

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2024

BREWER: Good afternoon, and welcome to the Government, Military and Veterans Affairs Committee. I'm Senator Tom Brewer, representing the 43rd Legislative District, and I serve as the Chair of this committee. Our committee will take up bills as they're posted on the agenda. The order today will be LB1203, John Cavanaugh, LB1382, Senator Hansen then we will take a break, reset, and then we'll have a combined hearing after that on LB1390, Senator Bostar, and LB1262, Senator Day. Let's see. All right. To expedite everything today, if you have an electronic device, cell phone or otherwise, please silence it at this time. We are going to go with the standard procedures for the first two bills, which will just simply mean that the introducing senator will introduce the bill followed by proponents, opponents, and those in the neutral. After those two bills we'll take a break. When we come back in the annotated-- combined hearing, we will simply have folks come up and they will state whether or not they are support on the first bill, are opposed, or neutral, and likewise on the second. They'll have three minutes, just as in the-- in the first two hearings, to state whatever you have to say. We'll use the light system, so we'll have green light for two minutes, the amber for one, and then the red, and we'll have an audible alarm in case you lose track of the red light. Today is your chance to voice any issues you have concerning the bills before us. If you wish to testify, you will need to bring out the green sheet filled out legibly and turn it in to the committee clerk or page. If you wish to record your presence here but not testify, there are yellow sheets over there that you can fill out to post that. If you have handouts, we'll need 12 copies. If you don't have 12 copies, let us know. We'll see if the pages can get more copies made. When you come forward, please speak in the microphone clearly. State and then spell both your first and last name so it goes accurately into the record. No displays of support or opposition to bills, vocal or otherwise, will be allowed in the audience. We will go ahead and introduce committee members today, and Senator Sanders and Senator Halloran-- Senator Raybould and Senator Halloran are out sick. Senator Sanders is in another committee. So we got folks rotating today. So with that, we will start with Senator Aguilar.

AGUILAR: Ray Aguilar, District 35, Grand Island.

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

HUNT: I'm Megan Hunt, and I represent District 8 in the northern part of midtown Omaha .

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BREWER: Julie Condon is our committee clerk, and we have the Dick Clark replacement here as our legal counsel. The pages that we have with us today are Ellie is a junior at UNL, criminal justice, and Kristen, who is a political science senior at UNL from North Platte. With that, we will invite our first testif-- of our first introducer up, Senator Cavanaugh. Welcome to the Government Committee.

J. CAVANAUGH: Good afternoon, Chairman Brewer and members of the Government Committee. And just for the record, I don't think Neal could ever replace Mr. Clark. My name is Senator John Cavanaugh, J-o-h-n C-a-v-a-n-a-u-g-h, and I represent the 9th Legislative District in midtown Omaha. I'm here to introduce LB1203. LB1203 proposes an amendment to the Nebraska Political Accountability Disclosure Act. Its purpose is clear, to regulate the use of artificial intelligence in media and political advertisements. In an era when technology evolves at breakneck speed, we must ensure that our citizens are well informed and protected. Why is this bill necessary? The answer lies in the increasing prevalence of materially deceptive media content that can sway opinions, distort facts, and mislead the public. As AI algorithms become more sophisticated, they can generate convincing audio, video and written material that blurs the lines between reality and fabrication. Our duty as legislators is to safeguard the integrity of the information disseminated to Nebraskans. What does LB1203 entail? This legislation mandates a conspicuous disclosure whenever AI is involved in creating media that could deceive the public. Whether it's a deepfake video, a manipulated image, or an AI generated article, Nebraskans deserve transparency. By requiring clear labeling, we empower our citizens to make informed judgments about the content they encounter. As one example of the power of AI, the preceding summary of the bill was written by an AI prompt. But if we continue with the summary past this point, it contains a number of glaring inaccuracies about the legislative history and the status of LB1203. So, to be clear for the record, the rest of the introduction is my own words. As it relates specifically to the problems that LB1203 is trying to address, the potential for deepfake or digitally manipulated audio and video to deceive voters and disrupt elections is something that we should all be concerned about. With this bill, I try to take an approach that would regulate the use of AI to create deceptive media without infringing on First Amendment rights. I've received a great deal of feedback and questions about this bill. I believe that the Legislature must take action to address the potential for deceptive media, but it is a complicated issue, and LB1203 will need a lot of work in order to balance all of the valid concerns and rate-- with regulating artificial intelligence.

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And I recognize that there's just not enough time left in this session to truly address all of these issues. And even if there was, the election itself will be well underway by the time a bill like this would become law. I also know that there-- this is a problem that we must-- that we need to address sooner rather than later. My hope is that this hearing will provide constructive feedback and ways to improve the bill, so that next year, the Legislature will be able to consider a proposal that works for everyone while still addressing the primary goals of the bill. I'm also considering an interim study on the subject. I know that the AI is a subject that the committee and several senators in this body have expressed interest in. I also know that it's a complicated subject and I'm far from an expert. I want to thank the committee for your time and your-- willing to answer any of your questions that you may have.

BREWER: All right, thank you Senator Cavanaugh. Let's see if we have some questions for you. Any questions for Senator Cavanaugh on LB1203? Senator Conrad.

CONRAD: Thank you, Chair Brew-- thank you, Chair Brewer. Thank you, Senator Cavanaugh. And just sorry, I was coming from another meeting, but you want us to essentially hold the bill?

J. CAVANAUGH: Well, I'd like to hear what--

CONRAD: I mean I could get into the First Amendment with you, if that's what the ask is.

J. CAVANAUGH: Well, I mean, I'd be happy to have a robust conversation. I understand you guys have a busy day ahead of you. So I recognize other factors, but I would love to hear everybody's constructive criticisms of how we might approach this issue going forward so that we can appropriately address and take action on this.

CONRAD: Very good. And I know that you are equally knowledgeable and passionate about civil rights and civil liberties and free expression, so. But even amongst those of us who share the same values, sometimes we can have a different approach, or perspective, or remedy. But I, I want to make sure that we proceed carefully so that we don't infringe upon free expression rights. So very good.

J. CAVANAUGH: I share that concern.

CONRAD: Yeah. Thank you.

BREWER: All right. Additional questions. Senator Lowe.

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LOWE: Thanks, Senator Cavanaugh. And, and so is there freedom of AI?

J. CAVANAUGH: I guess I don't know what that question means.

LOWE: I mean, with, with, with AI controlling our speech now and what we do, is there freedom of AI?

J. CAVANAUGH: Well, I mean, I think you have a-- as a-- as a person, you have freedom to use AI as a means to generate some sort of content if you want. I don't think the AI itself possesses any rights or freedoms, I guess, but the individual would have rights and freedoms to use it as they see fit. It's probably-- I don't know, I guess that's my interpretation, but I don't-- I don't know.

LOWE: All right. I respect your legal view.

BREWER: All right. Additional questions for Senator Cavanaugh. All right. You'll stick around for close?

J. CAVANAUGH: I will.

BREWER: All right. Thank you, Senator Cavanaugh. All right. We will start with proponents to LB1203. Proponents. Welcome to the Government Committee.

HEIDI UHING: Hi, Chairman Brewer and members of the Government Committee. My name is Heidi Uhing. I'm here as public policy director for Civic Nebraska, and I'm here to testify in support of Senator John Cavanaugh's LB1203.

BREWER: Heidi, could we have you spell that so we get it right?.

HEIDI UHING: H-e-i-d-i U-h-i-n-g.

BREWER: Thank you.

HEIDI UHING: Thanks. This is one of two bills this afternoon that deals with the spread of disinformation as it relates to elections. It's no surprise to anyone here that our media landscape has been flooded for the last several years with falsehoods about elections, creating a landscape where it can be difficult for some voters to determine good information from bad. Very recently, we have seen swift advances in the capacity of new content creation tools that exacerbate this problem immensely. Media can now be created very simply and very cheaply, that depicts a person's likeness or voice so accurately that one cannot distinguish whether or not it is real. It requires a

recording only a few seconds long of a person's voice or image. This technology is readily used and available to anyone with an internet connection. Political campaigns have long used criticism, half truths, and attack ads that depict one's opponent in a negative light. The electorate has come to expect it. But what is different about this new technology, and why the threat to our elections is so significant, is that a candidate's campaign could easily make and share audio or video depicting their opponent saying or doing something quite damning that they simply did not say or do. In response, we are now seeing similar legislation in several states introducing terms new to statute, like deepfakes, synthetic media, and artificial intelligence. These terms refer to the manipulation of existing media depicting a person without their permission in a way that is simply fabricated. In the case of a political opponent, there's ample audio and video of them on the internet to choose to manipulate, and doing so can be of great benefit to a candidate's political campaign. It could win an election. In order to remove the temptation to use these tools to mislead voters, and to protect the integrity of our elections LB1203 would put guardrails around the use of this technology by requiring disclosures on campaign ads manipulated using artificial intelligence. This would help voters have a chance at basing their impressions of a candidate and their policies on real, actual events. The success of our democracy is dependent upon an informed electorate that has access to true and accurate information on which to base their votes. We are approaching a time when truth is going to be harder to discern, and we are all going to have to get a lot more savvy in our media use to make good decisions for ourselves, our families, and our communities. This bill would help make voters aware that they are viewing manipulated campaign materials, and let them make decisions at the ballot accordingly. We urge the committee to support LB1203.

BREWER: All right. Thanks, Heidi. All right. Let's see if we have some questions. Questions. Senator Conrad.

CONRAD: Thank you, Chairman Brewer. Hi, Heidi, good to see you, thank you for being here. I, I-- you may have heard my initial inquiry with Senator Cavanaugh. I think the bill as written has some legal problems when it comes to the First Amendment. But I understand the policy goals, which I think we're all generally in alignment about trying to kind of figure through what the remedies might be here. But one of my questions is, and it's kind of related to this, kind of related to the next bill, so I'll put it out there. I know that we're not the only state looking at this. I know that there has also been complaints and perhaps even regulation or action happening on the federal level with the FEC. Do you know where the status of that is, how that impacts

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where we are with things in Nebraska? Because, you know, obviously with a lot of these issues, it's not contained just to our borders. So we have to be careful about how we regulate interstate commerce and things of that nature and things that implicate federal elections, not just state elections. And it's more complex than it looks at first blush. So if you have any information about kind of the status of the, the legal framework with the federal and state, or kind of where things are at there, I think that would be appreciate-- appreciated. If you don't have it right now, we can just follow up after.

HEIDI UHING: OK. I can tell you what I know.

CONRAD: OK. Great.

HEIDI UHING: I agree that it's a mess.

CONRAD: Yeah.

HEIDI UHING: So we agree on that.

CONRAD: And I think that's as good an answer as any.

HEIDI UHING: It's a-- it's a big old mess. And, you know, I think we're, we're all dealing with different levels on this issue. Some of us are very new to this issue. The people who are most closely involved in artificial intelligence development even don't claim expertise on it themselves, because this is moving so quickly, it's such a large issue, and there are really implications across the board, legally, that we're just starting to try to comprehend. So we're at the cusp of this. And I think the reason for legislation among many states this session is, with the acknowledgment that we're in an election year, and that by November, 2024, we could be seeing some things that we might wish we had had some guardrails around ahead of time. So, so normally in legislation, we wait until we have some understanding of an issue and more expertise, to, to be sure that we are all confident in the, in the statute that we are putting in the books. In this case, I think, some states and some bipartisan lawmakers have agreed that getting some early guardrails is beneficial, knowing that these things will be tweaked and that artificial intelligence is really going to be with us for a long time, and something that we'll be having to consider legislatively, ongoing. From a federal perspective, I know there's been discussion from our administration trying to-- and it's interesting that Senator Lowe stated your question about-- I'm not sure how you said it, AI rights? Are there free speech for-- is, is there a free speech for AI? The

federal government's been working on a document called the AI bill of rights, and, and they have had similar problems in trying to put guardrails that everyone can agree on. But it is addressing things like watermarks of these files. And, you know, there's a lot of new language to be learned here. I think they're talking watermarks, not in the traditional sense that you and I think about them, but in the-- in the metadata of these files, so they can be identified by social media tools to be able to require disclosure when they are posted on social media accounts. So disclosure is a popular way that I think states are trying to address artificial intelligence from a variety of perspectives. And there's, you know, speculation about whether that's the right way to address it or not. And then there are also the, the businesses themselves, the social media and the media conglomerates that are coming together and trying to put parameters on this to self-regulate. People will have differing opinions about whether we should really give the responsibility to, to the industry to self-regulate on this, given how they've done so far. But there are big conver-- big international conversations happening about this. I think just last week there was news from Germany about a big conglomerate of folks who were trying to put some parameters around this too. So this is an emerging issue. There's a lot going on in these discussions.

CONRAD: Yeah. No, that's-- that's very helpful and thanks for that. It's that good overview. And I'm sure as these developments play out, we'll continue to monitor them and, and kind of bake them into our consideration of these different issues. But because of the fast moving nature of this technology, and the complexity of these issues, I'm-- again, while I understand the policy goals, I'm worried about efforts to chill technology or to chill speech through rushing forward with vague terms. Or not thinking through, you know, even when it's hard, perhaps when it's hardest, political speech deserves the highest protection in our democracy. And so we have to proceed very, very carefully with any sort of restrictions therein. I, I think the better remedy is more speech to call out speech that we find offensive or misleading. That's beyond the scope of this bill or the next one, but those are some of the issues that I'm really wrestling with as I'm looking at both of these bills. While understanding and appreciating the sincerity of the policy goal, I'm, I'm not sure this is the right remedy, but anyway, thanks for that. Thank you so much. Thanks, Chair. Yeah.

BREWER: I remember, on Saturday's event, the professor from UNL that spoke, that was Matt Waite?

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HEIDI UHING: Waite. Yes.

BREWER: And I'm trying to remember his opening. He spoke about how he would-- he would write up his program instruction, again, dealing with AI. And that literally over the weekend, things were changed where he--

HEIDI UHING: That's right.

BREWER: --would have to rethink that program that he'd written up because it was--

HEIDI UHING: Right.

BREWER: --that dynamic.

HEIDI UHING: And this is an academic on the cusp of these issues.

BREWER: Anyway, that was very informative. All right. Any other questions? Yes, Senator Lowe.

LOWE: Thank you. And thank you, Heidi, for being here. I, I just started thinking that, that as we move forward with AI and as it progresses, that one day the testifiers will be AI, asking AI senators--

HEIDI UHING: Let's hope not.

LOWE: And Senator Erdman just had a, an LR before Executive Board to change us to every other year Unicameral, and we could accomplish everything within three seconds for the next 50 years.

HEIDI UHING: That's right. I don't know how your constituents would feel about that, Senator.

LOWE: Yeah, well, they'll all be AI.

HEIDI UHING: Oh, they're-- we're all AI. All right. I'm, I'm getting there.

LOWE: They're just going to get rid of the humans. They're just going to get rid of the humans, and there's just going to be a big, massive computer somewhere. Hal.

HEIDI UHING: It's a, it's a black hole once you dive into it, it really is.

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LOWE: It is, it is. It's a scary thought.

HEIDI UHING: Yeah, it really is. And I think-- I think you folks are going to be talking about this in, in future sessions quite a bit as it unfolds. And there will be things that we can't predict today that we'll have to be wrestling with.

BREWER: All right. Any additional questions for Heidi? All right. Thank you for your testimony. All right. Next proponent on LB1203. Welcome to the Government Committee.

JIM TIMM: Thank you, Chairman Brewer, and good afternoon, members of the Government Committee. My name is Jim Timm, J-i-m T-i-m-m. I'm president and executive director of the Nebraska Broadcasters Association, also known as the NBA. We represent the interests of our state's radio and television stations that have an FCC license to serve their respective communities. NBA is grateful to Senator Cavanaugh for introducing LB1203 to address how this growing prevalence of AI could impact political advertising in particular. It's critical that some kind of law with guidelines or guardrails is enacted to ensure responsible AI use in this particular practice. However, in several states across the country, the broadcasting community has seen a concerning trend of overly broad AI legislation that fails to accurately define who's responsible and liable for AI generated content in political advertising. To be clear, it's the advertiser and not the broadcaster who is responsible. The broadcaster is merely fulfilling their contractual responsibilities when they air a message that's provided by the advertiser. Known as the no censorship rule, federal law dictates that broadcast stations are prohibited from censoring or rejecting political ads that are paid for and sponsored by legally qualified candidates, and, as such, protect stations from liability for airing them. Federal law also requires stations to air ads from federal candidates, and states that stations cannot turn away any federal candidate based solely on the content of their ad. Once again, federal law protects stations from liability for airing such ads. So with the addition of the following critical, simple proposed amendment, the NBA would support LB1203. The responsibility for including the disclosures required hereunder in qualifying advertisements and communications, as well as the liability for any failure to do so, shall rest solely with the advertiser and not with any broadcaster or other media platform or carrier disseminating the advertisement or communication. So, on behalf of our member stations across the state, we respectfully ask you to consider this language as this moves forward on whatever track it may go from

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here. And thank you for your time. I'd be happy to answer any questions.

BREWER: All right. Thank you, Jim. Let's see if we've got questions. Questions for Jim? All right. Thank you for your testimony.

JIM TIMM: Thank you.

BREWER: All right. Next proponent to LB1203? Proponent? All right. We'll transition to opponents to LB1203. OK. Last call. Opponents. Come on up. Welcome to the Government Committee.

DAVID HUNTER: Thank you, Chairman Brewer, and members of the Government, Military and Veterans Affairs Committee. My name is David Hunter, D-a-v-i-d H-u-n-t-e-r. I serve as the executive director of the Nebraska Accountability and Disclosure Commission. I'm appearing on behalf of the commission in opposition to LB1203. While we would agree that artificial intelligence being used in campaign advertising is a concern, the Commission has voted to oppose LB1203 because, in its judgment, the bill could not be presently administered nor enforced by the Commission. LB1203 creates new disclaimer requirements when artificial intelligence is used in the creation of a paid political advertisement which falsely depicts an individual. Under the bill, the Nebraska Accountability and Disclosure Commission, or NADC, will be required to respond to complaints that false representations are being made about a candidate. We do not currently perform such an analysis. In order to do so, we would be-- arguably be trying to regulate free speech in the political campaign arena. Under the current provision of the Nebraska Political Accountability and Disclosure Act, the NADC is not tasked with trying to judge the truth or falsity of claims made in the heat of a campaign. We are not equipped to be fact checkers to investigate allegations from candidates who, under this bill, may file a complaint alleging that false statements, in part using artificial intelligence, are being made about them. Furthermore, the bill does not set out how it would be possible to determine whether artificial intelligence has been used or deceptively used in the creation of a political advertisement. If a complaint is filed using the new provisions of the bill, we do not know how the NADC could go about determining whether artificial intelligence has been used. And finally, the bill is lengthy and it contains numerous definitions and exceptions, which would add extensive, complex and confusing legislative text to the Nebraska Political Accountability and Disclosure Act. For these reasons, the Commission has elected to oppose LB1203. We would like to thank Senator Cavanaugh for keeping us informed of this bill and for

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soliciting our thoughts on it. Thank you for the opportunity to testify today.

BREWER: All right. Thanks today for your testimony. Let's see if we've got any questions for you. Questions for Mr. Hunter? All right. Thank you for coming in and testifying.

DAVID HUNTER: Thank you.

BREWER: All right. Any other in the opposition to LB1203. Welcome to the Government Committee.

AMBER PARKER: Thank you. Amber Parker, A-m-b-e-r, last name Parker, P-a-r-k-e-r. I'm just here to address concerns pertaining to A1 [SIC], I think that, one, we have to give a definitive definition. If it is too loose in terminology, you could have a situation of videos taken here of the state Legislature by somebody, or a copy, and something being shown of something that a state senator has said, and one going to post, and then pertaining if legislation goes forward to open doors of prosecution or charges upon the people. We are looking at that this is creating a foundation and level of Marxism as long-- along the lines of what we see in China, the Communist Chinese party, where if the government wants people to be persuaded to a political candidate or something like that-- well, excuse me, not political candidate, that's-- whoever the leader is going to be, the leader there in China. But in the United States of America, what sets us apart is it's supposed to be the people in charge of their elections, in charge of these processes. What we have going on, as many people express their freedom and have found their voice through social media, and I find it greatly discouraging when we find, like the Secretary of State are already censoring from their office, and documentation pertaining to political free speech thereof in the present. So therefore these things need to be addressed on a public forum. I would encourage the Secretary of State to come forward, Deputy Secretary of State Wayne Bena, as well, to address the areas of the foreign interference of what we're talking about and how these steps can be set up as well to set somebody up to fall on a sword that perhaps they did not do, but they were being honest in their reporting, but because of the loose definition through A1 [SIC] and the terminology, therefore, in this, new discovered ground, just rushing to legislation, putting people as political prisoners in the state of Nebraska or, excuse me, facing criminal charges, opening a door to persecution and, setting the stage like of, of January 6th. And regardless where someone stands, that's just a reality. And so we must be aware of these things. That's why I'm in opposition to this. I believe that it is something that's

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gravely concerning right now that we face in the state right now, already with the present actions of the Secretary of State, the Deputy Secretary of State at this time.

BREWER: Thank you for your testimony. Questions for Amber? All right. Thank you for your testimony. OK. Any additional opponents? Welcome to the Government Committee.

CONNIE REINKE: Good afternoon. Good to see you. My name is Connie Reinke, C-o-n-n-i-e R-e-i-n-k-e. All of these censorship issues are, are very concerning. And I wanted to mention that there was a case, April 2023, Judicial Watch filed two lawsuits against the U.S. Department of Justice and other federal agencies for communications between the agencies and Facebook and Twitter regarding the government's involvement in content moderation and censorship on social media platforms. Censorship is being discussed in the Fifth Circuit Court of Appeals case, Missouri v. Biden. And in that case, Biden lost the case on censorship. I wanted to bring that to your attention. We know that in Lancaster County, Mark Zuckerberg was involved with the Center for Technology and Civic Life, and money was given to Lancaster County. As more research has been done, what, what was said was there was money set aside for education. Well, it, it's been shown that in June, 2020-- I'm sorry, May, 2021, the Zuckerberg programs started providing free webinars and other nonpartisan election materials. None was shared, and the-- none of this was shared that it was going to happen in the initial grant. And I wanted to bring to your attention, I did public records request through the-- for the Secretary of State, and it seems that there's a dashboard set up for reporting any misinformation through the Secretary of State's Office and Wayne Bena. The subject line is phone call with Facebook CrowdTangle, and it's directly speaking with Wayne Bena. And they're setting up training so that he can report any voter misinformation. And so the whole censorship issue is very concerning, though I understand that the AI is, is a concerning subject. So I wanted to bring that to your attention. And I have the actual emails here. I received 45 emails that were made between the Secretary of State's Office and Wayne and, and Janelle Watson of Facebook. I know that this was going on also with Twitter, but this is actual emails from the Secretary of State's Office.

BREWER: OK. Thank you.

CONNIE REINKE: You're welcome.

BREWER: All right. Questions? Questions? All right. Thank you, Connie.

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CONRAD: Thanks, Connie.

CONNIE REINKE: You're welcome.

BREWER: All right. We are still on opponents to LB1203. Anybody here in the neutral? All right, we'll invite Ser-- Sergeant Cavanaugh-- Senator Cavanaugh, come on up and close.

J. CAVANAUGH: Thank you, Chairman. I was surprised, I didn't know you actually did have an audible response to ending or the violation of the time commitment. While I appreciate everybody coming to testify today. Like I said in my opening, you know, this is a complicated issue. And as Senator Conrad correctly pointed out, I don't think this bill accomplishes the goal in the way that we need it to. I think that one of our, our tasks in the Legislature is to bring forward ideas that maybe aren't 100% there, so we can have the conversation and hear the constructive criticisms. I appreciate the comments from Mr. Hunter and NADC. We've had conversations before, but we're never going to solve these problems if we don't ask those questions and actually drill down on what the problems are. I share the concerns of the folks who came and are concerned about censorship. And Senator Conrad's 100% correct that the best option is to meet speech with speech. My intention here was, of course, not to ban any type of speech, and was, of course, to protect anybody's right to say what they want in the venue they want to say it, but to balance that with the public's right to know whether or not something is materially false in making their determination in how it's presented. It's been said that political speech is the most highly protected, and people do have a right to basically tell a half truths, mistruths, or mislead. But we're getting into a new space where you can do it-- you can make someone else, make your opponent say the lies come out of their mouth. And so that's what my interest in this is, is trying to figure out that space where we're giving the public the tools to make their determinations, and making sure that they have that opportunity to judge for themselves. But again, the definition's very difficult. As, as Mr. Hunter said, I think you'll probably hear on the subsequent hearings today, more conversation about how difficult it is to put our finger on this quickly evolving space. But we're never going to be able to solve this if we don't start. And that's where we're at with this bill. So I appreciate the comments of everybody else. I'll continue talking with folks who have testified here today with Mr. Hunter, with others. Maybe our friends at the ACLU can help us figure out some of the ways to go forward and protect people's rights while protecting the rights of voters. And maybe some other state will find a better solution that

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will work, and-- or the feds. So, with that, I'd be happy to take any questions, but--

BREWER: All right. Thank you, Senator Cavanaugh. To give you a little background, this weekend I had a chance to get a whole lot more educated on some of the AI issues. I had a chance to talk with Adam Morfeld, and this morning I sat down with Justin Wayne. And what we're looking at doing is-- we're not sure which area this is going to fall into. Is it going to be Government Committee, is it going to be Judiciary Committee? Kind of depends on how it's written. And so what I talked to him about is let's do a joint interim study, we're looking at doing it this summer so we have the primary behind us to see, you know, what's used, how it used. We'll have a better idea of some of the possibilities, at least. We'll use that interim study to also have DoD and Homeland Defense come in and talk about their concerns and issues they've seen, and then use that kind of as the foundation to start building a bill around that. Is that something--

J. CAVANAUGH: I'd, I'd be happy to help out in any way that I can be useful in that endeavor.

BREWER: Well, we're looking at doing it on the UNO campus. The Homeland Defense folks have been willing to help with getting that set up and organized, but I think it will give us a chance to better understand AI from a lot of different perspectives. So that way we, we could track it in a, in a way that gives us a good product. But anyway, I just-- situational awareness is all that is.

J. CAVANAUGH: We would love to host you in District 9, UNO's campus.

BREWER: Thank you. I kind of feel like I pushed myself on you, but that's good that you accepted it. OK. Questions for Senator Cavanaugh? All right. We need to read in your letters--

J. CAVANAUGH: Thank you.

BREWER: --9-- or 11 proponents, 12 opponents, and zero in the neutral. And, we'll go ahead and reset to LB1382 and Senator Hansen. Senator Hansen, welcome to the Government Committee.

HANSEN: Thank you. My last bill for the year.

BREWER: Good we can be your last bill of the year.

HANSEN: Yep.

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CONRAD: The best for last.

HANSEN: All right. Well, good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Senator Ben Hansen, that's B-e-n H-a-n-s-e-n, and I represent the 16th Legislative District. According to the latest numbers, Nebraska is home to 1,967,923 people with a median age of 36.7 years old. We have a wide variety of potential with rich heritage, unique goals, and a determination to enhance the Nebraska way of life with ideas and values worth striving towards. It is because of our desire to represent all Nebraskans that each of us are here today, serving in a governmental capacity to review laws, create paths forward and most importantly, listen to Nebraskans across the state as they call, email and meet with us throughout the year. Although we represent one state as a whole, the passions, belief systems, and viewpoints on life vary from district to district, community to community, and more specifically, person to person. This tension, as some would call it, can be considered as advantageous towards growth for our state. The concept of competition builds strength, the pressure either confirming one's position or challenging its purpose. Through this natural process, inspiration is born and Nebraska's voice is heard. I have introduced LB1382 to guarantee that as a state, we are holding to Nebraska led passions and goals in the practice of ballot initiatives. We are committed to protect the-- committed to protecting the voice of Nebraskans through our election system. One aspect to our elections is the initiative and referendum process. Since 1912, citizens have had an ability to have a direct impact on our state's law and constitution. To get a-- to gain a glimpse at how many ballot measures have been used and how successful they are, let's look at the years 1996 through 2020. In this 24 year span, there are 79 ballot measures that appeared on statewide ballots. Nebraska voters approved of 56.96% of them. 45 changes were made through the hard work and determination of individuals who had an idea, who found support, and successfully convinced other Nebraskans to come to the stat-- same conclusion. In 2022, two ballot initiatives were passed. It's, it's interesting to note that these two approved initiatives were usually affiliated with opposing political views. This is the beauty of the initiative and referendum process: Nebraskans convincing other Nebraskans, not national political parties or DC philosophies, just the people in our state working to come together for a cause that they find important. It is imperative that we approach this topic with the whole state in mind. For instance, our law requires that signatures must be collected from 5% of the registered voters in 38 of the 93 Nebraska counties. This distribution applies to both initiative and referendum efforts to

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certify that a variety of Nebraskans are in favor of the ballot measure. For an initiative to be proposed as law, signatures from 7% of the registered voters in the state are needed, for a constitutional amendment, 10% and for a referendum, 5. There's also an option for a referendum that suspends a law from taking effect, and 10% of the registered voters' signatures must be gathered. This takes fortitude and resolve, so much that of the nine petitions being circulated for the 2024 election this year, only one has gathered enough signatures so far. I hope that you were reminded of the magnitude of ballot measures, and of why we must appreciate the weight of the matter when considering the significance of hearing Nebraskans through the system set in place. It is a sizable responsibility for us to exercise our position-- our position each day, to change laws. And likewise, when communities in Nebraska find a common goal and gain momentum towards changing a law through the vote of the people, they are given great responsibility. LB1382 ensures that we are listening to them. There's a national trend that we are beginning to see more and more prevalent. Ballot measures on both sides are becoming big money operations, requiring out-of-state manpower and financial backing. In 2022, it cost an average of \$4.8 million to fund certified ballot initiatives in the United States. In 2020, the average cost was almost half of that, at \$2.6 million-- \$2.06 million. We almost doubled the cost in two years. One aspect of this is the fact that in 2022, it is estimated to cost \$12.70 per signature, while in 2020 the average cost was \$8.90. This is a substantial increase. I fear this country is straying from the very foundation and reason for ballot initiatives, and I would hate for Nebraska to do the same. For our state, I know it is our desire to hear Nebraskans, rural, urban, eastern Nebraska, western Nebraska. This is for the people and their grassroots efforts. The first part of LB1382 that I'd like to talk about, addressing the funding of ballot measures. In this bill, contributions to a ballot question committee that total more than \$20,000 can only be made by individuals. Many states treat individual contributions differently than corporate, union, and state party contributions when it comes to campaigns. For Nebraska, the reporting system for ballot question committees is split. It records individual contributions separately than other sources. As a state, we naturally view these two parties of contributions separately. In an effort to, to bring accountability and keep the focus on Nebraskans' voice, LB1382 would limit the amount that companies or organizations pour into our ballot. There will still be avenues to contribute for both. However, sources other than individuals would only be limited to \$20,000, leaving the resolution of the issue to be supported by individuals. This brings me to the second portion of LB1382. In order to lower the need for big money

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involvement, we must lower the cost. In order to lower the cost, we must address the process. Instead of paying circulators by the signature, LB1382 would return state statute to what it was previously read before 2015. Circulators of a petition will not be able to be paid based on the number of signatures they collect. When you get paid per signature, the heart of the matter can be lost. It becomes about who can pay the most per signature. Circulators can still be paid for their time and efforts with this bill, but it will take those who are committed to the cause and alleviate concerns that some circulators are just out there to make a quick dollar. Let me reiterate, the initiative and referendum process is for Nebraskans, plain and simple. Let's keep it that way and encourage everyday Nebraskans to have the courage to get involved. I appreciate your time today and ask for your support of LB1382. Thank you.

BREWER: All right. Thank you Senator Hansen. Let's see if we have questions. Yes, Senator Conrad.

CONRAD: Yeah. Thank you so much, Chair. Thank you, Senator Hansen for bringing this forward. And I, I know it's a late hearing and a short session, so that's always, maybe, one indicator about where we might be with a measure, but not the only. And when something's in the hopper, you never know where it might end up in the course of a legislative session. So would-- are you going to be asking the committee to Exec and move forward on this bill this year, or is this more to start a conversation? Because I think that might change some of the questions that I have for the record today.

HANSEN: That's a good question.

CONRAD: OK. You want to think about it?

HANSEN: I, I'm assuming that because of the factors that you laid out, that it's probably not going to go anywhere this year.

CONRAD: Yeah. Fair.

HANSEN: What did Senator, Senator Cavanaugh just say? To-- is it--

CONRAD: We'll take it up over the interim?

HANSEN: --to start the process--

CONRAD: Yes.

HANSEN: --in order to solve a problem?

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CONRAD: It was well said, I thought.

HANSEN: Yeah.

CONRAD: Yeah, yeah.

HANSEN: And so I'm hoping if anything, we can address with this bill is the start of an idea of maybe we're starting to see a trend in the country, both left and right--

CONRAD: I agree.

HANSEN: --of big money coming into states trying to change what we are doing as a legislative body, or just maybe in the desires of our state, perhaps based on maybe what some people outside our state think is better.

CONRAD: Yeah, I, I don't disagree with that. And I, I appreciate you bringing forward those perspectives. I do think as written, it probably has some legal issues and infringements upon free expression and, and free speech, but I, I appreciate what you're saying there. And maybe the best way to do it is to put our heads together over the interim on some of these bigger issues. But thank you so much.

HANSEN: I think it's perfect and it'll pass every muster in the court, no matter what anybody says behind me.

CONRAD: Well said. Well, if passed it has a presumption of constitutionality, so I like that. OK. Thanks, Senator.

HANSEN: Uh-huh. Yep.

BREWER: Coming from your deep legal knowledge?

HANSEN: Yes, yes. I just graduated from law school, or something.

CONRAD: You stayed in a Holiday Inn.

HANSEN: Yeah. That's it. Yeah.

BREWER: OK. Additional questions for Senator Hansen. All right. You'll stick around for close?

HANSEN: Yes.

BREWER: All righty. Thank you.

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HANSEN: Thank you.

BREWER: OK, we will start with proponents to LB1382. Come on up.
Careful.

ANSLEY FELLERS: I know.

BREWER: Welcome to the Government Committee.

ANSLEY FELLERS: Thank you. This is my first time here this year. Thank you, Chairman Brewer and members of the committee. My name is Ansley Fellers, A-n-s-l-e-y F-e-l-l-e-r-s. And I'm here testifying on behalf of the Nebraska Grocery Industry Association in support of LB1382. Thanks to Senator Hansen for bringing this bill, recognizing it might not necessarily cross the finish line this year. My members still thought it was an important opportunity to describe to the committee what's happening in the initiative petition process in Nebraska, and how small and medium sized businesses throughout the state are going to continue to be undercut unless the Legislature steps in. First, I wanted to mention I've handed to the committee a chart from the Nebraska Accountability and Disclosure Commission. This is a list of ballot, ballot committee contributors between 2021 and 2023 with Washington, DC zip codes. Please note I deleted individual names. I tried to redact them, that didn't work, but it's all certainly publicly available if you're curious. Since 2021, nearly \$7 million has been paid by DC organizations to fund petition initiatives in Nebraska. Of the \$3.5 million taken in by Raise the Wage Nebraska in 2022, more than \$2.8 million, or more than 80%, came from two Washington, DC based entities, the Sixteen-- the Sixteen Thirty Fund, and the Fairness Project. That might not sound like a lot of money, but for small businesses, businesses in Nebraska, it is. In 2020 alone, the Sixteen Thirty Fund spent \$410 million in national races. The \$6.5 million they're putting into initiatives in Nebraska is a drop in the bucket. The Raise the Wage Nebraska initiative increased the minimum wage to \$15 per hour by 2026, and has it increasing every year after, after that, according to the midwest inflation rate. Last year, the state chamber met with small businesses across Nebraska, and the number one issue raised was the pressure they're feeling from the minimum wage hike. To pass constitutional muster, the initiative had to be broad, treating businesses in Omaha, and Lincoln, just like Superior, and Bayard, and Valentine, and McCook. I looked last evening, and the median listed home price in Superior, Nebraska, was \$130,000. In Lincoln, it's \$354,000, more than \$200,000 difference. My grocery member in Superior, who employs 40 people in a town of 1,800, will see labor costs increase by nearly 30-- \$37,000 a year. I'll keep

going quickly. In 2022, 72% of counties rejected the wage initiative. I mention all these things because without the Legislature stepping up, there's no way small and medium sized businesses in Nebraska can combat this spend-- can combat this, this type of spending. The beauty of government systems in the US is that they were thoughtfully designed with checks and balances. In every other state, and at the federal level, there are two houses of government, a bicameral system. In Nebraska, the people are the second house. It's the role of the Legislature to balance the will of the second house, just like the House and Senate balance each other, and the people are here to balance you. It's our job after ballot initiatives-- ballot initiatives prevail to do the best, your best to minimize the truly unintended consequences. With that said, we appreciate the committee's attention and Senator Hansen's time, and I'm happy to answer any questions.

BREWER: All right. Thank you. Ansley, this is-- and I've seen this. Very revealing. Thank you. OK. Questions for Ansley. Yes, Senator Conrad.

CONRAD: Thank you, Ansley, for being here and giving voice to those concerns. I, I definitely appreciate it, but, I, I think that you would probably also agree that you and your members have a right to pool your resources and come together and hire lobbyists, or make campaign donations or engage in ballot initiatives. I mean, that's exactly what you do, right? As an advocacy organization, I think I know you do other things related to the grocery industry beyond the political realm, but yeah.

ANSLEY FELLERS: Absolutely. And I know I threw out some numbers. I don't disagree with that at all.

CONRAD: Yeah.

ANSLEY FELLERS: I just think the level-- the level we're talking about and the spending we're talking about is something really unrealistic for the people I represent.

CONRAD: Very good. But I, I definitely appreciate and understand what you're saying there. I just, I wanted to, you know, generally make the point that it's hard when the government starts drawing lines about what's acceptable advocacy and what's not. It's ultimately arbitrary and a restriction on the right to associate, the right to petition, First Amendment right to express yourself. So.

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ANSLEY FELLERS: I think that's right. Yeah, yeah. There's equal opportunity. Yep.

CONRAD: Thank you so much.

BREWER: OK. Additional questions for Ansley? All right. Thank you for your testimony.

ANSLEY FELLERS: Thank you.

BREWER: Thank you for the numbers. All right. Still on proponents to LB1382. OK. No proponents. We'll go to opponents to LB1382.

SPIKE EICKHOLT: Sorry to jump up in front of everybody, but I have to [INAUDIBLE]

BREWER: Wel-- Welcome to the Government Committee.

SPIKE EICKHOLT: Thank you. Good afternoon, members of the committee. My name is Spike Eickholt, S-p-i-k-e, last name is E-i-c-k-h-o-l-t. I'm appearing on behalf of the ACLU of Nebraska in opposition to LB1382. I did tell Senator Hansen earlier this week that we would be opposing it. You've got a copy of my written testimony, so I'm just going to generally summarize it, because Senator Hansen's indicated that this is something that he's likely going to ask the committee to work on in the interim. The bill does basically two things. It does limit the payment of circulators for petitions, and it does limit sort of the contributions that can be made to a ballot committee that might support or oppose a petition. Both of these suggestions are highly constitutionally suspect. With respect to limiting the payment of circulators, in 1988, the U.S. Supreme Court in Meyer v. Grant held that a state law that prohibited the payment-- the payment of petition circulators violated the First Amendment, that was a Colorado case. There has been some approval among the different federal circuits regarding state regulating some payment of circulators. The Ninth Circuit approved an Oregon law that's similar to what is proposed in LB1382, in Prete v. Bradbury. However, the Sixth Circuit Court of Appeals in 2008 invalidated a similar Ohio law and held basically that any regulation the state wants to make, the only regulation that can stick to petition circulators is to make sure that they're paid minimum wage. Anything else as far as limiting the number of signatures they get, hours worked, where they're from is invalid. There's an Eighth Circuit case that I mentioned, and we are in the Eighth Circuit, and that was a recent case from South Dakota. South Dakota had a law that required the state to collect personal

information among the people who were going to be doing the petition circulation. The-- they wanted to sort of know where they're from, if they're from South Dakota, where they're from. The Eighth Circuit struck that down in 2022, and I cite that case. If you read the opinion, it's pretty strongly worded. It's pretty direct, and in my opinion, it's going to be something similar to the Sixth Circuit where that would be very critical of this proposal in LB1382. With respect to limiting contributions to a ballot committee, for right or wrong reasons, money is speech. You have the right to invest in speech that you believe in, you have the right to pool resources with other people who believe similarly, and you have the right to support or oppose political concepts that you have. It's core political speech. And if the committee's going to consider something like that, we suggest you look closely at it, and I'll answer any questions that you have.

BREWER: All right. Thank you, Spike. Let's see if we have questions. Will this be the last time you present today?

SPIKE EICKHOLT: No, I'll be back.

BREWER: You'll be back.

SPIKE EICKHOLT: I'm sorry to say that I will be back.

BREWER: Save my comments for later, then, in case you go south on me. All right. Thanks for your testimony. OK. Next opponent. Walt, Walt, welcome back to the Government Committee.

WALT RADCLIFFE: Senator Brewer, members of the committee. My name is Walt Radcliffe, W-a-l-t R-a-d-c-l-i-f-f-e. And although I am a registered lobbyist for a number of clients, I'm appearing not on behalf of any of them, but just as a, I guess, a real sedes pro bono, which is Latin for stupid as we all know.

CONRAD: And most had trouble saying it.

WALT RADCLIFFE: And we have-- we do have some clients who have used paid circulators, and I'll make that very clear. Interestingly, I'm probably one of the few, if not the only person, who have been charged and prosecuted with paying circulators under an old Nebraska law. In 1986, I was charged with four felonies related to a petition drive, two of which was unlawfully paying circulators. And Spike mentioned Meyer versus Grant, which was a case going up to the Supreme Court at the same time that charges were pending here in Nebraska. So we-- Judge Cheuvront threw out the two cir-- paying circulator charges against me, and the state filed an interlocutory appeal, and that went

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up to the Nebraska Supreme Court the same time Meyer v. Grant was going through the U.S. Supreme Court. And in June of 1988, shortly after the U.S. Supreme Court ruled in Meyer v. Grant against the prohibitions on paying circulators, the Nebraska Supreme Court came down and ruled against the Nebraska law, in Radcliffe-- State v. Radcliffe, that's 228 Neb. 868. And I, I think that LB1382 clearly would fall within that constitutional prohibition. I share Spike's concern about the other portion of the bill, which I really don't-- I mean, I care about, but as far as limiting the contributions from any one source, I'll, I'll just say this, limit it all you want, but there'll be a way to get the money in. Money is like water, it seeks a level. And you're, you're not going to keep it out of campaigns. Unfortunately, I'm somebody who's funneled a lot of money to a lot of campaigns. But as far as I'm concerned, you can go to public financing, it'd be fine with me. Probably be a good thing. Except you won't prohibit third parties, and you won't prohibit self-financing campaigns. So proceed carefully if you go down this road, and know that it-- that it certainly will, will be challenged. So. Be happy to answer any questions, Mr. Chairman.

BREWER: All right. Thank you, Walt. Now, just-- since we got you on the record here. So all--

WALT RADCLIFFE: Not on the ropes though, I [INAUDIBLE].

BREWER: All the felonies you were charged with, you're able to elude.

WALT RADCLIFFE: I, I, I-- The two remaining charges, I stood trial in Lancaster County, bench trial for five days, and was ultimately acquitted at that bench trial, yes.

BREWER: Did you have a good attorney?

WALT RADCLIFFE: I certainly did.

BREWER: All right.

WALT RADCLIFFE: I would say the state had a good attorney, too. He's now the Chief Justice.

BREWER: Oh. Well, one thing about it, you have been around here a while, so you, if anyone, would know all the right players. All right. Does anybody have any questions for Walt? Yes, Senator Conrad.

CONRAD: Well, thank you, Chair, and thanks, good to see you, Mr. Radcliffe. I know you've been involved in the political sphere in a

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lot of different capacities over the years, and I think it takes a lot of courage to talk about some of the, the hard experiences that you had with political engagement, and when it ran or intersected, potentially, with the criminal law. And, of course, that takes a great deal of time, energy, and effort to hire a lawyer to battle through those charges, to fight for your rights. And those are some of the very reasons I'm worried about restrictions on speech and political activity, because not everybody's going to have access to those kinds of resources to protect themselves against government overreach because of their political beliefs, or the content of their speech, or how they engage in the political process. So I, I'm, I'm glad you shared that with us as a cautionary tale, because when we get it wrong, it, it can undermine democracy and ruin people's lives.

WALT RADCLIFFE: Well, at that time, Senator, there were nine defendants, two of whom were seated state senators, there were over 40 felony charges filed, and, two people were found-- were ultimately found guilty. But over-- most of the other charges were ultimately dismissed.

CONRAD: Very good. Thank you. Thank you. Thank you, Chair.

BREWER: Any other questions for Walt? Well, we'll let you go. Tomorrow will end a 8-year adventure in this Government Committee. You have been good about coaching and mentoring. Sometimes I didn't always appreciate it like I should have, but you always wanted to make sure that we didn't do things unnecessarily that were wrong. And, and sometimes you don't know you're doing something wrong until someone says, hey, maybe I think this through because you, you might want to rethink what you just did. And sometimes it's good to have someone that's there to say those things.

WALT RADCLIFFE: Well, thank you, Senator. I'd like to thank you and Senator Lowe for your services. I know you're both term-limited at this time. It's been a pleasure to work with both of you over the years. And perhaps, like Senator Chambers, you may return.

BREWER: I--

CONRAD: Hey, he's not the only one.

WALT RADCLIFFE: Thank you. Well, excuse me. I'm sorry. You're absolutely-- Senator Conrad, how can I forget your previous service?

CONRAD: You're just talking about the boys.

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WALT RADCLIFFE: That's right. Just the boys.

BREWER: Anyway, thank you for your service.

WALT RADCLIFFE: Thank you gentlemen and ladies.

BREWER: All right. We're going to continue with opponents to LB1382. Welcome back to the Government Committee.

SHERI ST. CLAIR: Thank you. Good afternoon. I'm Sheri St. Clair, S-h-e-r-i S-t. C-l-a-i-r, testifying this afternoon on behalf of the League of Women Voters of Nebraska in opposition to LB1382. Protecting the ability of citizens to engage their government via the petition process is an important part of the league's advocacy to ensure voters are able to engage in direct democracy via ballot initiatives, which is a process that's recently been under threat in several states. As a result, state leagues have challenged legislation that placed restrictions on ballot initiative processes. In January, a federal district court in South Dakota struck down a law that imposed state residency requirements for petition circulators, and this is the one that Spike had mentioned earlier. In *League of Women Voters v. Michigan*-- of, of *Michigan v. the Secretary of State*, the Michigan Court of Appeals found that a set of restrictions enacted by the Legislature on the ballot initiative process, including new requirements on paid signature gatherers, was unconstitutional. And this week, a county circuit court in Arkansas will hear oral arguments in a lawsuit brought by the state league and a Republican state senator asserting that new voting restric-- new restrictions on the ballot initiative petitions enacted by the Legislature violate the state's con-- constitution. So the league in Nebraska believes that a pending-- impeding compensation for signatures gathered for initiative, rend-- referendum or recall petitions could interfere with the citizen's right of direct legislation through this process. We're concerned that LB1382 would promote inequity by driving up the costs in a manner that favors wealthy interests. We haven't seen any compelling evidence of significant fraud resulting from a paper signature payment system. Nebraska has laws and procedures in place to govern this process. Our ban on the per signature payment method was imposed in 2008, and in 2015 it was removed. It's unclear why prohibition is proposed at this time. Of 26 states that provide for an initiative or referendum process, 17 allow campaigns to make payments based on the number of signatures collected. The league has always supported limits on election spending to protect the democratic process and limit election influence. In spite of multiple attempts to limit campaign contributions in Nebraska, none have been enacted. It

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seems unfair to limit contributions for ballot initiatives when such limits don't exist for contributions to those running for public office. So for these reasons, we don't feel that LB1382 should advance from this committee.

BREWER: All right. Thank you, Sheri. Let's see if we have questions.

SHERI ST. CLAIR: Thank you. Lots of words, sorry.

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

CONRAD: Thank you, Sheri.

SHERI ST. CLAIR: Thank you, sir.

BREWER: Adam, welcome back to the Government Committee.

ADAM MORFELD: Good afternoon. Chairman, members of the Government-- Government Committee. My name is Adam Morfeld, that's A-d-a-m, M-o-r, f as in Frank, e-l-d, and I'm the executive director and founder of Civic Nebraska, here today to testify in opposition to LB1382. And this is my first time back since I left, so I wrote my comments out, I'm not used to time limits, so. But in any case, the root of our opposition to LB1382 is it further inhibits the practical ability of Nebraskans to have their voice heard through the petition initiative process, which is already unpredictable, expensive, and an enormous undertaking for any Nebraskan. The United States Supreme Court and the Nebraska Supreme Court have both found that the initiative petition process is a core constitutional right under the First Amendment and of our own state constitution, and it is Civic Nebraska's firm belief that one should have as few barriers as partic-- as possible to participate in. LB1382 would enact, enact unnecessary barriers to that fundamental right. It is no secret that qualifying a ballot initiative is no small task. Some initiatives have tried and failed several times before making it on the ballot. Medical marijuana and casino gaming are two prominent and recent examples. It was only after multiple attempts with Mr.-- with Mr. Radcliffe can attest to that casino gaming was authorized in our own constitution and statutes. And medical marijuana is on its third attempt, despite a massive grassroots campaign in support. Any ballot initiative requires a significant amount of people, both paid and volunteer, to collect the requisite number of signatures to qualify. Paying per signature not only incentivizes efficiency, but it also provides predictability for Nebraskans organizing the ballot initiative in terms of cost and

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budget. It will be much more unpredictable, more expensive and burdensome to eliminate this option for Nebraskans. Perhaps the irony of this legislation is on one hand, this portion of the legislation would create inequity by driving up the cost of the initiative process in a manner that favors Nebraskans with resources, but the second part of the legislation then restricts Nebraskans ability to be able to raise that additional money needed to address and overcome this. As a general consultant for the 2020 Casino Gaming Initiative, a large part of my role was quality control. We would go to where our contracted signature collectors are located, and make sure that they are using the right petition sheets and saying the object statements. We honestly had no issue there. Overwhelmingly, the real issue that we ran into is voters that signed and were mistaken about where they are currently registered, or the fact that they are registered at all. Further, collectors really do not cut a lot of corners because there's always a opposition campaign attempting to film them, people like me hired to do quality control, or well informed voters that know the rules and report them if they violate the rules and they know it. Per signature payment allows collectors and Nebraskans alike to be able to predictably control their costs, and be able to keep the cost of availing themselves of that process down. And I will just skip forward a little bit. And note that I also have concerns about the constitutionality of the limitations on being able to raise the funding, and I will defer to Mr. Eickholt's analysis on that, because my red light is on. And for those reasons, we ask that you not advance LB1382 to General File.

BREWER: All right. Thank you for that testimony. Thank you for watching the light.

ADAM MORFELD: I know what it feels like.

BREWER: We'd probably give you a little leeway with things, but we'll see if we got-- have questions. All right. Thank you for your testimony.

ADAM MORFELD: Thank you.

CONRAD: Thanks, Adam.

BREWER: OK. We're still on opponents to LB1382. Hey, anybody here in neutral on LB1382? Come on up. Welcome to the Government Committee.

KYLE LANGVARDT: Good afternoon, and thank you to Chairman Brewer and the committee. My name is Kyle Langvardt. I'm an assistant professor

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at the University of Nebraska College of Law. I'm here to testify in a neutral capacity. The views I'm sharing are my own position, and--

BREWER: Could we have to spell that so we get it right in the list?

KYLE LANGVARDT: Oh, yes. K-y-l-e L-a-n-g-v-a-r-d-t. People struggle with it. The views I'm sharing are my own position, do not represent, University of Nebraska system or UNL. I'm here to talk about the First Amendment issues, that's my primary field of research expertise. First on, on pay per signature. You know, I expect litigation on this, and I think the litigation could really go either way. Other states that have made these laws have had mixed results. The main question that courts ask is whether there is a severe burden on petition circulation. The extent of the burden matters because the Supreme Court has held that circulating petitions is a core form of First Amendment speech. If there's a severe burden, then the law probably gets knocked down. If the burden isn't severe, it probably gets upheld. And so there's one Eighth Circuit opinion on this from 2001 that actually upheld a North Dakota pay per signature ban. I wouldn't assume, based on this decision, that this law would be upheld. And the reason for that is that the parties challenging the law in North Dakota didn't put up a very good fight. They didn't put on any evidence at all that the North Dakota law would put a severe burden on signature gathering. But if LB1382 goes into effect and there's a challenge and the challengers put on, you know, high quality expert testimony, things could easily go the other way. And so, for example, in, in Colorado, a pay per signature ban was knocked down after the court considered expert testimony that the cost of signature gathering would go up 18% if pay per signature were off the table. Second, on the \$20,000 cap on, on contributions, I am confident that this would be invalidated in, in court. Exempting individuals here doesn't help at all, this is a large part of what the Citizens United case was about. Just a little bit of background here. The Supreme Court does allow caps on contributions to political candidates. But the reason for this is that there's a risk of quid pro quo corruption, or perceived risk of quid pro quo corruption. The court has said as far back as 1978 that that risk is just absent with, with ballot questions. And in a case called Citizens Against Rent Control v. City of Berkeley in 1981, the court used that reasoning to strike down a \$250 cap on contributions to political committees that support ballot initiatives. They said it plainly impairs freedom of expression. Now, you know, the one thing you might say for the \$20,000 cap is that it's a higher figure than this \$250 cap that was struck down. That's irrelevant. And, and the Northern District of Florida recently pointed this out. They said that as long as you're talking about ballot

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questions, there's just no state interest in preventing corruption. So it doesn't matter if it's \$1, you know, almost certainly unconstitutional.

BREWER: All right. You've probably got a little bit more to go there?

KYLE LANGVARDT: No.

BREWER: Oh really? You finished perfectly on the red?

KYLE LANGVARDT: Yeah.

BREWER: Well, well done.

KYLE LANGVARDT: I have a-- I have a Casio.

BREWER: Yeah. Oh. All right. So, well--

KYLE LANGVARDT: I'll take any questions.

BREWER: Yes. Senator Conrad.

CONRAD: Thank you so much, Chair. Thank you for being here, Professor. I think your analysis was very helpful to the dialogue. And the other thing that I was hoping maybe you could help the committee think through, or stakeholders think through, either today or as we continue the discussion as we pretty much all agreed to into the interim on the bills that we're going to be hearing today. The, the other thing that I'm thinking about is that, you know, just kind of a general rush to put restrictions on political speech or political activity without any sort of legislative finding or record about a problem to solve in regards to fraud, or misuse, or nefarious engagement with the process, whatever that might be or might look like, you know, which we haven't heard a lot about today, just generally we're concerned about money in politics. Fair. I think most Americans are to a certain degree. But, you know, we, we haven't really heard kind of a laundry list of, oh my gosh, we've seen this, you know, pattern and practice of these types of behaviors that, you know, somehow run afoul of the First Amendment or otherwise, that would, would show a need to perhaps a compelling interest to, to restrict a fundamental right or freedom. And, you know, it just-- it does-- I'm not hearing a lot of that today, and I haven't read a lot about that, you know, in, in news stories in Nebraska in recent years. We don't have a lot of voter fraud. I mean, yes, the petition process is kind of the wild west, and there's always some mistakes made on behalf of the voters or on the petitioners. But I think the Supre-- Nebraska Supreme Court has been really clear in

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their case law that, you know, we need to give a liberal reading to the powers of initiative and recall and referendum that belong to the people before we start to curtail it. So I-- that's a lot of different--

KYLE LANGVARDT: Yeah

CONRAD: --First Amendment concepts kind of tossed into a quick question. But if you'd like to respond to any of that.

KYLE LANGVARDT: I mean would you like me to comment on LB1203 at all, or--

CONRAD: Sure. Yeah.

KYLE LANGVARDT: OK. Well, so with, with LB1203, and this is a little more off the cuff.

CONRAD: Sure.

KYLE LANGVARDT: I know, I know, I know LB1203 concerns political speech, but I think that the restriction is actually fairly modest, even though we're dealing with with political speech, because the, the law as, as written seems, as far as I can tell, almost entirely concerned with with libel or defamation. The, the law is limited to knowing defamation, the actual malice requirement that, that you need under the First Amendment seems to be satisfied. You know, you can certainly imagine significant First Amendment concerns about news reporting on deepfakes, that kind of thing, liability for intermediaries that carry deepfakes inadvertently. But as far as I can tell, the law has, has pretty good carve outs with respect to those. Now, it's, you know, it's possible that, that deepfakes won't turn out to be a major, a major concern electorally. But, but I think, I think a degree of precaution seems, seems sensible, in, in that-- in that area, and particularly if you take into account just how narrowly drawn that the law is, I I don't anticipate-- you know, I anticipate First Amendment litigation, but, but if I had to bet, I think that that law would be upheld even as, as written. You know the-- I'm-- with, with LB1032[SIC], I, I agree with you concerns about, about voter fraud. I mean, the, the issues been studied pretty--

CONRAD: Yeah.

KYLE LANGVARDT: --pretty extensively, pretty energetically, and there's just not much evidence of it there. I will say that in, in cases like the Eighth Circuit case, where the First Amendment

challengers didn't put on any evidence of, of a burden, then the court did actually defer to the state's asserted interest in, in preventing fraud. But, you know, in, in cases where the challengers did put on significant evidence, courts don't seem to have, have deferred to that.

CONRAD: Yeah. And, and I think that might be perhaps one of the unintended consequences in this legislation. So I'm, I'm glad that we have this forum to kind of tease it out, because I, I know Senator Hansen has a very strong libertarian lens that he brings to his work in the Legislature, which I actually agree with a lot of times. But I, I am worried about-- we, we heard a lot about some of the really well-financed campaigns that have moved through Nebraska in recent years. But I'm also worried about the rights of citizens who want to band together to seek change in their communities that don't have access to big donors, and that are grass roots, and any restrictions that, you know, can really hit them very hard in their work, whether that's the county restrictions, or the pay restriction, or any number of different things. It, it hits different campaigns in different ways, which kind of starts to-- yeah, you have to kind of think through the, the consequences, maybe on, on all sides of the-- well, the coin's not right, there's only two sides there, but think about it from all sides kind of thing--

KYLE LANGVARDT: Yeah.

CONRAD: --in terms of-- in terms of how that hits. And I, I also just wonder, knowing a bit how these campaigns work, if, say, for example, you were to have some sort of a limitation on paper signature, then you just shift it to amount of signatures per hour or, you know, there's a host of different ways to accomplish the same kind of cat and mouse around these restrictions.

KYLE LANGVARDT: Yeah, yeah. And as I-- as-- you know, I'm looking at the law, it says pay a circulator based on the number of signatures collected. So, I don't know.

CONRAD: Yeah. It might-- it remains to be seen.

KYLE LANGVARDT: Yeah, the scope is, is a little unclear, yeah.

CONRAD: Right. Or if you-- yeah, it could probably be structured a lot of different ways there, or bonuses outside of per signature that accomplish this anyway. All right. Very good. Thanks for your perspective. Thanks.

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BREWER: All right. Additional questions for Kyle? All right. Again, thank you for your testimony. It was very enlightening. OK. We're still looking at opponents to LB1382. Neutral.

CONRAD: Oh, neutral.

BREWER: That was neutral. We're still on neutral. No more neutral? Hello. Welcome back to the Government Committee.

BILL HAWKINS: Senator Brewer, Chairman and members of the committee, my name is Bill Hawkins, B-i-l-l H-a-w-k-i-n-s. I'm with Nebraska Hemp Company. I appreciate your time on this very important issue. And as a lifelong Nebraska resident and having become a very watchful citizen in this process, any attempt to mess with the petition process that the people reserve for themselves is an issue. And so, real quickly, I would highly recommend that if you have an internal, intern study, that the citizen is involved, because the citizen is the other half of this government here in Nebraska, and I take that very, very seriously anymore. So, having written and filed three petitions, and been involved in several other petitions over a decade, I've come to understand the petition process. And so any study should include the history of the petition process, because it has been amended several times by this body to make it more difficult for the citizen to accomplish the process. Our great state of Nebraska, back in the old days, Senator Brewer, it would take me 2 to 3 weeks to a month to get out to Scottsbluff or Chadron by horseback or by wagon. As this poor farmer and a citizen without much resources, it still takes me a long time to get out there and burns a lot of resources, and it makes it very difficult for me as a citizen to gather the signatures required from all the counties. I believe in every county in Nebraska, specifically the rural counties in far west Nebraska and far southwest Nebraska are as important, or more important, than the urban cities in the eastern part of the state, because their vote matters, their signature matters, and they can't travel all the way to this capitol, their capitol, to bring their thoughts to you. They can't just drive in in 15 minutes and then come and testify in front of these committees. So, I greatly appreciate the time and the ability to testify, because it's an important subject, because we are the other half of the government. And it's a short session, and so we know that you have a lot of important issues to take care of for the great state of Nebraska, so we can remain the great state of Nebraska. So be very careful in this messing with the petition process. So I thank you for your time, and would be happy to take any questions.

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BILL HAWKINS: All right, Bill, thank you for your testimony. So you say you've been part of three ballot initiatives?

BILL HAWKINS: Yes.

BREWER: What year and what was the topic?

BILL HAWKINS: It's been the last three cycles. So it would be-- I'm ending one cycle here in July. And it has been for the use of cannabis.

BREWER: OK. All right. Thank you. Let's see if we have any questions. Questions? All right, Bill, thank you for your testimony.

BILL HAWKINS: Thank you for your time.

BREWER: All right. So we're on neutral for LB1382. All right. We'll go ahead and-- OK. Come on up. Welcome to the Government Committee.

CONNIE REINKE: Thank you so much. Connie Reinke, C-o-n-n-i-e R-e-i-n-k-e. Senator Hansen, I appreciate your work on these election issues. I-- there is so much that needs to be done in this area. And we've brought forward over the last three years issues that have been happening across Nebraska. And I just want to address, if you are doing some type of interim study, we, we talked about this years-- a couple years ago, that there was going to be an election study done. And I would-- I would hope that that would be done as a priority over any other election bill. We, we must support live, in-person, valid, current photo identification with the proof of current citizenship, all of this verified in person. And in addition, this voting must be counted using live human counters, with each ballot imaged and displayed on the web for all to recount, both at the time of counting and posting on the county website, websites. Mark Finchem from Arizona, that ran for secretary of state, was at the Republican dinner that they had this weekend, and I was reminded about signatures and the importance of signatures on mail-in ballots. And I've included two affidavits. The one is from Lancaster, the one is from Douglas, where the signatures did not match on mail-in ballots. And when questioned, the supervisor, she said, send them through, we're not the signature police. This is very concerning on mail-in ballots, having signatures that do not match. And then in Douglas County, where over 50,000 reg-- registration trac-- transactions were done in the last few weeks before the election, we have an affidavit that says signatures did not match on the registrations and updates to registrations, which many of those could have been mail-in ballots that were requested. This

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signatures must, must match. We can't accept forged signatures on mail-in ballots. And so I hope that this would be addressed.

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

CONRAD: Thanks, Connie.

BREWER: Thank you for your testimony. OK. We are still on neutral for LB1382. Seeing none, we'll invite Senator Hansen up to close.

HANSEN: I think any time I can get Senator Morfeld and Walt Radcliffe to come out against my bill yeah, never had that happen before. Glad to bring him out of retirement. It sounds like, even hearing from the people who are for or against this bill, it sounds like they either agreed or these-- they acknowledge that there seems to be a growing problem in the country and in the state of Nebraska, about the amount of money that's being poured into ballot initiatives. And I know we're, we're arguing the constitutionality of what I'm trying to accomplish here. But I think the underlying problem is-- it's-- it seems like that's something that we all kind of touched on here, all the testifiers against and for this bill. Now it's just a matter of how do we go about doing that. And that's what I'm trying to-- hope to start with this bill. And then we are looking at doing an interim study about this very same topic, and maybe, finding some ways that might be more, you know, agreeable when it comes to the Constitution if some people are concerned about that. I know one of the biggest things, and Spike mentioned this is about, is about limiting the amount of money that are paid to circulators. This bill necessarily doesn't limit the amount of money that's being paid to them, it's just how they do it. So, you know, if they're getting \$500 a day by getting per signature, then the people who are also paying them on an hourly basis can make sure they get \$500 a day as well. So I don't think we're limiting the amount of money that they're getting that's over burdensome to the person collecting the signatures. Maybe I'm wrong, but it seemed like that was a majority of the argument when it comes to the constitutionality of it. And especially since I don't think we had a lot of challenges when we did this pre 2015 about the constitutionality of paying hourly. So, unless it's something new or it was challenged before and I missed it. Walt mentioned that money will funnel into the state no matter what. And in-- and in a way, I think he's, he's, he's not wrong. But what this bill does is it brings more transparency of who's bringing the money. I think when you start seeing-- so right now, we're trying to limit the amount that an organization can bring to the state of Nebraska, because what we're seeing is a lot of people just create LLCs that say Nebraskans for

Rainbows, you know, whatever, right? And they're thinking, name it whatever they want, that sounds great, and funnel money through that. But here now when we have individuals having to dump hundreds of thousands of dollars in there, we get a chance to see who that really is, I think. And so I'm hoping that'll bring some transparency to this. So again, we're not leaving the amount of money that can come in to this petition-- petition drives necessarily. It's just we're, we're leaning on it more from an individual basis versus an organization that's bringing this money. Senator Conrad mentioned, and when she was talking with Spike, that not everybody has the resources to have their voice, voice heard, and I agree with her. And so that's the concern that I have with this, why, why I'm bringing this bill is that individuals may not have their voice be able to be heard because they're being drowned out by the amount of outside money coming in. It's like we're playing a kazoo and they're playing a, you know-- they're using a bullhorn. Right? We're both-- we're both using an instrument to do something with our voice. But theirs is just drowning ours out, which is what I have a concern for. She also mentioned that we're trying to keep it grassroots. Again, I, I agree with her there. And not necessarily that there's no problem to solve, Senator Conrad mentioned that. I think there is a problem to solve, that one that we kind of mention of outside money coming in. But not necessarily fraud, I don't think I'm trying to bring that with this bill, per se, when it comes to fraud. And Senator Morfeld mentioned that medical marijuana was a great example of how it took multiple times to kind of get on the ballot. And if you look at where a lot of their money came from, I-- from my understanding, what I had in the back of my book, a wide majority of that came more than almost any of the petition drives I saw from individual donors. And those are the kind of petition drives we want to see. And the concern that I have is that the costs have doubled in the last two years for petition drive, and people getting paid as circulators. So if we're seeing just like the cost of things going up over time, it's going to be more of a gradual kind of slope. But we're seeing something like this and all of a sudden it's going like this. That's what I'm trying to address. We're starting to see this huge kind of uptick in the amount of money getting poured into these petition drives, and that's, that's a concern that I have that again, we're trying to look at with this, with this bill. So definitely willing to work with anybody to kind of see what we can do with this. I don't want this to be a left or right center issue, because both sides-- school choice is a good example. People who are for school choice and against school choice both had a large amount of money, outside money coming in for both those drives. And so, I just wanna make sure that this is something that we can all kind of at

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least agree on the problem, find a, find a good way to solve it. So thank you, Mr. Chairman.

BREWER: Thank you for your testimony. Is there a round figure that we use if you're going to run a ballot initiative in Nebraska, kind of what you're probably going to have to have in the way of resources to, to effectively run a ballot initiative?

HANSEN: You know, they're kind of all over the place. When I was looking at some of these, you know, some of them are in the upper hundreds of thousands, some are in the millions. It kind of depends, I guess, maybe on the subject matter, and the amount of outside money that's coming into it-- into these. I know one-- I forget which one it was, but one had one donation of \$862,000 coming from Washington, DC. That was one of the school choice ones. And so just that alone, just from the report, I don't know what the total was. The total was \$1.5 million. We had one donation of 8-- I don't know if it was one, but \$862,000.

BREWER: So if you're going to run a ballot initiative in Nebraska, you'd better be upwards to \$1 million--

CONRAD: Oh, at least.

BREWER: --if you want to be effective.

CONRAD: At least.

HANSEN: Yeah. And I know we all have that, being state legislators. So we can write our own petition drives. But, you know, but you're right. Yeah, I mean, but the thing is though, and you're correct. It was here, but now you know, but now it's going way up in here like this within two years. \$1 million now, \$20 million tomorrow. All right?

BREWER: Yeah. OK. Have we got questions? Senator Lowe.

LOWE: Thanks. If you can get three attorneys to do free gratis, could you work with Walt, and with Adam, and, and Spike to maybe make this a better bill?

HANSEN: They would. I'm sure they would do it free of charge. No problem. Out of the kindness of their hearts and souls.

BREWER: All right. Any other questions for Ben? Yes, Senator Conrad.

CONRAD: Yeah. Thank you, Chair. And, and thank you, Senator Hansen, for bringing forward your ideas and engaging with all of the different perspectives that were put forth here today, because I think they are really big and important concepts at the heart of our democracy. And I appreciate and understand Americans and Nebraskans dissatisfaction with money in politics and the corrosive impacts that they see, with significant investments and murky investments. I understand that. I, I think we all hear from our constituents about those issues. And, I think we all kind of grapple with those as well. But, you know, one thing, trying to take a consistent lens in favor of free expression and away from government regulation, which is challenging sometimes, believe me, one, one thing that I think some of those conversations miss or maybe gloss over is, is I think in, in some ways it, it kind of does a disservice to the sensibilities of the individual citizen and, and the voter as well. I think Nebraskans are pretty sensible and pretty smart about sorting out nonsense and helpful information, and I think they can take a pretty keen eye as adults in a democracy with, you know, what looks suspect or shady or what looks real and, you know, if you get-- if I were to get 20 mailers at my house on persuading me to vote on a ballot initiative that was out of alignment with my political beliefs, It's probably not going to sway me. I don't think it would sway most people on my street. So I, I want to just be a little careful as we enter into the conversations, while recognizing those concerns, they've been there since the start of our democracy, essentially. And I, I don't want us to undervalue or forget the intelligence and the common sense of voters to sort this out on their own without government putting their finger on the scale one way or the other. So.

HANSEN: Yeah, I'm not, I'm not disparaging that at all, you know what I mean?

CONRAD: Sure.

HANSEN: I think you're, you're, you're saying-- I don't-- I think this might be the point we disagree on maybe a little bit. You're talking about the voters might have a problem with the amount of money coming into politics. I don't-- I think what I feel is not the amount of money, but where it's coming from. Right? I think this, this is Nebraska, like you said, probably could raise a lot of money, \$1 million or more, you know, pooling their resources together. But it makes it much more difficult when we're, when our enemy is-- has pocketbooks so much deeper than us, I guess. This is-- this concern that I have, right?

CONRAD: Sure.

HANSEN: You were talking about the grocery. I just ran a quick number. Like just that one donation by the Sixteen Thirty Foundation? In one year, it would take, I think, about 8,000 grocery stores to donate \$50,000 to equal one of their contributions in a year. So it's like pooling the resources together. But yeah, I mean, and against that amount of money, like I said, when we're playing kazoo and they're playing-- using a bullhorn, that that's my comparison, I think, a little bit, right? So I'm-- I don't want to disparage what the-- what the, the voters in Nebraska think, they are very intelligent people. But they're not trying to sway you, I think, they're not trying to sway me. It's sometimes those people in the middle who get one postcard versus twenty. And you know, and if those 20 are coming from outside, from Washington D.C., and that one for is coming from Nebraska, I don't know. I think that maybe that's something we can kind of look at and maybe address, possibly.

CONRAD: Yeah. And, and maybe it just goes to the weight of the evidence for the voter to figure out with the disclosure or otherwise, hey, this is my neighbor across the street, writing me in, in, you know, in support of this issue that's important to our neighborhood, versus this is coming from a dark money think tank in D.C., so I kind of don't care what they think, and that hits the recycling bin on my way from the mailbox or--

HANSEN: Yeah.

CONRAD: --whatever it might be. OK. Very good. Thanks.

HANSEN: Yep.

BREWER: All right. Additional questions for Senator Hansen? All right. I need to read in, we had 11 proponents, 11 opponents, 0 in the neutral. And that will close our hearing on LB1382. All right. We have a-- a got a break scheduled. How many in this room are planning to speak on LB1390? Raise your hand. All right. How many here on LB1262? All right, well, we're going to switch out here, take a quick break, and then we'll do our joint hearing as soon as we get back in.

[BREAK].

BREWER: All right. I'm going to do a kind of a quick brief so everybody knows what's going on. Since this is a combined hearing that we're going to do. Senator Bostar will do an opening on his LB1390, then Senator Day will come up and open on her LB1262. We have one

invited testifier who will then follow. Then we'll have folks come up in the order from front to back. So if you want to be in the back, you know where you are in the pecking order. You're going to tell me if you are a proponent or opponent on the bill you want-- you want to testify on, because some of you are on LB1390, and some are on LB1262. I doubt there's many that are both. So if you don't have any position on the other bill, say you're opponent to LB1390, you have no opinion on LB1262, that's fine. Just let us know when you come up, and make sure that your green sheets match. If you're going to speak on both, then you need sheets on both, if not, you just need the green sheet on the bill that you're going to speak on. OK? Very well clear? And we're sit-- and again, we're going to feed from front to the back. It's the only way I can do this on an open one, because we're not going to go proponents and opponents and neutral and all that. We're simply going to feed folks up, and you're going to tell the committee what your position is on the bill that you're going to speak on. All right? With that, we will welcome Senator Bostar on LB1390. Senator Bostar.

BOSTAR: Thank you, and good afternoon, Chairman Brewer and members of the Government, Military, and Veterans Affairs Committee. For the record, my name is Eliot Bostar, with E-l-i-o-t B-o-s-t-a-r, I'm representing Legislative District 29. I'm here today to present LB1390, the bill to protect election officials from threats, harassment, and manipulation of their likeness to spread disinformation about elections. The sanctity of our electoral process hinges upon the dedication and integrity of those who oversee it. Last year, the United States Senate Rules and Administration Committee held a hearing on the increased threats and harassment of election workers across the country. Senator Deb Fischer, ranking member of the committee, said, quote, in recent years, election officials have faced both cybersecurity threats and physical threats. They've struggled to retain experienced poll workers and to recruit and train new poll workers, end quote. Alarming testimony provided by Arizona secretary of state underscores the severity of the situation, stating that 12 of Arizona's 15 counties lost their election chief-- chief officials since the 2020 election due to safety concerns and the spread of misinformation. A recent Brennan Center survey found that nearly 1 in 3 election officials have been abused, harassed or threatened nationwide. Over half say they are concerned that threats, harassment, intimidation will harm retention and recruitment. Likewise, nearly half are concerned about the safety of their colleagues and staff. 30% say they have personally been abused, harassed or threatened because of their job as a local election official. LB1390 proposes to address this threat to our election system by extending penalties currently in

place for interfering with deputy registrars for elections, to include threats and harassment for all election officials and workers, including the dissemination of the home address of election officials and workers without their consent, with the intent to encourage or facilitate a crime likely to result in harm, or to do so with reckless disregard for the potential of causing harm. The advent of AI and deepfake technology poses an additional threat to the integrity of our elections. The ease with which falsified media can be disseminated to mislead voters is deeply troubling, with the potential to sow chaos and erode trust in our democratic institutions. LB1390 seeks to confront this emerging threat head on by defining deepfakes and prohibiting the dissemination of misleading deepfake content aimed at election officials within a critical 60 day window preceding elections. In order to monitor the threats to our election, LB1390 also requires the Secretary of State to submit a report to the Legislature by December 31 of each presidential election year. This report is to detail threats or acts of harassment against election officials and personnel, including the Secretary of State. Additionally, the report should include information on known instances of deepfakes, especially those disseminated to spread misinformation about an election. Since 2-- since 2020, 14 states, Arizona, California, Colorado, Maine, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Mexico, Oklahoma, Oregon, Vermont, and Washington have enacted laws specifically addressing protections for election workers and poll workers. LB1390 affirms our commitment to safeguarding the cornerstone of our democracy, free and fair elections. It is not merely a matter of protecting individual officials, but of preserving the fundamental principles upon which our nation was founded. I urge the committee to advance LB1390. Would be happy to take any initial questions you may have.

BREWER: All right, thank you, Senator Bostar. Let's see if we've got questions. Senator Conrad.

CONRAD: Thank you, Chair Brewer. Thank you, Senator Bostar. Good to see you. And I know that you were attending to matters in other committees when we had other bills up this afternoon that are generally along the same lines of thinking, perhaps with different solutions or different remedies proposed. But it's late in the session, priorities have already been selected, and I think that the bills before us this afternoon, in many instances, while well-intentioned, have a significant amount of problems with them in terms of how they're drafted, and I think the language is perhaps vague, perhaps clunky, or misleading. And I'm very, very concerned about the intersection with criminal law, and the intersection with

free expression and free speech that I think could be chilled underneath of an approach like this. I do appreciate and understand the issues that you're trying to bring forward, and I know you have to start someplace, but it seems that other members were willing to work with the committee over the interim to take a closer look at some of these issues and sort out some of these competing considerations. Are, are you planning to move-- ask the committee to move this forward aggressively this year? Or is it fair to say that, that we need to hit the pause button here?

BOSTAR: Well, I'm certainly happy to work with the committee, whether that's over the interim or prior to that. I mean, if, if the committee were to say, you know what, with these changes, we actually think this would be an important thing to get done and we want to find a way to do it before then. I'd be happy to do that. And if the committee wants to work on it over the interim, obviously I stand ready and willing to do so as well.

CONRAD: OK. Well, I was hoping for a clearer answer.

BOSTAR: I, I guess--

CONRAD: I'll take-- I'll take what I can get.

BOSTAR: I suppose what I'm saying, it's up to the committee.

CONRAD: OK. That's a, a nice way to think about it. But, I mean, just from a, a starting place, and just because maybe you left it more open ended than I was anticipating. I mean, we already have crimes on the books with significant penalties for conspiracy, for identity theft, for fraud, for impersonation of a public servant, for assault, for terroristic threats, for stalking, for harassment. I mean, a lot of the activity that you are concerned about is already illegal in Nebraska, with significant penalties. So I-- that's one piece that I want to put out there. The other piece is, I don't know of any sort of prohibition in Nebraska that would stop a member of law enforcement or the Secretary of State from reporting on arrests under our existing criminal code for criminal behavior, and it probably does happen already to a certain-- to a certain degree. So I don't know why you need a bill to do that. And then just, finally, kind of the First Amendment pieces there, I, I, I again, I appreciate and understand what you're trying to do there, but I, I worry that that could chill speech. And, you know, I worry that we hear from citizens in this committee a lot who have concerns about like, election integrity. And they're very, very sincere in their advocacy. I think that our record

speaks for itself, that Nebraska elections are free and fair and have been virtually fraud free, and when fraud happens, the system catches it and punishes it appropriately. But I, I would be very worried about a bill like this being weaponized against people who have a different belief about how our elections work, or different beliefs about what's happening in our democracy. And these terms are very undefined. And what's to say, I mean, what, what are you getting after, if somebody files 50 public records requests, is that harassment? I mean, I-- it's a slippery slope, really, and I just want us to proceed carefully. So that's a lot, but you're welcome to respond if, if you'd like, or perhaps ask the committee to hold the bill. If not--

BOSTAR: No, no, I'm happy to respond as far as what my thoughts are here. I mean, I think-- no, I, I don't think what we're looking for is punitive action to be taken against someone for having a different view of how our elections work, or whether or not they're effective, or anything about them. You know, you're, you're right that there are already a lot of sort of laws on the books.

CONRAD: Like a lot.

BOSTAR: Correct. Yeah. And, and I mean, now, that being said, right, I've had to do a couple of bills over the years where there was a perspective that-- and actually it was my perspective, even, that some-- a criminal activity was already covered under statute. But law enforcement and, and county attorney's offices didn't feel like a certain activity was covered under it. And so it was deemed that we needed more clarity in that. And so I don't actually-- I don't really disagree that there's a lot that's there that, that should cover these things. I think the question is, is just in, in practice, will it? I just want to make sure that it would, I think it's an-- it's an important concept anyway. I'm trying to remember through some of the other-- yeah, I-- it-- you know, the First Amendment concerns, I, I think on that front, one is just fundamentally-- I think the fastest way to lose our First Amendment is to have a electoral system in there for a democracy that is compromised to the extent that it no longer really works. And then also, you know, similar to-- I think this is kind of tangentially related, but, you know, the conversation that you've been really at the forefront of on the debate between our legislative branches and, you know, we had an AG opinion that said, hey, this is unconstitutional, right? And, and others disagreed. And ultimately, the point being is while I think we all may have thoughts about constitutionality, at the end of the day, it's the courts that will-- that will decide that and set that standard. But I-- you know,

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I appreciate your concerns. And like I said, and I wasn't trying to be evasive with the first answer.

CONRAD: Sure.

BOSTAR: Really, the first answer was, I'm happy to work with the committee--

CONRAD: Very good.

BOSTAR: --however, they would like to proceed.

CONRAD: Yeah. I mean, just as one general hypothetical, like, you know, I see how adept my daughter and her friends are with, like, iPads and phones and video editing and all of these kinds of things that are far beyond my technical abilities, but like--

BOSTAR: Mine too.

CONRAD: OK, so sorry if this is a clunky conversation, but I mean, right now somebody can splice together our public comments from this hearing, or from Florida Bay, or public forums with editing that was things that we were talking about. It might be out of context, it might be cherry picked, whatever. Is that a deepfake? Is that illegal under the concept of your bill?

BOSTAR: Well, I, I think there's the question of whether or not it was meant to manipulate, or cause harm, or recklessly sort of ignores that there could be harm from it. So, no, I mean, people just playing around isn't-- wouldn't be criminalized here. If you're trying to-- if you're trying to alter the functions of democracy through the utilization of these technologies, then yeah, I think that's a problem.

CONRAD: I mean, we've always had satire, right? In our political dialogue. We've always had things like political cartoons. Right? The intersection of art and political-- and, and political expression. I mean, at what point, if I'm, you know, a political cartoonist and my work ends up in a political ad, which is all protected speech, versus if I'm a digital artist and I'm creating content online that ends up in political speech, does then that somehow become a deepfake? I mean, I don't-- I don't know where the line is there, but it seems really slippery to me.

BOSTAR: Yeah. And I, I-- look, I, I certainly respect that. To some extent these lines are drawn through case law and the decisions that

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are made along the way. But that being said, I think what you're describing on satire, you're right. Right? We don't-- we're not here trying to make sure that people don't have the ability to participate in satire, frankly. But at the same time, when I imagine something where-- something that I would be worried about would be the utilizing some of this technology to create a perfect virtually likeness of, let's say, elections officials, you know, and putting out messages in their voice, with their likeness saying that the polls are closed and they're going to be open the following day, right? Something like that, and having that message targeted at a specific population in order to fundamentally alter who's voting in order to then alter the results of an election and undermine our democracy in the process.

CONRAD: Yeah, I, I-- right, I understand what you're saying there. I-- I'm pretty sure that's already covered under existing law, both on the state and the federal level. So I, I'm not exactly sure that we need any sort of new law to address that, but yeah. OK. Very good. I'll leave it there. Thanks.

BOSTAR: Thank you.

CONRAD: Thanks. Thanks again.

BREWER: Additional questions for Senator Bostar? All right. Thank you.

BOSTAR: Thank you very much.

BREWER: Will you stick around for close?

BOSTAR: I actually have to get back to Revenue.

CONRAD: Very good.

BOSTAR: But I appreciate all of you very much.

BREWER: All right. Thank you. All right. Senator Day. Welcome to the Government Committee.

DAY: Thank you. Couple of handouts here. Thank you. Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Jen Day, that's J-e-n D-a-y, and I represent Legislative District 49 in Sarpy County. I'm here to present to you LB1262, which calls for the Nebraska Commission on Indian Affairs to contract for a study of barriers to voting for native people in Nebraska, and issue a report of policy recommendations to the Legislature to improve access. The best example of the need for

this bill is Thurston County, which contains the Winnebago and Omaha reservations and therefore has the highest population of native peoples in Nebraska. This county regularly has the lowest election turnout of all of our counties. In 2022, it averaged a 32% voter turnout, while all counties averaged 59%. By comparison, some counties with similarly low and disparate populations often reach terms [INAUDIBLE], 80% due to their conducting elections solely by mail. In March, 2021, President Biden signed Executive Order 14019, which in part created an inter-agency steering group on Native American voting rights. It was directed to research the barriers native peoples face in achieving full access to participate in U.S. elections, and to recommend ways to mitigate or eliminate these barriers. It held regional consultations with tribal leaders and members, and state and local election officials in jurisdictions with sizable native communities. The steering group heard several recurring themes reflecting unnecessary and unacceptable impediments to the franchise. The group issued recommendations on federal, state, and local policy changes that would remove barriers to receiving information about the voting process, redistricting, voter registration, voter identification, voting in person, and voting by mail. We have a number of recommendations from a national perspective. Where LB1262 comes in, is to take this foundation and to make it relevant for Nebraska. Because native voters are profoundly diverse, we thought it best that we explore this within our own state to determine which, if any, of their recommendations could similarly remove barriers for native voters in Nebraska. This would be best determined with a thoughtful study contracted by the Nebraska Commission on Indian Affairs in collaboration with Nebraska's tribes, election officials, and state and national experts on elections and voting. Many states have already implemented some of these recommendations, including Colorado, Montana, Nevada, New Mexico, Washington, and Wyoming. According to the Native American Rights Fund, several factors create impediments to voting in these areas, from geographic isolation, technological barriers, poor or nonexistent roads, nontraditional mailing addresses, and a general lack of resources and funding. By asking the right questions, our state will be able to discover the barriers to voting particular to Nebraska's tribal lands, so we can explore policy changes that would improve accessibility for all Native Americans in our state. Before I conclude, I want to highlight one amendment suggestion. AM2772 would strike the lines on page 4 that made it a biennial report. We agree that one report is enough, so this would change it to a one time requirement rather than a reoccurring one. Thank you for considering this bill and I am happy to take any questions.

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BREWER: All right. Thank you Senator Day. When I was reading through the bill--

DAY: Yes.

BREWER: --it was pretty straightforward. On page 4, kind of from line 11 down to 21, it basically talks about the process that you'd go through to collect information to kind of understand a path ahead. And it's just trying to figure out how to knock the rough edges off of, of voting for those that are restricted to reservations.

DAY: Yes.

BREWER: Is that kind of generally where we're at?

DAY: Absolutely.

BREWER: --where we're at?

DAY: Correct.

BREWER: All right. Let's see if we've got any questions. Questions for Jen? Yes, Senator Conrad.

CONRAD: Thank you, Senator Brewer. Thank you, Senator Day, for opening on this and for your leadership on the Tribal Affairs Committee. And I, I think that this is very important and very timely. I was reading in the news and then the, the court filings about a recent-- a recent win for our tribes in Nebraska where they were challenging unlawful, unpermissible dilution of their voice and their voting power when it came to local redistricting in northeast Nebraska. And so, you know, and I know that's not the only example where indigenous leaders and communities have, have fought against power structures to ensure full participation in democracy in Nebraska and beyond. But it seems very timely based on some of that work as well. So, I don't-- I don't know if perhaps we'd have an opportunity to, you know, take some of the lessons from that case, make sure that this report sets up appropriate recommendations as we look to the next round of redistricting in the state, and--

DAY: Yes.

CONRAD: --are really thoughtful about those issues---

DAY: Absolutely.

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CONRAD: --and give ourselves enough time.

DAY: Yes.

CONRAD: OK.

DAY: For sure.

CONRAD: Very good.

DAY: Thank you.

BREWER: OK. Any other questions? All right. Thank you for your testimony.

DAY: Thank you.

BREWER: Will you be able to stick around for close?

DAY: I will waive closing.

BREWER: Waive closing.

DAY: Yep.

BREWER: Gotcha. OK.

CONRAD: Thank you.

BREWER: Thank you.

CONRAD: Good to see you.

BREWER: All right. We'll start right here in the front. Come on up. Oh, I'm sorry, we have an invited guest. I'm sorry. Invited testifier. Thank you for keeping me straight. Dick would have never let me make that mistake either. All right, Dr.-- is it Ligon?

GINA LIGON: Ligon.

BREWER: Ligon.

GINA LIGON: It's fine, I'll answer to whatever.

BREWER: Director of Counterterrorism Innovation, Technology, and Education Center at the University of Nebraska, Omaha. Thank you for being here today.

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GINA LIGON: Thank you for having me. I'm an industrial organizational psychologist, and I'm the director of NCITE, which is the National Counterterrorism Innovation, Technology, and Education Center. I'm here today, though, in my personal capacity. My testimony does not necessarily reflect the views of the University of Nebraska system. NCITE is actually the department of--

BREWER: Can we, can we have you spell the name for the record?

GINA LIGON: Oh, sorry. G-i-n-a L-i-g-o-n.

BREWER: Thank you.

GINA LIGON: Yep. NCITE is the U.S. Department of Homeland Security Center of Excellence for academic research on terrorism and targeted violence. NCITE is the, the largest such academic consortium of its kind in the United States. We have 60 researchers and 30 institutions as part of our consortium. At NCITE, we study a spectrum of emerging threats. One such threat is to our election system. Threats to election officials and election workers have jumped in recent years. It's part of a disturbing rise in threats against public officials in general, from the local health director to Supreme Court justices, to those who serve in other ways like yourselves. I know this to be true because of the research we fund at NCITE that's analyzing a decade of federal court prosecutions for this very threat. Our work has shown that 578 federal cases involving defendants charging threatening-- charges threatening public officials, 210 of those, or 36% in our data set, occurred in the last three years of our study. The sheer number of cases has doubled from the time span that we started, 38 in 2013 and 78 in 2023. And the trend line shows no sign of stopping. So far this year, the federal courts have averaged two or more charges a y-- charges per week, which at this clip would eclipse what we've seen so far. For example, a Lincoln, Nebraska man was sentenced to nearly two years for threatening a Colorado election official. And last week, a California man was arrested for threatening a local Arizona elected official. Our study is just the tip of the iceberg, however. The bar for federal prosecutions is far too high, and our figure does not capture what most reporting-- where most reporting starts, which is locally. What does the threat picture look like in Nebraska? We actually don't know. Outside of anecdotes and news reports, we have no data to tell us what it looks like in Nebraska for our election officials. This is an important feature of this current bill. It would require regular reporting of this issue to you, the Legislature. So I've led federally funded projects for 20 years. And what I'd like to do is have this specific focus on Nebraska to be a unique state level

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examination to augment what Department of Homeland Security is doing federally to look at this problem. I'm happy to answer any questions about that method that I propose. To me, public servants that work in our elections are the cornerstone of our democracy. So what this makes this issue that we're debating today is one of national security. Thank you.

BREWER: Thank you. As far as your day to day operations, kind of give us a little insight on what exactly you do there at UNO?

GINA LIGON: We fund studies across the United States, academics looking at terrorism and targeted violence. And so, at UNO, we fund 36 graduate students on this federal grant. We have over 30 faculty across the University of Nebraska system working on this. And then the rest are out in our consortium at other universities.

BREWER: All right. And then you collect the information, and that's used to kind of have a barometer to figure out where things are going and where the, the, the worst of the issues are?

GINA LIGON: Right. We're trying to inform policy through evidence and data. So, it's one thing for us to see, you know, the story that came out in USA Today earlier this week about threats to election officials with anecdotes. It's another for us to gather data of the victim experiences of election officials in all 93 counties in our state, which is what I'm proposing to do.

BREWER: All right. Let's see if we have any questions. Senator Conrad.

CONRAD: Thank you. Thank you for being here. And I know the political complexities that go with working at the university and speaking in your own behalf, so. I-- that's always a little clumsy, but it's not your fault. It's just part of their policies and processes. But, you know, specifically on the data piece, and the point that you mentioned, I'm wondering-- you know, number one, I don't think that there's anything in existing law that prevents us from gathering this data or having an understanding. I know NACO's here, the League, the election commissioners have a professional association, the Secretary of State has a variety of email lists. I mean, I don't think it's that hard to, like, ask our election officials, like, have you been involved in any criminal cases that crossed the line into criminal behavior? I think we could find that out for a lot less than \$10,000 a year. I mean, what-- how'd, how'd you settle on that price tag, I guess?

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GINA LIGON: Yeah. So we actually proposed three. You all chose the smallest one, which is great. We-- we're, we're funding one for Pennsylvania, it's about \$150,000 where we're looking at all the election officials there. That's federal by the-- funded by the federal government and the state of Pennsylvania.

CONRAD: OK.

GINA LIGON: \$10,000 was because we want to do this in Nebraska. We're using our existing methodology to be able to gather it. So, part of it is, it's diffic-- every county has different ways that they store their charges for court records. And so there's not the same as PACER, which is what we use for federal records, where we can get those. It's U.S. criminal complaint 875 that we're able to gather using a search engine. In Nebraska, what we think is that we'd like to actually survey election officials, which is a different methodology than just gathering existing court records, and so to be able to ask them about their victim experiences. Because what we found in Pennsylvania by just interviewing, is that most of them don't even know that it has crossed a federal criminal charge. You know, saying most political speech that you talked about earlier is protected, threatening, violence or death, is not. And most of these election officials don't know that. And so what's happening is they are not reporting it. Is, is-- so this is why we think the federal charges are really just the tip of the iceberg for us.

CONRAD: Yeah, and I guess perhaps it's hard to know without a complete data look. But I, I'll tell you one thing that I just grapple with, and I know it's good to be proactive and not just reactive and have a data driven approach, but whether it's, you know, looking at other states that have serious problems with voter fraud or have in the past and applying those kind of remedies or restrictions to Nebraska, where we haven't had that kind or, you know, casting the net too far or overcorrecting in the other direction. We're worried about a serious issue that happened in another state, that we're not really seeing this in Nebraska. Like, I don't know exactly where the right line is here, but I, I just don't think this bill is ready for prime time, and I, I don't think it's necessary. I also just like, what's your budget? I mean, why do you need \$10,000 to do this study? I mean, what's your existing budget?

GINA LIGON: So I take zero money on it, and I'd be the principal investigator. The budget would be for an undergraduate student worker, who would help analyze the data and design the survey. So they usually run \$16,000 a year. And what we had budgeted was for him, and then use

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of Qualtrics survey for that. So we would use half of his time to do it. He has a goal of seeing all 93 counties. So he wants to physically go and, and and collect them at the election counties as well, to talk to people.

CONRAD: Sure. I-- yeah, I'm sorry if I asked my question incompletely, but what, what's your department's budget, what's your operating budget right now that you have to do research?

GINA LIGON: Oh, so our grant right now for Department of Homeland Security is \$4.6 million a year. We give out 67% of that to research studies, and they are selected by the Department of Homeland Security. So I don't have autonomy in choosing that. So I couldn't put a setting forth about Nebraska just because I'm the director, I have to do studies that benefit the public good for the whole U.S.. And so, for example, the reason why the Pennsylvania one was selected was because that state was able to put some money toward that particular study as well.

CONRAD: OK. OK, I-- I think I understand where you're coming from here. I'm perplexed as to this is a really serious problem, and we need to have a big study, and we need to spend taxpayer funds, and the solution is sending out an intern to do it a 93 county tour. I feel like that's kind of a-- it doesn't make sense to me. OK.

GINA LIGON: Well, an intern and myself, so I--

CONRAD: OK. All right.

GINA LIGON: --I, I don't take any money for any studies because my money's already paid by the state of Nebraska. I'm a faculty member there.

CONRAD: Very good. OK. Thanks, thanks so much, Professor, I appreciate it.

GINA LIGON: Yeah.

CONRAD: Thanks.

GINA LIGON: Sure.

CONRAD: Thanks.

BREWER: OK. Additional questions? Following up from our conversation on Saturday, and as I spoke earlier, I met with Chairman Wayne, and he

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is a go to do an AI joint interim study. So I'll get with you. We'll look at a window of time and location and see if we can make that all come together.

GINA LIGON: That'd be great. Thank you.

BREWER: All right. Thank you for your testimony. All right, Judi, if I can have you go next. Sorry, I didn't mean to cut in, since she's a director I gave her that opportunity. Welcome to the Government Committee.

JUDI GAIASHKIBOS: Thank you. Chairman, Senator Brewer and members of the Government Committee. It's such an honor to have this be my last hearing for this year be with--

BREWER: Your name.

JUDI GAIASHKIBOS: Oh, my name. Yes. I'm Judi Gaiashkibos, that is spelled J-u-d-i G-a-i-a-s-h-k-i-b-o-s, and I'm the executive director of the Nebraska Commission on Indian Affairs. We are a non code state agency up on the sixth floor of the State Capitol. I myself am a member of the Ponca tribe of Nebraska, and this is my 28th year being the director of the Commission on Indian Affairs. And I am so honored to have served with Senator Lowe before you, testified before you. And of course, Senator Brewer is special to my heart as a former vice chair of my board, and the years just flew by here so fast. And it's really great to end on a bill like this that will be something good for our First Peoples. And so I'm going to keep my testimony really short. I want to thank Civic Nebraska for bringing this bill to the Indian Commission. We would be the entity that would be tasked with contracting for the two year study. And I would like to thank Senator Jen Day, the Chair of the State Tribal Committee, for doing that wonderful job of introducing the bill. And I am not a voting rights expert, and that is why we need to have this done, because, as you heard, it's pretty shameful the number of people that do vote in Thurston County compared to everywhere else. And it's because of all those barriers that we need to learn more about. So with that, I will, let you hear from testifiers from the Winnebago tribe who have come a long way to present their successful, that you alluded to, Senator Conrad, the case that they had and those that want to support this bill. And we hope that you will move it out of the committee to the floor. And, that is the end of my testimony, and I would be happy to answer questions.

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BREWER: All right. Thank you for your testimony, and thank you for 28 years of service.

JUDI GAIASHKIBOS: Thank you so much. And I've never had a merged joint committee, so there's always new, exciting experiences at the Nebraska State Legislature.

BREWER: We're trying to take like subjects and consolidate them, so we're not here until midnight. So I'm sorry-- kind of what we're doing.

JUDI GAIASHKIBOS: I understand.

BREWER: All right, questions for Judi before we let her go?

JUDI GAIASHKIBOS: Thank you.

BREWER: All right.

CONRAD: Thank you, Judi. Thank you.

BREWER: Thank you for your testimony.

CONRAD: Thank you.

BREWER: All right. Welcome back to the Government Committee.

HEIDI UHING: Thank you, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Heidi Uhing, spelled H-e-i-d-i U-h-i-n-g, and I'm public policy director for Civic Nebraska. I'm here to testify in support of both Senator Eliot Bostar's LB1390, and Senator Jen Day's LB1262, so I will be brief. LB1262 calls for a study from the Commission on Indian Affairs of barriers for voting for Nebraska-- native people in Nebraska, and for the report to provide policy recommendations that you folks could consider to address these barriers. The White House released a lengthy report in 2022 that looked into voting barriers nationally, and many of these recommendations could be considered for Nebraska. An important one was for states to accept tribal IDs for voting purposes, which this committee incorporated into last year's voter ID bill, so we're grateful for that. Several other states with native populations have already implemented many other recommendations from the report, and I hope you will support this opportunity to delve into barriers unique to Nebraska. As for LB1390, this is a bill that addresses some of the top concerns for election integrity in recent years. By setting penalties currently in place for interfering with deputy registrars to

now include threats and harassment to all election officials and workers, it would create penalties for doxing election officials, or sharing their home addresses online, penalties for making artificial intelligence generated hyperrealistic deepfake video or audio depicting an election official with the intent of distributing misinformation about an election, and finally requiring the Secretary of State to provide a report of these instances to the Legislature. You heard from NCITE that they would be the ones to provide that report. When Arizona's secretary of state testified before the Senate committee last November about losing a dozen top election officials since 2022 in their state, he said many veteran Arizona officials from both political parties have left the profession for the sake of their own physical, mental, and emotional health and that of their families. The cost of persistent misrepresentations about the integrity of our elections is high, but the cost of inaction against those threats is higher. The Brennan Center found that 12% of local election officials began their service after the 2020 election cycle, after 11% of current officials say they are very or somewhat likely to leave before November 2024. If they follow through with that information and exit their positions, we will have lost approximately 1.5 election official per day between November 2020 and 2024. We can expect more than 1 in 5, then, to be serving in their first presidential election in 2024, so that's a staggering loss of expertise. Recruiting and retaining poll workers has long been a challenge in Nebraska for both urban and rural counties. In this new, contentious, contentious political environment, when they must be concerned for their safety, it is particularly difficult. High turnover in all these positions increases the likelihood that election workers could make errors, which could further fuel perceptions that workers are seeking to change the outcome of the election and further erode the public trust in our election process. That would be difficult to heal. In order for our elections to remain accurate and secure, we need experts who can conduct them-- the experts who conduct them to feel safe continuing to do this work. Since 2022, 14 states have responded by creating new protections and penalties. Given how contentious the 2024 election is shaping up to be, it would serve Nebraska well to have guideposts in place. Thank you for your consideration. We ask you to advance both bills to the floor.

BREWER: Right. Thank you. Heidi. We'll see if we have questions. Yes, Senator Conrad.

CONRAD: Thank you, Chair Brewer. And thank you, Heidi, for being here. And I think you've been here for the whole afternoon, as you usually, usually are, as an attentive member of the issues before this

committee. But so I think we're clear, this bill is not moving forward this year, and it has a lot of problems as it's written that people across the political spectrum have pointed out already. I understand the policy goals and you have to start somewhere. But other than just grabbing on to model bills from other states that may have different landscapes or different problems, I can't speak to that, are you aware of any existing issues in Nebraska where the existing criminal law is not sufficient to address actual issues of stalking, or harassment, or intimidation, or terroristic threats, or impersonation? I mean, has Civic Nebraska been able to grab literally any instances where somebody's crossed a line into criminal behavior and it's gone unprosecuted?

HEIDI UHING: That's one of the reasons that the bill calls for a report is to try to get our hands on that. So what we've learned from NCITE is that when these threats happen, election officials don't often identify them as such. And so we don't know that they're actually being reported out or even prosecuted.

CONRAD: OK.

HEIDI UHING: So part of the goal of the bill is to just get, get our hands around that information in the first place.

CONRAD: But you didn't just bring a report bill.

HEIDI UHING: Correct.

CONRAD: This is a report bill with criminal penalties. So it's study first-- well, it's criminalize first, study at some point is the approach in the bill as written.

HEIDI UHING: Well, we have seen threats to election officials in two electoral processes.

CONRAD: That are already illegal under existing law.

HEIDI UHING: Correct. The, the threat though, against an election official isn't just against the person. We know in this-- in this political climate, it's a-- it's a threat against our whole electoral process and threatening our own individual rights to have free and fair elections in our democracy. So I think that context is important, and that's what we're trying to get to here.

CONRAD: But actually not what the criminal law does at all. The criminal law is not there to protect the entirety of our democratic

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approach. It's to punish personal wrongdoing when it crosses the line into harmful behavior. So I hope you're not saying that you're seeking to weaponize the criminal law into, into the political arena, because I think that'd be very dangerous. And maybe you misspoke or maybe I misunderstand-- stood, but I'm, I'm worried about that.

HEIDI UHING: I just want to draw your attention to page 4 of the bill that explains the, the, the deepfake section of the bill, where it's limited to 60 days prior to an election, that's with with an eye toward maintaining people's free speech rights to communicate about elections, narrowing it to a window that where, where it's most-- where elections are most vulnerable. These deepfakes would be distributed without consent of the depicted indi-- individual and intended to mislead. And so I think that context is new, that is relevant to what we're experiencing in our modern electoral environment.

CONRAD: OK. I don't think that was responsive, but I, I will take another look at it there. And thank you so much. Yeah.

BREWER: OK. Additional questions for Heidi? All right. Thank you for your testimony. All right. Next up. You've got to drive to Omaha, so you just as well come on up.

BRIAN KRUSE: Good after--

BREWER: Welcome back to the Government Committee.

BRIAN KRUSE: Why thank you.

BREWER: Will this be the last time I see you?

BRIAN KRUSE: Yes, it will, so. Yes it will.

BREWER: I will miss our encounters.

BRIAN KRUSE: Yes, absolutely. I am here in a neutral capacity for LB1390. Chairman Brewer and members of the committee, my name is Brian W. Kruse, Douglas County election commissioner. I'm here as Douglas County election commissioner, and co-chair of the NACO Election Law Committee in a neutral capacity. I want to begin by being very clear that there have been no credible, serious threats to election officials or election workers in the state of Nebraska that our association is aware of. We appreciate Senator Bostar and Civic Nebraska bringing this bill. We like the ideas in this bill for protecting election officials, election offices, and polling places

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against threats, harassment, assault, and other forms of interference of carrying out elections in a fair, free, and accurate manner. There are also references to AI artificial intelligence, such as video recording, motion picture film, sound recording, electronic images, or photographs being used in an unauthorized manner. One of our big concerns is that the penalties are only in effect for 60 days prior to an election. With statewide, local, special, and other elections, such as sanitary improvement districts and road improvement district elections, there always seems to be some kind of an election being conducted. We would like to see the penalty enacted on a permanent basis to avoid confusion, and for constant and consistent protection. Election security is a 365 a year-- day a year issue, not just an election season issue. In conclusion, we appreciate the ideas of this bill. It could possibly offer some reassurance to election officials and election workers for their safety and security in the event an incident were to occur. We would appreciate an ongoing discussion to make this bill even better before it is enacted. We encourage this committee to take no action on LB1390 at this time. Thank you.

BREWER: Thank you. And I get chewed out by the transcribers if I don't get this right.

BRIAN KRUSE: Oh.

BREWER: Just in case, it's B-r-i-a-n, middle initial W., last, K-r-u-s-e.

BRIAN KRUSE: You got it.

BREWER: All right. Now we're cooking. All right. Any questions for Brian?

CONRAD: Thank you Brian.

BREWER: All right. Thanks for making the trip and--

BRIAN KRUSE: Yeah.

BREWER: --thanks for all the years.

BRIAN KRUSE: Thank you. And on behalf of the 93 election commissioners and clerks, thanks for being a good Chairman, and the Government Committee. We appreciate it, and Senator Lowe, we've appreciated you, too. So thank you.

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BRIAN KRUSE: All right. Thank you. OK. Off. You're up. We'll, we'll put you next because you're too big to move, so come on up.

EUGENE DECORA, SR.: I'll take it.

BREWER: OK, so what we'll do, just so everybody's on the same sheet of music here is we're going to feed the front row first and then the next row and the next row. So if you want to speak sooner, just inch up to a spare chair, and then, then we have a system here. Otherwise it's the big guys get to go first.

EUGENE DECORA, SR.: All right.

BREWER: All right. Welcome to the Government Committee.

EUGENE DECORA, SR.: Good afternoon Chairman Brewer and esteemed members of the committee.[SPEAKING IN WINNEBAGO]. My name is Eugene Decora, Sr., E-u-g-e-n-e D-e-c-o-r-a, S-r. I'm a member of the Eagle Clan. I currently serve as an elected member of the Winnebago tribe in Nebraska's tribal council. I'm here to testify in support of LB1262. I would like to thank Senator Day for introducing this important legislation. I was born and raised in Winnebago, Nebraska, it it was my privilege to now serve on the Winnebago Tribal Council since my election in 2023, I have enthusiastically joined in the tribe's efforts to make sure our voices are heard at all levels, including in Thurston County, here in Lincoln, and in Washington, DC. Our voices matter, and we should be heard at every level of government. However, deliberate efforts have been taken to silence us. In opposition of the democratic goals of the Republic, the people have not had an equal opportunity to participate in the electoral process. On more than one occasion, Winnebago voters have been harmed by malicious acts that violated the Voting Rights Act, and stripped us of opportunities to effectively support candidates in important positions through the election process. Among the most harmful methods that have been used to quash our rights has been the redrawing of voting maps in a manner that was clearly meant to overwhelm Winnebago voices. Less than a year ago, the Winnebago tribe joined with voters from the Omaha tribe in Nebraska to advocate for voting equality. Here in the United States, the land of the free, we are brave enough to stand in the face of injustice, and demand that our federal and state laws and constitutions were re-- or enforced, so that no Nebraskan voters were effectively disenfranchised by redistricting efforts. No Americans should need to litigate their voting rights. It is my duty as a citizen to vote, and my honor as a tribal councilman to ensure that the polls are accessible for all eligible tribal citizens, and that

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each Winnebago ballot is counted in every election. We are celebrating the 100 year anniversary of the Indian Citizenship Act, which gave Native Americans citizenship, and the right to vote. When we face challenges exercising our rights, the Winnebago stood with the Omaha to make sure that state and federal laws prevailed over bias in politics. LB1262 proposes a study of barriers to voting for Native Americans in the state and to make recommendations on how to mitigate or eliminate these barriers. Perhaps as a result of this study and any resulting conversation and policy changes, no other Nebraskan-- Nebraska tribe will need to make a federal case of how their neighbors draw a map. Thanks to our last great warchief, Little Priest, the Winnebago people made what is now Nebraska our home in 1865, two years before the Nebraska-- before Nebraska became a state in 1867. I ask that bill-- this bill be passed because voting, having a voice in government, is at the core of what it means to be an American. Many men and women, including my own father and grandparents, have fought here and abroad to obtain and secure our rights as Americans. Thank you.

BREWER: Thank you. And thanks for having the testimony for us to keep. This IS a great reference. OK. Questions? All right.

EUGENE DECORA, SR.: Thank you.

BREWER: You made a long trip in, we appreciate it.

CONRAD: Yes. Thank you. Thank you very much.

BREWER: OK. Now we'll start from the front, Sheri. You're in the right spot at the right time there. Welcome to the Government Committee.

SHERI ST. CLAIR: Thank you. And I'll be brief this afternoon. Thank you again. Sheri St. Clair, S-h-e-r-i S-t. C-l-a-i-r speaking on behalf of the League of Women Voters of Nebraska, who is supportive of LB1390 to prohibit and change some provisions relating to interference with election workers and officers. The right of every citizen to vote has been a basic league principle since its founding. We support improvements in election administration, including improvements in polling place management and improved poll worker training. As we all know, the 2020 election, in the months following misinformation and lies about integrity, the process has fueled violence across the country. Included in the handout is a reference to link to the story and a poll conducted by the Brennan Center, which has already been mentioned, in which more than half of election officials surveyed now fear for the physical safety of their colleagues and themselves.

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Therefore, we are supportive of efforts to document election interference and intimidation in Nebraska, and like this part of the bill.

BREWER: All right. You're a proponent on LB1390.

SHERI ST. CLAIR: That is correct.

BREWER: Just making sure I've got it all right.

SHERI ST. CLAIR: And I'm not going to be speaking on the other bill.

BREWER: OK. Any questions for Sheri? All right. Thank you for your testimony.

SHERI ST. CLAIR: Thank you, thank you, Senator Brewer and Senator Lowe. I've been here many times to this committee, and I appreciate your kind attention.

BREWER: OK. OK. We'll let ladies go first.

LARRY STORER: I was here before she was.

BREWER: Well, we're going to. We're going to be a gentleman and let her go first. All right. You got all the paperwork right.

CONRAD: Hi, Caroline.

BREWER: All right. Welcome to the Government Committee.

CAROLINE EPP: Hi. Thank you. I'll start with. I'll be LB1390. I'm Caroline Epp, C-a-r-o-l-i-n-e E-p-p. I am testifying against LB1390. Overall, this bill is attacking my First Amendment right to free speech. Yes, I understand that what you call deepfake should be punished, but not exclusively for the Nebraska Secretary of State and all workers involved with the election process. To specifically list only that group is totally wrong. To only list those involved with the election is saying they are a special group that cannot be touched by "We the People." Why wasn't the Governor on that list, or our State Auditor and Attorney General, let alone "We the People?" Why, all of a sudden, does the Secretary of State obviously feel threatened? "We the People" have the right to question our Secretary of State as all elected officials, especially when transparency is not present. Nothing has been properly presented to "We the People" as requested in regard to recent elections. For this bill to leave the definition of harassment at the discretion of a government official who wants the

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protection reminds me of the Nazi Gestapo. "We the People" will not accept such ill respect. Those behind LB1390 owe "We the People" a public apology for writing this bill. And then I just want to state that I am against the LB1262 and I think those papers were handed to me. I'll just leave it at that.

BREWER: All right. Thank you. Any questions? All right.

CONRAD: Thanks.

CAROLINE EPP: Thank you.

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

CONRAD: Hi, Larry.

BREWER: Welcome to the Government Committee.

LARRY STORER: Thank you. I need these for my notes. You don't need to make a copy of them anyway.

BREWER: OK.

LARRY STORER: Larry Storer, 5015 Lafayette Avenue, Omaha, Nebraska, 68132. I'm glad to be back here again today.

BREWER: Can you just spell that a little bit. We'll need you to spell that for the record.

LARRY STORER: S-t-o-r-e-r. English. I wasn't sure where I was here today. I thought maybe I was back in old Greece, because I heard that word democracy seven times. After last week, I wouldn't think we would. Ladies and gentlemen, we are not a democracy. Most democracies failed and slipped into totalitarianism. Our founding fathers-- well, let's recreate the founding era. They decided, I think, a constitution-- a compound constitutional republic because of the fact that most republics degenerated into totalitarianism or something, and it just didn't work. People got killed off. If you weren't the king, you weren't very lucky. So they devised a new system to get rid of that type of system, and share the responsibility for governing between the federal government and the states. But that government belongs to "We the People." You just heard that from this lady. "We the People." You work for us. It is our government, not yours. Now I'm going to submit four or five things here that you can keep, I don't need copies of them myself. The first two are from Mr. Robert Borer, who has skin in the game in this state. He wrote-- lost an election

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for Secretary of State. He should be the Secretary of State. And maybe he will be. He also ran on a write-in ballot for Governor. But you know what? He couldn't even find out how many votes he got, because the Secretary of State doesn't want anybody to know it. No, I have-- I get three minutes. Oh, boy. OK. This all has to do with the stolen election. Like it or not, you don't need a new study done, Senator. All the information about the stolen election is here. It's there, you can have these, keep them. You can mess with the elections even through the registration process. Read it. The election commissioner of Douglas County is back there. Now, just because I disagree with him and ask him a question doesn't mean that I am stalking him. The fact that I'm saying what I'm saying today makes me a criminal under this act. That is unconstitutional. Shame on you, and you should, you should scratch that bill today, or step down from your office, because you're not honoring the Constitution of the United States. My freedom of speech, their freedom of speech, is being usurped. And you have, in fact, participated in a revolution against the constitutional government of this country, the Secretary of State and yourselves. Now, I'm sorry, you may be dupes of the Secretary of State. Brian Kruse might be a dupe of the--

BREWER: Your time is up, Larry.

LARRY STORER: --Secretary of State. The fact is, he will [INAUDIBLE]--

BREWER: All right. Your time is up, OK?

LARRY STORER: And nobody in government will question him. We demand it. Thank you.

CONRAD: Thank you. Did you, did you want us to have those? OK.

LARRY STORER: I don't [INAUDIBLE].

BREWER: OK. Next testifier. Welcome to the Government Committee.

GREG EPP: All right. Thank you. My, my name is Greg Epp, G-r-e-g, last name Epp, E-p-p. I stand opposed to LB1390. From what I understand, the bill requires that the Secretary of State submit a report in writing to the Legislature prior to each presidential election year, detailing all threats and acts of harassment against him and/or any election official in the state. OK, so while any acts of harassment or threats should be considered wrong, here's my assessment of the problems with this bill. The language in this bill is too subjective to me. What constitutes an act of harassment? What can-- what is considered a threat? What is considered misinformation? To me, the

Secretary of State gets to decide the answer to those questions. We have the First Amendment rights that are enshrined in our constitution. We have the freedom of speech. We have the freedom to petition our government. Our founding fathers listed 27 grievances that they had against the King and the-- and the tyranny of Great Britain, and our Constitution and the Bill of rights were largely drafted to address many of those grievances. I believe this legislation attacks our very rights to bring our grievances to our government officials. We have the right to petition our government. We have the right for freedom of speech. We have a grievances against Bob Evnen. In the last primary, Evnen didn't even receive a majority of the votes of his own party's votes, and he won the primary with a few points more than 40% approval rating. There is a high level of dissatisfaction with his office. We don't have transparent elections, in our opinion, at least my opinion. This is largely why we have such distrust of our elections and the Secretary of State, because there is no transparency. I think I'm going to end that testimony there because I also want to talk on LB1262. So should I go to 1262?

BREWER: You'd better hit it, your times running.

GREG EPP: OK. So I'm opposed to LB1262. And the reason is, is that they've been charged-- they've charged the 14-member Commission of the Indian Affairs with contracting with a consultant to conduct a study to determine any barriers to voting and, and equal representation of-- for Indian tribes in Nebraska. And that's-- that study specifically says the purpose of the ongoing study is to research any barrier to voting in any election for Native American people, and to recommend ways to mitigate or eliminate any such barriers. Why-- I guess for me as a taxpayer, why do we need to spend taxpayer money to determine why Native Americans aren't voting? I think this should be a task of the 14 member commission to determine this and to bring viable solution. I think we've got smart people on that committee. I think they can do it.

BREWER: OK, OK. I've got to hold you up here. We're out of time. All right.

GREG EPP: All right.

BREWER: I guess what I would throw in this is because of the uniqueness of the reservations and some of the limitations, they're kind of a, a little bit different situation than you have with just a normal community. And, and the other thing about the commission is it's-- it is 14 members, but it's distributed amongst all the tribes

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across Nebraska, from the-- from the Sioux in the west, to the Winnebago, the Omaha, the Santees. And for the commission to stand down, to be able to go to all these places and figure out what, what the challenges are, I think that's, that's inherently the problem they're trying to look at, so that if there is obvious ways they could change things to make it more efficient or, or more available, I think that was kind of the idea behind it. I mean, does that kind of make a little bit of sense?

GREG EPP: Yeah, yeah. And I mean, I appreciate the work that you've done for, for the Native American people, and so, I'm, I'm not against those things I-- I guess, sure, I can defer to that.

BREWER: Well, I just thought I would share just kind of as a thought to kind of why they, they wanted to take a look at it. And I'm, I'm not trying to influence you one way or the other, just trying to share a little of the snapshot of, of their challenges.

GREG EPP: Sure.

BREWER: All right. Thank you for your testimony. Let's see if I have any questions for you, and we'll let you go here. Questions?

CONRAD: Thank you.

BREWER: Thank you, sir. And thank you for your testimony. OK. Next testifier? 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 here to speak in opposition of LB1390. And it-- I noticed earlier it was said, I think by Senator Cavanaugh, and then echoed by Senator Hansen, I think you agreed that it was said, well, when it was said that the importance of starting conversations. I, I think it's also important that some of the conversations that are started here are actually brought to a conclusion. Because like I pointed out last time when I was here on February 14th, there are people who are still showing up saying the exact same things to this very committee that they've been saying for the past several years. And it says, if you are not listening-- you, you dressed down an individual the last time I was here for speaking off topic, you thought, and actually, if you had been listening and [MICROPHONE MALFUNCTION] off the topic at all. But you dressed him down for speaking off topic. It's not your job to tell us what to say to you. It's bad enough that you get to ask us questions and we don't get to ask you questions. So the problem-- the problem is that you're not

listening. When, when do the-- when do the conversations come to a conclusion? So with, with this bill, this legislation, I think that you should be asking why it is you're concerned about election officials being threatened at all. Why is that even a topic of discussion? And, and this is a problem. It's not a Democrat problem or a Republican problem, it's something that's been going on prior to the 2020 election. So a lot of the people that are coming here and talking to you right now are talking to you because they have concerns about what happened in 2020. But you go back and look at what happened after 2016 election. It was Democrats who were proposing legislation because they didn't trust the machines that are used in our elections. They didn't trust that foreign components were being used in the machines that count our votes. And so legislation that passed the House back then didn't make it through a Republican Senate, because a Republican Senate said that would be government overreach, because it should go to the states to handle that. You know, that's your job at the state level here is to address that. So the Republicans at the federal level, and Democrats at the federal level, they're saying-- the Democrats said we have a problem with our machines, with our elections, we have elections we can't trust. The Republicans said, let's, let's leave it to the states to fix that problem. You have not fixed that problem. So when do the conversations come to a conclusion would be my, my question to you if you even actually spoke back and answered anything, if we ever got any answers. But that is why you have people continuing to speak off topic to every bill, because you're not listening. There's not been a response. And I can 100% guarantee you that there will not be an outcome in the general election this year that is trusted 100%. So where do we go from there? What's going to happen after that? Is it gonna-- whose turn is it going to be to take up the issue of election integrity because you dropped the ball?

BREWER: OK. Thank you for your testimony. Any questions? Seeing none. Thank you, thank you. All right. Next testifier? Welcome to the Government Committee.

WESLEY DODGE: Good afternoon. My name is Wesley Dodge, W-e-s-l-e-y, Dodge, D-o-d-g-e, from Omaha. And, I am speaking in support of LB1390. I don't have anything specifically prepared. But as I looked at the bill, I think, in Section 5, where it talks about stalking and then it goes into the harassment part, I also think it would be good to extend it a little bit into a doxing kind of concept, because I had the fortune of going to something called the American Democracy Summit this past year, and was able to hear from some people, like in Arizona and places like that where they're having these kinds of issues. And

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so I think it would be good to add some language that says something like they, they would be prohibited from sharing or publishing personal or identifying information for the purpose of intimidating, harassing, or influencing the behavior of election workers. As to the AI that's been talked about in both this LB1390 and LB1203, just some comments on that. I, I am a lawyer, I, I've taught civics and law studies for a long time at the high school level, and I, I do-- I'm a strong free speech advocate as well as Senator Conrad. But I do think there is the, the responsibilities that go with it. Fraud is, is an exception, and I think AI gets into the fraud element. And I think it-- when it's likely to incite imminent unlawful action, that is when it should be controlled too. So we do-- we do need guardrails on that. Senator Conrad, I think, asked a couple of people about examples. I've, I've told you about what I heard from the people in Arizona when I was able to go to this conference, and this is kind of an extrapolation, but I've had the misfortune for the-- for the poor people I've dealt with of some people who've had, like, videos of their daughters taken and being put on the Internet and they can't get them off. There is almost no way to unring that bell or to-- you know, they talk about letting a feather balloo-- pillow loose in the wind. That's what you're trying to do. I called people, I talked to senators' offices, congressmen's office, you can't-- you can't unring that bell. So I think some language that-- I mean, these people can be hit like that, too. And I-- and I think-- I like this bill. It, it needs fine tuning no doubt, but, but I like the bill because we're getting ahead of some of these things that are problematic. And just very, very quickly, I know I'm probably about out of time, but another thing they showed us at that conference was they-- it was a nice conference where we talked to a lot of famous people and, and, and Congress people and, and that kind of thing, election people. And they told us we had a special guest and they put a video up, and it was President Biden starting to talk to us, and everybody was all excited. And then about three sentences in he started talking about he and Jill were watching a movie, and they heard something on the roof, and it was-- you know, they went up and it was aliens. And it had us all convinced, you know, the first, the first three sentences of that speech had us convinced. So it's something that needs to be dealt with, and I appreciate the fact this is being dealt with here.

BREWER: All right. Thank you for your testimony. Let's see if we're going to have any questions. Questions? All right. Thank you.

WESLEY DODGE: Thank you.

CONRAD: Thanks.

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BREWER: All right. Next testifier?

CONRAD: How are you?

ROSE GODINEZ: Good. Good to see you.

BREWER: Welcome to the Government Committee.

ROSE GODINEZ: Thank you. Hello, everyone. My name is Rose Godinez, spelled R-o-s-e G-o-d-i-n-e-z. I'm here to testify on both bills. I'll start off with LB390 [SIC , LB1390]. ACLU is opposed to LB390 [SIC, LB1390]. As Senator Conrad has raised, it creates crimes that are already on the books. Just a quick couple examples, and I won't talk a lot about this bill. But doxing election officials and disseminating deepfake videos are already covered by Nebraska revised statute 28-639 and 28-609, which cover impersonating a public servant and identity theft. We, we also have a couple more examples that I'm happy to follow up with, but essentially everything that's covered in this bill has a crime that's already accounted for. For those reasons, we urge the committee to indefinitely postpone this bill. As far as LB1262, on the contrary, we testify in support of LB1262. We thank Senator Day for introducing this legislation. The ACLU joins the indigenous justice movement calling upon the Legislature to remove barriers to equal political participation by the Native American community, to conduct redistricting in a way that allows meaningful participation by the native community and avoid the dilution of the native voting strength. Senator Day actually brings this legislation almost exactly 100 years after the Indian Citizenship Act passed, granting citizenship and the right to vote to Native Americans. And 100 years later, the effects of the discrimination that led to the Act's passage continue. Just as an example, and in addition to the barriers that Senator Day mentioned in her opening, there continues to be diminished disproportionate number of tribal members disenfranchised for commissions of criminal offenses, on top of the pattern of racial profiling of Native Americans by law enforcement, the targeting of Native Americans for prosecution of serious crimes, and lengthier prison sentences. Altogether, these injustices result in higher incarceration of Native Americans and dilutes the voting strength of native communities. That is true in Nebraska, where we have a two year waiting period for individuals who are formerly incarcerated, impacting the Native American community already overrepresented in Nebraska's prisons and jails. The two year waiting period is not the only barrier to be studied. Redistricting, as you've heard earlier today, in Thurston County has proven to be another barrier. The ACLU and the Native American Rights Fund separately have successfully sued

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Thurston County for diluting native voting strength in violation of the Voting Rights Act. That was back in 1993 and in 2023 just recently with a favorable settlement. And then I believe there was a lawsuit even prior to 1983. Clearly, the barriers to equal participation by the Native-- for the Native American community and our political system remain, and LB1262 is a solid first step to identify and start implementing reforms. And before I close, I just want to say my own personal thank you to Senator Brewer for all of your work on indigenous justice issues. And we urge the committee to advance this bill to General File.

BREWER: All right. Thank you, Rose. Just so we get it in the record right, you talked about being proponent to LB1262 and proponent to LB1390, you meant LB1390, right?

ROSE GODINEZ: Thir-- opponent to LB1390, yes.

BREWER: OK.

ROSE GODINEZ: Thank you.

BREWER: All right. Any questions for Rose? All right. Thank you for your testimony. Welcome back to the Government Committee.

AMBER PARKER: Hello. Amber Parker, A-m-b-e-r, Parker, P-a-r-k-e-r. I am an opponent to LB1390. With that said, I really would have liked to have the two of Senator Day's bills separate from this. I do want to say, because there's a lot of confusion on this, and I feel that there are voices that need to be heard in areas that were not heard on LB1262, so I feel sad about that. In saying that, I do believe that the, the tribes in Nebraska should have a right to count their-- hand-count their own ballots at their precinct levels or whatever that would be deemed. And then as well under video surveillance, so everybody there's no question of the elections. They too are underneath the same machines we are, the same what we would call nondisclosure over 80 pages. The state of Nebraska, right now, the Secretary of State deny-- does not allow bullying and intimidation has came through the office, which brings me to LB1390, because pertaining to LB1390, on page two, we get into the wording and I just have to say, for those who are selling this, if there was ever a bill to kill, this is the bill to kill. This bill lays out a surveillance state in the state of Nebraska. This bill, what is unspoken, that is the elephant-- it's, thank God, not the elephant in the room, it's just being called out, thank you, Jesus, is the part of-- that it is setting up the foundation to bring persecution and bring Nebraska

citizens as political prisoners to the deeming of definition of what deepfake is. We do not know what the deepfake is. But this is what's really concerning. We're talking about misdemeanors. We're talking about the Secretary of State having protective, protective proposed legislation that I do want to be clear, it had originated out of Washington, DC, and there was a talk about that earlier. But it wasn't just once and twice, it wasn't just the Secretary of State that had set this together. It was Deputy Secretary of State Wayne Bena. And then we heard Senator, United States Senator Deb Fischer, Bostar, a state senator, isn't there a division? The federal government-- we have state sovereignty, it's according to our constitutional liberties. Furthermore, for the attorneys in the room, this is a violation of Amendment Four and Amendment Fourteen. We are talking that this is giving Big Brother government and saying we have taken away your due process. If they want to do and weaponize their system of what they want to do to come against the people, like those in the witch hunts that we're seeing in J6. But the distraction is one name, Trump. This is about the constitutional liberties of the people in the United States of America. Number Four, the right of the people to be secure in their persons, houses, papers. You're taking away the verbal communication of our, our opinions of what we want to discuss on elections. And what's bad is this gives the power, LB1390, to deem misinformation if you're bringing forward facts as something that you could be criminally charged for.

BREWER: OK. Thank you for your testimony. I will simply remind you that we have a calendar for hearings. This is the last active day of hearings. This is the last bill. If you thought this bill was going to pass, do you think I would put it at the very end or at the very beginning?

AMBER PARKER: It depends upon strategy.

BREWER: Yeah. OK. Well, enough said. All right. Any questions? All right, thank you for your testimony. Welcome back to the Government Committee.

CONNIE REINKE: Thank you. Connie Reinke, C-o-n-n-i-e R-e-i-n-k-e. The documents that I'm handing out to you, I don't want to waste your time. I do want you to know about the concerns of our elections. And two of those major concerns are listed there. FirstNet, and the memorandum of agreement. FirstNet is a-- is a emergency services network. Right before Obama left office, he made elections critical infrastructure. And we are seeing examples of our elections being connected to the FirstNet emergency band services. So cellular

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services, there's been a lot of concern about modems being in, in election machines being connected to the Internet. This is what they're seeing is happening. There are hand scanners that have been shown in Dallas to connect to this FirstNet service. So when it's said that elections aren't connected to the Internet, that is not true. Those scan-in ballots when they're first received, and then cheaters can see how many ballots of different political parties are coming in so they can adjust accordingly. On the-- on the back area of this is a memorandum of agreement. And this is the last page of a document that each county has to sign as part of the Albert sensors, which is in our-- in our elections. This memo-- memorandum of agreement requires the entity accepting its services to provide notice to its employees and contractors that they have no reasonable expectation of privacy regarding communications or data transmitting, stored or traveling on, to, or from the SoS, Secretary of State to the county. This also gives them a comp-- the Secretary of State is giving them access to managed devices, a complete list of IP addresses of county computers, a list of servers, and of other information. And it's very interesting that DHS is here, because DHS, SISA, the National Association of Secretaries of States and our Secretary of State's actions are concerning. Our elections are exposed to the Internet through these Albert sensors. They can give corrupt pockets of our government access to data in real time that can affect the outcome of our elections. And so I hope that you will look into this.

BREWER: OK. Thank you for your testimony. Questions for Connie?

CONRAD: Thanks, Connie.

BREWER: All right. Thank you for coming in and testifying.

CONNIE REINKE: I also just might say I've had friends of the Secretary of State's call me and say there's fraud all over the United States. Why isn't my friend, the Secretary of State, seeing or investigating our elections?

BREWER: OK. Thank you.

BREWER: Thank you.

BREWER: OK, next testifier?

ARLO HETTLE: Good afternoon--

BREWER: Welcome to the Government Committee.

ARLO HETTLER: --Chairman Brewer and members of the committee. My name is Arlo Hettler, A-r-l-o H-e-t-t-l-e. I'm the associate network policy manager at the Nebraska Civic Engagement Table. We work with 70 other nonpartisan 501(c)(3) nonprofit organizations across three states to increase civic and community engagement, with a particular focus on underrepresented communities. And we're here today in support of LB1262. We've already heard the numbers on turnout in Thurston County, but if we dig in a little more to that, specifically to the 68071, 68067 and 68039 zip codes, which together comprise the vast majority of the Winnebago and Omaha reservations in northeast Nebraska, these are three of the top five ZIP codes with the lowest voter turnout in the state, all falling below 20% in 2022. We can put forth a multitude of theories for why this might be the case, from historical factors like the long struggle for Native American enfranchisement, which was often predicated on forced assimilation, and the many injustices committed to Native Americans which impact civic trust to this day. And we can also see this play out in contemporary factors, like broadband access, 46% of locations in Thurston County are considered underserved or unserved, the second most of any county east of Grand Island. And when we look even further, those underserved and unserved locations are concentrated in those three aforementioned zip codes. DMV availability is another factor we could point to. The Thurston County DMV is open only on one Thursday a month during working hours. Broadband, DMV accesses, traditional mailing addresses, all of these things make it easier to vote, and could be potential barriers that such a study could explore. To fully understand and address these barriers, we need a more robust study with a particular focus on the communities here in Nebraska. There's research around the country on voting in the Native American communities, but we also know that Native American communities in Alaska and Florida face a completely different barriers than here in Nebraska. LB1262 would provide the framework for such a study, bring relevant stakeholders together, allow barriers to be identified, and this will help the state find better administrative solutions, hopefully lead to the crafting of more thorough policy solutions, and allow community organizations to better address the needs of the people they work with. LB1262 encourages collaboration and joint problem solving, working to build civic trust. So with all of that, the Nebraska Table encourages this committee to advance LB1262.

CONRAD: Great.

BREWER: Thank you, Arlo. All right, questions for Arlo? Questions? Right. Thank you for your testimony. Welcome to the Government Committee.

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NORA LENZ: Thank you. My name is--

BREWER: Whenever you're ready.

NORA LENZ: Oh, sorry. My name is Nora Lenz, N-o-r-a L-e-n-z. I am here representing the Nebraska State Education Association, and I've been an educator for 37 years. I want to begin by thanking Senator Day for introducing LB1262, an act on behalf of the Commission of Indian Affairs. Her efforts to bring to the table an ongoing study relating to Native American voting issues is applauded. Recognizing that many Native American communities are on the front lines of environmental issues, health issues, and educational issues, and, of course, political participation, this bill will help promote the Native American communities in providing a plan to actively promote the empowerment of Native American voters. Creating a Native American Voting Rights Commission within the Nebraska Commission on Indian Affairs offers several advantages in addressing potential barriers to voting, and ensuring equal representation for American Native, Native tribes in Nebraska. Creating a commission of tribal members of our federally recognized Native Americans within Nebraska will allow for a dedicated commission, and-- that can appreciate and understand the culturally complexity, complexity, and historical factors that affect a Native American voting patterns. The Commission of Tribal Members can conduct a comprehensive research specifically for Nebraska on voting patterns, demographic data, and historical voting trends within Native American populations. This information is crucial for identifying the unique barriers for voting, and proposing methods of solutions. The Commission will play an essential role in educating both Native American communities and surrounding communities on the-- surrounding communities, on the electoral process and the importance of representation. This outreach can contribute to increased awareness and participation. The Commission can and will serve as an advocate for the Native American communities, holding discussions with policymakers, lawmakers, and other relevant stakeholders. LB1262 is an important piece of legislation aimed at promoting voting rights and inclusivity, inclusivity for Nebra-- Native American communities by establishing trust between American-- between government and communities. It is not only acknowledging their significance, but also working toward addressing historical injustices and ensuring their voices are heard in a democratic process. Building trust is crucial for fostering stronger relationships and achieving meaningful process in addressing the needs and concerns of Native American people. In closing, the commission within Nebraska-- within the Nebraska Commission on Indian Affairs can inform, respect culture, and remove barriers to vote for-- vote-- to voting for the Native

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American tribes in Nebraska. I leave you with this thought from a speech of a Native American student in one of my schools. A bronze figure gleaming in the sunshine is a statue of a man who stood on the land before any roads led to Lincoln. Chief Standing Bear was a great leader for the Ponca tribe, and today I will be talking to you as a member of the Ponca tribe about this-- about his great leadership for the Ponca people and Nebraska. I feel very blessed to be part of this tribe with such a great culture and language.

BREWER: Thank you.

NORA LENZ: Thank you.

BREWER: Have you by chance had an opportunity to see Standing Bear's statue in Washington, DC?

NORA LENZ: No, but she wrote about it in her speech that she gave the other day for our school program. But I have had the opportunity to teach on a reservation, so I do know how isolated it is and the, the advertising for, for any kind of political race, or-- I'm sure not a lot of people go there to give speeches about their political beliefs. And, it's just-- it's just a community that is left out.

BREWER: But more importantly, I just leave you this. If you get a chance to go to Washington, DC, when we moved Standing Bear there, I-- because remember, we moved William Jennings Bryan's out, which was a smaller, like a six foot statue, for Standing Bear, it was like 13ft or something, it's, it's huge. We also lost our spot there, and it just happened that someone else moved out, and we got a primo spot right in Statuary Hall. So if you go there, the biggest, nicest statue in Statuary Hall, in my opinion, is Standing Bear. So I highly recommend you make that trip.

NORA LENZ: I'll make that a priority. I'm usually there working and in and out really fast.

BREWER: Well, they're usually trying to hog a spot in front of there so they could get a camera with them in the background with Standing Bear, so. Thank you for your testimony. All right. Next testifier? Come on up. Welcome to the Government Committee.

BRAD MEURRENS: Thank you, Sen-- thank you, Chairman Brewer, good afternoon or evening, and members of the committee. For the record, my name is Brad, B-r-a-d, Meurrens, M-e-u-r-r-e-n-s, and I am the public policy director for Disability Rights Nebraska. We are the designated protection and advocacy organization for persons with disabilities in

Nebraska, and I'm here in strong support of LB1262, and only LB1262. We are a private, nonprofit organization that works to protect and advocate for the rights of people with disabilities in Nebraska, including voting rights, as you can see from the brochure I'm handing out this afternoon. We have extensive expertise identifying barriers to voting for people with disabilities, and have done extensive work in this area, such as surveying accessibility at polling places. Every election, we have staff that go and visit polling places in person to make sure that they are accessible, and we reach out to county election staff when there are issues and resolve them. Surveying all counties' websites for accessibility of voting information. We again identified issues, and they were addressed. Continuing collaboration with other nonprofit organizations on a phone hotline to respond to problems voters with disabilities do encounter on Election Day. Working with the Secretary of State's office on raising awareness of voting rights, changes in voting in an election process like voter ID. And addressing accessibility or other barriers to voting for persons with disabilities in Nebraska. And we've also worked to register, and we continue to work to register people with disabilities to vote. As an organization that has expertise in this area, and a history of identifying those barriers and having an interest in voting rights, we recommend advancing the bill, and I'd be happy to answer any questions you have.

BREWER: All right. Thank you for your testimony. If you were to look at the single thing, that becomes the most common failure for us to make sure that people have access to the vote. Would that be the handicap accessible facilities that we have, is it-- because it seems like we're always struggling to figure out how to fix that. It's very expensive, counties are poor, you know, those kind of things.

BRAD MEURRENS: Yeah. You know, we did-- we did do a little survey last year for-- and from what I recollect, I, I could be mistaken, but there were significant accessibility problems with both the polling places themselves and with the DMVs or-- and other places where you would need to get materials to get your voter ID or to, to be able to enjoy the franchise. So, and-- like, for example, some, some, some places didn't have the door buttons working. Some places had the voting machine upstairs on the second floor. Some folks didn't know how to operate or open and run the voting machines. So there are a lot of options. And, and we know that. And we work to recog-- recognize them and fix them as we-- as best we can.

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BREWER: No, no, it's good people are out there watching it. OK. Any questions for Brad? All right, Brad, thank you for coming in and testifying.

BRAD MEURRENS: Sure. OK. Next testifier, come on up. Welcome to the Government Committee.

STEVE DAVIES: Thank you, Senator Brewer and senators on the committee. My name is Steve Davies, S-t-e-v-e D-a-v-i-e-s. I testify in opposition to LB1390. If our elections were transparent and verifiable, we wouldn't be talking about this today. The bill is superfluous, superfluous. There are already legal protections already encoded, and thanks to Senator Conrad for her expansion on this. Application of this bill will create two new classes, the first a protected class. And a second underclass that is fearful of prosecution, especially because of the imprecise wording of the bill. In no way do I condone true harassment. We are guaranteed the right to free speech and the right to redress grievances. And from an overview, this proposal would tend to suppress both those rights. The elections belong to "We the People." There are valid questions. Do we have a valid explanation how in 2020, there were more than 4,000 more votes than ballots cast? How before 2020 the general belief was that mail balloting comprised the most vulnerable. Then in 2020, with as much as 43% of the ballots via that method, we were told that it's the most secure election ever. State law requires counties to be fully responsible for elections, and yet the state has purchased the machines. The federal government requires that voting machines be incapable to be connected to the Internet before they can be certified, and ES&S has admitted that the year that Nebraska bought the machines, 33,000 were shipped out with modems in them. And finally, during an election in South Carolina on Saturday, they had to suspend counting because the machines were not connected to the Internet. Thank you for your time today and all the time that you, you give, and if there's any questions, I--

BREWER: All right. Thank you, Steve. Let's see if we've got any questions? All right. Thank you for coming in. OK, next testifier. Welcome to the Government Committee.

LEONARD STOHLMANN: Thank you. Chairman Brewer, members of the committee, my name is Leonard Stohlmann, L-e-o-n-a-r-d S-t-o-h-l-m-a-n-n. I'm here representing myself. I oppose LB1390. I see this as a freedom of speech issue. There's two areas I'll just touch on. One talks about acts of harassment. The other one talks about instances of misinformation. From this bill, I'm confused. Who

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will make the determination what is an act of harassment? And who will make the determination what is an instance of misinformation? That's my comment. Thank you.

BREWER: All right. Thank you. And I understand that they, they bring the bills in, and if the guy that wrote isn't here, it's kind of hard to know some of those questions, but, I appreciate the fact that you read it, and you came in to testify. So thank you for your time and your testimony.

LEONARD STOHLMANN: You're welcome.

BREWER: All right. The next testifier, come on up. Welcome to the Government Committee.

TRACY OVERSTREET: Senator and committee, thank you. Tracy Overstreet, T-r-a-c-y O-v-e-r-s-t-r-e-e-t, I'm the election commissioner in Hall County, also co-chair of the election law committee with Mr. Kruse, representing the Nebraska Association of County Clerks, Registers of Deeds, and election officials. I'm here in a neutral capacity on LB1390. I think this bill has a lot of good concepts. It's a little dicey on the details. I really agree 100% with a lot of the questions and points that Senator Conrad has brought up about this bill. What I did want to share with the committee, in September of 2020, the Hall County election office received a fake bomb. The process of determining that it was fake was really disruptive to our election process. It caused the evacuation of our two story Hall County Administration Building. It delayed processing for over 50 of our military and overseas voter ballots. It also deterred at least three poll workers from signing up to work for the 2020 election. They were in the building when it happened, and so they didn't sign up for 2020, they didn't sign up for 2022, I don't think they'll sign up for 2024. I don't think they will ever sign up because they were really shook up. There was an arrest and conviction in this case, but the individual got time served. What made our case harder to prosecute was that the package was addressed to the election office. It wasn't addressed to an individual. And in legal terms, that made the offense victimless. Much of LB1390 does center on protections for individuals, for election officials and workers, and I think that's good. I don't know if there are any protections that can be created for election offices or for the process in general. I do like the deepfake prohibitions. That's a protection on officials as well as the distribution of misinformation and disinformation, that's a huge concern, into elections. But again, I think Mr. Kruse talked about the 60 day time frame. It really is a year round thing, a protection

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that's needed. The concept of protecting an individual election official by not disclosing their home address, however, I think is really difficult, if not completely impossible. Most of election officials in Nebraska, including the Secretary of State and county clerks, have to give their home address as a candidate when they file. I also wonder about penalties, considering that individual election fraud is a Class IV felony. I wonder why disruptions to election workers or things that can impact multiple voters is just a misdemeanor. There's not a lot of parity. Either one should come down or both should go up, but there's not parity in the penalties. Disrupting an election is really attack on all of society. I just ask the committee to ensure that LB1390 protect individuals and the process, and have practical year round protections, as well as appropriate penalties. And I also would like to thank Chairman Brewer for your leadership. Our committee has been very grateful for all the work that you have done. Thank you so much.

BREWER: Thank you, Tracy. And, don't panic if on Friday you see about 20 of us in, in Grand Island, we are doing a tour of Hornady Manufacturing, and then I think we're off to Kinkaider's after that. So. All right, questions for Tracy. All right, thank you for coming in. And thank you for your testimony. OK. Next testifier. Welcome back to the Government Committee.

BETH BAZYN-FERRELL: Thank you. I think I may be the last one, so.

BREWER: Well, how fitting.

LOWE: Out of here by 5:00.

AGUILAR: You're the one we were waiting for.

BREWER: Yeah. Why didn't you come sooner?

BETH BAZYN-FERRELL: I will be short and sweet, like usual.

BREWER: OK.

BETH BAZYN-FERRELL: Good afternoon, Chairman Brewer, members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials, and I'm appearing in support of LB1390. We do not have a position on LB1262. We wanted to thank Senator Bostar for introducing this bill. We really like the idea of the sort of the concept and the ability to have this conversation, and to look at what the intersection is between the issues that Senator Conrad raised about

the protections that are already in criminal law compared to First Amendment rights, and all of those things that this conversation has really taken a look at. And we would just offer anything that we can do to help if you look at this issue further. I'd be happy to take questions.

BREWER: Well, thank you, Beth. Questions? All right. Well, thank you for your testimony, and thanks for a lot of years of patience with us.

BETH BAZYN-FERRELL: Thank you. Well, I, I would say thank you to you, Chairman Brewer and Senator Lowe as well. You've been very patient and attentive, and we all appreciate that.

BREWER: All right. All right. Last call here. Any other testifiers on either LB1390 or LB1262? Because I need to read into the record. On LB1390. We had 6 proponents, 94 opponents, and 2 neutral. And on LB1262, we had 5 proponents, no opponents, and no one in the neutral. With that, we'll close our hearings on LB1390 and LB1262, and our hearings for the day for the Government Committee.