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Government, Military and Veterans Affairs Committee
February 11, 2009

[LB324 LB325 LB434 LB544]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, February 11, 2009, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB434, LB324, LB325, and LB544. Senators present: Pete Pirsch, Vice Chairperson; Robert Giese; Charlie Janssen; Russ Karpisek; Rich Pahls; Scott Price; and Kate Sullivan. Senators absent: Bill Avery, Chairperson.

SENATOR PIRSCH: Could I have kind of an initial head count on how many individuals were planning on testifying on the LB434; if you're an opponent or proponent of LB434, could I just...okay. Thank you. Good afternoon, all, welcome to the Government, Military and Veterans Affairs Committee meeting. I'm State Senator Pete Pirsch, I represent Legislative District 4. I'll be chairing today's committee meeting. Why don't we start with introductions of our committee members and there's a few who will be joining us a little bit later, but why don't you start here Senator Janssen.

SENATOR JANSSEN: Charlie Janssen. I reside in Fremont. I represent the 15th Legislative District which includes Fremont, all of Dodge County, and especially for today's purposes, Ames, Nebraska.

SENATOR GIESE: Bob Giese, District 17, Dakota, Dixon, and Wayne Counties.

SENATOR PIRSCH: And this is Christy Abraham, who is the committee counsel, very important to our committee.

SENATOR PRICE: Senator Scott Price, live in Bellevue, represent the 3rd District from Gretna to Bellevue there in Sarpy County.

SENATOR PIRSCH: Very good. And Sherry Shaffer is our committee clerk. And so what I'd like to do is make a few comments before we begin here. The bills are going to be taken up in the following order which, by the way, is listed on an agenda which is posted outside the door here. And we're going to start with Senator Janssen's LB434; then we'll move on to LB324, and LB325, both sponsored by Senator Nelson, who I see is here in the audience now; and finally, we'll finish on the fourth bill, LB544, Senator Giese here. So that said, sign-in sheets are at both entrances. There's a sign-in sheet which is beige in color, if you're going to come up and testify at the table here today. If you're not interested in coming up and testifying, but you would like to be on the record either as a proponent or opponent of the bill, there's another sheet that you can fill out. It's a white sheet. These are on the table near the entrances as well. Please do print your name and indicate who you are representing before testifying. If you are going to come up to the table and testify, please spell your name for the record, even if it's a simple name, always helpful. Introducers will make the initial statements. We'll follow

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2009

that by any proponents of the proposals and then opponents and finally those testifying in a neutral capacity. Closing remarks then will be reserved for the introducing senator only and just to ask you to listen to those who are testifying. If you're planning on testifying, to the extent that you can, if you don't have to be repetitive, just for time's sake, we'd ask that you not be. If you have a prepared statement or an exhibit, we're going to need 12 copies of that. If you don't have quite 12 copies, please just kind of raise your hand and one of our pages over here will make any necessary needed copies for you. That's Nick Bussey from Lincoln and Courtney Lyons from Plattsmouth who are our pages here today and we certainly appreciate their work. So if you do have that prepared statement or exhibit, just give it to the page who will distribute it or make copies. Other than that, we just ask that you turn off your cell phones and pagers and we'll begin then with LB434. Senator Janssen, if you'd like to take the hot seat. Whenever you're ready, Senator. [LB434]

SENATOR JANSSEN: Good afternoon, Mr. Chairman and remaining members of the Government, Military and Veterans Affairs Committee. For the record, my name is Charlie Janssen, C-h-a-r-l-i-e J-a-n-s-s-e-n. I represent the 15th District in the Nebraska Unicameral. I promise to be very brief. I appear before you today to introduce LB434. This proposal was brought to me by the Nebraska Association of Counties to better clarify ballot language regarding the continuance or discontinuance of township organizations. During the previous election cycles, voters have expressed frustration with the wording of our laws regarding ballot questions regarding townships. In some ballot questions, it appears the voters must choose between two negatives. The phrasing of some township questions creates confusion and unintended consequences. I am a proponent of clear and conscious language, especially when asking voters to cast their sacred right to vote. Representatives of NACO are here to testify on LB434 and respond to questions you may have about this. I thank you for your time and would be happy to answer questions if I could, and I'll defer the ones I can't to NACO. [LB434]

SENATOR PIRSCH: Very good. Are there any questions for Senator Janssen at this time? Very good, thank you, Senator. And before we start with the proponents, I'll just say we are joined now at this time by Senator Karpisek. And if you are a proponent and would like to testify at this time, if you would come on up and have a seat at the table. Thanks for being here this afternoon. [LB434]

BETH BAZYN FERRELL: Thank you. Good afternoon, Senator Pirsch, members of the committee. For the record, my name is Beth Bazyn B-a-z-y-n Ferrell, F-e-r-r-e-l-l. I'm an assistant legal counsel with the Nebraska Association of County Officials. We'd like to thank Senator Janssen for introducing this bill on our behalf. It's intended really to clear up some confusion that came up when the issue of changing from a township form of government to a commissioner form of government appeared on the ballot in November. For some background, there are 27 counties in Nebraska that have a township form of government. Counties are allowed to change from a township form to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

a commissioner form or vice versa through an election process. It's been a number of years since a county changed from one form to the other. The last time that happened was in 1985, 1986. Three counties had the issue on the ballot in November, into the general election. Those were Buffalo, Fillmore, and Phelps Counties. Those three counties are currently under a township form. They had the issue on the ballot to change to a commissioner form of government. As a side note, one county, Harlan County, will have that issue on the ballot in November of 2010. The issue passed in Phelps County. It did not pass in Fillmore and Buffalo County. But the question came up when the election commissioners were looking at the ballot language, how does this work? The questions were worded for continuance or for discontinuance of the township form of government. And as Senator Janssen indicated, voters were frustrated because it was a different kind of ballot language than what usually appears. Usually it's a for something and against something. So this was something different. And what we'd like to do is to change that language so it is more standard with other kinds of ballot questions of for and against. Now full disclosure, if you were on the committee several years ago, and even two years ago, we brought legislation forward to clarify how the process works. To change from a township form to a commissioner form, because there were some inconsistencies in the language. This is one of the sections that we looked at and we just missed this one when we were drafting those changes. So this is really a cleanup of that language as well. So again, we support the bill, and I'd be happy to try and answer questions. [LB434]

SENATOR PIRSCH: Thanks for your testimony. Are there any questions? I just have a few kind of background questions. You said 27 counties currently have a township form of government? What are the main kind of...what would you say...elements of difference between the commissioner form and the township form? [LB434]

BETH BAZYN FERRELL: With a commissioner form, they have either three or five board members. Those members can be elected by district or at large. In a township form, they have seven members, they're elected from their township districts. Really the distinction between township form and commissioner form, too, is based on another level of government that's in the township form. In a township form, there are township governments, governing boards, in each of those entities. And so it's another level of local government sort of beneath the county level. It's not that the county has supervision over them, but it's a smaller level of government. [LB434]

SENATOR PIRSCH: I see. Right. And so it's the ballot, the way in which the language on the ballot was phrased which, in your opinion, could have misled some of the voters into thinking they're voting way A when they in fact were voting B, right? [LB434]

BETH BAZYN FERRELL: Yes. [LB434]

SENATOR PIRSCH: Was the language drafted by...was that drafted by an Attorney

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2009

General, then? Is that who's given responsibility to draft the...to propose language for the ballots then or... [LB434]

BETH BAZYN FERRELL: Well, this language, the statute, we drafted that. [LB434]

SENATOR PIRSCH: Oh. [LB434]

BETH BAZYN FERRELL: So we made an error when we drafted it. [LB434]

SENATOR PIRSCH: I see. [LB434]

BETH BAZYN FERRELL: But the election commissioners can't change the ballot language when it's in statute, so they didn't have the option... [LB434]

SENATOR PIRSCH: I see. [LB434]

BETH BAZYN FERRELL: ...to make it read differently. [LB434]

SENATOR PIRSCH: Okay, so this language is enshrined in statute currently and you're asking to modify that language? [LB434]

BETH BAZYN FERRELL: Yes, that's correct. [LB434]

SENATOR PIRSCH: Okay. Okay. I wasn't sure. I know that for certain ballot questions, that the Attorney General's Office plays a role in drafting that. So thank you though for explaining that this isn't one of those occurrences, so. Based on this, anybody else have any questions? Thank you very much. Any other proponents of this measure? Seeing none, are there any...I'm sorry, I said, any other proponents of this measure? Any opponents? Anyone opposed to this measure? Anyone who'd like to testify in the neutral capacity? Very good. Senator Janssen, do you want to close. [LB434]

SENATOR JANSSEN: I may as well (inaudible) I'm getting up. [LB434]

SENATOR PIRSCH: Sure. [LB434]

SENATOR JANSSEN: I apologize, Mr. Chairman, members of the committee. The one thing I wanted to get on the record I should have put in my opening is this is in no way, I'm not favoring the township over the commissioner form of government. The one county that I do represent which is Dodge County has a township form of government, and they do a great job. So just wanted to clarify that for the record. [LB434]

SENATOR PIRSCH: Very good. Thank you very much. Okay. We don't have anything to enter on the record. Very good. That completes the hearing on LB434. We'll move on

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

to LB324. That's Senator Nelson's bill, if you'd like to come forward. Good afternoon and whenever you'd like to start. [LB434 LB324]

SENATOR NELSON: (Exhibit 1) All right. Thank you, Mr. Chairman. Good afternoon. Thank you, Mr. Chairman. As I said, and members of the Government, Military and Veterans Affairs Committee. For the record, my name is John Nelson, spelled N-e-l-s-o-n. I am a state senator representing District 6 in Omaha. And I am here today to introduce LB324. The intent of LB324 is very narrow in nature. At the present time, law prohibits electioneering, circulation of petitions, or performing any action that involves solicitation, within 200 feet of a polling place. The intent of the statute is to prohibit voter intimidation at the polls. Unfortunately, the law has resulted in an unintended consequence. If an individual's home, a property owner's home is located within 200 feet of a polling place, which is common, then a yard sign placed in that individual's private property would violate the law. It's this specific situation that LB324 hopes to remedy. As we originally drafted it, LB324 is very broad and opens the door to potential voter intimidation. This is not my goal. Accordingly, I have drafted an amendment which would accomplish the intended goal of LB324 without creating additional problems. The amendment becomes the bill. First, LB324 establishes that county election commissioners and clerks shall designate one or more primary voting entrances at each polling place. The election commissioners and clerks are not limited in the number of primary voting entrances that they can designate. Second, LB324 authorizes county election commissioners and clerks to establish a boundary within which yard signs cannot be placed. The distance guideline is discretionary in nature. However, the distance cannot exceed 200 feet from any primary voting entrance. Permissive language is necessary in this situation since polling places vary in size. As amended, LB324 would allow county election commissioners and clerks to protect voters from intimidation while allowing the freedom of expression of individuals who live near a polling place. A final change in LB324 is technical in nature. Presently, law prohibits electioneering within 200 feet of a polling place. However, electioneering is undefined. Instead of using the undefined term, the new language would prohibit any activity advocating for or opposing a candidate or ballot question. The intent of this change is to clarify the statute. I encourage you to advance LB324 to General File with the amendment. And thank you for the opportunity to open, and I will answer any questions that you might have. [LB324]

SENATOR PIRSCH: Thank you for your testimony. Senator Price has a question. [LB324]

SENATOR PRICE: Senator Pirsch, thank you very much. Senator Nelson, in reading this, I do have a concern in exactly the area that you bring this forward. Where in this amendment or bill do we see protection for a home owner to express their first amendment rights? I mean, if I had my house and I want to put a sign in it, you know, currently I understand this is a problem now, but this here would even see...leave, seem

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

to me to leave an arbitrary opening for a county official to say I'm taking it all the way up to your doorstep. You know, I'm worried about the property and the First Amendment rights there. [LB324]

SENATOR NELSON: I understand that. Thank you, Senator Price, for the question. I guess that's one of the reasons we have this...a range between, say, 100 feet and 200 feet where it's obvious to the county clerk or the election commissioner that that's going to violate that home owner's rights, because signs, other signs could be placed, you know, could not be placed any closer than 200 feet. And he couldn't do it himself, he or she could not do it themselves. If it's set at 100 feet or 100 feet, why, then that would obviate the problem. [LB324]

SENATOR PRICE: And if I may pursue a little further. [LB324]

SENATOR NELSON: Sure. [LB324]

SENATOR PRICE: Would you be amenable to some type of amendment that would say and/or not encroaching on private property? Because I can think of in particular the Golden Hills polling station on Golden Boulevard, Seventh-Day Adventist Church in Golden Hills, Bellevue. Right there, traffic congestion, you have a lot of private homes there, you have private businesses there, all well within the 200, and it becomes problematic on the election day to have people running around from multiple locations assigned and ascribing these distances. And I know they have to do it now, but pretty well a known distance. And I'd just be really concerned that we'd be asking someone here, and then we wouldn't be applying it maybe equally in some...it gets into more of a sticky wicket. [LB324]

SENATOR NELSON: I see the problem there. This was always difficult. You know, I'm not averse if the committee has some language in the form of an additional amendment that would protect or take care of that situation, I think that would be acceptable, certainly to me. [LB324]

SENATOR PRICE: Great. Thank you. [LB324]

SENATOR PIRSCH: Any other questions? Seeing none, I appreciate your testimony. And we'll take proponents of your measure at this time. [LB324]

SENATOR NELSON: Thank you, Mr. President. [LB324]

SENATOR PIRSCH: Sure. And we are joined now by Senator Pahls on my right. He's District 31, is that... [LB324]

SENATOR PAHLS: Yes, thank you. [LB324]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2009

SANDRA STELLING: Hi. Good afternoon, Senator and committee. I'm Sandra Stelling, S-a-n-d-r-a S-t-e-l-l-i-n-g. I am the Jefferson County Clerk, Register of Deeds and Election Commissioner, and Cochair of our Legislative Committee for our association. Our association would like to go on record in support of LB324. We did not know of the amendment or I did not know before I came here the amendment is here. We would still like to keep the 200 foot. I can see a problem with 93 counties, 93 election commissioners; you have 93 ways of setting how far away you're going to be. I guess from my own personal thing I would like this set a certain amount, and we would like to keep it at the 200 foot. As for us designating the entrance to the buildings, I think that is a good idea. Especially when we have big, large buildings that we're using such as a church or something like that. They have a back door, they have a front door, Sunday school wing on the end. If we can designate one, that would help us so we don't have to measure for all the signs. So I guess I would go along with most of the amendment except we would like a certain amount of footage from the entrance, and we would like to keep it at the 200 foot. [LB324]

SENATOR PIRSCH: Great. Thank you for your testimony. Are there any questions? I may ask you one. It looks...there is a little bit of a substantive change from the original bill as proposed and the amendment that we've received here. You see a problem insofar as there's no set or predetermined distance with the amendment other than it says, shall not exceed a distance of 200 feet? [LB324]

SANDRA STELLING: Yes. [LB324]

SENATOR PIRSCH: Okay. And you would like to see it set right at 200 feet? [LB324]

SANDRA STELLING: Yes. [LB324]

SENATOR PIRSCH: That's what you're... [LB324]

SANDRA STELLING: That's what all the counties are accustomed to right now. [LB324]

SENATOR PIRSCH: Okay. [LB324]

SANDRA STELLING: And I don't know, I understand that there are some counties that are having some difficulty with this. But I guess from what I can see, 200 foot isn't very far. And if you go down to 100 foot, you're really...you have the chance of people becoming very close to your polls. More chance of maybe talking to the people before they come into the polls. And I don't, we don't need any problems out there. (Laugh) [LB324]

SENATOR PIRSCH: Is there an issue of private property rights? In other words, I'm in

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

the house right next to the school where the voting is going on. Do you have any of those situations where if, you know, there's an issue of...do you right now would enforce...say I owned a property right next to the school, and say my property was, say, 25 feet, for the sake of argument away from the front entrance where people go in and vote, do I have a right to put up a sign absolutely on my property or am I governed by your standard, even though it isn't on the public right-of-way? [LB324]

SANDRA STELLING: You have to have that sign 200 foot away from the building,... [LB324]

SENATOR PIRSCH: Okay. [LB324]

SANDRA STELLING: ...as it states right now, from the building. [LB324]

SENATOR PIRSCH: Okay. Even... [LB324]

SANDRA STELLING: And in this last election, yes, I had to call a couple of people to remove them. Before I called them, they already knew it. [LB324]

SENATOR PIRSCH: Okay. [LB324]

SANDRA STELLING: But I gave them a courtesy call to ask them to remove the sign by 7:00 on election morning. And they were all gone. [LB324]

SENATOR PIRSCH: Sure. Even if it's on their private property? [LB324]

SANDRA STELLING: Yes, even if it's on private property (inaudible). [LB324]

SENATOR PIRSCH: Okay, thanks for clarifying that. Any other questions? Seeing none, I appreciate your coming down here today and testifying. [LB324]

SANDRA STELLING: Thank you. [LB324]

SENATOR PIRSCH: Any other proponents in favor of this bill? Good afternoon, Mr. Phipps. [LB324]

DAVE PHIPPS: (Exhibit 2) Good afternoon, Mr. Chairman, members of the committee. My name is Dave Phipps, P-h-i-p-p-s. I'm the Douglas County Election Commissioner. And I am here in support of LB324 as amended. And it really does make a big difference to us in Douglas County. Senator Nelson introduced this at our suggestion and we worked closely with them for this bill and for a number of reasons. It's the private property inset that makes the biggest difference to us. And even just in our own office, 35 days prior to each election, the Douglas County Election Commission is a polling

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

place because we allow early voting to take place. And 200 feet within our building is someone's private property lawn. And that person apparently is a political person because they put up yard signs all the time. And you know, frankly, we've had some, you know, we've gone knocked in their door and unlike Sandra's experience, they were not as pleasant (laugh) as they were to her. Because, you know, frankly, it's my lawn, if I want to put up a sign, I don't know why I should be, you know, not allowed just because I have the "unfortune" to live next to a polling place. And so, you know, really for us, 200 feet seems excessive. To me, 200 feet is a very long distance. It's two-thirds of a football field. So if you can imagine being at Memorial Stadium, two-thirds on down the way, that's how far it goes. And it's outside of the building. And so this piece of legislation helps us by letting us designate where the entrances, entrance or entrances are that voters are going to be using. You think if you've ever been to Omaha, Burke High School, which is a huge campus, one single building, you know, in the strict interpretation of the law, my poll workers have to walk 200 feet all the way around and do a perimeter around the building, even when the voters are only going to be using one or two entrances in the building and keeping it 200 feet from that...from that actual location. So this bill really allows us some discretion. It allows us to say, you know, in this instance, you know, you can go all the way down to the parking lot and that will take into consideration, you know, everything that's on this polling place's property, but it doesn't go across the street, it doesn't go, you know, into somebody else's yard, and prevent them from being able to have their own political views expressed. And so really this bill will help us, you know, alleviate some of the problems that we experienced during election time. [LB324]

SENATOR PIRSCH: Thank you. Are there any questions for Mr. Phipps? Senator Price. [LB324]

SENATOR PRICE: Mr...Chair...Senator Pirsch, thank you. Wow. Mr. Phipps, a couple of quick questions for you. Did you have lines this last election to vote? [LB324]

DAVE PHIPPS: Yes. [LB324]

SENATOR PRICE: Would you characterize those lines as short, long? [LB324]

DAVE PHIPPS: I would say for the presidential general, they were long. An average wait time of a half hour to 45 minutes. Our peak days were anywhere between three and three and a half hours. [LB324]

SENATOR PRICE: Okay, so if we have a 3.5-hour line queue, I submit that 200 feet is eaten up pretty quick. I mean, I take up some good space myself. (laugh) So I...that's why I say I don't think 200, and I know for a fact I wanted to go vote at the Sarpy County polling place and the line was wrapped around the building and I actually went to another street. So 200 feet, you know, from the building would have availed those

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

people from being, you know, bombarded by people wishing to express one view or the other. So that's one question I have. I do agree with the building versus the opening, but 200 feet isn't really not that long when we looked at the lines that we had this year. My second question, if private property is truly the concern, and we've already heard from one individual that they would have to remove it, if you told them they had to remove the political signs, they'd have to remove the political signs, is that correct? [LB324]

DAVE PHIPPS: I think it's a matter of whether you can convince the county attorney or the local law enforcement to do it. I mean, I obviously don't have any power to compel someone to do something. I can just, you know, call the police or call, you know, the county attorney and have them, you know, compel the police officers to go and do that. [LB324]

SENATOR PRICE: Okay, then to the point of my first question. Would you be, would you be amenable to making the language read such that to the private property line there? [LB324]

DAVE PHIPPS: Yeah, I mean, I would certainly think that, you know, a compromise for this that would take that into account is, you know, make it however many feet, but make it to the end of the property where the polling place is. You know, that sort of language, I mean, I don't have a problem with that at all. [LB324]

SENATOR PRICE: Thank you. [LB324]

SENATOR PIRSCH: And let me just make sure I've got it straight here what you're saying. You're saying make it 200 feet except in those instances where the public property, the place for the polling, meets a private residence and then wherever that line, say if it's 20 feet or 40 feet or 140 feet, if that's private property, you'd be free to post whatever you'd like on there. [LB324]

DAVE PHIPPS: Right. I'd have no problem with that, but I think what you'll find especially in Douglas County, I mean, and I can't really speak for, you know, the other 93 counties,... [LB324]

SENATOR PIRSCH: Um-hum. [LB324]

DAVE PHIPPS: ...but I think that most of the time that 200 feet is going to be, you know, it's going to be much less than 200 feet when you get to the end of the property. Even with, you know, our long lines, we didn't...we had it wrapped around in our parking lot, but it was certainly within even 100 feet of our entrance. [LB324]

SENATOR PIRSCH: With respect, you don't see a problem though if there is a private residence located, you know, ten...you know, right next door to the...in some cases, five

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

feet away from the prime entrance to it, from the primary entrance to the place where people go in and vote, you wouldn't have a problem with...so long as it's on private property right, up on...even though it could be right up on the lot line there. [LB324]

DAVE PHIPPS: It would not be a problem for me. [LB324]

SENATOR PIRSCH: Okay. [LB324]

DAVE PHIPPS: You know, frankly, you know, as someone who has worked in politics for a number of years, you know, this is what it's all about, you know, influencing voters. I mean, you know, I agree there certainly should be some distance but you know, it's not like they're in the voting booth with them. So I mean, I think it would... [LB324]

SENATOR PIRSCH: But you're okay with a total exception if it's on private property, even if that results in a sign two, three feet away from the door of the entrance. [LB324]

DAVE PHIPPS: Right. [LB324]

SENATOR PIRSCH: Okay, I just wanted to clarify that. Okay, are there any other...Senator Price. [LB324]

SENATOR PRICE: Senator Pirsch, thank you. One quickly, do you know of any other legislation from...in other states, neighboring states otherwise, that deals with this and in this manner? [LB324]

DAVE PHIPPS: I don't know the specifics in any other state. I mean, I know that there are electioneering restrictions in other states simply because of what I read for this last election but, you know, I didn't do any research as to what numbers they use. [LB324]

SENATOR PRICE: Okay. Thanks. [LB324]

SENATOR PIRSCH: Any other questions? Seeing none, I thank you for coming down here today, Mr. Phipps. [LB324]

DAVE PHIPPS: Thank you. [LB324]

SENATOR PIRSCH: We'll move on to any other proponents of this measure? [LB324]

BETH BAZYN FERRELL: Senator Pirsch, members of the committee, for the record, my name is Beth Bazyn, B-a-z-y-n, Ferrell F-e-r-r-e-l-l. I am an assistant legal counsel with the Nebraska Association of County Officials. We supported the bill in its original form, particularly the ability to designate one or more entrances. Our preference would have been to keep the 200 feet in statute. We've not looked at the amendment, but I would

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

imagine that our concerns would be the same about changing that boundary. Be happy to try and answer questions. [LB324]

SENATOR PIRSCH: Thank you very much. Any questions? Senator Price. [LB324]

SENATOR PRICE: Senator Pirsch. Ms. Ferrell, how would you feel about amending the language to go up to the lines of a private property? [LB324]

BETH BAZYN FERRELL: That's something that we would need to take back to our group. At the time that we took a position on the bill, we didn't have the amendment. I think there would be some of the concerns that have been expressed today, but I'm not sure which way our association would fall on that. [LB324]

SENATOR PRICE: All right. Thank you. [LB324]

SENATOR PIRSCH: Senator Sullivan. [LB324]

SENATOR SULLIVAN: Thank you, Senator Pirsch, and I apologize for being late. I had to introduce a bill in another committee. So could you give me a little background as to your association's concerns about this? [LB324]

BETH BAZYN FERRELL: Okay. Our concerns, I guess, we supported the bill in its original form. We do prefer the 200-foot boundary because that's in statute now, that's what people are accustomed to, election commissioners are familiar with. As far as the amendment, we would have to take that back. I think we would have concerns about the property rights that have been discussed here. I think we would have concerns about, you know, where that line should be, if it should be something that's flexible that's determined by each county. If it is, you know, if there would be probably 93 different ways of doing that. [LB324]

SENATOR SULLIVAN: Sure. [LB324]

BETH BAZYN FERRELL: It's just something that we would need to look at more closely. [LB324]

SENATOR SULLIVAN: Thank you. [LB324]

SENATOR PIRSCH: Very good. And I forgot to mention, we are joined here at this time by Senator Sullivan from the 41st District, is that right? [LB324]

SENATOR SULLIVAN: Um-hum. Thank you. Yes. [LB324]

SENATOR PIRSCH: Any other questions? Seeing none, thank you for coming down

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

today. Any other proponents of this measure? [LB324]

NANCY JOSOFF: (Exhibit 3) Committee Members, my name is Nancy Josoff, N-a-n-c-y J-o-s-o-f-f. And just so I don't kind of repeat some of the things that have been said, but what's come up. The voting entrances, I think designating something specific as opposed to using the property lines, like you have mentioned, I think that just helps solidify any confusion on where do we measure this from? Which point of which building? Where does that property line end? How is the law enforcement or are the election workers going to know where that property line ends for that particular piece of ground? We had an issue with that a couple of years ago. So I think by designating the voting entrance, that does help everybody to know what we're talking about. If you have an entrance on the back of a school building that no one's going to be around and they're right up next to the building, then it's not going to even make any difference because no one's going to be using that location. But the other item that I want to mention, I do think that we need to keep the 200 foot in place. Part of that is because we have Statute 32-1525 that currently allows exit polls and interviews within 20 feet of the entrance of our polling facilities. If you have individuals there that are, you know, having these exit interviews and things like this going on and you allow these other individuals to encroach a little closer, you can start running into a few unnecessary problems that, you know, with some of the conflicts of interest going on there. So I just think those are a couple of other things that you might want to consider when you're looking at this legislation. [LB324]

SENATOR PIRSCH: Great. Well, thanks for your testimony. Now is...with respect to your last comment there, that would delve into a topic that or kind of a related topic but not one that is addressed squarely by the bill. [LB324]

NANCY JOSOFF: Correct. It's not addressed here, but it's something that I think since they allow those types of activities to take place, you know, that close, if you start to allow these other individuals that are doing their campaigning to come in a little bit closer, I just think you might be opening up a can of worms there that you might not want to address. [LB324]

SENATOR PIRSCH: I see. I see. And currently that's at 20 feet if you wanted to do a poll, exit poll or interview, is that right? [LB324]

NANCY JOSOFF: Right. Um-hum. [LB324]

SENATOR PIRSCH: Okay. I do have a question with respect to...and I don't know, have you had an opportunity to look at the amended... [LB324]

NANCY JOSOFF: I have not. [LB324]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

SENATOR PIRSCH: You have not. Okay. And it's probably, there is just to kind of describe it, it looks like from the original bill, the heart of it is just that the election commissioner or the county clerk shall designate one or more primary voting entrances for each polling place. And with the new amendment is...or the amendment now as introduced, it kind of takes on a little bit more in scope, in terms of definitional explaining electioneering, what that means. And then changes the...it says that an election commissioner...it gives a discretion with an election commissioner or county clerk to determine an appropriate distance, but in all events, it cannot exceed 200 feet. And this is the quote, from any primary voting entrance designated pursuant to Section 32-904. And now I know you haven't had a chance, a heads up, but at the entrance...in the original bill it kind of gives a definition. It says, for each polling place where other buildings were...or it allows the election commissioner or county clerk to designate one or more primary voting entrances. In this amended copy it says, any primary voting entrance designated pursuant to Section 32-904. So that's existing law presumably and so the question is, I mean, am I correct in that assumption? Does 32-904 to your knowledge, Section 32-904, does that...is there currently a list of or a definition of primary voting entrances in the law, do you know that? [LB324]

NANCY JOSOFF: You know, I don't know that statute right off the top of my head. Yeah. [LB324]

SENATOR PIRSCH: That's probably a question I should wait and ask Senator Nelson. [LB324]

NANCY JOSOFF: And I don't think..at this point, what they do is it's just from the building. [LB324]

SENATOR PIRSCH: From anywhere, any point in the building? [LB324]

NANCY JOSOFF: Well, it doesn't say. And that's why I think it's a little bit vague and the idea that we're stating voting entrances clarifies that. Because when they say the building, okay, what...do you mean this corner of the building or do you mean, which, what part of that building do you mean? [LB324]

SENATOR PIRSCH: But it does currently say the building as opposed to some entrance or something. [LB324]

NANCY JOSOFF: Right. Um-hum. It says 200 feet from such polling place or building is the way it's worded right now. And so if we absolutely...if we designate it's the voting entrance, then you know, you take the handle of that door and you measure your distance away from there. And that also, that's going to shorten that 200-foot distance because if you have a 100-foot building and the door is in the middle of the building, there's 50 feet right there. So that's something you, I mean, if you want to take that into

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

consideration, too, when you're looking at those numbers. [LB324]

SENATOR PIRSCH: Right you are. So I guess I'll save that question for Senator Nelson on his close. Because you're right. The original...the statute as it currently stands indicates that it's 200 feet from any such polling place or building which makes it seem as though the entire building or structure would be. [LB324]

NANCY JOSOFF: Right. [LB324]

SENATOR PIRSCH: So thank you very much. Are there any questions? Senator Sullivan. [LB324]

SENATOR SULLIVAN: Thank you, Senator Pirsch. Just curious, are you an election commissioner? [LB324]

NANCY JOSOFF: Yes, I am. I am in Cass County. [LB324]

SENATOR SULLIVAN: Okay, very good. Thank you. [LB324]

SENATOR PIRSCH: Senator Price has a question. [LB324]

SENATOR PRICE: Senator Pirsch, thank you. Ma'am, a real quick question. This amendment, and I believe the bill also calls for a primary voting entrance, begs the question, do you designate secondary entrances? [LB324]

NANCY JOSOFF: We have never really worried about designated entrances in like specifically by statute. I mean, we take the entrance that's going to be the closest to the voting area inside. Most of them are, you know, the voting area is right inside the front door, so it's not an issue. But we do have some schools where there's the potential of more doors and things that they could be using and we put signage outside and use those doors. So according to the statute, this was implemented, yes, then we would be designating, specifically designating, this will be the entrance for this polling site. [LB324]

SENATOR PRICE: But again, so you wouldn't go about the business of designating secondary entrances? [LB324]

NANCY JOSOFF: We could do that in a school. Yeah, it would depend on the particular facility that we are at. I have...we have pictures and that of all of our facilities so that way we can give them to the poll workers. So if we would want to have them designate maybe two entrances, we could do that. I don't feel that we have a need to do that really in any of them that I can think of right off hand in our county. [LB324]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2009

SENATOR PRICE: Well, in your...in your scenario, the 100-foot building, you know, or a 50-foot building, if you add another entrance on the school and you put up a poll entrance sign, well, then we would be, well, which one is the primary, which one are we measuring from? [LB324]

NANCY JOSOFF: But it would be either entrance, you know. So you, I mean, at least you would be, you would have the wording that tells you the entrance. No matter whether it's primary or secondary. [LB324]

SENATOR PRICE: Okay. Thank you. [LB324]

SENATOR PIRSCH: Thank you. [LB324]

NANCY JOSOFF: Thank you. [LB324]

SENATOR PIRSCH: Are there any other proponents here to testify in favor? Seeing none, we'll move to opponents. [LB324]

NEAL ERICKSON: Mr. Chairman, members of the committee, for the record, I am Neal Erickson. I am Deputy Secretary of State for Elections, that is spelled N-e-a-l E-r-i-c-k-s-o-n, here on behalf of Secretary of State John Gale to testify in opposition to LB324. And I would start off by saying that I thank Senator Nelson and his office because they have consulted with us about this. They knew we were opposed to the concept and have tried, as much as possible, to come to some kind of compromise. And I think the amendment is an attempt at that, but unfortunately it's something that Secretary of State Gale cannot support. As Secretary of State Gale says, the current law imposes a 200-foot, as he calls it, zone of sanctity--I sometimes call it a "zone of sanity"--around each polling place where people are free from campaigning. I know there have been situations, depending on polling places as to where this occurs, how far does this extend. But in all honesty, I think the law is pretty basic in saying 200 foot from any polling place or the building. The bill attempts to identify a primary entrance and actually what the bill does is it allow...designate one or more primary entrances. And with the amendment, says that electioneering in terms of, oh, someone advocating or handing out polling cards or trying to convince people to vote will still be prohibited 200 feet. But that displaying any sign advocating a candidate can be up to 100 feet...well, excuse me, not within a zone not to exceed 100 feet. So it could be a very short zone. In addition, we were talking about larger buildings that might be 200 feet around, let's say, and you do not have a designated...you have not designated a particular entrance, it could actually be on the door itself advocating a candidate. This is why we think that or Secretary of State Gale has taken the position that probably the simplest way to do it is the way it is right now, is a 200-foot zone around any polling site. As you've heard from some of the clerks, yes, sometimes it's gone to private property and in the...the practice in that case has been to ask the resident to remove it during

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

election day. And for the most part, that is accommodated. The one other thing I'd mentioned about the amendment is that it removes the phrase electioneering. And Senator Nelson is correct that it's an undefined term in statute. However, there is some case law as well as AG Opinions that do deal with the term electioneering. And I would hate to remove that phrase from statute and lose some of that case law and AG Opinions as to regulating some of the conduct. So we would encourage you not to advance LB324 to General File. And with that, I'd answer any questions you might have. [LB324]

SENATOR PIRSCH: Thank you, Mr. Erickson. Any questions? Senator Giese. [LB324]

SENATOR GIESE: Thank you, Senator Pirsch. Mr. Erickson, then so can you tell me when the current...the 200 feet, when was that established? [LB324]

NEAL ERICKSON: If I remember correctly, it was in the mideighties. I can remember when I first started working on campaigns in the early eighties, we had people who were handing out poll cards right outside the entrance to the polling place. If I remember correctly, I believe it was in reaction to some petitions circulating that went on in Omaha at a mayoral election, I want to say in 1985, for the recall of a mayor in Omaha. And I think that's where this zone of sanctity kind of came from, the concept of it. [LB324]

SENATOR GIESE: So the current guidelines then established by the Secretary of State, then this new bill would in no way make that clearer, I guess, in your opinion. Senator Nelson's bill wouldn't make that any...it wouldn't make this any clearer. It would muddy... [LB324]

NEAL ERICKSON: Well, in terms of...it depends on what activity. I mean, I think the amendment deals with two different kinds of activity. If I understand the amendment correctly, it's going to prohibit, oh, say somebody campaigning or having a bullhorn or, you know, grabbing people one-by-one within the 200 feet. But for signage it allows it at any distance up to 100 feet as designated, from that primary entrance as designated by the election official. [LB324]

SENATOR GIESE: And this is a statewide guideline used in all counties? [LB324]

NEAL ERICKSON: If this would be passed, it would be. It would be a state statute. So yeah it is, it would be a law to be followed by all counties. [LB324]

SENATOR GIESE: Thank you. [LB324]

SENATOR PIRSCH: Great. Senator Sullivan. [LB324]

SENATOR SULLIVAN: Thank you, Senator Pirsch. [LB324]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

SENATOR KARPISEK: Go ahead. [LB324]

SENATOR SULLIVAN: And, again, I apologize because I have a feeling this may have been covered before I came in here. But under the current statute with the courthouses being an early voting, does this statute go into effect or the signage limitation, go into effect as soon as early voting starts? [LB324]

NEAL ERICKSON: Yes, it would be. [LB324]

SENATOR SULLIVAN: Okay. [LB324]

NEAL ERICKSON: And the Secretary of State has interpreted that once it goes to...once the absentee voting opens or excuse me, early voting opens, that that location where early voting is occurring is a polling site. [LB324]

SENATOR SULLIVAN: Okay. Very good. Thank you. [LB324]

SENATOR PIRSCH: Great. And Senator Karpisek. I should say what district do you represent now? [LB324]

SENATOR KARPISEK: If you don't know, Senator Pirsch, you seem to know everyone else's. [LB324]

SENATOR PIRSCH: Well, I know you represent Wilber. [LB324]

SENATOR KARPISEK: It's 32. [LB324]

SENATOR PIRSCH: Thirty-two, of course. [LB324]

SENATOR KARPISEK: Thank you, (laugh) Senator Pirsch. Mr. Erickson, would you be opposed to defining where the line is of the 200 feet? I mean the...I don't know about the primary door, but somehow to say the property line or the edge of the building, I don't know. [LB324]

NEAL ERICKSON: Well, I think as Senator Pirsch pointed out, you're going to have a variety of polling site situations. And, you know, if you say, well, it's only to the edge of the property, it's quite possible that, you know, you may have people in effect campaigning 15 feet away from that entrance. So it does become a little bit difficult and that's why, you know, perhaps that 200 feet maybe is a little bit broader, but it is something that is fairly easy to determine and... [LB324]

SENATOR KARPISEK: But maybe so many feet from a point, 200 feet from the front

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

door or 200 feet from the edge of the property line. I think that's what...nobody knows. Does it mean the edge of the courthouse lawn? Does it mean the front door? [LB324]

NEAL ERICKSON: And you know, you look at situations and with a variety of polling sites you're going to have, it's going to be a little bit different. I think one of the major concerns with Secretary of State Gale and me personally also is to make sure these include a parking lot. Because not only for a safety concern, but this is where people are parking their car and walking in, and they should have that ability, you know, and I don't know if I'd make it akin to that when we don't do Final Reading, that little time period you have between, you know, not doing Final Reading and voting, you just have that little time frame where you're removed from the rough and tumble of the campaign. [LB324]

SENATOR KARPISEK: Okay, thank you. Thank you, Senator Pirsch. [LB324]

SENATOR PIRSCH: We have a follow up question, Senator Price. [LB324]

SENATOR PRICE: Senator Pirsch, thank you very much. Sir, do you know of any times when people have been cited for not removing signs or any type of electioneering activity from their personal property? [LB324]

NEAL ERICKSON: I'm not aware of anybody that has ever been cited because whether it be circulating petitions or whether it be just plain yard signs, you know, every circumstance, at least that I've heard of, they've complied. I assume there are some out there where they may not have. And you know, I assume in those cases, since I have not heard of any kind of prosecution, I assume the law enforcement has declined to prosecute. [LB324]

SENATOR PRICE: Thank you. [LB324]

SENATOR PIRSCH: Any other questions? Thank you very much, Mr. Erickson. [LB324]

NEAL ERICKSON: Thank you. [LB324]

SENATOR PIRSCH: (Exhibit 4) And we'll see if there's any other opponents of this bill out there. Seeing none, well, I'm going to read into the record a letter from Diane Olmer who opposes LB324. Very good. Are there any individuals who are here to testify in a neutral capacity regarding this bill? Very good. Seeing none, Senator Nelson, you're free to close. [LB324]

SENATOR NELSON: Thank you, Chairman Pirsch. How long do I have? (Laugh)
[LB324]

SENATOR PIRSCH: As long as you want. You're doing quite well today. [LB324]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

SENATOR NELSON: Thank you members of the committee. I want to thank the other people that testified on behalf of the bill or parts of it. I guess let's begin by, in closing, by taking a quick look at the green bill, if you have that. On page 3, on line 21, I think the county clerks and election commissioners who said that they were in support of this original bill, indicated that we were talking about 200 feet. We were not. You'll see there that in the green copy, we had to cast ballots within 100 feet of any primary voting entrance. Now what we did in doing the amendment is change that so we looked at it as a better way in an effort to compromise and perhaps come into some agreement with the Secretary of State's Office to make it discretionary on the part of the election commissioner or the county clerk. I think the testimony here today has pointed out the huge variety of situations that we have in the various counties. And it tells us that we need to have a statute which gives the people, those persons running elections, some discretion. I don't know how it is in Jefferson County or some of the smaller counties or their polling places. They probably have far less than we do in Douglas County and Lancaster County. But any of you who have campaigned in cities, it's a sea of parking lots around a lot of polling places, and you need some discretion, at least to give those who want to place yard signs some reasonable access where the yard signs and all the trouble they've gone to, can't be viewed by people as they come in. We say that it can be no further away, in our amendment, than 200 feet. But it could be as close as 100 feet, and I think we just have to rely on the election officials, those...the election commissioners and county clerks, to arrive at something that's fair in this zone of sanctity that we have. Senator Price, you've addressed the matter of property. I think, although we're willing, you know, with an amendment to cover that sort of situation, I think we have to be careful in using the word property line or right-of-way because we might wind up in--I can think of clubhouses in Omaha, for instance--that are only about 20 or 25 feet away from the property line. And I think we have to maybe express that in a way or cover it in a way that's going to give those people protection there. So that's something we need to look at. Electioneering is such a nebulous word, and that's probably why we've had Attorney General's Opinions on what it means. It just seems to me at this juncture that this is an opportunity for us to clarify what electioneering is or what we're considering it to be and that is either advocating for or against a candidate or a ballot question. And I think that makes it crystal clear. So I think that's a good amendment for the statute. The other thing I would say is that we're not talking about exit polls or entrance polls. That's a completely different statute that governs that, that you have to be at least 30 feet away. Those are different situations. We're not...we're talking about yard signs here, just the placing of yard signs. And those of you who have campaigned are well aware that especially when you're running for the Legislature, one of your principle weapons, so to speak, is the use of yard signs. And you like to have them around your district, and you also like to have them at polling places, if you can afford to do that. And if 200 feet, a rigid boundary like that is going to shut you out, then I think we ought to allow some discretion there so that it can be adjusted down to a little more reasonable distance. So that would be my closing on this, kind of a rebuttal of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

perhaps some of the arguments that we've heard. And I would encourage the committee to take a close look at this and to send the bill on to General File as amended. Thank you, Mr. Chairman. [LB324]

SENATOR PIRSCH: Thank you. Just some follow-up questions, and I appreciate that. In subsection (2), you had crossed out the term...well, it starts out saying: no person shall, and then do any electioneering which has been crossed out, doing any electioneering. And then some other things: or participate, in advocating, other than allowed for in subsection (3) of this section. And that's your amended section. And that in subsection (3) seems to deal with the...does that deal exclusively with yard signs? It says...it starts out: No person shall display any sign advocating for or opposing a candidate. [LB324]

SENATOR NELSON: Yes. Yeah. Those are signs. [LB324]

SENATOR PIRSCH: How does that...let's say, forget the signs. Let's talk about, I'm a candidate who wants to show up and wave a sign or you know, kind of just wave my hand at a poll, under your amendment, how does this affect me, this change? [LB324]

SENATOR NELSON: You mean, if you are just carrying a sign or... [LB324]

SENATOR PIRSCH: I don't have any signs with me. I'm just...got a shirt on that, you know, with a sticker and I'm just kind of waving. How does this affect me then? By cross out...by crossing out the word...well, I mean, in subsection (2), it says: no person shall, and then you crossed out the word "do any electioneering." [LB324]

SENATOR NELSON: It takes out electioneering and leaves the circulate petitions or perform any action or participates in any activity advocating for or opposing a candidate, so. And I think this applies to anyone. [LB324]

SENATOR PIRSCH: But this says, but then it's followed and it says "within any polling place or any building designated for voters." [LB324]

SENATOR NELSON: Well... [LB324]

SENATOR PIRSCH: Or is there a 200...oh, okay, yeah, so there is a 200 foot. [LB324]

SENATOR NELSON: Right. [LB324]

SENATOR PIRSCH: So you're not changing... [LB324]

SENATOR NELSON: No. [LB324]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2009

SENATOR PIRSCH: ...the persona jurisdiction,... [LB324]

SENATOR NELSON: Yeah. [LB324]

SENATOR PIRSCH: ...you're changing the,... [LB324]

SENATOR NELSON: That's right. [LB324]

SENATOR PIRSCH: ...around the sign. You're just talking about signs. I can see that now. So I appreciate that. [LB324]

SENATOR NELSON: Yes. But on that subject, Senator Pirsch, there's a perennial problem in...within the polling place. Somebody comes in, especially with T-shirts and things of that sort,... [LB324]

SENATOR NELSON: Um-hum. [LB324]

SENATOR PIRSCH: ...advocating for a client or for a candidate rather, something like that. And so this poses a little bit of a problem for election officials. But my perception is that generally they will just advise that person that they shouldn't be there because it is a form of advocating for or against. [LB324]

SENATOR PIRSCH: Okay. And then just two quick questions. In the amendment, on page 2, in the first...in your first bill, right, the green copy, you gave a definition of primary voting entrances or you gave a way for voters or for everyone to tell where the 200-foot line should start. Because you say, election commissioner or county clerk will designate one or more primary voting entrances for each polling place rather than...so that tells us where the starting point is and where you measure the 200 feet. In this copy, you...that gets excluded and you say...that language gets excluded and you say instead: the distance determined by the election commissioner or county clerk shall not exceed 200 feet from any primary voting entrance designated pursuant not to the commissioner or county clerk, but rather pursuant to Section 32-904. [LB324]

SENATOR NELSON: Um-hum. [LB324]

SENATOR PIRSCH: And that seems to refer to existing law, correct? [LB324]

SENATOR NELSON: Yeah. Right. We didn't change anything there. [LB324]

SENATOR PIRSCH: Okay. But we don't have a...I don't have a copy of 32-904. [LB324]

SENATOR NELSON: It's only, yeah...you don't have the amendment? [LB324]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

SENATOR PIRSCH: Oh, I'm sorry, here it is. Yes. [LB324]

SENATOR NELSON: Section 2 is what we changed with the amendment, we left Section 1 alone. [LB324]

SENATOR PIRSCH: Okay, so that's saying basically, then it does leave it the same. [LB324]

SENATOR NELSON: Right, right. [LB324]

SENATOR PIRSCH: The election commissioner or county clerk will... [LB324]

SENATOR NELSON: Right. [LB324]

SENATOR PIRSCH: ...okay, thanks for explaining that. And let me just ask this final question. If you are leaving it up to the discretion then of the election commissioner or county clerk to within that 200 foot maximum radius to designate a line, does that allow for an election commissioner or a clerk to say, okay, give, you know, different feet, different footage for different locations, all within the same, you know, neighborhood even. If this school within the same neighborhood, I'm going to say 20 feet. Across the street at the other school, I'm going to say 80 feet. And so I mean, is...or do you envision a uniform standard amongst...once the election commissioner designates a footage, say 150 feet, 200 feet, whatever it is, that that same footage would be universal? [LB324]

SENATOR NELSON: No, I don't envision universality. [LB324]

SENATOR PIRSCH: Okay. [LB324]

SENATOR NELSON: I think there is so many different situations. I think of a clubhouse, for instance, out in Regency in my district where you come in and there's a circular drive and there are two entrances right there. [LB324]

SENATOR PIRSCH: Um-hum. [LB324]

SENATOR NELSON: So that's why, you know, it's difficult just to designate one, they might as well just designate two. So that...all right. As far as the distance is concerned, I think the election commissioner or county clerk where it's necessary, I suppose they could adopt it. Well, it's going to be 200 feet unless we have a special situation here. And there you would inform the election officials at that polling place. I can't remember the name of the person who is in charge, but they would know, they would have their instructions probably in writing as to how far out they could go, you know, no closer than 100, but up to 200, or 50, or 200. [LB324]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

SENATOR PIRSCH: Okay. Thanks for clarifying that. [LB324]

SENATOR NELSON: All right. [LB324]

SENATOR PIRSCH: Senator Price has a follow-up question. [LB324]

SENATOR PRICE: Senator Pirsch, thank you. Senator Nelson, first, a quick comment. I would also be careful of limiting it to just yard signs. Large signs in the back of pickup trucks are known to circulate parking lots along with magnets...so I know that, I am very conscientious that we didn't have a magnet, a bumper sticker, or anything. But I just want to make sure we don't get ourselves penned in limiting it to a yard sign. [LB324]

SENATOR NELSON: All right. All right. [LB324]

SENATOR PRICE: And the other thing, one more question is, do we have an idea of the level of effort it would take for each of our counties to enact this legislation and how much of a burden that would place on them to go to all their sites? Like we just took Douglas County, I know I didn't ask Mr. Phipps, and I apologize for not having that question in the forefront, but what would be the level of effort to go to every single polling site and say, oh, here we're going to measure this, there we're going to measure this and keep that? You know, they have so much they're doing, and did we look at that in drafting this? [LB324]

SENATOR NELSON: I don't...I don't believe we...I can only speak from experiences as a chief deputy election commissioner many, many years ago. [LB324]

SENATOR PRICE: Okay. Good. [LB324]

SENATOR NELSON: And I was in charge of locating polling places, and I suppose that's something that a deputy could do or the county clerk or election commissioner themselves. I think you're right. Election days are an absolute zoo. This would have to be done ahead of time. Some determination where there are problem places or there have been complaints because of signage, and take a look at that early on and decide what seems reasonable and then be sure that the person in charge of that polling place is aware of a special designation there as far as distance. [LB324]

SENATOR PRICE: Would we be encumbered? Would that individual be encumbered with notifying the different campaign people? Would they have to publish this in a notice to let people know so they wouldn't be...you know, if you have got a myriad of people doing it, and they don't know. Now we did this a couple of weeks in advance and we've set this early voting, we've set this new designation for distance; would we be responsible for making sure they knew through public notice or something of that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2009

nature? [LB324]

SENATOR NELSON: I think that would put too much, Senator, too much of a burden on the election...county clerk. [LB324]

SENATOR PRICE: Okay. [LB324]

SENATOR NELSON: I think on the day of the election, generally flags are put out to show the distance there as far as where yard signs can go if that's the portent of your question there. [LB324]

SENATOR PRICE: Okay, thank you. [LB324]

SENATOR NELSON: You bet. [LB324]

SENATOR PIRSCH: Great. Senator Karpisek. [LB324]

SENATOR KARPISEK: Thank you, Senator Pirsch. Senator Nelson, you just said that 200 feet shuts you out in that from putting a sign, but I just wanted to bring up, it also shuts out your competition, so. [LB324]

SENATOR NELSON: (Laugh) All right. [LB324]

SENATOR KARPISEK: I guess that's all I want to say. [LB324]

SENATOR NELSON: All right. [LB324]

SENATOR KARPISEK: (Laughter) It'd be different if it was different rules, but. Thank you. [LB324]

SENATOR NELSON: Okay. [LB324]

SENATOR PIRSCH: Very good. Any other questions? Seeing none, thank you very much for... [LB324]

SENATOR NELSON: Thank you, members of the committee. [LB324]

SENATOR PIRSCH: LB324 and since you're going to be the sponsor of LB325, we're not going to let you leave the hot seat for now. [LB324 LB325]

SENATOR NELSON: All right, Mr. Chairman and members of the committee. Once again, I want to thank you, and for the record, my name is John Nelson, spelled N-e-l-s-o-n. As you know, I am a state senator from Omaha representing District 6

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2009

there, and I'm here now to introduce LB325. LB325 contains largely technical changes to the election act. Before I begin describing the bill, I want to thank Neal Erickson and the Secretary of State's Office for working with my staff to make LB325 better. As was the case with LB324, this bill then has an amendment which becomes the bill and satisfies the concerns of the Secretary of State. First, LB325 permits county election commissioners and clerks to instruct voters to cast a provisional ballot in the event of an error on the precinct's list of registered voters on election day. Secondly, LB325 rewords Section 32-129 so that in the event that the election commissioner or clerks receive information that a voter may have moved, the commissioner or clerk shall indicate in the register that that voter may have moved. Third, candidates filing for city or village offices would be required to submit their petition to the county election commissioner or clerk or to file there, rather. Finally, LB325 rewords the oath on a voter registration form pertaining to the voter's age. Testifying after me are several county election commissioners and clerks who can give specific accounts of the needs for LB325. I would be happy to answer any questions that you might have now or perhaps later. [LB325]

SENATOR PIRSCH: Very good. And I know there will be others after you that explain, so I'll hold them off until, if I have any questions of you at the end. Anybody else? [LB325]

SENATOR NELSON: All right. Thank you. [LB325]

SENATOR PIRSCH: Very good. First proponent of LB325. [LB325]

NEAL ERICKSON: Mr. Chairman, members of the committee, once again, for the record, my name is Neal Erickson. I'm Deputy Secretary of State for Elections here on behalf of Secretary of State John Gale to testify in support of LB325. Once again, thanks to Senator Nelson's office, this was one where we were able to work out all the questions and problems we anticipated with it. I think Senator Nelson did a good job of summarizing it. It...one portion of the bill deals with a couple situations where current statute says, we don't issue a provisional ballot. Those situations are where there is an obvious error in the poll book. And what that would encompass would be something like my name on the poll book was spelled N-e-i-l Erickson. The address the same, everything. That can be corrected right in the poll book without having to go to provisional is the way current law works. The other situation is where someone moves within a precinct. So they're within the same precinct, voting at the same polling place, their name is in the poll book, their address is different. Current law allows you to update the address and let them vote without casting a provisional ballot. What this bill does is makes issuing a provisional ballot permissible. Instead of updating the record at that time, it allows the election commissioner or county clerk to have their poll workers do a provisional ballot instead and not have the poll workers mess with the poll book. So it gives some discretion to the election commissioner and county clerk in terms of how

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

they want their poll workers operating. Whether they want them to automatically update that record or whether they want to use a provisional ballot and update the record at a later time. Another provision in the amendment removes the city and village clerks as filing officers for offices for the city or village. Current law allows a city or village clerk to be a filing officer for a village board member or city council and requires them to forward the filing within one business day. Unfortunately, that sometimes doesn't happen. When you get close to a deadline, it has the potential to really screw up the county clerk as they're trying to get their ballot laid out, etcetera. You know, right now, the current law is very limited as to what they're a filing officer for. What the amendment would do is make the county clerk the filing officer even for city and village offices. They currently accept those anyway. But it removes the city clerk as a potential filing officer. There are some other, what I consider minor changes. There is a change to a challenge form so the age language mirrors what's actually on our voter registration card. There is a minor change in some NVRA provisions where right now, currently, under federal law, if you move within your jurisdiction, you get a change of address, it says this guy moved within your county. You're supposed to update the address and then send them a confirmation card, whereas if he moves out of the county, you don't update the address, you just send the confirmation card. We use the word...the current statute uses the word "immediately" because the idea was do it first. But technically that's not in federal law so that language is being removed, and there's a notation put on there, may have moved. So, without getting more technical on some of these, I'll close there and answer any questions you might have. [LB325]

SENATOR PIRSCH: Very good. Does anyone have a question? Senator Price. [LB325]

SENATOR PRICE: Senator Pirsch. Thank you, Mr. Erickson. Thank you for helping me a little bit with your taking out the word immediately. I just wondered though is there a standard period to report these things. And we've left it, you know, report it, but that year, that quarter century? [LB325]

NEAL ERICKSON: Yeah. Well, and you almost have to do it before you send the confirmation notice. And now whether you hold off sending that confirmation notice two weeks or three weeks or four weeks, if you go much more than that, you're probably getting to the edge of federal list maintenance areas. I don't think there's any hard and fast line there as to when you have to do this list maintenance process, but immediately probably isn't the proper word. [LB325]

SENATOR PRICE: Is there a time, place, a time period you think is...and would it be of any advantage to putting one in to say within two weeks or within a certain date, time? [LB325]

NEAL ERICKSON: Well, the difficulty is , is the clerks will sometimes, they get information about people moving fairly regularly. [LB325]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

SENATOR PRICE: Gotcha. [LB325]

NEAL ERICKSON: And what they will do is they will batch it. [LB325]

SENATOR PRICE: Okay. [LB325]

NEAL ERICKSON: And you know, if I was to say two weeks, yeah, that might work great for Jefferson County because in two weeks, they've got a good-sized batch. It may not work as well for Arthur County or it may not work as well for Douglas County that wants to go with a larger batch to get more economies of scale. [LB325]

SENATOR PRICE: All right. Thank you. The other thing, I'm curious again, maybe I missed it in the testimony, why are we making it going from 15 days to 7 days, giving less notice to people? [LB325]

NEAL ERICKSON: Actually, that provision was stricken in the amendment. [LB325]

SENATOR PRICE: Did we get an amendment? [LB325]

_____: We haven't distributed it yet. [LB325]

NEAL ERICKSON: Okay. (Laugh) [LB325]

SENATOR PRICE: Okay. That was a good catch on my part. You agree with me. Now we're good. All right. I'm...thank you. [LB325]

NEAL ERICKSON: That basically was a misunderstanding. Actually that 15 to 7 days refers to a notice to the poll worker. [LB325]

SENATOR PRICE: Great. [LB325]

NEAL ERICKSON: One of the commissioners...one of the election commissioners was under the impression they had to notify them of their polling place where they were working at least 15 days prior. They weren't capable of doing that. Actually this provision...this is a provision that says, we're notifying you that you're going to be a poll worker,... [LB325]

SENATOR PRICE: Right. [LB325]

NEAL ERICKSON: ...which is already done well in advance of that 15 days. So that ended up being stricken. [LB325]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

SENATOR PRICE: Okay. I read it. Good. I'm glad I'm thinking in the right way. [LB325]

SENATOR PIRSCH: Very good. Any other questions? Seeing none, we'll move on to the next testifier. Thank you so much. Okay. Next proponent. [LB325]

SANDRA STELLING: Good afternoon, again. I'm Sandra Stelling, S-t-e-l-l-i-n-g, Jefferson County Clerk, Register of Deeds and Election Commissioner and also the cochair of our legislative committee for our association. I would like to ask for support of LB325 as amended. We did have a chance to go over that this morning. We like the idea that everyone files in one place for the villages and the cities, but we did bring up one thing. Personally, I have one bill or city that the filing fee is paid to the city clerk right now. We would like it clarified in this bill that that fee would be paid to the county, that we would not have to pay that back to the city. So if it's going stay at the filing places, the county clerk, all the fees would stay with the county clerk. And we do like the options of a little more leeway with the provisional ballots. And if you've got any other questions, I'd like to...I'll try to answer them for you. [LB325]

SENATOR PIRSCH: Very good. Thank you. Any questions? Seeing none, we'll move on to the next proponent. [LB325]

DAVE PHIPPS: (Exhibit 1) Mr. Chairman, members of the committee, thank you again for having me. Dave Phipps, P-h-i-p-p-s, Douglas County Election Commission. I'm not going to repeat what we've talked about, just to say that we are certainly in favor of LB325, and it really is a number of technical issues that should not be too controversial. So, but if you do have questions, we'd be happy to answer them. [LB325]

SENATOR PIRSCH: Very good. Thank you, Mr. Phipps. Any questions? Okay, seeing none, thank you. Next proponent. [LB325]

BETH BAZYN FERRELL: Good afternoon, Senator Pirsch, members of the committee. For the record, my name is Beth Bazyn, B-a-z-y-n, Ferrell F-e-r-r-e-l-l. I'm the assistant legal counsel with the Nebraska Association of County Officials. I won't repeat the testimony that you've heard. We do support the bill. I'd be happy to try and answer questions. [LB325]

SENATOR PIRSCH: (See also Exhibit 2) Thank you. Any questions? Seeing none, we'll move on to the next proponent. Anyone else testifying in favor of this bill today? Seeing none, we'll move on to opponents. Anyone here in the opponent capacity? Seeing none, how about neutral capacity? Anyone here to testify in a neutral capacity? Okay, I'm going to read into the record a letter by Diane Olmer on LB325 at this point in time. Seeing no one in the neutral capacity, Senator Nelson, you're here to close. [LB325]

SENATOR NELSON: Was the letter in opposition or in support, Senator Pirsch?

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2009

[LB325]

SENATOR PIRSCH: Well, it appears to me, it is support in part and oppose in parts (laughter). [LB325]

SENATOR NELSON: All right. Well,... [LB325]

SENATOR PRICE: Almost neutral. [LB325]

SENATOR NELSON: ...in light of the fact then that about 90 percent of our testimony including the letter is in support, I will keep my closing short and just ask the committee to report out the bill for, as an amendment, to the General File. [LB325]

SENATOR PIRSCH: Very good. Any closing questions? Thank you so much for coming, Senator Nelson. [LB325]

SENATOR NELSON: Thank you, Senator. Thank you. [LB325]

SENATOR PIRSCH: And that will close the hearing on LB325. And we'll move to our final bill of the day, LB544, which is our own Senator Giese's. And we'll let the room clear out a little bit here before we start. Great. Thank you, Senator Giese, you're free to start at any time. [LB325 LB544]

SENATOR GIESE: Thank you, Senator Pirsch and members of the committee. My name is Robert Giese, G-i-e-s-e, and I represent the 17th Legislative District which includes Dakota, Dixon, and Wayne Counties in northeast Nebraska. LB544 would require the Secretary of State's Office to publish a uniform statewide election guide for election workers at the precinct level. The primary purpose of this bill is to assist county clerks and election commissioners with the complicated process that is conducting an election. As elected officials, we all know that election laws are constantly changing, and sometimes it may be difficult for our county officials to keep track of the many rules and deadlines there our offices are charged with enforcing. The Secretary of State's Office is already required by law to provide training for election officials. A comprehensive guide would provide county clerks and election commissioners with yet another tool to ensure that elections in Nebraska are run fairly and efficiently. New election officials are often unfamiliar with election law and literally have no idea where to begin with training election workers. Without a comprehensive guide from the Secretary of State, these new officials must rely on whatever resources have been left by their predecessors. In many cases, these materials are seriously outdated, which leads to different counties applying different rules. In Nebraska's smaller counties, elections make up only a fraction of the duties of the county clerk, so these offices simply do not have the time to develop their own guidelines. The publication of a statewide election guide by the Secretary of State's Office is by no means a new development among the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

states. The nearby states of Iowa, Kansas, South Dakota, and Minnesota all currently publish uniform election guides and Wyoming and North Dakota have both taken at least the minimal step of creating a guide to their election laws, also something that which Nebraska does not currently have. My office has provided a copy of the Iowa and Minnesota Election Guides to each member of the committee, and I have copies of other states' election guides available upon request. It is important to note that nothing in the language of LB544 would require strict adherence to the election guide by local officials. The election guide is designed to be a resource and not a rule book. In fact, the bill's language is specifically drafted to account for variations among counties of different sizes. What works in Douglas County may not work in Dakota or Wayne County, and LB544 does not discourage deviation from these statewide guidelines. Local officials would be free to create their own guidelines for election workers, either based on independence or independent of the Secretary of State's guide. Publishing a statewide elections guide simply makes sense and would be a useful tool for county officials, election workers, and most importantly, Nebraska voters. Thank you for your time, and I would be happy to answer any questions that you may have. [LB544]

SENATOR PIRSCH: Very good. Well, thank you, Senator Giese. I just have a quick question with regard...now the Secretary of State under your bill would be charged with developing and publishing the guidelines and then it talks about what would be covered in it. How do you interpret the requirement for publishing the guidelines? Would they have to provide those in booklet form, little leaflets, or how does that work in other states? Or is it merely enough that they put it into electronic format, accessible on the web, that kind of thing? [LB544]

SENATOR GIESE: We would look to the simplest form and that would be the E-form and put it on the...just make it available on the Internet site and just use it as a guidelines for all of our county officials. Obviously, if we had our...we're not looking at reinventing the wheel and we don't want a huge guideline to be published, but I think we just...we're looking for something that would be usable for all counties in Nebraska. [LB544]

SENATOR PIRSCH: And the reason I ask is the fiscal note which is, seems to be not great in stature of \$9,500 it says, and it's an estimate, I think, that was provided...done by the Secretary of State's Office. So it's the need for a one-time cost totalling \$9,500 to pay related temporary staffing as well as printing and publication of guidelines. I'm wondering if that then fiscal note overestimates the cost of then putting this on-line or if that...because it utilizes the word as well as printing, which would seem to suggest that perhaps their interpretation of this is booklets or leaflets or something like that. [LB544]

SENATOR GIESE: Well, Senator, if you're asking my own personal opinion,... [LB544]

SENATOR PIRSCH: Sure. [LB544]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

SENATOR GIESE: ...I think that the...on the fiscal note, it is overestimated and that it would be able to be done inhouse with staff currently in the Secretary of State's Office. So, and I think there are some things that, as I mentioned, that we're not asking to...we're not starting from ground zero here. There are some guidelines and I think that the staff that they currently have could do that for us at minimal cost, so. [LB544]

SENATOR PIRSCH: Super. I appreciate that explanation. And are there any other questions? Senator Price. [LB544]

SENATOR PRICE: Senator Pirsch, thank you. Senator Giese, thank you. I'm glad you brought up the E-guide because I would hope that we would do that, save a lot of time. But it does, if they want to print it out, cost something at the other end. Have you been or do you know how long Iowa and Minnesota have been putting out their guides? Is this brand-new this past year or have they been doing it for a while? [LB544]

SENATOR GIESE: I cannot answer that. Maybe somebody after me could answer that question. [LB544]

SENATOR PRICE: Because I've looked to them to see if they have some historical knowledge on costs and the amount of, level of effort, whether you need a full-time equivalent person to do it or not to update and make sure that it gets out there and ensure that other people have got the latest copies. I know when we get our books to our offices, they take great effort to get us the books and just to see the track record. Okay, thank you. [LB544]

SENATOR GIESE: Well, I think...and thank you, but I think people that will be testifying after me can answer those questions that you may have,... [LB544]

SENATOR PRICE: Sure. [LB544]

SENATOR GIESE: ...and I think we all understand how quickly the election guidelines change and from some of the previous bills talked about today that there is a need for guidelines. And we're talking basic guidelines here, election guidelines, not anything to do with a polling place or anything like that, but just basic election guidelines to be used statewide. So I'm hoping somebody can answer that and many more questions that you have after me. [LB544]

SENATOR PIRSCH: Thank you, any other questions? Seeing none, I appreciate it. [LB544]

SENATOR GIESE: Thank you. [LB544]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

SENATOR PIRSCH: And we'll check for the first proponent of this measure, would you like to come forward, have a seat at the table? [LB544]

ADAM MORFELD: Good afternoon. My name is Adam Morfeld, that's A-d-a-m M-o-r-f-e-l-d, and I am the executive director for Nebraskans for Civic Reform. We are an organization that advocates and lobbies for election and civic education reform. The members of our organization are exclusively undergraduate and law students who are young Nebraskans who are dedicated to improving our civic education...our civic institutions, excuse me. I would like to thank Senator Giese for introducing the legislation and the county clerks that suggested that we pursue this legislation. The idea for the election guide for poll workers arose on an election day registration fact finding trip that Nebraskans for Civic Reform organized and hosted during the 2008 Minnesota Primary. Three Nebraska county clerks attended the trip and while questioning Minnesota election officials and observing election day registration, they found Minnesota's uniform election guides for poll workers to be extremely useful. So useful that they suggested that we look into legislation that provide for a uniform election guide that would come out of our very own Secretary of State's Office. Upon further research, we found that two neighboring states, South Dakota and Iowa and apparently Senator Geise's staff found more, they also provide voluntary comprehensive uniform election guides. And they also have decentralized election systems, much similar to what we have on the county level. And then also, after conducting nationwide research, we found that such voluntary uniform election guides for poll workers and county officials were more of a norm than an anomaly. The county clerks that attended the Minnesota fact-finding trip stated that many new county clerks who are not familiar with election law, and in some cases, lack adequate or outdated resources from their predecessors upon assuming their new role. In addition, elections for many clerks compose only a fraction of their overall responsibilities. And oftentimes their new election responsibilities can be a bit overwhelming at first, particularly when the resources from their predecessors are outdated or inadequate. A voluntary uniform election guide for poll workers would streamline and provide uniformity in poll worker training and also provide for a foundation from which county clerks can build upon as they implement their own county-specific rules and guidelines. This also further decreases the possibility of election officials using outdated election materials that no longer reflect current statute. The purpose of the uniform poll worker guide is not to mandate specific regulations or centralize elections, thus the use of the term guide. But rather it is to provide involuntary but uniform guide to county clerks and poll workers that currently does not exist. When legislation was being drafted, it was originally contained a clause that mandated that by law that the election workers must follow the guide. Knowing that the autonomy and flexibility of the county clerks to adapt to their unique demographics is important, we requested that this clause and thus, the teeth of the legislation be removed. It was removed and remains so. The legislation mandates the creation of a guide, but does not compel its use by county officials. It is also important to note that we're not asking the Secretary of State's Office to reinvent the wheel, Senator said. Currently, Lancaster and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

Douglas County have excellent guides that could easily be used as a starting point. This is Lancaster's. And these guides could be used as a starting point to form the uniform statewide guide. I would also think that some kind of collaboration between the Secretary of State's Office, election commissions from larger counties, along with county clerks from smaller counties might be necessary to draft the election guide so that it is applicable to the whole state. In addition, this guide could be posted on the Secretary of State's Web site and require little or no printing or reproduction costs on the state's part. Obviously, the county would have to reproduce it though. In addition, we also found recently that in Section 101 of the Help America Vote Act, which is federal legislation, that was enacted into law, I believe, in 2004. It also says that the funds of the state has for those HAVA funds can also be used for training election officials, poll workers, and election volunteers, which we believe could also encompass the creation of this guide and offset some of the state cost. In conclusion, a uniform election guide in Nebraska would create consistency and uniformity in our election system while simultaneously providing a valuable resource to election officials, something they currently do not have and have requested. Uniformity and consistency in our elections is something that we should always strive for. LB544 is a step in that direction, and I urge that you pass it on to General File. I'd be happy to address any comments or questions. Thank you. [LB544]

SENATOR PIRSCH: Thank you for your testimony today. Now you said everyone with your group is a student, is that right? [LB544]

ADAM MORFELD: Yes, law students and undergraduate students. [LB544]

SENATOR PIRSCH: Okay. Okay, and where do you go to school then? [LB544]

ADAM MORFELD: I go to school at the University of Nebraska-Lincoln. I'm a senior. [LB544]

SENATOR PIRSCH: Senior. Very good. Okay. The question I have, so you're...the way you envision it then, you see that the role of the Secretary of State is to just publish it on an on-line type,... [LB544]

ADAM MORFELD: Um-hum. [LB544]

SENATOR PIRSCH: ...electronic version and then to the extent that the counties on a countywide level, the election commissioners and whatnot find value in use in that,... [LB544]

ADAM MORFELD: Um-hum. [LB544]

SENATOR PIRSCH: ...then they would just either...they could, arrange to have that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

printed from the electronic version and thereby, the costs would be incurred on the countywide level, if it was going to be published in written form. [LB544]

ADAM MORFELD: Yes. And we recently had a trip to Iowa where we brought seven other election officials, and that was last Tuesday actually, and they had these centralized type of training guides and materials. [LB544]

SENATOR PIRSCH: Okay. [LB544]

ADAM MORFELD: And in some counties they stated that some county officials use the exact same guide and provided it to their poll workers and others actually made their own guides or integrated it into their own guides that were specific to their county needs. [LB544]

SENATOR PIRSCH: I see. So are some of the election commissioners putting out written materials, guides of their own? [LB544]

ADAM MORFELD: Um-hum. [LB544]

SENATOR PIRSCH: Great. So this would just help give a building block, if so chosen, to have a little bit of uniformity amongst... [LB544]

ADAM MORFELD: Um-hum. [LB544]

SENATOR PIRSCH: ...and for those who aren't using anything, to have at least some sort of a foundation. [LB544]

ADAM MORFELD: Yeah, and currently, they don't have that. And some of these larger counties like Douglas and Lancaster County, they have full-time staffs and they've larger staffs than some of these smaller counties so they're able to update them regularly and provide them. And some of the smaller counties also, most of them, and some of the county clerks that are here today can probably attest to this, they have their own guides as well. But sometimes, especially when they're new county clerks, they're coming into the job, you know, they have to look at the materials and they don't know if they're outdated or if they've just been updated. And, you know, they can base that off talking obviously to their predecessor, but at the same time, when they're unfamiliar with the law, it's hard for them to interpret that. And to answer Senator Price's question. When I asked the Iowa Secretary of State how long that they had been using those guides and putting them out, she said--it was actually the Deputy Secretary of State--that they have been out as long as she could remember and I believe she had been around for 10 or 15 years. In Minnesota, an election...I think it's the county auditors that run the elections there, they stated that she had been in her position for 25 years, and they have always had centralized election guides. So I don't think this is

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2009

something that's new. [LB544]

SENATOR PIRSCH: Super. Any other...Senator Karpisek? [LB544]

SENATOR KARPISEK: Thank you, Senator Pirsch. Mr. Morfeld, good to see you again. For just a little edification, Adam used to sit back behind us for a couple of days, three days a week. And so... [LB544]

ADAM MORFELD: A few years ago. [LB544]

SENATOR KARPISEK: Well, I was here, so I know that. (Laugh) There's nothing...I mean, should anybody be scared? There's no test, no something that you have to do, you have to go to a class, you have to do anything if you want to be an election worker with this. [LB544]

ADAM MORFELD: No. And it may vary from county to county what kind of class or what kind of training that they may have, but this guide would not require that. It would simply be a resource for the county clerk to then pass on to the election workers. And it... [LB544]

SENATOR KARPISEK: Especially if something comes up regarding a question, they can go to the guide... [LB544]

ADAM MORFELD: Um-hum. [LB544]

SENATOR KARPISEK: ...and see what the standard procedure is? [LB544]

ADAM MORFELD: Yeah. And if you look in...I think, Senator Giese's office provided the Minnesota Election Guide, and if you look in there, it's very easy to use. It's not large font, but a larger font and it has a great Table of Contents kind of going step by step whatever an election worker would need to know at the polling location. [LB544]

SENATOR KARPISEK: Good. Thank you. Thank you, Senator Pirsch. [LB544]

SENATOR PIRSCH: You bet. Any other questions? All right. [LB544]

ADAM MORFELD: Okay. Thank you. [LB544]

SENATOR PIRSCH: Thanks for coming down and testifying. We'll move on to the next testifier. [LB544]

PEGGY ADAIR: Senator Pirsch and members of the committee, for the record, my name is Peggy Adair, A-d-a-i-r. And I am with the League of Women Voters of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

Nebraska. And I am not going to be redundant. I am just going to share with you an example of why this law would be needed in Nebraska. In 2005, LB53 was passed and that had to do with restoring voting rights to ex-felons two years after they had completed their entire sentence. 2006 was an election year, so nine months after this law was passed in 2005, the League of Women Voters and Appleseed joined together and did a survey of 85 counties in Nebraska, of the county clerks. And of those 85 counties, 46 of the county clerks either did not know the law, they were unaware that that law had passed or they were given incorrect information about the law, or they had outdated voter registration forms. So, and these were people, you know, who are charged with following the election laws and that's their job. So you can imagine if they're unsure of the law, what it would be like for a poll worker who is only working one day on election day to follow the law. So what we did was we developed a brochure that talked about the ex-felon voting law and had it both in English and Spanish, and provided this information free of charge to all of the county clerks and county commissioners in all 93 counties, and we brought it free of charge and free shipping. And the response of the county clerks was just overwhelming. They were so pleased to have this information to be able to pass along to the voters, and to be able to have this information for themselves. And we continue to pass along this information with some other information that we have about voter education. So I think you can see the value of this, not only for the county clerks to have this information, but also for the voters to have this information as well. So I would urge you to send this bill to the floor for full debate. And I welcome any questions. [LB544]

SENATOR PIRSCH: Super. Are there any questions for Mrs. Adair? Well, you know, speaking for myself, I just want to say how much we appreciate the role that the league has had in helping to educate voters in the election process and further that all together. And thank you for coming down here today and testifying. [LB544]

PEGGY ADAIR: Thank you, Senator Pirsch. [LB544]

SENATOR PIRSCH: You bet. We'll move on to...is there any other proponent? [LB544]

NANCY JOSOFF: (Exhibit 1) My name is Nancy Josoff, N-a-n-c-y J-o-s-o-f-f, Cass County Election Commissioner. Senator Pirsch and committee members, just another little aspect that hasn't been addressed here. I did a really quick survey of our county officials, and they're usually pretty good at responding back when we send out a plea for input. As far as any formal training that they have had, as far as teaching, instructions, past experiences with their work or anything like that. And the majority of the clerks and the officials that responded said that their training experience pretty much was limited to being a Sunday school teacher. Although there were some other individuals that, you know, they...we had a Head Start teacher, she was the head of the Head Start Program, but I don't think you can compare teaching children at that level with adult education that we, basically is what we are doing. And a few of them did do some other adult classes

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

in first aid, things like that. But I just think that this is a very interesting point to understand why there is a need possibly for us to have this type of program in place, you know, just to kind of have...for that support tool, just to be a support tool for the election officials for that type of thing. I think also for the new officials it would be a really good resource. It would create that uniformity across the state, but still allow the flexibility for us to tweak it to fit our county's needs. Because obviously Douglas County, Lancaster County, their needs are going to be different than what we're going to have in our smaller counties. A conversation that I had with some of the officials when I came into this area and things were done dramatically differently back before when they...before HAVA laws came into effect. And the volume of what...from what I've been told, now this is third-hand information, but elections for clerks and those individuals, it didn't hold that much time in their office, and it was a little bit easier to get everything processed. But then when HAVA was implemented and all the changes that took place, it became a much greater responsibility and a bigger role in their offices. And also for the poll workers. The responsibilities of the poll workers has gotten much, much greater. I've had one lady who she worked the polls a number of years ago, she was gone away from it for a while, and she came back and was just overwhelmed at the difference of what we request now and what we used to ask of them. Besides the costs being inflated and that's one of the really good examples is our ballot security and our ballot audits. The way we have to maintain those numbers and the accuracy of all that information at this point and this time where we're at. So I just, if you have any questions, that's just a couple of their points that I wanted to make. [LB544]

SENATOR PIRSCH: Are there any questions? Senator Sullivan. [LB544]

SENATOR SULLIVAN: Thank you, Senator Pirsch. How are you trained now? What kind of information do you receive to bring yourself up to speed on new election laws and rules? [LB544]

NANCY JOSOFF: We will have meetings throughout the year occasionally where the Secretary of State's Office will come and kind of address some things. You know, we keep informed through NACO with new legislation, things like that going on. [LB544]

SENATOR SULLIVAN: Okay. Fine. Thank you. [LB544]

SENATOR PIRSCH: Any other questions? Seeing none, I thank you for testifying here today. Are there any other proponents? Seeing none, we'll move to opponents. Anyone here to testify in opposition to this proposal? [LB544]

NEAL ERICKSON: (Exhibits 2, 3, 4, 5 and 6) Senator Pirsch, members of the committee, once again for the record, Neal Erickson, Deputy Secretary of State for Elections, here on behalf of Secretary of State John Gale in opposition to LB544. When we originally talked about how to address this bill, you know, there was a question about

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

whether to be neutral or be in opposition. At that time, at least what we had been explained or the story we had gotten from Mr. Morfeld was, well, this is an attempt to get you some money to, you know, do some more stuff. And then when I have the fiscal note questioned a bit, then I...but overall, we are in opposition to this for the simple fact that yeah, we've seen Minnesota's guidelines. We've looked at them. We take a slightly different approach here. I brought a few because I know that we're not supposed to bring props to committees, but what I'll do is enter this into the record then, so you guys can look at them. But they're a variety of things that we distribute to the counties to distribute to every poll worker or every polling board, excuse me, in terms of the use of the equipment and you can see if there are flip-charts, there are information on etiquette for disabled voters there, and that is the tip of the iceberg of the materials we provide out to the counties out there. We provide copies of the election laws. We provide copies of changes to election law when they become effective. The guidebook, you know, is something that, you know, could be a useful tool, but it's not the approach we've taken. We've tried to provide them other materials and let them develop their own guidelines that take into account their local concerns, their local areas that they think they need training in. You know, we have looked at, you talked about kind of an E-guide book. Actually, probably the next stage we're looking at is a Web-based application in terms of training. And that will probably be the next step that we go to. Allowing those poll workers to access the system on-line that allows them to read the material and then actually take tests on it. You had asked about tests, Senator Karpisek. Well, the value in the tests is not to exclude or include poll workers, but to find areas where we have weaknesses. I think every election official out there will tell you that, you know, we have more people screw up on provisional balloting than we would like to see. You know, every clerk out there makes that a point of emphasis when they're doing their training, but you still have mistakes occur. You know, there are a number of areas...you don't want to overwhelm them however. You know, I looked at Minnesota's guidebook an for example. They've got...and this was something you guys just discussed on the floor yesterday, they've got what the definition of a residence is. And actually put examples in there for the poll worker to make a determination about whether this person is a resident or not. They've got items in there regarding absentee voting. Well, we don't have absentee voting at the polling place, so there would be no reason to include items like that in there. What we use in Nebraska is a little more decentralized approach. We provide basic materials to the local officials, and then allow them to train their poll workers within the scope of the law. The law requires that we provide a list of items to every county clerk and election commissioner of things they have to go through in training. We provide a very basic list, because we allow them then to expand, contract whatever area that they want to, to make sure that their polling places function. With that, I would answer any questions you might have. [LB544]

SENATOR PIRSCH: Are there...Senator Sullivan. [LB544]

SENATOR SULLIVAN: Thank you, Senator Pirsch. A couple of questions. First of all, so

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2009

do I understand just based on what you said, the statute says that you, the Secretary of State's Office, will provide the materials for the counties to do the training. You...the Secretary of State doesn't provide the training, is that correct? [LB544]

NEAL ERICKSON: We do not provide the training directly to the poll workers. [LB544]

SENATOR SULLIVAN: Is that what the statute says? [LB544]

NEAL ERICKSON: The statute doesn't say it either way. The statute says that we have the ability to provide information to whoever on...for preparing for an election. In fact, actually, I think this statute could probably, we already have the authority to do this anyway. [LB544]

SENATOR SULLIVAN: Right. [LB544]

NEAL ERICKSON: We just don't do it in necessarily the mechanism that this statute encompasses. [LB544]

SENATOR SULLIVAN: And then you mentioned that ultimately you think it would be a good idea to have this information on a Web site. Do you think under your current staffing arrangements in your department and also funding, you're able to do this right now, and what the time line would be? [LB544]

NEAL ERICKSON: In terms of funding right now? No. It's on the...I guess I'd put it on the wish list. Some of the things that are out there, and I would distinguish it between just being on the Web and being a Web-based application. [LB544]

SENATOR SULLIVAN: Okay. [LB544]

NEAL ERICKSON: There is a complete different level of complexity there for just having material on the Web and then having an interactive type application. But right now, it's in the wish list status. [LB544]

SENATOR SULLIVAN: Do you currently use the Web to convey any of these informational updates on election laws to staff in the county? [LB544]

NEAL ERICKSON: Yes. As a matter of fact we have an area, we have a secured Web site that county clerks have access to that contains, oh, a variety of information, but also a variety of forms, etcetera. You might ask, well, why is it on a secured Web site? Particularly with some of the forms, there is the ability of someone to misuse the form. [LB544]

SENATOR SULLIVAN: Um-hum. [LB544]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

NEAL ERICKSON: And the example I would give is, particularly one that is on there is the recall form. They will, I have actually had people get a copy of a recall petition, circulate it, get all their signatures, and then turn it in, which is not what the statute requires. And they get a little upset when they think, well, I got the form from wherever. So that's why we have that on the secured Web site. It's for the county clerks and election commissioners. [LB544]

SENATOR SULLIVAN: Thank you. [LB544]

SENATOR PIRSCH: Senator Price. [LB544]

SENATOR PRICE: Senator Pirsch, thank you. Mr. Erickson, just real quick, you mentioned that you have to provide by law some materials? [LB544]

NEAL ERICKSON: Yeah, some of the materials are pretty basic. The current training of poll workers is actually done by the local election officials, that's contained in statute. The local election officials have to train their poll workers. You know, on top of that, we are required to provide them a list of items that must be covered in that training. [LB544]

SENATOR PRICE: Okay. So then would you see that we could be opening ourselves up to some exposure at the state level if something were not provided. I mean, someone comes along and right now, you provide certain elements,... [LB544]

NEAL ERICKSON: Um-hum. [LB544]

SENATOR PRICE: ...but this guide becoming an element, if that guide wasn't updated for some reason and someone came back and wanted to sue for...that being missed. And we see a lot of this happening these days. [LB544]

NEAL ERICKSON: Right. And if I'm understanding you correctly, where you're talking about, it's one of the reasons I hate the word best practices or when you have voluntary guidelines that actually become nonvoluntary. Because, well, let's say the voluntary guidelines were established by the feds and you don't necessarily follow them. Well, why not? If these were...if this is what the federal government designed as the best practice, why are you not following that. And yeah, to a degree, there's the element of fear about that. If you put out a guideline that says this is the master and you have a local official deviate from that and, you know, would be, the election would be contested. I can see that as a legitimate question. Why did you not follow the master guideline as opposed to your variation? [LB544]

SENATOR PRICE: Thank you. [LB544]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

SENATOR PIRSCH: Thank you. Any other questions. Seeing none, thank you very much for coming down and testifying. [LB544]

NEAL ERICKSON: Thank you. [LB544]

SENATOR PIRSCH: Are there any other opponents of this bill? Mr. Phipps, again, whenever you're ready. [LB544]

DAVE PHIPPS: (Exhibit 7) You folks are going to get to know me by the end of the day apparently. Mr. Chairman, members of the committee, Dave Phipps, Douglas County Election Commissioner, P-h-i-p-p-s. And you know, I'm going to speak in opposition to LB544. In theory it does sound like a great idea, but for some of the reasons that Neal talked about, especially that last one is, you know, if I deviate from this guide, why did I deviate? And you know, just the idea of challenges to certain elections and results, I think we've seen over the years how elections have become more contentious. There's always that suspicion now of did something go wrong. And so, you know, we try to always do things uniformly and while those things work, I think, in Douglas County very well, they may not work as well in Arthur County or Box Butte or Scotts Bluff as well as they do for us. You know, obviously we have different needs than they do. The Secretary of State does provide guidelines. They talk about a number of points we have to talk to our poll workers about. And you know, as someone who, you know, actually trains, we trained for this last election over 2,500 poll workers for the 2008 general election. You know, I can speak fairly confidently that, you know, we sometimes have issues that come up that other counties don't. And so, you know, we just, while the idea of this is fine in theory, it's just one of those things that I don't think is necessary and could certainly get us into trouble at some point in time. So that's why I'm opposing this. If you have any questions, I'd be happy to answer them. [LB544]

SENATOR PIRSCH: (Exhibits 8 and 9) Very good. Any questions? Seeing none, thanks very much, Mr. Phipps, for coming down here. We'll see if there's any other opponents in the audience today? Any other opponents? Seeing none, are there any individuals here to testify in a neutral capacity today? I'm going to read into the record a letter from Diane Olmer, Platte County Election Commissioner, of support for LB544. I'll also read into the record a letter from Chrisella Lewis who is the Adams County Clerk as well, dated February 9, 2009, supports LB544. Having said that, we'll see if Senator Giese would like to close here. [LB544]

SENATOR GIESE: Thank you, Senator Pirsch and members of the committee. Just briefly in closing, I would just offer that the Secretary of State and Mr. Erickson obviously do a great job in providing materials and in sending those out to the counties now. But if they have such great material, then can't we not take that to the next step and add that to a voter election guide for our counties that it may possibly work in. So I would just offer that to the committee and appreciate your consideration. [LB544]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

SENATOR PIRSCH: Very good. Any final questions? Seeing none, thank you very much, Mr. Giese, Senator Giese. [LB544]

SENATOR GIESE: Thank you. [LB544]

SENATOR PIRSCH: That will conclude the testimony not only for LB544, but will be...it's the final hearing for the day so we are going to Exec Session. [LB544]

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Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2009

Disposition of Bills:

LB324 - Held in committee.

LB325 - Placed on General File with amendments.

LB434 - Placed on General File.

LB544 - Placed on General File.

Chairperson

Committee Clerk