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Government, Military and Veterans Affairs Committee
March 07, 2013

[LB381 LB509 LR23 LR38]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Thursday, March 7, 2013, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB509, LB381, LR38, and LR23. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Dave Bloomfield; Russ Karpisek; Scott Lautenbaugh; John Murante; Jim Scheer; and Norm Wallman. Senators absent: None.

SENATOR AVERY: Good afternoon. Welcome to the Government, Military and Veterans Affairs Committee. My name is Bill Avery. I represent District 28 here in south-central Lincoln and I chair this committee. We will be taking up two legislative bill proposals and two legislative resolutions, starting with LB509, then moving to LB381, then LR38 and LR23. This is the agenda as posted outside the room and that is the way we will proceed today. Before we start I want to introduce members of the committee and we'll start over here at the end. That vacant chair is where Senator Murante, right here, will be sitting after he finishes with his bill. Senator Murante is from Gretna. And next to him is Senator Dave Bloomfield from Hoskins. He is currently in another committee presenting a bill and will be with us shortly. Senator Scott Lautenbaugh of Omaha is next. I think he will be joining us, too, in a few minutes. Next to him is Senator Scott Price from Bellevue, the Vice Chair of the committee. Next to me on my immediate right is Christy Abraham, the legal counsel for the committee. And we welcome Senator Russ Karpisek from Wilber who is here with us to start today.

SENATOR KARPISEK: On time today. [LB509]

SENATOR AVERY: On time. We have to note that because it's so rare. Next to him is Senator Norm Wallman from Cortland, and next to him is Senator Jim Scheer from Norfolk. At the very end down there is Sherry Shaffer. She is the committee clerk. Now if you want to testify on any of these bills for or against, including the resolutions, we ask that you fill out this green sheet of paper. It is available at each entrance to the room. Please print all requested information so that it can be easily read. And when you arrive at the table to testify, I want you to give this to the clerk so she can have it for the official record, and I want you to then state your name, clearly, for the record and spell it so that we get it right. If you want to record your support for or opposition to any of these bills or resolutions but you do not wish to testify, we have a white sheet of paper requesting information and we'd ask you to print that information. This also is available at each entrance to the room. The order of business will be as I said, the agenda as posted. The introducers make the initial statements, followed by proponents, and then we follow with opponents and neutral testifiers. Closing remarks are reserved for introducing senators only. If you have material that you would like for us to look at, we need 12 copies. If you do not have 12 copies, give your original to the clerk and she will have the pages get copies for you. Our pages are Will Rahjes from Elwood and Cicely Batie from Lexington,

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and they will be assisting us throughout the afternoon. We are going to use the light system. It is a five-minute light system. It gives everybody equal time to make their presentations. The green light is four minutes, and when the amber light comes on it means you should be ending your testimony. You have one minute then to reach red which means stop. We try to do this in a fair manner, so if you start going over and you're well into red, I might have to stop you. But we do like to give everybody a chance to have their say. And I would remind you that Nebraska is one of the few states in this country where our Legislature requires that every bill get a public hearing. You can take some pride in that, folks. Now one other thing. We've got a large crowd here today and we have a rather lively issue coming up, second on the agenda, so I'm going to ask you to not have any public display of approval or disapproval of what people are saying or questions asked; because if that happens, if it's sufficient, then we can have the room cleared by the Sergeant at Arms. I don't want to do that so show respect for everybody and we will show respect for you. If you have a cell phone, turn it off. If you have any electronic devices that make noises, turn them off. We do not want to be disrupted during these important deliberations. Well, with that, we are happy to welcome one of our own members of this committee, Senator John Murante, who wants to introduce a bill LB509. Welcome, Senator Murante. [LB509]

SENATOR MURANTE: (Exhibits 1 and 2) Thank you, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. For the record, my name is John Murante, spelled M-u-r-a-n-t-e. I represent Legislative District 49 in the Nebraska Legislature which includes Gretna and northwest Sarpy County. I'm here today to introduce LB509. LB509 is a bill which pertains to the learning community. Let me be clear in advance about my intentions with LB509. I do not intend to ask this committee to advance LB509 to the floor. I anticipate opponents will be coming after me and they will testify to substantial defects in the green copy and I can tell you know that they're all true. They do have substantial defects. But I introduced this bill to facilitate a discussion about the learning community and to bring this discussion to a broader audience than the Education Committee. This is the single most important issue facing my district and causes more consternation and anger than any other issue facing the Nebraska State Legislature. A poll conducted by my campaign found that 70 percent of the voters of my district want the learning community abolished and only 10 percent want it to be continued. And it's important to note that my district is not exclusively Gretna. Over 15,000 of my constituents reside in Millard Public School district, and a polling showed that there was little difference in public opinion between the two districts. And this is important because the practical reality remains that Millard Public Schools is a net winner in the learning community, and that brings up an important question. If suburban school districts are losing little, or even making money, why are people so opposed to the learning community? That is a question which I asked my constituents more than any other during my campaign, and my findings surprised me. First, the loss of money was not at the top of my constituents' concerns. On the contrary, my constituents expressed an overwhelming desire to help kids in failing schools. But let's take a look at

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how the state Legislature has authorized the learning community to accomplish that end, because how taxes are collected can have just as much an impact on public opinion as how much taxes are collected. I've distributed the levy information for my home in Gretna. As you can see from that document, the average property taxpayer will look at their tax statement and see that by far the largest line item is the learning community common levy at 95 cents. What the property tax statement does not say is that by the end of the year about 94.5 of the 95-cent common levy will be returned to the Gretna Public School district by the Learning Community Coordinating Council. Now I ask you, does that make sense? Imagine if we collected income tax in that way. Imagine the public outcry if state government withheld 100 percent of a person's paycheck and then quietly repaid them 94 percent back at a later date. I'd submit to you, colleagues, that if the Governor were serious about abolishing the income tax, he'd start collecting the income tax in that way. If we did nothing other than reform how the taxes are collected, we would ease some of the public's concerns. Now I lived through the debate on LB641 in 2007. I listened to every word stated in committee and on the floor regarding the learning community. I've subsequently reviewed the transcripts of that debate, and a theme which occurred repeatedly during that debate was the concept that the citizens of Douglas and Sarpy County are in it together; that the success or failure of any one of us impacts the rest of us. Indeed, that is why the word "community" was used in the name of this political subdivision. It's a concept with which I wholeheartedly agree. We are all in it together. We as citizens of Gretna do have a moral obligation to help out kids in need no matter where they live, and I believe that the people of my district accept that responsibility. But I ask you this: Are we treating all the people of Douglas and Sarpy County as members of a single community united to achieve a common good, or do we treat the citizens of some school districts as piggybanks whose objections are necessary evils which must be endured and then ignored? This may be the biggest failing of the learning community. Instead of creating goodwill between the districts, we have fostered acrimony. Now let me read something to you that a wise man once said about the institution of the Legislature. I think that any time we can pass laws that inspire confidence or improve public trust, that we should do it, because it's hardly enough already for us to convince the public that we are doing things right; that this institution conducts itself in the most proper manner and that we do what is most appropriate. That creates not only public trust but support for what we do. People are more likely to accept the outcomes of our legislation, and that creates legitimacy in this institution and how the public views it. The public views this Legislature as the most appropriate way of making laws; and if we mess that up, then that trust is undermined. Colleagues, we have lost the public trust--not just the Learning Community Coordinating Council but the Nebraska State Legislature. The people have demanded change. The people believe that we aren't listening, and for good reason. While certain members may be listening, the body as a whole certainly isn't doing anything about it. I am unaware of any piece of legislation that has hit the floor of the Legislature which pertains to the learning community since the bill was passed in the first place. And since joining this body just a few short months ago, I've spent more time talking about this

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issue than any other, and I've spent far more time talking with learning community advocates than opponents; and these conversations have made me both optimistic and frustrated. Optimistic because even the most ardent proponents acknowledged some merit to my arguments and I firmly believe that there is common ground, but frustrating because this common ground does not appear to be progressing in any great pace to where a piece of legislation which all of us can support. I introduced this bill to facilitate a discussion. I'm willing to work with any member of the Legislature for the remainder of this session and through the interim to find common ground which takes the form of a piece of legislation. I didn't come to the negotiating table with any absolutes or deal breakers, and I'm willing to put any option on the table to achieve the desired impact of gaining the public's support for this process. But let me absolutely clear, the Education Committee is spending a few hours in public hearing on learning community bills and then this Legislature never talking about the subject again does not constitute having a conversation. If the purpose of the learning community is to get money from those who have and get it to kids in need, I genuinely believe there is a way to do it and to gain the public's support. It is my view that the best and easiest way to achieve these reforms is to first abolish the learning community and then to start over, but short of that I would be happy to work with anyone to make that change happen. I've invited a few superintendents to express their thoughts. They're open to answering any questions that you have as to the mechanics of the learning community, but I'd be happy to answer any questions that you may have. And thank you for the opportunity to open, Chairman Avery. [LB509]

SENATOR AVERY: Thank you, Senator. This levy information is very interesting. Is this typical for the learning community area? [LB509]

SENATOR MURANTE: Yes. And it's important to note, as you can see on here, when the average person takes a look at their levy information they're going to see the learning community common levy and then they're going to see Gretna School, Gretna school bond, Gretna city bond, which amounts to a significant amount of money in and of itself. So it's not clear simply by looking at this that what we are giving to the common levy is later linked to the money that is used to operate schools on a day-to-day basis. I think we have made this process in and of itself as convoluted as possible. [LB509]

SENATOR AVERY: And I noticed that there is an educational service unit levy as well, which is not great, but it still is another education line on the tax bill. [LB509]

SENATOR MURANTE: Um-hum. [LB509]

SENATOR AVERY: Thank you for that. Senator Wallman. [LB509]

SENATOR WALLMAN: Thank you, Chairman Avery. Thank you, Senator Murante. If you listened to the transcripts, you probably know how I feel. [LB509]

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SENATOR MURANTE: Yes, I do. [LB509]

SENATOR WALLMAN: And I was scared this would happen because it's hard to put something like this in place. And, you know, we have an equalization formula as I think in the Education Committee should have taken care of this. [LB509]

SENATOR MURANTE: And I think that's a great point because the whole point of TEEOSA is the idea that we need to get money from school districts that have and get it to school districts that are in need. Now I don't hear a lot of my constituents complaining that we go through that process. I don't hear a lot of complaint from our sales and income tax that there is money going into school districts that are in need. At least I'm not hearing it from my constituents. I think there's genuine and general support for the concept. I just don't think we're doing it right, right now. [LB509]

SENATOR WALLMAN: Thank you, Senator. [LB509]

SENATOR AVERY: Well, the TEEOSA money does not show up on your tax bill. [LB509]

SENATOR MURANTE: Certainly it does not. [LB509]

SENATOR AVERY: It makes a difference. Questions? Senator Lautenbaugh. [LB509]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman. Thank you, Senator Murante. I think you alluded to this at the outset but I think you said the Millard school system has been the biggest beneficiary so far? [LB509]

SENATOR MURANTE: It has been a beneficiary, yes. I'm not sure if it's the biggest beneficiary. But I think that goes to the initial point reading through these transcripts. I don't believe the learning community ever was intended to transfer money from the Springfield school district and give it the Millard school district. I don't believe Senator Raikes ever had that intention in his mind. So simply, as a practical reality, it's not doing what it was intended to do. [LB509]

SENATOR LAUTENBAUGH: Thank you. [LB509]

SENATOR AVERY: As someone who was there at the beginning, I think you're right about that. I do know that Senator Raikes understood that the money would not be all going to OPS where it's really needed. But my understanding was, was that was the objective. I might be wrong. Senator Price. [LB509]

SENATOR PRICE: Thank you, Chairman Avery. Senator Murante, as you talked about

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this bill, I'm struggling to keep my words concise. Obviously I have a stated position that is antithetical to the existence of the learning community, because I believe it's an insult to education. You know, we collect a common tax and it's levied, like you said, in the TEEOSA. But it's not enough. So we collect a local tax for that local school and it's not enough. We collect another tax for the ESUs and it's not enough. So I submit to you, do you actually believe there will ever be enough? Will the education community ever be satiated? [LB509]

SENATOR MURANTE: I would find that highly unlikely. [LB509]

SENATOR PRICE: And then talk about the social contract. Because you said in your opening about people being willing to help others in need, and I agree; but talk about the social contract that exists when a person moves into a community. We already have a contract from our taxes that we pay, all right? What is that social contract that says a person who moves to Springfield, where is that obligation being met and why is it even levied when we already have TEEOSA? Why is there an extra burden on the people of Springfield, do you suppose, to meet not only a debt or a need outside of their community, but within their county, and it's not even their county. I mean, what do you suppose is the justification for entering a social contract like that? [LB509]

SENATOR MURANTE: Well, I think I'll answer that question two ways. First of all, I do believe that as a citizen of Gretna that I have an obligation if I see kids in schools that are just...that are failing in massive numbers, that I have an obligation, a moral obligation, to pitch in to help remedy that problem. I don't believe that as a citizen of Gretna that makes me somehow different from a citizen from Gering. I think when the Supreme Court said that this wasn't a state issue, perhaps constitutionally. But I don't think from a moral perspective that that is correct. I think this is a state issue. I think that from Scottsbluff to Omaha we all have an interest in making sure that every kid in every school receives a quality education and that we should all be pitching in to achieve that end. I think that is part of our social contract. [LB509]

SENATOR PRICE: I would submit that while there's semantics involved there, that when they took the levy out of the community, that city, and out of that county and expanded it beyond, they made it a state interest; and the constitution is pretty clear on that, so. But thank you very much for bringing your bill. [LB509]

SENATOR AVERY: Senator Lautenbaugh. [LB509]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman. I apologize. That led to another question. Do you know how much...how the funds that the learning community schools get from TEEOSA compared to the funds that are collected by the learning community levy? [LB509]

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SENATOR MURANTE: I can't answer that directly. I would say that in the case of Gretna schools the statistics that I've seen is that we operate about 60 percent on our property taxes and about 40 percent on TEEOSA. In the numbers I've seen, that's fairly consistent across the board. I can tell you that we've got representatives from Papillion, Millard, and...well, Springfield submitted a letter that would be able to tell you how it impacts them directly. But that's generally how Gretna operates. [LB509]

SENATOR LAUTENBAUGH: Thank you. [LB509]

SENATOR AVERY: Any other questions? I don't see any. Thank you. [LB509]

SENATOR MURANTE: Thank you. [LB509]

SENATOR AVERY: All right. We will now accept proponent testimony on LB509. Welcome, Superintendent Black. [LB509]

RICK BLACK: Senator Avery. [LB509]

SENATOR AVERY: We're old friends. He's been coming before the Education Committee for a decade. [LB509]

RICK BLACK: (Exhibit 3) Well, thank you for the welcoming, Senator Avery. Members of the Government Affairs Committee, my name is Rick, R-i-c-k, Black, B-l-a-c-k. I currently serve as superintendent of the Papillion-La Vista Schools. I appear today in support of LB509. And Senator Avery, last week, when I promised you it was the last time that you and I would be in a hearing related to the learning community, I guess, as Senator Murante clarified for me, that was in the Education Committee. That didn't include the Government Affairs, so. [LB509]

SENATOR AVERY: That's right. [LB509]

RICK BLACK: I appreciate Senator Murante's effort and willingness to put forth this bill to open the discussion in a different legislative committee and to suggest changes to the learning community governance structure. When LB1024 created the learning community, the Education Committee and its Chair at that time did so with the self-admitted caveat that needed adjustments were going to occur and changes as the concept moved forward would be necessary. It was admittedly a work in progress. While Papillion-La Vista Schools would prefer the concept of a learning community did not exist, over the last five years, whenever an opportunity has been presented, Papillion-La Vista has been at the table to share thoughts and suggestions for developing the most effective ways to implement the components of the law. In fact, in a demonstration of cooperation and communications with other learning community schools, this morning Omaha Benson boys' basketball team wore Papillion-La Vista

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South's away jerseys, as they forgot...they brought the wrong jerseys today. So Papillion-La Vista South and OPS did work together in a community type of a spirit and format. You know, from its inception, the governance piece has been one of Papillion-La Vista's greatest concerns. In the interest of cost-effectiveness and efficiency of effort, we've never believed that a separate council or an added layer of governance was necessary. During the 2013 legislative session, 44 members of this body agreed, after debating LB125, that the 12-member Omaha Public Schools' Board of Education was too large and spoke of the inefficiencies found. LB509 reduces the 18-member voting Learning Community Council to 11 members, one elected from each of the school districts comprising the Douglas-Sarpy learning community school districts. I know Senator Avery and the Education Committee worked hard to come up with a way to ensure fair representation in the model that's currently in place. In order to perpetuate the important components of that model, last week I spoke in support of the governance structure found in LB85 introduced by Senator Smith and heard by the Education Committee. That model reduces the current 18-member council to 6 members. Those 6 members would come from elected board members in each of the existing 6 learning community subdistricts. It utilizes the same caucus appointment process that's already being used to seat one-third of the existing 18-member council, and it maintains the existing subcouncil districts that I know that the Education Committee was concerned about as far as representation across the metro area. It uses the same subdistrict model and representation of the populations found across the learning community and uses a process and districts that the Legislature already has in place. Within the current governance structure, decisions are made by the Learning Community Coordinating Council with little input or consideration from the board of education members serving the 11 school districts. If improvement of learning and achievement for all students are intentions of the law, the only way to realize those goals is for more direct involvement of local school boards and the school district educators in the processes and interventions. A change in governance using LB509 or the model proposed in LB585 moves in that direction. If improvement of achievement is truly a desired outcome of the learning community, the school districts, not a separate entity, must be responsible for planning and for the interventions if the achievement is going to be achieved by students. In closing, an 18-member council is too large. The district representation by school board members from the educational entities held responsible for student achievement is a must. I would encourage you to look at LB509 or the elements of LB585 in the Education Committee as considerations for revisions being proposed to you in the spirit of cooperation and compromise. These suggestions and thoughts are offered in an attempt not to eliminate the learning community but to increase the potential effectiveness of the council. Thank you. [LB509]

SENATOR AVERY: Thank you, Dr. Black. I would just point out that I agree with you, 18 members is probably too large a board. But the reason for that is you...we had a strong desire to make sure there was diversity of representation on that council, so we created a limited voting formula which requires multiple candidates in the districts more than the

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votes that you have, I mean, without going into all the complications of that model. That's one reason why you have the 18. [LB509]

RICK BLACK: And I know you spent a lot of time on this, Senator. And that's why I thought with the six councils you've got the representation coming from those voting populations that already exist. So it's not making a change in those subdistricts along the way. It's just reducing the number as you've said. [LB509]

SENATOR AVERY: But you wouldn't have new elections. You would just have appointments from the schools boards, right? [LB509]

RICK BLACK: You'd have elections. But as it stands right now, even one-third of that existing learning community governing council is made up of board members, and those board members have to live in those subcouncil districts that are represented in those. So a subdistrict 1 person...board member appointed, has to live in subdistrict 1 to be appointed from the OPS board into that council. [LB509]

SENATOR AVERY: Questions from the committee? Senator Wallman. [LB509]

SENATOR WALLMAN: Thank you, Chairman Avery. Thanks for coming. [LB509]

RICK BLACK: Thank you. [LB509]

SENATOR WALLMAN: I've always had concerns with the 18 and all this stuff, and concerned with the general thing of the bill. Don't you think it would...what do you think about each school district have a school board member on there instead of a separate bureaucracy thing? [LB509]

RICK BLACK: And that would be a compromise to stay with the one district-one representative type of piece. I think it goes very hand in glove with what Senator Murante has suggested. My point through my testimony really is, is that what you need is you need the people that are most directly responsible for the achievement and improvement of learning for kids. That would be your board of education members and your superintendents or your administrators in the school districts. So that would accomplish that, Senator. [LB509]

SENATOR WALLMAN: Thank you. [LB509]

SENATOR AVERY: Any other questions? Senator Lautenbaugh. [LB509]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman. And thank you for coming today, sir. I'll try to ask you the same question I asked Senator Murante, and it might not be answerable. For your particular district how much money comes from the state via

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TEEOSA? [LB509]

RICK BLACK: Roughly 60/40 is a pretty good representation across the metro district. If you're receiving state aid, if you're an equalized district, that 60/40 is probably about it, with 40 being approximately the target from the state aid. Probably...a little bit more or less on that. [LB509]

SENATOR LAUTENBAUGH: Can you put a very round...very round number on the 40 percent that is TEEOSA? [LB509]

RICK BLACK: For the state, you're looking at that as far as TEEOSA, you're...right now, for my district it would be right at about \$30 million to \$31 million. [LB509]

SENATOR LAUTENBAUGH: Now how much does your district receive out of the learning community? [LB509]

RICK BLACK: Senator, I appreciate you asking that question. The last three years, Papillion-La Vista district has grown 1,200 students. Our community from state aid to property taxes has donated \$2.1 million into the hopper that did not come back to us. So we're actually operating, under this distribution, with \$2.1 million less than we generate, causing us to take a look at staffing, causing us to take a look at programs for kids. In fact, we're generating dollars for the learning community but not getting it back. [LB509]

SENATOR LAUTENBAUGH: I'm sorry. What was the number on TEEOSA in round, how many million? [LB509]

RICK BLACK: Right now we're right about...we're at about \$30 million to \$31 million this year. [LB509]

SENATOR LAUTENBAUGH: Thank you. [LB509]

SENATOR AVERY: Let me ask you, do you have any idea how the learning community common levy money is distributed? Isn't there a formula for distribution? [LB509]

RICK BLACK: There is a formula and certainly large factors would naturally be property valuations, which...it's a modified version of the state aid formula. It's needs minus resources equal the benefit. But again, large recognition given to poverty, given to ELL, would be...and this is broken down by districts, so each district on an annual basis there's a formula that is associated with each individual district. Papillion-La Vista, we get about slightly over 8 percent of the dollars that are generated from the state aid and property taxes back to us in the overall distribution of all the dollars. [LB509]

SENATOR AVERY: So a school district then that had high poverty and high ESL needs

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would expect to get more of that common levy. [LB509]

RICK BLACK: Senator, as you remember, that was the way it was designed. However, since the inception of the redistribution piece, the three biggest winners have been Millard, Elkhorn, and Westside; Westside because of the vast numbers of open enrollment students that they receive in accordance and compared to the students that they grow internally. Ralston Schools, who you would think would be a natural, this year is a loser in the redistribution piece. So the formula is not working the way it was intended to, and we all understand the intention of that model. It just hasn't worked yet. [LB509]

SENATOR AVERY: Would you be willing to work with anybody to try to modify that distribution formula to make the distribution a little bit more even? [LB509]

RICK BLACK: We've always been willing to talk about it, Senator. We truly have. My biggest wish as the common levy was being discussed, at the very same time the Legislature, you debated it on the floor, additional weight for poverty and ELL in the overall TEEOSA formula. You debated that at that point in time. Papillion-La Vista lobbied very hard for you to wait to see what happened with that before you got into a whole other redistribution model. But they came in at the same time. And unfortunately, the biggest factor that's occurred in whether the model works or not has been the fact that property valuations stagnated across both counties. The model was dependent upon almost double digit or more than double-digit property valuation growth in Sarpy County to make the formula work. That just didn't continue. And so with that, the dollars weren't there to be redistributed across all the whole process. [LB509]

SENATOR AVERY: Senator Price. [LB509]

SENATOR PRICE: Thank you, Chairman Avery. Thank you for coming down here, Dr. Black. I really appreciate your years of service. I wanted to ask the question about, if we do as Senator Avery has suggests, worked a way to make it more equitable or make it more even distribution, then I'm concerned that if I take in dollars and then I spread them back out evenly, what did I gain? And so to that end I ask the question of how much of the dollars that are taken in are retained for the operation of the learning community? I mean, obviously all the things that are done, there's an overhead cost to operate any function. So do you have...can you hazard an idea, either by percentage or otherwise, of how much would it cost to have another layer of bureaucracy? [LB509]

RICK BLACK: Senator, Dr. Stilwill will be up to testify in a few minutes, the director...executive director of the Learning Community Coordinating Council. I would say to you, the 95 cents that's levied in the districts does not go to the learning community's operating budget. It is returned back to the districts based upon the distribution formula. So that part of it...he can give you more details on there would be

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money that comes from ESU 3 and 19...or 18 core service dollars were a part of that budget. And then certainly with programs that they support would be coming from the elementary learning center common levy that's an additional levy on top of that. [LB509]

SENATOR PRICE: Thank you. [LB509]

SENATOR AVERY: Any other questions? Good to see you again, Dr. Black. [LB509]

RICK BLACK: You as well. And it might be the last time, Senator. [LB509]

SENATOR AVERY: Okay. Thank you for your testimony. [LB509]

RICK BLACK: Thank you. [LB509]

SENATOR AVERY: Any other proponent testimony on LB509? I don't see any. Any opponent testimony? Welcome. [LB509]

LORRAINE CHANG: Good afternoon, Senator Avery and members of the committee. My name is Lorraine Chang, L-o-r-r-a-i-n-e C-h-a-n-g. I am the chair of the Learning Community Coordinating Council of Douglas and Sarpy Counties, and an original member of the council. I was elected in 2008 to represent achievement subcouncil 3, which includes the midtown area of Omaha Public Schools, Westside, and Ralston Public Schools. And I was reelected in 2010 for a full four-year term. I've been authorized by my council to speak to you in opposition to LB509. And I heard from Senator Murante that he does not plan to advance this bill but to initiate a conversation, and I appreciate that and welcome that conversation. I agree that there has been a lot of public misunderstanding about the common levy and how it appears on public tax statements, and I look forward to trying to correct that misperception, as well as to gain the public's trust in terms of the good work that the learning community has been able to do. LB509, though, specifically would change the governance structure of the council in a way that we believe would make it more difficult to achieve the objectives that the learning community was created for. The governance structure was specifically and carefully constructed to include a two-third/one-third mix of broadly elected officials from each of six achievement subcouncils and school board members. LB509 would eliminate the school board representatives. And interestingly, LB585, which has already been spoken to, would only have school board representatives on the Learning Community Council. We believe that neither of these two approaches is the way to go nor do we see any value in abolishing the learning community, as Senator Murante suggests. The current governance structure is, in fact, very effective even with 18 members, voting members, specifically because it enables the council to look across the larger two-county area, one economically viable region, and to also develop the innovative approaches that we think that the law was originally intended for us to do, to look at innovative ways that are beyond what individual districts are able to do on their

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own, to bring everybody together, and to seek out ways to close the achievement gap that exists, not only in the eastern part of our learning community but all across our districts. It also, the current structure, ensures that the perspectives of the school districts is included along with voices directly representing taxpayers. And I would say that as a member of the council from its inception and now as chair, it's been extraordinarily valuable to have school board members as one-third of our voting membership, and they've contributed a great deal in helping us understand what the needs are of their districts and the areas that they represent. The 18 voting members, though it may seem large, is in fact working well, and when it's divided up into the three sub...six subcouncils, three members per subcouncil, they have an opportunity to look across their areas and identify where are the greatest challenges and barriers to student achievement and to find solutions that will best address them. Just in closing I'd like to say that the current structure has not prevented us from moving forward and making significant progress, and the learning community has now implemented open enrollment over the last three years and we're starting our fourth year with over 6,200 students taking advantage of the choices that open enrollment affords them. We've worked in partnership with the districts to set that up and it's working smoothly because of the cooperation of all 11 districts. We've also been partnering with the districts and with community organizations to establish and fund elementary programs that have our primary focus on improving elementary students' academic success, and those programs are serving over 7,000 students from poverty and have been demonstrated by our independent third-party evaluator at UNMC that programs are actually improving academic success for those children. So given the Coordinating Council's progress to date, we see no reason to change the governance structure. We would ask this committee to enable us to continue to move forward with the good work that we're doing. And I'd be happy to entertain any questions. [LB509]

SENATOR AVERY: Thank you for your testimony. Questions from the committee? Would you...Senator Wallman. [LB509]

SENATOR WALLMAN: Thank you, Chairman Avery. Thanks for coming, Lorraine. [LB509]

LORRAINE CHANG: Yes. [LB509]

SENATOR WALLMAN: Since this learning community's inception, have dropout rates increased, decreased? And as far as also your academic standards, have they increased or stayed level? [LB509]

LORRAINE CHANG: Well, we're seeing some important positive changes across the districts, and it's the hard work of the districts primarily that is attributable to those gains. But with the programs that we have funded, in particular, the kindergarten Jumpstart programs; extended learning; we offer family support liaisons in the buildings; as well as

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our family literacy center in south Omaha, all of those are being independently evaluated and demonstrating that the kids who have gone through those programs and the families are benefiting significantly. [LB509]

SENATOR WALLMAN: All right. Thank you. [LB509]

LORRAINE CHANG: Thank you. [LB509]

SENATOR AVERY: Senator Price. [LB509]

SENATOR PRICE: Thank you, Chairman Avery. With your perspective having been on the board for a long period of time, and I was wondering if you could share with us how Omaha West and Millard are the largest gainers in finances when it was conceived to really help folks in north Omaha and the east part of Omaha, that social contract and construct that Senator Murante said. It seems that somehow between where the Legislature, which happened before I was here, the intent of the Legislature hasn't been met but instead it's going to other places, again, like Millard and DC West...or I guess it is DC West. I'm not sure if that's the right acronym for it, but in western Douglas. How is that possible? [LB509]

LORRAINE CHANG: I know, I understand that the distribution formula has not worked out the way that we think that the original legislation was set up. When the learning community law was passed, the only authority that was given to the learning community itself, our council only has the ability to establish what is the shared tax base. So the 95 cents cap on the maximum that could be put into the common levy pool of dollars is what our responsibility is and we do that every August. The actual distribution formula is something that the Learning Community Council does not have jurisdiction or authority to do anything with. That formula was enacted at the same time as the learning community law but is a legislative formula; and we think that it is not working as the original formula was intended. So that's something that obviously I would have to go back to my council to ask for their views on this, but personally I think it's something that could be reviewed. [LB509]

SENATOR PRICE: So the organization that you're a part of hasn't come back to the Legislature to say it doesn't work; and so they kept working it that way. [LB509]

LORRAINE CHANG: We have not brought this back to the Legislature because we have not had an authority to actually redistribute that money; but we would be open to working with our districts on any proposals that would be coming to the Legislature. We're definitely open to considering those possibilities. [LB509]

SENATOR PRICE: Thank you. [LB509]

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LORRAINE CHANG: Yes. [LB509]

SENATOR AVERY: Senator Lautenbaugh. [LB509]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman. Thank you for coming today, ma'am. Is it possible that you haven't come back to the Legislature to ask for an adjustment because we'd be opening a can of worms and heaven knows what the outcome would be if we opened up the learning community issue again? [LB509]

LORRAINE CHANG: I don't know that that's the case. We have been really working hard to demonstrate in the few short years that we've been in existence that we are able to do what the Legislature asked of us, and have concentrated on implementing the provisions of the law. But I think that we recognize that it's time to review various aspects of it and we're very open to working with the districts to come up with collaborative solutions and more workable solutions. [LB509]

SENATOR LAUTENBAUGH: And I apologize if this is an unanswerable question. I mean, if you started asking me questions about the state budget, I would fumble and demur. [LB509]

LORRAINE CHANG: Well, fortunately, I have Ted Stilwill here to back me up. [LB509]

SENATOR LAUTENBAUGH: I'm just trying to get a handle in my own mind of the size of the pool of funds we're talking about. From the common levy, do you know how much the learning community will collect this year, total? [LB509]

LORRAINE CHANG: I'll ask him to speak to the total pool of dollars. He has those numbers and I don't, handy. I think there was another question though about what is the operating budget of the learning community. And we do have an appropriation from the state of about \$880,000 that is our operating budget, and that does include our very small five-member staff, including Mr. Stilwill, and the general operating expenses of an organization. [LB509]

SENATOR LAUTENBAUGH: Okay. Thank you. [LB509]

SENATOR AVERY: Ms. Chang, do you know how successful the open enrollment policy has been? I heard one comment that Westview...not Westview... [LB509]

LORRAINE CHANG: Westside. [LB509]

SENATOR AVERY: ...Westside has had a lot of open enrollment students and that might affect how much of the common levy they qualify for. Has that also occurred in Millard? [LB509]

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LORRAINE CHANG: I don't know those numbers. [LB509]

SENATOR AVERY: Mr. Stilwill might be able to answer that. [LB509]

LORRAINE CHANG: But in terms of the success of open enrollment, I guess there's two ways of looking at that. One is that it has opened choices for families and we now have over 6,200 students who are participating in the open enrollment program. So I think for those families, they've had more choices of buildings that they see a better fit for their child. From the perspective of the socioeconomic diversity objective that was also intended to be created with open enrollment, I think there's been some statistics in our evaluation that show some movement to diversify some of the buildings. But not so much as that we can demonstrate an effect on student achievement at this time. [LB509]

SENATOR AVERY: Okay. Thank you. Senator Price. [LB509]

SENATOR PRICE: Thank you, Chairman Avery. You've stimulated a question, thank you. Thank you, Ms. Chang. I was wondering, if we look at the efficacy of how well this program is working, this policy is working, and we look at...you talked...we talked about the socioeconomic, I guess leveling across the district, do we...does the Learning Community Council plan to look at the impacts of this open enrollment on the institutions? [LB509]

LORRAINE CHANG: On which institutions? [LB509]

SENATOR PRICE: Well, each school district. So you have a building or school that's open that has a high open enrollment, and five years ago they probably had a certain I'll say organizational culture or climate there that you could be assessed through testing, different things that are needed to maintain that building, and then we have open enrollment. So we look at how that has helped with the student in a certain way, we look at the level of the socioeconomic, like I say, cross leveling. But how has that impacted the buildings and what they've had to do to adapt to if you have a concentration...I'm thinking, like ESL, all right? If I'm in a school that hadn't had a large ESL population and now they have an increased ESL population due to this leveling, then that impacts how a school utilizes its resources to meet that need. So there's some type of impact to that school. Does the learning community or have you been tracking that impact to those buildings? [LB509]

LORRAINE CHANG: Well, we have been tracking primarily the free and reduced lunch population balance in each of the buildings. However, we have not looked at it from an ESL perspective. But we're certainly open to looking at that. [LB509]

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SENATOR PRICE: I'm sorry. Maybe I lost my (inaudible) when I said it's more than seeing how...the shift of actual students. [LB509]

LORRAINE CHANG: Yes. [LB509]

SENATOR PRICE: I'm talking about the impact to the building. If the building had an overall...and I don't know if that's how principals and superintendents measure, but, you know, on standard test achievements, what happens to that overall building? What happens to their utilization of resources to meet the different needs? I used the ESL as one. There could be a multitude of them. [LB509]

LORRAINE CHANG: Sure. [LB509]

SENATOR PRICE: So the question is, it's...I don't believe it's enough to look at how did it just impact the student and the numbers of the makeup in that building. But how is that building performing overall on all factors, from sports to academic achievement to a social integration issue that may occur. [LB509]

LORRAINE CHANG: No question. Those are all important factors. And I would just say that our primary focus has been the academic and we are looking at the academic effects of the open enrollment program. [LB509]

SENATOR PRICE: Okay. [LB509]

LORRAINE CHANG: And we just haven't been able to see a demonstrable change as a result of the open enrollment. It's hard to segregate out that particular factor. [LB509]

SENATOR PRICE: Okay. Thank you. [LB509]

SENATOR AVERY: Any other questions? I don't see any. Thank you, Ms. Chang. [LB509]

LORRAINE CHANG: Thank you. [LB509]

SENATOR AVERY: Additional opponent testimony. The man with the answers. Welcome, sir. [LB509]

TED STILWILL: Thank you, Senator Avery and members of the committee. I feel like I'm taking oral comprehensive examinations, perhaps; but we'll see. It is a pleasure to come before you. I do appreciate any chance to talk about education. I'm the...Ted Stilwill, T-e-d S-t-i-l-w-i-l-l. I'm the CEO for the learning community the last two years. I took this job in hopes to ride the tide of crest of popularity for the learning community. Um...it's a tough crowd. Okay. (Laughter) I'll just want to point out a couple of things. I appreciate

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Senator Murante and his opening remarks. One thing that probably just needs to be pointed out for the record, one of the issues with the legislation as drafted would be a concern about the principle of one person, one vote. If one school district, for example, to pick the extreme, Bennington, was represented by one person, if students somehow relate to the number of adults in an area, you know Bennington has about 1,400 kids, DC West has 652, the Omaha Public Schools has 47,000. So the one person, one vote thing would be an issue. That becomes even more of an issue when you look at where the kids in poverty are. If the original legislation that established the learning community said that we were supposed to be a resource for visionary programs for students from poverty and with other issues; well, about 75 percent of the families in poverty at 100 percent of poverty, not just free and reduced-priced lunch which is the higher level, are located in OPS. So there are representational issues. Enough said. I guess to speak to some of your conversation about the concerns about the learning community, and I would certainly agree there are many. I've talked with a lot of people in the last two years that are concerned. One concern has been about transportation costs. Frankly, there's a vehicle in the Education Committee, LB9, which perhaps has a very good opportunity to address some of those costs and address some of those issues. There's a good mechanism underway. I think the Legislature would have every right to be concerned about those costs. Is the return on investment for this policy what it should be? Obviously, when the Legislature crafted the law they knew there would be a cost of additional transportation. But how is that working, what are you getting for it? And secondly, you've had a great deal of conversation about the common levy and about finance. As Ms. Chang pointed out, there's nothing the Coordinating Council can do about that. Common levy is...while it seems to be a separate conversation, it is embedded in the TEEOSA conversation. TEEOSA is like a very large algebra equation with lots of variables in it, and the common levy is a second algebra equation with a similar really identical set of variables just mixed a little differently. And then you have the two algebra equations operating together. The results don't seem to be terribly predictable. I mean, they're probably predictable if you're a mathematics scholar. But whether it's meeting the original intent, I think it's a really pretty good question and we've begun to consistently raise that question. We have not suggested a recommendation but neither has anyone else. Those of you who have worked with bodies that you fund know that it's sometimes difficult to get whether it's school districts or community colleges or others to agree that, well, yeah, this is all how it should be even though I'm going to lose a lot of money and this person is going to make a lot of money. So it's hard for them to overcome that self-interest. And in closing, just let me say the changes in governance aren't going to address the transportation, and certainly not the common levy issue. That...one has nothing to do with the other. But I will say, just as Ms. Chang said, we are very, very open to engaging in continued conversations, whether it's about the common levy or whether it's about transportation. But we have a lot of things that are working and they're on the verge of working much better--truly innovative kinds of things. That's why I think the learning community needs to continue. That's the kind of work I signed up for and I would like to be able to continue with the

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districts with the other partners we have. Thank you. I'd be happy to answer any questions or at least try. [LB509]

SENATOR PRICE: Thank you very much, sir. Senator Lautenbaugh. [LB509]

SENATOR LAUTENBAUGH: Thank you, Mr. Vice Chairman. And Mr. Stilwill? [LB509]

TED STILWILL: Yes. [LB509]

SENATOR LAUTENBAUGH: I just wanted to make sure I heard you correctly. You are worried about the one man, one vote concerns between Bennington and OPS. And I think you were suggesting we split OPS into smaller districts to address that? [LB509]

TED STILWILL: No, sir. [LB509]

SENATOR LAUTENBAUGH: Okay. I wanted to make sure. I thought I heard that. I just wanted to make sure. (Laughter) [LB509]

TED STILWILL: It was a faint echo from a...quite in the past. [LB509]

SENATOR LAUTENBAUGH: Understood. No, and you did not say that. For the record, I'm joking. That said...and you probably see this question coming because I've kind of danced around it with others too. I'm trying to get a feeling for the size of the common levy this year for all of the learning community. How many millions is that? [LB509]

TED STILWILL: It's \$450 million-plus. I'm sorry, I just didn't bring those numbers with me. [LB509]

SENATOR LAUTENBAUGH: Well, round numbers are fine. [LB509]

TED STILWILL: Yes. [LB509]

SENATOR LAUTENBAUGH: Now do you know what the amount of TEEOSA aid for the learning community schools is as a total? Or districts are, I should say, as a total? [LB509]

TED STILWILL: Well, let's see if we can get there together. The total amount of the school district budgets in the learning community is about \$1.2 billion. Now that includes federal funds as well as state and local funds. So you could probably, as Dr. Black indicated, there's either a 60/40 or sometimes closer to a 50/50 mix of state and local funds. So that levy that I mentioned, the \$450 million-plus, is at least half. So somewhere in between \$1.2 million and \$4.5 million is the other half in TEEOSA. That would be an easy number to come up with. I just don't happen to have it with me.

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[LB509]

SENATOR LAUTENBAUGH: Okay. Thank you. [LB509]

SENATOR AVERY: Any other questions? Yes. Senator Price. [LB509]

SENATOR PRICE: Thank you very much, Chairman Avery. Two things. There has been some conversation that we talked about some improvements that we haven't seen. Can you quantify that improvement? I mean, to say that there are improvements and to say that the improvements we've seen a 15 percent increase in state board tests; we've seen...or the reading tests at the third grade...I don't know if it's third or fourth grade when we do reading testing. But can you quantify the improvement? [LB509]

TED STILWILL: I think I can at least approximate it but I need to make a clarification first. As Ms. Chang alluded to, the scores, the state test scores, that would be the easiest way to look at this. It's the common measure or indicator across districts. If you look at TEEOSA scores, state test scores, generally in reading and math, across the 11 districts and the learning community, almost all the districts have seen...consistently seen increases in the last three years. They have been small increases: 1, 2, 3 percent, 4 percent kind of things. But they're significant at that level, there's no doubt about that, and that's commendable. For the learning community to take credit for that would be a mistake, quite frankly. We have...the only way we would have to make a difference increase in making a dent in that would be through the elementary programs funded through the elementary levy. That's about \$4.8 million a year, let's say \$5 million, in programs. That's leveraging against that \$1.2 billion mass. So those programs are effective. They are making a difference for the 7,000 or so kids and families that they serve. But to say that that's in any way responsible for the larger increase across the last three years that the school districts have obtained would not be at all accurate. But what we are doing is finding more effective ways, particularly to help kids in poverty, because kids who come from poverty have several strikes against them, not each one individually but statistically as a group. Their level of academic performance has not been as a group nearly up to par with the others. And poverty, families in poverty, are increasing in Nebraska and in the learning community at a pretty rapid rate. And unless the educational system can get better at dealing with the educational needs of kids in poverty, that's going to be problematic and it's really...there are social justice issues, there are issues of individual human potential. To me they're economic issues and work force issues. Because unless you can...if those issues become problems, then everybody is going to have problems and we're going to see more poverty. It becomes a problem that detracts from the quality of human capital. [LB509]

SENATOR PRICE: Thank you. In that 1-4 percent increase that you talked about, and this goes to governance and that's why I'm asking you these questions, can you resolve which parts, subparts of your district? So if for the sake of the discussion Millard has

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been a net gainer, and I know that the formula is not of your making, but I'm saying if Millard is the net gainer, is Millard showing the 4 percent increase or is the 4 percent increase being shown in, irrespective of the dollars, in north Omaha or to the east side, let's say, of Omaha or part of Bellevue, north Bellevue? And can you resolve that to say where the improvements are and where they are and whether they're in reading or math or science? [LB509]

TED STILWILL: Senator, there's nothing in my review of the information about how the common levy is distributed and the money received by school districts that would suggest that there's any correlation between the amount of money distributed in the common levy and who gets more and who gets less and what their student performance is. And that would be true of educational funding nationwide. [LB509]

SENATOR PRICE: Okay. Great. And not being an educator, I don't... [LB509]

TED STILWILL: No, it's okay. [LB509]

SENATOR PRICE: I think like a businessman and I don't think (inaudible). And the other thing...and the final thing I wanted to talk about and I talked about it a little bit with Ms. Chang, and I asked about that concept of the impact to gaining buildings, to gaining schools. All right? So have you noticed any changes, like we have a lot of times bills here for truancy. Does truancy change? Has it decreased in that population that is open enrollment or any of the disciplinary things, or have there been any changes? Because we're taking, you know, I remember being a child and riding a bus to different schools and where there's different cultures and different districts in schools. And sometimes we didn't all get along just quite right. So I'm asking, is the learning community following that and the impact to the host schools? I call them host...but the gaining schools? [LB509]

TED STILWILL: Sure. Senator, let me...and I really appreciate the question because it allows me to clarify some of the things you were talking about in your earlier conversation among the committee. We do track very closely the students who open enroll, and we attempt, to the extent possible, to determine if there's any academic benefit to those students who do open enroll. And I will be as clear about this as I can. I think the intent of the Legislature in 2007 when they passed the original legislation was to add to the...Nebraska has a long history of parent choice with option enrollment, and more recently with open enrollment. They added to that a priority and a subsidy that would provide for parents who may not have had that degree of choice or the wherewithal to take advantage of option enrollment, and gave them a priority. And I think your question is, and I'll break it into two parts. Has open enrollment created a level of diversity, socioeconomic diversity? Because that clearly was part one of the intent of the Legislature. And I will tell you that it has very, very modestly increased the level of diversity across the 11 districts. But I will quickly say that the level of diversity

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across the 11 districts has increased dramatically but not because of open enrollment. It has increased because of what the census folks call the natural migration. So Millard, for example, has doubled the number of free and reduced-price lunch kids, approximately, in the last four years. That's not because of open enrollment. That's because if you think about a map of the Omaha metropolitan area of the two counties with the river on one side, and you can see socioeconomic and racial diversity moving across. It's common with people that I talk with in the Omaha area, say, oh yeah, that diversity is moving clear out to 72nd Street. It's moved clear out to 680 if you visualize that map. It's moving out all over the state. When you look across the state of Nebraska, one out of eight families with school-age kids is living at a level of 100 percent poverty. I mean, it's a mom and two kids is taking home 360-some bucks a week. That's a more severe level of poverty than a free or reduced-price lunch. That population is increasing rapidly in Nebraska, and I'm worried about the educational system's capability to cope with it. And that's what we think is now the major focus of the learning community is finding better solutions, educational solutions for kids in poverty. So question one: Is it increasing diversity? (Holds two fingers close together.) Maybe about that much. Is diversity increasing? (Holds hands wide apart.) Maybe about that much. So I just want to be really clear about that. Are we able to track the academic benefits--truancy, attendance, those kinds of things among them--the populations that we're able to follow...and when you get it down to these fourth-graders in this school, are so small that being able to say that getting on a bus, going ten miles, actually is benefiting them academically, we're not able to prove that. I'm not sure that we will be able to do that because it's a...you have a mix of people going a lot of different directions. Some kids...some groups do seem to benefit but they're fairly slight. I think the intention of the law is good. I think the option for parents is good, and subsidizing the option for those parents that don't have the means to take advantage of it otherwise, is good. I don't know that we're going to see the benefit in terms of academic performance, partly because the other kind of numbers about migration and movement are so overwhelming. [LB509]

SENATOR PRICE: Thank you. [LB509]

SENATOR AVERY: Any other questions? Thank you, Mr. Stilwill. [LB509]

TED STILWILL: Thank you. [LB509]

SENATOR AVERY: Any other opponent testimony? Welcome, sir. [LB509]

JOHN LINDSAY: Thank you, Senator Avery and members of the committee. My name is John Lindsay, L-i-n-d-s-a-y. I'm appearing as a registered lobbyist on behalf of Omaha Public Schools in opposition to LB509. The primary argument we would have in opposition to LB509 is I think was raised earlier, and that is the significant questions as to the constitutionality of this type of a voting structure. This voting structure would

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substantially dilute the voting voice of people residing in the larger districts: OPS, Millard, Bellevue, Elkhorn. It's going to have a substantial impact on that voting power. OPS population...these aren't student figures, these are population. OPS population is 346,311 versus a, for example, DC West at 5,523. Those two groups of people would each get one vote. If you go through the population of each of the districts, you range from about 113,000 in Millard, 30,000 at Westside, 20,000 at Ralston, 44,000 at Bellevue, 7,000 in Bennington, 8,000 in South Sarpy, all having one vote. It is just not a system that I think could pass a constitutional analysis, and I think it just...I think people...it would bother people to have that kind of a voting structure. Imagine if we applied that to our Unicameral. What if each county got one state senator? It would just not make for a result, I think, that would be equitable or be fair to people throughout the state. And this kind of a voting structure would have that same unfairness to people within the Douglas and Sarpy County areas with respect to the learning community. Remember, the learning community is not an organization that sits and oversees school districts. School districts are independent. They operate on their own, and that was part of the beauty of the learning community when it came about was that (a) their boundaries were protected; as part of the legislation that came about, their boundaries were protected. And (2) the integrity of each district remained so that the creativity of each district could be modeled between different districts. The learning community is an additional service intended primarily to address student achievement, and it has, as well as, for example, the common levy and diversity. And those are the things that it focuses on. Day-to-day operation of the schools are done at the school district level and should stay at the school district level. So it's...what we are talking about are more of those wraparound type of services. I have...and I think the Learning Community Council, the learning community is doing quite a few good things, as testimony has been given over in the Education Committee about a lot of the things that are happening there. I think the Education Committee is aware of those things. The second comment I'd make and it's actually in response just as I've heard some of the questions from the committee, the question about the common levy and whether it is operating correctly. And I think the answer is that you can't look at it at any given day. You have to look at it over a period of time, and we have to look at the times that we're in right now. (1) All of you have been in a very difficult position of having to vote for cuts in TEEOSA, in the state aid. Those, when we reduce TEEOSA, when we change the state aid formula, it does have an impact on the common levy and is going to result in a redistribution at that level. And there's some things that I think enter into that. As you're decreasing TEEOSA, you can increase who gets needs stabilization within that formula. And Senator Avery, Senator Scheer have heard all about the different factors in the formula, and those have that effect within the learning community and on the common levy as well. Right now, I believe DC West, South Sarpy, and Westside within the learning community, all have their needs stabilized. And I believe Millard at one point did have its needs stabilized as well. And that's going to have an impact. The hold harmless provisions of the law, of the learning community law, also are going to have an impact. The purpose of the law was the recession...or excuse me, was impacted by the recession, and that is that the

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common levy was trying to capture the growth in valuations of property that would not occur towards the east which were maybe landlocked districts but was going to develop further to the west. As those values increased, the idea was the common levy would capture that, and that growth then could be utilized throughout the metro area. When you have a recession, that gets turned on its head because valuations aren't going up. So there's a lot of things that enter into that common levy factor, I think things that the Education Committee has looked at and continues to look at, and I suspect will continue to look at. I'd be happy to... [LB509]

SENATOR AVERY: Your red light is on. [LB509]

JOHN LINDSAY: ...answer any questions. [LB509]

SENATOR AVERY: Okay, thank you. Questions from the committee? I don't see any. Thank you. Additional opponent testimony? We're still on LB509. Any neutral testimony? Welcome, sir. [LB509]

ANGELO PASSARELLI: Thank you. Thank you, Senator Avery. Mr. Chairman and members of the committee, my name is Angelo Passarelli, A-n-g-e-l-o P-a-s-s-a-r-e-l-l-i. I'm the administrator with the Millard Public Schools and we are testifying neutral on LB509. And Senator, like you, I was there when it all happened, so I have a little bit of that history as well. One of the things I want to try to dispel today is the fact that the districts in the metro area don't cooperate. We have a long, rich history of cooperation. We have groups like MABE, Metro Area Boards of Education, that cooperate and meet regularly. They certainly disagree sometimes but they certainly meet. We have metro superintendents that meet regularly, agree on share items, share issues, share practices that work. We have the Metro Omaha Education Consortium which also includes Council Bluffs as well as the metro area schools that meets regularly, chaired by the University of Nebraska-Omaha, and has many important issues that go on. One city, one school ended that cooperation but only with two districts. The other nine continued to cooperate, and to this day probably galvanized us even more so than anything we have done in the past. Cooperate more, friendlier relations, everything. That resulted in the first iteration of resolving this problem. It left OPS in three districts, and a lot of people don't remember that but that's where they were left. The superintendents went back together. They crafted a plan called the Student Advantage Act, and that plan was a solid plan. It was based on all 11 superintendents, the chief executive officers for all those districts. The second iteration came after that and it was the learning community as we know it today. Senator Murante asked me to say, what do you like about it and what don't you like about it. Well, we certainly like the common levy. We are a net gainer by the common levy and I agree that I think as it was intended we were not meant to be a common gainer or a net gainer out of that; Westside and Elkhorn as well. What don't we like? It's another layer of bureaucracy. The other thing that we don't like...we have poor kids in Millard; people don't believe that. They think

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Millard is a rich district. When you judge us by the number of parcels of property we have behind each student, we are a poor district. We're on the far end of the scale. We do not have as much property as many down near Bellevue, close to Omaha and that. And then we have a large number of students. We have 23,000 students in Millard Public Schools in 36 buildings. We have over 4,000 poor students in Millard and very little of the learning community money is coming to our 4,000 poor students. We have some programs that do reach them but very little as opposed to the elementary learner centers where the majority of those dollars are being concentrated. We feel like Senator Smith's bill in the Education Committee represents a consensus of all 11 superintendents again, and not to say they all agree on every aspect of that but they certainly had a consensus on that. And we think that's the best way to proceed. We encourage you to...and I know Senator Murante does not intend for this bill to move forward; we intend to have those discussions so that we can have LB585 be that compromised proposal. And with that, I'll answer any questions I might be able to. [LB509]

SENATOR AVERY: Thank you, sir. You've mentioned LB585 and I was there for the hearing in the Education Committee. That bill would essentially completely restructure the governing council, eliminate limited voting, reduce the number of representatives possibly that represent diversity. That doesn't bother you? [LB509]

ANGELO PASSARELLI: Senator, those...our boards of education are elected by the constituents they represent and I feel they are immersed in the educational programs of the district. I think they can do a lot of good for all the students in our district. I would challenge you to ask our boards of education members, they are people of good will, they want what's best for all of their students and I think they would work cooperatively to help. So I don't think that would be a negative. [LB509]

SENATOR AVERY: Well, I recall that we specifically did not want to have the superintendents run the learning community because we don't agree with their view. [LB509]

ANGELO PASSARELLI: I'm not sure who the "we" is, Senator. [LB509]

SENATOR AVERY: We, the committee at that time. I think the Education Committee at that time. [LB509]

ANGELO PASSARELLI: Well, it was certainly not the superintendents and the constituents that they represent, because they did feel like they had a superior plan. [LB509]

SENATOR AVERY: You said that all 11 superintendents agreed or developed a consensus about which direction we ought to go. Why just the superintendents? Why

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not others? [LB509]

ANGELO PASSARELLI: I'm not sure, Senator, who you would have involved. [LB509]

SENATOR AVERY: How about other members of the governing council of the learning community? The superintendents are advisory. [LB509]

ANGELO PASSARELLI: Correct. [LB509]

SENATOR AVERY: What I think you're saying is they want to have control of the learning community, not just an advisory role. [LB509]

ANGELO PASSARELLI: I don't think that's the case, Senator. The word "advisory" means someone is going to ask you your opinion. I don't think they felt like they've had their opinion listened to. [LB509]

SENATOR AVERY: Well, that's probably a discussion for the Education Committee. Questions from the committee? Senator Price. [LB509]

SENATOR PRICE: Thank you, Chairman Avery. Thank you for coming down and testifying. So can you give an approximation of the open enrollment numbers from the learning community into your district? [LB509]

ANGELO PASSARELLI: We have the most of any district. We have approximately 600 kids that come to us in open enrollment. But, surprisingly enough, before the learning community even existed we had about that number of students coming to us in option enrollment. It hasn't changed a whole lot. I heard you ask one of the questions on demographics. The demographic is almost identical to what our demographic is, and we've got about 20 percent in poverty in our district right now. So it really has not changed the demographic of poverty in our district. [LB509]

SENATOR PRICE: Has it changed any of the culture in the buildings? [LB509]

ANGELO PASSARELLI: I don't think so. The interesting thing about open and option enrollment students, when a parent chooses a different school for their child, they're engaged. And we know from our work with the Gallup organization that engaged parents have successful children. So the kids that are coming to our school district from other districts are engaged, and although we find them more like the students that we have than anything else. And a large majority of them come from Senator Lautenbaugh's district in that northwest quadrant of Omaha, and largely because we have schools in that area. And that's one of the main reasons: Our schools are closer than other schools. [LB509]

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SENATOR PRICE: Then could you tell me if you knew, because you brought up the Gallup study that talked about engaged parents, would those parents be the same parents that would be engaged in their home district? [LB509]

ANGELO PASSARELLI: Correct. [LB509]

SENATOR PRICE: So they would perform the same in their home district based on engagement; then going to another open enrollment would be a bus or whatever way they go there. So it's the same level of efficacy then. Maybe could that attribute to why there's so little change in the performance, because it's the same parameters all the way around? [LB509]

ANGELO PASSARELLI: I see where you're going and I agree. We all want engaged parents. None of us want to lose our engaged parents. Those are the ones we want to hold on to. [LB509]

SENATOR PRICE: Okay. Thank you. [LB509]

SENATOR AVERY: Any other questions? Thank you, Mr. Passarelli. [LB509]

ANGELO PASSARELLI: Thank you. [LB509]

SENATOR AVERY: Any other opponent testimony? Neutral. That was neutral testimony; sorry. Didn't sound like it. (Laughter) All right, let me... [LB509]

SENATOR MURANTE: He's a fellow Italian, no less. [LB509]

SENATOR AVERY: Let's see if we have any more neutral. Any more neutral testimony? No neutral. Okay. [LB509]

SENATOR MURANTE: (Laugh) We'll leave that for another day. Just a few comments to wrap up. I think you heard a lot of what concerns me about the learning community in the opposition testimony. We're spending \$1.2 billion to educate 110,000 kids. Later today I'm going to be e-mailing all of you a link to the Omaha World-Herald which does a wonderful job of going school by school in the learning community...in all the schools in Douglas and Sarpy County and outlining the demographics and the test scores at each grade level for each school. I'd like you to take a look at that and ask yourselves whether we're getting a return on that investment. We have schools where 10-15 percent of kids are proficient in math and English, and that's it. These are things that we have to address. That's a larger issue of why the learning community was created in the first place. But I think Senator Wallman and Senator Price, you asked what I believe is the most important and fundamental question: Are test scores improving? Now when I've asked that question I typically get three responses. The first

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is: The learning community hasn't been around long enough; it's too early to judge. The second is: We go down some rabbit hole about education learning centers and we're not going to talk about the test scores, we're going to talk about these programs, almost discussing the learning community as if it's a function of the Department of Health and Human Services; as if it's a social program. And the third, which Mr. Stilwill said today, was the first I heard of it that, yes, we had marginal improvements over the years but the learning community didn't do it, which I thought was an interesting perspective from the CEO of the learning community; but at least he was honest. Now, Mr. Lindsay, when he was here, stated that the primary purpose of the common levy is student achievement. I agree with him. That's clear from the record that that was why the learning community common levy was instituted. But what I heard Mr. Stilwill say, and I'm going to get the transcript to get the exact quote that he said, was that there was no correlation between an increase in funding in the common levy and student achievement. If there's no increase in student achievement when you're increasing money from the common levy, then why do we have a common levy? That was the whole point. If...this is something that we're going to have to take a look at over the years. But when the CEO of the learning community comes here and tells you there isn't a relationship between where the money goes and the student achievement, I think we have to take a look at what we're doing here and whether we're actually accomplishing what we hoped to accomplish. I think it's a good goal. I think it's a necessary goal. But I don't think we're doing it and I think we demonstrated today through the admission of the opponents of this bill that we're not doing it. We are not getting the money to kids in need and those kids are not having any sort of substantive improvement from where we were before the learning community was adopted. So thank you for your opportunity, especially to Senator Scheer and Senator Avery, who I'm sure have heard this over and over again and will be hearing it again until this issue is resolved. [LB509]

SENATOR AVERY: Well, let me make two observations in light of your closing. One is that the achievement scores change very slowly over time. I mean, it really takes a while for programs to show improvement. The second thing is, the learning community is primarily focusing on those elementary kids and those preelementary kids. We won't know the impact of the learning community for a few more years until they get up into those grades where the testing is going to be on them. That's just to put this in context. Senator Price. [LB509]

SENATOR PRICE: Thank you very much, Chairman Avery. Senator Murante, my question goes, when you started out on this journey with this bill, were you aware that the learning community had no...or the council had no jurisdiction in how the money was distributed; that that actually is a function solely of the Legislature? [LB509]

SENATOR MURANTE: No. [LB509]

SENATOR PRICE: So in hindsight, now that we have this out as a matter of public

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record, isn't it... [LB509]

SENATOR MURANTE: Now, I'm not even sure that is entirely accurate. I'll check the record. I think they do have some discretion. [LB509]

SENATOR PRICE: Okay, but I mean it seems the general tenor of the conversation was, we just collect; we see how much to collect and we do with what we get, but we don't have any ability to change that formula because it's an embedded subcomponent of the funding mechanism that we use in state aid. Which I believe Senator Adams said one time, there's probably three people in the state who can explain it from, you know, snout to tail tip. So, I mean, predicated on that, would it be your idea that we're really maybe focusing in the wrong area on some of this, and that it's actually within our own body to try to generate some interest to actually make it work? [LB509]

SENATOR MURANTE: Yes, actually, I think...and I think that raises two good points. First of all, I don't think that Mr. Stilwill was entirely wrong. I think the remedies to the concerns that I am bringing up have to be done by the Legislature. The Learning Community Coordinating Council does not have the authority to do what I am suggesting needs to be done. But the second, and this goes to my own superintendent's point of view, if that is the case and the learning community is simply operating at the whims of the Legislature as we set TEEOSA and so forth, then I question the need of the Coordinating Council. If they are just...if this is simply an institution that uses the formulas that we come up with and redistributes the money that we say has to be collected, you know, why do they need to be there? [LB509]

SENATOR PRICE: Amen, brother. [LB509]

SENATOR MURANTE: So if they don't really...if they don't serve any function along those lines, then that would be my question. [LB509]

SENATOR PRICE: Thank you. [LB509]

SENATOR AVERY: Yes. Senator Scheer. [LB509]

SENATOR SCHEER: Thank you, Chairman Avery. I just can't pass it up. I've listened with interest for the last hour and a half, but can you please tell me all of your dissertation in regards to the common levy and all the rest, what that has to do with your bill? [LB509]

SENATOR MURANTE: Very little. [LB509]

SENATOR SCHEER: Fair enough. Thank you. [LB509]

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SENATOR MURANTE: Yes. As I said in my introduction, I introduced this bill in this way for one reason and one reason only: to have the discussion about the learning community in a committee other than the Education Committee and bring it to a larger audience. And that's why we're here today. [LB509]

SENATOR AVERY: And you succeeded. [LB509]

SENATOR MURANTE: And I succeeded in that effort. Thank you, Senator Avery. [LB509]

SENATOR AVERY: All right. That ends the hearing on LB509. And now we'll open the hearing on LB381. Senator Janssen. How many people intend to testify on LB381? Please raise your hand. Oh, my God. All right. All right. Let me explain, we're going to have a slight change. With that many people wishing to testify, I want to give everybody a chance to do it. So I'm going to change the light system to three minutes. So you will have two minutes on the green light and one minute on the amber light before you have to terminate your testimony. You should be able to say everything you want to say in three minutes. Everybody gets treated the same on this bill. And we don't do this unless we have a large number of people who want to speak and it was pretty clear that most of you are here for this bill. I don't know why you're not here for my bills coming up later. Senator Janssen, welcome to the Government Committee. You ready? [LB509]

SENATOR JANSSEN: (Exhibit 1) Ready when you are. [LB381]

SENATOR AVERY: Okay, let's go. [LB381]

SENATOR JANSSEN: Thank you, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. My name is Charlie Janssen, C-h-a-r-l-i-e J-a-n-s-s-e-n. I represent the 15th Legislative District, which includes Fremont, all of Dodge County, North Bend, and Winslow, among other communities. I appear to introduce LB381 also known as the voter ID bill. And I thought everybody was here for the Learning Community bill today, but I see that's not to be the case. LB381 would require persons casting ballots to provide a government-issued photographic identification before voting at their polling place. I introduce this legislation in order to further protect the integrity and reliability of our elections. LB381 would do so by deterring and detecting voter fraud and ensuring confidence in our voting process. The language of LB381 follows the law that was upheld by the United States Supreme Court in 2008 in the case Crawford v. Marion County Election Board. In that decision, Justice John Paul Stevens in the majority opinion wrote, "The application of the statute to the vast majority of Indiana voters is amply justified by the valid interest in protecting the integrity and reliability of the electoral process.... The relevant burdens here are those imposed on eligible voters who lack photo identification cards that comply. Because Indiana's cards are free, the inconvenience of going to the Bureau of Motor Vehicles,

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gathering required documents, and posing for a photograph does not qualify as a substantial burden on most voters' right to vote or represent a significant increase over the usual burdens of voting." According to the National Conference of State Legislatures, 33 states have passed voter ID laws. Sixteen states have passed laws that request or require voters to provide photo ID. An additional 17 states have passed laws that require ID but not necessarily one with a photograph. Nebraska is not considered one of those 33 states in any category. Voter photo ID was a key recommendation of the Commission on Federal Election Reform cochaired by former President Jimmy Carter and former U.S. Secretary of State James Baker, in their 2005 report titled "Building Confidence in United States Elections." Voter ID is strongly supported by our Nebraska constituents. A July 2010 Caltech-MIT study examining support for election reform in the United States reported that 79 percent of Nebraskans supported requiring an ID. No other reform measure even came close to that. The others were Internet voting, which came in at 24 percent; vote by mail, which was 14 percent; automatic registration, 36 percent; election day registration, 37 percent. This is the one I always find interesting, election day holiday--a day off to go vote--50 percent; and an election day weekend, 38 percent. Responses were very similar nationally with 75 percent of Americans supporting requiring showing a photographic identification when casting a ballot. The need for this bill is clear. A 2012 report by the Pew Center on States found that 24 million U.S. voter registrations or one out of eight were no longer valid or significantly inaccurate. The report also found 1.8 million dead people listed as voters and 2.75 million people registered in more than one state. LB381 permits free IDs to those who are indigent. The Department of Motor Vehicles would offer the state identification card at no cost to the voters who wish to obtain photo ID for purposes of voting under the Election Act if they indicate they are indigent. I would note, 98 percent of Nebraska's registered voters already possess a Nebraska driver's license or state-issued ID card. LB381 includes a provision that permits the Secretary of State to expand the list of acceptable IDs, if necessary, through the rules and regs authority. Any other IDs would have to be issued by a government entity and include a photograph. Similar to other voter ID laws across the country, voters casting ballots in elections held by mail or who vote early would not be required to provide government-issued photographic identification unless it's their first time voting and they did not provide proper ID when registering. LB381 permits a person who does not present identification at the polls to cast a provisional ballot. All of these provisions ensure everyone's right to vote is protected. Briefly on the fiscal note, it is clear that it's highly unlikely that all 26,000 who do not possess ID at present are indigent. This number will be much less. I'd like to thank the National Association of County Officials for working so constructively with me on the issue. I offer the committee an amendment about election clerk identification that their board would like to see included. I appreciate their neutral testimony today, and I'll pass that out as well when you get a chance to come over here. To close, I again emphasize that we must protect the integrity and reliability of our electoral process. The Commission of Federal Election Reform recommended asking for photo ID at the polling place. The U.S. Supreme Court rules that we have a

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legitimate state interest in preventing voter fraud, modernizing elections, and safeguarding voter confidence. Our constituents overwhelmingly support voter ID in poll after poll. And more to a personal note, many of you probably remember this from years past, the genesis from which this came for me personally, as the first time I voted in a presidential election, it was in the middle of the ocean in the Persian Gulf. And I went to some degree of work to get that ballot. That was at a time where you just couldn't...you had to prove why you were out of the state. I had a pretty good reason for being gone. But I hate to think that that first ballot that I cast was cast and was wiped out by somebody who was voting illegally or committing voter fraud. I'd like to acknowledge and thank Chairman Avery for moving this bill up today per my request. I know how he feels about this type of legislation, so that probably means even a little bit more. And thank you, and I urge you to support LB381. And I'll answer questions if there are any, but I don't expect any. [LB381]

SENATOR AVERY: You still maintain your sense of humor through all of this. I have one for you. You have a provision in this bill for people who are indigent and need the state identification card. Do you have any idea how many people might declare indigency and need a free card? [LB381]

SENATOR JANSSEN: The number I had mentioned the potential was--and that's in your fiscal note as well--I want to say it was, oh, 26,868 possible. [LB381]

SENATOR AVERY: Yeah. [LB381]

SENATOR JANSSEN: Possible. But that's, you know, I think that's far-reaching to think that the entire number of that would be classified as indigent. And if you look at the fiscal note, it goes from 0 to \$275,000 based...I believe, based on the fact that if all 26,000 were to come in--which is I think we all would agree regardless of what side of the issue you're on--is extremely unlikely if not impossible. [LB381]

SENATOR AVERY: Would the voter have to prove indigent status? Just a declaration that they're indigent, is that sufficient? [LB381]

SENATOR JANSSEN: A declaration. [LB381]

SENATOR AVERY: A declaration. Senator Wallman. [LB381]

SENATOR WALLMAN: Thank you, Chairman Avery. Welcome, Senator Janssen. [LB381]

SENATOR JANSSEN: Two days in a row. [LB381]

SENATOR WALLMAN: Yeah. I've been behind somebody that's homeless and they

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wanted a card. How do you do this address thing? You know, they go all over the city here. And the address thing would be a problem, then, wouldn't it for that photo ID, or how would you handle that? [LB381]

SENATOR JANSSEN: The normal process for which they would get their address...many people have used homeless shelters as their home address. There is an avenue to take care of that as well. [LB381]

SENATOR WALLMAN: Thank you. [LB381]

SENATOR JANSSEN: Thank you. [LB381]

SENATOR AVERY: Any other questions? You're right. [LB381]

SENATOR JANSSEN: Be quick. I have spent four years on this committee and about that same amount of time dealing with this issue; I obviously feel passionate about it. But I've spent three months on the Revenue Committee and we have five bills up today. So I'm going to be trying to go back and forth to maybe catch some of the introductions there as well. So... [LB381]

SENATOR AVERY: Okay. All right, we'll now accept proponent testimony. Those who wish to support LB381, please come forward. Remember that we'll be on a three-minute light. Welcome, sir. [LB381]

DOUG KAGAN: (Exhibit 2) Good afternoon. Good afternoon, Senators. My name is Doug Kagan, that's K-a-g-a-n. And I represent Nebraska Taxpayers for Freedom. We believe it incumbent upon the state Legislature to preserve the integrity of the voting process and recognize a necessity for zero tolerance for vote fraud. A 2010 Rasmussen poll showed that 82 percent of Americans support photo ID voter laws. The importance of preventing illegal voting outweighs vague and undocumented cases of voter suppression. LB381 stands on solid constitutional ground, as Senator Janssen said. The majority believing that the burden placed on the voter is offset by the benefit of reducing fraud, that the law was therefore reasonable. Last September, an analysis conducted by Reuters Agency found that in 20,000 voter interviews, those lacking proper ID were less likely to vote regardless of a voter ID law. Among those who stated that they would definitely vote, only 1 percent said that they lacked proper ID. Nowadays, few lack a photo ID. Poor people mostly have ID cards to qualify for government assistance programs like food stamps. They have ID to purchase cigarettes and alcohol. Most students have ID. They cannot take an ACT or SAT test without it. Nebraskans have entitlement and access to free ID that never expires. Those who are too lazy to obtain a form of government ID probably are also too lazy to go to their poll to vote on election day. This bill is not discriminatory. A Georgia ID requirement was in effect for the 2008 and 2010 elections when minority voter turnout was higher than

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average. In 2012, only 32 of 1.7 million Kansas voters requested free ID; 80 percent were white and 10 percent black. This bill treats legal voters equally, permitting unprepared voters a second chance through a provisional ballot. The Kansas Secretary of State said that most of 84 voters who failed to present photo ID in 2012 simply left the ID at home. In the last Kansas election, 221 cases of voter fraud occurred, the majority never investigated fully because county attorneys lacked the time and resources to pursue cases at the expense of other criminal investigations. However, seven prosecutions yielded seven convictions. Asking what percentage of votes was cast illegally is the wrong question. Instead, ask if the number of illegal votes exceed the margin of victory in a race. The margin in an Omaha legislative race last decade was only 14 votes. In conclusion, this bill is not a solution in search of a problem. It is a preventative vaccination against illegal voting. Thank you. [LB381]

SENATOR AVERY: Thank you for observing the lights. [LB381]

DOUG KAGAN: I'd say. [LB381]

SENATOR AVERY: I have a question for you. [LB381]

DOUG KAGAN: Yes, Senator. [LB381]

SENATOR AVERY: How extensive is voter fraud in Nebraska? [LB381]

DOUG KAGAN: We don't know, Senator, because in the research our organization has done--and I don't think we looked at every state--but we found in Kansas and other states that when they've actively pursued and looked at voter fraud, they have found it. It's just that a lot of county attorneys don't have time to handle it because it's not high on their list of priorities. But when they have found the voting fraud--and they have found it in every state--and they have prosecuted, the prosecutions have resulted in convictions. [LB381]

SENATOR AVERY: Voting is a right in this country, would you agree? [LB381]

DOUG KAGAN: Yes, it is. [LB381]

SENATOR AVERY: Do you know of any other right in this country that requires you to qualify before you can exercise that right? [LB381]

DOUG KAGAN: Well, let's see. You're stumping me here. Well, I know you need a lot of ID to do a lot of different things. I...you know, you can say they're rights or not rights. [LB381]

SENATOR AVERY: But usually not to exercise rights. [LB381]

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DOUG KAGAN: You have to have photo ID to get on a plane, to go into a federal building. [LB381]

SENATOR AVERY: That's not a right, it's a privilege. Well, I don't mean to put you on the spot. [LB381]

DOUG KAGAN: That's okay. [LB381]

SENATOR AVERY: Maybe I'll ask someone else that. Senator Lautenbaugh. [LB381]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman. Thank you for coming today, sir. You were asked the question about what rights you have to qualify for. I mean, we do require people to be residents before they execute the right to vote, don't we? [LB381]

DOUG KAGAN: That's true. [LB381]

SENATOR LAUTENBAUGH: That is a requirement that is a qualification, I would say to you. I recall in a prior life when I was deputy election commissioner, we had some petition signature fraud issues that we were trying to get the county attorney to take a look at. And I think we struggled for those to be taken seriously as other crimes as well. Is that kind of the thing you're referring to in getting investigations going into voter fraud? [LB381]

DOUG KAGAN: Yes, indeed. When we looked at the prosecutions of voter fraud in other states, what we found was that the prosecuting mechanism whether it was county attorney or another prosecution force, they didn't...they knew that the voter fraud was occurring, and they knew when and where it was occurring and how much it was occurring. But because of their caseload it was not high on their priority list of things to do, and so they let it slide. [LB381]

SENATOR LAUTENBAUGH: And I think you noted that there have been some elections that have been decided by very few votes. [LB381]

DOUG KAGAN: Yes. There was a legislative election I think in District 12 a very few years ago where the margin of victory was only 14 votes. [LB381]

SENATOR LAUTENBAUGH: So say a person had access to the voter file--as all campaigns and other groups seem to these days--in your opinion, would it be very difficult just to go identify 20 people who never vote based upon the voting history, and go sign in as them and vote under current law? [LB381]

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DOUG KAGAN: I think that would be possible. I mean... [LB381]

SENATOR LAUTENBAUGH: I don't want to make this a how-to seminar, I'm just saying... [LB381]

DOUG KAGAN: No, but I'll give you my own experience. I voted in the same place for many years and they knew who I was, and then they changed my polling place last year. So I walked in and I voted. They didn't know who I was. Anybody could have walked in and said they were me and voted, and nobody would have known the difference. [LB381]

SENATOR LAUTENBAUGH: Thank you. [LB381]

SENATOR AVERY: How...what would somebody gain by doing that? I mean, there's always the risk that you would show up later to vote and you'd say I am the proper person to be voting. And the in-person voter fraud is extremely difficult to pull off and particularly in sufficient numbers to influence the outcome of an election. [LB381]

DOUG KAGAN: I would respectfully disagree with you, Senator. We had a mayoral recall campaign a couple of years in Omaha. And the news media found that one side was busing in transients from one of the shelters to vote. And there was a big question if those people were legal residents and had the right to vote. There was a big outcry about that. Vote fraud is occurring all over in every state. [LB381]

SENATOR AVERY: Well, that may or may not have been voter fraud. But as I recall, that election was decided by more than 1 percent. [LB381]

DOUG KAGAN: That's true, but the vote fraud still occurred. And in our opinion, even one fraudulent vote is one too many fraudulent votes. [LB381]

SENATOR AVERY: Well, I agree. But you also use that argument to justify what many people consider an impediment to voting. [LB381]

DOUG KAGAN: Okay. [LB381]

SENATOR AVERY: Any other questions? All right, thank you, sir. [LB381]

SENATOR KARPISEK: Hang on. Hang on. [LB381]

SENATOR AVERY: We have a question...a late question here. Senator Bloomfield. [LB381]

SENATOR BLOOMFIELD: Thank you, Senator Avery. Sir, do you see any correlation

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between having to have an ID to purchase a weapon, which is protected under the Second Amendment rights, to needing to have ID to vote? [LB381]

DOUG KAGAN: No. They're both the same to me. [LB381]

SENATOR BLOOMFIELD: Okay. Thank you. [LB381]

SENATOR LAUTENBAUGH: Senator, Mr. Chairman, you did lead to a follow-up question, if I may. [LB381]

SENATOR AVERY: All right. Senator Lautenbaugh has a question. [LB381]

SENATOR LAUTENBAUGH: So, Mr. Kagan, you were asked what would happen if the real person showed up and tried to sign in. Well, do you know what would happen if the real voter tried to sign in after someone had already voted for him? [LB381]

DOUG KAGAN: They couldn't vote. [LB381]

SENATOR LAUTENBAUGH: Well, do you think that the poll workers would be able to go in the ballot box and ferret out the ballot from the person who was fraudulent? [LB381]

DOUG KAGAN: I doubt it very much, and that's why it concerned me when I went to a new polling place. And I certainly wouldn't have been the first to pulling out my driver's license to prove who I was. [LB381]

SENATOR LAUTENBAUGH: Understood. Thank you. [LB381]

SENATOR AVERY: Any other questions? Thank you, Mr. Kagan. [LB381]

DOUG KAGAN: Thank you, Senator. [LB381]

SENATOR AVERY: Other proponent testimony? Welcome. [LB381]

JULIE CONDON: (Exhibit 3) Hi. My first time here. Thank you. My name is Julie Condon, it's J-u-l-i-e C-o-n-d-o-n. I live in Ogallala, Nebraska. I'm the cofounder of Western Nebraska Citizen's Caucus. We have a large membership via the e-mail, Twitter, and Facebook. I want to thank you, Senator Avery, and other committee members for the opportunity to testify. And since I have the mike, did any of you happen to watch Senator Rand Paul on CSPAN last night? [LB381]

SENATOR AVERY: We ask the questions. [LB381]

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JULIE CONDON: I'm just kidding. I support LB381. We, as citizens, by law must show ID for every aspect of our life. We are already required to pay for our picture ID. Thus, something as simple as a picture driver's license should be considered for voting. I would like to know--and this is just a question, you don't have to answer--where is it in the constitution or the code of law that noncitizens are allowed to vote? You talked about residents of Nebraska versus citizens of Nebraska. The vote, I believe, is for the citizen. Every time a noncitizen votes, they are taking away the vote of the citizen. Please consider our constitution in your decision of this bill. Thank you again, for allowing me to speak. [LB381]

SENATOR AVERY: Thank you for your brevity. [LB381]

JULIE CONDON: Do you have any questions? [LB381]

SENATOR AVERY: Well, hold on. We do. Senator Wallman. [LB381]

SENATOR WALLMAN: Thank you, Senator Avery. Yeah, thanks for coming. And I know where you're coming from. Nobody wants illegals or anybody or noncitizens to vote. But I think if you make a mandatory card system...you know they make these green cards now? They make them...somebody makes them. So I think you're going to increase the chance of voter fraud. [LB381]

JULIE CONDON: Well, there's...from what I understand, you know, there's residents of Nebraska and there's citizens of Nebraska. [LB381]

SENATOR WALLMAN: Sure. Sure. [LB381]

JULIE CONDON: And you can designate who they are on those cards. [LB381]

SENATOR WALLMAN: Thank you. [LB381]

SENATOR AVERY: Any other questions? You came all the way from Scottsbluff? [LB381]

JULIE CONDON: Ogallala. [LB381]

SENATOR AVERY: Ogallala. Well, thank you. That's a beautiful place, and that's a long distance. We appreciate your interest. [LB381]

JULIE CONDON: Thank you. [LB381]

SENATOR AVERY: Any other proponent testimony? Welcome, sir. [LB381]

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MARTY BROWN: (Exhibits 4, 5) Good afternoon. Marty Brown, M-a-r-t-y B-r-o-w-n. I'm vice president of NTF, a local organization about 900 members. I had a whole script... [LB381]

SENATOR AVERY: Would you... [LB381]

MARTY BROWN: Pardon me? [LB381]

SENATOR AVERY: ...tell us what NTF is? [LB381]

MARTY BROWN: Nebraska Taxpayers for Freedom. [LB381]

SENATOR AVERY: Okay. [LB381]

MARTY BROWN: I had a whole script here. But, you know, I was looking at that flag...American flag. I served in 1965, 1st Cav. And when I came back, I went to port authority, had my uniform on, and I got spit upon. Now the reason I'm saying this is because we don't have any respect for that flag. In reference to doing LB381, we get some of that respect back. Give you a thought on this, identity theft happens all the time. I gave you four reports from the Federal Trade Commission. The question that Doug had earlier by you, Mr. Avery, is that identity theft complaints from Nebraska victims alone was 1,068 from the Federal Trade Commission--identity theft. If you want to look at the ranking of what Omaha is, half of them are in Omaha--identity theft. Okay, if you want to look at the other things, actually identity theft has grown 43 percent since 2010. And because of that, we're getting a lot of issues. In fact, I was...had several thousand dollars taken out of my account because identity theft, as well as my wife and my son eating at a restaurant. Now I know that doesn't have anything to do with voter ID. But I want to state this. I saw an article in the Omaha World-Herald by Kevin Cole, stated that four Guatemala individuals died in a accident on Maple Street. I did a report. I called the Attorney General Jon Bruning. I called the Secretary of State. I called the DMV. I called the sheriff, Marty Bilek, to find out what these people...how they got there. They didn't have any identities, they had false identities. Now how were they able to go to work for Nebraska Beef? What I was trying to find out, if these people can go to work in any city, any county in the state of Nebraska and they can vote on-line by filling out a Spanish voter ID by three counties in the state of Nebraska, what keeps them from voting? It's amazing to me that we have a population growth in ten years and...I see my red light--that we went from 30,000 population of Hispanics in Omaha to 60,000 in ten years. And I guarantee you, they're not all legal. So I'm tired of getting people spitting on our flag. That's why we need LB381, folks. Thank you. [LB381]

SENATOR AVERY: Thank you, Mr. Brown. Questions? Senator Bloomfield. [LB381]

SENATOR BLOOMFIELD: Thank you, Senator Avery. [LB381]

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SENATOR AVERY: Hold on just a minute, Mr. Brown. [LB381]

MARTY BROWN: Sure. [LB381]

SENATOR BLOOMFIELD: Mr. Brown, it's not a question. I enjoyed the same warm welcome that you got... [LB381]

MARTY BROWN: Thank you for serving. [LB381]

SENATOR BLOOMFIELD: ...when I came back in 1967. And I want to thank you for serving. [LB381]

SENATOR AVERY: Thank you, sir. Any other proponent testimony? Welcome. [LB381]

SUSAN GUMM: (Exhibit 6) Thank you. Good afternoon, Chairman Avery, Senators. I appreciate the opportunity to be able to speak to you today, and I'm speaking as a citizen of Nebraska. I support LB381... [LB381]

SENATOR AVERY: Could you spell your name, please? [LB381]

SUSAN GUMM: Oh, I'm sorry. Susan Gumm, S-u-s-a-n G-u-m-m. I support LB381 because I believe voter identification is a basic requirement for secure elections. A person cannot function in society today without photo identification. It is not unreasonable to require photographic identification to protect our most important privilege of citizenship. My vote is my voice. I want my vote protected from being canceled by a vote from someone who is ineligible to vote. Anyone who values his or her right to vote should be willing to make the effort to secure the required ID, and the vast majority of eligible voters already have such identification. Evidence of voter fraud is present in all 50 states, and public confidence in the integrity of elections is at an all-time low. The United States has a haphazard, fraud-prone election system. And ironically, Mexico and many other countries have election systems that are far more secure than ours. Most forms of voter fraud are extremely difficult to detect, so we must be proactive rather than reactive. More states are moving to ensure the integrity of our voting process by requiring photo IDs. It is unrealistic to assume that everyone will be honest on election day. Voter fraud happens all the time and it does sometimes occur on a level large enough to impact close elections. We can't leave our entire voting system open to fraud because some people don't feel like taking the steps to prove they are who they say they are. Requiring photo ID is commonsense election reform that is supported by a majority of the American people. Voter fraud discourages citizen participation in the democratic process and breeds distrust of our government. Voter ID requirements would give people some assurance that their vote counts. When you believe your vote will count, you are more likely to vote. When voters are

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disenfranchised by the counting of improperly cast votes or outright fraud, their civil rights are violated just as surely as if they were prevented from voting. Advocacy and civil rights groups claim that a voter ID law would impose burdensome restrictions on voting and disenfranchise seniors, low-income people, and students. The Supreme Court ruled that requiring voters in Indiana to present a photo ID does not impose excessively burdensome requirements on any class of voters. Artur Davis, the former Democratic congressman from Alabama, said the idea that people in low-income, African-American communities are bothered or intimidated or burdened by attaching a few responsibilities to their all-important core right of voting is a condescending idea. If there should be... [LB381]

SENATOR AVERY: Your red light is on. [LB381]

SUSAN GUMM: I'm sorry. Thank you for your time. [LB381]

SENATOR AVERY: Thank you for your testimony. Don't leave yet. [LB381]

SUSAN GUMM: All right. [LB381]

SENATOR AVERY: We might have a question for you. Any questions? Senator Scheer. [LB381]

SENATOR SCHEER: Thank you. Thank you for coming today. Just out of curiosity, you said part of your statement was evidence of voter fraud in all 50 states. Can you give me an example in Nebraska? [LB381]

SUSAN GUMM: I also was concerned about the people that were...the homeless people that were taken to the recall election. I know...that's why I said...I mean, the Al Franken election. There's all kinds of problems in Florida. I mean, there is fraud, and I like the idea of being proactive rather than we get a big election here for, you know, someone and then we're down to a few votes. [LB381]

SENATOR SCHEER: I don't dispute that. But I listen to testimony very carefully, and you expressly said there's fraud in all 50 states. So I was just asking you specifically in Nebraska where the fraud was. And I understand that there are maybe points in others, but that's why I was wanting a specific example in Nebraska. [LB381]

SUSAN GUMM: Uh-huh. Right. Right. I don't know if I have one. I know that fraud is difficult to detect, and you have to catch it on the front end because it's almost impossible to try and find it after the election. [LB381]

SENATOR SCHEER: Okay. [LB381]

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SENATOR AVERY: You did mention the transient voters or the homeless voters in the Omaha recall election. [LB381]

SUSAN GUMM: Uh-huh. [LB381]

SENATOR AVERY: It's not a crime to be homeless... [LB381]

SUSAN GUMM: No. It was the way it was done, you know, with busing them... [LB381]

SENATOR AVERY: ...and being homeless is not a disqualification to vote. I just wanted to make that point. [LB381]

SUSAN GUMM: I know. I realize that. Yes, I realize that. [LB381]

SENATOR AVERY: All right. Any more? I don't see any more. Thank you very much, Ms. Gumm, for your testimony. [LB381]

SUSAN GUMM: You're welcome. Thank you for your time. [LB381]

SENATOR AVERY: Additional proponent testimony? Welcome, sir. [LB381]

GEORGE LEVY: Hello, Chairman Avery and other senators. I'm George Levy, I'm from Auburn, Nebraska. George, G-e-o-r-g-e, Levy, L-e-v-y. I was surprised to learn poll workers were not allowed to ask for ID. I heard that about two weeks ago. No voter ID is like the police making a traffic stop and cannot ask for a driver's license. Besides the constitution granting the right of citizens...qualified citizens to vote, allowing an opponent...opposing citizen to vote twice is like stealing the first citizen's vote. I think I've heard the phrase before in Chicago--vote early and vote often. Also, two weeks ago in Ohio there was a lady that bragged about voting six times. Those elected officials in this room could fall victim to illegal voting also. Voter ID would reduce the likelihood of illegal voting. To speak today, I had to complete a form identifying myself. They didn't ask for photo ID though. This does not prevent an eligible citizen from voting. That's it. [LB381]

SENATOR AVERY: Oh, thank you. Questions? Don't see any questions. Thank you, Mr. Levy. [LB381]

GEORGE LEVY: Thank you. [LB381]

SENATOR AVERY: Other proponent testimony? Don't see any. We'll now accept opponent testimony. [LB381]

ADAM MORFELD: Good afternoon, Chairman Avery, members of the Government

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Committee. My name is Adam Morfeld, that's A-d-a-m M-o-r-f-e-l-d. I'm the executive director and founder of Nebraskans for Civic Reform. Today I testify in opposition to LB381 and any unnecessary government intrusion on the fundamental right to vote in Nebraska, a right enshrined and protected by Article I, Section 22 of our state's constitution. This same view is shared by not only my organization, but over 27 Nebraska organizations. You will hear from many of them today. I'd like to address a few things that just came up in the proponent testimony. When we're talking about a constitutional fundamental right, boarding an airplane is not a constitutional fundamental right. There's a burden of showing ID on that privilege because there's an identifiable problem with people boarding planes and highjacking them. There's a burden on getting a gun, for instance, because there's an identifiable public policy problem with, potentially, formerly dangerous criminals obtaining those guns. There's an identifiable problem with prescription drug abuse, which is why it's required to show an ID for that. The problem here with requiring a photo identification for purposes of voting is there is no identifiable voter impersonation fraud in the state of Nebraska. And, in fact, it's very rare nationwide. Some of the things that were brought up today were not voter impersonation fraud. People being bused to Omaha, even if they were paid or they weren't paid to be bused to Omaha, that problem would not have been solved by photo identification. The rationale behind our opposition is simple. First, there is no evidence of voter impersonation in the state of Nebraska. This has been noted by our chief election official and the same introducer of this bill when he introduced a similar one two years ago. Senator Janssen repeatedly states that we don't know if voter impersonation is occurring. But, in fact, we probably would. Registered voters, not eligible voters, turn out in extremely high numbers--particularly in presidential elections--to the tune of 80 and 90 percent in many cases. This is an incredibly high sample size. If people were being impersonated, they would report it or at the very least the poll worker would recognize it when the second person comes in to vote under the same name. There simply has been no reports of this in Nebraska or, in fact, elsewhere. Second, this legislation has been proven to disproportionately impact youth, low-income, seniors, and people with disabilities across the country. Many more people will talk about this and are to come today. Third, this is a costly administrative hassle for election administrators and poll workers alike. Provisional ballots will increase dramatically and take often 15 to 60 extra minutes to wait in line and fill out and will often require a dedicated poll worker to assist. And as I'm running out of time here, I'll kind of fast-forward. But all other states with restrictive voter ID laws also provide free IDs for everyone regardless of income. And their state department of motor vehicles have seen heavy losses to their cash fund to the tunes of millions of dollars. The free IDs for only those who are indigent for purposes of voting violates the equal protection clause of the United States Constitution and constitutes a poll tax under the Twenty-fourth Amendment. Should this law pass, NCR will immediately file a lawsuit in federal court and the outcome would likely be the same for our Department of Motor Vehicles, expensive and unnecessary. For these reasons, I ask that you indefinitely postpone LB381, and that you preserve our citizens' fundamental constitutional right to vote.

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Thank you. [LB381]

SENATOR AVERY: Thank you, Mr. Morfeld. Senator Scheer. [LB381]

SENATOR SCHEER: Thank you, Senator Avery. Adam, I just wanted to go back and something you had said earlier in part of earlier testimony. Part of yours was that there's no voter fraud because if it had happened, somebody would show up that...to vote twice and that hasn't happened or something similar to that. But going back to Senator Lautenbaugh's--and I'm not, again, trying to promote (inaudible) of voter fraud--but if, indeed, somebody went through a voters' list--and I'm assuming they must note how often somebody votes, the times or proximity--so if somebody hadn't voted for six, seven, eight years, there's maybe a high likelihood that they wouldn't vote. So potentially, that truly could happen that somebody could walk in using a different name assuming that person's not going to vote. And if, indeed, that person doesn't come in to vote, how do we ever know that voter fraud existed in that type of case? [LB381]

ADAM MORFELD: It certainly is possible. It would be a felony. And the fact of the matter is, is that if that was happening, maybe a few cases got by. But the fact of the matter is, is that a few cases would have been caught a long time ago with, particularly, the high amount of turnout. And we have to remember when we're looking at this, we are looking at eligible population or not...when you're looking at actual registered population, the only amount of people or the only type of people that you can actually impersonate in presidential elections, the elections that most people care the most about, you have 89 percent turnout among those people that are registered. That's a pretty high sample size. And if somebody was out there messing with the system and doing that here and there, it would be caught at one point or the other. I think we have to look at what's...when there's not an identifiable problem and when we're imposing a burden on a fundamental constitutional right, I think we have to take that into serious consideration. I don't think that...I personally believe--and the court has found this in the past in other rights--that there has to be a compelling state interest to impose a burden on a constitutional right. And for there to really be a compelling state interest, there has to be an actual problem, an identifiable one. And a lot of these...the 50-state voting fraud survey that they're referring to, I've seen it on some of the Web sites. Those don't refer to voter impersonation. I think out of the thousand cases that they had, it was mostly petition fraud, it was voter registration fraud. I think there was maybe three or four cases total, nationwide, where there was actual voter impersonation fraud. And most of them were actually through the vote by mail system, which this bill excludes. [LB381]

SENATOR SCHEER: Okay, thank you. Thank you, Senator Avery. [LB381]

SENATOR AVERY: Any other questions? Senator Lautenbaugh. [LB381]

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SENATOR LAUTENBAUGH: Oh, thank you, Mr. Chair. Mr. Morfeld, do you know, has the U.S. Supreme Court ever had a chance to pass on voter ID laws? [LB381]

ADAM MORFELD: Yes, they have, Senator, Crawford v. Marion. [LB381]

SENATOR LAUTENBAUGH: Are there any...do you read any of those opinions, that one or others, as a blanket statement that voter ID laws are not constitutional? [LB381]

ADAM MORFELD: No, I do not, Senator. [LB381]

SENATOR LAUTENBAUGH: Okay. Thank you. [LB381]

ADAM MORFELD: But that bill...that case is somewhat different than the bill that's being proposed here. It was free IDs for everybody, whereas this only provides for free IDs for people that are indigent. They also spend several million dollars a year--and it's noted by the court in that case--on voter education, which is not provided for in this bill. And it was also a facial challenge, not as applied. [LB381]

SENATOR LAUTENBAUGH: Thank you. [LB381]

SENATOR AVERY: Senator Bloomfield. [LB381]

SENATOR BLOOMFIELD: Thank you, Mr. Chairman. Mr. Morfeld, you touched on a question that I asked an earlier testifier. I own a weapon or two. I have to have a permit and identification to buy one. I am guaranteed the right to own that weapon under the constitution. Why do I have to have ID to buy a weapon that's guaranteed to me but anybody that wants to can walk in and vote without any ID whatsoever? [LB381]

ADAM MORFELD: Well, Senator, I'll answer that question, and I appreciate that question. I, too, am a gun owner. I went and bought...got a permit and I had to go through a background check. I had to show an ID for that background check. The difference is, Senator, is that the reason why there's restrictions on gun ownership like that is because there's a compelling state interest. They've allowed for those restrictions on gun ownership--via the Supreme Court--because there's a compelling state interest in keeping guns out of dangerous criminals' hands. Here, there is not an actual identifiable problem with voter impersonation. Now if there is mass voter-impersonation fraud and there's actual evidence of that, my organization and I'm sure many of the other organizations here, will go back and reevaluate and find ways to make sure that voting is accessible and secure. But until that day happens, we shouldn't have unnecessary barriers to voting. [LB381]

SENATOR BLOOMFIELD: I can't simply walk in with my little blue slip that says I can buy a weapon and buy one. They want to see my driver's license. [LB381]

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ADAM MORFELD: Absolutely. [LB381]

SENATOR BLOOMFIELD: They want some ID besides what I've already given them, and I see a correlation there. [LB381]

ADAM MORFELD: Absolutely, Senator. [LB381]

SENATOR BLOOMFIELD: After I pass that test, I should no longer be considered a threat to go out and do something harmful with that weapon. And that ID that I present with the little blue card is not sufficient. [LB381]

ADAM MORFELD: Absolutely, Senator. And like I said, there's a compelling state interest, there's an identifiable problem with gun violence in the United States. And that's why the Supreme Court has found that you do, in fact, or they can, in fact, require background checks and IDs for that. In this case, that's simply not the case. [LB381]

SENATOR BLOOMFIELD: But they haven't found that we can't. Thank you. [LB381]

ADAM MORFELD: That's true. Thank you, Senator. [LB381]

SENATOR AVERY: Senator Lautenbaugh. [LB381]

SENATOR LAUTENBAUGH: Thank you, Mr. Chair. Kind of following up on that vein, and I believe we have a right to marriage under the constitution. And I think we have to show identification for that. [LB381]

ADAM MORFELD: Uh-huh. [LB381]

SENATOR LAUTENBAUGH: And I'm not aware of widespread...I'm not sure what evil that's trying to avoid, necessarily. If it's bigamy or something like that... [LB381]

ADAM MORFELD: Certainly. [LB381]

SENATOR LAUTENBAUGH:I'm not sure there are widespread risks of that either. I mean, most of us find one spouse is ample. Do you see an analogy there? [LB381]

ADAM MORFELD: I think marriage is a very dangerous thing, Senator, so I'm in favor of requiring identification and potentially a background check in order to get married. I hope that answers your question, Senator. [LB381]

SENATOR LAUTENBAUGH: It does, indeed. [LB381]

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SENATOR AVERY: I don't see any more. Thank you, Mr. Morfeld. [LB381]

SENATOR BLOOMFIELD: I assume that came from a single man. [LB381]

ADAM MORFELD: Yes, it did, Senator. [LB381]

SENATOR LAUTENBAUGH: For a long time it sounds like. [LB381]

SENATOR AVERY: Wait. Mr. Morfeld, I'm sorry. [LB381]

SENATOR MURANTE: I've got one for you, Adam. [LB381]

SENATOR AVERY: We have another question. Senator Murante. [LB381]

SENATOR MURANTE: Thanks for coming down. Your testimony reminded me of testimony that we had on a previous bill a couple of weeks back in which we had an election commissioner come in here and say that he kept track in a very narrow case of what happened when people came into his office and registered to vote and voted in his office early on the same day. And he kept track of at least 50 instances when he would mail the voter registration out to where that voter said that they lived and that card was returned to his office and they did not live where they said they lived. Now he turned those cases over to his county sheriff...county attorney, I believe. And as has been discussed before, there aren't any resources to track them down. And even if they tried to track these people down, they're long gone. And quite frankly even if we found them, those ballots were put into the bin and already counted. And if we found out that they were committing voter fraud, there's...the damage has been done. There's nothing we can do about it. So in light of that single instance in a single county, in a very narrow circumstance, does that change your view at all that there aren't any compelling reasons to find out who these people are before they actually cast their ballot? [LB381]

ADAM MORFELD: Well, Senator, I wasn't there for that hearing, unfortunately. And personally, I'm not quite sure that it's a lack of resources or anything along those lines that prevent the county attorneys from looking into this issue. Quite frankly, this is a hot-button issue. If you're an elected official and there's voter fraud occurring in your county, I think that there is a pretty good impetus to go investigate it and find out if it's occurring. [LB381]

SENATOR MURANTE: This is not a hypothetical situation. This actually happened in 2012 where people actually... [LB381]

ADAM MORFELD: Uh-huh. [LB381]

SENATOR MURANTE: ...registered to vote and voted. And when the election

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commissioner sent them their voter registration card to confirm where they live, the card was returned and they didn't live there. [LB381]

ADAM MORFELD: Uh-huh. [LB381]

SENATOR MURANTE: That seems to be a big problem. I mean, 50 people in one county. And all we're talking about is people who go to vote early, in person, at the election office, and register to vote. That's a very narrow... [LB381]

ADAM MORFELD: Uh-huh. [LB381]

SENATOR MURANTE: ...group. We're not talking about all of the millions... [LB381]

ADAM MORFELD: Certainly. [LB381]

SENATOR MURANTE: ...hundreds of thousands of people that show up to vote. And we got 50 just out of that group in one county. That seems to me to be a pretty big problem. [LB381]

ADAM MORFELD: Well, it could be a problem. And quite frankly, I'd be interested to see what the investigation results are from the county attorney. I can talk to you after this about what county that was in because I wasn't there at that committee hearing. But I'm not simply just going to make assumptions without looking into those issues and burning people's fundamental rights simply because there's a few instances out there where the address gets returned. I mean, there's a lot of reasons why the address could have been returned that they put down. I know that as a student, when I was a student, I moved away from my parents' place and then I registered somewhere. I registered or actually I was voting absentee from their place. And for whatever reason, my name had gotten taken off the list because my name was different than my parents; they were remarried. And so, you know, the voter registration confirmation process got the card returned back to the election commissioner's office. And I got contacted via the phone by the election commissioner's office and they said, hey, what's up? And I said, well, I no longer...my name is different than my parents' last name so the mailman must have thought that it was the wrong address when, in fact, that's my residence for purpose of voting. So there could be that instance. I'm sure there could be a lot of other life instances. But those things need to be investigated before we simply make assumptions and assume that there's voter impersonation going on, and place some serious burdens on some real people. [LB381]

SENATOR MURANTE: All right. Thank you. [LB381]

SENATOR AVERY: Okay. Thank you now for your testimony, Mr. Morfeld. [LB381]

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ADAM MORFELD: Thank you. [LB381]

SENATOR AVERY: Additional opponent testimony? Senator Kruse, I haven't seen you in a long time. [LB381]

LOWEN KRUSE: Yes, I've tried to avoid being seen in legal places. Hello to all. Senator Avery and members of the committee, I--with advancing age--am more impressed with the hearing process, and you do it well. I appreciate it, and this subject is worth our discussing. I oppose this bill for one simple reason. [LB381]

SENATOR AVERY: Will you spell your name for us? [LB381]

LOWEN KRUSE: Oh, yes. Pardon me. I'm Lowen Kruse, L-o-w-e-n K-r-u-s-e, a resident of Omaha. I oppose this bill for one simple reason. It will reduce the number of people who vote in Nebraska, period, guaranteed. There can be no argument about that. The argument is about whether there is a balancing value to it in reducing fraud. I find no compelling evidence that that's the case so, therefore, I would oppose the bill. Now I hurry to say I am not here in defense of partisan debates that we hear from other states of suppressing minority votes and so on. In fact, as a resident of an all-black neighborhood, I find it a bit of a hoot that minorities in Omaha would be hampered by this bill if it were passed. It'll just make my neighbors mad. They all have cars and they all have jobs and it's not applied to them. But they belong to black churches. And those black churches are fierce on this whole subject. If they get angry, they will produce more people, they're in your face, they go door to door, they go pew to pew. When you come to church, you are handed a application for an early voting ballot. And you are to give that back when you leave. And you get the ballot in the mail and you're to bring the ballot to the church and the checkoff system in some of them. Now who's going to be held back on this? White elderly folks in the congregations that I've served across the state because they don't have that kind of a system that's going to get in their face and make them do that. So I don't see it as a minority thing at all. I just...and I don't see us as getting into a huge problem of voter count. It's just simply sad. It's just terribly sad that a woman who has voted all her life now will stop voting because of us because she's old. And I can tell you when you get old, you get tired. And afterwhile, you give up the battle. And if somebody isn't there in your sight, you're not going to be doing it. Now there...I'm concerned about fraud and there's some open doors to fraud that have been mentioned here, and I have found some of that--the potential, not the frauds. And I can... [LB381]

SENATOR AVERY: Your red light. [LB381]

LOWEN KRUSE: Yes. [LB381]

SENATOR AVERY: You don't seem to be very tired to me for an old man. [LB381]

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LOWEN KRUSE: Well, thank you. I have ideas to reduce the fraud and to increase the vote, but you'll have to come around and ask for that. Thank you. [LB381]

SENATOR AVERY: Okay. Thank you, Senator. Questions from the committee? Senator Murante. [LB381]

SENATOR MURANTE: Senator Kruse, I just did a quick search based on this. And I hadn't done any research on it prior, but just the advances of technology allowed me to search very quickly as to the impact that Indiana had after they passed their voter ID bill in, it looks like, 2006. And the research, at least the articles that are coming up, preliminarily say that their 2008 election results was their highest turnout that they ever had in their state's history. So what evidence do you have to support your contention that adding a voter ID law will lower voter turnout? [LB381]

LOWEN KRUSE: I think it will increase it in the minority community. But it will decrease it in the congregations where I have served across the state. Clearly, we do not give support to elderly white folk to go out and do it. Their family...some of their families will do it but...well, again, we could do a lot more for this. And I'd be glad to provide an idea for that. [LB381]

SENATOR AVERY: Well, Indiana did provide free... [LB381]

LOWEN KRUSE: Yes. Yeah. Yeah. [LB381]

SENATOR AVERY: ...state-issued ID cards for every voter, and maybe that's relevant. Senator Lautenbaugh. [LB381]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman. And good to see you again, Senator Kruse. I found the guy who took all your bow ties and all. I'll tell you where his office is, and you can go get him. [LB381]

LOWEN KRUSE: I'm glad you miss them. [LB381]

SENATOR LAUTENBAUGH: You said you had an idea to prevent fraud. What is it? [LB381]

LOWEN KRUSE: Yes. I have found persons who have been...whose daughter, for instance, was dead for 20 years and they're still getting notices from the office to come and vote. They could easily vote on her behalf and no questions asked. So I see that...they would never do that. But the problem of keeping those rolls clear is a real challenge, as you know far better than I. I proposed a bill...my staff worked out a bill that would assist the commissioners in cleaning up those rolls. They could declare a person

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who hadn't voted for six or eight years to be on an inactive, still registered list. They would not be...they'd be given the notification, which would be increasing the thing to vote, you know. Hey, get in here and vote or else we're going to put you on an inactive list. They...if the person...if most of them are dead or have left the state and if they don't show up, you've taken care of the matter. And you've also improved greatly the voter turnout figures. If they show up to vote, they would get a provisional ballot and that would automatically put them back on the active. [LB381]

SENATOR LAUTENBAUGH: Thank you. [LB381]

SENATOR AVERY: Any other questions? I don't see any. Thank you, Senator, it's good to see you. [LB381]

LOWEN KRUSE: Thank you. [LB381]

SENATOR AVERY: Any other opponent testimony? Good afternoon, sir. [LB381]

ROBERT CORNER: Good afternoon. Senator Avery and committee, my name is Robert Corner. Corner is C-o-r-n-e-r. I'm a state employee. I also serve as election inspector here in Lincoln since the early '80s. I think I've got a little bit different perspective on this bill than what you've heard. I think the earlier proponent of this bill said it's not a problem looking for a solution. I say it is. I say if this bill passes--working on an election board--is going to cause my board a lot of problems. I say that because as a DMV employee for 33 years--now I'm on the road since the Legislature moved us out there four years ago--I've looked at thousands of driver records and crash reports. And I can tell you, Section 60-4120(2) of the Motor Vehicle Code law requires that if you move, within 60 days you're supposed to get a new driver's license with that new address on it. Now according to this bill, under the definition of the ID it says: A motor vehicle operator's license or state-ID card issued under the Motor Vehicle Operator's License Act which is current and valid. So technically, if you move, you do not get that license changed within 60 days, it's no longer current. It's still valid because you have five years to renew that license. So now we have an election. You come in with your ID here. My clerk looks in the blue book, looks at your ID card, the two addresses are different. If that happens, by the bill and by election law we have to let you vote provisional as long as you show us on a map that you live in my precinct to vote in. We'll let you vote provisional. But in order to do that, you have to fill out two forms, you've got to sign on the envelope an oath that what you're telling us is true. If anything goes wrong in that process, your vote is not going to be counted. So I'm saying this bill is going to cause the election board people, the clerks, the judges, and the election inspector a lot more work with chances of more error, with chances of votes not even being counted of legitimate voters. So I'm totally opposed against this bill. It's going to cause me a lot of extra work, and I don't want it at the election. Especially at a presidential election when we have a lot of provisional ballots. Now this is just going to exacerbate the problem and add a lot more.

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[LB381]

SENATOR AVERY: Thank you, Mr. Corner. [LB381]

ROBERT CORNER: Thank you. [LB381]

SENATOR AVERY: Questions from the committee? I don't see any. Thank you for your testimony. Additional opponent testimony on LB381? Welcome. [LB381]

PEGGY ADAIR: (Exhibit 7) Good afternoon, Chairman Avery and members of the committee. My name is Peggy Adair, A-d-a-i-r. I represent the League of Women Voters of Nebraska. LB381 if passed, will require me--for the first time in my over 40 years of voting--to present government-issued photo identification that matches my voter registration when I go to vote in person in my little neighborhood elementary school that serves as my polling place. I don't have such identification. My name on my driver's license, which is my only current government-issued photo identification, does not match my name on my voter registration. So I'll not be allowed to vote in person even though everybody at my polling place knows me. So I'll be confined to voting provisionally. However, I can't sign the required certification because it will state under LB381, my name or address did not correctly appear on the precinct list of registered voters or I have not presented a government-issued ID. My name is correct on the list of registered voters. My name is also correct on my driver's license, but the two names do not match. So I can't vote in person and I can't vote provisionally. Strict voter ID laws like LB381 are particularly harmful to women who make up the majority of the targeted groups. According to a 2006 survey done by the Opinion Research Corporation, 52 percent of voting-age women who have ready access to their birth certificates do not have a birth certificate with their current legal name. Only 34 percent of women who have access to any proof of citizenship have a document with their current legal name. Women are less likely than men to have photo identification that reflects their current name of usage, particularly if these women have recently divorced or married. Stamping out voter fraud is a historic rationale for voter suppression. The shameful, racist, Jim Crow laws of post-Reconstruction were implemented ostensibly as a way to reform and purify the electoral process to root out fraud and bribery. That justification echoes today. Americans do not have a fundamental right to drive a car, get on an airplane, or buy beer. But they do have a fundamental right to vote. Men have had this right for 237 years. Women have only had this right for 93 years. We're closer to that time when our fundamental right was denied through no fault of our own. We take our voting rights seriously and personally. The League of Women Voters asks this committee to safeguard all voters' access to free elections without hindrance or impediment, as required in the Nebraska Constitution, by indefinitely postponing LB381. [LB381]

SENATOR AVERY: Thank you for your testimony. [LB381]

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PEGGY ADAIR: You're welcome. [LB381]

SENATOR AVERY: Any other questions? I don't see any. Thank you. Additional opponent testimony? Welcome. [LB381]

JEANNETTE JONES-VAZANSKY: (Exhibit 8) Welcome, Senator Avery and senators. My name is Jeannette Eileen Jones-Vazansky, J-o-n-e-s-V-a-z-a-n-s-k-y. Dear Senators and members of the Government Committee, on behalf of the Lincoln Alumnae Chapter of Delta Sigma Theta Sorority, Inc., I have come today to oppose LB381. As a historically black sorority founded in 1913, our first public act was to march in the woman's suffrage parade on March 3, 1913. Since that day, members of our sorority have fought to protect the voting rights of American citizens and to encourage citizens to exercise the franchise. Lincoln Alumnae specifically is disturbed by attempts across the nation to deny citizens access to the ballot. We lamented the introduction of Senator Janssen's voter identification bill, LB239 in 2011, and are discouraged by his reintroduction--although revised--this legislative session as LB381. To be succinct, we oppose any bill that restricts the franchise. Historically we have seen the devastation that, potentially, voter suppression laws have wrought on black communities, other communities of color, transient citizens, low-wage income citizens, students, and the elderly. If the 2010 and 2012 national elections are any indication of the impact of voter identification legislation, then we know that disproportionately low-income African-American voters, especially women, found their right to vote challenged by legislation passed in Pennsylvania and Ohio among other states. As early as 2010, state legislators warned against voter legislation that forced voters to use provisional ballots. State Senator Kathleen Clyde, of Ohio, claimed thousands of voters who used provisional ballots did not have their vote counted. According to an election day survey report of the U.S. Election Assistance Commission for 2008, California, New York, and Ohio reported the highest numbers of provisional ballots cast, accounting for 59.4 percent of the nation's total. The commission's report for the 2010 midterm election confirmed that California and Ohio were the states with the largest number of provisional ballots, accounting for almost two-thirds of all provisional ballots cast nationwide. More than 10 percent were rejected. In addition, provisional ballots are problematic because they will be disproportionately distributed to youth, low-income, people with disabilities, and seniors who would make the voting process last 15 to 60 minutes longer for them. They often take a dedicated poll worker and about 15 minutes to fill out the paperwork. If there is more than one person filling out a provisional ballot, there is often a line and it can take up to 45 minutes or more to actually vote. Many people choose to walk away. They are also incredibly burdensome on the election administrators and will cost the county about \$30 to process according to a recent study. Thank you. My light... [LB381]

SENATOR AVERY: Thank you. And you were right on time. [LB381]

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JEANNETTE JONES-VAZANSKY: Uh-huh. My name took up way too long. [LB381]

SENATOR AVERY: Questions from the committee? Senator Wallman. [LB381]

SENATOR WALLMAN: Chairman Avery. Thank you, Jeannette, for coming down. [LB381]

JEANNETTE JONES-VAZANSKY: Thank you, Senator. [LB381]

SENATOR WALLMAN: Provisional ballots, it's always concerned me somewhat. Do you think it's more...it's easier for fraud on that than the traditional way? [LB381]

JEANNETTE JONES-VAZANSKY: I'm sorry, can you repeat that? [LB381]

SENATOR WALLMAN: Traditional ballots, do you think...have you had any concerns about fraud on that? [LB381]

JEANNETTE JONES-VAZANSKY: No. I know that there are...there have been some cases where--not in our state, but other cases--where fraud has been noted with supposedly dead people who have been voting. But for the most part, my understanding is that the provisional ballots oftentimes when they're not counted it's not necessarily because the person has tried to defraud the voter commission but actually because they've not filled out the form correctly or somehow there's a problem with the name. So for instance, my name is hyphenated. I might not have...my license is not hyphenated actually, which is a problem. But I was able to work on that when I voted. But, yeah. [LB381]

SENATOR WALLMAN: Thank you. [LB381]

SENATOR AVERY: Any other questions? Thank you for your testimony. [LB381]

JEANNETTE JONES-VAZANSKY: Thank you very much, Senators. [LB381]

SENATOR AVERY: Additional opponent testimony? Welcome, sir. [LB381]

KEN MASS: (Exhibit 9) Senator Avery and members of the committee, my name is Ken Mass, M-a-s-s. I am here to represent the Nebraska State AFL-CIO. I passed out a statement on voter suppression from the AFL-CIO. I'll touch on some of it and also some myths and facts about voter ID. In the United States, the right to vote and the free and fair exercise of voting rights by all eligible voters are fundamental principles of our democracy. Several states, as was presented earlier, have introduced legislation dealing with voter ID. And in their legislation, requiring voter ID creates a disproportionate burden on racial minorities, senior citizens, young people, and

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low-wage workers. Eighteen percent of citizens 65 and older, 25 percent of African-American voting-age citizens, 16 percent of Latino voting-age citizens, and 20 percent on young voters ages 18 to 29, and 15 percent of the senators earning less than...citizens earning less--did I say senators? Well, maybe so. It's kind of getting late, yeah--less than \$35,000 a year, do not have current government photo ID. Proponents of voter ID legislation, citizenship requirements, and other restrictions have been unable to provide evidence that strict requirements provide solutions to problems that threaten voter integrity or current election irregularities. Current election laws that do not include strict voter ID provisions have proven to be effective and have not presented impediments to free and fair elections. Let me go down to the last paragraph. Impediments to voting rights cause massive disenfranchisement and voter suppression, threatening our democracy. This legislation is an attack on democracy and voting rights and is part of the coordinated effort to attack working people. The AFL-CIO opposes voter photo ID legislation and other measures that restrict and curtail voting. The AFL-CIO will educate and mobilize their membership and the broader community to regain, maintain, and advance voting rights in this country. We will work in coalition with other labor- and community-based organizations to push back against these coordinated efforts to disenfranchise voters. And we will work with our partners and allies as we head toward important state and federal elections that protect the right to vote. A gentleman earlier talked about an election that was held in 2006 in Omaha, Nebraska, and the candidate won by 12 votes. Hopefully, he wasn't considering that that was because of voter ID. I happen to live in that district. We worked hard in that district. And that's why we call him "Landslide Lathrop." [LB381]

SENATOR AVERY: And some people are calling Ken Haar "Landslide Ken." [LB381]

KEN MASS: That too, 21 votes. Any questions, feel free to ask them. [LB381]

SENATOR AVERY: Any questions for Mr. Mass? Thank you, Mr. Mass... [LB381]

KEN MASS: Thank you. [LB381]

SENATOR AVERY: ...for your contribution. We'll now have additional opponent testimony. [LB381]

KEN MASS: I wanted to (inaudible). Thank you. [LB381]

SENATOR AVERY: Welcome, sir. [LB381]

MAJOR DWAYNE MAYS: Senator Avery and the Committee on Government, Military and Veterans Affairs, I'm Major Dwayne Mays, Major, M-a-j-o-r, my first name, Dwayne, D-w-a-y-n-e, Mays, M-a-y-s. And I'm representing the Lincoln and Omaha branches of the NAACP. The NAACP, the largest civil rights organization in this country, has

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advocated for the rights--including voting rights--of all citizens. It is our mission to oppose, challenge, and fight any and all efforts to limit or diminish the voting rights of citizens of Nebraska, rights that are guaranteed under the constitution of this nation. LB381, a restrictive bill that requires state-issued ID cards in order to vote, places undo hardship on the part of our population that is most vulnerable. That is the young who are most mobile and parts of their...mobile part of our population, the elderly who may be dealing with health issues and other things, who may not drive. The third would be persons with physical or mental limitations. Then the next, the poor, who may be struggling to make ends meet, and others who may be disenfranchised. The other day, I was looking through a box that belonged to my deceased father, and I came across tax receipts. Among those were poll tax receipts where my father and mother had to pay for the right to vote, a right that was given in our laws. The barriers placed on the above-mentioned group by LB381 have the same effect that poll tax had on my parents in 1947 and in the 1950s and many other years that they paid poll tax. In talking with some of the elderly and young constituents with limited resources, a group that we are working hard with trying to get them to the polls, were finding that LB381 will counter our efforts to improve voter turnout. LB381 will make the state and local government efforts to increase voter turnout less effective. Therefore, I encourage the members of this committee to vote "no" or postpone LB381 and any other bill that limits the rights of the freedom to vote in Nebraska. [LB381]

SENATOR AVERY: Thank you, Mr. Mays, right? [LB381]

MAJOR DWAYNE MAYS: Yes. [LB381]

SENATOR AVERY: Thank you for your testimony. Questions from the committee? Thank you very much. Additional opponent testimony? [LB381]

WILLIE HAMILTON: (Exhibit 10) How you doing, Senator Avery and the rest of the committee? My name is Willie Hamilton, W-i-l-l-i-e H-a-m-i-l-t-o-n, and I'm the president and founder of Black Men United. Dear Senator Avery and members of the Government Committee, thank you for giving me this opportunity to speak to you today. We believe that LB381 is the most recent attempt to roll back the Voting Rights Act by those who would deny voting to a large group of qualified voters, the likes of which we have not seen since poll taxes were legal in most southern states in America. LB381 would require state-issued identification in order to vote at the polling booth on election day. Voter ID only protects against voter impersonation, a problem even the introducer of the bill, Senator Charlie Janssen, admits does not exist in Nebraska. Senator Janssen stated last year that his reason for the bill was philosophical. He said when testifying for LB239, "My own philosophical beliefs are it shouldn't really be super easy to vote. You should have to have some, I guess, barrier." However, what the voter ID requirement does do is keep highly mobile groups such as youth, low-income, and disabled citizens from the polls. Voter ID is a solution to a problem that does not exist in Nebraska.

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"Despite so many decades of struggle, sacrifice, and achievement, we must remain ever vigilant in safeguarding our most basic and important rights," stated Eric Holder, United States Attorney General. And "the reality is that in jurisdictions across the country, both overt and subtle forms of discrimination remain all too common." The Attorney General gave this quote in the context of rejection of the voter ID legislation in South Carolina. This is real federal action taken against a state that tried to pass less questionable legislation than LB381. Today, Black Men United stands with many others in opposition to LB381. This bill is a solution without a problem that has been used as a form of voter suppression. We ask all Nebraskans to stand with us in denouncing this and all legislation intended to suppress the vote in Nebraska. Thank you again for allowing me to speak to you today. If you have any questions, I'll be glad to answer them. [LB381]

SENATOR AVERY: Thank you, Mr. Hamilton. Questions from the committee? I think we're getting tired. [LB381]

WILLIE HAMILTON: You're letting me off the hook. Thank you. [LB381]

SENATOR AVERY: Thank you. [LB381]

WILLIE HAMILTON: Thank you. [LB381]

SENATOR AVERY: Additional opponent testimony? Judge, you have been very patient. [LB381]

JAN GRADWOHL: (Exhibit 11) My name is Jan, J-a-n, Gradwohl, G-r-a-d-w-o-h-l. I'm a retired judge. I urge you to not forward LB381. I think there are a number of reasons. I have some formal materials that I'm passing out, and I just want to hit on a few issues. First of all, this is something that impedes voting; and anything that impedes voting is contrary to our democratic process. Now a number of people have talked about the reasons and the groups that are impacted by this bill or would be impacted. And I'd like to point out several things. This committee also deals with military and veterans' affairs. And there are a number of veterans who would be deprived of their right to vote if this bill were to pass because they are in homes, institutions, in hospitals, and perhaps are unable to go out into the public so they can get their photographs taken, and so that they would be unable to comply. Here are people who have fought for the right to vote and would be, themselves, unable to vote. So I would hope that as members of this specific committee, that you would take that into consideration. Another factor that has not been mentioned is the fact that the DMV--particularly in western Nebraska, but in outstate Nebraska--only has a certain number of offices and a certain number of hours. And people in small towns or on ranches and farms in these rural areas may have difficulty and may have to drive great distances to get to those places. They may have to not be able to get off work to go to have their photographs taken. And I see that I

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have a caution light. So I would urge you...I think that this is a partisan measure and you are nonpartisan legislators. You are elected as nonpartisan legislators and I would hope that you would take a nonpartisan view toward this and protect the rights of all of the citizens of Nebraska. Now, Senator Avery, I have some answers to some of the questions that were asked other people. [LB381]

SENATOR AVERY: All right, we'll ask you some questions. [LB381]

JAN GRADWOHL: Well, can I answer some questions that were asked? For example, in Senator Murante's statistics about Indiana, one was a 2006 election. That was not a presidential election. Presidential elections always draw far greater crowds than nonpresidential elections do. So I don't think that you can necessarily compare those two. It's like apples and oranges. And with regard to the homeless: homeless people can vote. I've been a poll watcher, I've been a vote registrar. And perhaps the home where these people were housed bused them because they had no other means of transportation to the polls. That doesn't mean that those people were voting fraudulently. [LB381]

SENATOR AVERY: Yeah. Thank you for that. [LB381]

JAN GRADWOHL: Plus the fact that if there seems to be a problem, the provisional ballots can be issued. And provisional ballots are not counted until they're verified. So provisional ballots don't skew an election. [LB381]

SENATOR AVERY: Is it your opinion as a judge and an educated woman that the addition of provisional balloting in this legislation this year is an improvement over previous versions? [LB381]

JAN GRADWOHL: I'm not that familiar with the previous provisions. I think that I'm concerned about provisional ballots. I was on a legal team that was monitoring the 2012 general election, and there were places where there were an undue number of provisional ballots. And I think that causes concern because that may cause some concern in the process itself. It may indicate that they're...I know that there were problems in some of the areas in Omaha where provisional ballots...a large number of provisional ballots were issued because people were given misinformation and were not allowed to vote unless they had identification. [LB381]

SENATOR AVERY: Mr. Morfeld testified that his organization would file a lawsuit based upon equal protection--I think that was the principle--because the people who vote by mail are treated differently than those who don't. You, as a former judge, do you have an opinion you'd like to share on that? [LB381]

JAN GRADWOHL: Well, I think that voting rights should certainly be protected by

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whatever means, whether it requires a lawsuit...I might add that the situation in Omaha actually has been considered by a state officer. There was an action filed before the Secretary of State's Office. And there was a finding by the--I believe he was called the referee--who was a man named Rob Kinsey. And he found that there were abuses in Omaha because misinformation was given and ID was being required of voters. [LB381]

SENATOR AVERY: And that involved provisional ballots, I believe. [LB381]

JAN GRADWOHL: And that's where there were huge numbers of provisional ballots. And so the fraud isn't always on the part of individuals. There's some bad tactics that are used otherwise as well. [LB381]

SENATOR AVERY: I see Senator Council is eager to get up here. I think she probably has the answer to that. [LB381]

JAN GRADWOHL: Anyway, thank you so much for your time. [LB381]

SENATOR AVERY: Hold on a minute. I think Senator Murante wants to ask... [LB381]

SENATOR MURANTE: I just wanted to make one comment, that my statement did not articulate that 2008 had a higher turnout than 2006. My statement was it passed in 2006 and then they had their largest turnout ever. And then subsequent research has shown that 2010, Indiana had a higher turnout than their... [LB381]

JAN GRADWOHL: Oh, okay. [LB381]

SENATOR MURANTE: ...midterm election than in 2006. So that's...I just wanted to be clear. I wasn't comparing apples and oranges as you said. [LB381]

JAN GRADWOHL: Okay. I apologize then, Senator. [LB381]

SENATOR AVERY: Thank you for your testimony. [LB381]

JAN GRADWOHL: Thank you. [LB381]

SENATOR AVERY: Next testifier? A familiar face. [LB381]

BRENDA COUNCIL: Thank you. I am Brenda Council, B-r-e-n-d-a C-o-u-n-c-i-l, and I appear this afternoon to testify in opposition to LB381. I had a number of points that I wanted to address; but, Senator Avery, I will begin by responding to your question about equal protection. And I'm sure that I'm not misspeaking. Mr. Morfeld did not say that the equal protection argument had to deal with the difference between mail ballot and in person, that the equal protection argument arises by virtue of the fact that the bill says

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that only people who declare that they're indigent can get a free photo ID or a driver's license, where I'm not indigent but I still need a driver's license or a photo ID to vote. So I am being charged to exercise my right to vote. And that gets to the very core of the issue here. You asked a question at the outset of this hearing about voting being a fundamental right. Voting is a fundamental constitutional right, not only the U.S. Constitution but I urge the members of this committee and the Legislature as a whole to not forget the Nebraska Constitution. And Article I of the Nebraska Constitution prohibits any action that imposes a hindrance on the exercise of the fundamental right to vote by a qualified voter. Research has established a qualified voter is a registered voter--not a registered voter with a photo ID--a registered voter is a qualified voter. So I would submit to you that LB381 is potentially unconstitutional in violation of the Nebraska Constitution. I'm glad my former colleague, Senator Lautenbaugh, returned because there is no constitutional right to marry. And I would...nowhere in the enumerated articles of the U.S. Constitution is there a fundamental right to marry. While we do have in the Nebraska Construction who should marry in terms of sexes, but it doesn't establish a fundamental constitutional right to marry. But the issue here is that the clear intent and effect of LB381 is not to address voter fraud, it's voter suppression. And it's very clear and it's almost frustrating to have been involved in the debate of LB239 where all of the flaws of that voter ID measure were pointed out in hours of debate, yet this bill does nothing to address those issues which are clearly suppressive in nature; for example, students. Students who may reside ordinarily outside the state of Nebraska, who establish residency and attend colleges and universities here have a right to register and vote. There is no provision in here that, for example, the identification issued by the University of Nebraska would qualify as government-issued ID. Last I checked, the university is not a government. It's an institution that's funded by government, but last I checked it wasn't a government. So we continue to do that. And Senator Scheer asked a question about voter fraud. Testifiers before me have noted voter photo ID only addresses voter impersonation. The greatest incidence of voter fraud that have been recorded--and even those are limited in number--have to deal with mail balloting. If you read LB381, it's interesting. Those who are imposed on...the burden is imposed on to present photo ID are those people who make the effort to appear on election day to vote. If you vote early, if you vote by mail, you don't have to present photo ID. Are those people less likely to commit fraud than someone who is not lazy and gets up and goes to the poll on election day? Please IPP LB381. [LB381]

SENATOR AVERY: Okay. Don't leave. Don't leave. I'm sorry to impose the limit on you but... [LB381]

BRENDA COUNCIL: No. No problem. [LB381]

SENATOR AVERY: ...I have to treat you like everybody else. [LB381]

BRENDA COUNCIL: I abide by the rules, Senator. [LB381]

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SENATOR AVERY: Would you like...I've listened to you make legal arguments on the floor before and I've been very much impressed with them. Would you comment on the...in this bill, a requirement that the in-person or say the vote by mail persons don't have to show an ID and those who vote in person--you made that point very well--do have to show an ID. Is there an equal protection issue there? [LB381]

BRENDA COUNCIL: I think the argument could be made there as well as an equal protection argument between all-mail ballot elections, which is another issue I raised when LB239 was voted on and was being addressed. In this bill, if you have an all-mail ballot election, no photo ID is required. Under current Nebraska statute, there are only certain counties who are allowed to have all-mail ballot elections. Your largest counties in this state don't have the right to have all-mail ballot elections. So you're making distinctions between voters in that instance. Whether it would be a strong enough indication of violation of equal protection, I can't say with any degree of certainty. But it certainly establishes different tiers of voters, and it also discriminates against voters who happen to live in larger counties and do not have photo ID. If you live in a smaller county and don't have photo ID, your chances of having your right to vote infringed upon or abridged is reduced because they have the opportunity to have all-mail ballot elections. [LB381]

SENATOR AVERY: And those are 10,000 and... [LB381]

BRENDA COUNCIL: And below, yes. [LB381]

SENATOR AVERY: Yeah. Yes. Senator Lautenbaugh. [LB381]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman. And good to see you again, Senator Council. Not to quibble--I don't believe I said it was enumerated. And I think that you would agree that we have several fundamental rights like marry, interstate travel, intrastate travel, unfortunately abortion, and other things that the court has found to be fundamental but aren't necessarily set forth. Would you... [LB381]

BRENDA COUNCIL: Yes, but the one distinction is that voting is an enumerated fundamental right. And it surprises me that when the very same people who will fight to the death any attempt to make reasonable restrictions on the exercise of their right under the Second Amendment will embrace and advocate imposing unreasonable and unnecessary restrictions on an enumerated right, which is the right to vote. [LB381]

SENATOR LAUTENBAUGH: Would you agree that the Second Amendment is enumerated? [LB381]

BRENDA COUNCIL: And so is the right to vote. [LB381]

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SENATOR LAUTENBAUGH: And unreasonable restriction or impediment is in the eye of the beholder, is it not? [LB381]

BRENDA COUNCIL: That is correct. But the one thing that when we're talking about LB381, and that is one at the core of most of the opposition here. There is no evidence of a necessity for a photo ID when you say that we're doing it to prevent fraud where there's no evidence of fraud. [LB381]

SENATOR LAUTENBAUGH: Well, it seems like if voter ID really is unconstitutional, won't the court just take care of it and make short work of it anyway? [LB381]

BRENDA COUNCIL: Well, I mean, there's an issue of whether or not this legislation comports with the Nebraska Constitution. And I think the way this bill is drafted, it will be found unconstitutional. [LB381]

SENATOR LAUTENBAUGH: But I think you'll agree there are restrictions on Second Amendment rights that some argue are excessive and unreasonable. [LB381]

BRENDA COUNCIL: Sure. [LB381]

SENATOR LAUTENBAUGH: So it's just kind of in the eye of the beholder and whose ox is getting gored, if you will. [LB381]

BRENDA COUNCIL: Yeah, but...and well, the point that I'm making. I couldn't agree with you more. You know, if voter suppression is your objective, then unnecessary and unreasonable restrictions are okay. [LB381]

SENATOR LAUTENBAUGH: Thank you. I missed you, out in the smoking section today, by the way. [LB381]

SENATOR COUNCIL: We still have time. [LB381]

SENATOR PRICE: Thank you, Senator Lautenbaugh. [LB381]

BRENDA COUNCIL: Any other questions? [LB381]

SENATOR PRICE: Senator Murante. [LB381]

BRENDA COUNCIL: Yes. [LB381]

SENATOR MURANTE: Senator Council, thanks for coming. And again, I have more of a comment than a question. But I want to thank you for your comments particularly

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regarding the vote by mail situation. I was sitting in this chair just a couple of weeks ago making those exact same arguments because I think that is a problem. As you know, one of your legislative priorities when you were here is an issue that I've taken up and made my legislative priority. I have spent extensive time reading your testimony and your comments on the floor. I always enjoyed listening to you when I was a legislative aide in this body, and I just want to say thanks for coming back. And I appreciate what you've done for the state of Nebraska. [LB381]

BRENDA COUNCIL: Thank you very much, Senator Murante. And I look forward to working with you in the future and hope I've been helpful to you and to other members of the government. [LB381]

SENATOR MURANTE: You have been. Thank you. [LB381]

SENATOR PRICE: Are there any other questions, comments, or queries? Seeing none, thank you, Senator Council. [LB381]

BRENDA COUNCIL: Thank you very much for your time and attention. [LB381]

SENATOR PRICE: Next opponent, please. [LB381]

ALAN POTASH: (Exhibit 12) Good afternoon, committee. [LB381]

SENATOR PRICE: Welcome. [LB381]

ALAN POTASH: Alan Potash, A-l-a-n P-o-t-a-s-h. I'm the regional director for the Anti-Defamation League. And I know there's still other people that want to testify, so I'll be as brief as possible. On behalf of the Anti-Defamation League we urge you to oppose LB381, which will require the presentation of a government photo ID in addition to change of requirements for identification for certain first-time voters. As a leading civil rights and human relations agency, ADL opposes this measure because it would place a burden on citizens' fundamental rights to vote, disproportionately affect minorities, and foster discrimination. LB381 would erect an unnecessary barrier to voting that would disproportionately affect minority, rural, elderly, low-income, student, and disabled voters. No citizen should have to pay to vote. The bill's attempt to provide an exception for voters who cannot afford to obtain the required government-issued based identification card provided by the state at no cost only addresses the cost of the state ID card itself and it fails to address the extensive underlying costs in order to acquire the ID. We just urge you to not support this, and we thank you for allowing us to come and talk. Good luck. You have other people that want to talk as well, so I thank you for your time. And if you have any questions... [LB381]

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

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committee? Seeing none, thank you. [LB381]

ALAN POTASH: Thank you. [LB381]

SENATOR PRICE: Next opponent. [LB381]

REBECCA GONZALES: (Exhibit 13) Thank you, Chairman Avery and committee members. My name is Rebecca Gonzales, that's R-e-b-e-c-c-a G-o-n-z-a-l-e-s, and I'm with Nebraska Appleseed Center for Law in the Public Interest. We're a nonpartisan, nonprofit organization that fights for justice and opportunity for all. And today I'd like to testify in opposition to LB381. Voting is an American right and making voting harder is not a Nebraska value. This bill mandates a restrictive and unnecessary voter identification system that puts a greater burden on our already overburdened election workers and undermines our democracy by creating barriers to voting for Nebraska seniors, youth, and those with low income or disabilities. This bill would require all Nebraska voters to present an unexpired, government-issued identification card with an up-to-date home address to their neighborhood poll workers every time they vote. Yet there is no evidence of a voter impersonation problem in Nebraska. In fact, in testimony last year, Senator Janssen stated "I'm not here to assert that there is a rampant voter fraud in Nebraska. In fact, I don't believe there's much, if any, voter fraud. Nebraskans are honest and forthcoming people. When we cast our ballots at the polling place, we generally recognize each other as friends and neighbors." Despite a lack of evidence that there is voter impersonation in Nebraska, LB381 seeks to levy a costly burden on voters and taxpayers, invites litigation, imposes a new bureaucracy and an unfounded mandate on Nebraska counties, and impedes the rights of qualified voters, a long-held Nebraska value and one enshrined in our state constitution. According to the Nebraska Department of Motor Vehicles, a significant percentage of Nebraskans do not have an unexpired, state-issued identification card or driver's license. Since the DMV will only issue identification cards to those with proper identification such as a passport, which on average costs \$185, or a certified copy of a birth certificate, which costs in Nebraska \$12 or in Illinois \$25, Nebraska voters will have to pay a fee to obtain documents to obtain identification cards required by LB381. In addition, a voter must have a government-issued photo ID to obtain a certified copy of a Nebraska birth certificate to obtain a state-issued driver's license or identification card. Rural Nebraska voters will bear an additional burden because their local DMV is farther away and often only open one or two days a week or in some western counties only one or two days a month. As one court noted in striking down a voter suppression law in Missouri, "In addition to the monetary cost imposed on persons seeking to obtain the proper photo ID, the process to do so imposes additional practical costs including navigating state and/or federal bureaucracies and travel to and from the Department of Revenue and other government agencies." This bill is especially hard for seniors who live in nursing homes or who live independently but do not drive or have easy access to transportation. They must have state-issued identification cards or a driver's license to vote, which means coordinating

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a trip to the DMV with their certified birth certificate and two documents that show their principal address even if they've been voting in the same polling place for decades. I urge you to indefinitely postpone LB381. Thank you. [LB381]

SENATOR AVERY: Thank you. And we have the rest of your testimony here in print. So... [LB381]

REBECCA GONZALES: I do, yes. Thank you. [LB381]

SENATOR AVERY: Questions from the committee? Senator Lautenbaugh. [LB381]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman. It seemed like you skipped something there then. Was there a last thought you wanted to throw in there that might be this? It seemed like you skipped ahead because you ran out of time. [LB381]

REBECCA GONZALES: Oh, yeah, I did. I did. I skipped quite a few thoughts actually. [LB381]

SENATOR LAUTENBAUGH: Well, I don't want to...if you had to crystallize it. [LB381]

REBECCA GONZALES: I did want to talk a little bit about the additional burden on provisional ballots and the cost of provisional ballots. This would increase provisional ballots and also the burden that that does on election workers. And also just the fact that there's no evidence of widespread voter impersonation to warrant this burden on law. And especially, I think since we haven't really heard that, the difficulties this would impose on the elderly and those, particularly those elderly, who can't drive. Thank you. [LB381]

SENATOR AVERY: Any other questions? Thank you for your testimony. Additional opponent testimony? [LB381]

REBECCA GONZALES: Uh-huh. [LB381]

SENATOR AVERY: Additional opponent testimony. Welcome, Ms. Miller. [LB381]

AMY MILLER: (Exhibit 14) Good afternoon. My name is Amy Miller, it's A-m-y M-i-l-l-e-r. I'm legal director for ACLU Nebraska. I realize it's late in the day and hearing from one more attorney is the last thing you want to do, especially when I'm about to talk about complicated legal tests. But the complicated legal test when you're burdening a fundamental constitutional right like the right to vote--and this is a complex legal argument--show me the money. A federal court will strike down any burden on voting, even if it's the \$1.50 poll tax that was struck down by the U.S. Supreme Court in 1966. Even if it is a tiny burden, there has to be proof of a problem. The last time we came

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and warned the Government Committee that taking the shot that Senator Lautenbaugh was suggesting, let the courts sort it out--when you forwarded what became Nebraska Revised Statute 32-629 which was a limitation on how petition circulating could happen--you took the shot. And the U.S. federal court struck it down. And in that case when you were trying to strike down petition circulator fraud, there were three documented prosecutions where a petition circulator apparently had attempted to defraud our electoral process. Three prosecutions in Nebraska, concrete criminal cases, unlike the somewhat speculative situation where we're not sure whether or not there's an investigation that may or may not be pending in other counties. And three prosecutions was not enough. When the federal courts used the test, show me the money, they mean it. The introducer for this bill has not proven that there is a problem. All of the proponents of the bill have not been able to demonstrate there's a problem. You have nationwide organizations that are trying to advance voter ID laws across the country. They could easily come to Nebraska and document if it was a problem and that could be entered into the record and at that point we could discuss whether or not there's a problem. But meanwhile, you've heard impassioned philosophical bases for policy arguments why this is a bad idea; you don't even have to get into the weeds there. Would it pass the legal test currently in place? It would not. And so rather than go down that same road and let the courts sort it out...cost over \$100,000 when the dust all settled for paying the attorney fees for ACLU not counting the amount of money it cost to defend the case on the state's part, there are very good reasons to oppose this. You've already heard most of them. And I'll leave my testimony simply with this thought: These cases that have been upheld were brought usually under the federal Constitution. The Nebraska Constitution as quoted earlier says, "All elections shall be free; there shall be no hindrance or impediment to the right of a qualified voter to exercise the elective franchise." It's very concrete. A state constitutional challenge brought to a voter ID law of this sort would probably be successful. That's what's happened in Missouri, that's what's happened in Wisconsin, and there are challenges pending still in Indiana, Oklahoma, Arizona, Pennsylvania, and Georgia. We don't need an expensive problem until we can meet that complicated legal test of show me the money. Any questions? [LB381]

SENATOR AVERY: Thank you for your testimony. Questions? I don't see any. Thank you. [LB381]

AMY MILLER: Thank you. [LB381]

SENATOR AVERY: Additional opponent testimony? [LB381]

MARY BOSCHULT: (Exhibit 15) Good afternoon, nearly evening here. My name is Mary Boschult, M-a-r-y Bo-s-c-h-u-l-t, and I'm the president of the League of Women Voters of Lincoln and Lancaster County, and I am here to express our opposition to LB381. Experience in other states has shown that voter ID requirements disproportionately

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affect the young, the old, the poor, the minorities, the mobile and confined populations. It's an irony, isn't it? How would my 92-year-old grandmother in the nursing home in Scribner drive or get the 20 miles to the Department of Motor Vehicles to get a photo ID so she could vote? One must ask why we would want to extend the reach and intrusion of government on people's lives when there is no problem that will be solved? Why would we want to increase the cost of government with no benefit to the public good? In Lancaster County we know we have competent staff in our county election office. There is no voter fraud problem in Nebraska. There is no problem identified in LB381 or in the statement of intent that will be solved by the passage of this bill. Thank you for your time. [LB381]

SENATOR AVERY: Thank you. Questions? Senator Bloomfield. [LB381]

SENATOR BLOOMFIELD: Thank you, Senator Avery. [LB381]

MARY BOSCHULT: Yes. [LB381]

SENATOR BLOOMFIELD: How would your 92-year-old mother get to the polling place? [LB381]

SUSAN BOSCHULT: Grandmother. [LB381]

SENATOR BLOOMFIELD: Grandmother. [LB381]

MARY BOSCHULT: I beg your pardon. She may have someone take her or they may bring absentee ballots to her... [LB381]

SENATOR BLOOMFIELD: If they bring an absentee ballot... [LB381]

MARY BOSCHULT: ...or another relative. [LB381]

SENATOR BLOOMFIELD: If they bring an absentee ballot, she's not required to have this ID. If... [LB381]

MARY BOSCHULT: She would not have to have photo ID, would she, to vote by mail? That's right. [LB381]

SENATOR BLOOMFIELD: No, she wouldn't. If there's a relative can take her to the polling place, could not that same relative take her to possibly have this picture taken? [LB381]

MARY BOSCHULT: Should we expect that? And should she have to... [LB381]

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SENATOR BLOOMFIELD: I think maybe we should, yeah. [LB381]

MARY BOSCHULT: ...should she have to pay? [LB381]

SENATOR BLOOMFIELD: No, she wouldn't have to pay. [LB381]

MARY BOSCHULT: So I shouldn't be asking the questions? Excuse me. [LB381]

SENATOR AVERY: All right. [LB381]

SENATOR BLOOMFIELD: Thank you. [LB381]

MARY BOSCHULT: Yes. [LB381]

SENATOR AVERY: Thank you for your testimony. [LB381]

MARY BOSCHULT: You bet. [LB381]

SENATOR AVERY: Any other proponents? Opponents, sorry. [LB381]

NIKOLA JORDAN: (Exhibit 16) I'm not an attorney at the end of the day. Nikola Jordan, N-i-k-o-l-a J-o-r-d-a-n. Chairman Avery and members of the Government, Military and Veterans Affairs Committee, in respect for time I have truncated my verbal testimony. You are receiving a written testimony that's in full. I'm the program associate for Inclusive Communities, formerly the NCCJ. We're celebrating our 75th anniversary as a human relations organization confronting prejudice, bigotry, and discrimination through educational programs that raise awareness, foster leadership, and encourage advocacy for a just and inclusive society. Our organization was established in 1938 by Otto Swanson who was a Christian and also the grandfather of one of your colleagues, Senator Ashford. Since that time, our organization has worked to become a voice and an advocate for those who are easily dismissed in our society. It is with this mission that we have come to fully oppose LB381. This legislation specifically targets voter impersonation even though there is no evidence to support voter impersonation being a problem in Nebraska or any other part of the United States. LB381 does, however, disproportionately impact those who are already most apathetic and disenfranchised by our democratic process. There are well over 130 current volunteers for our organization, many of whom are college students or are in their mid-20s. This age group is highly transient. I know because I'm constantly having to ask them for new addresses, new phone numbers, and even new e-mail addresses. It seems that each year and sometimes more than once per year, these young people are finding new roommates, new jobs, new parts of town they want to live in, and they're moving. If LB381 were passed, each time these young Nebraskans wanted to vote they would have to find the time and money to get a new ID card. Those in this age group are often hard-fought to

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take the time to vote in the first place, let alone when barriers such as these are created between them and fulfilling their civic duty. Young people are only one group who would be disproportionately affected by the passage of LB381. My grandmother turned 80 this past fall. Unfortunately, in 2007 she suffered a stroke which mostly paralyzed the entire right side of her body. Therefore, she no longer needs a driver's license. She lives in a residential home but must pay a rather substantial fee to have a service come and take her to any of her appointments. She also needs to be around medical personnel. And so going to the DMV--which does a lot of things great--sometimes there are a lot of long lines. So that wouldn't be an easy thing. Through the course of our nation's history, six amendments have been made to the U.S. Constitution which have expanded the ability to vote as opposed to limiting it. LB381 goes against the traditions of our country and its stewards' work over the past two centuries to create inclusion in the democratic process. On behalf of the staff, board, volunteers, and supporters of Inclusive Communities, I urge you to vote no on LB381. Thank you so much. [LB381]

SENATOR AVERY: Thank you. Questions from the committee? I don't see any. Thank you for your testimony. [LB381]

NIKOLA JORDAN: Thank you. [LB381]

SENATOR AVERY: Next opponent? Welcome. [LB381]

RACHEAL STRONG: Hello. Good afternoon, Senators. My name is Racheal Strong, R-a-c-h-e-a-l S-t-r-o-n-g. I'm an enrolled member of the Rosebud Sioux Tribe of South Dakota and I am an employee at the Nebraska Commission on Indian Affairs and a former Fulbright Scholar to China. I'm here to testify in opposition to this bill today. And I just wanted to give a quick example of someone who visited our office--rather than going through the statistics--an actual person who faced a lot of challenges with obtaining state identification government-issued ID. And this was Jerry Decorah Kines, and he's a Ho-Chunk tribal member of Wisconsin. He was adopted out and there was a period of time between 1940 and 1970--the Indian adoption era--in which one in four Native children were forcibly removed from their homes and put into white homes. So a lot of people don't have birth certificates because of this. And a lot of people don't have birth certificates, Native people, as there were many of them born in the home. So older people, and Jerry is about in his 50s. And so he did not have his birth certificate. He had a backpack, he was a transient person, homeless. And he had a photo ID from Denver but it was expired. He had a tribal enrollment form, but he did not have a tribal ID. And I know that this bill has an amendment in it that would allow for tribal IDs. There are four federally recognized tribes in Nebraska, but LPS has about 60 tribes that are represented in its students, if that gives any indication of how many tribes...you know, my tribe is in South Dakota. So I'm not...I'm from here, and I don't have a tribal ID. I do have an enrollment form, but it's not a photo ID. And there are a lot of people here that...Native people that live here and live far from their reservations. And for Jerry's

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case, he would have had to go to Wisconsin in person to get a photo ID because they don't allow you to get a photo by mail or anything; you have to be in person to get that. And he has no money. How is he going to get up to Wisconsin? So an extremely difficult process. He was in and out of our office for about a month trying just to get a state-issued ID. And I don't know how many people are willing to go through that for that long of a time just to get something so simple like that. It was quite the process. And we even called on the Ombudsman's Office to help us out with that. So I would also draw your attention to the low voter turnout in Thurston County for last year's elections; the lowest in Nebraska. And that's where the Winnebago and Omaha Reservations are located. We see, across the nation, Native American people have very low voter turnout rates. And so I strongly encourage you to oppose this bill. Do not support it. We don't need any more barriers to voter abilities of Native American people who didn't even have citizenship or voting rights until 1924--even after women did--even though we were the first peoples of this country. So I would, please, encourage you to oppose this bill. Thank you. Any questions? [LB381]

SENATOR AVERY: Thank you. Thank you very much. Questions from the committee? Thank you for your testimony. [LB381]

RACHEAL STRONG: Thank you. [LB381]

SENATOR AVERY: Additional opponent testimony? [LB381]

LAZARO SPINDOLA: (Exhibit 17) Did you say proponents? [LB381]

SENATOR AVERY: No, I said opponents. [LB381]

LAZARO SPINDOLA: Good afternoon, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. Thank you for receiving me today. For the record, my name is Lazaro Spindola. That is spelled L-a-z-a-r-o S-p-i-n-d-o-l-a. I am the executive director of the Latino-American Commission. I'm here in opposition to LB381 and I'm not going to use the same arguments of the previous opponents. Basically I'm here because I'm very confused by this bill. And I have been known to be very confused before, so please bear with me. I read the statement of intent of this bill. Intent, by legal definition, is the state of one's mind at the time one carries out an action. The statement of intent only lists procedures so I have to assume that the intent is to prevent voter fraud. Prevention, that's something I know about. In fact, one of the proponents of the bill mentioned a preventative vaccine, so I will resort to my medical and public health background to give you an example. If there was a smallpox outbreak here in Nebraska, we would vaccinate everyone because we know for sure that roughly 30 percent of the people would be infected if we don't do so. Currently, smallpox is eradicated in the world so we don't vaccinate anyone because we know no one will become infected and, therefore, vaccination would be an unnecessary

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procedure. The Secretary of State himself has said that there is no voting fraud in Nebraska. So this bill qualifies as an unnecessary procedure, and the reasoning behind the introduction is faulty. I'm also concerned with some of the wording of this bill. Section 1 of the bill lists the approved identification documents and among them states in subsection (3)(a): any document issued by a government entity. This is a government-issued ID. Will this enable me to vote? It was the Capitol who issued it. In fact, it was the State Patrol. How about the IDs issued by the Department of Health and Human Services or by the Nebraska Department of Education? Does the Secretary of State need to adopt and promulgate rules and regulations pertaining to these forms of ID? I am concerned too with the term "valid" focusing on expiration date. If a citizen decides to stop driving and his/or driver's license is expired, what does the validity of the license have to do with the validity of the identity? Maybe it has to do with the validity of the address. My passport, a federally issued ID, doesn't have my address. So can I vote if I bring my passport? How about a person who becomes a citizen by naturalization? Such a person may not drive, might have never traveled outside the United States, and does not have a passport. The only government-issued ID they can make...they have is a certificate of naturalization. They can make a copy of the certificate. But wait a minute. The small print says do not make copies of this document, as was printed by Homeland Security. I'm not going to make a copy and risk having black suburbans with guys inside coming over to my house. Now the person could take the certificate to the polling station, but the small print also says "keep this form in a safe place"--define safe place--or the person could get a state-issued ID but in order to get it, that person needs to present the certificate of naturalization. And this is what I had to do when I renewed my driver's license. And since the Department of Motor Vehicles demanded a copy of the certificate, I had to make an appointment at USCIS in Omaha, pay \$8, waste a whole day of work, and walk out with my copy. These are just a couple of gray areas that I find in this bill. But the worst part is that the bill is trying to prevent a situation that doesn't exist. And in case it ever happened, the law already provides for a punishment. [LB381]

SENATOR AVERY: Okay. [LB381]

LAZARO SPINDOLA: I ask the committee not to pass this bill on the grounds it is unnecessary. [LB381]

SENATOR AVERY: Thank you. [LB381]

LAZARO SPINDOLA: And I would be happy... [LB381]

SENATOR AVERY: Hold on. [LB381]

LAZARO SPINDOLA: ...to try to answer any questions. [LB381]

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SENATOR AVERY: Thank you for your testimony. Senator Price. [LB381]

SENATOR PRICE: Senator Avery, thank you very much. And I would like to thank you for bringing up the fact that your state-issued ID doesn't work because I tried mine to help my son on an OPPD bill and it didn't work. So if it doesn't work to pay a power bill, it is kind of problematic. Thank you. [LB381]

SENATOR AVERY: Any other questions or comments? Thank you, sir. Welcome. [LB381]

MARK VASINA: (Exhibit 18) Senator Avery and the committee, my name is Mark Vasina, M-a-r-k V-a-s-i-n-a. I represent Nebraskans for Peace. We strongly oppose LB381. This bill purports to solve the practically nonexistent problem, as we've all noted, of illegitimate voting in state and national elections. Laws such as this are being urged in state legislatures throughout the country as part of an effort to suppress the votes of citizens--young, elderly, or poor--who are not likely, for various reasons, to have a currently valid ID and, coincidentally, more likely to vote for candidates who are not Republicans. College students and young persons, in general, often live at addresses other than the ones on their driver's license. Large numbers of senior citizens--up to 18 percent nationally according to one study--lack a current government-issued ID. Such is also the case for perhaps 15 percent of citizens with incomes under \$35,000. Tens of thousands of elderly and disabled Nebraskans may be unable to get to a Department of Motor Vehicles office to apply for the appropriate ID. For those who can make the trip, the \$26 cost is a burden akin to an unconstitutional poll tax. We in Nebraskans for Peace believe, as do millions of Americans, that the inevitable voter suppression resulting from such laws such as LB381 is not the unintended side effect of these laws, but their true intent. We urge the committee to reject LB381. [LB381]

SENATOR AVERY: Thank you, Mr. Vasina. Questions from the committee? [LB381]

MARK VASINA: Thank you. [LB381]

SENATOR AVERY: Oh, yes. Wait. Senator Wallman. [LB381]

SENATOR WALLMAN: Thank you, Chairman Avery. Yeah, is my good friend Don Tilley still alive? [LB381]

MARK VASINA: Oh, yes. [LB381]

SENATOR WALLMAN: Good. Tell him hi. [LB381]

MARK VASINA: I will. Thank you. I saw him last week. I'll see him next week. [LB381]

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SENATOR AVERY: Thank you. [LB381]

SENATOR PRICE: You better keep better track of your good friends. [LB381]

SENATOR WALLMAN: Amen. [LB381]

SENATOR AVERY: Welcome. [LB381]

MELANIE WILLIAMS-SMOTHERMAN: Thank you, Senator Avery. And thank you, members of the Government Committee. My name is Melanie Williams-Smotherman, M-e-l-a-n-i-e Williams-Smotherman, S-m-o-t-h-e-r-m-a-n. Senator Janssen...oh, well, let me just say I'm the founder and director of the Family Advocacy Movement which is a grass-roots collaborative that focuses on advocating for families and children who are caught up in the child welfare and juvenile court systems. Most of the people for whom I advocate fall within the ranks of some startling statistics in Nebraska. While they may not seem immediately relevant to this issue, they are. Nebraska ranks third in the nation for removing children from their homes; second in the nation when factoring in poverty as a disproportionate measure. Nebraska ranks second in the nation for disproportionate removals of children of color. And removing Native American children, we rank third. Perhaps the next statistic I mention will explain a lot of this. As covered by a CNN report in October of 2011, Omaha--which is Nebraska's largest urban city and, therefore, the most diverse--ranks number one in disproportionate poverty among black children. Given that the families for whom I advocate tend to be among the poorest and most adversely affected by harmful laws passed and instituted by elected officials--such as the broad interpretations of neglect laws here in Nebraska--the people for whom I advocate have a special interest in wanting to be a part of holding public officials accountable and affecting laws that affect them. However, the families that I work with are incredibly beleaguered. They are resource poor. They are already required to jump through many hoops in order to follow case plans, court reports. The idea that requiring them to find a way to get an ID to vote once every two or four years is somehow not a burden is false. It is one more requirement to enter into an office that is a bureaucracy with lines that is already stifling them. And I know, just from that experience, of a lot of people who would choose to stay home not because they're lazy, but because whether there is an actual barrier or a perception or a confusion, they don't have the resources or the time or the courage to face that sort of situation. And it's very understandable to me and anyone who has actually experienced that sort of adversity or who has advocated for people who experience it on a daily basis. Thank you. [LB381]

SENATOR AVERY: Questions from the committee? I don't see any. Thank you for your testimony. Next testifier in opposition to LB381. Welcome. [LB381]

SEAN KELLEY: Good afternoon, Chairman Avery and members of the committee. My name is Sean Kelley, S-e-a-n K-e-l-l-e-y, appearing today on behalf of the Douglas

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County Board of Commissioners in opposition to LB381. The county commissioners are uniquely qualified in their roles to understand the challenges of certain populations with identification. And through that knowledge, I think they understand the potential financial adverse effect this would have to the Douglas County Election Commissioner. There is not a fiscal note on behalf of Douglas County, but there was last year with respect to LB239 that would adversely affect their budget. I know those numbers do vary depending on who you talk to, but I think everybody agrees that through more provisional ballots that would be a negative financial impact to the Douglas County Election Commissioner either through the ballots or more election commissioners. And maybe there's a former election commissioner in this body that might be able to opine as well, I don't know. But with that, I'd be happy to answer any questions. [LB381]

SENATOR AVERY: Thank you, sir. Questions? He didn't take the bait. Thank you. [LB381]

SEAN KELLEY: Thank you, Senator. [LB381]

SENATOR AVERY: Additional opponent testimony on LB381? Welcome. [LB381]

LIZ REA: (Exhibit 19) Welcome...well, thank you. Good afternoon, Senator Avery and members of the committee. For the record, my name is Liz Rea, last name is spelled R-e-a. And today I'm representing the American Association of University Women of Nebraska. LB381 is really an expensive solution to a problem that really doesn't exist in this state. And I recently went to the Douglas County Treasurer's Office in Omaha to renew my driver's license. And it was, frankly, a pretty impersonal experience. And it only took me 45 minutes to an hour to complete, but I got to thinking later on when I left the office: I wonder if I was an elderly or a disabled person, how long would it take me to go through what it was that I just experienced? So, for instance, if LB381 becomes law, if the person--the elderly or the disabled person--lives in Douglas County or maybe another larger area, would they be able to maneuver through an office where you do not come face-to-face with someone behind the counter until well into the process? Would they be able to sit or stand for fairly long periods of time, especially if the office is really busy? Once the government-issued ID...government-issued photo ID has been secured for the purpose of being presented every two to four years during an election cycle, would it not be easy for an elderly or disabled person to misplace it? This can be especially true when they are dependent upon others for much of their care. If the senior citizen or disabled person no longer has a driver's license and, therefore, cannot drive, they would need to have someone bring them to the DMV office. Currently, we have something like 80,763 elderly Nebraskans with disabilities who are unable to get to a DMV office to obtain current and proper identification to vote. If they live in a rural area, it's very possible the DMV office will not be open five days a week. What must the wait time be at a rural office if it's only open two or three days each week? The DMV estimates that close to 500,000 rural Nebraskans, elderly and disabled included, do not

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have access to a DMV office that is open five days a week. Many other members...people in the audience have testified to the expense of this. We know what...there's a relative...there's a cost to issuing these free IDs but there's also a cost for voter education, which we really haven't touched on. And we have no clue what that's going to amount to. But it's expensive in another way, and that's the fact that voters are going to lose confidence in the fair and open election process we currently have in place. And eventually, especially with elderly and disabled, I am very concerned that this extra hoop that they have to jump through, they're just going to decide it's too much and I'm not going to vote any more. That's the real sad thing about the prospect that LB381--the passage of it--presents to us. So in that light then, and as a representative of the American Association of University Women of Nebraska, I urge this committee to indefinitely postpone LB381. Thanks for the opportunity to testify today. [LB381]

SENATOR AVERY: Thank you, Ms. Rea. And you were right on time. [LB381]

LIZ REA: Great. [LB381]

SENATOR AVERY: Yes. [LB381]

LIZ REA: Thank you. [LB381]

SENATOR AVERY: Questions from the committee? Thank you. Next opponent testifier? [LB381]

JACK GOULD: It looks like I'm not going to be last. I thought I was. Okay. Senator Avery and members of the committee, my name is Jack Gould. That's J-a-c-k G-o-u-l-d. And I just...I know a lot of the ammunition has been taken, so I'm going to try to talk a little bit about the fiscal note. I remember three years ago when this bill first came forward, and it was a snowy day. And I remember that one of the problems was the fact that it had a zero fiscal note. And a lot of people were challenging that wanting to know what was this going to cost. No one knew. The committee went into Executive Session. Senator Janssen was on the committee. And during that Executive Session, he decided to withdraw the photo ID--correct me if I'm wrong--and at the same time, move the responsibility for the cost from the state to the counties. And you just heard testimony about the concern the counties had. There were a lot of commissioners, there were a lot of people here very much concerned about what that was going to do to the county. But no one really knew for sure. Nobody could get a full picture of what it was going to mean to the state in terms of trying to come up with a fiscal note. So...and today, we're looking at a bill...the Department of Motor Vehicles indicated that they would have to come up with 26,868 photos. That's an estimate because we can either have a driver's license or the photo ID. They're supposed to cost \$26.50 a card and the estimated cost I think has been mentioned, \$617,973. I think that's an extremely conservative estimate. Also the

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fact that people can say, I'm indigent, and you get a card. And that's what makes this all very unpredictable, how many people will do that. You're putting the public in a position where they may be forced to either tell a lie or disclose the fact that they're indigent, which isn't exactly something people like to do. It's a little embarrassing. We've already heard the argument about a poll tax. I think there's no question about it. If you're going to make people pay, then it's a poll tax. And they're either going to have to buy one or the other or else say they're indigent. That's the choices before us. I know Senator Murante brought the question up of Indiana and how smoothly things have gone, and there's been two elections and things look better. But from what I've read, they've put in approximately \$12 million into making that program work. Now this bill has no fiscal note from the Secretary of State's Office, zero. There is nothing in the bill that says we're going to educate the public. How much money do you want to put into TV ads, radio ads, mailings, newspaper ads, because you must educate the public in order to put this into effect. Last thing, the Secretary of State has the power to decide about what other possible IDs could be used in this case. That could change with every Secretary of State. As you produce more ID cards, you also increase the possibility of fraud because you're asking volunteers at polling places to sit there and make a decision. Am I going to let this guy vote or not? And do they have the education to make that decision? And how many are willing to do that? Thank you. [LB381]

SENATOR AVERY: Thank you. Questions from the committee? Don't see any. Thank you, Mr. Gould. [LB381]

JACK GOULD: Thank you. [LB381]

SENATOR AVERY: Okay. More testimony? How many others wish to testify? Really? Okay. Welcome. [LB381]

MARK INTERMILL: (Exhibit 20) Thank you. Good afternoon, Senator Avery and members of the Government, Military and Veteran Affairs Committee. I have a statement that's going around. My goal is to try to finish before it gets all the way around. The AARP is working on this issue in states across the nation. Our National Policy Council has looked at, weighed the pros and cons of this, and decided that this is something that we do need to oppose. I think others have laid out those reasons well. We're not sure that the problem it addresses warrants the solution that's being proposed. The only other point that I'd like to make of things that I've heard today, proponents had mentioned the public support for this type of proposal. And polling across the country shows that it polls at 70, 80 percent, which is what polling in Minnesota showed last spring right before the issue was put on the ballot for a constitutional amendment related to requiring a photo ID to vote. That measure failed. I think it's one of the issues that as more information about the issue and what its effects are and what it actually solves is known, it becomes less popular. So AARP opposes it, and I'd be happy to try to answer any questions. [LB381]

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SENATOR AVERY: Thank you. You see this affecting your constituency and members uniquely? [LB381]

MARK INTERMILL: The older that you get, the less likely you are to have a photo ID. So what we see in the 75-plus, and even more in the 80-, 85-plus age groups, is the absence of that type of photo ID. [LB381]

SENATOR AVERY: Questions from the committee? Thank you, Mr. Intermill. [LB381]

MARK INTERMILL: Thank you. [LB381]

SENATOR AVERY: Additional opponent testimony? Seeing none, we'll now move to...are you opponent or neutral? Neutral testimony. [LB381]

_____: It's Larry Dix. [LB381]

LARRY DIX: You've come to expect it. [LB381]

SENATOR AVERY: You are welcome here. [LB381]

LARRY DIX: Good afternoon, Senator Avery and members of the committee. For the record, my name is Larry Dix. I'm executive director of Nebraska Association of County Officials appearing today in a neutral capacity. One of the things I just wanted to touch on, when Senator Janssen introduced the bill, he did bring forth an amendment. And that amendment talks about what was certainly some of our concerns in our rural counties when someone does walk up and says, here I am. My name is Larry Dix and I want to vote but, I'm sorry, I just came off the farm. I don't have my ID. And as many of us know, in the most rural of counties, those folks really do know, there is a positive idea who that is. And so the amendment really allows that person to go ahead and vote and the poll worker then would have to document that, yes, I can vouch for that person. I think we do see that in some other states. And so we would like the committee to take a look at that, see if that's something that you would want to include in the bill. We think it's something that makes some common sense for the most rural of counties. And with that, I'll answer any questions anybody has. [LB381]

SENATOR AVERY: Thank you. Any questions? Don't see any. Thank you, Mr. Dix. [LB381]

LARRY DIX: Thanks. [LB381]

SENATOR AVERY: Any other neutral testimony? You have been patient today, haven't you? [LB381]

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NEAL ERICKSON: (Exhibit 21) Well, you've got the two resolutions after this. I think you've been patient as well. Chairperson Avery and members of the Government, Military and Veterans Affairs Committee, my name is Neal Erickson. I'm deputy for elections...that's spelled N-e-a-l E-r-i-c-k-s-o-n, and I'm deputy for elections for Secretary of State John Gale. I have submitted to the committee a letter from Secretary Gale on LB381. Secretary Gale regrets that he was not able to be here personally today, but he had committed to a class at UNO sometime before this hearing date and he wanted to honor that commitment. Secretary Gale asked me to convey his willingness to meet with any committee members personally who would like to discuss his testimony. And he asked me to read into the record a statement. While there may be...excuse me. As Secretary of State and Chief Elections Officer--and I'm not going to do my impression of Secretary Gale; he wrote this in first person so--as Secretary of State and Chief Elections Officer, I have submitted my written testimony on LB381 in a neutral capacity. I firmly believe that a significant percentage of Nebraskans think that some form of voter ID is needed to protect the integrity of our elections. After following this issue for several years, I agree. I want to commend Senator Janssen for addressing this issue through LB381. After years of litigation, the U.S. Supreme Court ruled that the Indiana voter ID law was constitutional, so that is no longer an issue. As a result, 33 states have adopted some form of voter ID law. From our study, those laws in effect seemed to have been implemented without serious problems. However, there are many forms of voter ID laws, and LB381 has the strictest ID provisions based upon the Indiana law. Personally, I would prefer a more moderate approach as used by many other states. However, LB381 is very straightforward. It requires strict voter ID at the polls. Those without photo ID can vote provisionally. Voters by mail are exempt. At the same time, since we have not experienced any systemic fraud in Nebraska despite some occasional isolated incidents, I am not sure the strict standards of LB381 and the costs involved are necessarily the best answer for Nebraska. There are other issues that should be considered as well, especially our voter registration laws and the significant impact of federal laws on the process of clearing thousands of questionable registrations. For these reasons, whether or not LB381 is adopted, I am asking the committee to authorize an interim study during 2013 so that all potential issues of registration and voter fraud can be studied. I think such a study can result in a well-honed bill addressing the broader issues of potential fraud and a bill that is our own unique Nebraska voter ID law. [LB381]

SENATOR AVERY: Thank you. Questions from the committee? Okay. Oh, I'm sorry. Senator Scheer. [LB381]

SENATOR SCHEER: Thank you, Senator Avery. Thanks for hanging around, Neal. Question: Per the bill it states that the Secretary of State can determine other forms of approved identification. Any guesstimate idea what that would be, based on what you've read? [LB381]

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NEAL ERICKSON: No idea at this point. You know, it just...it's a bill that hasn't passed yet. It's not something we've examined. [LB381]

SENATOR SCHEER: Okay, fair enough. Thanks. [LB381]

SENATOR AVERY: (Exhibit 22) Any others? Thank you, sir. Any more neutral testimony? All right. I don't see any more testifiers and I...Senator Janssen is not present, so I presume he is waiving closing. That almost ends the hearing. I have some letters to read into the record. One, two, three, four, five letters of support from Michael and Nancy Moran, Sheryl Alvey, Debra Pickrel, Pat Gideon, and Lora Rice. To be read into the record in opposition, one, two, three, four, five, six: Katrina Thomas, Beatty Brasch, Kyle Carlson and Susan Hale, Tessa Foreman, Timothy Lundy, and Robert Reeves. And that ends the hearing on LB381. Thank you all for coming. Stick around for the resolutions. [LB381]

SENATOR PRICE: I guess we will now open on LR38 with Senator Avery. [LR38]

SENATOR AVERY: Thank you, Mr. Vice Chair. My name is Bill Avery, B-i-l-l A-v-e-r-y, representing District 28 here in the heart of Lincoln. LR38 provides that the Legislature will endorse Taiwan's participation in the International Civil Aviation Organization as an observer only. This organization is a specialized agency of the United Nations that codifies the principles and techniques of international air navigation and fosters the planning and development of international air transport to ensure safe and orderly growth. The ICAO--the acronym for that organization--council adopts standards and recommended practices concerning air navigation, its infrastructure, flight inspection, prevention of unlawful interference, and facilitation of border-crossing procedures for international civil aviation. In 2010, Taiwan's largest airport ranks sixteenth worldwide in international passenger traffic and ninth in international cargo, making Taiwan one of the busiest air spaces in the world. If they're not allowed to participate in this organization as an observer, international flight plans and regulations will be incomplete. LR38 also provides that the Legislature is supportive of all efforts to grant Taiwan official observer status at the United Nations Framework Convention on Climate Change. As an island in the Pacific Ocean, it is imperiled by rising levels and challenges of extreme weather including typhoons--which I happened to have experienced recently in Taiwan. As a collaborative partner of the United States on a wide range of public issues, Taiwan should be afforded the opportunity to participate in global affairs of this nature. The resolution does nothing more than support efforts by an important ally and trade partner of the United States to achieve observer status only--I reemphasize that--not voting membership. I'd also like to point out that Taiwan is one of the top trading partners and purchaser of Nebraska products. So with that, I would ask that you ask no questions, but go immediately to the next resolution. [LR38]

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SENATOR PRICE: Unfortunately, there are at least three questions here. Senator Scheer. [LR38]

SENATOR SCHEER: Thank you, Senator Price. Senator Avery, I'm just curious where the resolution originated. Is this something that several states are doing or something? [LR38]

SENATOR AVERY: Yes, it is. There is a Taiwan Interest Office in Kansas City. They contacted me and asked if I would do this. This is not the first time this committee has considered resolutions of this type relating to Taiwan. Taiwan is on an international campaign, I guess is one way to explain it, to become a more complete participant in the world political system. They're not asking to be given independent nation-state status, they're not asking for U.S. recognition. Oh, they'd love that, I'm sure. But they are trying to make sure that they are not completely frozen out from international organizations and international councils and conferences where they have a stake and where they have something that they can offer that would benefit that organization. [LR38]

SENATOR SCHEER: But why is it only exclusive just to the one Framework of the Climate Change Convention? [LR38]

SENATOR AVERY: That is because they have a particular problem with extreme weather. And they try not to overreach, I think is one reason to. [LR38]

SENATOR SCHEER: Okay. Thank you. [LR38]

SENATOR PRICE: Thank you, Senator Scheer. Senator Lautenbaugh. [LR38]

SENATOR LAUTENBAUGH: Thank you, Mr. Vice Chair. So if we amended this to take it from observer status to full-member status, we could cause an international incident here? Is that the concern? [LR38]

SENATOR AVERY: You could cause me a lot of trouble. [LR38]

SENATOR KARPISEK: Second. [LR38]

SENATOR PRICE: Okay. Now to go back to the theater of the absurd. Framework Convention on Climate Change--you've mentioned weather a few times, and I won't belabor it. But... [LR38]

SENATOR AVERY: We're not going to debate climate change, really. [LR38]

SENATOR PRICE: Thank you, because climate...well, I think on the committee I have

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the most expertise in the field of weather. And I'll just let that lay there because it's not appropriate because it doesn't really apply. But are there any other questions from the committee? [LR38]

SENATOR AVERY: Oh, I thought you had something weather... [LR38]

SENATOR PRICE: I was going to, but I decided in the interest of time to forgo yet another speech. [LR38]

SENATOR AVERY: I do not know if there are testifiers here. [LR38]

SENATOR PRICE: Well, we're going to find out. Thank you very much. Are there any proponents for LR38? Are there any opponents? Would anybody like to testify in the neutral? Seeing none, Senator Avery, would you like to close on LR... [LR38]

SENATOR AVERY: I would like to waive. [LR38]

SENATOR PRICE: Senator Avery waives on LR38, and that will close the hearing on LR38 and move us to LR23. Senator Avery. [LR38]

SENATOR AVERY: Again, I am Bill Avery, B-i-l-l A-v-e-r-y, representing District 28 here in Lincoln. This is a resolution that has its origins in a court case involving the Citizens United v. Federal Election Commission, where the U.S. Supreme Court held that the First Amendment prohibited the government from restricting independent political expenditures by corporations and unions. The nonprofit group--you may remember this case--Citizens United, wanted to air a film that was critical of Hillary Clinton and to advertise the film during television broadcasts. The court addressed the question of whether federal law barring unions and corporations from making independent expenditures or engaging in electioneering communication violated the First Amendment. The court struck down the ban on political speech. It ruled that these communications are protected by the First Amendment and not subject to the restriction by the government. Corporations, you know, wield tremendous influence in our political system by virtue of billions of dollars they spend on contributions and lobbying every year. Corporations are able to donate large sums of money and this can be used to drown out the voices of individual citizens. The aftermath of the Citizens United case is a record-breaking amount of funds that had been raised and spent in recent elections. You've all read about that. There is also growing skepticism about the integrity of our election process because of the influence of this money and these corporations on the political process. I do want to quote to you from a dissent in this case by Justice Stevens who wrote that "The conceit that corporations must be treated identically to natural persons in the political sphere is not only inaccurate but also inadequate to justify the Court's disposition of this case....Although they make enormous contributions to our society, corporations are not actually members of it. They cannot vote or run for

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office....The financial resources, legal structure, and instrumental orientation of corporations raise legitimate concerns about their role in the electoral process. Our lawmakers have a compelling constitutional basis, if not also a democratic duty, to take measures designed to guard against the potentially deleterious effects of corporate spending in local and national races." LR23 is straightforward. It provides the Legislature support an amendment to the U.S. Constitution that would clarify several misinterpretations of the U.S. Constitution by the U.S. Supreme Court that culminated in a Citizens United v. Federal Election Commission case. The resolution provides that the constitutional amendment should make clear that corporations have only the privileges bestowed upon them by their charters and by state and federal laws and by rights of their shareholders. The amendment also would clarify that money is property and it is not speech. I bring this resolution to you so that we, as a Legislature, can have a debate about the current state of money in campaigns and, particularly, the issue of corporate spending in political campaigns in light of this case. With that, I'd be happy to take any questions. [LR23]

SENATOR PRICE: Are there any questions? [LR23]

SENATOR AVERY: Senator, I just might add that Senator Lautenbaugh and I have long had a discussion about this issue of money and campaigns. [LR23]

SENATOR PRICE: Senator Bloomfield. [LR23]

SENATOR BLOOMFIELD: Thank you. Is not beauty in the eye of the beholder? [LR23]

SENATOR AVERY: Oh, it certainly is. [LR23]

SENATOR BLOOMFIELD: Okay. Thank you. [LR23]

SENATOR PRICE: Are there...Senator Scheer. [LR23]

SENATOR SCHEER: Thank you. And I know the hour is late but just for the record, I understand where you're coming from. I sort of agree with Senator Bloomfield. But I'm not an attorney, and you're asking me to second-guess the Supreme Court of the United States. And I don't necessarily agree with everything that it has done or will probably continue to do; but honestly, from my vantage point, I don't know. I can't say that they misinterpreted the law because I don't know. And that's what you're wanting here. I mean, just from a personal standpoint, I'm not prepared to do that probably on anything that you might bring forward in that regard because I don't have the legal basis to know that. There's a lot of things I disagree about that that court or any other court may make a determination on. But that's sort of the system, and I don't have anywhere close the expertise in this case to make that judgment. So from that vantage point, I don't think I'm qualified to do what you're asking to do. [LR23]

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SENATOR AVERY: Well, I would just point out that this case did overturn many, many decades of consistency on the court in defining corporations as nonpersons. With this case, they conferred upon corporations personhood, in fact, treating speech as property. And that a lot of the literature I've read suggests it was a wrongly argued case and wrongly decided case. I would also point out that there is a pretty substantial body of literature that shows the Supreme Court, when they get something wrong--in the sense that wrong being they rule in a manner that is clearly opposed to popular opinion in the country--that when they do that, that within two decades they usually correct it. [LR23]

SENATOR SCHEER: So we've just got to be patient. [LR23]

SENATOR AVERY: For example...well, this...no, I say that because this is part of an effort going on in other states to get state legislatures on record calling for an amendment to the constitution which is, of course, the best way but not the most efficient way to resolve the issue. But it is the case that...well, the income tax was first declared unconstitutional by the U.S. Supreme Court. They eventually reversed themselves and ratified the national income tax. [LR23]

SENATOR SCHEER: Thank you. Thank you, Senator Price. [LR23]

SENATOR PRICE: You're welcome. Senator. [LR23]

SENATOR WALLMAN: Thank you, Senator Price. Yes, Senator Avery. You know Al Capone and them got caught on taxes, and I think we're attacking this the wrong way. If I'm a shareholder of a major corporate--whether it be GM or one of those--and they spend millions of dollars on campaigning issues without my vote, you know, as a shareholder, I think we have to look at that. And the Supreme Court should look at that. Thank you. [LR23]

SENATOR AVERY: Well, that may be another approach to the issue or to a resolution of the issue is going through the shareholders. That's a much bigger project. [LR23]

SENATOR PRICE: Thank you, Senator Wallman and Senator Avery. Senator Murante. [LR23]

SENATOR MURANTE: Senator Avery, I want to ask you about just the appropriateness of this type of resolution in general. If we do something like this, I mean, are we coming back next year with people who maybe don't agree with you on things coming in to say, Roe v. Wade was wrongly decided and should be overturned, and the Affordable Care Act decision was wrongly decided and should be overturned? If we just happen...every one of us disagrees with a decision the Supreme Court has made at some point over

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the years. [LR23]

SENATOR AVERY: Fair question. Fair question. The...I think Roe v. Wade has been...there has been an attempt underway and probably still is ongoing but not getting much steam to have a constitutional amendment banning abortions. Obamacare is a little bit too new yet, but I suspect that there might be an attempt to do that as well. But this one...I have always contended--Senator Lautenbaugh can confirm this--that money potentially can corrupt the political process; uncontrolled money, money that is in large quantities, some of it only partly accounted for. It enables people with lots of resources to tilt the playing field in their favor, and it doesn't give a whole lot of recourse to ordinary citizens. I do know that Montana has passed such a resolution, some other states have. It's not a radical proposal. It's probably not a very popular one on this committee, however. [LR23]

SENATOR PRICE: Thank you. [LR23]

SENATOR MURANTE: I like your political instincts, Senator Avery. [LR23]

SENATOR PRICE: Thank you, Senator Murante. Senator Avery, I'd like to just ask one question. I just was captivated by the use of the word "memorialize." Why did we use "memorialize"? [LR23]

SENATOR AVERY: They have to do that because of the rules of our Legislature. A resolution of this sort requires a debate and vote on the floor. And we use the word "memorialize" Congress to do something when we're seeking this kind of resolution. [LR23]

SENATOR PRICE: So that leads me to believe that the subject in and of itself isn't at issue, it's just using the words "memorialize Congress." We can talk about it a little later, but... [LR23]

SENATOR AVERY: Well, you may remember two years ago Senator Fulton had a bill that memorialized Congress to invoke the Tenth Amendment. And we had quite a debate on that. [LR23]

SENATOR PRICE: I just...I wasn't recalling the word. I appreciate it. [LR23]

SENATOR AVERY: Which I lost, by the way. [LR23]

SENATOR PRICE: I appreciate your commentary. Are there any other questions from the committee? Seeing none, thank you, Senator Avery. And we will now move on to proponent testimony for LR23. I'd do a show of hands but I think I can count. Welcome, sir. [LR23]

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JAKE JACOBI: Well, I was hoping to still be able to say good afternoon and that there wouldn't be a contest between my voice and my stomach growling. But that said, my name is Jake Jacobi, J-a-k-e J-a-c-o-b-i. Senator Avery, I want to thank you for inviting me. I'd like to thank the rest of you for giving me this opportunity to express my views to you. Not long after the recent financial collapse which poked its ugly head into our collective conscientiousness, some time, I believe, in 2008, I became very interested in trying to find out as much as I could about what had happened. This was all over the news, and we were being told about a lot of things that basically no one had ever heard of before. Try Googling "credit default swap" or how about "collateralized debt obligations" or try this little dandy, "synthetic collateralized debt obligations." Chances are if you don't have an MBA from Harvard or a Ph.D. in economics from MIT, you won't understand most of this. These are some of the financial products that the geniuses--and these are, in fact, some of the smartest people coming out of the very best universities in this country--that the geniuses on Wall Street literally invented and sold to many of their customers as well as investing huge amounts of their own money in these forms of legalized gambling. In all too many cases not only did they misrepresent what they were selling--this is called fraud--they actually and deceptively bet against the very investments they were peddling to their customers. Sound a little risky? Actually, the likes of Goldman Sachs and very few others made billions of dollars doing business just like that, and they took virtually no risk at all. One would think that stuff like this only happens behind closed doors out of sight of financial regulators and law enforcement officials. And one would be wrong in thinking that. In fact, these financial instruments, as they're called, are so incredibly complex that some of them actually were designed by Ph.D.s. The average regulator on Wall Street simply didn't understand what was going on. And while it was their job to find out, they reneged on this responsibility. A very intricate and essential part of how these things were put together involved the role played by the ratings agencies, Standard and Poor's, Moody's, and Fitch. The Financial Crisis Inquiry Commission called them "key enablers of the financial meltdown." After the likes of Goldman Sachs and JPMorgan Chase and others manufactured these practically worthless and extremely risky securities, they convinced these guys to put AAA ratings on the resulting products. You may have heard recently in the news that the government is finally investigating Standard and Poor's and Moody's for their involvement in all of this, which they're calling a potential civil, not criminal, offense. We all know what that means. No jail time for any of the principals involved. If found guilty, the ratings agencies will simply pay a fine; admittedly a rather large fine, but not so much when compared to their balance sheet. As I mentioned, I'm very active in educating myself about these things, and if I get the opportunity of informing anyone else who will listen. I've read about 15 books in the past year or so having to do with not only this crisis but also, in general, how our government works at these levels. I'm just going to mention a couple of...Money and Power: How Goldman Sachs Came to Rule the Universe... [LR23]

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SENATOR PRICE: Sir, I want to remind you, your red light is on. [LR23]

JAKE JACOBI: Still limited to three minutes? [LR23]

SENATOR PRICE: I can let you go about another minute. If you can just wrap it up, that would be good. [LR23]

JAKE JACOBI: Well, the books that I've read, some of the books I've read, they don't pull any punches. They use phrases in the title: How Money Corrupts Congress, Corporate Criminals, Political Corruption. These are all written by very well-established, well-educated people. None of them have been sued for libel by the likes of Goldman Sachs or JPMorgan Chase or anybody. And truth, to my understanding, is the ultimate defense against libel, which speaks volumes to me. We have a common theme here presented by some very smart people. And you know, the message that we are sending to the perpetrators of these--they're crimes--is that they're above the law. And the reason for this is that our system has allowed them to get away with this. The Justice Department under Eric Holder has said that they don't have sufficient evidence to prosecute any of the principals in any of these things, which absolutely isn't true. All you have to do is read one of these books. They are so well referenced and so many different sources are cited. It's just, you know, it's a shame the way our system has become corrupted, and that is the only word for it. I agree completely with Senator Avery's resolution. In all respect to you, Senator, as I've told you before, to me it just doesn't go far enough. Supporting an amendment is not enough. The state Legislature needs to petition the U.S. Congress to call a Constitutional Convention for the limited purpose of proposing an amendment to reverse Citizens United. [LR23]

SENATOR PRICE: Thank you, sir, for your testimony. Are there any questions from the committee? Seeing none, again thank you, sir. [LR23]

JAKE JACOBI: Thank you very much. [LR23]

SENATOR PRICE: Do we have any further proponents? Welcome, sir. [LR23]

ROGER HOLMES: (Exhibit 1) Thank you. Good evening. My name is Roger Holmes, R-o-g-e-r H-o-l-m-e-s. And I'm copresident of Common Cause Nebraska. I'm here to testify in favor of LR23, and thank you for allowing me to do so. Common Cause Nebraska supports LR23 and its goal of amending the U.S. Constitution as Senator Avery describes. We do so as part of a nationwide effort initiated by our national Common Cause body and supported by many organizations. I provided copies of testimony submitted by Derek Cressman, the coordinator of the national group's efforts. Derek has visited Nebraska previously to work on this issue and regrets that he can't be here in person to address you. Derek's statement is thorough and detailed. I would like to present an abridged version here and hope that you will take the time to read the

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entire statement. In a nutshell, LR23 clarifies that unlimited campaign spending is not free speech. Corporations are not people with constitutional rights. We believe that the Supreme Court got it wrong. A corporation is an artificial entity that exists due to a state charter. It should not have a right to spend unlimited amounts of its general treasury funds to advance political ideas. Common Cause Nebraska has long worked against the notion that money is speech and its pernicious effects on our electoral politics. Derek deals extensively with that issue in his remarks. And I will comment here on the issue of corporate personhood and say only that the size of the megaphone should not determine the value of the message shouted through it. There is a precedent for this amendment. Article V of the U.S. Constitution empowers and obligates the people of the United States to overrule misguided rulings of the Supreme Court. At least seven previous constitutional amendments do just that. As legislators who have taken an oath of office to uphold and defend the constitution, it's entirely appropriate that you should be considering this matter today. The constitution exists to protect the rights of real people, living human beings. Corporations don't breathe, fight in wars, or have children. We create corporations for specific economic purposes and give them special powers and privileges not enjoyed by real people, such as limited liability and perpetual life to carry out their important role in society. Excuse me. Yet in Citizens United and other cases, the Supreme Court ruled a corporation should be considered people with constitutional rights. While the shareholders who form corporations do, indeed, have rights that protect their property and other corporate interests, the court failed to understand that citizens can limit the special powers we have granted corporations for their intended purpose. For example, we can prohibit corporations from drowning out the voices of real people in our elections. As the United States Supreme Court recognized in Austin v. Michigan Chamber of Commerce in 1990, the republican form of government is threatened by "the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public support for the corporation's political ideas." When Citizens United reversed the decision in Austin, it created a serious threat to self government by rolling back previous bans on corporate spending in the electoral process and allowing unlimited corporate spending to influence elections, candidate selection, policy decisions, and public debate. Further, corporations have used the artificial rights bestowed upon them by the courts to overturn laws that real people--in the form of their municipal, state, and federal governments--have passed to curb corporate abuse. This has hamstrung the ability of real people to protect themselves against harms to the environment, to the consumers, workers, independent businesses, family farms, and local economies. We ask you to join legislatures in California, Connecticut, Hawaii, Massachusetts, Maryland, New Jersey, New Mexico, Rhode Island, and Vermont who have already gone on record in support of an amendment. In closing, we believe that repairing constitutional damage of Citizens United will help to return us to the condition Abraham Lincoln so eloquently described as government of the people, by the people, and for the people, real people. Thank you. [LR23]

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SENATOR PRICE: Thank you for your testimony. Are there any questions from the committee? Seeing none, again, thank you for testifying today. [LR23]

ROGER HOLMES: Thank you. [LR23]

SENATOR PRICE: Are there any further proponents? Are there any wishing to testify in opposition? Would anybody like to testify in the neutral capacity? [LR23]

_____: Now you guys were on the case, come on. [LR23]

ALAN PETERSON: Vice Chairman Price and members of the Government Committee, I'm Alan Peterson, A-l-a-n P-e-t-e-r-s-o-n. I'm testifying today only for myself, while I have been a lobbyist and a trial attorney for too many decades. I'm here today because I'm very interested in First Amendment law and always have been. And I think this is a good resolution if it starts a discussion of what to do about that "concerned citizens" case. I don't like the resolution in its indication and emphasis on not letting corporations be considered to have First Amendment rights. You remember in some cheap bars and maybe carnivals there used to be a whac-a-mole game? Well, okay, the corporation sticks its head up. We're mad at the corporations because they contributed millions to various campaigns. So we whack them and say okay, you corporations don't have free speech rights to the extent that individuals do. What about partnerships? What if there's a partnership of William and David Koch--the sixth and seventh richest people in the world, as I understand--and they decide to spend a fortune? Is the partnership, which is also a legal fictional entity, is that the next whac-a-mole we try to hit and stop this? What about limited partnerships? What about great big partnerships? What about all the semi-corporate entities? There's all these entities. I just don't think this will work, even though I understand the anger about not knowing where all that money came from. I would hope that if we memorialize from this Legislature--I think that just means send a memorandum to Congress--that we ask them to consider not amending the First Amendment to take it away from certain kinds of entities. Let's work for disclosure. If this country can stand listening to MSNBC on the left and Fox News on the right and their leaders Sean Hannity, Rush Limbaugh, Rachel Maddow, whatever, and still figure out how to vote, then maybe disclosure of where the information or political ads are coming from helps us figure out whether we want to go along with it or not. So I'd rather see us look toward disclosure rather than playing with the First Amendment. Frankly, like a lot of legislative areas, I would hate to open up the First Amendment to be chipped away at. So while I like the resolution because I think everybody, a lot of us, were very troubled by what happened after "concerned citizens," I don't like the remedy that's suggested in this resolution. Thanks. It's just a comment from somebody that is interested in the area. [LR23]

SENATOR PRICE: Thank you, Mr. Peterson. Senator Lautenbaugh. [LR23]

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SENATOR LAUTENBAUGH: Thank you, Mr. Vice Chair. Thank you for waiting this long to say that. And I think you'll agree the First Amendment says that Congress shall make no law to abridge freedom of speech. [LR23]

ALAN PETERSON: That's right or of the press. [LR23]

SENATOR LAUTENBAUGH: It doesn't say freedom of speech or press by people. It just says you can't abridge freedom of speech. So if you accept the premise that adds our speech, that's pretty much the end of the issue, isn't it, regarding the First Amendment? [LR23]

ALAN PETERSON: Well, the most important...maybe the most important First Amendment case is the old libel case in 1964, The New York Times--a huge corporation--v. Sullivan, that made it fair game for people to criticize their political and government leaders and other leaders. Are we going to take away that First Amendment authority because The New York Times is certainly a corporation? [LR23]

SENATOR LAUTENBAUGH: Exactly. I remember them being scandalized by the Citizens United decision. Apparently, they're not a corporation. They're a willing conglomerate of people who have come together to put out the news. [LR23]

ALAN PETERSON: They're nonprofit, I think. [LR23]

SENATOR LAUTENBAUGH: But you see the problem here. Obviously you do. [LR23]

ALAN PETERSON: Oh, yeah. To me it's whac-a-mole and you can't whack enough moles...lawyers...you know? [LR23]

SENATOR LAUTENBAUGH: I can't do better than that. [LR23]

SENATOR PRICE: Are there any further questions, comments, or queries? Seeing none, thank you for your testimony today, sir. [LR23]

ALAN PETERSON: Thank you very much, Senator. [LR23]

SENATOR PRICE: Would anybody else like to testify in a neutral capacity? We do have two other people. Seeing none, Senator Avery, would you like to close? Senator Avery waived closing. That closed the hearing on LR23 and I do believe the hearings for today. Thank you for participating in your government. [LR23]