for your time. OK, we are still on proponents to LR260CA. All right. How about any opponents? And anyone here in the neutral on LR268CA? And we will welcome back, Tom Briese. Senator Briese..

BRIESE: Thank you again, Senator Brewer and members of the committee, and I want to thank the folks that came in and testified. It's very meaningful to have Nebraskans come and give us their opinions on some of these things. I just want to address a couple of issues that were brought up. You know, the constituent that brought this up to me, his point was we as local-- he was an elected-- locally elected leader and he said, you know, we're subject to recall, why shouldn't you guys be? I thought that kind of resonated with me. I thought, yeah, yeah, we probably should, too. We're not sacrosanct sitting up here. I think Chairman Brewer asked about who it applies to, but yeah, as drafted as only the Governor and senators. And, you know, we are the policy makers and I think that sets us apart to some extent. But perhaps if a person was going to run with this, it should be amended to include all, all statewide elected officials or all elected officials. And as far as having reasons for doing this, you know, current-- our current statutes relative to recall don't require any reasons that I'm aware of. You have to provide a reason, but there is no criteria, no standard for what that reason should be. And, and we would be able to set the parameters around this. If the voters say pass a constitutional amendment that they want this in place, it'll be up to us to set the parameters around this. And so we will be able to define the procedure as narrow, narrowly or as loosely as we would like to. So it would be up to the Legislature to do that. And currently, you know, the current recall statute, 32-1303, probably have to be amended a little bit and be some changes in the current law, but that, that requires that the petition, petition demanding the question of removing elected officials shall be signed by registered voters equal in number to at least 35 percent of the total vote cast for that

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office in the last general election. So if we were charged with implementing this, I suppose we'd take a look at that, maybe start with that, tweak it as we see fit. But again, it'd be up to us to implement this, put it in place. And our current recall statutes relative to local recalls would probably be the-- well, would be the starting point. And so with that, be happy to enter-- answer any questions. I would urge your support.

BREWER: Senator McCollister.

McCOLLISTER: Yeah. Thank you, Mr. Chairman. The current recall statute, does it apply to NRDs, utility boards?

BRIESE: Yes.

McCOLLISTER: So it's--

BRIESE: Yes.

McCOLLISTER: --every political office in the state except for Senate and--

BRIESE: I would say that is correct. The current 32-1302, you can recall any elected official of a political subdivision, then spells out elected members of governing bodies of cities, villages, counties, irrigation districts, NRDs, public power districts, school districts, community colleges, ESUs, hospital districts, and metropolitan utility districts are spelled out.

McCOLLISTER: It covers the waterfront.

BRIESE: Pardon?

McCOLLISTER: It covers the waterfront.

BRIESE: Seems that way, yes.

McCOLLISTER: Thanks. Thank you, Senator.

BREWER: All right. Senator Blood.

BLOOD: Thank you, Chair Brewer. Thank you for bringing the forward, Senator Briese. Just a real quick question that I think would be nice to have in our transcriptions. Can you walk us through the cost involved for recall elections and what type of burden that would put on a county? I know Alvo just had an issue that they refused the first

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round because they simply could not afford it. Now I know that's a community versus a county--

BRIESE: Right.

BLOOD: --or excuse me, a district was-- had multiple counties.

BRIESE: Yes, I would think this would be handled at the state level. Certainly the Governor-- I would think it would be handled at the state level.

BLOOD: You mean the costs would be handled at the state level?

BRIESE: I would think so.

BLOOD: So the financial cost would not be on the counties or the counties--

BRIESE: Right.

BLOOD: --that-- districts within it would be at the state?

BRIESE: And we could ensure that it would be borne by the-- at the state level, but I would think it would be in the Secretary of State's Office, for the most part, any of these.

BLOOD: So what would be the average cost, do you think?

BRIESE: I do not know what that would be.

BLOOD: So say-- I was going through all the different recalls and I was on the city council. I know there was at least, I think, at least two other times that people tried to recall city council members. I think once while Senator Sanders was mayor. So if it's 1,00 and there's 20 people, that's 20-- I mean, I'm just trying to get a grasp on--

BRIESE: Yeah, that, that--

BLOOD: --what that would cost taxpayers.

BRIESE: Fair question. I don't know. The petition circulation process would not be on the taxpayers.

BLOOD: Right.

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BRIESE: And then you would be talking-- I would think the most expensive part of this might be a special election, but you may or may not need to have that depending upon the timing, how close you are to a regularly scheduled election. And this-- and current recall statutes do provide for a special election unless it's close enough to a-- within 90 days, I think, of an upcoming election.

BLOOD: Would you--

BRIESE: Ideally, it would be nice to avoid a special election. I don't know what the cost of one would be.

BLOOD: And that might be something that I'd ask that you consider until I see the numbers is that perhaps to save taxpayer dollars, but yet to still respect their wishes, that would we want to amend it to say in the nearest upcoming election? Because we have an election everywhere every two years--

BRIESE: Yes.

BLOOD: --so.

BRIESE: And then that is a timing issue that takes-- that puts the urgency of the situation to the back and is that ideal, I'm not sure, but yeah.

BLOOD: But, but it a definite--

BRIESE: Ideally, it would be nice to avoid a special election.

BLOOD: --it's a whole process anyway. It's not going to happen in 30 days, so.

BRIESE: Right.

BLOOD: I just want to make sure that we're being diligent with the taxpayers' dollars as well.

BRIESE: Sure, as always, yes.

BLOOD: Thank you.

BREWER: All right. Additional questions for Senator Briese? So to a degree, this is a self-correcting problem because if you don't follow what you've said you're going to do the first four years, there isn't much chance you're going to get a second four years.

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BRIESE: Right.

BREWER: What we're talking about here is where you have a circumstance where someone kind of from the very beginning doesn't do what they say they're going to do and, and the district wants different representation.

BRIESE: Yes. The argument there is the voters shouldn't have to wait until the next regular election--

BREWER: For four years yet.

BRIESE: --and that's the decision they'd have to make, depending upon how soon these problems arise in someone's term of office.

BREWER: All right. Well, with that, we do have-- let's see, no letters in the neutral. We have one letter in opposition, Curtis Bryant with the Nebraska Chapter of the National Association of Social Workers. And we have two letters of support, Twyla Gllino and Terry Jessen.

BRIESE: OK.

BREWER: With that, we'll close on LR268CA--

BRIESE: Thank you.

BREWER: --and set up for LB1263. Senator Clements, welcome to the Government, Military and Veterans Affairs Committee.

CLEMENTS: Thank you, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. I'm Senator Rob Clements, R-o-b C-l-e-m-e-n-t-s. I represent Legislative District 2. And I'm here to introduce LB1263. LB1263 was brought to me by our Secretary of State to improve ballot drop-box security. LB1263, excuse me. Page, would you distribute these. LB1263 would add a new section to the Election Act, requiring security improvements to a ballot drop-box for elections, including authority to promulgate rules and regulations to carry out the act. In addition, the bill amends Section 32-1049 to require election commissioners and county clerks counting ballots in a centralized location to develop a procedure for picking up and transporting ballots from a secure ballot drop-box to the office of the Election Commissioner or county clerk. Let me summarize the provisions in the new proposed section to the Election Act, in LB1263. If an election commissioner or a county clerk maintains a ballot drop-box for voters, they shall ensure the following: (1) The drop-box

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is securely fastened to the ground or a concrete slab connected to the ground; (2) The drop-box is secured by a lock that can only be opened by the election commissioner, county clerk or a designated election official; (3) The drop-box complies with the federal Americans with Disabilities Act of 1990; (4) The Secretary of State is informed of the location of each drop-box no later than 42 days prior to any statewide primary or general election; (5) The drop-box is opened no later than the sixth Friday prior to any statewide primary or general election and no later than the fourth Friday prior to any special election and remain accessible to voters until the deadline for the receipt of ballots for any primary or general election, as provided in Section 32-908 and for any special election as provided in Section 32-954; (6) After the drop-box is made available for ballots, the ballots are collected and returned to their office at least once during each business day. I believe the Secretary of State has identified provisions in this bill that all of us can get behind to improve ballot drop-box security. LB1263 intends to help create uniform ballot drop-box rules and regulations to improve basic drop-box security for our elections. The Secretary of State also brought an amendment that I had handed out for your consideration, and Deputy Bena will be addressing it. I thank you for your consideration of LB1263. Deputy Secretary of State for Elections Wayne Bena will be following me, but I'll try to answer any questions at this time.

BREWER: All right. Thank you, Senator Clements. Questions? Senator Blood.

BLOOD: Thank you, Chairman Brewer. Thank you, Senator Clements, for bringing forward another bill in front of our committee. I have a couple of quick questions. Can you tell me how many secure ballot drop-boxes in Nebraska are not connected to concrete, are not secured by a lock, and are not opened by the election commissioner or county clerk or some election official?

CLEMENTS: No, I can't. I would ask Deputy Bena to address that if he would.

BLOOD: Are you aware that that's been an issue in any county?

CLEMENTS: I believe there have been drop-boxes that weren't secured.

BLOOD: So they weren't, like, chained to anything. They're just like a box on a table.

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CLEMENTS: They could have been portable, right.

BLOOD: And there is nobody there around it. It's just like an empty room or.

CLEMENTS: The Secretary did tell me there were unsupervised drop-boxes in 2020.

BLOOD: If-- if we don't hear that in the testimonies today, I would really like to know where that was at and what the circumstances are--

CLEMENTS: Right.

BLOOD: -- if that's possible.

CLEMENTS: I'll be glad to get that.

BLOOD: I'd be very appreciative. Thank you.

BREWER: All right. Senator McCollister.

McCOLLISTER: Thank you, Mr. Chairman. What is an unsupervised? Can you define unsupervised-- unsupervised lockbox?

CLEMENTS: Well, in a location where there may not be somebody watching it all the time. There were some in libraries where there might have been a clerk somewhere in the library, but where the drop-box was probably didn't have supervision or security.

McCOLLISTER: But for the most part, at least, the ones I saw in Omaha, they're just in a shopping center sitting there. They weren't supervised in any way that I could tell.

CLEMENTS: Yes, and this is really not requiring supervision, does require a security-- notification to the Secretary of where these are. And making sure that they're able to be unlocked by the commission.

McCOLLISTER: So presumably the Secretary could say to some county this is not suitable and you need to find another location. Is that possible?

CLEMENTS: I believe there is-- a security plan does have to be submitted to the Secretary of State and they would have to negotiate that, right.

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McCOLLISTER: In the-- in the statute, is every county required to have at least one lockbox?

CLEMENTS: No, and is what I was saying, this is for counties that do elect to have one, but they're not required to, no.

McCOLLISTER: Would you object to a statute or at least an amendment to your bill that would require each county to have a lockbox?

CLEMENTS: I don't-- I don't think that's necessary. They have one if it's going to be helpful for their voters, but I think each county could decide for themselves.

McCOLLISTER: Thank you, sir.

BREWER: OK. Senator Hunt.

HUNT: Thank you, Mr. Chairman. In a large county like Custer County or Cherry County, do you think that it could be too much of a burden on those county clerks or election commissioners to go to the drop-box every day? What do you think about the cost that that would put on the-- on the county?

CLEMENTS: Well, I think they're going to use the mail-in ballot, more likely in the smaller counties. Counties with under 10,000 population have the ability to do all mail-in and I think many of them are. And I'm not sure about the logistics.

HUNT: OK. I'm interested from maybe someone coming after you like the number of drop-boxes in larger counties and what kind of burden this will put on the counties. I'm also curious about the part of the bill that refers to ADA compliance. What would the requirements be for the drop-boxes to be ADA compliant?

CLEMENTS: I think the height above the ground level so that it's reachable from a wheelchair.

HUNT: OK.

CLEMENTS: Deputy Bena may know more than that.

HUNT: OK. I can ask him more about that.

BREWER: All right. Senator Blood.

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BLOOD: Thank you, Chairman Brewer. I'm sorry to ask another question, but you-- you brought something up that needs some questions. So you said in response to Senator McCollister that the counties could decide how they would do it. But doesn't this bill take the power away from the counties and give it to the Secretary of State now to decide how things are done?

CLEMENTS: It does require a security plan to be submitted.

BLOOD: But it says the Secretary of State will adopt and-- and is in charge of the rules and regulations to carry out those sections.

CLEMENTS: Yes. That's true. I think it's so that the Secretary of State is confident that the election is being handled securely.

BLOOD: So in response to his question then that that would not be true, then it wouldn't be up to the counties if they wrote a policy, security policy and the Secretary of State said, no, don't like that, it would be under his opinion, not the counties. Correct?

CLEMENTS: I believe that's true.

BLOOD: OK. Fair enough.

CLEMENTS: I said they should negotiate for that, but I think the way I read it, the Secretary would have the ability to issue the regulation that they have to follow.

BLOOD: And why do we want to take away local control on this? I'm a little confused by this.

CLEMENTS: I would say to standardize the process in especially counties where the training might not be as good with security and make sure that they are up to speed with the most secure process.

BLOOD: I-- I vaguely remember we had a hearing, I think, in this committee where they talked about how much training counties have to go through that's required for that. Isn't there training for that?

CLEMENTS: The Secretary has told me that they've trained all of the election officials in all 93 counties. They do some training, yes.

BLOOD: OK. Do you know the magnitude of that training?

CLEMENTS: I don't.

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BLOOD: All right.

CLEMENTS: As far as I know, is a one-day seminar.

BLOOD: OK, fair enough. Thank you.

CLEMENTS: You bet.

BREWER: Senator McColister.

McCOLLISTER: Yeah. Thank you, Mr. Chairman. I'm going through the text of the bill and I don't see-- in your opening you gave some dates. And so I would presume that the lockboxes could be positioned at the time people can start submitting absentee votes ballots. Is that correct? Do I have that right, Senator Clements?

CLEMENTS: Yes. The-- page 2, the commission will show that it's going to be no later than 42 days prior, they're going to inform the Secretary of State as to the location. And so I believe that-- and they're going to have to open them no later than the sixth Friday prior to the election. So that does imply that they're going to be in place at that point before ballots are accepted, so they'll be there for the first day.

McCOLLISTER: Would you see any advantage to making that language a little more explicit so those boxes are in place for the absentee ballots?

CLEMENTS: That would be fine if it's not clear to you, and I'd be open to clarifying amendment.

McCOLLISTER: Yeah. Thank you, Senator.

BREWER: All right. Additional questions? Senator Lowe.

LOWE: Thank you, Chairman. Thank you, Senator Clements, for bringing the bill. You listed the-- the six points that-- that should be handled: secured to the ground and locked and so on. ATMs also have a camera for security purposes. Would something like an ATM camera on these be good just in case somebody wants to try to mess with the lockbox or-- or something like that, a record could be helpful?

CLEMENTS: I considered putting that as a requirement, but requiring every county to have a camera where they may not even have much electricity in a certain spot and the cost of it, I didn't really want

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to mandate that in the bill. That'd be fine with me for any-- any county has the option, I think, to add some more security if they want. But mandating that I didn't really want to force that on every election precinct.

LOWE: Thank you.

BREWER: Senator Hunt.

HUNT: Thank you, Mr. Chairman. Given that when you vote with an absentee ballot, whether you mail it in or you drop it off at a drop-box or whatever, you can follow that ballot on the Secretary of State website or you can call them and ask what the status of the ballot is. And if you're given a provisional ballot or if there's a problem with your ballot, there's procedures in place for you to cure it and to address the problem. And we haven't heard from the Secretary of State in Nebraska that there have been any problems with fraud, for example. Why is this extra security important other than something psychological? Like, do people just want to feel better? Is this needed and they just want to feel better about it because we know that there have been no instances of fraud reported in Nebraska, and you can follow your ballot from when you drop it off to when it's counted. So what's the need for the additional security?

CLEMENTS: I think there very much is perception from some people who have questioned our election security. And I agree that the Secretary does all he can to ensure Nebraska elections, but it's to address some of the constituents and people who have felt like there were problems with the election, just to make sure their future elections are secure.

HUNT: And these are people who felt like there was a problem so there was no proven problem, to be clear.

CLEMENTS: I don't know of a proven problem.

HUNT: OK. It's knowable, so. Thank you.

BREWER: All right. Additional questions for Senator Clements? Just as a quick reminder, LB1055 was established to secure drop-box. We passed it out of here. The first time that was implemented was 2020. We'll see when Wayne Bena gets up, but some of this, too, is probably addressing that fact that this was the first time that we had that-- that in place and have-- have it work. So I'll be anxious to kind of hear the report on how all that went. All right. No additional

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questions. Thank you for that opening. Wayne, welcome to the Government Committee.

WAYNE BENA: Thank you, Chairman Brewer and members of the committee. My name is Wayne Bena, W-a-y-n-e B-e-n-a, and I serve as Deputy Secretary of State for Elections; and I am testifying on behalf of Secretary of State Robert Evnen in support of LB1263. When the Secretary of State's Office was making preparations to hold the 2020 statewide primary election in the midst of a global pandemic that we did not have a lot of information about at the time, we needed to figure out how we could run an election in the safest way possible while still with complying with existing election law. In consultation with all political parties and voter advocacy groups, the decision was made to-- to allow all election offices to be closed to the public during the early voting period to keep voters and election officials safe. In order to accommodate these closures, all registered voters were sent an early ballot application and every election office was provided a secure ballot drop-box to be put outside their office if they didn't already have one. So at that point, all 93 counties before the primary had an early voting secure drop-box, many of which did not have before. I believe we purchased between 55 and 60 at that point. This box was able to take early ballot request forms and registration forms and, of course, early ballots while offices remained closed. Nebraska was the only state that conducted their statewide election primary in the month of May with polling sites open, and the 2020 primary saw the most ballots cast in the history of our state. The plan worked. Now that all county election offices have an early ballot drop-box. In 2020, Senator Brewer, we, this committee and the Legislature mandated all counties that had any precincts by mail had to have a drop-box. Well, with the pandemic, they got one from our office anyway before they even had to buy one for themselves before that first election. We want to make sure that now that we have a drop-box in all 93 counties, that we have uniform standards and a minimum requirements to ensure the security and accessibility of the drop-boxes moving forward in the event the drop-boxes are replaced or added within a county. So again, uniformity in regards to drop-boxes that are all across our state right now. LB1263 would ensure that (1) all drop-boxes are securely fastened to the ground or a concrete slab connected to the ground; are secured by a lock that only can be opened by the election commissioner or county clerk or designee; complies with the federal Americans with Disabilities Act; that a list of these locations is provided to the Secretary of State no later than 42 days prior to any statewide primary or general election; provides a date

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when drop-boxes need to be opened by; states that ballots are collected from the drop-box at least once per business day, and this also that they develop a plan for the proper pickup of these ballots each business day; and finally, allows for the Secretary of State to-- that they may adopt and promulgate rules and regulations to carry out this section. We have two amendments that we'd like the committee to consider that were brought to us after the fact. One was recommended by Douglas County, who has multiple drop-boxes within their county, and they asked for the language regarding special elections to be changed to at least one drop-box instead of every drop-box to be open during a special election because they typically do not open every drop-box when a particular election is only in one geographical area of their county. The second is clarifying language that any rules and regulations that are promulgated under the section also include the security of the drop-- of drop-boxes. I urge the committee to advance LB1263 to General File. I know there's a lot of questions. More than willing to have them, but I'll conclude my testimony at this time. Thank you.

BREWER: All right. Thank you for that. We will now go into questions. Senator Hunt.

HUNT: Thank you, Chairman Brewer. Is there anything preventing the Secretary of State's Office from promulgating these rules and regulations now because you guys gave him the drop-boxes. You didn't give them unsecured drop-boxes?

WAYNE BENA: No.

HUNT: So what's preventing your office from just saying, look, this is how we're going to be doing it?

WAYNE BENA: Because we don't have the authority to do it. We can only do under the Election Act what we have the authority to do. For example, we have-- this body has given us authority to promulgate rules for special elections for the-- those count-- or elections to designate them by mail. So we have procedures to go through that. Again, we want something in law that we can enforce under the Election Act that's uniform. And the situations that I talked about this, there have been situations in which a drop-box has not been made accessible. The keys were available to more than one office within a county. So again, we're trying to uniform the standards, not to say necessarily there is something wrong right now, but if you want to replace a drop-box, you're just not going to buy a cheap one that you can get

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that's not going to be secure and just laying on a table outside of your office. Again, these are just something uniform because there's nothing in state law that defines drop-boxes or how they're used. And we have seen in other states that there are lawsuits regarding drop-boxes. So we want to get those codified in the statute.

HUNT: OK. Thank you.

BREWER: All right. Senator Blood.

BLOOD: Thank you, Chairman Brewer. Nice to see you again. So maybe you know the answer. Are there any boxes that are not connected to concrete? And if so, where and what are the circumstances?

WAYNE BENA: Again, I'm not-- for the majority-- for all the ones that we purchased for the counties that did not have one, they are attached to concrete or they had a drop-box that's attached to their wall you can pull down or what have you.

BLOOD: Right, like [INAUDIBLE] chain.

WAYNE BENA: Again, this is for drop-boxes moving forward. There were suggestions in Lancaster County that the temporary ones in the libraries were not as secure as they could have been, as other ones were, as the main one outside of Lancaster County's Election Office or other election offices.

BLOOD: Can you describe what that looks like?

WAYNE BENA: I did not personally go into those, but that was a lot of complaints that we received into our office in regards to. This bill isn't because of Lancaster County, but that was one example brought to us as what this bill could make sure that they were uniform in regards to how they were being able to use-- to be used.

BLOOD: So no pictures or any, I mean, it is just word of mouth.

WAYNE BENA: Yeah, I personally did not see them.

BLOOD: So doesn't the federal government already require that everything be ADA compliant when it comes to--

WAYNE BENA: For polling sites--

BLOOD: Yeah.

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WAYNE BENA: --and voting, yes, but drop-boxes, again, are their own beast. And there was an instance in Nebraska in which one of the drop-boxes inadvertently was put on a cement pad in the middle of a lawn. And so that while it was secured to the ground, you couldn't get a wheelchair over there. And a disability rights group did write to them to make them aware of this because they had a complaint. They didn't realize it, and they instantly removed it and put it into an AAA. So again, that is an instance in which this actually happened with those in the 2020 primary and general. And we are saying moving forward, make sure that your drop-box is ADA compliant.

BLOOD: So when you do the training, as you've come forward to talk to us about before or somebody has, again, I distinctly remember that's been sometime over the last six years. You don't talk about any of these things in the current training?

WAYNE BENA: Well, we haven't had drop-boxes-- not many counties had drop-boxes or did we have anything in the training about because we didn't have any set rules. It was kind of Wild Wild West. Now we are able to, if we have this in statute, have best practices that we can train on. And outside of the trainings that we are required to do every two years, we also do regional trainings for the equipment,--

BLOOD: Right.

WAYNE BENA: --voter registration system. And I have a full-time person in my office now whose sole job is to travel to counties upon request to train them in their seats at their offices. And we have found that that is very helpful versus employees that can't go to a regional conference because only the clerk goes so the person running the actual election at the office doesn't get to go. So training in the office has been widely successful, and it has a large part of why we haven't seen significant issues on the statewide level that we've had to put in the canvass book in the last four years. So another one of the things that our office is doing, you know, our person that's going to the county can make sure that the drop-box is accessible. I also have another person that works for the Secretary of State's Office, whose sole job is making sure that every polling site and county election office is ADA compliant prior to the primary, if not the general election of this year. And they are also looking at the position of the drop-boxes. Because, you know, when we gave them the drop-boxes, we didn't necessarily see where they all went. Now we are asking to make sure where they are, that they are ADA compliant and accessible for everyone.

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BLOOD: So you're able to do that without statute is what you're telling me.

WAYNE BENA: We are-- we will be looking at those, but this is also just going to be mandating that it will be accessible.

BLOOD: Again, doesn't the federal government already mandate that?

WAYNE BENA: For polling sites, yes. Drop-boxes are a new beast.

BLOOD: Interesting. All right. Thank you.

BREWER: Senator McCollister.

McCOLLISTER: Yeah. Thank you, Mr. Chairman. I'm just thinking of the mechanics. These drop-boxes are stored at the Election Commissioner's Office prior to an election. An election is coming up. They put those lockboxes out, somehow fasten them to the concrete. After the election's over, they gather the boxes back and they're taken back to the election commissioner. Do I have that right?

WAYNE BENA: Most of them stay put, 3-- 24-7, 365.

McCOLLISTER: OK.

WAYNE BENA: Yeah, they're-- they're already in the ground. When I was in Sarpy, ours was outside of our office, 24/7. We just had a closure box, so you couldn't put anything in it when there wasn't an election. And that's why in these rules, we say you have to have it open during your [INAUDIBLE] period. When ballots are out, you have to have it open. You can keep it open as long as you want, but minimally you have to have it open while ballots are out.

McCOLLISTER: I presume-- presume that most counties will-- will do-- do the same thing.

WAYNE BENA: Yeah, they keep their ballot-- they keep it open.

McCOLLISTER: Thank you.

WAYNE BENA: To answer a question, Senator Hunt, that you brought up, for 91 out of the 93 counties, the ballot box is outside the courthouse. Douglas and Sarpy have one outside their offices, as well as others throughout their county, so there's not much of a burden for

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the Cherry Counties because that box is directly outside the county election office.

HUNT: OK, thank you.

BREWER: All right. Any additional questions for Wayne? Go ahead, Senator Lowe.

LOWE: Thanks, Chairman, and thanks, Mr. Bena, for being here. As far as security, you may not know all the counties and everything else, is there any requirement that some sort of video surveillance or photo surveillance be nearby so that there might be a record of somebody doing something wrong?

WAYNE BENA: There isn't a requirement in this bill. I know a lot of counties are doing that. I think, again, there was a conscious decision not to require it in this bill because it is an unfunded mandate. And if there are security money that would come to our office that we could deploy to the counties, that is something that we can do. But I do know a lot of counties do position cameras to the boxes. But one of the security provisions in here is to-- to have it emptied every day. So if something happens on a particular day, you can go out to your constituents and say anyone that dropped off their box [SIC] between this time and this time, please check, you know, voter check and see if your ballot was turned in. And if not, we'll get you a new one. If you only do it once a week, that's a whole bunch of ballots you're going to have to replace. So again, that's one of the security procedures just in case something happens. Yes, do I want to catch the person that-- that broke into the box? Yes. But more importantly, I want to make sure the people that voted get a replacement ballot.

LOWE: OK. And I've never used one of the ballot boxes. I go in person. I like to talk to the people there\ at the polling places. Is it large enough so just one ballot fits in? Or is it like a mailbox where there's a big gap and you can put 50 ballots in if you're collecting for--?

WAYNE BENA: You're not going to be able to get-- for the majority of the-- for the boxes that we purchase for the counties that other counties have, so let's say it's 70 of the 90 counties use the same type of box, you can't fit more than like maybe six or seven ballots at a time. It's a small little slot, and that's so nothing else can try to be put in there. So again, another security procedure of them, so it's a very small amount. You can't put 50 at one time, but it's

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somewhere between the five or six maybe is the most you could probably do.

LOWE: All right. Thank you.

BREWER: Senator Halloran.

HALLORAN: Thank you, Mr. Chairman. You're welcome, and thanks for your testimony. I'm supposed to ask a question and I will, but I keep looking for something devious here that you're trying to do, and I'm struggling to find it. So the question I will ask is, are you trying to do something devious?

WAYNE BENA: You know, we're not under oath up here right now. But no.

HALLORAN: OK.

WAYNE BENA: As I've kind of alluded, one interesting thing there's a lawsuit going on in Wisconsin right now. They-- a district court ruled that drop-boxes needed to be removed prior to their February election because they're not mentioned in state law. The Supreme Court has offered to take the case. They've allowed the drop-boxes for their February election, but they're going to litigate it of whether or not drop-boxes are. I'd prefer not to be that state. We have them, all 92 have them. We paid for them. It was the reason why the 2020 primary was able to happen. But now that they're here, we want to make sure there's uniform rules going forward for if additional ones. Again, I'm not saying anything's wrong with the ones we have now. Going forward, I want to make sure everyone's playing by the same rules so every voter has the same right, the same ability to use that drop-box in their county as everyone else.

HALLORAN: So the answer to my question is no.

WAYNE BENA: I started with no. Yes.

HALLORAN: OK.

WAYNE BENA: Yeah. You know me, I'm a little long-winded.

BREWER: Thank you for that question, Senator Halloran, I guess. All right. Any other questions? All right. Thank you for enlightening us.

WAYNE BENA: Thank you.

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BREWER: Well, another familiar face back.

EDISON McDONALD: Hi, I'm back.

BREWER: Welcome back to the Government Committee.

EDISON McDONALD: Hello, my name is Edison McDonald, E-d-i--s-o-n M-c-D-o-n-a-l-d. I'm the executive director for the Arc in Nebraska. We advocate for people with intellectual and developmental disabilities across the state and across their lifetimes. We're in support of LB1263 because we believe it will encourage participation in our electoral process by people with disabilities. Talked to this committee a number of times about election accessibility and the importance of ensuring that people with disabilities can vote. Unfortunately, as I've mentioned previously, many of our polling locations aren't accessible. Instead of going back through the data, I've just included a list of some of those highlights from our 2020 data at the end of my testimony for you to read through. I recognize that there's also an interest to work on election security, and I think this bill does it the right way. I think nationally we have a history of, especially with the Help America Vote Act really kind of bringing together election security and accessibility into bills. And I think that's a good way for us to move forward. While our elections are already very secure thanks to the hard work of the Secretary of State and county election officials, this is a good step to increase security, and I think it's an important step to ensure we're working on accessibility. As I've noted before this committee before, currently we're actually working on assessing a number of these ballot boxes to determine their accessibility. And so far, the results are far more promising than the polling site data. Right now, I've got staff out in Senator Lowe and Senator Halloran's district, and so I'm waiting for a text to give me kind of some summary info, but we'll be working on collecting that and getting that to the committee. I can't speak to the security of those sites, but hopefully in the next couple of months we'll be able to speak more to the accessibility. We appreciate Senator Clements' effort to ensure this is paired with a focus on accessibility, as illustrated in Section (c), which is what I'm going to mostly focus on, complies with the federal Americans with Disabilities Act of 1990 and is accessible as determined by the election commissioner or county clerk. That said, I do want to offer a few technical amendments. Number one, in addition to the ADA section (c) language, needs to add "and the federal Help America Vote Act or HAVA of 2002 as amended." This will help to ensure we better align our statute with federal law and Nebraska's statute 32-907. I think I do

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agree with Deputy Secretary Bena's assessment that I think it's unclear-- unclear as to how drop-boxes fit in within accessibility standards. We would recommend, number two, that this is done ideally instead of by county clerks, either by an external contractor or at least by the Secretary of State's Office to make sure you've got kind of that outside opinion and thought. I know we've been working a lot with the Secretary of State's Office on really trying to determine some of those sites' accessibility. And I think just having that outside opinion, you know, starting off as a county clerk, you've got so many roles to fill and accessibility isn't going to be at the top of your list. So having somebody outside I think is better. I think the Secretary of State's data that I've seen so far indicates that they've provided a much better assessment. But then there's the lived experience of people with disabilities, and there's the experience of those of us who work with people with disabilities all the time. And you just look for things a little bit different. You think through things a little bit differently. So I think that's important. So I think that outside objective opinion would be really helpful. And then number three, while there isn't a fiscal note, I think that if it's done properly, there should be to ensure this isn't an unfunded mandate. As I know, there will be counties that will need to have some improvements. And the last thing I want to say is per the question regarding accessibility standards. There are a number of statute sections that require this and making sure that the area where the drop-box is, is wide enough, making sure that it's high enough. So if there is any sort of overhang, like if you go through like a drive-through, you know, like at a McDonald's, you would have that same thing of making sure you're going to have a high enough spot, making sure that that site is easily accessible, hopefully from, you know, your vehicle would be the ideal. But especially when you get into those sites where it's far more kind of stuck in the middle, that's even harder. And then my time's run out, so I'll stop talking. But if you want to go into that more, I've got my checklist.

BREWER: All right. Questions for Edison? Senator Blood.

BLOOD: Thank you, Chairman Brewer. It's nice to see you again, Edison. You know, I'm a champion when it comes to people with disabilities.

EDISON McDONALD: Yeah, yeah.

BLOOD: But I'm going to put you on the spot this time.

EDISON McDONALD: Go for it.

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BLOOD: All right. So I wanted to make sure that memories are correct. And I'm going to ask you first the short question, then a long question. If you hear the phrase "all aspects," what does that mean to you as a person who champions people with disabilities?

EDISON McDONALD: All, all aspects,--

BLOOD: All aspects.

EDISON McDONALD: As in you just [INAUDIBLE]

BLOOD: As in that sentence alone, what does that mean?

EDISON McDONALD: I mean, number one, I'd be looking for ensuring that we're really thinking through all the pieces of accessibility; and then, number two, that we're ensuring that we're really thinking through all types of disabilities because disability is really a huge subset.

BLOOD: Right. We hear people use words like, can they get there from the wheelchair? But we know that that's not necessarily the cases. Are they vision impaired? Are they hearing impaired? Do they utilize crutches? Do they-- are unable to utilize either of those things? But because I've seen that with veterans, you know, their height has been reduced because they've lost limbs. And yeah, I think that that's-- so I did go to the Americans with Disabilities Act. And here's the question that I have for you, because I-- I question whether that part is necessary for the drop-boxes only because I feel the federal government already covers this. The ADA's provisions apply to all aspects of voting, including voter registration, site selection, and casting of ballots, whether on Election Day or during early voting process. So "all aspects."

EDISON McDONALD: And I-- I did look through that and I guess my interpretation as I read through that, I-- I didn't see the clarity. And I think on a lot of the cases that I've seen with ADA cases until something is litigated specifically, I have questions. The other thing that I like about this is actually going back to Senator Kolowski's LB733 that we worked on with him. And what we've identified as we've gone through Nebraska state statute is that lack of having that clarity there. So while it could be, and again, I'm not sure that it's clear that it is. I'm also not completely sure it isn't. But I think that having that language in there also like, again, county clerks have a lot of roles. And having that specifically in Nebraska state

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statute makes it way easier to point out to them, whereas if they have to go and look at a whole bunch of other pieces, because HAVA and the ADA both have significant implications. So what I like about this is it better aligns our state statute to clarify that federal piece. And if I'm a busy county clerk going through, you know, at least, then I can have that and have something to look at is my thought process.

BLOOD: So is your-- your next step going to be changing all state statute where they put the word "disability" in front of the person as opposed to after the person going to be something that's going to be happening soon since we keep defining people by their disability as opposed to as a veteran, as a Nebraskan?

EDISON McDONALD: Yeah, you know, that's a great point. I think in the past, Senator Colby Coash has introduced language to go and remove the word "mental retardation." But in terms of going and updating that statute to really be aligned with current best practices, that's a great idea.

BLOOD: I know with almost everything we have in the statute when it pertains to our veterans it always says "disabled veterans" as opposed to "veterans with disabilities" and it drives me crazy.

EDISON McDONALD: We should talk more about that.

BLOOD: Right on. Thank you.

BREWER: All right. Glad you two had that moment. OK. Anybody else? Edison, I enjoy listening to you. You're a lawyer that kind of makes it easy to understand and it's refreshing.

EDISON McDONALD: I'm not an attorney.

BREWER: You're not really?

EDISON McDONALD: No.

BREWER: You should be.

EDISON McDONALD: Yeah.

BREWER: I give you credit for that.

EDISON McDONALD: You and my dad agree.

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BREWER: All right. Thank you. All right. We are still on proponents for LB1263. Welcome to the Government Committee.

LORENZO ORTEGA III: Thank you, Senator Brewer. My name is Lorenzo Ortega III, L-o-r-e-n-z-o O-r-t-e-g-a III. And I live in Bellevue, Nebraska, and I want to say a shout-out briefly to Senator Sanders, who is from my-- leads our district there as the 45th District. And to my dear friend Carol Blood, who I've known for many, many years, wonderful person, and for the support both of you, Senator Brewer, Senator Lowe and Senator Halloran, for the work that we're doing. I'm here representing a group called the Nebraska Voter Accuracy Project, and our basic mission is to educate people on challenges and issues regarding the accuracy of the 2020 election. And we have found many, many things. We're a group of mathematicians and statisticians. And since we've added more people that are better at writing and explaining things. But we found many issues with this last election and are trying to make people aware of it. The bottom line is that in our group, we don't care who wins in any election. We absolutely do not care. What we do care is that every legitimate voter gets an opportunity to vote. And that all of those votes are-- are counted accurately. And that's what we drive for, that's what we care about more than anything else. It's just we're not about races or who's-- I'm not a politician. That's why you've probably never seen me here or maybe not even heard of me or know me or anything like that. But it's what we are. We have actually some mixed thoughts in our group. You're going to hear a couple of other people talk after me. My thoughts are is that I think the Secretary of State Evnen was very-- Wayne did a-- Bena did an outstanding job, I think, of elucidating exactly why this needs to happen and how it needs to happen and the security of this. I think at this point in time, most of us have seen already on the Internet from other states people walking up to ballot boxes with seven or eight ballots and an iPhone and snapping a picture of the ballot box and the seven or eight ballots and slipping them in and walking away. We have been offered the opportunity to-- they've identified dozens of people who've done that in this state. And we've been offered the opportunity to-- to-- to be told which cell phones approached ballot boxes like more than three times. They figured two times, three times. After three times, you know, we probably ought to be paying attention to those people that come back to ballot boxes again and again and again. We don't have that data yet. If I had it, I would turn it over. But we have been offered it and told that this is an opportunity for us in the future. We think this is important, the security aspect, and I'd like to thank you, all of you for supporting

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this and for considering this-- this bill. And in particular, I'd like to thank Senator Clements for his work in putting this all together.

BREWER: All right, well, thank you for that. Let's go around the room here and see if we get any questions for you. All right, here we go. Please hang on or we'll shoot a few questions at you. Senator McCollister.

McCOLLISTER: Yeah. Thank you for your attendance. Thank you, Senator Brewer. Let's talk about this cell phones coming close to the-- to the lockboxes. What-- by what process were you get that information?

LORENZO ORTEGA III: My understanding is from the people that have collected it. You can buy something called metadata from all cell phone companies. They won't tell you who owns the cell phone, but each cell phone is identified effectively by a very long serial number. And you can track that, geo track where those cell phones go. So you don't know who owns the cell phone. You don't know, but you do know that this particular cell phone walked up to this box, walked up to this box, walked up to this box, and they've also tracked, in other states, they've tracked those cell phones back and they've noticed where they've gone every night at at night, and they know it's a resident of a particular home is what they've done. And now they're beginning to organize and get that a little bit more forward. What I've been offered is just the opportunity to identify which cell phones have been approaching our boxes like that. Again, I don't have the data and I, but it is.

McCOLLISTER: Once they provide you the data, how are you-- how are you going to track down who that owner is?

LORENZO ORTEGA III: Well, if you know which-- which house it goes to every night, it isn't too hard to figure out it's one of the occupants.

McCOLLISTER: I see. In your analysis--

LORENZO ORTEGA III: But we wouldn't do that. It's not our job. OK? Our job is to collect this data like that. That's something you turn over to the Attorney General and let him go out and go do this. We're not police. It's not what we do for a living. None of us are. We're all volunteers. We're all unpaid. Everybody in the entire group, we all volunteer our time, our efforts, our gas mileage, whatever it is.

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It's-- this is just a volunteer group. So if we found anything like that, it would go immediately to the Attorney General.

McCOLLISTER: If there's a lockbox on, and there was a lockbox on 78th Street in Omaha and I go past that every day, would that trigger that-- that analysis that you're now speaking of?

LORENZO ORTEGA III: Do you stop and walk up to the box?

McCOLLISTER: Can you even get that kind of information?

LORENZO ORTEGA III: Yeah, right. Yeah, we tell whether you're driving by or whether you're stopped.

McCOLLISTER: So you get that information and you go out to the person's house. Is that what you're planning [INAUDIBLE]

LORENZO ORTEGA III: No, absolutely not. Like I said, we collect data. We're not-- we're not police. We're not here to enforce anything. We would turn it over to the Attorney General.

McCOLLISTER: Yeah. With all of that, are you aware of any irregularities with-- with regard to lockboxes in the '20 election?

LORENZO ORTEGA III: No, I'm not.

McCOLLISTER: Thank you.

BREWER: Senator Hunt.

HUNT: Thank you, Mr. Chairman. So somebody is buying this data, this metadata, and giving it to you, to your organization?

LORENZO ORTEGA III: Yes.

HUNT: Is the person who's buying it in your organization?

LORENZO ORTEGA III: No, they're not.

HUNT: We know that there are people who collect the ballots of other people and go turn them in, and that's not illegal. It's a service that a lot of people rely on who can't make it to a drop-box. Is that your concern?

LORENZO ORTEGA III: No, that's not my concern. Like I said, I really-- somebody comes to a drop-box two or three times, you know, hey, that's

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not a concern. And by the way, if the Attorney General knocks on the door of a particular individual and they say, well, I work for an-- an elderly care facility and I'm the person that ends up dropping off everybody's votes, next. I mean, that's clearly not a crime. Nothing wrong with that.

HUNT: What in-- so you say you're a group of like mathematicians and stuff.

LORENZO ORTEGA III: Marketers, all kinds of Nebraskans.

HUNT: Uh-huh.

LORENZO ORTEGA III: We're all Nebraskans.

HUNT: And that's-- that's cool. That's fine. I don't care if you're all from Idaho. Like we all want-- we all want safe, secure elections.

LORENZO ORTEGA III: I would actually care a lot about that, if [INAUDIBLE] state of Nebraska people from Idaho came to investigate my state.

HUNT: I don't have this conspiracy mindset of like--

LORENZO ORTEGA III: Neither do we.

HUNT: --I see someone taking a picture of a drop-box like mine, I don't mind my business, like, cool. I'm glad they're voting, you know, but--

LORENZO ORTEGA III: No, taking a picture of a drop-box while holding 8 ballots in their hand.

HUNT: What is wrong with that to you?

LORENZO ORTEGA III: Gee, why would somebody want to take a picture of eight ballots in their hand with a drop-box behind it and then come back and do that again and then come back and do that again three or four times?

HUNT: Why? Why do you think?

LORENZO ORTEGA III: I think at that point in time, the only thing that would make that clear would be that somebody wants to prove to other people that they dropped eight ballots. They dropped eight ballots. They dropped eight ballots.

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HUNT: What's wrong with that? Like if my--

LORENZO ORTEGA III: I think that

HUNT: --if my nana was at the home and she wanted to know that her ballot made it to the box, what's wrong with the person going, OK, Nana, see, I'm putting in with all-- you and all your four neighbors, so tell them I made it, you know?

LORENZO ORTEGA III: You know, there's nothing wrong with somebody standing next to an ATM and everybody-- time somebody drops their pin, enters their pin that they videotape it.

HUNT: No, there's something wrong with that.

LORENZO ORTEGA III: No, there's no law-- there's no law against that. There's nothing wrong with that.

HUNT: But you didn't say--

LORENZO ORTEGA III: There's no difference between what you described to me and what I just said.

HUNT: You didn't say illegal, you said wrong. There's something wrong with like recording somebody's pin number. But do you think it's wrong--

LORENZO ORTEGA III: Nothing wrong.

HUNT: --to say that it's wrong to take a photo of putting ballots in the drop-box?

LORENZO ORTEGA III: Eight ballots at a time, and at the end of this, you've dropped 80 ballots. Yeah, I think that's wrong.

HUNT: What about three ballots at a time?

LORENZO ORTEGA III: Like, like I said, depends on what the person does. Does the person work for an elder care facility? Who cares if he dropped eight ballots in?

HUNT: So you guys say that you're all mathematicians, you got mathematicians and marketers and everything. What data do you have that shows election irregularities?

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LORENZO ORTEGA III: That's way beyond what we can discuss here, but I'd be more than glad to meet with you privately and sit down and show you all that.

HUNT: Why can't you discuss it here?

LORENZO ORTEGA III: I can. But if you've got, could I get a next 90 minutes?

BREWER: You know, I'm probably not going to go that long, but if she has a question that you can answer.

HUNT: OK. I'll--

LORENZO ORTEGA III: No. OK. So-- so that's-- that's really what it takes.

HUNT: I'll end my quest. Thank you so much.

LORENZO ORTEGA III: Sure.

BREWER: All right. Any additional questions? Sir, before you go, thank you for your service.

LORENZO ORTEGA III: Thank you.

BREWER: Those wings you got on there, it's rare to see one, let alone two. So thank you.

LORENZO ORTEGA III: Flew in space.

BREWER: All right.

LORENZO ORTEGA III: Flying in space.

BREWER: All right. Next proponent to LB1263. Hang on, I'll get a page here. Welcome to the Government Committee.

CONNIE REINKE: Thank you. My name is Connie Reinke, and that's R-e-i-n-k-e for the last name. Thank you for hearing me today. I, like Larry, am not experienced doing this because I-- I haven't been that involved in the past, but I certainly am concerned about things for the future. I, too, am a part of the Nebraska Voter Accuracy Project, and my role in the organization has been many. But I also primarily worked with the canvassing in Lancaster County, so I heard a lot of citizens look me in the eye and say, I'm glad you're verifying the

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votes because we're very concerned about that. I gave you a copy of our flier that we hand out at our presentations. So that does have some affidavits that have been collected and there's a variety of those. One of those I might read to you. Prior to the 2020 election, we-- we received three ballots for Lindsay F. at our address. Lindsay is a daughter but has not lived at the address for more than 15 years. Additionally, Lindsay's name changed to Lindsay S. Lindsay was 16 years of age when she last resided at our address and was never a registered voter while living at this address. When contacted, Lindsay said she had no time-- at no time did she request a mail-in ballot. She further stated that she is a registered voter Democrat, but has never been registered at our address. She also stated that she did not vote in the 2020 election. These are some of the irregularities that we're seeing, as well as the ones that are listed on the back of that Nebraska Voter Accuracy Project. We are seeing a lot of irregularities, a lot of concerns that add up to, we believe, fraudulent activity in our elections. And so I support this bill. I believe we have a long way to go to secure our elections and ballot box-- ballot boxes are a start. The security of our elections related to ballot boxes is not only the physical. There's a whole process of the mail-in related to the ballot boxes and absentee ballots that is very concerning. But in regard to the ballot boxes, I do support what Senator Clements is saying. I, too, would like to add the camera on the ballot boxes, surveillance by a person. It's been shown the most fraudulent activity happens midnight to 5:00 a.m. where there have been in other states, things dropped in the middle of the night. It seems to be when the activity is occurring. I would like to see our ballots on watermark paper or some other type of paper because as you'll see in the following page, skilled ballot harvesters talk about they can just make a photocopy of the ballot, but the envelopes are what are-- what are harder to cre-- you know, they can't create those, so there's systems that they use for that. I believe that ballots should only be sent to individuals with a signed affidavit for absentee ballots. We have seen through our research either ES&S or the-- or the database, there has been outside or inside interference. And all of that adds to the mail-in dropping it in the ballot boxes and ballot harvesting. I'd like to see that database managed by another source because it's creating a lot of mail-in ballot issues and problems. If you look at one of the graphs that are-- that is attached, there were 4,001 people who voted in the state of Nebraska, but we don't know who they are. We received the book--

BREWER: Going to have to hold you up. We have the red light here.

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CONNIE REINKE: OK.

BREWER: All right. Since you were in the middle of giving us some numbers, just finish up real quick--

CONNIE REINKE: OK.

BREWER: --and then we can go from there.

CONNIE REINKE: So we requested the voter roll names of everyone that voted. And then we got the totals for the state of Nebraska, and there were 4,000 more votes that are unaccounted for as far as who they are. So this is some of the fraudulent activity that's going on.

BREWER: OK. Let me-- let me grab one real quick, John, and then-- So the concern obviously would be you-- you collected the information, which is a lot of work in and of itself. Have you had a chance to interface with the Secretary of State to kind of go over the numbers and issues to figure out what right looks like here?

CONNIE REINKE: We have asked the Secretary of State to view all of our and hear our presentation and the evidence that we've-- we've collected. The-- the information that we feel is very important. It-- it helps see the-- the whole thing as pieces of the puzzle.

BREWER: Right.

CONNIE REINKE: And we believe it needs to be investigated. He has not agreed to meet with us for that.

BREWER: OK. Senator McCollister.

McCOLLISTER: Yeah, yeah. Thank you for your testimony. Thanks for being here.

CONNIE REINKE: Sure.

McCOLLISTER: We all agree. We want fair elections, so I congratulate you for that. However, I attended a session last night with the Secretary of State, and he presented a slideshow called Fact or Fiction. And much, if not all, of that was right here, was based on this kind of information. So I think the Chairman is absolutely right. You need to talk with the Secretary of State, go through your allegations. I think he can prove-- prove them false one after another because I think we do a great job with elections in Nebraska.

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Secretary of State does an incredibly good job and Wayne Bena does as well, so. I'm sorry to say I don't think this information is valid.

CONNIE REINKE: Would you help set up a presentation with the Secretary of State?

McCOLLISTER: Well, Mr. Bena is right over there in the corner so.

BREWER: No, but I think, Connie, so I get what your point--

CONNIE REINKE: Sure.

BREWER: --here is you need a formal situation where you can present your information.

CONNIE REINKE: Right.

BREWER: He has a chance to go back and forth, more of a better format to be able to have that open discussion. Well, since I'm the committee Chair, let me-- let me take on that and and work it and I'll-- I'll get information to you and we'll figure out where we can do it and how we can do it so that we can get your issues addressed.

CONNIE REINKE: I would really appreciate that.

BREWER: All right. Additional questions? All right. Is this the first time you've testified in front of the committee?

CONNIE REINKE: No, not the first, but very few.

BREWER: Well, you did fine. John, Senator Lowe.

LOWE: Sorry about that for being slow on the draw here.

BREWER: Yes.

LOWE: Thank you for being here and testifying. You said you went out and you talked to people and you canvassed the neighborhoods and you found out that-- that there were more ballots delivered at a house. Why were there so many that said, hey, we had ballots at the house this year? Do you know?

CONNIE REINKE: We'd like to know why four ballots were sent out to people's homes, and most of those were unrequested. Someone may have requested one and they got four. That's shown on the sheet, but there were one after another of four ballots that were delivered to

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someone's address. One household, it was two people and they received eight ballots. That alone should set alarms going off what is happening with elections in the state. So thanks for asking that.

BREWER: All right. Any additional questions? All right. Thank you again for your testimony. And we will continue on proponents to LB1263. Proponents. Come on up.

JOANNA LINDBERG: Good afternoon.

BREWER: Welcome to the Government Committee.

JOANNA LINDBERG: Thank you. My name is Joanna Lindberg, J-o-a-n-n-a L-i-n-d-b-e-r-g and I am testifying in support of Senator Clements' LB1263, and I'm a member of the League of Women Voters.

BREWER: OK.

JOANNA LINDBERG: So dear Senator Brewer and members of the committee, for the record League of Women Voters of Nebraska supports LB1263. This bill provides for secure ballot drop-boxes throughout the state of Nebraska. The League is supportive of voting systems that are accurate, accountable, and accessible. This includes support for early voting and voting by mail. The codif-- codification of drop-boxes provides an option for ballot return for those who do not wish to mail their completed ballots, either because of lack of confidence in the postal system or because the returned ballot envelope is not postage paid. In the 2020 election, a record number of Nebraskans were able to vote prior to election day. Within the city of Lincoln, ballot return was facilitated by placement of ballot drop-boxes in city libraries. Although these boxes did not meet the requirements specified in LB1263 to be securely fastened to the ground, they were in locations where they were locked to a desk and could be monitored by trained workers. Consideration should be given to inclusion of this as an option for drop-box location. We urge the committee to advance LB1263 for full floor debate.

BREWER: All right. Thank you, Joanna, for your testimony. Questions? All right. Well, thank you again.

JOANNA LINDBERG: You're welcome.

BREWER: All right. Additional proponents to LB1263. Welcome to the Government Committee.

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WESTIN MILLER: Thank you, Senator Brewer, 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'm here in support of LB1263. I want to thank Senator Clements and the Secretary of State's Office for bringing this important bill. I think that secure drop-boxes are an essential part of any good election system. I really do appreciate this effort to more clearly define what they are and most importantly, as someone alluded to, specifically provide for them in statute so that we can avoid the disaster that happened in Wisconsin. I just want to recap that quickly to emphasize the urgency of passing this bill I think. Wisconsin voters currently do not know if their election infrastructure is going to include drop-boxes that are currently statewide for any elections beyond their February election coming up. They provided drop-boxes during the pandemic. A judge recently said, guess what? Drop-boxes aren't actually anywhere in state law, so there's no authority to actually put them there. So they're not legitimate. Take them away. Now, the Supreme Court has said, well, maybe not quite yet. You can leave them for a while. Let us decide in February. That's not what we want. Clarity is really important here, and it's, I think, a reason this bill is really urgent to pass. This bill is a great example of how to actually improve election security by creating a defined, meaningful infrastructure, not by passing evidence-free restrictions that make life more difficult for voters. I do want to just address a couple of things that are coming up in this hearing, which is more exciting than I expected. First, I just-- I just want to mention, and this is not an area of expertise for me because I honestly didn't know it was on folks' radar, but now I do. If you have ever expressed concern about the size and scope of the government, about privacy, about personal freedom, if you have any concerns about authoritarian ruling, please just view this cameras on ballot boxes phone tracking conversation with a degree of caution. Again, not an expert, so I can't say there's no version of that conversation that works, but that makes me extremely nervous. And I hope that that's just viewed with some-- some extreme skepticism as it moves forward. Secondly, I want to emphasize, I want to tie this back into a previous hearing we had on LB843, in which we're trying to resolve the issue of very official-looking documents coming from out-of-state organizations that are causing confusion. This is a great example of why this is really important. I do not doubt for a second that Connie and others are having conversations with voters who are saying, I got all this mail. It's very official. I didn't ask for any of this. This is not OK. And I totally agree. One of the first steps we can take is to make sure that out-of-state groups can't bombard us

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with really official-looking ballot request forms, voter registrations, because that's what causes conversations like this to happen. I think it is an unrealistic expectation. Senator Brewer, you weren't here, but I told the committee last time that I was-- I was tricked by one of these groups into thinking that my registration had been canceled somehow. So I had to call Brian Kruse to make sure that wasn't the case. We cannot assume that every voter just knows, OK, so this is a legit voter registration. This is a ballot. This is a request form. This one's from the Secretary of State's Office, but this one's fake like these people are. Again, I think the intentions are fine, but the outcome is really confusing and is really-- is really not good. I finally want to say that. I think that everyone's in this hearing and outside of this hearing, every concern about election security is important. I think it should be taken seriously. I just think it's really important that as we responsibly have this conversation, we always distinguish between like an anomaly and something that confuses us versus like actual fraud that we know happened. I want to give a quick example that was just-- really got me upset in the 2020 election and it happened in Nebraska. But it was most high profile in Pennsylvania, where there were actual state political parties in Pennsylvania and that was on social media-- they were reposted by some Nebraska political parties-- in which they said, look, we found proof of fraud because we found hundreds of registered voters in Pennsylvania whose birthday is listed as 1801. That can't be right. They're obviously dead. Look, we've proven that dead people have voted, and that's how these narratives perpetuate. If we just take a beat and learn how these systems work, you would know that in Nebraska and in Pennsylvania, the way that we predict the confidentiality of people in witness protection, people who have waivers for being victims of domestic abuse is by changing their birth date to 1801. It's not a symptom of fraud. It's a very important security mechanism. But we've just got to be careful when we have this conversation and just make sure that we are distinguishing at every turn between, yes, this is a concern. Yes, this is weird versus, wow, look, we found fraud. So I just urge you to exercise caution. That being said, this bill, very important. Please pass LB1263. Thanks for your time.

BREWER: Thank you, Westin. You're always a breath of fresh air too. You are an attorney, though, right?

WESTIN MILLER: I'm not.

BREWER: Really. I'm batting zero on attorneys here today.

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WESTIN MILLER: That's always-- well, it's my fault. I usually at the beginning of every session, I usually remind you that I'm not, but I forgot to this time.

BREWER: Well, I appreciate that. I'm getting old. Well, understand that when a group are concerned and they go to a lot of effort to try and collect information, and I don't doubt that you're probably spot on, on some of the stuff that comes in the mail because it is hard to sort some of it out. It looks so dang official. But rather than pooh-pooh it and say, well, that's all been rebutted, that needs to be a face-to-face between the two parties that have the-- the issue--

WESTIN MILLER: Sure.

BREWER: --and not we'll address the stuff here and we'll address stuff there and there's a point it needs to be because it could be that when someone pulls back the curtain and shows that this is-- this is what happens and can cause confusion. But there also might be some truth to this. So that's the part where I'd like to be able to sit down and have them come together and say, hey, let's-- let's-- let's see if there isn't something here that we should at least be aware of.

WESTIN MILLER: Right. And I think you're right on like using your role as Chair to facilitate that conversation. I think the conversation is good. I think that, like I said, I think all voter concerns about security should be taken seriously. I just want to-- I want to be careful. I don't know the folks in this room outside, but I have seen in Nebraska some folks who have contacted elected officials who have been engaged in good faith. But then when they don't get the answer that they want or that like validates their concerns, like, well, you're not listening. So I just-- I wanted to say these things to agree with you. The conversation is crucial. I just think that there is a responsible way to have the conversation, and that's I think that's my main concern.

BREWER: Great. All right. Questions for Westin? All right. Thank you. Thank you for your testimony. Very informative. All right. We are still on proponents of LB1263. Proponents? All right. We will transition to opponents of LB1263. And welcome back to the Government Committee.

ALLIE FRENCH: Thank you much. Good afternoon again. Allie French, A-l-l-i-e F-r-e-n-c-h, and I am opposed to LB-- this bill. Sorry, and I'm going to jump right in here. I was looking through Nebraska

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Revised Statute 32-942, which clearly states that an individual may not pick up their ballot, mail-in or otherwise, until 30 days prior to the day of election to obtain his or her ballot. So when we're looking at the LB1263 today, I noticed that it mentions in there that each secure ballot drop-box shall remain accessible to voters until the deadline, but they have it opened by the fourth Friday or the 6th-- to the 6th Friday, which means we're giving them an extra two weeks before they can even pick up their ballots to drop off ballots that don't yet exist. So I think that date/times need to be changed a little bit because they don't match up with current law. I'll say that out loud again. It was 32-942. I did also want to point out that I know that last year in 2020, Senator Brewer here had passed legislation allowing drop-boxes to be used in the state of Nebraska. So we have that currently available to all counties in the state. So I'm not really sure what exactly we're adding here other than allowing people to turn in ballots earlier than they've received them. That's really all I had for you guys today. Oh, actually one last thing because you had-- Senator Hunt had mentioned it. Douglas County, for example, they're one of the larger counties, they have eight drop-boxes and they pick theirs up already daily during those periods. They pick it up every single day. So that wouldn't be an additional incurred charge. We may want to look at other counties. I don't know what their situation is, but I do know that's how Douglas County's already handled. For example, during the Omaha City Council election, they had 1,276 ballots dropped off in the 24-hour period time closing the drop-boxes, on just the drop-box in the Millard area. And so what we are telling Nebraskans is that they had an average of about 55 ballots dropped off to that box in the 24-hour period of time before the ballot box closed. Now that being said, we probably, and I'm assuming here, so this is all hypothetical, of course, at this point. I can assume that nobody likely dropped off ballots between about midnight and 6:00 in the morning. Of course, there some people work overnights, my mother-in-law being one of them. She might drop off a ballot at 4:00 in the morning when she gets off work from 3M. But aside from maybe a few dozen, it probably wasn't 55 an hour from midnight until 6:00 in the morning. So our daytime average had to have been higher than 55 ballots per hour. In order for those ballots to be delivered by one individual, we would have had a long line the entire day at that drop-box, and yet there was never a line at that drop-box where those ballots were submitted, which means that somebody had to have submitted more than one at a time. And as Senator Hunt pointed out, no problem if we have people, you know, who work for nursing homes who want to submit their ballots for the residents of their

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community or, say, my mom wants to submit the ballot for her mom and she's, you know, majorly an invalid, doesn't leave the house more than once a year for a necessary doctor's appointments. Get it. Totally get it. We need accessibility. But as the current stand and giving the extra allotted time, we are absolutely allowing the potential for ballot harvesting to take place in these drop-boxes as they currently are. Now that being said, I had this super awesome idea, and just because I have additional time, I'd love to share it with you guys. For our drop-boxes if we could implement an ATM-style drop-box, that would be phenomenal. We have every single system already in place in the state of Nebraska in order to do so. We already have to ID to verify age for the sale of alcohol and tobacco. So we already know that, you know, we have the process to scan IDs. So if we were to make an ATM-style drop-box and people had to scan their ID and the slot opened and like a bank, right, you can input one note at a time that it scans, and we can more efficiently and securely know that our ballots are being turned in by the person who was supposed to turn it in. And we also, as the system is already set up for our elections, have the ability to designate somebody else to deliver their ballots for them. Again, another implementation we could add to such a mechanism in order to ensure that everybody has access, nobody is being disenfranchised or prevented from participating.

BREWER: Well, you timed that perfect. Your red light came on. All right. Now, we'll-- we'll kind of slow walk through some of your stuff here.

ALLIE FRENCH: Sure.

BREWER: But when we were talking, when you were talking earlier about the 30 days,--

ALLIE FRENCH: Um-hum.

BREWER: That's the in-person voting. The mail-in should be 35 days if I got the statute correct here.

ALLIE FRENCH: OK, well, if we have that open box, then time down to the 35 days, I think that would make sense. I just don't see a reason to have the drop-boxes open before somebody can pick up their ballots.

BREWER: Some logic to that. All right. The ATM idea, I've been through the process to buy the new voting machines we have. And it was a

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pretty good investment. I got a hunch the ATM ones might even be a little higher, so.

ALLIE FRENCH: I have no doubt they would. Fortunately, we have like this amazing amount of ARPA funding we have no idea what to do with.

BREWER: Actually, I think they do have some ideas. All right. Questions? Yes, Senator Blood.

BLOOD: Thank you, Chairman Brewer.\\or thank you for that fun idea. I'm a big technology fan, so I love technology, but I have a quick question for you on that--

ALLIE FRENCH: Sure.

BLOOD: --since you brought it up.

ALLIE FRENCH: Absolutely.

BLOOD: So knowing that ATM style machines like that are not built on something like blockchain, which would help prevent fraud, how would you prevent fraud on something like that?

ALLIE FRENCH: Well, there is-- we would actually-- you are absolutely correct. You're right. As long as we have electronics in our voting system, there's the potential for fraud. You can hack any electronic from somewhere else.

BLOOD: Anyone connected to a source.

ALLIE FRENCH: No. Any electronic system can be hacked by another electronic device. That is a fact. It is.

BLOOD: I'm not disagreeing with you. I'm saying the phrasing we're using is incorrect. So but that would be something

ALLIE FRENCH: We'll correct that.

BLOOD: --we'd want to talk about outside of this.

ALLIE FRENCH: OK.

BLOOD: But, yeah, I mean, I can go right up to his phone right now and steal his credit card information with my phone.

ALLIE FRENCH: Right.

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BLOOD: I get stuff like that.

ALLIE FRENCH: Right.

BLOOD: So thank you for that.

LOWE: [INAUDIBLE]

BLOOD: But-- so, yeah, I just-- I just-- I think it's interesting idea, but I think with and I know your organization is one of the organizations that has been concerned about things like fraud. I would definitely have big concerns, no matter how convenient it sounds about something like that being hacked.

ALLIE FRENCH: Oh, I absolutely would as well.

BLOOD: And it is a fun idea. Thank you for that.

ALLIE FRENCH: It is a fun idea, and I think that it's important that we find a way to compromise and provide everybody that access, but also ensure that we have levels of security. And as you said, you know, there are measures of security that we can implement. Is it going to be soundproof? No, there are evil people in this world who want to cheat. OK? So if they want to, they will figure out how to do so. But we also have to be realistic. We're in the 21st century, and if people want to have that access and that mode of turning in about it, we also need to make sure that, you know, it's following a similar process to those who are voting in person as well. And there are mechanisms, especially technological ones, that can be implemented to reduce and ensure that there isn't hacking or that there is hacking where it's coming from and so on and so forth. And we can do that both on a local and, you know, for a say, for example, in just one location, for one box or we could do it on a network system for many. It would-- it would purely be how we chose to implement it. Just a fun idea.

BLOOD: It is a fun idea.

ALLIE FRENCH: It is a fun idea. Yup.

BREWER: All right. Any other questions? All right. Allie, thank you for your testimony.

ALLIE FRENCH: Absolutely. Thanks, guys.

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BREWER: All right. We are still on opponents to LB1263. Welcome to the Government Committee.

ROBERT BORER: Thank you, sir. Robert Borer, R-o-b-e-r-t B-o-r-e-r. I'd like to start, Senator Clements, the group that I'm from and represent loves you. And we send our condolences on the recent passing of your father. Chair and Senators, in my humble opinion, LB1263 is not a good bill. Ironically, this is so for reasons expressed by Secretary Evnen himself, who, as our good senator behind me pointed out, is the reason for the bill. The Secretary himself took ownership for the bill in a radio interview this past week. Here are a couple of quotes. The problem of securing drop-boxes is ballot harvesting. This is the practice of somebody goes out and gets 100 ballots from people and says, I'll deliver those for you. Would you like some help filling it out, by the way? And then if you fill it out the way I like, I'll drop it off. And if you don't, maybe I won't. That's a quote. He says, he goes on to say, ballot harvesting is something that is endemic when you have greater and greater percentages of people voting early. Quoting again, when we have early voting, when someone says, please send me a ballot as soon as we put that ballot in the mail, we lose control of it. Evnen talked about the difficulty of preventing ballot harvesting. How do-- he-- he asked the question, How do you enforce that? We begin with prohibition. It's important to have that on the books, end quote. But in the end, he doesn't have an answer. There's certainly not one in this bill. And a law without a realistic sanction is no law at all. It's only advice. Secretary Evnen goes on to say if fraud works, you don't know it. Secretary Evnen has been saying that our local elections are conducted in a fair and secure manner. Now we don't have the problems other states have. That he know-- that he doesn't know of any fraud in Nebraska. But is it not possible that he's simply ignorant of the fraud because, as he says, quote unquote, fraud works? If fraud works, you don't know it. But the Secretary-- by the Secretary's own words because he hasn't seen fraud doesn't mean he doesn't-- it doesn't exist. Secretary Evnen goes on to say, and I quote, there is a motive for people to cheat. There are-- these are high stakes elections. You think about the 49 people in the Unicameral, they control a \$5 billion a year budget. If you thought you could cheat and get someone in there and you lack the moral and ethical bearing, you'd be willing to do that. So we have to admit that there are bad people in the world. This is again Senator Evnen, direct quote from Senator, excuse me, Secretary Evnen. We have to admit that there are people who-- who allow, excuse me, my mouth is getting dry-- who allow their bad impulses to take control, end quote. Despite

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saying that he is unwilling to admit even the possibility that bad people are meddling in our elections. Well, one exception. I guess he did admit that the 400,000 Zuckerberg bucks in Lancaster County was a bad idea because it invited a quid pro quo situation. But beyond that, he's willing to say, we actually have-- we-- we-- he's unwilling to say we actually have any problems. Who is Secretary Evnen protecting? We the people, per his oath, or himself and the private company called ES&S with hackable ballot box ballot marking and counting machines? In closing, 200, excuse me, 2000 Mules is a documentary soon to be released on the serious problem of ballot harvesting and drop-box stuffing, which this bill does nothing to prevent. The trailer is out. It contains actual footage. You might want to keep an eye out for it. Thank you. And if I could add real quick, Senator McCollister, Larry had to leave and he asked me if you would like to see his rebuttal to send-- to the Secretary's facts versus myth, he'd be-- he'd love to send it to you so.

McCOLLISTER: The Chairman is setting up a meeting and I'd love to participate.

ROBERT BORER: OK.

BREWER: All right. Well, that opening was interesting because you made sure that Rob knew that you-- you loved him. But then you said--

ROBERT BORER: We really do.

BREWER: --but your bill stinks. So

ROBERT BORER: Right. Just because we think the bill stinks doesn't mean we don't love him.

BREWER: All right. Well, that was the kindest way of opening you could have to him, so. All right. Questions for Robert? Questions? What I'll do is as soon as I'm able to talk to the Secretary of State and get a place and a time set up, as far as I'm concerned, whoever is interested come. I listened to the issues and, you know, my intent is that until we get answers, we won't leave the room. And-- and there-- there is probably issues on both sides that need some explaining. And so that-- that's my intent. And so once I have a chance to do that, you guys should know about it and we'll go from there.

ROBERT BORER: Thank you, Chairman.

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BREWER: You bet. All right. Additional opponents to LB1263. Welcome to the Government Committee.

RICHARD JOST: Thank you. My name is Richard Jost, R-i-c-h-a-r-d J-o-s-t. I'm from Bellevue. Retired military, 25-year aviator. I went on to be a government contractor so familiar with contracts. I ended up as vice president and the chief operating officer of the company. This is a-- I'm a first-time attendee and a first-time speaker, using the radio vernacular. OK, so I object to all these legislative bills regarding voting. I believe this body is over the wrong target from the military folks. Why all the fuss? Why all these types of changes if 2020 was so clean? An email I received from the election division regarding possible voting irregularities, quote, the Secretary of State's Office has investigated every-- investigated every claim it has become aware of. None of them have panned out. Nebraska's election wasn't either stolen nor fraudulent, end quote. It is my belief that we are undermaced-- underestimating the cunning of the folks who committed fraud all throughout our nation. Just two days ago, a military veteran who was involved in the counting of votes in Arizona had this to say during a committee meeting concerning voting about military absentee ballots, not mail-in ballots, but military absentee ballots from overseas locations. These ballots are supposed to be on 11.5x19 inch sheets of paper that came to him on 8.5x11 sheets of paper. In 2016, there were 1,600 absentee ballots. In 2020, there were 9,600 absentee ballots. Of these, 95 percent went to one candidate. Any group who can pull this type of thing off can pull off about anything, anywhere. Regarding LB1263 and all these other reactive bills, it is nothing more than a Dutch boy sticking his fingers in the dam or in this case, the water already gone and the towns in the valley have been destroyed. The real issues here are some bureaucrat in Lancaster County thinking it's OK to take 400,000-- \$404,000 some change from Facebook to be used in restrictive ways in the 2020 election. If someone offered me \$400,000 and said I have to drive 54 miles an hour only, I can't go 55 or even 154 miles an hour, I wouldn't take it. I'd say no to the money. I don't want restrictions. We don't need restrictions. Government does not to be coerced by private business, and Facebook is certainly not we the people. So by and large, I object to making laws for lowest common denominator and having to do things like this to-- to protect us against things that should be patently obvious. And that was LB858, sorry. OK, so the other problem we have, and I apologize, Senator Brewer, if I'm hearing that you worked on this, but, you know, the other problem is we have a \$14 million contract with ES&S to count our votes for us. And, you

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know, part of the contract states: The parties acknowledge and agree that prior to the commencement of any testing, as set forth herein, the testing entity shall enter into a confidentiality and nondisclosure agreement with the customer. And it goes on. State agrees to maintain the confidentiality of the testing results to anyone, except those employees of the state who have a need to know such information, nor share any or disseminate to the public [INAUDIBLE] the testing results or any other related information, not directly or indirectly publicized in any media or public forum whatsoever information or materials or any opinions, conclusions, or comments concerning the testing results. I'm sorry, but who signs that kind of contract? We are talking about scanning bubbles or pencil marks on paper in order to be able to count them. I took exams in high school 50 years ago where I filled in the bubble A, B, C, D or whatever, which were counted in score by a computer. Yet we have to protect ES&S in this technological secret. I see this and wonder what they are hiding or what they are going to hide. In conclusion, I object to LB1263, as I don't see how screwing a ballot box into the ground is going to help our state in upcoming elections. I would agree with it if we were to install cloud-based, web-based cameras on everything so that documentaries like 2000 Mules can be done. And that's going to be a fun show to watch. Any questions?

BREWER: All right. Well, thank you for your testimony.

RICHARD JOST: You bet.

BREWER: First question. When you gave the numbers on the military absentee ballots and the change from 1,600 to 9,600 that was in Arizona, that?

RICHARD JOST: Yes, yes, Arizona.

BREWER: Just-- just clarification on that. You heard the discussion we had just prior that there are some things I can't answer or give you any type of closure on with the information that has been shared, just because until I figure out a way to get everybody in a room at the same time and have this open forum for questions, one side's going to have whatever they see is the truth and the other side is going to have--

RICHARD JOST: Certainly.

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BREWER: --the truth. And somewhere in the middle, there might be an answer to all this. So again, as soon as we get that set up, love to have you come. And-- and last thing, what-- what did you fly?

RICHARD JOST: RC-135s.

BREWER: Oh, OK.

RICHARD JOST: So I've been there, looked them in the eye.

BREWER: Spent plenty of time flying out at Offutt then, right?

RICHARD JOST: Yes. Yes.

BREWER: All right. Any questions? All right. Well, thank you for your testimony.

RICHARD JOST: You bet.

BREWER: Hello there and welcome to the Government Committee.

FANCHON BLYTHE: Thank you, Senator Brewer, and I want to say I'm glad to see you here today. I was testifying last week on three of these bills. Thank you for allowing me to speak today. I am here in opposition of LB1263. I am personally not involved in the Voter Accuracy Project, but many of my friends are. There's over 2,000 in Nebraska.

BREWER: Wish you to spell your name.

FANCHON BLYTHE: Oh, yes, I'm sorry. Fanchon, F-a-n-c-h-o-n, Blythe, B-l-y-t-h-e, and I want to thank these 2,000 people. Many of them have worked hard for a year, night and day without much sleep on this. Me, the problems I have with LB1263, the bill is not strong enough. Why do we even need drop-off boxes? I believe drop-off boxes bring fraud. I highly suggest you all watch, they already mentioned it, the 2 [SIC] Mules exposing trafficking by Dinesh D'Souza. This documentary exposes what happened and how mules collected and dropped off ballots. I also highly suggest you all buy this book or I'll buy it for you: Rigged by Mollie Hemingway This book shows how the media, Big Tech, remember old "Zuckerbuck" and his over \$500 million he donated to Civic Tech out of Chicago, how they seized our elections. It goes into detail by detail in this book. After hearing-- oh, Senator Brewer, I was just going to say I testified last week on those bill-- integrity bills, and I'd like to share with you a story. I own a salon and one of my clients

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was at the library and a gentleman was stuffing ballots in one of the library ballot boxes. I couldn't believe what I heard, so I called Dave Shively myself and I told him the story. And he said to me, Fanchon, it's legal to do. So he gave me an example. People go to nursing homes and pick up ballots for people. When this happens, your chain of custody is gone. Miss Hunt, that occurs-- when that occurs, you have ballot harvesting. Even having cameras on drop-off boxes is not secure enough. People can walk up to a box with their face completely covered and with no facial recognition. A good example is our county attorney was recently asked a question: Why didn't folks get arrested after millions of dollars was done in damage at the Capitol? His answer? They couldn't identify them because the perpetrators were masked up. And that's what can happen at a drop-off box. If you watch the mule thing, you'll see it. You can't see people's faces. You know, they do it in the dark of the night. With Lancaster County receiving the 404,000 "Zucker bucks" and adding these 12 unsecured boxes, these boxes were set out, then stuffed. Corruption occurs with drop-off boxes. Remember, read the book Rigged. Because of the reasons, I am opposed of all drop-off boxes. Senator Brewer, I want to thank you for going-- what you're going to do and reach out to Secretary of State. I know personally the Voter Accuracy Project folks have tried more than once. I was also present at an event in Ord, Nebraska. The evening had over 500 people at it. Mr. Larry Ortega was just starting to speak after they had finished a meeting in the afternoon, and our Secretary of State and the deputy both walked out of them and did not stay to watch the presentation. That would have been a perfect opportunity. The time is now for whatever side is right or wrong. They need to have a meeting and I want to thank you. And I'm going to be praying that you can pull this off. Also, I keep hearing we can't go back to counting ballots-- Dave Shively told me that himself-- by hand like we used to. But we, as a state, spent over \$20 million to purchase new ES&S machines. Any questions?

BREWER: Well, I will have the meeting, OK, so we're not debating whether it's going to happen.

FANCHON BLYTHE: Thank you.

BREWER: It will happen. There are more issues than we're going to be able to talk about here today. But if we don't address these, the issue we're going to have and this is what I'm going to share with Secretary of State, it will only grow in the way of-- of causing folks to doubt elections. How we-- how we put this to bed is we address the issues,--

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FANCHON BLYTHE: Right.

BREWER: --get answers, and not let it continue to fester and be something that puts doubt in people's minds because nobody wants to think that their efforts to be able to have the privilege of voting is not being handled or counted the way it should be. So thank you for your efforts. Are there any questions?

FANCHON BLYTHE: I just want to add to that that-- well, maybe I better not say.

BREWER: All right. All right, well, thank you for your testimony and--

FANCHON BLYTHE: Thank you.

BREWER: --we'll continue to push on.

FANCHON BLYTHE: Any questions today?

BREWER: No. I think we're good.

FANCHON BLYTHE: Thank you.

BREWER: Thanks. All right. We are still on our opponents to LB1263. All right, so now I'm looking for those in the neutral. I somehow sensed there wouldn't, oh, just-- I'll bite my tongue. There are. Welcome to the Government Committee.

BETH BAZYN FERRELL: Thank you. Good afternoon, Chairman Brewer and members of the Committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials, and I'm appearing neutral on LB1263. We do recognize the need to have some standards for ballot drop-boxes, so we don't end up with a situation like in Wisconsin or some things that other states have run into. And we do appreciate the Secretary of State providing the ballot drop-boxes for those counties that didn't have them during the pandemic. I'm testifying neutral today, though, because we've heard questions from some counties that had drop-boxes prior to the pandemic about how their existing boxes would fit within these standards. And we've spoken to Secretary of State and we're working through some of those. So I would just let you know that we're here because we're interested, but we don't fall in support or oppose. We're neutral at this point. I would add to the amendments that Mr. Bena had suggested. Although we don't have a formal position on those,

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we think those would be a good addition to the bill. I'd be happy to try to answer questions.

BREWER: Well, I would imagine as county officials consider the topic and some of the issues that you guys probably are staying fairly busy with questions. So thank you for being here today. Questions for Beth? I think we're starting to wear them down here. Thank you. All right. Any additional in the neutral? Welcome back to the Government Committee.

JENNIFER HICKS: Thank you. My name is Jennifer Hicks, J-e-n-n-i-f-e-r H-i-c-k-s, and I'm speaking from a neutral position because it isn't that I oppose measures being taken to try to secure our elections, but they need to be meaningful ones. And this, the legislation that's been proposed by our Secretary of State's Office is-- is not going to be what we need to address the problems with our elections in our state. And as-- as I've told all of you on this committee before, what is of the utmost importance to be done is to address the constitutionality of how our elections are conducted. And I want to thank Senator Sanders' office for having been the only office of senators to have reached out and given me a reply to my concerns about the constitutionality. And-- and that would be in regards to what the gentleman earlier read about the nondisclosure that we have that doesn't prevent us-- the transparency that would be necessary to know that our votes are counted as they are cast. And-- and I would say that in reply to what I received from your office, from Mr. [INAUDIBLE], he said that we looked into the ES&S contract and the items discussed in relation to nondisclosure agreements are actually protected under Nebraska statute 84-712.05, Section (8) of that. And actually, I don't think that's the case. I would ask-- I would ask your office to relook at that, look at that again. Because the section that he referred me to has to do-- there's nothing-- there's nothing in this statute that would pertain to our elections or any of our election infrastructure. And what it does point to is information solely pertaining to protection of the security of public property and persons on or within public property, and it references endangering public safety or property. And my question would be is are you protecting we, the people from we, the people and are our votes not our own? And the end of that section ends with unless otherwise provided by statute or by, "unless otherwise provided by state or federal law." And to that, I would point you back to Article I, Section 22 of our Nebraska State Constitution that says all elections shall be free and without impediment or hindrance to our right to exercise the elective franchise. And the lack of transparency denies

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us that. And so I would ask-- I am really grateful that your office is the only one. I wish more were-- were replying, but I thank you for your reply and those are my concerns. I would like you to look into that again. And to continue with what his reply to me was, which is really significant, is he says that-- that that information is protected under statute. And he says that's important because if the results of those tests were made public, bad actors could easily look into the information and use it to hurt our elections. Well, we need to consider who the bad actors are. OK? And I think that a gentleman earlier maybe pointed to-- to a problem that that you need to look at and. Well, going back to our-- to-- to what we-- what we were discussing earlier with the recall, we really need a recall option or some kind of accountability from our Secretary of State and our Deputy Secretary of State because we may have bad actors right here governing our own elections. And so when-- when we point to-- to, hey, our Secretary of State didn't find any problems, well, yeah, because he's not looking. And it isn't because he hasn't been asked to. And so there was a joint statement issued on November 12, 2020, that said the November 3 election was the most secure in American history. And the 2000 Mules movie that people are referencing that will be coming out, it quotes that a lot. This was a widespread joint statement that went out. And this statement, it-- included in that says there is no evidence that any voting system deleted or lost votes, changed votes, or is in any way compromised. Furthermore, it says that when you have questions, turn to election officials as trusted voices as they administer elections. Well, let me tell you, the-- the people who signed on to this letter include the National Association of Secretaries of State, of which our Secretary of State Bob Evnen is a member. It includes the National Association of State Election Directors, of which Secretary of State Wayne Bena is a member. And so I would have concerns that if they're tied to these organizations that have put out this statement that said, hey, trust us, we're the trusted voices, we know that the elections were secure because we're the ones who administered them. Then maybe we have a problem, OK? And so what you need to do is to look at that and-- and here's the thing. And I've said this before, if they didn't see the problem back in November 12, 2020, that's fine. But there's so much more that has come out since then. And to stay silent now and not address what you said, Senator Brewer earlier about the doubts of the people, those need to be addressed. We have significant doubts that need to be addressed.

BREWER: OK. Understand that the point you're making here, again, we're in a scenario where you can say anything and we're not in a position

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where we can take the representatives of the Secretary of State's Office and let them defend their decisions on whatever statement there. So again, let's-- let's remember that until we get in a environment where we're going to have both sides, because right now we're yelling at each other across the canyon, when we can all come together, look at the information and then what my vision is, you know, step by step walk through and get answers. And so when-- when you've got a situation that you feel has been documented and that it needs to be dealt with and there needs to be answers, then the people who can answer it are in that room and and we work through them.

JENNIFER HICKS: They aren't listening.

BREWER: Well, give me enough lead-way to-- to bring them into the room and force a situation where we walk through and get answers. Because right now, I don't believe there's a burning desire to put everybody together. I'm at the end of my rope here and we're going to put everybody together one way or the other and-- and we're going to get some answers so that everybody isn't yelling across the canyon at each other because I think-- I think there are issues that-- that have to be addressed. Unfortunately, you know, LB1263 isn't going to be how we get those answers because they're much bigger and much more complex. So let me check and see if we got questions. Anybody have questions? All right. Thank you for your testimony.

JENNIFER HICKS: May I ask you to take this to the Attorney General?

BREWER: Well,--

JENNIFER HICKS: I asked.

BREWER: --that-- I understand that would be the reflex thing to do, but we really need to bring folks together and try and get answers. Now, if one side doesn't want to answer questions and it looks like there's a issue that-- that we can't address or won't be addressed, then I think that's a step we can look at. But now I think we need to bring together folks and try and get some answers.

JENNIFER HICKS: It's a question of constitutionality. I think the Attorney General should step in.

BREWER: Well, I have a pretty good legal mind here. We'll talk when this is over and-- and-- but-- but for the purpose of what we're trying to work through with many of the election issues here, let's see if we can get some answers for you. Thank you for your testimony.

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All right. We are still on opponents-- neutral. Sheesh, one of those days, neutral. Are there any additional neutral testifiers here today for LB1263? Seeing none, Senator Clements, would you care to close?

CLEMENTS: Yes, thank you. I've been making some notes and especially some of the opposition. Ms. French talked about the six-week term being a conflict with the 30-day rule. We visited with Deputy Bena and six weeks is when mailing out begins for ballots and especially useful for military who are deployed. And so it's unlikely that they'll be returning that the next day. But it's just a consideration because of the time that some ballots are mailed out. And Mr. Borer talked about there are bad people. There are bad people. But I think we need-- need this bill because we can secure drop-boxes better. It's not realistic, I don't think, to eliminate the boxes, but it's important to make sure they're secure. Mr. Jost talked about the contract problems with ES&S. I went to ES&S recently and I saw the room where the federal election certification people come in and look at every machine and-- and see that it counts ballots properly. They look at all the source code of the software. They say they look at every line looking for backdoors in the software that could be hacked and they don't certify their machines or their software until the federal election people are satisfied. Regarding cameras, they're not prohibited and Deputy Bena said many already are installed, but we didn't want to have an unfunded mandate regarding those. And Ms. Blythe said this is not strong enough. But I believe maybe it isn't the whole answer, but it is a step. Rather, not just if we do nothing, I don't think we're improving the situation. Then regarding Ms. Hicks on the constitutionality of the election contract, the E&S-- ES&S contract, I've not read it. I've heard the accusations about it, but I'd be glad to see a legal opinion and have it revised if needed. ES&S operates in 50 percent of the United States. And I would think by now somebody would have required them to have a contract that's constitutional and I'm not-- I question the unconstitutionality, but I'm sure glad to let somebody compare that to Nebraska's constitution. And finally, thank you. Thank you, Mr. Chairman, for offering to set up a meeting to settle the issues among the parties. And I welcome that also.

BREWER: Well, and I may ask you to be a part of that. I think it's important that we-- we have representation from the Legislature to make sure and broker and be sure that it's done correctly and fairly. And I think if there's anybody in this body that's a fair and honest, man, it's you. So if you're available, we'd love to put you to work.

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CLEMENTS: Well, I was going to offer myself to set up the meeting, but I'm glad you're going to do it.

BREWER: Took that monkey for you. All right. Questions for Senator Clements? All right. Well, thank you for presenting LB1263. And we have five proponents, four opponents, and zero in the neutral for letters. And we are now going to transition to LB861 and Senator McCollister. Senator McCollister, welcome to your committee.

McCOLLISTER: Thank you, sir, and I'll acknowledge that I'm not a lawyer.

BREWER: I, for some reason, I had it in mind-- and when they get up here and they're so smooth and knowledgeable and you just kind of assume they're a lawyer, so--

McCOLLISTER: Well, when I get done you won't, you won't think that.

BREWER: --as long as you're not smooth, you should be fine.

McCOLLISTER: Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. I'm John, J-o-h-n, McCollister, M-c-C-o-l-l-i-s-t-e-r, and I represent the 20th Legislative District in Omaha. LB861 is a very small change to update campaign filing forms so they include a field for a candidate to fill in his or her email address. Simply put, an email address has become ubiquitous and it's a natural progression for Nebraska's campaign filing forms to incorporate a place to include a vital, but unintrusive information. I'd like to thank the League of Women Voters for giving this-- giving me this idea for this bill and I'd take any questions if you have any.

BREWER: All right, thank you for that opening. Questions for Senator McCollister? All right. Well, I guess that was pretty straightforward.

McCOLLISTER: Thank you, sir.

BREWER: We will start with proponents to LB861. Welcome to the Government Committee.

JOANNA LINDBERG: Thank you. I can't say enough, but-- I have to say my name. Joanna Lindberg, J-o-a-n-n-a L-i-n-d-b-e-r-g. I can't say enough about Senator McCollister's bill to require an email address. I've spent 40 years, 42 years in the League of Women Voters. And every time we do a voter's guide, we have to find these people and that's the way

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you communicate. That's how you fill out a voter's guide. So the fact that we will be able to access them quickly through their email and not have to drive up to their addresses to get their email address-- because the email address is what makes it possible for them to complete our voter's guide to answer the questions. So I should probably read the testimony, but just knowing that we strongly support it and think of all the time, volunteer time, you're safe by doing this and I'm sure that will be true for the media and other organizations. So our voter's guide is, is referred to as vote411.org. It's a one-stop, nonpartisan information general and state specific for the public, including a nationwide polling place locator, absentee ballot information, and ballot measure language. Vote411.org also offers information on up-to-date election rules for all 50 states. Candidates are invited by the league, as I mentioned, at no cost to the candidate to complete the questions that were posed based on league positions. And we don't edit any of the responses. We just provide them. We don't take positions on what they said, pro or con. It's just their information unedited. We have long expand-- we've been doing it for 70 years in Douglas County, the voter's guide. So it's like a-- it's what defines us and what we feel like makes elections more favorable to, to the voter to understand where the positions are of our candidates. We certainly appreciate the cooperation of county election commissioners and clerks and accessing our-- the candidate filings, what we need to do it. We've been successful in providing this service to candidates and voters for many years, but as I said, it takes a lot of volunteer hours to find the candidates. So we are nonpartisan and we're not a government organization. We are volunteers and we hope this easy-to-use online tool for candidates and voter make it easier for educated voters.

BREWER: All right, thank you for your testimony. Questions? All right, thank you.

JOANNA LINDBERG: Thanks.

BREWER: All right, additional proponents for LB861? Are there any here that are opponents? Anyone neutral? Senator McCollister. He waives closing. So we'll go ahead and close on LB861. We do have one letter in the neutral, no opponents, and no proponents. With that, I'll hand the gavel over, and head up.

M. HANSEN: Thank you, Chairman Brewer. With that, we'll close on the hearing on LB861 and moving on to LB841. Welcome.

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BREWER: All right, Senator Hansen and members of the Government Committee, my name is Tom Brewer, T-o-m B-r-e-w-e-r, representing the 43rd Legislative District. I'm here to take this opportunity to open on LB841. This bill was brought to me by the Secretary of State's Office. We have a alternative voting procedure for some Nebraskan voters who are going to be outside the state during an election. If you are in the military-- if you're a military service member and your family is stationed outside of Nebraska, if you're temporarily residing overseas, you can register and vote and request ballots for the elections during the year. However, there is a gap that exists for Nebraska National Guard members who are out of state responding to emergencies declared by the President or the Governor. This gap also exists for other emergency response providers who are out of state assisting during an emergency. LB841 allows these Nebraskans to exercise their right to vote. This is, as we all hear, a simple bill and hope that committee will support this bill and part-- as a part of the election, election packages. I have someone from the Secretary of State's Office who will follow me up to explain any details you may want. Thank you and I will take any questions.

M. HANSEN: Thank you, Chairman Brewer. Are there questions from committee? Seeing none, thank you. With that, we'll invite up our first proponent to LB841.

ANDREW BULLER: Good afternoon, Vice Chairman Hansen and members of the committee. My name is Andrew Buller, A-n-d-r-e-w B-u-l-l-e-r. I serve as the Assistant Deputy Secretary of State for elections and I am testifying on behalf of Secretary of State Robert Evnen in support of LB841. I'm also a member of the National Guard. However, I am not testifying in my capacity as a service member. When I started with the Secretary of State's Office in the elections division, one of the first things that I did was work with military and overseas citizens to help them exercise their right to vote, whether it was a soldier deployed in a hostile war zone or an expatriate living in Japan or a missionary serving in the remote mountains of Peru. These Nebraska citizens serving in the military or living abroad have their voting rights protected under a federal law known as the Uniformed and Overseas Citizens Absentee Voting Act, or better known as UOCAVA. And these additional UOCAVA voting protections include additional time to send out ballots. It's at least 45 days prior to an election. And ballots can be emailed or faxed to a voter in addition to being mailed and ballots can be returned via email or fax with permission from the Secretary of State when mailing the-- back the ballot is not feasible; for example, no mail in a hostile country or foreign post is

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unreliable. I heard about a postal strike in Canada of all places. One of the first things I noticed with UOCAVA is that these protections did not extend to National Guard members on state orders and it was just federal, nor did they extend to emergency first responders who, who were called away from home. LB841 extends these additional protections to these groups and there are around 11 other states that have extended UOCAVA rights to these groups. These Nebraskans have stepped up to serve and protect our great state from emergencies and natural disasters and sometimes to aid a fellow state, often on very short notice. They might have been intending to vote at the polls on Election Day or to get a ballot in the mail at their house, only to have those plans interrupted at the last moment. A few examples for who this could potentially help: in November of 2021, the Nebraska National Guard sent nine soldiers to assist state and local agencies in fighting the Buffalo Creek wildfire in western Nebraska. In August of 2020, Nebraska first responders assisted with hurricane relief for Hurricane Laura in the Gulf states. For most of 2019, there was massive flooding all across Nebraska and numerous first responders were deployed for long periods of time to rebuild infrastructure and provide support to the local communities. In June of 2014, there were multiple tornadoes that caused destruction in northeast Nebraska and the village of Pilger was closed to all but emergency personnel as they worked to clean up the damage. You may have others that come to mind. These Nebraskans shouldn't have to worry about not being able to vote. They shouldn't have to make a choice between fighting a fire in western Nebraska or getting back home in time to vote. I distributed to the committee some additional language to the bill that we would like you to consider. After the bill was introduced, we heard from some utility companies that they send employees to other states under mutual aid agreements during disasters and not necessarily emergency declarations. As sort of an example, the flooding in 2020 didn't get a declaration until August, but it had started even back in March. We want to make sure that this is acknowledged in the bill and I urge the committee to advance LB841 to General File. Thank you for your time and I'm willing to answer any questions you might have.

M. HANSEN: Thank you for your testimony. Are there questions? Seeing none, thank you. All right, you're off the hook. Thank you for your testimony. We'll take our next proponent of LB841. Welcome.

RYAN McINTOSH: Senator Hansen, members of the committee, my name is Ryan McIntosh, R-y-a-n M-c-I-n-t-o-s-h, and I am appearing here day in support of LB841 as a registered lobbyist for the National Guard Association of Nebraska as well as the Nebraska State Volunteer

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Firefighters Association. As I mentioned in previous testimony, our state has placed significant burdens on our service members in domestic missions, including historic floods of 2019, COVID response, civil unrest in Lincoln and Omaha, and wildfires as well as the presidential inauguration just over a year ago today. Additionally, several hundred service members were activated to support both the primary and general elections in 2020. The Nebraska National Guard has proven, has proven to be a capable and agile force ready to serve our nation and our state wherever needed. LB841 ensures service members the flexibility to vote in our elections when called upon on short notice. Likewise, it also provides that other first responders, including our volunteer firefighters, are able to vote if called away on short notice to support emergencies. Our volunteer fire and rescue departments played an important role in both the 2019 floods as well as wildfires throughout the state over the course of years. We ask that you support LB841 and urge the committee to pass it to General File. Thank you for your support.

M. HANSEN: Thank you. Questions from the committee? Seeing none, thank you.

ANDREW BULLER: Thank you.

M. HANSEN: All right, we'll invite up the next proponent for LB841. Welcome.

WESTIN MILLER: Thank you, Senator Hansen. Get my mask off here. Senator Hansen, members of the committee, my name is Weston Miller, W-e-s-t-i-n M-i-l-l-e-r. I'm the director of public policy with Civic Nebraska here in support of LB841. I want to thank Senator Brewer and the Secretary of State's Office for this great bill. I think Andrew did a great job covering the merits so I just wanted to kind of add Civic Nebraska's name and say that we think this change is important. It's aligned with the spirit of UOCAVA. It's aligned with the spirit of our current statute. I was relieved to hear him say he also found 11 states doing this because it's kind of a hard list to find. So I found 11 states that currently have a provision specifically for first responders. It's a very purple mix. I think the first four states to do this were Wyoming then New Hampshire then California then Alabama. So we think there is no reason that voting should be more difficult than necessary for deployed citizens, whether they're deployed overseas or somewhere across the state. So thank you your time.

M. HANSEN: Thank you. Questions? All right, seeing none--

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WESTIN MILLER: Thank you.

M. HANSEN: --thank you for your testimony. Any other proponents for LB841? Welcome.

BETH BAZYN FERRELL: Good afternoon, Vice Chairman 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. I'm appearing in support of LB841. I think the reasons that you've heard all the other testifiers give are the same ones that we would give. So in the interest of brevity, I'll just ask you to register us in support.

M. HANSEN: Perfect. Questions? All right, seeing none, thank you. All right, any other proponents of LB841? Seeing none, any opponents? Seeing none, anybody who wishes to testify neutral? Seeing none, Senator Brewer, would you like to close?

BREWER: Better at least see if you've got questions. Any questions? All right.

M. HANSEN: Fair enough. All right, seeing no questions. We'll close the hearing on LB841. Before we go, I will note we had four proponent letters, zero opponent, and zero neutral. With that, we'll close the hearing on LB841.