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Election Technology Committee  
December 12, 2016

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[LR403]

The Committee on Election Technology met at 1:30 p.m. on Monday, December 12, 2016, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing. Senators present: John Murante, Chairperson; Adam Morfeld, Vice Chairperson; Matt Hansen; and Dan Hughes. Senators absent: Robert Hilkemann; Brett Lindstrom; and John Stinner.

SENATOR MURANTE: All right, everyone, as senators continue to make their way, I'd like to welcome everyone to the Election Technology Special Committee. I would like to begin by thanking Senator Hansen for the introduction of LR403 which initiated this discussion. This committee has met several times over the course of this year to discuss the challenge that we all know that the election equipment in the state of Nebraska which was purchased about a decade ago with Help America Vote Act funds are aging out, becoming obsolete, and we are currently discussing how best to replace them and what changes to the election systems need to occur to best serve the state of Nebraska. Since we last met, I think the state of our nation has fundamentally changed since the primary election when we first met. Since that time, unfortunately, there have been a number of polls out. I think recently by The New York Times stated that 87 percent of Americans believe that their ballots will not be counted properly; that fully 50 percent of the country state that they believe systemically that their votes will not count. And that I think is due in large measure to a distrust that people have of institutions on the national level. I think something that speaks very well of the election administrators we have here in this state is that while there may be mistrust among the political parties and the citizens at large of the nation, our local administrators are held in very high esteem. We have been out both on the Government, Military and Veterans Affairs Committee and this special committee communicating with voters about how the elections in this state operate and I've heard nothing but positive remarks about our local election officials, many of which are here today, and our Secretary of State's Office. But one thing we must be cognizant of as we begin discussing reform of our election system is the fact that faith in election systems on a national level is at an all-time low and whatever reforms we come up with need to be very mindful of the fact that simply the rumor of Russian interference in a Wisconsin election result precipitated 130,000 people contributing \$7 million to a recount effort which yielded a net 25 votes for Hillary

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Transcriber's Office  
Rough Draft

Election Technology Committee  
December 12, 2016

---

Clinton--\$7 million for 25 votes, people who were willing to put their money where their mouth was to demonstrate lack of faith in the election, in the electoral process. That to me is a staggering number and whatever we can do to help build faith and build confidence in our election system, I believe that is what this committee is here to do and that is what the Legislature will pursue in the future. So with that, we have a long list of testifiers but I'll begin by introducing our committee members. To our far left, he won't be with us today, but Senator John Stinner is traveling but has asked me to pass along all of the information that we gather today; Senator Matt Hansen from Lincoln, Nebraska; Senator Dan Hughes who represents a large portion of southwest Nebraska. My name, again, is John Murante. I'm the Chairman of this committee. I'm the state senator for District 49 which includes Gretna and northwest Sarpy County. Andrew LaGrone is our committee's legal counsel. And Senator Adam Morfeld from Lincoln, Nebraska, is the Vice Chairman of this committee. Senator Brett Lindstrom we expect to be here today, although he did inform us that he would be late. And Senator Robert Hilkemann from Omaha will not be with us today. He is also traveling. I don't know if they're together or not, but they're with us in spirit. So with that said, I would like...we are really honored to have the National Conference of State Legislatures' Wendy Underhill, who runs the elections and redistricting standing committee for NCSL, is here to talk a little bit about...we know that we are not alone in Nebraska and in discussing these, the election system changes, and we're really fortunate to have your expertise. Thank you for coming today. Welcome. [LR403]

WENDY UNDERHILL: Well, thank you, and it's a pleasure to be here with you, Mr. Chairman, and all the members of the committee. I did prepare, as it turns out, ten minutes of testimony. I've shortened it to five. If you'd like the short version, I'll do that. [LR403]

SENATOR MURANTE: Okay. Thank you. [LR403]

WENDY UNDERHILL: (Exhibits 1 and 2) Okay. As you said, I'm Wendy Underhill from the National Conference of State Legislatures, and that is the nation's bipartisan organization that supports the work of both legislators and legislative staff. And if at the end of this hearing there is more information we can provide for you, I hope you'll make that ask, and that would go for all the members of the committee as well. I'll offer three key points today that legislators may consider as they think about replacing election technology, and then I'll follow up with

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Transcriber's Office  
Rough Draft

Election Technology Committee  
December 12, 2016

---

descriptions of a few case studies from some other states. The first of my key points today is that election technology choices follow a state's decision about how it wants to conduct its elections. So, for instance, if a state wants to see more and more mail voting, then paper ballots and central scanners would probably be a good choice for technology. On the other hand, if a state is interested in using vote centers or sticking with precinct-based voting, then different choices might be the appropriate ones. And since decisions on a state's voting model can change over time, it's really great if there can be flexibility, and the vendor market is starting to show some flexibility so that the same equipment might be able to be used in more than one model. Another way to say that is that states and jurisdictions no longer just have the choice between sort of paper and plastic, or DREs and paper ballots. So in a hybrid system, and that's my word, not necessarily a word that vendors are using, it might start with a tablet on which the voter can cast the ballot and then a paper ballot is produced from that image. And some people have called these ballot-marking devices or high-tech pencils, so they're still producing a paper ballot. And then when that ballot is printed, the voter can review it and verify that those are the choices that he or she wanted to make and then they run it through a scanner, as I think you're familiar with most of your ballots here in Nebraska being read by a scanner. People who are voting at home don't have that tablet to work with. They still use a pen or pencil and the same scanners can read those ballots as well. These paper-based systems work for those who believe that security relies on a voter-marked paper ballot and that touchscreen capability that I mentioned at the front provides accessibility for people with disabilities to be able to vote privately and independently, which is required by federal law. So my second point is that security should be built into a voting system, along with many of the other desirable traits one might expect from a system, and those would be accuracy, reliability, longevity of the system, ease of use for both the voters and for the election officials, and cost over the lifetime of the purchase that you make. Security is not, of course, a "yes, we have it, no, we don't." No one would buy a system that didn't have some kind of security built in. So it really is the result of many choices, including physical security and procedural security that you might be able to provide. Security experts often say that using a system that links the voting system to the Internet is inadvisable and federal voluntary voting system guidelines set out by the U.S. Election Assistance Commission basically say the same thing. So I would think that if you're thinking about a new system, you would have one that was not connected to the Internet. There are several things that legislators could do to address security and one is to look at the certification that's required by state law. Do your statutes

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

Election Technology Committee  
December 12, 2016

---

require that equipment meet those federal voluntary guidelines? Some states prefer not to have those and that's fine. They can have their own certification process and many states do provide a temporary certification for equipment if there are new products that look like they'll meet your needs that haven't yet made it through the EAC certification. And legislation could also require postelection audits which are tests after the fact, after the election has taken place, of a sample of ballots either from a number of precincts or a number of machines. And they test these to see if, in fact, the right result was achieved. Some states are moving to a risk-limiting audit, which is a fancier version of a postelection audit, and in that case statistics are used to determine how large a sample of paper ballots need to be looked at. The closer the race, the more ballots would be examined. And then security can be addressed in the procurement process as well. First, of course, ask the vendors what they do for security, what are their security protocols, and then write an RFP with security very much in mind. And the U.S. Election Assistance Commission does have a repository where other people's RFPs are available for you all to look at to learn from. And then my third point is that each state is grappling with how to pay for its next generation of election technology. It seems as though election experts are in agreement on one thing, and that is that the federal government won't be providing extra money. Now with a new President and with the attention given to election security this year, maybe that's no longer true but that's certainly what people have been saying for years. And two-thirds of the state's local jurisdictions have traditionally paid for election technology and in the other one-third of the states that states have paid for most or all of running of elections. So here's a few examples of states that have taken action recently. Kansas is an example of a traditional county-based structure and they don't show interest at the state level at this point in replacing the technology at the state level. So their largest four counties have joined into a shared agreement to create an RFP that they would each then be able to use to make their own purchases but each county would still have to come up with their own funding, whether it's through a general fund, a capital budget, or through a bond. Colorado has traditionally left election technology up to the counties as well, and that meant that in the past four different vendors with four different kinds of equipment were in use in the state at any given time. So if a voter should move within the state, they would be experiencing something new. But in 2013 the secretary of state convened a task force to create a new plan and an RFP went out and several vendors put their proposals in and four of those vendors had their equipment tested each in two counties, a larger county and a smaller county. Secretary of state chose one of these. There is still no money from the state

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Transcriber's Office  
Rough Draft

Election Technology Committee  
December 12, 2016

---

coming forward for this but the secretary has figured out a few ways to encourage the counties to go to the system that the secretary would like to see adopted. And then in Maryland in 2015 the counties and the state chose new equipment and then they split the cost 50/50. And they did choose to lease the equipment rather than to purchase it and that was in part because their feeling was that there could be some brand-new kind of technology coming and they didn't want to be locked in for 10 to 15 years with something else. And in New Mexico, the legislature did make a general fund appropriation in two sessions in a row to cover the cost of replacing election equipment throughout the state. Previously there, too, the counties had made their own selections. But when the counties realized that the state wanted to take over that expense, I'm told that the counties were relieved that that was no longer going to be their responsibility. I think that could be checked with some county commissioners as well as legislators. North Dakota is buying equipment now and it is doing it at the state level and if they get an appropriation from the legislature they will replace equipment throughout. And then Rhode Island is the most recent state to make a major new purchase. They purchased equipment in the springtime statewide and it went into operation this year. And with that I'm going to close. I want to offer you a thought that came from Dr. Merle King from the Center for Election Systems. It's in The Canvas that you have in front of you. He said, "Changing a voting system is like changing tires on the bus...without stopping." He then calls for a transition plan to minimize disruptions. Thank you, Mr. Chairman. I'm happy to answer questions. [LR403]

SENATOR MURANTE: Thank you very much for your presentation and thanks for coming down today. Are there questions? Senator Morfeld. [LR403]

SENATOR MORFELD: Is there anywhere that we can go to or someone we can talk to about the best types of systems put in place in terms...and systems in terms of machines, because obviously we talk to vendors, they say great things about their machines and what they create obviously. But where do we go to, to find out where there's been problems with certain vendors in the past? [LR403]

WENDY UNDERHILL: Thank you. Mr. Chairman, may I answer the question over here?  
[LR403]

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

Election Technology Committee  
December 12, 2016

---

SENATOR MURANTE: Of course. Yeah. [LR403]

WENDY UNDERHILL: I understand exactly what you're saying, that a vendor will tell you that their system is working really well. One place to go would be to the Election Center, which is a national organization of election officials, or also to the National Association of State Election Directors. I don't know that they have experts on hand who can necessarily compare it all but you could certainly get the information from people who have used different kinds of equipment. And I have just recently heard that there is such a thing as a consultant on making these purchases. And I think some of you have met Katy Owens Hubler who used to be with NCSL. She was the one who told me this recently and I could track back and find the name of the person that she suggested. I don't know if that would be helpful. [LR403]

SENATOR MORFELD: Excellent. Thank you. [LR403]

WENDY UNDERHILL: Um-hum. [LR403]

SENATOR MURANTE: If I may put in a plug for your own organization, I have had a lot of very good conversations with other legislators around the country at NCSL's elections and redistricting standing committee talking about the problems that they have had. So I hope we can all go to as many NCSL elections and redistricting committee events as possible. [LR403]

SENATOR MORFELD: Probably send an e-mail out over the LISTSERV, so. [LR403]

SENATOR MURANTE: Yeah, (laugh) probably. [LR403]

SENATOR MORFELD: Thank you. Thank you for coming today. [LR403]

SENATOR MURANTE: Any additional questions? Thank you very much for coming down today; much appreciate it. [LR403]

WENDY UNDERHILL: Thank you. [LR403]

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

Election Technology Committee  
December 12, 2016

---

SENATOR MURANTE: I know most of the people in the room have...are familiar with testifying before the Legislature. For those who are not, when you come up to testify, we ask that you fill out one of these green sheets. They're located on either side of the room. I see a lot of them already floating around. And we ask that you begin your testimony by stating and spelling your name for the record. The order we are going to proceed today is we are going to group the vendors who have come in from across the country first followed by the various advocacy groups second and the election commissioners and election administrators and clerks who are here, and the Secretary of State's Office last. So the next up, and I'm sorry I'm not going to know a couple of these people by face, but ES&S's Todd Urosevich. Is he in the room? He is. So on deck we're going to have--if I'm pronouncing this incorrectly, I apologize--Scytl Corporation's Jonathan Brill, followed by Hart InterCivic's Justin Morris. Welcome. Good to see you again. [LR403]

TODD UROSEVICH: (Exhibit 3) Thank you. And thank you for the invitation. Thank you all. My name is Todd Urosevich, T-o-d-d U-r-o-s-e-v-i-c-h. I'm a representative of Election Systems and Software. We're based out of Omaha, Nebraska. We're a national vendor. This past election, approximately 55 percent of the voters across the country voted on some type of ES&S voting device. ES&S manufactures a wide variety of different products that help facilitate the expeditious count of votes on election day. We sell hand-fed, precinct-based optical scanners; we sell high-speed optical scanners; we sell direct-recording equipment, both paging, what they refer to as paging, and full-face systems. Our history with the state of Nebraska goes back to 1976 where we introduced high-speed readers in Douglas County. Shortly thereafter, Sarpy County followed, along with, in 1982, Lancaster and Merrick, Dodge, and Lincoln County, followed by many other counties in the state adopting high-speed readers to a point in the 2000 election about 75 percent of the votes were counted by ES&S high-speed readers. Through the HAVA period, decentralized tabulation was introduced with the hand-fed precinct counters. And at that time as well the AutoMARK, which is a device allowed...a ballot-marking device that was referred to by the previous speaker. It allows for people with severe or any type of disability to vote unassisted in private. Today we offer the equivalent of those products, upgrade products on the EAC-certified level. And some of that has been already placed in the state. Our high-speed readers, the 850, are used in Douglas, Hall and Lancaster, Gage, and Lincoln Counties. The precinct counters have been upgraded from analog to digital and those are available today. We have also introduced a replacement for the AutoMARK product that we call the ExpressVote and

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

Election Technology Committee  
December 12, 2016

---

it's unique in its design. The first speaker referred to as the hybrid and that is exactly what the ExpressVote is. It offers the "any voter," and that's why we refer to it as a universal voting device, the experience of a DRE voting experience, which many positive things come from a DRE voting experience: the prevention of over votes; the reduction of the residual vote, which is a combination of under votes, over votes, and marginal marks that are made on a full-face traditional paper ballot-based system. The ExpressVote eliminates that and produces, as the speaker provided, a paper record voted that comes out of the unit itself that's capable of being tabulated by the unit itself or an auxiliary product, either a high-speed or a hand-fed central unit. The reason that we have gone down that path is primarily three reasons. It can be deployed in three different configurations, if you will. First, it could be a replacement, simply a one-on-one replacement for the devices in the field today that allow people with disabilities to vote unassisted. It could be then further expanded into an early voting center where all voters would use the ExpressVote to vote on, again the benefit being the reduction of the residual vote but at the same time elimination of the preprinted ballot. And if you delve into the budgets of the administrators that are in the room, I'm sure they'll tell you that that is a large share of their budget is the preparation of the ballots, not only preparation but then those ballots that go unused. So this is a methodology or a product that takes advantage of technology. It starts out by providing the election administrator with a blank sheet of paper that's usable from one election to the next. It then puts in...this is...I brought my little prop here. This is really the substitution for a printing press or any type of ballot-on-demand system. Ballot on demand came into existence in the late 1990s, great technology, but again involved cost, human resources to run. This product can simply stamp a ballot format. And Nebraska is very notorious for a large number of ballot formats that are used in the state of Nebraska, probably the top five complex systems in the country right here in the great state of Nebraska. So it's a product that we feel has significant advantages from that standpoint and can then further be deployed out into the neighborhood poll sites if so desired. So it's a very flexible product in that it can really eliminate the requirement of the full-face ballot or coexist with it if it's just used in an early voting environment. Maryland was mentioned as a state that just adopted the technology and that was our technology, by the way, as was Rhode Island. And they have used this product on a go-forward basis to fully allow everybody that votes early in Maryland to vote on that product. I see my time is up, so that was very quick and brief, but any questions I'd be happy to answer if I could. [LR403]



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

Election Technology Committee  
December 12, 2016

---

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions?  
Senator Hansen. [LR403]

SENATOR HANSEN: Thank you, Chairman Murante. You mentioned Nebraska had a...well, first off, thank you for coming down and testifying. But you mentioned that Nebraska has a complex ballot face and can you explain what we do differently that has led us to that. [LR403]

TODD UROSEVICH: Well, I think probably the people behind me might be able to explain that better than I. [LR403]

SENATOR HANSEN: Sure. [LR403]

TODD UROSEVICH: But I can tell you the reality of it is that, and I would...you know, I was probably being very generous saying top five. It could be the top two or three more complex electoral structures. In other words, on a county basis there's more ballot formats presented to Nebraska voters...or that's not true...that the election officials have to provide because each of us get our own ballot format. When we travel the country and speak of Douglas County and talk in terms of 2,000 to 3,000 ballot formats, people are almost in disbelief. They don't believe that that's actually possible. So in...I've often said if you're a good election administrator and you go to heaven, you'll be election administrator in the state of Colorado. It has a minimum number of ballot styles, some of the fewest in the country. So it goes on a scale across the country, but Nebraska is certainly at the very, very peak of that scale. [LR403]

SENATOR HANSEN: All right. Well, thank you. [LR403]

SENATOR MURANTE: Thank you. Thank you, Senator Hansen. Questions? Seeing none, thank you very much for coming down today, much appreciate it. [LR403]

TODD UROSEVICH: You bet. [LR403]

SENATOR MURANTE: I'll move next up. Welcome. [LR403]

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

Election Technology Committee  
December 12, 2016

---

JONATHAN BRILL: Thank you. Thank you, Senator. My name is Jonathan Brill. I represent a company called Scytl, S-c-y-t-l. Thank you very much, Senator, for the invitation to speak today. I appreciate you and the committee holding this meeting but also appreciate that you're hearing from vendors. All too often, there are committees similar to this around the country who have held similar meetings with similar interests but not necessarily recognizing the significant amount of experience that our collective companies represent. While we certainly recognize that we have a profit motive, still the experience level certainly lends itself to being able to speak intelligently about the subject. So the central question that's asked by the legislation that Senator Hansen authored was, where is election technology going? And I honestly believe if you put 100 election technology experts in a room you're probably going to get 100 different answers of what is happening. I can best talk to you today about where Scytl is going. Scytl is not your traditional big-box voting vendor. Scytl is a company that is a leader in election modernization and on-line voting. We are a spin-off of Ph.D.-level research in cryptography and all of our products for election modernization, not just voting, are rooted in security and cryptography. While I'd certainly like to be here today to talk to Nebraska about being the first state to move to on-line voting, like 21 other countries do, I'm sure that that's not really realistic. But what I can talk to you about today is two opportunities that I think Nebraska can consider for modernization. The first is electronic ballot delivery for your UOCAVA voters, your uniformed civilian (sic--citizens) overseas absentee voters. Currently, law in Nebraska is that the state and the local jurisdictions provide a ballot by fax or e-mail to the voter. They then manually mark the ballot and then they're able to return it by that same method of fax or e-mail. Unfortunately this is a system that does not have much security built into it and I couldn't agree more with my friend Wendy from NCSL that security in any system is vital. An electronic ballot delivery system is one in which a voter would connect directly into a voting portal, be able to download their respective ballot, potentially even mark it on screen and return the ballot electronically, potentially, as well. There is a much greater level of security in a system such as this for a variety of reasons but most directly you're connecting directly to the state and not relying on an e-mail system. Other states are already doing this from Alaska to Kentucky to New York. And some states, like Alaska, even allow you to do the...allow all of their voters to do the entire process on-line, not just their military and overseas voters. Second area of opportunity for Nebraska to consider modernization is with kiosk voting. Kiosk voting is similar to on-line voting but in an off-line setting. It uses similar security protocols and cryptography as on-line voting, but, again, off-line. This is a

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

Election Technology Committee  
December 12, 2016

---

system that, too, can produce a paper receipt for the voter to see exactly how they voted. This is a system that would use COTS hardware--commercial off-the-shelf hardware--which potentially can be less expensive to both source and to maintain. Other parts of the world utilize kiosk voting and there was even a pilot program here in the United States that we conducted with the Department of Defense for kiosk voting. Kiosks were set up for voters in Okaloosa County in Florida, which is the home to several military bases. These kiosks were set up in...on military bases in Germany, in the U.K., and Japan, all bases where many members were serving at the time. They were able to go in to one central location and vote much like they would in a precinct. But modernizing elections is not just about voting systems. That's something that I think that you should remember. There's other things to consider, like on-line poll worker training; how your poll workers are trained. So no matter what system you may move to as the result of the work of this committee, training poll workers is going to be vitally important. An on-line poll worker training system is something that ensures that all poll workers are trained in a consistent manner. It's something that is built specifically for adult learners so that in the end all of your poll workers from across the state are trained in a consistent fashion. There are several large jurisdictions that currently do that from L.A. County, Dallas County elections, city of Chicago, as well as statewide organizations that do this, like Mississippi and Connecticut. In fact, just in this past election we trained over 38,000 poll workers in an on-line way. I knew we've had just a few minutes today and I appreciate the opportunity to speak and present. Be happy to answer questions. The one thing that I would like to remind you is whatever direction this committee goes and recommends, that election modernization is not just about a big-box voting system but a lot of other components as well. Thank you. [LR403]

SENATOR MURANTE: Thank you very much for coming down today. Are there any questions?  
Senator Morfeld. [LR403]

SENATOR MORFELD: Thank you, Chairman. How many states have on-line poll worker training that you're aware of? [LR403]

JONATHAN BRILL: There are...on-line poll worker training is done in probably 23 or 24 states and on a statewide basis there are the two that I mentioned and there's probably a couple more as well. [LR403]

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

Election Technology Committee  
December 12, 2016

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SENATOR MORFELD: Thank you. [LR403]

JONATHAN BRILL: Um-hum. [LR403]

SENATOR MURANTE: Thank you. Senator Hansen. [LR403]

SENATOR HANSEN: Thank you, Chairman Murante. Thank you for coming down and testifying. So you mentioned then in Alaska that any voter can do an all-electronic voting from home? [LR403]

JONATHAN BRILL: Yes. [LR403]

SENATOR HANSEN: So is that their method of absentee voting or if you just would kind of (inaudible). [LR403]

JONATHAN BRILL: Yes. It's not their only method but it is a choice that they have. [LR403]

SENATOR HANSEN: Okay. So do they still do...so they...I'm just curious. So they have the option of on-line and vote by mail and vote in person or...? [LR403]

JONATHAN BRILL: Yes. Yes, I believe so. I believe so. The MOVE Act in 2012 is what required states to deliver a ballot electronically. [LR403]

SENATOR HANSEN: Sure. [LR403]

JONATHAN BRILL: And Alaska started with just their uniformed civilian (sic--citizen) and overseas absentee voters and then in 2014 they opened up the system to all of their voters. [LR403]

SENATOR HANSEN: Okay. Thank you. [LR403]

JONATHAN BRILL: Um-hum. [LR403]

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

Election Technology Committee  
December 12, 2016

---

SENATOR MURANTE: Thank you, Senator Hansen. Seeing no additional questions, thank you very much for coming down today. [LR403]

JONATHAN BRILL: Thank you, Senator. Appreciate it. [LR403]

SENATOR MURANTE: Much appreciated. And next up is Justin Morris from Hart Interactive (sic--InterCivic). Is Justin here? Going once. All right, next up: Dominion Voting Systems. Do we have a representative from Dominion? Wonderful. [LR403]

JOHN DENTON: Good afternoon. My name is John Denton. It's J-o-h-n D-e-n-t-o-n. And I'm with Dominion Voting. [LR403]

SENATOR MURANTE: Thank you very much for coming. [LR403]

JOHN DENTON: Thank you, gentlemen, Mr. Chairman, for allowing me to speak to you guys today. It's something about Dominion, it's a little quick high level, is Dominion has been around since 2003 and then in 2010 we actually bought two other companies: Premier and Sequoia. So we've actually got a breadth of different election systems that we've actually acquired. One of the things that Dominion has done is listen to the customers, listen to our counties, and modify our systems to meet individual needs. In doing that we actually did win in the state of Colorado with a unique hybrid system that they had. It was using Samsung Galaxy tablets for the touchscreen for the ballot-marking devices and off-the-shelf, COTS-based scanners. It was something that Colorado came to us and asked us to help kind of define and we were able to leverage off-the-shelf products to meet their needs at a cost-effective method. So that was one of our biggest wins and, like I said, it's from changing the technology to meet the needs of the end users and not us developing systems that, you know, force things in. With that we also have about 33 states that we support with over 1,200 jurisdictions. We are the statewide provider for Colorado, New Mexico, Alaska, Utah, half of California, and 95 percent of New York and New Jersey. Our products, like I mentioned before, are off the shelf primarily. So we use tablets that were used in commercial and medical industries so we didn't have to design a proprietary system so that the life cycle of that is something that we don't have to like control as much because we can easily take a new tablet and modify that to meet the next specs of, say, things like EAC, which these are

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

Election Technology Committee  
December 12, 2016

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EAC certified. The same goes for our scanners. They're not proprietary big scanners that cost a house that you can actually have multiple smaller scanners that are, you know, serviced by Canon versus serviced by a voting provider or an election provider like ourselves. What else can I say? One of the things also is the flexibility of these systems. So the system that Colorado went with, with this tablet, it does mark ballots. Today they hook up just a generic printer, an HP and a Canon printer to it, and they print the ballot on demand and then scan it at the precinct. Or they can actually take it to the central count and scan it there. Well, if Colorado chooses to later do away with paper and make those devices DRE, all we have to do is reprogram the next election and that ballot-marking device becomes a DRE. So there's investment protection in that device as well. We did convert back to what they call digital scanners when we do our ballot scanning versus optical scanners. So now we actually have a full image of the ballot itself. And we implemented a transparency feature called AuditMark. So when we scan that ballot, we will actually pin at the bottom of the ballot the time stamp and the date stamp and how the ballot was interpreted by the scanners. So you could actually see in layman's terms that this voter actually voted for, you know, John Doe for presidential election. If that ballot ever needed to be adjudicated, which means that maybe somebody needs to verify that maybe there was an over mark, ambiguous mark, or an under voter write-in, that is then see on the screen. And if the ballot board makes that change, that will append to that AuditMark, so you will see the history of how that ballot may have changed during the cycle. That's probably not five minutes, but that's about all I have. [LR403]

SENATOR MURANTE: All right. Great testimony. Are there any questions? Seeing none, thank you very much for coming down today. [LR403]

JOHN DENTON: Thank you. [LR403]

SENATOR MURANTE: That concludes what we have on the vendor side of this public hearing. Are there any other vendors who are here? Seeing none, thank you all for coming down today. We hope that we can continue to use you as a resource as we move out of this phase and deliver a report and then in the 2017 year begin making decisions on how Nebraska is going to move forward on this subject matter. So we hope we can continue to use you as a resource. It's been a learning experience so far, so thank you very much for being here today. So next on the list, I

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Election Technology Committee  
December 12, 2016

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don't see her: Amy Miller from ACLU. Is Amy here today? I don't see Amy. All right, Bri McLarty. I know I see Bri. Welcome. [LR403]

BRI McLARTY HUPPERT: (Exhibit 4) Thank you. Thank you for having me. Well, good afternoon, members of the Election Technology Committee. My name is Bri McLarty Huppert, spelled B-r-i M-c-L-a-r-t-y H-u-p-p-e-r-t, and I'm the director of voting rights with Nebraskans for Civic Reform. We're a nonpartisan, nonprofit advocacy organization that works to modernize our election systems and remove barriers to participation in our democracy. So thank you for the invitation to testify today before the committee. Last session we actually worked with Senator Hansen's office on the issue and testified in support of LR403, believing that a conversation about our current election technology equipment really needed to happen sooner rather than later, so we're very happy that the hearing is being held today. Earlier this morning, I actually e-mailed you an electronic copy of the report that's being passed out to you right now. And in drafting this report we really just wanted to provide a little bit of background on HAVA funds here in Nebraska, a little bit of what we've seen in other states. I know the NCSL did a great job of kind of recapping what we've seen. We just narrowed it to kind of looking at those that kept with a state kind of sponsored approach. And then finally a majority of the report is actually recommendations from NCR kind of looking at what we've seen and some of the history and talking with some county election officials. So just kind of a brief overview of the impact that HAVA had, prior to receiving the funds in the early 2000s, a lot the cost for elections were actually borne by the counties. By getting the HAVA dollars we really saw a centralized approach to election technology and equipment with the Secretary of State negotiating a statewide contract with ES&S to cover everything from the purchase of the AutoMARK machine which allows for individuals with a disability to vote privately and independently, as well as vote tabulators, ballot formatting, and some of the maintenance and continued maintenance for these machines. So that's kind of what we saw in moving forward with the purchase of all this equipment. Since HAVA, the counties really have relied on the state providing these...not only the equipment, but also the continued maintenance. In the past budget request the Secretary of State has requested dollars, especially when HAVA funds were depleted, to continued maintenance, and that request is again in the 2019 election budget requests...I'm sorry, the 2017 ones. While some counties, like Hall and Douglas, have been able to purchase new vote tabulators, these machines cost...as you can see on the back of the report, there's an APPENDIX

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Rough Draft

Election Technology Committee  
December 12, 2016

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A that has some of the estimated costs that we've seen in pricing from other states that have looked into replacing within the last couple years. So you can see those vote tabulators, which I believe is the 850, is considerable. It's about \$100,000, slightly more. And I'm pretty sure that that's what Hall and Douglas County also saw when they purchased their new vote tabulators. For some of these counties, those type of calculations, the \$5,500 or so for the AutoMARK, the \$100,000 for the 850, this is a considerable amount of their county budget. In 2012, the counties reported election costs of about \$5 million. Based on our calculations, to keep the current number of technology and pieces that we have right now, we're looking at about \$17 million. So putting this onto the counties would kind of put a huge burden on individual counties and we might end up seeing some accessibility issues where some counties may be better equipped to weather that kind of financial burden while others wouldn't be able to operate as quickly. Then we'd see Nebraskans across the state having different access to the technology that they need for their elections. So to talk kind of briefly about the recommendations that we have, we have five. And if you don't like reading, they're all listed on the front page towards the bottom. And so kind of going through them real quickly, the first recommendation would be to grant the Secretary of State the affirmative power to purchase equipment. The power he had given under the HAVA dollars was kind of tied to those federal funds. So kind of stating very clearly here in the state of Nebraska that the Secretary of State is responsible for purchasing the equipment and maintaining them, which is also recommendation 2, we feel is necessary to really give the counties that kind of relief that they're not going to get saddled with the bill later on, that this will be an investment that the state makes in our election equipment. The third recommendation is actually to stagger the purchase, so looking at starting to replace as early as 2019 with three kind of consecutive budget cycles of making additional requests so that, one, the wear and tear is spread across six to ten years, so we're not looking at a time where we're trying to replace them all at once again, but then also spreading out some of the cost, being...knowing that we have a \$990 million deficit, we want to try and lessen that impact as much as possible. The last two recommendations are from NCR about how to structure this funding mechanism. The first is to take the current Election Administration Fund and actually amend it to include language like modernization of election equipment or modernization of elections to expand its breadth, and then use this fund as actually the housing mechanism for the funds going forward for continued maintenance as well as for the initial purchase. So we actually go through and say, looking at taking the current budget request from the Secretary of State for current vendor contracts and maintenance, moving that actually



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Election Technology Committee  
December 12, 2016

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into the fund instead of the Secretary of State's general Program 45 fund, as well as making an initial \$1 million request this year with three \$5 million subsequent requests over the course of the next three budget cycles. With that, that would also give the Secretary of State flexibility if we were to change our election structure from what we have currently, which is a precinct-based model, all the way to an all-mail election. And with that, I'm out of time unless there's any questions. [LR403]

SENATOR MURANTE: All right. Thank you very much for your testimony. I have a question for you regarding recommendation number 3, the... [LR403]

BRI McLARTY HUPPERT: Sure. [LR403]

SENATOR MURANTE: ...staggering the purchase of replacement equipment. So this committee has polled the election administrators across the state of Nebraska and there are a couple common threads, irrespective of where in the state the counties may... [LR403]

BRI McLARTY HUPPERT: (Inaudible). [LR403]

SENATOR MURANTE: ...exist or how much money is in that county's budget, that very few counties have budgeted for our election situation, they don't see a capacity for themselves to replace the equipment that they have, and that they don't think that they equipment that they have is going to last much longer. There is some disagreement as to how long exactly. [LR403]

BRI McLARTY HUPPERT: Yeah. [LR403]

SENATOR MURANTE: My concern with staggering, and I think the year that you had suggested was starting the stagger in 2019, is if we start in 2019 and then stagger going forward, whoever is last is going to have obsolete equipment and in the worst-case scenario is going to be hand counting all of their ballots. I mean that would be the sort of doomsday scenario if we do nothing. So how do we ensure that there are counties in the state that don't...that we don't stagger it out so far that the old... [LR403]

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Election Technology Committee  
December 12, 2016

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BRI McLARTY HUPPERT: Yep. [LR403]

SENATOR MURANTE: ...the equipment becomes obsolete and functionally useless to them?  
[LR403]

BRI McLARTY HUPPERT: Yeah. I would say in our recommendations we are being very conservative knowing what the budget crisis was. Honestly, I think it should happen sooner. But knowing kind of what we're looking at realistically and that we really can't take too much from the rainy-day fund and balancing the other things we're seeing with DHHS and Department of Corrections, we were trying to be respectful of the fact that there is this crunch. Honestly, if it were to happen this year, I think that's probably preferred. But 2019 was us trying to not scare everyone on the committee and the Secretary of State's Office. [LR403]

SENATOR MURANTE: (Laugh) All right. And then of course whatever would happen with the question of staggering, the question is going to be asked by legislators. [LR403]

BRI McLARTY HUPPERT: Yeah. [LR403]

SENATOR MURANTE: Who goes first and who goes last? [LR403]

BRI McLARTY HUPPERT: Yeah. [LR403]

SENATOR MURANTE: And does your organization have a recommendation for how we would determine that or is that just up to us to figure out? [LR403]

BRI McLARTY HUPPERT: I'm going to punt it to you. (Laughter) I would say looking and taking a real assessment of what the counties are dealing with. I mean we're talking about AutoMARK machines and tabulators in kind of two different sections. Looking at replacing the vote tabulators in some of those counties that are doing all-mail elections already, they're dealing with the higher capacity that they have to deal with and replacing vote tabulators there, if you were to look at who has a higher ballot number to process, that might be one. Looking at some of the counties that have really...need that kind of availability and looking to move to maybe some

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Rough Draft

Election Technology Committee  
December 12, 2016

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of the ones that can process folded ballots to decrease some of those that have the all-mail precincts that they can decrease some of their postage cost. So I mean looking at some of those cost-benefit analyses, but I would say trying to spread it across so that each county gets a little bit of relief every year might be the best course. [LR403]

SENATOR MURANTE: Okay. So moving from east to west, you wouldn't recommend that as a strategy? [LR403]

BRI McLARTY HUPPERT: No. No. I love my western counties. [LR403]

SENATOR MURANTE: Yeah. (Laugh) Senator Hughes agrees. All right. Any additional questions? Seeing none, thank you for coming down today. All right. So next up we have Disability Rights Nebraska, Brad Meurrens. That's going to be followed by Bennie Shobe from NAACP-Lincoln and Vickie Young, NAACP-Omaha. Welcome back. [LR403]

BRAD MEURRENS: (Exhibit 5) Thank you. It's nice to be in front of you. Good morning...or good afternoon, excuse me, Senator Murante, not Senator Krist as it is in my written testimony-- that's what happens when you let me just roam on the Internet. [LR403]

SENATOR MURANTE: Thank you for your testimony today (laughter). [LR403]

BRAD MEURRENS: For the record, my name is Brad, B-r-a-d, Meurrens, M-e-u-r-r-e-n-s, and I am the public policy director with Disability Rights Nebraska, the designated protection and advocacy organization for Nebraskans with Disabilities. Under the auspices of the federal Protection and Advocacy for Voting Access, we work to educate about the voting rights of people with disabilities and the voting process, as well as ensure that Nebraskans with disabilities have easy access to exercise their right to vote. Given that people with disabilities comprise a significant proportion of actual or potential voters, now is the time to examine this technology Nebraska uses for its elections. The voting machines are indeed aging and some of the processes employed to allow people with disabilities to vote via the AutoMARK machines, for example, need to be reviewed. One of the key instruments to facilitate voting among people with disabilities is the infusion of technology in the voting process. Without the use of

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Election Technology Committee  
December 12, 2016

---

technology, such as the AutoMARK voting machines, many people with disabilities would lose out on the ability to exercise their right to vote--people who, by the nature of their disability, would either have difficulty or not be able to physically fill out a traditional paper ballot. I spoke with a colleague who has extensive experience monitoring polling places for accessibility issues, both as an advocate and a former long-time poll worker, to get an on-the-ground assessment, witness perspective regarding how the current technology and systems work for voters with disabilities. While these are admittedly anecdotal revelations, I am confident that they are accurate and will help the committee, as well as the election commissioners, understand where improvements can and should be made, both with the technology and the process. This is not an exhaustive list, but rather illustrates some starting points for this committee's review. First, the voting machines take a while to turn on and make ready for voters. My understanding is that they are turned on by an actual key and sometimes poll workers do not turn the key all the way to turn the machine on, which in turn casts doubt on whether the machine is working or not. Even when the voting machines are correctly turned on, it takes several minutes for the machines to warm up and be ready. Second, the machines are slow in processing the ballot, or showing the candidates one by one. Unscientific estimates indicate that the length of time voting via AutoMARK is several times longer than filling out a traditional paper ballot, which in turn depresses interest in using the machines. Third, the voting machines are very heavy and cumbersome, which presents difficulties with poll workers moving and placing the machines, even to the extent that some question their necessity given the amount of effort it takes to physically to set them up. Again, anecdotally, poll worker training is an issue. This may vary from polling place to polling place, but sometimes poll workers are unclear as to how to turn the machines on, operate them, or troubleshoot when issues arise. They may be unfamiliar with, or hesitant to adopt, new technology. My sources tell me that poll worker training in general is not uniform across the state, and the amount of time devoted to training poll workers on how to use the machines successfully is woefully inadequate in some precincts. To move toward improving the voting experience of people with disabilities, our suggestion would be to include persons with disabilities in all aspects of improvements or upgrades pertaining to voting technology. Perhaps a solution would be establishing and utilizing a review committee comprised of people with a variety of disabilities to test out and provide input on the types of machines, software, etcetera, before Nebraska purchases or leases any new or upgrades or makes any upgrades to existing voting equipment. And I would also say that it may...it would also be better to include those

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Rough Draft

Election Technology Committee  
December 12, 2016

---

people with disabilities from the get-go and not just necessarily have them as a standalone review committee but actually involve and include them from the ground up. Additionally, Nebraska should reexamine the training provided to poll workers regarding not only the existing or new voting technology, but also the importance of providing an electronic option for people with disabilities regardless of how many people actually use the voting machines. Regardless of whether Nebraska purchases new equipment or technology, or simply upgrades the existing machines, it would behoove the state to ensure that improvements successfully achieve their ultimate goal: to eliminate barriers for people with disabilities when attempting to exercise their constitutional right to vote. For without the expertise of people with disabilities in the decision-making process from start to finish, Nebraska can never be truly assured that their technological selections will successfully work for voters with all types of disabilities who wish to participate in the electoral process. And with that, I'd be happy to answer any questions. [LR403]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you for coming down today. [LR403]

BRAD MEURRENS: Thank you. [LR403]

SENATOR MURANTE: Appreciate it. So next up was Bennie Shobe from NAACP-Lincoln. Is Bennie here? I don't see him. Vicki Young, NAACP-Omaha. I don't see Vickie either. Sergio Sosa, Heartland Workers Center. Lots of RSVPs--it's like my Christmas party (laughter). All right. [LR403]

SENATOR MORFELD: It's a sad Christmas party (laughter). [LR403]

SENATOR MURANTE: Center for Independent Living, Kathy. That's going to be followed by Wes Majerus, Commission for the Blind and Visually Impaired, and Pearl Van Zandt of the same commission. Welcome. [LR403]

KATHY HOELL: First of all, thank you for inviting me to testify today. My name is Kathy Hoell, K-a-t-h-y H-o-e-l-l, and I'm the executive director of Nebraska's Statewide Independent Living Council and also the cochair for the National Council on Independent Living's voting

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Rough Draft

Election Technology Committee  
December 12, 2016

---

rights committee. We are a nonprofit that was established under the Rehab Act of 1972 as amended in 1992, then again under the Workforce Innovation and Opportunity Act of 2014. And we are responsible to promote the philosophy of independent living for all people with disabilities. The Help America Vote Act of 2002 significantly changed voting for people with disabilities. For the very first time we were allowed to have a private and independent vote, just like any other citizen in our country. Secretary of State John Gale has been extremely proactive in meeting the requirements of HAVA. Since my involvement with the National Council on Independent Living, it has allowed me to be knowledgeable about what is happening regarding disability and voting in the remainder of the country. I feel that Nebraska is probably steps ahead of some of the other states but there's still work to be done. In Nebraska we do have the AutoMARK, which is a ballot-marking system. I describe it as a big Magic Marker. The problem with that is it's big, it's cumbersome, it scares a lot of people that they don't know...that people don't know how to use it. The poll workers don't know how to set it up. They tend to...they do things like put it in the middle of the room with the screen facing the front door, so anybody who walks in can see your ballot, and they don't see this as a problem. But again, some of the major issues that we have in Nebraska are with the poll workers and their asking people with disabilities to take reading tests; they question how knowledgeable they are to vote. I've even been shown the stairs to get in and out of the polling place. Stairs and I don't work well together. And some people with disabilities are probably the most informed voters I've ever met because they very consciously try to learn as much as they can about any candidate because they know when they go to the poll that they're going to be asked about this. But the thing that I think is more important is that we've got to maintain state control of the voting process because what has happened is when the individual counties can control the voting, they might let people with disabilities vote and they might not. This is very scary. Secretary Gale has been very proactive and he has been very helpful to us in a lot of the situations that have come up. Anyway, in conclusion, I really want to...that the people with disabilities need to be involved in the process. We need to be, as Brad was saying, from the very beginning to the very end. But whether you're born with a disability or you acquire your disability, you still have a right to vote. It is not something you lose. And I think it's important that we are kept involved in the process. And if anybody has any questions, I'd be more than willing to answer them. [LR403]

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Rough Draft

Election Technology Committee  
December 12, 2016

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SENATOR MURANTE: Wonderful. Thank you very much for your testimony and thank you very much for coming down today. Are there any questions? Seeing none, thank you very much for coming down. [LR403]

KATHY HOELL: Thank you. [LR403]

SENATOR MURANTE: Much appreciate it. So next on the list we have Wes Majerus from the Commission for the Blind and Visually Impaired. Welcome. [LR403]

WES MAJERUS: Welcome. Thank you. Thank you, Mr. Chairman and committee. My name is Wes, W-e-s, Majerus, M-a-j-e-r-u-s, and I'm the technology program manager with the Nebraska Commission for the Blind and Visually Impaired and I'm coming in Dr. Pearl Van Zandt's stead today. Thank you for your looking into this issue. The Help America Vote Act has been very instrumental in helping the blind of Nebraska to be able to vote independently for the first time in the history of the country, and we thank Secretary of State John Gale for his willingness to ensure that that integrity is maintained. As has been said previously, the AutoMARK voter assist terminal is the current system. As a blind person, some of the hallmarks of that system are the synthetic speech which allows the varying of the rate of speech. One of the things that had been mentioned is the time to vote. With being able to vary that, the speed of the speech, some voting systems use prerecorded utterances that a human has recorded and when you go to try to speed those up or slow them down they...it doesn't always work well if the software isn't as robust. The display screen, if you are using audio only on the AutoMARK, can be turned all the way off. The controls are very easy to feel and easy to use. One of the other unique things about the AutoMARK is the verification of the finished ballot. Once the ballot comes out, you can feed it back in. And everything except for write-ins will be able to be navigated by the keypad. This is very important both for the security and for the peace of mind of the blind voter. In looking at new systems we would prefer the ability to use synthetic speech that you can be adjusted from slow to fast because there's various types of people that use the system. As has been said by previous testifiers, we would appreciate the involvement of blind people in the process from the ground level. I test a lot of systems for accessibility and usability and I say that accessibility is easier if it's baked in rather than bolted on because you don't have to go through the process of trying to retrofit. With on-line systems, with any of the systems, they should be Section 508

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Rough Draft

Election Technology Committee  
December 12, 2016

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compliant or better; if an on-line system is decided in Nebraska, Section 508 at the very minimum and Web Content Accessibility Guidelines' Level AA at the maximum would be the ideal situation. There had been some mention of tablets. Tablets do work for blind people as long as the gestures that are used on the touchscreen are either standard or easily figured out. You think about a system like this, you're not going to use it every day. And so it has to be...have good instructions. It has to have things that are easy to use to manipulate it. In new systems it would be very important to be able to verify what is being said, you know, what is being voted for post ballot; that is to say once the vote is cast, being able to see that what you put in is what you actually have both before you cast it and after you cast it. The ability to turn off the display screen for privacy is also an important consideration. Again I want to thank you for allowing me to testify today and I'm happy to answer any questions. [LR403]

SENATOR MURANTE: Thank you for coming down today. Are there any questions? Seeing none, thank you very much for your testimony. It's much appreciated. Next from the Commission for the Blind and Visually Impaired is Pearl Van Zandt. Is Dr. Van Zandt here? That concludes who we have for the advocacy groups. Is there anyone else here from any advocacy groups who wishes to speak on this subject matter? Seeing none, we will proceed to our election administrators. And I knew there would be tension on this subject matter, so I did pick them in random order not to show any preferences. But Douglas County was first on the list, so, Brian Kruse. [LR403]

BRIAN KRUSE: I'm so honored (laughter). Good afternoon. [LR403]

SENATOR MURANTE: Welcome. [LR403]

BRIAN KRUSE: Brian Kruse, B-r-i-a-n K-r-u-s-e. Well, thank you for inviting me to testify this afternoon, Mr. Chair and members of the committee. I'm sure you have or you will be getting some of the information that we had to submit in a written format. You probably all read the World-Herald and so one thing that we are going to have to address in the very near future in Douglas County is our counting machines. You know we have one of the 850s. Bri spoke to that. And then we have eight of the 650s and they are nearing their end of their life cycle. We had one this time that did not want to cooperate with us at all and we had one that sort of wanted to



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Transcriber's Office  
Rough Draft

Election Technology Committee  
December 12, 2016

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cooperate but we were fortunate to have someone from ES&S on site and the individual stayed and operated that machine for us all night long until 5:30 in the morning. So we're very grateful for that. So we will be looking at that in the near future. If...one of the things I think that I would like to maybe point out or bring to our attention is if we're thinking about precinct tabulators in some format, there's probably no question that the results will be reported earlier. But I would caution, you know, if it's going to be on a thumb drive. Say the results were on a thumb drive and the thumb drives have to be brought back to our office and then they have to be uploaded on a computer and then pushed out. You know, we currently have 228 precincts so you'd have a minimum of 228. If you have additional machines or multiple machines at each site potentially, you know, we have to collect those into the office and then upload them and then put the results out there. So I just would be a little wary that if people hear precinct tabulators for faster results, at least in Douglas County, it's still not going to happen by the 10:00 news because currently, you know, it takes us until 10:00 to get all of the paper ballots even into our office. We sort of...we have the sheriff and the Omaha Police. We sort of have organized chaos as everybody is returning. But, you know, it would be the same thing. If they had to return a thumb drive or thumb drives to our office, we've still got to have a process and procedure in place to receive those in before we can even start working on them. So that would be one thing to note. The other thing I think would be to note that if we do buy new equipment, again, in Douglas County, maybe larger counties, if these are types of machines that have to be stored in some kind of a climate-controlled environment, if they have computer devices in them or something, you know, our office--all of you were there--we obviously have no room to store those depending on what you would choose, but essentially no room. You know, I'm not aware of anything at the county right now where they have a big warehouse that's a climate-controlled environment. The Fitzgerald Home, we do have space out there that we store a lot of things in, but ballot boxes and things of that nature don't have to be stored in a climate-controlled environment and it's not; our portion of that building is not. Now they're also redoing that building. Who knows? They may kick us out of there. They may make a scenario for that depending on what happens, you know, just not sure. And you know, the other thing that Bri, I believe, had briefly mentioned was by-mail elections. And I would tell you that there is some support for that in Douglas County from our county commissioners. They...some of them have brought it up to me. I have talked to some of them about it. And so, you know, if we are thinking about going to by-mail elections or all by-mail elections, I think that's something to at least take into consideration when we may be

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Election Technology Committee  
December 12, 2016

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purchasing new equipment because we'd hate to purchase a bunch of equipment and then have it become obsolete right away if we're moving in another direction. So I'd be happy to answer any questions that anybody might have. [LR403]

SENATOR MURANTE: Thank you very much for your testimony. I did have one question for you. You said that... [LR403]

BRIAN KRUSE: Sure. [LR403]

SENATOR MURANTE: ...the election night count in the most recent General Election was concluded at something like 5:30 in the morning. [LR403]

BRIAN KRUSE: Correct. [LR403]

SENATOR MURANTE: What was the average working shift for the people who were in your office? [LR403]

BRIAN KRUSE: Well, I'd tell you, and I would take this opportunity to thank my permanent staff and also our volunteers. Many of the permanent staff in Douglas County worked every day, including Saturday and Sundays, from Labor Day through the Wednesday before Thanksgiving, literally every day. And we were there until many nights 8:00, 9:00, 10:00, 11:00, preparing for the election and working on the election. Election night, the machine operators, they're a combination of volunteers or draftees and so they start at about 4:00 in the afternoon. And our hope was to be done by 2:00 or 3:00 in the morning. And all of those machine operators, with the exception of the ES&S gentleman who did stay with us, all of those volunteers or draftees stayed through the night until 5:30 in the morning. So, you know, I think it does go to speak to the dedicated nature of the voters and the citizens of Nebraska. And you know we just couldn't have done it without them. But to answer your original question: extremely long and tiresome. [LR403]

SENATOR MURANTE: Yes. I wonder how good a public policy it is to have a system where we know we could have shifts running this long, this late into the...early into the morning depending

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Rough Draft

Election Technology Committee  
December 12, 2016

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on your perspective and whether that isn't an issue that we should be considering when we're talking about an election system because I can't speak for anybody else, but working through the night to 5:30 in the morning, I'm not at my best at that point. [LR403]

BRIAN KRUSE: Yeah. [LR403]

SENATOR MURANTE: I can't imagine a lot of your workers were as well so (inaudible). [LR403]

BRIAN KRUSE: That's right. And that's one of the things...you know, voter registration in Douglas County was at an all-time high this time. Now it's the first year of the new voter registration system so, you know, we had a lot of temporary workers and stuff. That's why we were working nights and weekends and that's one of the things that we will probably be very much considering implementing is shift work. So we may have...you know, even for processing voter registrations and stuff, we may have a shift that works until 4:00 in the afternoon and then have another shift that comes in from 4:00 to 10:00 or 4:00 to 11:00, because, as you said, it's...you just get worn down, you know. And when you do it day after day after day after day and you literally don't have a day off, it's extremely grueling. [LR403]

SENATOR MURANTE: And I appreciate the work that you and your election workers do. I can recall watching the election returns on election night and I was watching CNN and there was a period where they knew the election had turned but they didn't know quite how far it had turned and John King had pointed to the 2nd Congressional District in Nebraska and said the entire presidency is going to come down to Douglas and Sarpy County in the state of Nebraska. And my thought, the thought that went through my mind, was at least it's us. Right? [LR403]

BRIAN KRUSE: Yeah. [LR403]

SENATOR MURANTE: At least it's our county election. We're not going to be Miami-Dade and Broward County and it's not going to be a repeat of the 2000 election. At least we have good folks with a lot of confidence from our voters counting those ballots. So I think that speaks to the work that you guys do in conducting proper elections, so thank you for your work. [LR403]

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Election Technology Committee  
December 12, 2016

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BRIAN KRUSE: Well, thank you very much. And, you know, that was...we took that one machine off-line because we just didn't want to take any risk. And my theory that evening, and it was...you know, the World-Herald reported it, I would never, never, never, you know, have speed over accuracy, ever. It just isn't worth it. [LR403]

SENATOR MURANTE: Thank you. Senator Morfeld. [LR403]

SENATOR MORFELD: Thank you for coming today, Mr. Kruse. Going back to the way that we fund this, have you had conversations yet with the county on replacing some of these machines? Any impressions or thoughts from the commissioners? [LR403]

BRIAN KRUSE: Not really. We in Douglas County, we're fairly unique, you know, in a lot of ways. Mr. Urosevich spoke to that. But we print our own ballots. And just to answer his question, in the primary it's actually 2,394 different ballot faces or types that we print in the presidential primary. But we do print our own ballots and so our ballot printer is at the end of its life. That is something that the county purchased for us ten years ago and we informed the county at the budget cycle last spring that we would definitely need a new ballot printer. We will ask for that in our budget coming up for the new ballot printer. That's about \$125,000. But beyond that, I guess they did purchase the 850. Douglas County does own one 850. The other counting machines, you know, are from the state funds. But beyond the ballot printer, no, I have not had any conversation with any of the county commissioners about funding equipment. [LR403]

SENATOR MORFELD: Thank you. And if you were...I guess if we were to go to all vote-by-mail elections, I mean, would Douglas County consider putting up satellite polling locations? Is that an option or... [LR403]

BRIAN KRUSE: We... [LR403]

SENATOR MORFELD: That way people have still that same accessibility and particularly people with disabilities that want to vote independently and privately, yeah. [LR403]

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Transcriber's Office  
Rough Draft

Election Technology Committee  
December 12, 2016

---

BRIAN KRUSE: Independent. You know, I'm intrigued by a...I believe Colorado has a system where they have by mail and vote centers both. [LR403]

SENATOR MORFELD: Yeah, vote centers, maybe that's the better... [LR403]

BRIAN KRUSE: Vote centers? [LR403]

SENATOR MORFELD: Yeah, that's the (inaudible). [LR403]

BRIAN KRUSE: And, you know, I don't...there's probably an official record but don't take this as an official quote from me, but I believe I read an article that said Colorado still has about 25 percent of their folks that vote at vote centers. [LR403]

SENATOR MORFELD: At vote centers. And in person? [LR403]

BRIAN KRUSE: In person I believe. I would want to double check that to make sure, but I believe that's what I read. But if we were to go all by mail, I would be open to different options, you know, to doing some studies and things like that. But to answer your question, yes, I would be open to that. [LR403]

SENATOR MORFELD: That's good to hear. I mean I think that particularly in a county the size of Douglas County and probably Sarpy and Lancaster County, there's certainly economies of scale with running an election just all vote by mail to a certain extent because you're not running two election systems leading up until election day. [LR403]

BRIAN KRUSE: Absolutely. [LR403]

SENATOR MORFELD: But that being said, I know that there's going to be a lot of people who really do appreciate the more traditional method of voting in person and some people where there's certainly realities based on a disability or something like that where that's preferable, so. [LR403]

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Transcriber's Office  
Rough Draft

Election Technology Committee  
December 12, 2016

---

BRIAN KRUSE: You know, one of the things in Douglas County is, as long as we have a two-page ballot or less, and Lancaster County as well, I believe, we can fold the ballots and send them out and they can return them. As long as it's a two-page ballot or under, voters can actually return their ballots with a single first-class postage stamp on that. So, you know, that has been an advantage to the voters as well with some of the new technology. [LR403]

SENATOR MORFELD: Excellent. Thank you. [LR403]

SENATOR MURANTE: Thank you, Senator Morfeld. Senator Hansen. [LR403]

SENATOR HANSEN: Thank you, Chairman Murante. And thank you for coming down and testifying, Mr. Kruse. You addressed my question, but I need to know specifics. So there's over 2,200 different ballot faces but why? Do we just have that many different political subdivisions? [LR403]

BRIAN KRUSE: Well, we have 228 precincts and then within precincts you can have splits. So when you take the number of splits in Douglas County, that number becomes 342. And in a presidential primary in Nebraska, you have Republican, Democrat, Libertarian, nonpartisan Democrat, nonpartisan Republican, except you have seven different. So if you take 7 times 342, that's how you arrive at 2,394. [LR403]

SENATOR HANSEN: Okay. [LR403]

BRIAN KRUSE: And then we have to print all those, make sure they get in the proper ballot box, and to the proper voting location. [LR403]

SENATOR HANSEN: Okay (inaudible) in the General Election you're closer to 342. [LR403]

BRIAN KRUSE: Three (hundred) forty-two in the General Election, that's right. [LR403]

SENATOR HANSEN: Okay. All right. Thank you. [LR403]

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Transcriber's Office  
Rough Draft

Election Technology Committee  
December 12, 2016

---

SENATOR MURANTE: Thank you, Senator Hansen. Any additional questions? Seeing none, thank you for coming down today, appreciate it. [LR403]

BRIAN KRUSE: Thank you very much. [LR403]

SENATOR MURANTE: And next up in the random lottery of election commissioners is Sarpy County Election Commissioner Wayne Bena. Welcome back. [LR403]

WAYNE BENA: Good afternoon, members of the select committee. My name is Wayne Bena, W-a-y-n-e B-e-n-a, and I serve as election commissioner for Sarpy County as well as the legislative cochair for the clerks, register of deeds, and election commissioners division of the Nebraska Association of County Officials. I'm here really mainly to answer your questions and so I welcome them. But there's three things that I...as general themes for you in this process, and many of these were given to you the last time that we spoke, and they are...is speaking about the operational effectiveness of the current equipment that we have in relation to the time line of the update of the technology; second, the distribution of the cost associated with this transition; and finally, what type of system should be used. And that one is third for a reason because I think the first two are more important as we work through this process until we figure out a few key items. Then we can start talking about what the transition of what type of process can be used. I will say that my county is one of the few that both use products by ES&S and Scytl, so I'm familiar with both of those companies if you have questions concerning those. I first want to say is that we're not in a crisis mode right now; however, we are at the end of the...towards the end of the life cycle of the equipment that we have. So I think for us, it is very important to us to have a plan in place that has the transition talked about, even if it's not implemented right away, that we can be proactive in this transition to get it done. But if a crisis does envelop a future election, we have a plan in place that can be lifted off the shelf and put into place in a fast manner. I am a proactive person. I want to make sure that we do not become a Florida or something on the news and then we have to come in, in the next legislative session, and get it done. If we have a plan in place, then we have some structure in place to not have to speed this through because we already have it. A couple of items that I'll bring up is that we...in regards to the time line, if you want to do something in 2018, you're going to have to probably have some legislation in 2017. Now when were last speaking, the cash...the fiscal thought of the state was a little bit different than it

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Transcriber's Office  
Rough Draft

Election Technology Committee  
December 12, 2016

---

is right now. And so is '18 the most effective point to make this transition? Then you got into 2020, which is a presidential election. I think that affects some of the things that we can do new in a presidential election year. If we think...if any of us think that this past election was bad, I think 2020 is probably...could be on course to be that same type of election. So do we want to implement a brand-new type of system in a presidential year? Thus, we're getting into 2022 so, thus, we need to start talking about can our equipment last within six years or longer to get to that election and what can be done to extend the life cycle of the equipment that we already have. Next is in regards to the distribution of costs with the updates. As was mentioned by previous testifiers, the federal government may or may not provide us with anything in regards to the Help America Vote Act funds. We don't have a crystal ball. We don't know what's going to happen in the next four years. So it comes down the state and the county. Now the state has their own fiscal responsibilities as well as our counties, so some things to think about. If the state isn't going to be able to pay for some or any of these costs, we need to start looking at what we can do in regards to the state and the counties to be able to pay for this equipment. Some of those ideas can be in regards to election officials right now can recover costs from certain political subdivisions but that money goes back into the general fund of a county and it is to the grace of our county board members of whether or not we get any of that money back or allocated for our elections. If we were able to use those funds that we recover back into a sinking fund for election maintenance costs and what have you and it doesn't go into the general fund, we may be able to pay for these a little more faster as a county. As well, we've had interim studies in regards to the state does not pay for any of their election costs or any time a state senator puts something on a constitutional amendment, they do not have to pay for it. Things of that nature that the state pays their portion of the election cost, like any other political subdivision, might help balance that load. Answering those first two fundamental questions, then we can get into what type of system that we can use, because some systems might make more sense to be implemented at a General Election, a gubernatorial year, than it would in a presidential year. So when we talk about the time line and the cost, that's when I think we can have the proper conversation in regards to the system that we'll be using going forward. With that, I am eager and willing to answer any questions. As many of you know, this is something that I have a great passion for. And so in five minutes I can't do...I can do this hours and so...for hours. So if you have questions throughout this process, please use me as a resource. I'm willing to meet with you wherever to talk about this process. But with that, questions, please. [LR403]



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Rough Draft

Election Technology Committee  
December 12, 2016

---

SENATOR MURANTE: Thank you very much for coming down today. What sort of impacts to Sarpy County's budget would you expect if the state reimbursed you for the state reimbursed you for the state-related offices on the ballot? Do you have just an estimate of what that number would be? [LR403]

WAYNE BENA: You know, we just did the billing. I was able to recover 33 percent of the costs of this election from the political subdivisions that I could bill. What I can't bill is the county-- but they give me my budget, of course--and the state and federal government. So probably you're talking upwards of another 48 to 45 percent at minimum that I could recover off my total cost if the state were to pay their share. Now some of it had to do with, like, for example, the death penalty. I probably don't know how to be able to bill that because it was a petition by the people. But if a state senator were to decide to put something like hunting and fishing into the constitution, should we as a county be able to recover those costs and should there be an A bill for such...something of that nature? But again, Governor, Auditor, all those races on a state level, Public Service Commission, we aren't able to recover as any other political subdivision that is currently under our jurisdiction. [LR403]

SENATOR MURANTE: But 40 to 45 percent, what kind of raw numbers are we talking about? [LR403]

WAYNE BENA: Depends on each election. My election costs for this one were in the up...tens of thousands of dollars for your upper-level counties. I believe I was able to recover about \$77,000 in election cost this cycle; probably...and that's of 30 percent so I'm probably thinking of the \$100,000 level from the state but I can get that to you a little bit later. [LR403]

SENATOR MURANTE: Okay. All right. Thank you very much. Are there any questions? Senator Morfeld. [LR403]

SENATOR MORFELD: Thanks for coming down today. So have you had any conversations right now with your county board about replacing some of this equipment and the cost or is that premature? [LR403]

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Transcriber's Office  
Rough Draft

Election Technology Committee  
December 12, 2016

---

WAYNE BENA: I have had a very good relationship with my board and so I would believe that if I needed it and showed them the cost-effectiveness of such equipment, that they would give me the resources that I need. The one question that I get asked is, well, Douglas, Lancaster, Hall, Gage, and Lincoln County have all bought the 850, why haven't I? For the small...for Douglas and Lancaster, the amount of ballots that they run, including their city elections, makes that equipment easily cost-justified over the course of a life cycle, the number of ballots. For Gage, Hall, and Lincoln County, they had one scanner each and it wasn't operating to...very well in each election and they wanted some more reliability so I understand that. For me, an 850 does not...is not as cost-effective for the number of ballots that Sarpy County runs through. I ran the math and the savings for folding the ballot, envelope cost, postage, what have you, it would be eight to ten years before I'd pay that machine off. So it is not cost-effective to me. I have three 650s. I can run most of my elections I run on two machines and in some cases I can run on one, so I have backups, so I have backups to the backup. ES&S has a new machine coming soon called the 450 which has a lot of the capabilities of the 850 but at a smaller cost. That is something that I'm willing to take a look at because I think it's more cost-effective and I can pay it off faster. However, I will say that election purchasing kind of, in my opinion, is frozen right now until this committee and others that are looking at this decide what the future of elections are. My big fear that I have is I'm going to be buying equipment that is not going to be...that could be obsolete depending upon what this committee does. I think some of the counting equipment still, regardless of what system, would be and so I'm more inclined to buying a new precinct or a new central count versus other types of equipment that could be obsolete very fast. [LR403]

SENATOR MORFELD: Thank you. [LR403]

SENATOR MURANTE: Thank you, Senator Morfeld. Senator Hughes. [LR403]

SENATOR HUGHES: Thank you, Mr. Chairman. Thanks for coming down today. My question is, is for you being on the front lines. What...kind of walk me through what a transition would be like. Do we need to come up with enough money to give you...well, I know what you want: all new equipment. But during the transition, you know, if you have to have a third of it for...new technology for a third of your precincts in any given election, is that even a possibility? Or, you

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Transcriber's Office  
Rough Draft

Election Technology Committee  
December 12, 2016

---

know, the new technology that we've talked about where you have a printer that prints the ballot when they vote versus having preprinted ballots, I mean, is that even possible during that transition to make that change from the current technology to new technology? [LR403]

WAYNE BENA: It is possible, yes. The system that you choose to do I think dictates how that transition can...every system that you think of has a different transitional effect. For example, if you decide to go by all elections by mail, and I'm going to say this...try not to say "all-mail" election. I did that once at a forum and a little girl said, does my mommy get to vote? So elections by mail is the proper way to go on that one. Then it's a matter of we can still use...many precincts...or many counties can still use the same equipment that they already have and it can be staggered in of the newer equipment and how fast that equipment is. And as equipment gets replaced in certain counties, we're going to have that backup 650 so there's more backups throughout the counties to be able to do that. If you...like the ballot-marking device, the ExpressVote, you can do that per precinct but I will say there has been discussions in the Government Committee or what have you, the haves and have-nots: Is some counties going to be more accessible than other counties and do you want that? I think the better approach is that it should be the statewide...the better approach probably is statewide all at the same time. And I think depending upon when you decide that you want this transition to occur, it is easier to put a brand-new system in place in a gubernatorial year to ease into a presidential year. But upgrading the current system that we have with the latest technology could be done pretty seamlessly in a presidential year. So when I talk about what we want to do and the time line, '18, '20, '22, '24, those different elections come into play in my opinion to make it a seamless transition that is not a shock to the voters. So if you want to just upgrade the current equipment that we currently have to the latest models, then you can do it in an election. If you fundamentally want to change how we vote here in Nebraska, all mail could probably be done in any election. If you want to go to an ExpressVote type of system, that is probably going to need to be eased in, in a nonpresidential year in my opinion. But I'm open to everything. That's just my initial thoughts of what the easiest way to go would be. [LR403]

SENATOR HUGHES: But the logistics of it, you would be able to transition if you didn't...if you had two different types of counters, you know, if you're printing out a narrow ballot versus the

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Rough Draft

Election Technology Committee  
December 12, 2016

---

big one that we are now. You'd just have to have two separate...two sets of machines to count with. That wouldn't be a big issue for your office. [LR403]

WAYNE BENA: For me, not as...it depends upon what type of...again, it depends upon the system. [LR403]

SENATOR HUGHES: Okay. [LR403]

WAYNE BENA: If I need a precinct counter at every precinct, can it be done? Yes, but logistically, purchasing all that equipment, how much is that going to cost comparatively to other systems, and then storing that equipment. Regardless of what system we have, if we're going to a paper...it sounds like a paper ballot system is in Nebraska where we would still want to be. There's going to be still a need for county equipment in the polling...in the office for early voting. However, how will we determine how voting is happening at a polling site or if polling sites don't exist anymore? That transition can happen but, again, cost, time factors at your polling site will all need to be taken into account as we determine what the next system in Nebraska is. [LR403]

SENATOR HUGHES: Okay, thank you. [LR403]

SENATOR MURANTE: So in the county survey that we received back, one thing that had a great degree of disparity was the extent to which the counties have even the capacity to fix this problem, to address this problem on their own. There were some counties who reported back that they haven't saved anything, they haven't done any planning, they don't have any money, they don't have the capacity to get any money, their county board doesn't have the resources to pay for it, so if you the Legislature do nothing, we are going to be hand counting ballots and we won't have any election equipment. That was the....some said they had the capacity to raise something. They weren't sure they could pay for the...for an entire new overhaul of their system. Where does Sarpy County fall into that? If your equipment became obsolete and if the Legislature did nothing, what would your ability to replace...not yours personally, but the Sarpy County Board, what could they appropriate? How much money do they have? Is it enough to fix the problem? [LR403]

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Transcriber's Office  
Rough Draft

Election Technology Committee  
December 12, 2016

---

WAYNE BENA: I would...it would be a dialogue of...and I would have to get...work with options to figure it out and there's many...there's lease/purchase; there's buying outright; there's many different ways. I have faith that I have a good working relationship that I could get whatever I needed to get it done as long as I made the case of why this was as cost-effective. [LR403]

SENATOR MURANTE: But my question... [LR403]

WAYNE BENA: For example, if I get rid...if we do elections by mail, I'm telling my board here's all the money that I will not be paying for poll workers anymore over the course of four to eight elections, but here's the up-front money I'm going to need for the equipment to be able to make that happen. [LR403]

SENATOR MURANTE: Okay. [LR403]

WAYNE BENA: So it's a give-and-take of showing them how I can...I want to be able to show them how I can pay this off. [LR403]

SENATOR MURANTE: And I know you have worked very closely with the Sarpy County Board. But my question was more a matter of practicality, the board coming back to you and saying we absolutely believe in everything you're saying; Commissioner Bena, we are completely on board; the down side is we don't have enough money to give you what you need. My question is, do they have...even if they wanted to, even if you had a wonderful relationship, do they have the ability to meet the needs? [LR403]

WAYNE BENA: I believe so, for my county, yes. [LR403]

SENATOR MURANTE: Okay. Thank you. [LR403]

WAYNE BENA: Can I expand a little bit? [LR403]

SENATOR MURANTE: Sure. [LR403]

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Transcriber's Office  
Rough Draft

Election Technology Committee  
December 12, 2016

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WAYNE BENA: One thing that I didn't say in my remarks is that there are ways that you can expand...if we're looking at needing to save some money for awhile, there probably are some ways that we can expand the life cycle of this equipment. And as those of us that are upgrading to current equipment have extras, then those that need better machines can use ours and our equipment. I think there are some legislative fixes that can help extend the life cycle of this equipment if that is the need because we need more time. Again, I said we're not in a crisis but we need a plan in place. So if it's a matter of a long-term plan to save the money to be able to do this, there are ways that you could extend the life cycle of this equipment. What we are very lucky in Nebraska is that our current provider is located in Omaha and they can be anywhere very quickly and the times that my equipment has gone down they have been very good in replacing and getting that equipment back up to speed. So I would...if the Legislature doesn't give me any money, then I'm going to have to determine what the most cost-effective and best option is to run elections. And that's a conversation that's a two-sided conversation with both me and my county board. [LR403]

SENATOR MURANTE: Okay, thank you very much. Any additional questions? Seeing none, thank you for coming down today, much appreciate it. Next up we have Hall County. [LR403]

DALE BAKER: Well, my name is Dale Baker and it's D-a-l-e B-a-k-e-r and I am from Grand Island and I represent Hall County and I'm going to talk a little bit...on a little bit different level here. I'm going to talk a little bit about logistics and I'm going to talk a little bit about the nuts and bolts. I think it's important for this committee to realize the disparity in the voter populations that we have in Nebraska. I'm the fourth largest county and my voter population is 33,600. And when you look at the big three, you're looking at, you know, 100,000, 300,000, and then we go down to the population of a county that's 343. So obviously our needs are going to be significantly different. I can tell you that the one thing that HAVA did do for Nebraska and for most elections is it brought us all to the same page. And I would hope that this committee, when you take a look at what's going to happen in Nebraska elections, that we make it so that the little guy is not left behind and that, you know, we still have the same...everybody is on the same level when it comes to voting. Most of the counties in the 3rd District if we talk about are still using the equipment from the HAVA dollars which have become antiquated. They're expensive to repair. But presently our election system requires election workers which, in a county like mine,

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Transcriber's Office  
Rough Draft

Election Technology Committee  
December 12, 2016

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that means we have to recruit them, we have to train them, we have the expense of paying them. We have the increase of mistakes in the polling place whether a voter hears something incorrectly from a poll worker that's misinterpreted what I taught at a polling...or at a training. We have polling sites that we have to reserve. We have to contend with voter confusion if you move a polling site, transporting equipment to and from those particular polling sites. The ADA accessibility is a huge thing for a county to make sure that every one of our polling sites are ADA accessible. Then of course we just had the election day ballots, the printing the rosters, and the supplies. So I guess my point is, is that logistically when you look at precinct voting, that's very, very expensive and it's very time consuming for any county. When you look at Douglas and Lancaster, how many precincts do they drag equipment to? I would think that it would be much more effective for all of our election officials is if we would reduce or eliminate some of the election day precincts. I do know that there are certain needs that have to be met for certain communities and I think we should do that. But I think as a whole, for me, with my population base and my staffing base, my office was completely paralyzed in this election cycle because I was trying to be everything to everybody. Early voting, you know, early voting we're just completely inundated with folks. And in the meantime, we're trying to get rid of...we're trying to get ready for going out to the polling site. So consequently, I do think that it's gotten extremely difficult for election officials who don't just wear election...are just not election commissioners like I am. A lot of those folks were treasurers, they're clerks, they do lots of other duties. So if we could reduce or eliminate the precinct concept of voting, I would be a big advocate for that type of change. My county alone this year spent about \$69,000...\$62,000 in election expenses; \$22,000 of that was additional staff and election workers. I recovered about half of those expenses which I thought I was pretty fortunate to do because, as you can see, Wayne can't necessarily do that. So don't feel that counties don't already spend money on elections because they do--you know, the supplies that we have to provide to make our precincts ADA compatible to parking cones to all those types of things. But I do think that if I had done this election as an all-mail election, it would have cost me \$47,500 to mail ballots to everybody in my county. So I do think that it's something that I hope that you'll take a look at and I think it would benefit all of us. At least we'd just have to worry about counting machines that way. So, paper ballots, definitely stay with paper ballots. But that's it. [LR403]

SENATOR MURANTE: All right. Thank you very much for your testimony. [LR403]

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Transcriber's Office  
Rough Draft

Election Technology Committee  
December 12, 2016

---

DALE BAKER: Yes, um-hum. [LR403]

SENATOR MURANTE: Senator Morfeld has a question. [LR403]

DALE BAKER: Yes. [LR403]

SENATOR MORFELD: Thanks for coming today. So \$47,500 to mail all of your ballots. [LR403]

DALE BAKER: That's what it would have cost if I was allowed to do it. [LR403]

SENATOR MORFELD: Okay. Just to mail all the ballots and then I'm assuming that's not including return postage. [LR403]

DALE BAKER: Return postage is as the responsibility of the voter. [LR403]

SENATOR MORFELD: Okay. And so how much was it total to run your election this cycle? And if you have to get back to me... [LR403]

DALE BAKER: Sixty-two. It was \$62,200. [LR403]

SENATOR MORFELD: \$62,200. Okay, sorry if I missed that. [LR403]

DALE BAKER: That's all right. [LR403]

SENATOR MORFELD: So you would have a cost savings about \$15,000 or so and a lot less headaches because you wouldn't be... [LR403]

DALE BAKER: I'll tell you what, it would make it more manageable for a county my size, yeah. [LR403]



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Transcriber's Office  
Rough Draft

Election Technology Committee  
December 12, 2016

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SENATOR MORFELD: Okay. Okay. And in regard to...I want to make sure that I'm not misstating what you said earlier in terms of reducing the amount of precincts or the number of polling places. I guess my only concern with that is that we end up in a situation like we had in Douglas County three or four years ago when people, particularly in large urban centers, you know, up in north Omaha I saw statistics that... [LR403]

DALE BAKER: Oh, correct. [LR403]

SENATOR MORFELD: ...they...50 percent of the people there don't have private transportation so it becomes a different calculus. [LR403]

DALE BAKER: Right. [LR403]

SENATOR MORFELD: And that might be the case in... [LR403]

DALE BAKER: And really what my point was to that, and maybe I misspoke, was is that if we could do all-mail elections and still have a voting center... [LR403]

SENATOR MORFELD: Oh, okay. [LR403]

DALE BAKER: ...or something instead of precincts... [LR403]

SENATOR MORFELD: Okay. That makes sense. [LR403]

DALE BAKER: ...because we can't be...I can't be everything to everybody and do it effectively. And so I do think that we need to look at the big picture here because we have a lot of advocacy groups that, you know, watch us like crazy and just wait for us to make a mistake. And quite frankly, being an election official is hard work. And I can promise that there wouldn't be any of you in this room that would want this job. (Laughter) [LR403]

SENATOR MORFELD: It pays a little more. (Laughter) [LR403]

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Election Technology Committee  
December 12, 2016

---

DALE BAKER: It doesn't...doesn't pay that good. Yes. So, yeah, I think that as you look at the technology and you see the expense of what the equipment that's going to cost to go out to the precinct level... [LR403]

SENATOR MORFELD: Yeah. [LR403]

DALE BAKER: ...as opposed to looking at what you could do if you just narrowed it down to the county level would be substantially lighter I would hope but anyway. [LR403]

SENATOR MORFELD: Yeah. Thanks. Thanks for coming down and testifying today. [LR403]

DALE BAKER: You're welcome. [LR403]

SENATOR MORFELD: There might be other questions. [LR403]

SENATOR MURANTE: Thank you, Senator Morfeld. Any additional questions? Senator Hughes. [LR403]

SENATOR HUGHES: Thank you, Mr. Chairman. Thanks for coming in today... [LR403]

DALE BAKER: You bet. [LR403]

SENATOR HUGHES: ...from way out west. [LR403]

DALE BAKER: Oh, way out west. [LR403]

SENATOR HUGHES: (Inaudible)...I guess the question I have, you seem to be an advocate for mail-in ballots. [LR403]

DALE BAKER: I am. [LR403]

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Transcriber's Office  
Rough Draft

Election Technology Committee  
December 12, 2016

---

SENATOR HUGHES: Would there be additional staffing that you would have to have in your office, let's say the last five days before the election because you would be...I'm assuming there would be a fairly significant amount...portion of the ballots would arrive within that time frame. Wouldn't there be additional cost there? [LR403]

DALE BAKER: In the all-mail election that I did was 24,000 ballots and, of course, we don't handle those in-house. We send those off. And those are distributed through a mail house. So actually on the onset the county...my county would not handle the ballots. They would be disseminated from a different location. And to answer your question coming in, the biggest part for us would be to get the ballots that are returned undeliverable in an orderly fashion and back into the records so that if the voter came to us and said, well, I didn't get a ballot, that we could then say, okay, yes, well, your ballot came back. Well, why is that? You know, so we can handle those types of things. I do think we would need additional staff to get those open. But we still have that anyway because we already have all the absentees. I mean, I did over 6,000 absentees, which doesn't sound a lot in the big picture, but for an office my size that was quite a few. [LR403]

SENATOR HUGHES: But wouldn't you have to have additional staff... [LR403]

DALE BAKER: I would, yes. [LR403]

SENATOR HUGHES: ...to open... [LR403]

DALE BAKER: I would, yes. [LR403]

SENATOR HUGHES: ...the regular ballots and to verify? [LR403]

DALE BAKER: Yes, but certainly not \$22,000 worth, yes. [LR403]

SENATOR HUGHES: Okay, fair enough. Thank you. [LR403]

SENATOR MURANTE: Thank you, Senator Hughes. Senator Hansen. [LR403]

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Transcriber's Office  
Rough Draft

Election Technology Committee  
December 12, 2016

---

SENATOR HANSEN: Thank you, Chairman Murante. And thanks for coming down and testifying, Ms. Baker. What percentage of your votes this last time around were vote by mail? [LR403]

DALE BAKER: Seventeen percent. [LR403]

SENATOR HANSEN: Seventeen percent? [LR403]

DALE BAKER: No, excuse me. Yeah, 17 percent had voted, yes, that was correct, 17 percent. [LR403]

SENATOR HANSEN: Okay. Thank you. [LR403]

DALE BAKER: Yes. [LR403]

SENATOR MURANTE: Thank you, Senator Hansen. Any final questions? Seeing none, thank you for coming all the way out west from... [LR403]

DALE BAKER: All the way from Hall County. [LR403]

SENATOR MURANTE: ...the middle of Nebraska anyway. [LR403]

SENATOR HUGHES: No, that's not the middle. [LR403]

SENATOR MURANTE: East central, east central part of Nebraska. [LR403]

SENATOR HUGHES: That is not the middle. [LR403]

SENATOR MORFELD: We'll Exec on that later. [LR403]

SENATOR MURANTE: Lancaster County, the last county of the day but the first in our hearts. Welcome. [LR403]

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Transcriber's Office  
Rough Draft

Election Technology Committee  
December 12, 2016

---

DAVID SHIVELY: (Exhibit 4) Thank you. Thank you, Senator Murante and members of the Special Committee on Election Technology. My name is David Shively, D-a-v-i-d S-h-i-v-e-l-y. I am the Lancaster County Election Commissioner. It is my pleasure to be here today to discuss the future of elections and technology. For the record, I have been Lancaster County Election Commissioner for over 17 years. I have seen a number of changes in election technology during my tenure. When I was first appointed election commissioner, my staff was hand addressing absentee ballot envelopes and maintaining an absentee ballot roster by hand. That changed quickly after I became election commissioner. We had all of the information in a database on the county mainframe yet no one had updated the system to allow printing of labels or to have the ability to print or download a master copy of the list. With the passage of the Help America Vote Act by Congress in 2002, many things started to change because of the requirements of the act. In 2005-2006, new vote tabulating machines were purchased using federal and some state matching dollars. In addition, HAVA required us to purchase machines to assist voters with disabilities. A new statewide voter registration system was implemented which allowed for a statewide voter database. All of those were positive steps to improve our election technology at the time. However, even with the purchase of new equipment, new election technology was being designed that quickly put our equipment out of date. For example, the use of Zip disks and Zip drives was old technology within two to three years after our purchase of the 650s. Today, it is difficult to purchase new Zip disks and even more difficult to find an external Zip drive. For your reference, it is important to note that all five of our 650 tabulators worked extremely well for the 2016 General Election and my office finished tabulating by 11:00 p.m. on election night. In 2014, Lancaster County purchased a DS850 from Election Systems and Software. This new technology allowed us to fold our early voting ballots and mail them at a lower cost. This saved a significant amount of tax dollars for Lancaster County. In addition, it has allowed the voter to mail the ballot back to us at a lower cost as well. As far as the future goes, I see two primary areas where we believe improvement is needed. First, the replacement of the 650 vote tabulating machines. They are now almost 12 years old. While they still work well, it won't be long until I fear they will be difficult to maintain. Also, the AutoMARK machines that assist voters with disabilities need to be replaced. We have worked hard to maintain them, but they are bulky and heavy. I also fear that many of the AutoMARKs will begin to need major repairs in the near future. I also believe we need to look at our voter registration system. While it works well, there are upgrades that could be made to make it more user friendly, allow for more specific reports,

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Rough Draft

Election Technology Committee  
December 12, 2016

---

and work better with our on-line voter registration system. Again, I thank you for the opportunity to testify before you today and I look forward to reading your report once it is completed. I would be more than happy to answer any questions you may have. [LR403]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions?  
Senator Hansen. [LR403]

SENATOR HANSEN: Thank you, Chairman Murante. And thank you, Mr. Shively. What specifically could we do better with voter registration? [LR403]

DAVID SHIVELY: Well, it's a pretty good system. [LR403]

SENATOR HANSEN: Okay. [LR403]

DAVID SHIVELY: There are some things...there are specific reports that we get, whether it's public records request that people want voter lists that I think could be a little easier to download and get ready for candidates and people that want that information. I think that's one thing. As far as the on-line system program, it works really well; but I think there's some things that could make it work even better. Matching up the voter to the record that we get on the on-line to the voter could be done a little bit. I think there are some things that could be done a little bit easier on that for us as well. It just...there's some things I think that could just be made a little bit more user friendly with it. And I think it's, again, 12 years. We've had that for 12 years and technology changes. Although they do do enhancements for us quite frequently, I just think there's some things that could be improved on. [LR403]

SENATOR HANSEN: All right, thank you. [LR403]

SENATOR MURANTE: Thank you, Senator Hansen. Seeing no additional questions, thank you very much for coming in. [LR403]

DAVID SHIVELY: You're letting me off easy. Thanks. I guess it pays to go last. [LR403]

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Rough Draft

Election Technology Committee  
December 12, 2016

---

SENATOR MURANTE: All right. We don't have any other...are there any other county administrators in the room? I don't see any but open it up. I have Larry Dix for NACO, but I don't see Larry. Are you planning on testifying? Okay. We'll take NACO's consideration into account and then last but not least, our Secretary of State's Office, Neal Erickson. Welcome back to the Election Technology Committee. [LR403]

NEAL ERICKSON: Well, thank you, Chairman Murante, members of the committee. It's been an interesting discussion. And I'll be honest with you, I'm not sure I disagree with what anybody had to say today. Starting out with some of Wendy's comments, I think she kind of hit this spot on. There are all kinds of equipment out there these days. There's a wide variety out there, and some work better with certain types of processes than others. You know, as an example, if you had precinct-level counters, etcetera, it doesn't work very well with a by-mail system. Central scanners, you're going to need almost...unless you want to get rid of any kind of by-mail voting, whether it be Alliance...sorry, for the record for Sherry, my name is Neal Erickson, N-e-a-l E-r-i-c-k-s-o-n, and I'm Deputy Secretary of State for Elections here on behalf of the Secretary of State's Office. And I think her second point is also very good. I think it's a major question of resources at this point. The Help America Vote Act did kind of write a partnership between the local officials and the state and ultimately the federal government because they were the ones that were providing the funding. With that funding gone, we certainly would like to maintain that partnership and would hopefully look to the state for at least some kind of funding to assist in this effort. The...some of the things that have been mentioned, the disparity between counties, for example, yeah, it is very difficult in this state. I mean, I remember when HAVA was...Help America Vote Act was being considered. I was talking to one of the staffers for Congressman Ney who authored that. And I said, you have to understand, I mean, we got a state here that has counties that range from 350,000 registered voters to 350. And there are different kinds of issues for that. Funding is certainly one of them. When you get down to those smaller counties, we have a dozen counties that are below 1,000 voters. They can't afford the maintenance on this equipment let alone the purchase price on it. And, you know, when you get into the larger counties I think it's correct--you do have economies of scale that allow this kind of thing to make it a little bit more easy to accommodate those. The Secretary of State's Office has talked to many of the groups that you've spoken to today. And, you know, we've examined some of the different or a variety of processes that are out there. Currently in this state, we use the precinct polling

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Rough Draft

Election Technology Committee  
December 12, 2016

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place model predominantly. You know, we don't really have vote centers unless you really want to consider the local election officials' offices during early voting a vote center. They behave kind of the same way. We do have situations where we have precincts that do entirely by mail in more rural counties. The on-line system is something that's relatively new or on-line type systems. I'll be honest with you. I'm a little leery of them still at this point in time. I don't think they're necessarily robust at this time, but I do think they might have some abilities. For example, we do use electronic transmission of ballots and electronic return for a certain category of voter and that's the military and overseas. They have the ability to do that. And we do use a relatively unsecure system to accommodate that. But even this year, which saw a tremendous increase in the number of people requesting to return their ballot electronically, we're still talking slightly over 200 voters statewide. So it's a rather small number that currently utilize that. So you kind of weigh the risk versus the reward on that to a degree. Certainly if we were to expand that, you'd want to get a more robust system that is more secure to be able to expand that type of effort. I think the committee has talked about possibly phasing in items. That might be a possibility. I think one consideration that you have to be a little bit careful of is certainly phasing in within a county. And what I mean by that is adopting some new technology in certain precincts in a county and having older technology in others. As the vendors have pointed out, and I would compliment on the vendors that were invited and showed up, these are all good companies and they are developing good products. Up and down the line, I appreciate their innovation in some of these things. But if you would have certainly within a county one precinct doing one thing that has a higher, as Mr. Urosevich mentioned, a higher residual vote versus another precinct, there may be some equal protection problems with that. Similarly, it could be county to county. If one county is using older technology that has certain disadvantages versus a county that's using totally new technology, you could have an equal protection argument there. I see my time is up. I would say that I could give you a nutshell if you wanted to (inaudible) complexity of our ballot situation and what actually cost of that but that's up to you. So I'd answer any questions you might have. [LR403]

SENATOR MURANTE: Senator Hansen, do you have a question? [LR403]

SENATOR HANSEN: Thank you, Chairman Murante. Mr. Erickson, would you give me a brief interpretation of why our ballots are so complex? [LR403]



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Election Technology Committee  
December 12, 2016

---

NEAL ERICKSON: One of the reasons is we elect a lot of offices. We elect practically everything. I mean, you look at Iowa. They don't elect their Regents. They don't have community college positions that are elected. They don't have anything that I've seen comparable to ESUs. And so what happens with all these subdivisions on conducting elections at the same time, none of their boundaries match up. So what will happen is you may have two or three school districts within a precinct and each one of those is going to create another ballot face because it's a unique combination of candidates on that ballot. One thing that Nebraska is relatively unique on and I think Ms. Underhill could, because I know she's looked at this, we're one of the few that elect our city and school districts on the even-numbered year November elections. And once you add those things in, that creates a lot more ballot face splits. I have heard numbers, you know, on average that we have eight splits per precinct. I do know of one county that has a precinct that has more than 30 ballot splits. Now to a degree in that situation, I think that is a bit of the local election official's fault because I think they could design their precincts to kind of minimize that a little bit more. But we do have a very complex ballot as Mr. Urosevich mentioned. So it has to do with the number of offices we elect and none of their lines lining up. [LR403]

SENATOR HANSEN: Okay. Just this is kind of veering a little bit more away from our committee then, is there a way to encourage more lines to line up or is that with basically population thresholds and sizes and all of that is very, very pie in the sky? [LR403]

NEAL ERICKSON: Well, when you get into designing these subdivisions like what are the boundaries of an NRD... [LR403]

SENATOR HANSEN: Sure. [LR403]

NEAL ERICKSON: ...and what are the boundaries of an ESU, those become a much more political aspect to it. ESUs, for example, are based on school districts. You know, NRDs are based on watersheds. And so they don't specifically line up with our county lines or our precinct lines. [LR403]

SENATOR HANSEN: Sure. [LR403]

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Rough Draft

Election Technology Committee  
December 12, 2016

---

NEAL ERICKSON: In statute we have one, there's only one provision--you cannot have a state legislative office split precincts. You can't have two legislative seats in one precinct. That's the only one we have and so you kind of grow from there. You can't split a legislative district in a precinct. You know, maybe we could add a couple more. You'll end up with more precincts than in a precinct polling place model. You have more poll workers then. It increases cost. All of these things kind of tend to be interrelated so. [LR403]

SENATOR HANSEN: Thank you. That was the answer I more or less expected but wanted it clear. Chairman. [LR403]

SENATOR MURANTE: Senator Morfeld. [LR403]

SENATOR MORFELD: Thank you, Chairman. So, Mr. Erickson, am I getting this right? So you're advocating for less democracy, less people being (inaudible)? [LR403]

NEAL ERICKSON: In what...no, I'm just saying we're different. [LR403]

SENATOR MORFELD: I'm just trolling you now. That's all. [LR403]

NEAL ERICKSON: No, we're just different and, you know, I look at other states. You know as well as I do with the same day registration that's been one of our complaints is... [LR403]

SENATOR MORFELD: Yeah. [LR403]

NEAL ERICKSON: ...that we have so many ballot faces. We're trying to get that correct ballot to the voter. It becomes very difficult when you have those kind of splits. [LR403]

SENATOR MORFELD: Yeah. When I viewed elections in Iowa for election day registration purposes, that was one thing that shocked me a little. In a county in Iowa, they had 4 different ballot faces so 4 different types of ballot types; whereas in a county the same size in Nebraska, you had up to 30 or 40 different ballot types. [LR403]

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Election Technology Committee  
December 12, 2016

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NEAL ERICKSON: Exactly. [LR403]

SENATOR MORFELD: So it certainly is an issue but a little off topic. Thank you, Chair.  
[LR403]

SENATOR MURANTE: Thank you. Any additional questions? Seeing none, thank you very much for coming down today. [LR403]

NEAL ERICKSON: Thank you. And I would just offer that if you have any questions, as always, please don't hesitate to contact our office. We'll try to answer them the best of our ability.  
[LR403]

SENATOR MURANTE: I'm certain that we will. [LR403]

NEAL ERICKSON: Thank you very much. [LR403]

SENATOR MURANTE: All right. Thank you. All right. Are there any additional testifiers on the LR403 resolution? Seeing none, that will end our hearing for the day. Thank you all very much for coming down and bringing your insights. We appreciate it. [LR403]