

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

Government, Military and Veterans Affairs Committee
February 10, 2010

[LB718 LB1015 LB1059]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, February 10, 2010, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1015, LB718, and LB1059. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Robert Giese; Charlie Janssen; Russ Karpisek; Bob Krist; and Kate Sullivan. Senators absent: Rich Pahls. []

SENATOR AVERY: Welcome to the Government, Military and Veterans Affairs Committee. I am Bill Avery, Chair of the committee. We only have four people here, which is one person shy of a quorum. I am told, though, that we're not going to do any better for a while because three people are in other committees giving testimony. So I am going to waive the need for a quorum and start--so that we don't have to sit here and wait--and give Senator Haar an opportunity to go ahead with his bill. Let me first go through a few matters of business. If you are here to testify on behalf of, for or against any of the bills that we'll be taking up today, this is the form you must fill out. Please print your name clearly and all information asked for. And when you get at the table, give it to the clerk, who is sitting right here on the end. And if you are...if you wish to be recorded in favor of or in opposition to any of the bills under consideration but you do not care to testify, I ask that you sign this sheet and record your position on the bill. These forms are available at each door. Also, the agenda is posted outside the room. We'll hear, in order, LB1015, LB718, and LB1059. Before we begin that, I want to introduce the members of the committee who are here. Most of you know that Senator Pahls is ill and will not be here for today, but he is joined...next to him is Senator Charlie Janssen from Fremont. And Senator Bob Giese from South Sioux City will be with us in a few minutes; he is in another committee meeting. The Vice Chair of the committee, Senator Scott Price from Bellevue, is sitting right here; you can't miss him--takes up more space than most of us. And to my immediate right is Christy Abraham, the legal counsel. Senator Karpisek is in a meeting, but he will be joining us soon; he is from Wilber. Senator Kate Sullivan, in another committee meeting giving testimony on a bill--she is from Cedar Rapids; she will be back soon. And Senator Bob Krist from Omaha. Sherry Shaffer is the committee clerk, and she will be receiving information that you may have. If you have any documents that you wish to submit for the record to support your position, you should have 12 copies for us and for the committee members and for the staff. Give those to Sherry, and she will have the pages distribute them. The pages are Lisa Cook from Omaha and Mark Woodbury from Oswego, Illinois. Please, if you have any electronic devices that make noise, like telephones, please turn them off or put them on silence so as not to disrupt proceedings. And when you testify--if you are testifying--please spell your name clearly even if it's a simple name; spell it for the record so that we can have a clear record for later reference. I think that's all that we have. I don't believe we're going to have a lot of testimony today, so we'll not be using the light system. I do ask you, however, to respect our time and the time of others that

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

Government, Military and Veterans Affairs Committee
February 10, 2010

may wish to testify and not go too long. Please try not to repeat testimony that's already been given. With that, we will begin our hearing on LB1015. Senator Haar, welcome. []

SENATOR HAAR: Thank you, Chairman Avery and members of the committee. I am in three places at once myself today, so I understand. [LB1015]

SENATOR AVERY: We just got our quorum. [LB1015]

SENATOR HAAR: Good, thank you. I would like to begin by saying, actually, polls show that the vast majority of Americans believe one person, one vote and that every vote is equal. Yet in 4 out of 56 presidential elections these basic principles have been violated when the candidate with the most popular votes was not elected. The National Popular Vote, which this bill is about, would guarantee the presidency to the candidate who receives the most popular votes in all 50 states. The shortcomings of the current system of electing the president stem from the winner-take-all rule, which is now used by 48 states, that awards all of the state's electoral votes to the presidential candidate who receives the most popular votes in each separate state. As I see it, there are two major shortcomings then. One is: Under the winner-take-all rule, candidates have no reason to poll, visit, advertise, organize, or pay attention to the concerns of states where they are comfortably ahead or hopelessly behind. In 2008, for example, candidates concentrated over two-thirds of their campaign events and ad money in only six closely divided battleground states. And in fact, 98 percent of all the candidate visits and spending went to just 15 states. More importantly, it does not honor one person, one vote and every vote is equal. Now, the NPV, the National Popular Vote plan, works like this. First of all, it's such interesting history that the framers of the Constitution could not agree on how to elect a president. And so they came up with a system of electors, and they left that system up to every state. And in fact, in the beginning, most electors were appointed or voted, or whatever you call that, by the state legislature. It never received a vote of the people at all. And so over time it has slowly come to this point now, where 48 states do winner-take-all and in 2 states--and we're one of those--it's sort of winner-take-all within each congressional district. But again, under the Constitution, because the framers couldn't agree, the states have exclusive and complete power to decide on the method of awarding their electoral votes--exclusive and complete power--so it requires no uniformity. Every state can do what they wish. Under the National Popular Vote bill, all electoral votes from the enacting states would be awarded to the presidential candidate who receives the most votes in all 50 states and D.C. There would be a compact among states with at least a majority of the electoral votes. And again, whoever gets the most popular votes would be awarded automatically the electoral votes from those states. The trigger would be this bill would take--compact actually--this compact would take effect only when enacted by states possessing a majority of the electoral votes, in other words, 270 of the 536. Now, actually, already we're 25 percent of the way there towards having 270 of those majority votes. Just another very interesting thought: We're so used to--in the last campaign, for example, you see these red and blue states; and, you

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

Government, Military and Veterans Affairs Committee
February 10, 2010

know, red, blue, and that's the way the news covers it. If we took away all the state lines and instead we looked at maybe the precinct level, and then let's say that 60 percent...if a precinct went 60 percent or more for the Republican, then the precinct would be red. If it went 60 percent or more for the Democrat, it would go blue. And if it was somewhere in between, it would be purple. I think if we'd look at a map like that, we'd find that, really, most of the United States is purple and that most of the United States deserves this kind of attention, the same kind of attention from presidential candidates as any other place. Instead of the red states and the blue states, which I think also has an effect in Congress, where we're also frustrated that--of the partisan gridlock between the red and the blue, I think most precincts in this country are red, white, and blue; we're all Americans. And I think this division of red and blue is actually hurtful. So National Popular Vote would take us back to election of the president of the United States by the person receiving the most popular votes. And with that, I will answer any questions. [LB1015]

SENATOR AVERY: Thank you, Senator Haar. I'm a...if you don't mind, I'll start first. [LB1015]

SENATOR HAAR: You bet. [LB1015]

SENATOR AVERY: You know that I have been looking at this issue. [LB1015]

SENATOR HAAR: Sure. [LB1015]

SENATOR AVERY: And you also know that I am not a big fan of the proposal at this point and in its current condition. One of the problems I have with this, and I want to give you a chance to comment on it, is that--let's take something that's not so hypothetical, the state of Nebraska. If we were to join this compact and then we would be committed to vote with the popular majority, let's say the popular majority goes Democrat and the overwhelming majority of our state goes Republican. Our electors would be required to ignore the vote of their own people in this state and vote with the popular majority vote and cast their vote for the Democratic candidate. Do you have any problems with that? [LB1015]

SENATOR HAAR: No. The main problem I have with it--it's well known, I guess, that I'm a Democrat, and I feel that my vote isn't counted. And there are Republicans in California that feel their vote is not counted--in other words, that not only just not counted, but the votes are unequal. And if you look at the electoral system itself, a vote in Wyoming is actually worth more than a vote in California, the way it is proportioned. I go back to this fact that, you know, as we've promoted democracy around the world, I don't see one country where we've promoted an electoral college system. We promote one person, one vote. Polls have shown--and, in fact, across the country there's a lot of support, even in Nebraska, when polling was done to ask them should people be

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

Government, Military and Veterans Affairs Committee
February 10, 2010

elected by the electoral vote or by a popular vote, that 74 percent of Nebraskans said that they think that it should be popular vote--one person, one vote; every vote counts the same. [LB1015]

SENATOR AVERY: Actually, I'm not a fan of the electoral college. And I liked your comment that everywhere we've promoted democracy around the world we've never promoted the electoral college. And you and I know that the electoral college was set up by the Founding Fathers because they didn't really trust the popular vote. It was to be a collection of local notables who would dispassionately and carefully consider who ought to be president among the candidates, didn't matter what the popular vote was. I'm not going to lecture you or anybody else, but I will yield the floor now to my colleagues to see if they have any questions. Senator Janssen. [LB1015]

SENATOR JANSSEN: Thank you, Chairman Avery. Senator Haar, this is very interesting. I've kind of kept very low key on this. [LB1015]

SENATOR HAAR: Um-hum, sure, sure. [LB1015]

SENATOR JANSSEN: I think I've had numerous requests to meet about this, and I've just had other things on my plate also. But... [LB1015]

SENATOR HAAR: (Laugh) For example. [LB1015]

SENATOR JANSSEN: For example. I'm glad to hear you think every vote should count, though, I can tell you that. And this may not even be the popular side, but I actually like the way Nebraska does it. I think it's us and Maine that have the vote--that we vote by congressional district, and that's how our vote works. Now in the last election, you say your vote...you didn't think your vote counted because we're from the same congressional district, Fremont and Lincoln area. And, you know, I assume you voted for President Obama and I voted for the guy that obviously didn't get the job. But... [LB1015]

SENATOR HAAR: Well, that's private information. [LB1015]

SENATOR JANSSEN: I might be reaching there, so, but, yes. In Omaha, however, it flipped the other way. And so as a state, you had to probably feel like your vote counted toward something. Maybe you did or didn't, but what about the idea of everybody doing it the way Nebraska does and Maine? What about that line of thought? I'm just throwing it out. This is interesting. That's why I like this committee. We have interesting topics. So. [LB1015]

SENATOR HAAR: Yeah. No, it's a very interesting question. And the next testifier will be able to answer that in a more statistical way. But even in that...and they've analyzed

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 10, 2010

the last few elections, that it would actually concentrate campaigning even more than it does now. And again, he can give you some figures on that. But I'd like to just read you quickly--this is from Senator Robert Dole of Kansas, and he said this in 1979. He said: "Were we to switch to a system of direct election," which National Popular Vote would be by popular vote, "I think we would see a resulting change in the nature of campaigning. While urban areas will still be important campaigning centers, there will be a new emphasis given to smaller states. Candidates will soon realize that all votes are important," mine and yours, "and votes from small states carry the same import as votes from large states. That to me is one of the major attractions of direct elections. Each vote carries equal importance." And, in fact, I believe he is one of...he at one time, I believe, sponsored a constitutional amendment, which would be one way to do popular vote. But again, according to the Constitution, this effort which is described in this bill would also give us election of the president by popular vote. So it's a good question. [LB1015]

SENATOR JANSSEN: Thank you, Senator Haar. Thank you, Chairman Avery. [LB1015]

SENATOR AVERY: Any other questions from the committee? I actually agree with Senator Janssen, and I've told you (laugh)...I know he's going to be shocked. [LB1015]

SENATOR HAAR: I'm going to make notes. [LB1015]

SENATOR JANSSEN: Keep thinking that way. [LB1015]

SENATOR AVERY: I've had this conversation with you that Nebraska, I think, has developed a model that is workable. And I know the next testifier will probably address this. And my position is that we're not likely to get enough support in the country to completely eliminate the electoral college. I don't think this proposal will catch fire and spread throughout the country and get enough people to support it. And we've never had an organized effort to promote the Nebraska-Maine model. If we had an organized effort with hired staff, as the National Popular Vote does, my guess is that you might see more states adopt that model, because it does allow for congressional districts to have their voice count. I mean, we have tension from the presidential campaigns this year or last year in a manner that hasn't occurred in my memory in this state. Anyway, that's a comment, not a question. [LB1015]

SENATOR HAAR: Yeah, well, the next testifier, again, can give you these results if you'd like. But this is actually passed in 24 percent of the states. I believe the first one...not 24 percent of the states, but states with 24 percent of the electoral vote. The first one was Alaska, and it's in quite a number of state legislatures right now. It's just my opinion that this has a much better chance of making it than amending the Constitution. And what's so interesting, again, is since the Founding Fathers couldn't agree, they came up with this system which allows us this way to do it. So. Thank you

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

Government, Military and Veterans Affairs Committee
February 10, 2010

very much. [LB1015]

SENATOR AVERY: Thank you. All right. We'll now move to proponent testimony. Anyone wish to testify in support of LB1015? Mr. Sokol. You're not from Nebraska, but you carry a Nebraska name. [LB1015]

LARRY SOKOL: (Exhibits 1, 2) Thank you very much. Thank you, Mr. Chairman and members. My name, for the record, is Larry Sokol, S-o-k-o-l. And Senator Haar did a very good job. And I know I've had an opportunity to speak with most of you earlier in this week, so I'm not going to go over the specifics of it and waste the committee time with information that I believe you're already familiar with. But I'd like to talk about some of the themes and governing principles that the National Popular Vote organization, for which I work, is about. And there are sort of three primary themes and principles that we're trying to espouse across the country with the National Popular Vote proposal. First off, and perhaps most basically, is we want to ensure that whichever candidate for president receives the most votes in all 50 states and the District of Columbia is the candidate who gets elected. It's worth noting that the National Popular Vote bill has been introduced in all 50 states. No one in any state has given us an example of an elected office at any level of government, whether it be local, state or federal, where a candidate can receive the most votes and still lose. The one notable exception would be the leader of the free world. And so ensuring the candidate who receives the most votes is one of our guiding principles. The second principle is to make sure that every vote is equal, that a vote in Alabama or a vote in Lincoln, Nebraska, or a vote in Idaho is just as valuable and just as sought after by presidential campaigns and candidates as a vote in Miami, Florida, or Columbus, Ohio. And the reality is that we know that's not the case. We know the presidential candidates are much more interested in people voting for them in these so-called battleground states than in those states that are safely Democratic or safely Republican that Senator Haar referenced. He gave you the numbers for both the 2004 and 2008 presidential elections, where literally two-thirds of the campaign resources were spent in just six states. The other figure that goes along with that is that 98 percent of the resources that the candidates allocated--that's where the candidates visited, where they advertise, where they did polling, where they did field operations--98 percent went to just 16 states. And so what that tells you is people in the other 34 states and the District of Columbia are essentially an afterthought to presidential campaigns and their votes really are not equal to the votes of citizens who happen to live in battleground states. And so making sure that every vote is equal is, again, one of the guiding principles of National Popular Vote. And to go along with those first two is to ensure that presidential campaigns campaign everywhere. Right now presidential campaigns, as I just espoused and gave you the numbers for, really only focus on a handful of states. And as a result of that, candidates really are primarily focused on the issues and concerns of the citizens of those particular states. I can say pretty confidently that whether it be President Obama or Senator McCain or President Bush or Senator Kerry--know a lot more about Pennsylvania than they do about

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

Government, Military and Veterans Affairs Committee
February 10, 2010

Kansas, and they know a lot more about Florida than they do about Louisiana, because they actually had to spend time in those states. And you see that reflected in the issues that get discussed in presidential campaigns. You see that reflected in the issues and the way that issues are dealt with once an administration gets elected and is looking towards re-election, in terms of how they will pursue particular policies. I'll give you two very quick examples of that. Perhaps the most recent example is it's not a great coincidence that the first major piece of legislation that President Obama signed, which was the Economic Recovery Act, he signed in Denver, Colorado; he didn't sign it in Detroit, Michigan, which is sort of universally regarded as one of the hardest-hit cities by the current economic crisis. But Michigan really isn't a battleground state and Colorado is, and so it's not a coincidence that President Obama signed that bill in Denver as opposed to Detroit. Just to be bipartisan about it, you look at President Bush, arguably the strongest free trade advocate we've had in the White House in several generations. His first year in office he came out in support of steel tariffs, which sort of goes against his natural political inclination. And it's not a coincidence that steel tariffs were a policy that were very important to battleground states such as Pennsylvania and Ohio. And so we see that the current system of campaigning, where candidates don't have to campaign everywhere, where they don't really have to look forward to going back to particular states, impacts not only the campaign itself but also policies. I'd like to sort of pick up on some of the questions that were given to Senator Haar if that's okay with the committee, if I have their leave to do that. In regards to the question that, Senator Avery, that you raised, that we talked about earlier when we met and we've talked about in the past when we've seen each other at assorted conferences or other places, this notion that Nebraska can vote one way but their electoral votes would get cast another way. And that's something that I can understand. And I'll be perfectly honest with you, when I first got involved with the National Popular Vote proposal, that was a question that I had. But the more I thought about it and the more I've gotten to know this, I've become much more comfortable with it, because, frankly, at the end of the day, not only myself but the average person on the street is really more concerned with whether the candidate they support wins or loses an election than whether or not they win or lose their particular state. I can give you some concrete examples from here in Nebraska. I'm going to go out on a limb and say that there were probably not a lot of McCain supporters who were particularly happy the day after the election. Their candidate carried Nebraska, but their candidate overall lost the White House. By the same token, I think you can make the argument that there were probably--the Obama supporters were very happy with the election results despite overwhelmingly losing the state of Nebraska, which to me sort of is an indication that at the end of the day you're more interested in whether or not your candidate wins or loses than whether or not they win or lose your particular state. Another sort of analogy to look at that would be in a statewide race: How many people outside of this room--who sort of do politics for a living and look at numbers, and they're sort of insiders--really care whether or not their candidate for Governor won or lost their particular county? I mean, I'm sure that all of you do because you're politicians and you follow numbers, and, you know, I'm a

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

Government, Military and Veterans Affairs Committee
February 10, 2010

campaign person and I, you know, look at those. But at the end of the day, they're much more concerned whether their candidate got the most votes in the state than if they got the most votes in the county. And I think that's a very analogous situation. And as Senator Haar referenced, polls have shown that overwhelmingly--not only polls that our organization have done, showing consistently 70 percent or higher support for National Popular Vote, but independent polls. Gallup has been asking about a national popular vote since the 1940s, and it's consistently 70 percent or higher across the board. Other independent polls have shown the same thing. One of the other issues that people have raised some concern about is the fact that if you move to a national popular vote, candidates will just campaign in the big cities or they'll campaign in the population centers. I know that was an issue that Senator Price and I talked about when we were able to meet earlier this year, which is why I distributed that geographical breakdown of where the votes came from in the 2004 election. I haven't done the same thing for 2008, but the votes are going to be remarkably similar, which shows that the majority of the country's voters actually live in the interior of the United States and not in the coastal regions. You know, it's more than 10 percent difference in the interior of the country versus the coastal areas. But also there are numerous examples of the fact that in campaigns and in elections where every vote is equal and candidates are trying to win every vote that it's not big cities or it's not population centers that dominate. And this has been interesting to me as I travel around the country talking about the National Popular Vote proposal, and every individual state says the exact same thing to me, which is that's not how candidates win in this state. Several people have told me since I've been in Nebraska this week that candidates can't be successful just campaigning in Omaha and Lincoln. You can't win a statewide election just campaigning in those two areas. You can't become governor in California if you just campaign in Los Angeles and the Bay Area. Four out of the last five governors in California have been Republicans, who don't do well in Los Angeles; they don't do well in San Francisco; they don't do well in Oakland. But because every vote is equal, they campaign in other areas of the state and are able to accumulate sufficient votes to win the election. We saw that on a national level earlier, or I should say last month in Massachusetts, when in clearly one of the bluest states in the country newly elected U.S. Senator Scott Brown was able to get elected in Massachusetts despite overwhelmingly losing the city of Boston and the other major population centers. So while it's understandable that people would just sort of assume that candidates would campaign in the population centers, all evidence suggests that when every vote is equal, candidates figure out ways to campaign wherever it makes most sense for them and where they're going to be able to get the votes. Senator Avery--I'm sorry, Senator Haar read an excerpt from this speech which I passed out, from Senator Dole. I'd like to read just real quick one paragraph that talks about sort of the learning curve that he underwent when both as...first as chair of the Republican National Committee and then secondly as the vice presidential nominee in 1976 and subsequently, obviously, the presidential nominee in 1996: "Many persons have the impression that the electoral college benefits those persons living in small states. I feel that this is somewhat of a misconception. Through my experience with the

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

Government, Military and Veterans Affairs Committee
February 10, 2010

Republican National Committee and as a vice presidential candidate in 1976, it became very clear that the populous states with their large blocks of electoral votes were the crucial states. It was in these states that we focused our efforts." And to wrap up, I think that's been demonstrated by the fact that the National Popular Vote proposal has been very successful in the small states where we've attempted to get this passed. We've passed 29 legislative chambers in 19 states, and almost a third of those passages were in states that have three or four or five electoral votes, some of the smallest states in the country. So Senator Avery is giving me the wrap-up sign, so I will finish and then, you know, be happy to answer any questions you might have. [LB1015]

SENATOR AVERY: Thank you, Mr. Sokol. Questions? Senator Price. [LB1015]

SENATOR PRICE: Thank you, Chairman Avery. Mr. Sokol, thank you for coming and sharing with us. I was looking at your numbers. (Inaudible) and numbers are dear to me. And in your "assertation" in this list, you're saying coastal versus interior, correct? [LB1015]

LARRY SOKOL: Um-hum. [LB1015]

SENATOR PRICE: And I would submit to you that the Texas coast, Mississippi, Louisiana, and the Alabama coast feel they're just as much coast as the coast of Connecticut is--and that if you move those numbers over to the other aisle, you'll see a flop the other way. So I just would say that we have to be careful how we present numbers. [LB1015]

LARRY SOKOL: You clearly are correct. Generally speaking and when I was preparing this for someone in particular, they were interested in the East Coast and the West Coast. [LB1015]

SENATOR PRICE: Right, okay. [LB1015]

LARRY SOKOL: So--but you're right. And I think, generally speaking, people consider those coastal states and not as much the Gulf Coast. But you can make that argument. [LB1015]

SENATOR PRICE: Okay, thank you--just to point it out. [LB1015]

SENATOR AVERY: Any other questions from the committee? Seeing none, thank you for your testimony. [LB1015]

LARRY SOKOL: Thanks very much. [LB1015]

SENATOR AVERY: Additional proponents of LB1015. Welcome. [LB1015]

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

Government, Military and Veterans Affairs Committee
February 10, 2010

LAUREL MARSH: (Exhibit 3) Hello. Good afternoon. My name is Laurel Marsh, spelled M-a-r-s-h, and I'm here today as a proponent of LB1015 on behalf of ACLU Nebraska. The piece that's being passed around is an in-house discussion piece of the idea of eliminating the electoral college and substituting it with a plan that would move closer to ACLU's desire of a plan that would be one person, one vote. It is not identical to National Popular Vote, but it certainly goes in the same direction. I'm passing it out because I thought that the discussions on page 4 that talk about what does the Constitution say and is the National Popular Vote consistent with the Constitution...and then also on page--well, on page 4 and 5 it also talk about the compact, the concept of the compact itself--I thought perhaps those discussions would be of interest to you. ACLU does stand in support of LB1015, and our position is based on the principle that states...that equal protection of the laws should be given and one-person, one-vote rule should be supreme. [LB1015]

SENATOR AVERY: Thank you. Any questions from the committee? [LB1015]

LAUREL MARSH: There's also contact information. If you would like to contact any of the people to discuss some of the constitutional issues involved directly, you're welcome to do so. [LB1015]

SENATOR AVERY: Thank you. [LB1015]

LAUREL MARSH: And they do know, they've been advised of Nebraska's introduction and would welcome calls. [LB1015]

SENATOR AVERY: Thank you for your testimony. Any other proponents? All right. We'll move to opponent testimony. Anyone wish to testify in opposition to LB1015? Anyone wish to testify in a neutral position? Seeing none, Senator Haar. [LB1015]

SENATOR HAAR: Again, one of the...not only do I believe that the most...the person with the most votes should win, but I just found this such an interesting topic. It's a great lesson in our history and how the Constitution works. One thing I didn't mention and that sometimes people have been concerned about is you can...within the National Popular Vote proposal, the way it's put forward right now, states can withdraw from the compact. They don't have to get the agreement of everybody else in the compact to withdraw. But it has to be done in a timely manner, so that you couldn't have a state withdrawing right before the election and upsetting the apple cart. A little deal about the congressional races: That becomes a very political issue, because people in California--well, let's say, Republicans in California would like to see the congressional system, because then some of the electoral votes would go to the Republicans; and there are other states just the opposite where Democrats would like to see it happen, in certain states but not others. So I would encourage you to advance to the floor. I think it would make a very

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 10, 2010

interesting discussion on the floor. So I appreciate your time and thank you very much. [LB1015]

SENATOR AVERY: There is a question. Senator Krist. [LB1015]

SENATOR KRIST: I'm sorry. I had to go out on business before. I wanted to ask you, in your opinion, in all that you have done on the subject, how do we make Nebraska more relevant? I mean, it's winner-take-all in the state; is that really the premise? One vote for the compact doesn't take effect until everybody else wants to play. But it seems to me like you're going to get five. If you campaign in Omaha and Lincoln, you're going to get five, and that makes the state pretty much irrelevant in my estimation. Is that your opinion? [LB1015]

SENATOR HAAR: Yeah. I'm sorry. I'm not talking about winner-take-all. [LB1015]

SENATOR KRIST: Right. [LB1015]

SENATOR HAAR: But I'm saying that under this plan, that whoever wins the most popular votes in all 50 states and D.C. would get our electoral votes. [LB1015]

SENATOR KRIST: All five. [LB1015]

SENATOR HAAR: All five, yeah. And again, that's part of this compact concept that states having a majority of electoral votes once...when I first heard of this, in fact, I don't know, it was...if the biggest states would...I don't know, the 10 or 11 biggest states or something would agree to this, we would basically have a national popular vote. So--interesting. [LB1015]

SENATOR KRIST: Yeah, I guess it still begs the question, you know, how do I get a McCain or an Obama to want to go to Kearney? Because that makes the state relevant. That puts us in a voting...in an atmosphere where we are relevant to an election. And that's why I don't think we're on anybody's, you know...besides going through I-80 to go to Denver, I'm not sure that they want to do anything between Omaha, Lincoln, and Denver. So I'm not sure how this...it doesn't fix the problem, I understand, but relevance is important to me as well. And I just... [LB1015]

SENATOR HAAR: Right, exactly. I think what has been pointed out to me so clearly and makes me so interested in this is that such a huge amount of each campaign's resources--we're not just talking about Kearney, but we're talking about whole states are ignored. And there's a little bit of economics in that argument, but not really. It's just saying that...I think, as Mr. Sokol pointed out, that every candidate knows a lot more about Pennsylvania than they do about Nebraska, and I think that's a mistake. [LB1015]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 10, 2010

SENATOR KRIST: All right. Thank you, Senator. [LB1015]

SENATOR HAAR: Thank you very much for listening. [LB1015]

SENATOR AVERY: I see no more questions. Thank you. [LB1015]

SENATOR HAAR: Okay, you bet. [LB1015]

SENATOR AVERY: That wraps up the hearing on LB1015. I will now turn the chair over to Senator Price, and we'll go to LB718. [LB1015]

SENATOR PRICE: Welcome, Senator Avery. The floor is yours. [LB718]

SENATOR AVERY: Thank you. Good afternoon, committee. My name is Bill Avery, B-i-l-l A-v-e-r-y. I represent District 28 here in Lincoln. I'm bringing to you LB718, which is important, but it is not huge, as you will see. Current law requires petition circulators to simply state to signers of petitions the object of the petition or, in the case of recall petitions, to state the printed items on the petition. In the past year, there have been two court cases that challenge the current requirement that circulators state the object of the petition, and these court challenges involved two different interpretations of current law. One case was in Lancaster County, where the court found that stating does not require reading the object statement to the signers verbatim. And another court, in Butler County, held that stating--and that's the current law, says stating--did mean reading the statements as printed on the petition; hence, ambiguity...two rulings, two different conclusions. This bill seeks to clarify on what is required of petition circulators when asking someone to sign a petition. Under LB718, a petition circulator will make available to each signer the object of the petition as printed on the petition before the person signs. In order to ensure the circulator makes the object statement available to each signer, the circulator will read or show--that's the language in the bill--"read or show the printed portion of the petition" which includes the object statement to each person before he or she signs. In the case of recall petitions, the circulator will make available the printed portion of the petition by reading or showing--the words in the bill--reading or showing the printed items on the petition to the signer before he or she signs. Just by way of clarification, when we're dealing with recall petitions, there are items on the petition: the name and office of the individual that is being sought to be removed; the reason or reasons for which recall is sought; the defense statement, if any, submitted by the object of the recall; and the name of the principal circulator or circulators. So a petition recall involves a lot of information. So what we're proposing in LB718 is they must read or show. The reason that I'm suggesting to change the language to read or show is to remove the requirement that the object statement or other portions of the petition be read to each potential signer of a petition and to clear up the ambiguity that was created by those two court decisions. I think it's enough for the petition circulators to show the signer the object statement and allow the signer to read the object

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

Government, Military and Veterans Affairs Committee
February 10, 2010

statement if they wish to do so. In the case of recall petitions, which require the circulator to read the name of the office, the individual sought, and all of the various items in the petition, that might involve a great deal of time. It should be sufficient to show the information to the signer or the potential signer and let them...if they want to stand there and take the time to read every word, they can do that. They can scan it and decide, but the circulator would not have to read each item. What's most important about this bill is that it provides guidance to petition circulators in an atmosphere of ambiguity created by these two court decisions. I think it's necessary--or it's desirable, I should say, that this be done. Is it necessary to maintain democracy in Nebraska? Probably not. But it's not a bad thing for us to consider doing. With that, I would ask that you advance this to General File. Thank you. [LB718]

SENATOR PRICE: Thank you, Senator Avery. Are there any questions for Senator Avery? Seeing none, thank you, Senator Avery. May we have the first proponent? [LB718]

NEAL ERICKSON: (Exhibit 1) Senator Price, members of the committee, for the record, my name is Neal Erickson, N-e-a-l E-r-i-c-k-s-o-n. I'm Deputy Secretary of State for Elections, here on behalf of the Secretary of State, John Gale, in support in LB718. Unfortunately, Secretary of State Gale is chair of the Records Board. They have an all-day meeting today. He submitted a letter that I think covers most of the issues. I think Senator Avery gave a good, brief history of why this has become an issue. Highlighting some of the other items from Secretary Gale's letter: He feels that it's important that the signers be informed of the nature of a petition prior to signing and that--does not think it's a burden on circulators to read the object statement to a potential signer but is willing to accept the "read or show" language that Senator Avery has in the bill and would urge you to advance this to General File. And with that, I'd answer any questions you might have. [LB718]

SENATOR PRICE: Thank you, Mr. Erickson. Are there any questions for Mr. Erickson? Seeing none, thank you very much for your testimony today. [LB718]

NEAL ERICKSON: Thank you. [LB718]

SENATOR PRICE: May we have the next proponent? [LB718]

BRIAN MIKKELSEN: Senator Price, members of the committee, my name is Brian Mikkelsen, B-r-i-a-n M-i-k-k-e-l-s-e-n, testifying on behalf of NSEA. I won't belabor the point. We would support this bill as well, in terms of providing clarity as to what petition circulators have to provide potential signers. Over the years, we've seen a lot of at least anecdotal fraud in this area, in terms of circulators not necessarily saying what's on a petition and what's in a petition. So we think--while we would prefer that it just say "read the object statement," "read or show" is something that we think would add more

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

Government, Military and Veterans Affairs Committee
February 10, 2010

credibility to the petition process. [LB718]

SENATOR PRICE: Thank you, Mr. Mikkelsen. Are there any questions? Seeing none, thank you, sir, for your testimony. [LB718]

MICHAEL KELSEY: Good afternoon, Senator Price and members of the committee. My name is Michael Kelsey, M-i-c-h-a-e-l K-e-l-s-e-y. I'm the executive vice president of the Nebraska Cattlemen and here today representing Nebraska's cattle and beef producers in support of LB718. There is, obviously, need for clarification regarding the courts' decisions. I will not comment on that issue, as there are people far more qualified to do so and answer questions. There are situations and reasons that can be offered as evidence. In the interest of time, I'll simply offer that the Nebraska Cattlemen supports the idea of a full understanding by the participant in the petition process. We, too, would prefer "read" but understand and support the idea of "read or show" in terms of the language. Transparency, if you will allow me to use that term and apply it, is fundamental to making appropriate decisions. This applies to markets as well as opposition or support to a proposed initiative or referendum. Again, we would appreciate the committee's consideration, thank Senator Avery for introducing the bill, and encourage the committee to advance the bill. Be happy to answer any questions, Senator Price. [LB718]

SENATOR PRICE: Thank you, Mr. Kelsey. Are there any questions? Seeing none, thank you very much, sir. Next proponent. Seeing no further proponents, are there any opponents? Anybody who would like to testify in the neutral? Seeing none, Senator Avery...thank you very much. We do have a late arrival. And to which capacity will you be? [LB718]

LYNN REX: Neutral. [LB718]

SENATOR PRICE: Thank you, Ms. Rex. [LB718]

LYNN REX: Senator Price, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We do appear here in a neutral position for this reason. We certainly support and appreciate the fact that Senator Avery did introduce this bill to clarify the lack of clarity in the current law in terms of what it means to state the object of the petition. But that being said, like the others that have testified in a proponent testifier--at least most of them have said they prefer the words "read" not just "show"--because I can show you this, and I've shown it to you. And we worked really hard with this committee several years ago to make sure that this language was put in the statute, and I'm just going to give you a brief example of why that had to happen, in our view. One of the many examples that happened across the state involving the recall of a local elected official occurred in Wayne, Nebraska; and, Senator Price, you may remember this. We had several people actually

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

Government, Military and Veterans Affairs Committee
February 10, 2010

testify, including folks from Wayne, about what occurred up there. And, in essence, what happened is that as a part of a project for Wayne State College, a professor thought it would be kind of interesting to engage the kids in civic duties and civic responsibility. So they thought that they would undo what was, in fact, a previous vote of the citizens of Wayne, Nebraska, on a parking issue--and it dealt with parking. Well, instead...because the law says once you have enacted something, there's a certain period of time in which you cannot undo the vote of the people. So what these folks thought they would do is they would just go around and recall the mayor and what happened to be then several council members. So they were going around showing people the petition, saying, you know: Please sign this; we want to undo--because the parking issue was very controversial in this city, so we want to undo this; if you sign the petition, then you're going to get to vote again on the parking issue. Well, that isn't what it was about. It was about to recall individuals--recall the mayor and recall some council members who supported her. And, of course, what the mayor was doing was implementing...what the council was doing is implementing what the voters had previously said they wanted to do. It wasn't an overwhelming majority, but that's not how democracy and representative government works. You go with whatever the majority says in election, and that's what they were doing. And I know you--as a former council member and as a former mayor, you can appreciate the fact that that's your obligation when you're in that position. And what occurred is that when folks turned in those signatures--and they had a boatload of signatures to "undo the parking issue," which really was the recall of several elected officials--the end result was that one of the council members looked and thought: Oh, my gosh, let me see who's on this. And it was several of his family members. So he called them and some friends and said, you know: What's this about, and why would you possibly have signed this to recall me? And they said: Oh, no, no, this is about the parking issue. So he explored it more, and by the time it was all said and done, he challenged the legality of the recall against himself by going to the court with 38 affidavits that said these were people that have basically said: Look, I signed this because I was told that what this was about was to basically put the parking issue back on the ballot; I didn't know it had anything to do with recalling anybody. And the judge in that case said, you know: Voters get what they deserve; if they're not careful about what they sign, then they're going to have to live with the consequences, so this is going to an election. And so essentially, that's what happened; and they had an election, and those folks were not recalled. But at the end of the day, it was very divisive in the community. And one of the other elements that occurred...this occurred with LB or, pardon me, initiative measure 423; and many of you may be aware of what happened with that initiative measure, which was a proposed constitutional amendment to basically put caps on state spending and do some other things. And out at one of the facilities, which is an athletic arena out in Lincoln, there was a stand set up with a little table, and people were being told...it had a little sign there saying, you know: Sign up and reduce your property taxes. And I was out there, actually, because one of my little nieces was playing softball that night, and there was a line of people up there just signing up to reduce property taxes. And all good for them, but that isn't what they

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

Government, Military and Veterans Affairs Committee
February 10, 2010

were signing. So in any event, we would respectfully request that you do strike the language "or show" throughout this bill, so that it is clear that you have to read it; and, yes, it does take time. It does take time to say: We're recalling Mayor Karpisek; we're recalling you; we're recalling Council Member Janssen. It does take time to say that. But by the same token, in a recall effort, you'll note that this bill also requires that you have a defense statement if you're being recalled. So that an example that we also had here several years ago with the mayor of Nebraska City who was subjected to a recall...as it turned out, they didn't get the signatures against her. But with her, they were having people sign up, saying that she had violated the rights of several individuals and several employees. Well, what she did is she hired a city administrator, and that person had to do certain things that you're required to do as a city administrator. And that involves...when you have people that are doing things that are inappropriate and violate policy, you have to discipline them. That resulted, in fact, in an individual who had been terminated in the city of Nebraska City writing a letter to the editor stating that even though he was fired, he was fired for a DUI on the job and he is voting to retain the mayor if it goes to a full recall. But, again, that's not the reason why he was told to sign the petition. He was told to sign the petition because "his rights had been violated," because he was "one of the alleged employees." His rights had never been violated, and he just said, you know: I support the mayor; what I did was inappropriate, and I should have been terminated, and I was. So, again, in that effort, you have a situation where people are being told things--and, yes, it takes time to go through and read the defense statement, but the mayor in that case felt very strongly that she needed to state, in the number of words that she's allowed by law--to state what her defense was and that, no, she was not violating rights, no, she was following policy. So we really appreciate Senator Avery clarifying the law. We think this is extremely important, and we appreciate him doing so. We would just respectfully request that you strike the "showing" issue and make sure that people have to read it. I'd be happy to respond to any questions that you might have. [LB718]

SENATOR PRICE: Any questions from the committee? Senator Karpisek. [LB718]

SENATOR KARPISEK: Thank you, Senator Price. Ms. Rex, thank you, and I agree. There's nothing to say, though, that they can't misread the statement either, though--put a "not" or a "shall" or a "may," as we all know in here, so I do... [LB718]

LYNN REX: That's true. [LB718]

SENATOR KARPISEK: ...I do agree with you, and I don't know what the best way to get around someone doing that is, but I do agree. Showing them you should have to read it to them, I guess you're never going to get around someone doing something they shouldn't. [LB718]

LYNN REX: Well, I really do think that it's important, because--yes, you're correct that

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

Government, Military and Veterans Affairs Committee
February 10, 2010

someone could say, it's not to do this or it is to do something and just the opposite. But at the end of the day, it's going to be a lot easier when you've got to have affidavits to try to undo something. And, again, when you're looking at these sort of issues of direct democracy--because that's what we're talking about--when people are basically bypassing representative government and the people that have been elected by a majority of the voters or people that have...basically are trying to undo a constitutional amendment or try to put in a constitutional amendment--at the end of the day those are all serious issues. And people really need to know what they're doing, and we just would hope that the committee would agree that reading it, even though it takes more time, is important. [LB718]

SENATOR KARPISEK: What if we put in "read and show," so you have to kind of read along? [LB718]

LYNN REX: Actually, that wouldn't...that would be just dandy with me, Senator. [LB718]

SENATOR KARPISEK: Thank you. [LB718]

LYNN REX: I just think this is important because... [LB718]

SENATOR KARPISEK: I agree. [LB718]

LYNN REX: ...when you're doing a recall, as an example, you are undoing what basically others...you know, if you put--you elect a mayor, you elect a council member, whatever it may be, at the end of the day the majority of folks voted you into office. And it ought to be a very, very serious thing for people to sign something to say: We want to take you out of office. [LB718]

SENATOR KARPISEK: Thank you. Thank you, Senator Price. [LB718]

SENATOR PRICE: Thank you, Senator Karpisek. Are there any further questions? Seeing none, thank you for your testimony. [LB718]

LYNN REX: Thank you. [LB718]

SENATOR PRICE: Again, do we have another neutral testifier? [LB718]

PAUL SCHUMACHER: You didn't until a minute ago. So. (Laughter) [LB718]

SENATOR PRICE: All right. Thank you very much, sir. [LB718]

PAUL SCHUMACHER: My name is Paul Schumacher, P-a-u-l S-c-h-u-m-a-c-h-e-r, and I'm from Columbus, Nebraska, been involved in a number of petition drives, probably

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

Government, Military and Veterans Affairs Committee
February 10, 2010

half a dozen or so on one side or the other since 1996. And, fortunately, the next bill that you're going to hear I think solves a lot of the problems of the petition process, but let me tell you how we solved this particular problem in 2002 and 2004. We were hypersensitive in the gaming petitions in those two years that we didn't get accused of doing anything shady, because the press...the large press in the state was kind of against us. And we knew that if anything even looked a little bit shady, we'd get called on the carpet. So being hypersensitive about that issue and also recognizing that when you get petition circulators, the kind of people you hired to circulate petitions...in those days paid by the dollar was--or paid by the signature was lawful. You're not going to get Georgetown or Harvard graduates. You're going to get people who are circulating petitions because they're short on money, and they'd like to, you know...and we've used all Nebraska people in ours. And we covered...and we knew that when they would say: Read the...the object statement to them--they necessarily wouldn't read it word for word; they'd be lucky if they were going to kind of explain it. And we also knew that in drafting those things, when it says: Read the object statement--you get smart after one or two of them, and you keep that thing about as short as possible, so that maybe they can memorize it--then again maybe they can't. So the way we solved the problem is we had them...and it was good politics really...we gave out business cards. And when the circulators went out, we told them: You give everybody a business card--and on there was the object statement of the petition, and that also served as a little advertising card, too, that they could stick in their pocket or whatever. But that's how we solved it. And we were also sensitive to the thing where it said--or...and when it said or, you know, when it said: Read the object statement to the people--deaf people have the same rights as people who can hear, so that solved that problem too. And maybe that's an answer to this issue. People should know what they're signing. But also remember that signing the petition, whether it's a recall petition or anything else, isn't the end of the story. There's an election. I know; we got petitions signed. Some of them didn't pass, so it's not the end of the world if a...you know, if a person doesn't completely understand the petition. But maybe we did stumble on a solution there that is somewhat workable. Hand them a little card; life goes on. You're spending a lot of money on petitions anyway. Cards are cheap. Thank you. [LB718]

SENATOR PRICE: Thank you, Mr. Schumacher. Are there any questions? Seeing none, no further neutral testimony? Senator Avery waives his closing, and that will close the hearing on LB718, and we'll move forward to LB1059. Senator Avery, as the introducer, the floor is yours. [LB718]

SENATOR AVERY: Thank you, Senator Price. For the record, my name is Bill Avery, B-i-l-l A-v-e-r-i...did I misspell my name? (Laughter) Y. (Laugh) I represent District 28. If you...you notice I didn't have any opposition to that bill. I think it might be different on this one. This one is a bold new world that I am proposing. LB1059 is based upon a belief of mine that we ought to be making it as easy as we can for citizens to participate in the political process and my belief that the initiative process is an important part of

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

Government, Military and Veterans Affairs Committee
February 10, 2010

citizen participation and that we ought to make the initiative process easy. But we ought to also make it honest and regulate it only as much as necessary to create honesty in that process. One way to make the political process easier to access is to provide services using technology such as the Internet, and we've had discussions in this committee about that. Many services of government are already provided to us electronically: payment of bills on line, electronic banking, other commercial transactions. I think it's important for us to start looking at and talking about in this committee now how we can move Nebraska government into the 21st century, providing more governmental services on line, including the ability to sign initiatives and referendum petitions. LB1059 requires the Secretary of State to design a system to allow electors to use digital or electronic signatures to sign initiatives and referendum petitions by way of the Internet. The sponsors of the petition may decide whether to use the Internet or circulate petitions in the old-fashioned way with paper petitions. The petition form used by way of the Internet will comply with current sections of law regarding the form of initiative and referendum petitions. The big difference would be that there would be no circulators, because petitions could be done sitting in your study or your kitchen by way of the Internet at home. The elector will be able to view the petition, read the petition, affix his or her digital or electronic signature to the petition, complete the required information, and return the petition electronically to the Secretary of State. The Secretary of State will provide a method of determining the validity of signatures affixed digitally or electronically. Fraud, of course, is an issue that has to be recognized, and I believe that that can be dealt with. Mr. Schumacher will be here in a few moments to talk about that. He has some experience with Internet security issues. But to prevent fraud, deception, and misrepresentation, or at least to contribute to that prevention, every petition will have upon it a statement warning the petition signer of potential criminal charges for fraud, for violations of the provisions specified in the law. The people who will follow me can explain this in more detail. Let me say here that this is a conversation starter. I don't expect that we're all going to immediately embrace the idea, and I understand there's a pretty serious fiscal note attached to this. But I am also aware of information from the Fiscal Office that the fiscal note is a wild guess and that I don't think we went to Arizona and asked them what it would cost. But it's tantamount to saying, well, this is very new and, therefore, it's going to be very expensive. It may not cost what we are being told. However, at this point, I'm introducing the bill for discussion purposes. I'm interested in this. I think this is something that the state needs to prepare for. We can have philosophical differences about whether we want to make the petition process easier or not, but I think that when it comes to moving the state of Nebraska into the digital age, that's something that we probably ought to all agree on. We need to be doing that every opportunity we have. With that, I will stop and take any questions you might have. [LB1059]

SENATOR PRICE: Thank you, Senator Avery. To start off, obviously, moving forward in technology and what we can do to enable things--that's going to be something that comes before us more and more often as we move forward. But one of the concerns I

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

Government, Military and Veterans Affairs Committee
February 10, 2010

have--and you look back at LB718 that we heard earlier today and we look about "read" versus "having shown" a statement and look at the...how, as we were presented, someone may say, hey, lower your property taxes or change a parking sign via Internet circulator. I mean, how often do you read the end user license agreement completely, you know, before you push, "I accept" and then move on? Are you concerned that we'll need to find a mechanism to ensure people have been adequately shown, let alone read, a petition drive? Because you get spammed and get hit by, you know, a whole bunch of these petitions at one time and not be sure? I mean, these are, I think, some of the issues, but... [LB1059]

SENATOR AVERY: And that's just one of many issues that will come up in verification and security and fraud--antifraud preventions, and I don't have any answer. [LB1059]

SENATOR PRICE: Well, actually, more...not even until we got to the fraud, it was more to the meat of the question: Are they actually going to read it before they accept it and put...they could have a totally legal digital signature that's super, you know, spy ring coded and good for everything we do...even astronauts could do it (laughter), but the question that comes to mind, though, is... [LB1059]

SENATOR AVERY: I know, and this...this... [LB1059]

SENATOR PRICE: ...the subject of the petition... [LB1059]

SENATOR AVERY: That question is still there in the way we do petitions now. Is the person going to read the petition? Is the circulator going to actually read it to you? Will they even show it to you in a way that you can read it quickly? I, you know... [LB1059]

SENATOR PRICE: And then you'd also have Section 508 compliance issues for people with disabilities until you have the software--was it readable and things like that? But do you want to open up that conversation? And is there any other questions from the committee? Yes, Senator Sullivan. [LB1059]

SENATOR SULLIVAN: Thank you, Senator Price. Senator Avery, excuse my ignorance. What exactly and how...what are the logistics of a digital or electronic signature? [LB1059]

SENATOR AVERY: Well, do you do any on-line banking? [LB1059]

SENATOR SULLIVAN: Um-hum. [LB1059]

SENATOR AVERY: Well, they have a way to verify you are who you say you are. It might be the name of your favorite pet and a whole series of verification questions plus passwords and things of that sort. [LB1059]

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

Government, Military and Veterans Affairs Committee
February 10, 2010

SENATOR SULLIVAN: Okay, so it wouldn't actually be... [LB1059]

SENATOR AVERY: It wouldn't actually be a physical signature, but it would be a...you would verify: I am who I say I am, and this is how you can know I am who I say I am. And, you know, we do Internet banking transactions all the time and with a high degree of security. [LB1059]

SENATOR SULLIVAN: Is it safe to say that capacity of our information technology system here in the state is an issue with handling all of this? [LB1059]

SENATOR AVERY: I don't think so. I think we're as technologically savvy and sound in Nebraska as any other state. In fact, we might be better off because of the infrastructure we have in the state around Offutt and the other parts of the state. [LB1059]

SENATOR SULLIVAN: Are other states doing this? [LB1059]

SENATOR AVERY: Good question. Washington state had a bill in '05 to do this and it failed to pass. Utah is looking at it now. California has before it right now a question that...where they're trying to convince the Secretary of State that they actually already have the authority to do this under existing California law. So if they do it, other states will certainly start to look at it more carefully. We contacted the National Council of State Legislatures to find out what's going on, and it's being talked about. But we are among the earliest states to do it. [LB1059]

SENATOR SULLIVAN: Is there maybe an alternative or at least a way to sort of move in this direction by, at the very least, posting a petition on line as a way to inform more people about it? [LB1059]

SENATOR AVERY: Certainly, absolutely. I mean, I don't know if the Secretary of State does that already--wouldn't surprise me if they do. But that capability is there, and it wouldn't be difficult. [LB1059]

SENATOR SULLIVAN: Okay. Thank you. [LB1059]

SENATOR PRICE: Okay, Senator Sullivan. Senator Janssen. [LB1059]

SENATOR JANSSEN: Thank you, Senator Price. Senator Avery, I'm interested in the fraud. Do you think...I'm not interested in fraud--I'm interested in discussing (laughter) the fraud provisions of this particular bill. Do you think by putting that statement on there that that would stop most people from fraudulently signing it? [LB1059]

SENATOR AVERY: You know, I don't know. It might be a deterrent, but I believe that

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

Government, Military and Veterans Affairs Committee
February 10, 2010

there are sufficient mechanisms that we have in place today with banking transactions that you can make this a secure transaction. That's what it would be. And that statement simply would be there as an additional reminder to people: If you're planning to commit fraud or try, you'll probably get caught, and it's a criminal offense. [LB1059]

SENATOR JANSSEN: In Nebraska's sake, for the sake of Nebraskans, though, it's safe to say that most of us comply with the laws knowingly. [LB1059]

SENATOR AVERY: Right. [LB1059]

SENATOR JANSSEN: Okay, thank you. [LB1059]

SENATOR PRICE: Senator, a question for you is, do you...would you also envision, though, that we would maintain a paper...a copy available for, you know, for those statewide petitions where we may not have high-speed Internet behind every tree and, you know...? [LB1059]

SENATOR AVERY: Um-hum. This would...this...as I would envision this unfolding, it would not be the only way you could circulate petitions. It would be one way among the traditional, old-fashioned way of actually going out to Walgreens and standing in the snow and getting people to sign. [LB1059]

SENATOR PRICE: Thank you very much. Are there any further questions? Seeing none, we'll move on to proponents. Senator Avery, I suppose you'll be sitting around waiting to close. [LB1059]

SENATOR AVERY: Oh, yeah. [LB1059]

SENATOR PRICE: Thank you. May we have the first proponent? [LB1059]

PAUL SCHUMACHER: (Exhibit 1) My name is Paul Schumacher, P-a-u-l S-c-h-u-m-a-c-h-e-r. I'm from Columbus, Nebraska, been involved in half a dozen or so different petition drives since 1996. This proposal deserves serious discussion and serious consideration because right now the petition process is pretty badly crippled in Nebraska, and I'm going to go into why I think that's exactly the case. But the document that you're being...that's being passed out is a duplicate of what was passed out earlier this summer at one of your hearings on this particular matter. The successful petition drives in the past have been done by the signature. You give...hire some people. You give them a dollar a signature or whatever, and they go out and collect signatures. They bring the signatures in and ones that we did, and they're reviewed. We have access...the Secretary of State makes available a CD-ROM--in those days, a couple of years ago at least--that had the database on the various voters. We programmed that into a server, and statewide when people brought their petitions in, they brought them in

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

Government, Military and Veterans Affairs Committee
February 10, 2010

to somebody that we called a verifier; and that person would look at the signature, look at the date of birth, look at all the stuff that is written on these petitions. And some of them...I mean, you put a lot of information there; it'd be really...it's really kind of an exposure for identity theft, kind of. And then they would type that into a computer. It would go back to our central computer, which had the Secretary of State's database on it, which had similar information, and they'd be able to do a comparison at that particular point to get a pretty good guess whether or not that was a legitimate signature, or not. That entire process--setting up that server, having statewide locations for verification: less than \$10,000. If somebody is talking...I haven't seen the fiscal note, but if somebody is talking out-of-this-world numbers, they're out of this world. It isn't that big a deal. Now, when that went away, when the blockers, who were basically paid by government agencies or subagencies or derivatives of government agencies, came in in 2006 and went head to head with the people who wanted spending limits, that's when the petition process broke down, because I suppose if you can pay somebody to circulate a petition, you can pay somebody to stand there and scream at the circulator. I mean, it's, I guess, a democracy. But in response to that, the folks who had the blockers brought in came in and told the Legislature that things were in pretty crummy shape in the petition world and they had to put limitations on the circulation by the dollar. The only petitions that had that problem were ones where blockers were involved, but that's the game that we're into now these days. Apparently, if you got the money, and both sides got the money, you hire at each other to bang each other in the streets. That leaves you with no real way to discipline a petition drive. You can have a lot of volunteers; you put a lot of pieces of paper out there on the street. And you know what? They don't bring them back; they leave them sit in Kwik Shops, on the desk, not seeing who's signing them. It's just plain garbage. Plus, you don't know how many signatures you got in a particular county--and you've got to get so many in so many counties in order to qualify--because they don't turn them in until maybe the last minute. And it's kind of naive to think that, you know, you're going to get a lot of volunteerism and stuff like that. That's not how politics really works. We tried a volunteer petition in our public power petition, where we were trying to authorize public power companies to, if they wanted to, bundle telecommunications services with their power thing, and so we did it purist. No money except volunteers. We spent less than a thousand dollars, got about 10,000 signatures. You'll find--and from the gaming petitions we did earlier--you find that you run out of gas under those kind of systems at about 30,000, even if you push it some--long way from the 80,000-90,000 for a statute now or the 110,000-120,000 you need for a constitutional amendment. The only way, if I had to do a petition drive today, that I could think of doing it is get a bundle of money together from somewhere...and you guys ran for office--you know how easy that is to do...and you get a bundle of money, and then you hire some of these clowns from out of state to come in, and you pay them a lump sum for delivering you a bag of signatures. And so they find all kinds of, you know, their crews and bring them in from out of state, and it just stinks. Now, what's the solution? You can say, well, good, we got rid of those crazy petitions. Now we're in control or whoever controls the state is in control; and the people, by gosh,

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

Government, Military and Veterans Affairs Committee
February 10, 2010

that'll teach them to deal with us. And maybe that's a good outcome; I don't know. That's the decision makers' outcome. But if you think that there is merit to that first right of the people reserved, then we all got an obligation to put our thinking caps on, come up with something that works. Today we do banking; we sign million-dollar liens and file them with the Secretary of State's Office. The Secretary of State's Office sends out fliers saying: Hey, file your liens electronically. We buy hunting licenses; we do all kinds of things by electronics. Credit cards, you know, zillions of ways. It's established practice. The only reason not to implement it as part of the petition process is the political one--we don't want these damned things around. Then...let me back up a second...on the paper things, and I don't know if this was figured in the fiscal note. You get these boxes and boxes of signatures, and these poor election commissioners have to sit there and sort through the stuff and try to figure out--is this really Joe Blow's signature? And that costs thousands and thousands and tens of thousands of dollars. So whatever that figure is, it better be subtracted off of their fiscal note, because these are savings that are going to take place on the county side so they don't have to verify these signatures manually in each county election commissioner's office. The system could be implemented reasonably cheap. Now let me just throw out a couple of suggestions of concern on security. When you type in your name, and you go through the...you get a big red flashing message, "This is what this petition is about," which is going to hit you in the face a lot more than somebody mumbling something on the street, and you go past that--I mean, it's not going to be a Microsoft 10,000 pages and you got to scroll up and it says, "I accept." Most of these object statements on petitions are, you know, not more than a sentence or two long, so it's not going to...it flashes on the...you know, the thing. You can hold it there for ten seconds before they even got to go to the next step if you wanted to or something like that. No biggie. And then you type in your information and say, yes, I want to. And it says, "What's your driver's license number?" Well, the state computers have got access to the state driver's license numbers or state ID numbers. Oh, pull out my driver's license, type it in. If it matches, it's a whole lot better than trying to figure out if your signature matches on the street. Make a dollar contribution to the Internet advancement cause or something and your credit card. If it's good enough to...if that credit card identification going through is good enough for you to buy a car on line, my gosh, it should be good enough to do a petition. What I'm saying is this: Anybody who tells you that this thing is technologically unsafe, can't be done--what they're really saying is they don't like the petition process, and this is a smokescreen. Now, this is a good idea, and let me tell you one thing why it's even more a good idea from a policy standpoint. I was invited to a deal at Harvard University last week, spent four days there with some of the top people in the Harvard Business School and about 50 people from around the world--three-quarters from other countries, a quarter from this country. And we went over the global economic situation in depth--pretty scary situation. What we are looking at as a country might be the number ten...10 percent inflation, 10 percent unemployment, 10 percent currency devaluation, 10 votes short on either party in the U.S. Senate. And there's a couple more tens...I'm losing my mind right now--but we've got real problems. When the federal government has those real

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

Government, Military and Veterans Affairs Committee
February 10, 2010

problems, when our currency has those real problems, there's a trickle-down effect; and guess who the first trickle is in the line? State government. State government, what are you going to do when you face those kind of issues? What...it's going to come to a position where you have got to do some creative destruction. Things have got to dramatically change. Sacred cows have got to be brought into this room for slaughter for their meat; and when they do that, they're going to come out of the walls at you, saying why that cow shouldn't be slaughtered. And there are certain things that--if we get to that point, the slaughtering may be better off left done by the people. And then you pick up the pieces afterwards and put it back together...after, in a new creative process. And that is the strategic value of this bill: Give the people the tools to do something. And you can hear a lot of people are going to say, oh, no, no, no, no; but in the end those people have no faith in democracy. And remember one other thing: No matter how you get the darned petition signed, it's still got to pass an election and probably a lawsuit or two in between. This is a good measure. Any questions? [LB1059]

SENATOR PRICE: Thank you very much, Mr. Schumacher. Are there any questions from the committee? Seeing none, thank you for your testimony today, sir. [LB1059]

PAUL SCHUMACHER: Thank you. [LB1059]

SENATOR PRICE: Are there any further proponents? If there are no further proponents, we'll go to the first opponent. Welcome, Mr. Erickson. [LB1059]

NEAL ERICKSON: (Exhibit 2) Thank you, Senator Price. Once again, for the record, my name is Neal Erickson, Deputy Secretary of State for Elections. That's N-e-a-l E-r-i-c-k-s-o-n, here on behalf of Secretary of State John Gale in opposition to LB1059. And I don't know where to start on this...I think probably with the introduced copy. The introduced copy just does not give us any guidelines whatsoever. It says: Secretary of State, devise a system. You mentioned several times the fiscal note. It does mention digital electronic signatures. They want to use those. Well, a digital electronic signature is actually something that is assigned to somebody. And, you know, we kind of threw our hands up on the fiscal note on this, because there just wasn't any detail about how this process was supposed to work. But with the mention of the digital electronic signature, something we'd need to assign, we'd need to keep track of...and in order to be fair to everybody in the state, we'd almost have to issue one to every potential signer, every registered voter in the state. We're talking 1.2 million people. To maintain those, that is why you see a rough guess of \$1.2 million for assigning these digital signatures, and I think the fiscal note explains that. We would certainly urge this body and the Legislature as a whole to not put something in there that says: Secretary of State, you establish this. Our role in the petition process is a ministerial one. We don't have much discretion at all outside of maybe a couple of constitutional issues. What this bill kind of sets up is, just kind of do what you want to, figure this out. And that's not the role--our office or the election administration in the various counties--is a role they play.

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

Government, Military and Veterans Affairs Committee
February 10, 2010

I listened to Mr. Schumacher's testimony--talked about how the system is crippled. Well, you know, I think it...the...you know, I've been around the petition system for over 20, 25 years. We've had a successful petition drive in every year going back to 1986. We've had a number that aren't successful. We've had ones that have gotten 180,000 signatures purely through volunteers in a five-week period. You know, you have all different kinds of things. Mr. Schumacher mentioned the blockers. Yes, that was something new we saw in 2006. He mentioned the database that he's able to use. Yes, with the central database that we put in, they're now capable of having that--in terms of sponsors; but I'll also point out, the signers are also capable of having those. So they had that exact same information, and that is 90 percent of what goes onto a petition. The one thing that doesn't is that signature, and that is one thing that we protect very highly. When we were sued under the humane care petition, the plaintiffs in that case wanted our signatures so they'd compare and check our verification process. We had to give them that under court order. Where it was protected by the court, they could not...it could be used only for these purposes, and the attorney in that case guaranteed that these petition sponsors would not have access to a copy of those signature files. You know, the verification process we use...yeah, the basic information in terms of name, address, birth date helps us try and find who it is. But you look at a lot of different things. That signature could be completely different. Then he knows something is up. You look at a page of signatures--if the handwriting looks the same...so those are the kind of things you look at and start investigating a little bit further. Oh, one thing...an old practice used to be called round-tableing, where you'd have people sit at a table and go around and sign petitions fraudulently. If you started seeing every fifth signature with the same pen, for example, those are the kind of red flags that people who verify these signatures look at. So, you know, we're opposed to this bill not...well, I think probably more because just this bill itself really doesn't give us much to work with. We have--and I think Secretary Gale mentioned in his letter--we have heard some proposals that theoretically might have some legs, and one of those involved...okay, signing these petitions on line, but then we do a verification process on that by using business reply mail to mail to the signers to make sure if they actually signed this--they did this. And...but there's going to be a cost to that and, you know, rough guess: probably \$100,000-\$150,000 for a petition to go through that process--send that mail out and see what comes back. It's a little bit different--doing some of these things on line is a little bit different than some of the things you see in the business community. Banking on line, I mean, I know Senator Avery mentioned that. For example, my banking on line uses a PIN number. It's one that I pick, but if I gave it to somebody, they could do my business on line. I pay my wife...well, one of my wife's credit cards I pay by telephone. The only thing they ask is, they ask for a Social Security number. That's something I happen to have, and so I'm able to do that for her, and that's kind of the same problems you run into when you're talking about doing things on line. Yeah, we have some information there that, oh, you know, somebody maybe doesn't know--but somebody could know. The digital signature idea, yeah, I think theoretically could work. It would be awfully expensive to try and implement using that. So I think there's some other varieties of

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

Government, Military and Veterans Affairs Committee
February 10, 2010

processes that might be implemented here, but they need to be spelled out more specifically in the legislation. And with that, I'd answer any questions you might have. [LB1059]

SENATOR PRICE: Thank you, Mr. Erickson. Are there any questions? Senator Sullivan. [LB1059]

SENATOR SULLIVAN: Thank you, Senator Price. Neal, can you give us an idea of some of the things...I know it was mentioned previously that you can get a hunting license on line, but what other state...? Can you give us a feel for the kind of state access we have on line? [LB1059]

NEAL ERICKSON: Well, in elections there is...there's not a whole bunch, because we rely heavily on that signature, you know, whether it be to check that at the polling place, check it on absentee ballots, check it on petitions. We somehow need that wet signature at some point in time. So that is probably the biggest issue. Now when you talk UCC corporations, yes, they can do a lot of that. One interesting thing about that--and this is some of the stuff they teach us about Internet voting and why it's not practical at this point--is in a business situation and the Internet system, you want each side to know who they're dealing with, and you deal with that some way. You also want to know the nature of the transaction, and you want it to be reversible if, for some reason, it's incorrect. Internet voting, we can't do that. We do want to know who each party is, but we don't want to know the nature of the ballot--who they voted for--and we absolutely don't want to make it reversible, so there's a little bit of difference there. And that tends to cause some problems in terms of some of the ways these things work. On-line petition gathering I think there is probably a future for. I asked Secretary Gale, and his letter said he doesn't share the enthusiasm that others might have for it. But technologically it's probably a little more feasible, probably not using digital electronic signatures and certainly not in the method of just saying to an executive branch agency that's supposed to enforce or implement these things: You go ahead and design it. [LB1059]

SENATOR SULLIVAN: Thank you. [LB1059]

SENATOR PRICE: Are there any further questions? Seeing no questions, thank you for your testimony today, sir. [LB1059]

NEAL ERICKSON: Thank you. [LB1059]

SENATOR PRICE: Next opponent, please. [LB1059]

MICHAEL KELSEY: Good afternoon, Vice Chairman Price and members of the committee. My name is Michael Kelsey, M-i-c-h-a-e-l K-e-l-s-e-y. I'm the executive vice

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

Government, Military and Veterans Affairs Committee
February 10, 2010

president of the Nebraska Cattlemen, here today representing Nebraska's cattle and beef producers in opposition to LB1059. If you will allow me, in the spirit of good humor, all our cows are sacred (laughter). With respect to Senator Avery, with whom we've shared previous to this hearing our concerns with LB1059...however, just for the record, we would like to share and offer a few comments. Our area...our primary area of concern is that of signature validation. In no way do we deny the ability or the power of the Internet. Certainly, this technology has promoted our ability to market our product, to manage our business more easily and many other benefits. As well, the use of the Internet may certainly opportune more involvement of citizens, which is good. However, at this point in time, validating those that do sign the petition electronically as qualified to participate in the petition, that is our concern. Indeed, the trustworthiness of ensuring that only valid signatures are gathered, that is our question. We fully acknowledge that Mr. Avery has the same concern and has tried to address this by adding the warning statement, if you will. You will forgive us, though, if we do not feel that this is adequate to prevent fraudulent signatures in itself. While the intent of LB1059 is pure, at this time we question the ability to follow that intent at this point in time, and, therefore, we would ask the committee to just hold onto the bill so that we can let further developments move forward. However, at this time, if you'll allow me, I would like to provide some input as a means of seeking solutions to complement Senator Avery and the committee's desire to facilitate more involvement in the petition process, which we believe is a very good thing. A plausible idea for more citizen involvement in the petition process might be that of providing for all citizens to be involved in every petition process. Currently, a citizen can only participate in the petition process if they desire to support a proposed initiative. For example, if I support a proposal, I can sign a petition. If I do not support the proposal, I have no means of participating my disapproval. Now, it might be offered that voting either for or against is my means of participation. However, that right is already extended to both supporters and opponents. In the current petition process, only the supporters have the official participation method. It would seem to promote involvement if both those that support and those that oppose the proposal could sign the petition. In other words, offer the opportunity for both those that support and those that oppose to sign the petition in a representative, appropriate manner. The Secretary of State can invalidate both lists just as he or she currently validates the supporters' list. This idea might additionally provide another benefit. It would require that the circulator fully explain the petition proposal so that the signer must understand where to place their signature. Any proposal to help promote further understanding of the proposed question is good, as we've offered in our testimony earlier today on LB718. Again, on behalf of the Nebraska Cattlemen, we appreciate the opportunity to provide remarks. We appreciate Senator Avery and his commitment to promote involvement in the petition process, which is a very good thing, and we commit to you to work with the committee in any way we can to help in that gesture. I'd be happy to answer any questions. [LB1059]

SENATOR PRICE: Thank you, Mr. Kelsey. Are there any questions from the

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

Government, Military and Veterans Affairs Committee
February 10, 2010

committee? Seeing no questions, thank you very much for your testimony today. The next opponent? Mr. Mikkelsen. [LB1059]

BRIAN MIKKELSEN: Senator Price, members of the Government Committee, my name is Brian Mikkelsen, M-i-k-k-e-l-s-e-n, testifying on behalf of the 28,000 members of the Nebraska State Education Association. It's interesting...I heard Neal say he's been doing petitions for 20 years. And I started out in it; I've been involved in petitions for about 18 years. And one thing that might be good is to go back, and when we talk about how the process is now crippled, there used to be significantly more hoops that you had to jump through to circulate a petition. I remember doing one in 1992 where every circulator had to fill out a form that got filed with the Secretary of State before you could even start circulating. You had to circulate petitions by county; you couldn't, you know, have them on separate counties. And there's a whole number of regulations that Neal would probably know more. So when the proponent testifier says that the process is crippled, we would, in some cases, agree with that, but in a different way. We would argue that the process has become so wide open and, in the cases of out-state petition firms, become so fraught with fraud--where you have people not reading the object statement, you have people swapping petitions, you have people notarizing things that they didn't see--that moving this process on line only makes it worse. And whereas you can say, you get rid of the circulator and the "blocker"...I'm not going to really go there, but you still could have that same aspect on line. I mean, we still have that same process on line; so if I can sign a petition on line, I'm going to get spam e-mails from both sides saying, do this, do this, don't do this, don't do this. And so I don't think you eliminate, you know, really any of the intensity that goes along with that process. Our concern really at the end of the day is enforcement of whatever the law is in the field. If we have a lot of this estate...the object statement, then someone needs to be enforcing that to make sure that that takes place--if it says, read the object statement; if it says, show the object statement. Right now we don't really have an efficient way to enforce the petition laws as it relates to circulating those petitions. And so, in my opinion--in our opinion, this only makes us feel worse, and...or this process worse. Now, Senator Avery and I had a great conversation about the bill, and it was kind of fun from an intellectual standpoint, because I'm a fairly "techy" type person, and so moving into the digital age is the way we're going. But...and we know his intentions are good, and this is a key part of our democratic process. But I think it only opens the door more for the type of fraudulent activity that has become basically the norm, I think, in petition drives. So...and the final thing I would mention is we have to remember what these petitions are trying to do. I mean, they're trying to amend our constitution. And so being able to get, you know, a thousand or a million or a hundred thousand spam e-mails out to get people to sign a petition to change our constitution in a couple of days just gives me a little bit of pause. So with that, I'd be willing to, you know, answer any questions you might have. [LB1059]

SENATOR PRICE: Thank you, Mr. Mikkelsen. Are there any questions from the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 10, 2010

committee? Seeing none, thank you for your testimony today, sir. And I'd also like to read into our record that we have a e-mail from a Mr. Kent Bernbeck. Thank you. Do we have any further opponents? (See also Exhibit 3.) [LB1059]

LYNN REX: Senator Price, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We appreciate the fact that Senator Avery brought this bill. We think it's an important bill to discuss, because we do think this is what the future will hold for us. We just don't think we're ready to do it now because of many of the concerns that have already been brought forward to you today, the most important one for us being the issue of fraud. With that, I'd be happy to answer any questions that you might have. [LB1059]

SENATOR PRICE: Thank you, Ms. Rex. Are there any questions? Seeing none, thank you for your testimony today. [LB1059]

LYNN REX: Thank you. [LB1059]

SENATOR PRICE: Do we have any further opposition? Seeing none, do we have anybody who would like to testify in the neutral? Seeing none, Senator Avery, would you like to close? [LB1059]

SENATOR AVERY: Thank you, Senator Price. This is a proposal on which it is hard to be neutral, as witnessed just now. I think if you look at the petition process in most states, you'll find that it's a cumbersome process, and it probably is cumbersome for a reason, and that is that lawmakers write the rules governing the petition process, and lawmakers, I think, put significant hurdles in the way of the public actually using the initiative process, because lawmakers don't want to cede their authority to anybody. That's natural. I'm not trying to usurp the authority of the Legislature. I am simply trying to get a conversation started on a subject that I think we will eventually confront in this Legislature, not perhaps while we're here, but it will have to be done. And if there are...and I believe the testifiers are right--there's significant obstacles to this, significant issues and questions that have to be dealt with before we can have a bill that this committee could report out. It is time for us to start talking about it. And I would, again, reiterate my earlier statement. I really do think that the process now is riddled with hurdles, perhaps unnecessarily difficult procedures. I would like to see it made a bit easier. I want to increase participation, not discourage it. Thank you. [LB1059]

SENATOR PRICE: Thank you, Senator Avery. Questions? Yes, Senator Sullivan. [LB1059]

SENATOR SULLIVAN: Thank you, Senator Price. Senator Avery, aside from bringing in a bill before the Legislature every year, how would you propose that the conversation keeps moving forward on this topic? [LB1059]

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

Government, Military and Veterans Affairs Committee
February 10, 2010

SENATOR AVERY: Oh, I think that maybe I'll introduce a bill every year (laugh). I don't know; I mean, we do have to start talking about it. But, you know, an interim study is one way to keep the conversation going, to gather more information. And I think that there will be improvements in technology as we go along. And we may find that in a few years that the technology will be such that it will be much easier to verify the signatures and there can be much more confidence in the security of the system. [LB1059]

SENATOR SULLIVAN: Thank you. [LB1059]

SENATOR PRICE: Senator Krist. [LB1059]

SENATOR KRIST: On an academic basis, I understand what you're doing, and I applaud it. On a realistic basis, Mr. Erickson is going to come back and tell us how he can't do what he can't do. DMV is going to come in and tell us they can't do what they can't do. This is a--and we have talked about this, but for the public...public knowledge--this is a strategic plan that starts out by taking down all the silos and getting to a point where we're capable of going on line with a secure measure in an IT world that does not exist right now. And we can bring up these issues, and we should, and I applaud you for doing it. But what we've identified once again is long-range strategic planning, breaking down the silos between government and transportation in the IT industry and what government needs to do, and getting directors involved with state of the art. We saw an example of how one director decided to tell us that it wasn't...we weren't capable of doing something that needed to be done, when we know the industry standard is saving business and the United States government millions of dollars a year, but it can't be done within the confines of what we have. So, again, I applaud the academic discussion, but I think we all know that it's tearing down the silos, going to a strategic planning era, getting to a point where we are, indeed, solving an IT issue so that we can do all the things that we've been talking about doing. [LB1059]

SENATOR AVERY: I appreciate your statement. I can tell you that a lot of times what we hear in here is, well, we can't...this is something we can't do. Often, though, this is something we don't want to do or this is something we've never done. One rule of politics that I learned a long time ago is that we've never done it that way, and we've always done it this way; and so let's do it this way because we know what we're doing this way, and let's not do that because we've never done that. Well, maybe you can do it, and maybe now is the time to start talking about it. Thank you. [LB1059]

SENATOR KRIST: Thank you. [LB1059]

SENATOR PRICE: And I would just add, Senator Avery, not to characterize the current petition process, but I can't see why we couldn't at one point in time move away from the concept of wet signature to a biometric signature that would then facilitate, you

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

Government, Military and Veterans Affairs Committee
February 10, 2010

know--yes, there's a cost. We know there's a cost to doing things, but there's also savings. If you can walk up and give a retinal scan, a thumbprint at a kiosk and do whatever businesses you need to be doing--because we already know that we have the security on the electronic digital side of it, but we'd want to do this on the soft side of the people. We don't want people misrepresenting and going on...but we can do this already in environments we choose to do it. We just need to move that and then take care of some of the logistical issues. So I appreciate--and we'll commit to working with you on trying to move us forward, then. I appreciate you bringing the bill. With that, no further questions? Then we'll close the hearing today, and we'll close our day in public hearing. Thank you. [LB1059]