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Government, Military and Veterans Affairs Committee
February 22, 2018

[LB817 LB839 LB1027 LB1129]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Thursday, February 22, 2018, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB817, LB839, LB1129, LB1029, and gubernatorial appointments. Senators present: John Murante, Chairperson; Tom Brewer, Vice Chairperson; Carol Blood; Tom Briese; Mike Hilgers; John Lowe; and Justin Wayne. Senators absent: Theresa Thibodeau.

SENATOR MURANTE: I'd like to begin with our formalities. My name is John Murante. I'm the state senator for District 49, which includes Gretna and western Sarpy County, and I'm the Chairman of this committee. We are here today for the purposes of conducting several public hearings. We'll be taking those issues up in the order in which they appear on the agenda outside of this room. If you are here and wish to testify for any of the matters before us, we ask that you fill out one of these green sheets of paper. These green sheets are located on either side of the room. If you're here and wish to express support or opposition for any of the matters before us, but you do not wish to testify, we'd ask that you fill out one of these sign-in sheets and they are again located on either side of the room. If you do testify, we ask that you begin by stating and spelling your name for the record, which is very important for our transcribers office. The order of proceedings is that the introducers will be given an opportunity to open. Then we will listen to proponent testimony, followed by opponent testimony, then neutral testimony, and the introducer will be given an opportunity to close. We ask that you listen very carefully and to try not to be repetitive. We do use the light system in the Government Committee. Each testifier is afforded four minutes to testify. When the yellow light comes on, you have one minute remaining and we ask that you begin concluding your remarks. When the red light comes on, we ask that you conclude your remarks and we will open the committee up to any questions they may have of you. At this time, I'd like to encourage everyone to turn off or silence any cell phones or other electronic devices, anything that makes noise. If you have a prepared statement, an exhibit, or anything you'd like distributed to the committee, we ask that you provide 12 copies to our page who will make sure that we all get the copies that we need. If you don't have 12 copies, provide what you have to our page and he will make the copies for you. And our page for the day is Joe

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Gruber from Omaha. And with that, we will begin with the introduction of members. Senator Lowe.

SENATOR LOWE: John Lowe, District 37, which is the south half of Buffalo County.

SENATOR BRIESE: Tom Briese, District 41, nine-county area stretching from central Nebraska to northeast Nebraska.

SENATOR HILGERS: I'm Mike Hilgers, District 21, northwest Lincoln and Lancaster County.

TOM BREWER: Tom Brewer, District 43, 13 counties of western Nebraska.

SENATOR BLOOD: Senator Carol Blood, District 3, western Bellevue and southeastern Papillion.

SENATOR MURANTE: To my immediate right is Andrew La Grone. Andrew is the Government Committee's legal counsel. To my far left is Sherry Shaffer. She is the Government Committee clerk. And Senator Brewer is the Vice Chairman of this committee. So with that, we're waiting for folks to call in. We'll give them one minute, then we'll move on to Senator Carlson's grueling confirmation hearing. Mr. Guinan, this is Senator John Murante with the Government Committee. Can you hear me, I hope? Mr. Guinan, this is Senator John Murante with the Government, Military and Veterans Affairs Committee. How are you today?

[CONFIRMATION]

PATRICK GUINAN: Good, Senator. How are you? [CONFIRMATION]

SENATOR MURANTE: I'm doing very well. So why don't you give us an explanation and background of who you are and why you would like to be on the State Personnel Board.

[CONFIRMATION]

PATRICK GUINAN: Yeah. I am currently serving out a term on the State Personnel Board for a commissioner that retired, so I've been on it for a little over two years now. I'm an attorney at

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Erickson and Sederstrom, I've been in practice for about 25 years. Part of my practice involves human resources issues, EEOC complaints, defending my clients on those issues, helping them out with developing policies, drafting policies and whatnot with regard to their employees. I have a friend that was working for the administration a couple of years ago when this spot opened up and asked me to apply and I did. He knew that I was involved in this area of law and that's why I applied before. And when the term ran out, the board asked me and the State Personnel Office asked me to reapply and that's why I reapplied. [CONFIRMATION]

SENATOR MURANTE: And thank you for your application and for your introduction today. Are there any questions for Mr. Guinan's appointment to the State Personnel Board? I see none. We will now open up the hearing from any proponents of Mr. Guinan's appointment to the State Personnel Board. Are there any proponents? Is there any opposition testimony? Is there any neutral testimony? Seeing none. Patrick, thank you much for your application. We'll get back to you very promptly on the committee's determination. [CONFIRMATION]

PATRICK GUINAN: Thanks for letting me participate by phone. [CONFIRMATION]

SENATOR MURANTE: Thank you. [CONFIRMATION]

PATRICK GUINAN: All right. Bye-bye. [CONFIRMATION]

SENATOR MURANTE: Marty, this is Senator John Murante with the Government, Military and Veterans Affairs Committee. How are you today. [CONFIRMATION]

MARTY CALLAHAN: Good. How are you doing today? [CONFIRMATION]

SENATOR MURANTE: I'm very, very well. So why don't you start off today with giving us a little background and introduction on yourself and why you believe you're a good fit for the Nebraska Accountability and Disclosure Commission. [CONFIRMATION]

MARTY CALLAHAN: Okay. Well, my background is in small businesses that I've owned out in Greeley, Nebraska, a newspaper and cable, Internet communications company, plus some other

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businesses that I was involved in in the past. And I guess the background that I have is that I've been...I've served on school board for a number of years and served on county planning and zoning, village board, care home boards, all public entity boards. And so I guess public service is in my blood, so I...when this opportunity presented itself I thought it might be interesting. I, hopefully, can add something to the board by being on it and play a role. [CONFIRMATION]

SENATOR MURANTE: All right. Thank you for your testimony. Are there any questions from the committee? I see none. With that, we'll open up the hearing room to any proponent testimony to Marty Callahan's appointment to the NADC. Are there any proponents? Is there any opposition testimony? Is there any neutral testimony? I see none. Mr. Callahan, thank you very much for your application. We'll be back to you promptly on the committee's result.
[CONFIRMATION]

MARTY CALLAHAN: Thank you all. [CONFIRMATION]

SENATOR MURANTE: Thank you. That closes the hearing on Marty Callahan. We'll proceed to our next item to the agenda where we welcome back Senator Carlson to the Government, Military and Veterans..."Parson" Carlson, with Senator Chambers in the room. Welcome back.
[CONFIRMATION]

TOM CARLSON: Thank you. Am I supposed to spell my name? [CONFIRMATION]

SENATOR MURANTE: Please do. [CONFIRMATION]

TOM CARLSON: All right. I'm Tom Carlson, T-o-m C-a-r-l-s-o-n, formerly from Holdrege and we've just recently moved to Lincoln. So I, first of all, Chairman Murante and members of the Government, Military and Veterans Affairs Committee, I thank Secretary Gale and Governor Ricketts for the appointment to the Accountability and Disclosure Commission. I served as state senator for District 38, lived in Holdrege, from January 2007 through December of 2014. And it was an experience that ranks with the most interesting and satisfying years of my life. I have a deep respect for senators and the work they do and would consider it an honor to serve on the Accountability and Disclosure Commission. I respect Director Daley and his staff and believe

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their efforts are crucial to oversee activities of the political process and make well thought out and careful decisions to encourage that all elected officials in Nebraska do things in a fair and a way that is above reproach. Carefully planned and implemented rules are necessary to properly carry out local and state government responsibilities. Rules should be developed for a worthwhile purpose and there should be consequences when violations occur. I will do my best to make a positive contribution to the work of the Accountability and Disclosure Commission and its work. I thank you for your time. And I would add that I think that my experience in the Legislature would be helpful on the committee knowing what you people go through. And perhaps I'd like to have a sympathetic ear when that's appropriate and yet enforce the rules when necessary. So thank you for your time. [CONFIRMATION]

SENATOR MURANTE: All right. And thank you for your testimony. Are there any questions?
Senator Brewer. [CONFIRMATION]

SENATOR BREWER: Thank you, Mr. Chairman. First off, thank you for being willing to continue to serve. I'm kind of excited about the idea of having someone in that office who understands the challenges. One of the things I'd like to see how you feel on the idea of, maybe it was just me, but when you start this process of wanting to get into a race and try and propel yourself into whatever position you choose, understanding how to do it and do it right so you don't break the rules, because I had a bit of a dust up with Frank because of mules and horses and how you log information. And it wasn't that I ever intended to do anything wrong, it was just I didn't know how to do it so it looked right. And it ended up that it just was a bad day when the dust settled and I realized that that process, there's a very fixed time line and requirement. And sometimes what you almost need is a how to do this for someone whose never been involved with it before, but has a heart to want to serve. That's where I would love to have someone like you to help put something together that would make it easy to not break the rules because of what you don't know, not because you didn't want to do it. [CONFIRMATION]

TOM CARLSON: Well, Senator Brewer, first of all, thank you for all that you've done for our country through your career. And I think that I am in a position to talk to people that are running for office, if they want to talk to me, and let them understand what's involved, really understand what's involved. This is not a part-time job and it needs to be understood that way or we're short

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changing the people that elected us to office. So I think I could be very instrumental in helping people understand that. [CONFIRMATION]

SENATOR BREWER: Thank you and thanks for your heart to continue to serve.
[CONFIRMATION]

SENATOR MURANTE: Thank you, Senator Brewer. Senator Lowe. [CONFIRMATION]

SENATOR LOWE: Thank you, Chairman. And thank you, Senator, for being here. And it seems like experience is what we need around here. I know there's an opening in the 38th District. Would you consider moving your home? [CONFIRMATION]

TOM CARLSON: One of the things when I was asked about serving on the Accountability and Disclosure Commission, I had to live in Lincoln. So we've made the move and that decision is behind us. It would be tempting, but we're glad we're here and want to be able to do whatever I can to help this commission along. [CONFIRMATION]

SENATOR MURANTE: Seeing no additional questions, I will say I had the pleasure of serving with Senator Carlson for my first two years, I believe, in the Legislature. It really was a pleasure, Senator, getting my feet wet in the body with someone who was experienced and whose character and integrity was sterling and without question. You were just a very well respected member of this Legislature. So thank you for coming back to us, we appreciate it.
[CONFIRMATION]

TOM CARLSON: Thank you. [CONFIRMATION]

SENATOR MURANTE: All right. And we will proceed to proponent testimony to Tom Carlson's...here comes the kiss of death. [CONFIRMATION]

SENATOR CHAMBERS: I'm Ernie Chambers, I represent the 11th Legislative District in Omaha. I've served with "Parson" Carlson. I ordained him. There's no way I could be in the room when he's being considered and not say something in his behalf. I'm not going to speak as though

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it's a eulogy when somebody's gone. He's just starting out in this particular capacity he's seeking, but he does bring a wealth of experience. He will be straightforward with you. If he doesn't know something, he'll make you think that he does and you will never know that he doesn't. In reality, I think he's going to be a very good addition to that board. And if you have any questions of me, then I would answer them, but all I can say are good things about him at this point.

[CONFIRMATION]

SENATOR MURANTE: Thank you, Senator Chambers. Are there any questions. Senator Blood.

[CONFIRMATION]

SENATOR BLOOD: Senator Chambers, did you ever filibuster one of his bills?

[CONFIRMATION]

SENATOR CHAMBERS: Say it again. [CONFIRMATION]

SENATOR BLOOD: Did you ever filibuster one of his bills when he was here?

[CONFIRMATION]

SENATOR CHAMBERS: We don't discuss all that legislative business when the man's about to step up. [CONFIRMATION]

SENATOR BLOOD: I couldn't resist. [CONFIRMATION]

SENATOR MURANTE: All right. Seeing no additional... [CONFIRMATION]

SENATOR CHAMBERS: Are you being a smart aleck? I'm old enough to say that. Thank you.

[CONFIRMATION]

SENATOR MURANTE: Thank you. Additional proponent testimony to Tom Carlson's appointment to NADC? Is there any opposition testimony? Is there any neutral testimony? Seeing none, that closes the public hearing on Tom Carlson's appointment to the Accountability and Disclosure Commission. Senator, we'll probably have a decision before the end of the day

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today. All right, and we'll proceed to our next item on the agenda, LB817. Senator Chambers, welcome back to your Committee on Government, Military and Veterans Affairs.

[CONFIRMATION]

SENATOR CHAMBERS: Seems like I've been before and it's just like yesterday. But anyway, I'm not going to take a lot of time. I'm Ernie Chambers, I represent the 11th Legislative District. That's E-r-r-i-e C-h-a-m-b-e-r-s. And this is a bill which I can sum up in this one sentence of my statement of intent. The intent of the bill is to prevent campaign committees from donating their funds to other candidates' committees. Not having campaigned extensively, I'm not aware of all of these ins and outs, but I do want the system to operate in a way that is appropriate. There's one time that I did campaign. I was running for the U.S. Senate and the Legislature and I could choose which office I wanted my name to be on, on the ballot because you can only run for one office at a time. So I let my name be on the ballot for U.S. Senate, and I'm probably the first, I don't know if I'm the only one who won a legislative seat by write-in. And if somebody had won one by write-in I doubt it's because they were running for another office simultaneously. Obviously, I would be a senator either way, but I've stayed on the junior varsity and won in the Legislature. So that time I believe that people donated to the campaign that I was waging, such as it was. I bought a few fliers, I think; maybe some bumper stickers, but what money I had left I donated to a black police officer's fund in Omaha. And I found out from the Accountability and Disclosure Commission that they being a nonprofit, or whatever it is, it was legitimate for me to do that. That's how I cleaned out all the little money that I had. So my view is that people may have trusted me to do whatever I wanted to do with that money. If I wanted to buy gold fish, as one senator did before they changed the law, they would have said it's mine to do with as I please. But I've always tried to make people understand that some things, even though I'm in the Legislature, don't belong to me. It's given to me to use a certain way, and I would never use it in any way other than that. And that's why my life is like an open book. It's boring, but there it is. And since I was running publicly, I wanted to play by the rules and I checked everything out before I did anything. I am of the belief...Mr. Gould is why I brought the bill, that when they give a candidate a donation, it's for that candidate. They trust that person to fill an office. They're not saying, in my view, that they're trusting that candidate to substitute his will for their will. They gave it to A, but they're not saying they want A to now do...give it to somebody else whom they may or may not agree with. Since I'm not expert in this area, don't have much information I can

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offer that would be advancing the cause of our having a hearing, that will be all that I'll say at this point. I'll stay for the hearing and I will close, so if you have additional questions at that time, I would answer them. But I don't want to just ramble like sometimes people say I do on the floor. You're a busy committee and a deadly committee, so I don't want to do any alienating, but if you have something you want to ask me right now, I am willing to answer. [LB817]

SENATOR MURANTE: All right, thank you for your testimony. Senator Brewer. [LB817]

SENATOR BREWER: Senator Chambers, you understand that I came before the Judiciary Committee seven times. And seven times you were kind to me. So I'm going to be very kind to you. My question to you is, for those of us that are new, which is pretty much the whole table here, if you collect funds...so over the four years of our first term, and you're not reelected, as you understand it, what can you do with that money? Obviously, donate it to a nonprofit is one, can you carry that money and use it for, obviously, shifting to another person's campaign and just write the balance over? [LB817]

SENATOR CHAMBERS: Well, this is what the experts who are going to testify will be able to tell you. [LB817]

SENATOR BREWER: Oh. [LB817]

SENATOR CHAMBERS: I could guess. All I was saying was that I wouldn't have done anything like that because when it came to a politician, they trusted me. And I never said, like some people, I'm not a politician. Once I got into the game, I was a practitioner of the art of politics. I didn't say I'm a statesman, not a politician. "Politician" is not a bad word in and of itself, just like "minister." There are good ones and there are bad ones. I presume there's some good ones somewhere. That's why I ordained "Parson Carlson" because knew him and could vouch for him. But if it came to me passing that money on to somebody else, it never occurred to me to do that. But whether or not it is legitimate right now, it may be under the existing law, otherwise I wouldn't be bringing this bill. But that's about all I can say. Oh, one other thing though, there was a senator named DeCamp, he has gone on to wherever senators go when they breathe their last, he had taken campaign funds. He bought a fish tank for his office and stocked it with exotic fish.

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He bought other kinds of things that even to somebody who had not been in politics had questions about whether that's how campaign money should be spent. And I think that might have been the impetus for putting some restrictions on how the money could be spent. Usually when you have something like that, an event will have occurred that showed the necessity to not just leave it to the politicians to do what they will. And it did reflect on the other senators because people thought that's what all senators were doing with their money. But nobody said that it would be necessarily corrupt or violative of the law, but it just didn't seem right, even to people who didn't know exactly what the law was. [LB817]

SENATOR BREWER: I agree with you on that. And you heard my comments earlier. Just for clarity, Frank Daley was more than kind to me when it came to looking at what I did wrong. My problem was, I didn't know what right looked like. I didn't know what I was doing. [LB817]

SENATOR CHAMBERS: Oh, you went to a casino with it? (Laughter) I'm just kidding. You keep saying "wrong." Knowing you, you might mean you did something that was incorrect or, you know, outside the lines, but... [LB817]

SENATOR BREWER: Well, I was fined \$500 for my incorrectness, but... [LB817]

SENATOR CHAMBERS: Was that all? [LB817]

SENATOR BREWER: Seemed like a lot at the time. And Mr. Daley...so everyone understands, he said that you have the option of paying that fine out of your campaign funds. And I said, no, I can't do that because the people donated that money to me for the purpose that was intended. And that was, essentially, my incompetence wasn't the reason that that money should be spent on that. So, you know, I wrote that one out of my pocket and that's where it should have come from. But I do appreciate how your wanting to examine the way that money is used beyond its primary purpose. Thank you. [LB817]

SENATOR CHAMBERS: Okay. I will stay. [LB817]

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SENATOR MURANTE: All right, great. And we will proceed to proponent testimony to LB817. Mr. Gould, welcome back to the Government, Military and Veterans Affairs Committee. [LB817]

JACK GOULD: (Exhibit 1) Thank you, Senator Murante. Members of the committee, my name is Jack Gould; that's J-a-c-k G-o-u-l-d, and I'm here representing Common Cause Nebraska. And I want to thank Senator Chambers for bringing this bill. And I appreciate Senator Brewer's comments, because I think you've hit on exactly what our concern is. The chart that you're receiving right now is one that goes back to the last election cycle. And it shows that there was nearly \$100,000 that went from campaign committees to other campaign committees. The concern is, just as was mentioned, the intent of the donor. When an individual makes a donation to a campaign, generally they have no idea that it could end up supporting a petition drive or a campaign other than the one that they donated to. And so as you look through that, you can see it's rather complicated, but you have on the left-hand side the committee that's making the donation and on the other side you have the committee that's receiving the donation. And it is extensive. The most extravagant was a \$20,000 donation from a former state senator to a candidate for mayor's office. But a lot of them are between \$1,000 and \$500. And keep in mind, the average donor, probably the average guy who donated to your campaign doesn't have that kind of money. And in the case, when you start to see this kind of money moving from place to place, you have to realize this is not personal funds, as in the case of Senator Brewer, talking about he chose to use his own money which I think was the honorable thing to do. In this case, this is money that other people gave. And so the concern is this needs to be something that should be prohibited. And if you go back to the original law, which I think Mr. Daley will bring up shortly, the original Accountability and Disclosure Act prohibited this kind of behavior. But in the 1980s, the early '80s, legislation was passed to allow buying tickets to a campaign event, campaign fund-raisers. And that has become more and more of a problem over the years, because we see what might have started out with a \$50 contribution, now you're finding tickets for \$1,000, and people buying multiple tickets at \$1,000. And technically that part is legal, but now they're even reporting on the campaign reports that these are donations. Which I think are still illegal, making an actual donation. You can buy tickets, but you can't donate. I think Mr. Daley will probably clarify that a little bit. So when we think about it, are we fair to the individual donor who started out trying to support a specific candidate? Another consideration is

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the fact that a lot of this is...we have a lot of campaigns that are no longer active, people that are out of office that are faced with that dilemma, what do I do with the money? And I think the original intent was, that yeah, you would give it to charity or you would use it for your own use in another campaign or it would be, in some cases, donated to the party. They were all considered to be legitimate things to do with your money. But there was no thought to the fact that people would begin to buy tickets to fund-raisers. And it's become, as you can see, a pretty extensive...I'm not...we're not blaming specific people, but you have to realize that a lot of people just don't understand that this shouldn't be done. So I would...I very much appreciate Senator Chambers bringing this. And he has certainly, I thought, explained it very well and has in his own right made those contributions to charity that could be made. With that, I'll open for any questions. Yes. [LB817]

SENATOR MURANTE: Senator Blood. [LB817]

SENATOR BLOOD: Thank you, Chairman Murante. I have to ask...wait for him to tell me, sorry. [LB817]

JACK GOULD: Yes. That's fine. [LB817]

SENATOR BLOOD: So I'm looking through this and I'm a little familiar that we're not supposed to write checks to other campaigns, it says in our rules, unless it's to purchase tickets for a function. [LB817]

JACK GOULD: Correct. [LB817]

SENATOR BLOOD: So you're telling me that all of these were functions that people bought tickets to? [LB817]

SENATOR BREWER: They aren't. A lot of cases, and I think it's more out of just not being aware, they're reported on the campaign expenditures as just donations. [LB817]

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SENATOR BLOOD: I don't know how you cannot be aware that...the NADC does an excellent job of providing a handbook for the treasurers, but I'm sure all the candidates read as well, I would hope. [LB817]

SENATOR BREWER: Not all of them. [LB817]

JACK GOULD: Well, all I can say...without going through and mentioning specific names... [LB817]

SENATOR BLOOD: Sorry, Senator Brewer. [LB817]

JACK GOULD: ...I would suggest that if you go back and look at campaign expenditures from some of these people, you'll just see they wrote "campaign donation." We could file a complaint against that, but I don't think it was intentional. I think, again, it was a case of people just not knowing that they couldn't do that. I hope that's the case, let's put it that way. [LB817]

SENATOR BLOOD: Yeah, it's clearly written in that handbook. So what would you say...so your solution, you said, would be that you couldn't donate in any way, be it tickets or be it...to just candidates or parties as well? [LB817]

JACK GOULD: The original intent allowed donations to party. I'm not excited about that. But I think I would rather see that than the money going to a school board race or to the mayor of Omaha or something of that sort. [LB817]

SENATOR BLOOD: And why...what would be the difference? [LB817]

JACK GOULD: Well, I guess you're saying that the person who donated had a political preference when they donated. Perhaps that's being recognized. But I would have no objection to prohibiting the donation to the party. I think...I would encourage people to do what Senator Chambers did in the sense of giving the money to charity. There are a lot of good charities that could use the money and we're not talking small change here. This is \$100,000 which could be used for a lot of good causes. [LB817]

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SENATOR BLOOD: But couldn't...didn't we used to have a...if I remember correctly, didn't we have a \$5,000 threshold a couple of decades ago when it came to like legislative races that you...they set like a threshold and they had lifted that later on and...I mean, couldn't this be better resolved by just setting a threshold so people didn't have...I mean, I look at some of these amounts and add them up and that's more than I spend on my entire campaign. [LB817]

JACK GOULD: Yeah. Well, under the Campaign Finance Limitation Act, which was declared unconstitutional, there were some limits on contributions. When that was declared unconstitutional, everything went away. [LB817]

SENATOR BLOOD: So including putting a lid on how much we could spend on campaigns? [LB817]

JACK GOULD: We don't have any limits. We have limits saying that you have to report anything over \$250. [LB817]

SENATOR BLOOD: Of course, yeah. [LB817]

JACK GOULD: And that's about it. It just has to be reported, it doesn't have a specific spending lid. [LB817]

SENATOR BLOOD: I'm looking for the bill where you can't spend more than \$5,000 on any statewide race. And then the cream of the crop will rise to the top, the cream will rise to the top and it will be whoever put in the most shoe leather, but that's just me. [LB817]

JACK GOULD: I could certainly support that, I think, yeah. [LB817]

SENATOR BLOOD: Thank you. [LB817]

SENATOR MURANTE: Jack, I have a question for you. If the logic that...I think I have heard it a couple of times, and I do appreciate it, if somebody contributes to my campaign, they're contributing to help me get elected to that office, it shouldn't be used for anything other than to

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get me elected to that office. If that's the case, then why are we carving out exceptions for things, even like nonprofit organizations or things we may think that...we may all agree that the nonprofit itself has laudable goals, but that's not why I was given...so why would we continue allowing for the nonprofit contributions, but specify specific... [LB817]

JACK GOULD: Well, I don't...I think (inaudible)...I would probably even limit that from nonprofit. I mean, I think it should go to a charity like cancer fund or heart disease or dealing with a social problem that's not necessarily directed at anything political. I think that would probably be the best way to go. I am really referring back to the original intent when I'm...that's what this language does, it tries to take us back to what was intended in the original Accountability and Disclosure Act and that allowed some of these things. But, you know, I have personal opinions about, you know, I think this should be very much limited in terms in where the money would go. And I would want to see it go to a charity that would not be a political entity. [LB817]

SENATOR MURANTE: But I'm still not understanding the distinction. So if the core principle is someone gives to me, that money ought to be spent to elect me. [LB817]

JACK GOULD: Correct. [LB817]

SENATOR MURANTE: What is the distinction between whether I write the check to buy a ticket to Justin Wayne for Legislature or if I buy a ticket to the American Red Cross fund-raiser? [LB817]

JACK GOULD: Well, I think...I don't think there's a lot of political involvement when you write a check to the cancer fund. I think that writing a check to a fellow colleague is definitely political. So I think...you do have a dilemma. When you have a large campaign account and you decide to get out of politics, what do you do with the money? Well, the most reasonable thing in my view would be to give it to a respected charity that works for the good of all people. [LB817]

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SENATOR MURANTE: Okay. So I was trying to understand the evolving...so it's not so much that you're concerned about whether a contributor gives money to a candidate and it is spent for the express purpose of electing that candidate. It seems to not actually be the position, it's more it should be given to that candidate for the election of that candidate or for any cause that is nonpolitical? [LB817]

JACK GOULD: I would think that would be reasonable. Nonpolitical causes would be the best way to go, yes. [LB817]

SENATOR MURANTE: Okay. I think I follow you where you're at. [LB817]

JACK GOULD: I think that...when you're starting to talk about moving money to another political race, that isn't at all the intent. I think that most people would understand that at the end of the race it's pretty difficult to give the money back to all the individuals who donated over an eight-year period, how am I going to give that money back? So what do I do with it? Well, if you give it to a charity that is working for the good of all, like trying to fight cancer or heart disease, I think that all the donors would say that's a good cause. I don't know that they would say Senator Wayne was a good cause. (Laughter) [LB817]

SENATOR BREWER: (Inaudible). [LB817]

JACK GOULD: Yeah, he's not here so I...I'm glad you picked on him. [LB817]

SENATOR MURANTE: Okay. Senator Hilgers. [LB817]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Mr. Gould, for being here. Do you know...can you speak to the experience of other states or what the federal government does? [LB817]

JACK GOULD: I tried to get some of that information. I contacted the National Association (sic--Council) of State Legislatures, tried to...they didn't really have any specific information. Although, they said they thought there were states that had that. I didn't get anything back to

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name specific ones. I think states do have prohibitions. And Mr. Daley may be able to address that better than I do. [LB817]

SENATOR HILGERS: This might be a question for Mr. Daley as well, but just...there's a...on line 5 there is a reference to another candidate committee, and that's what's being struck by the green copy of the bill. I guess one question I have, and this might be again, maybe, a question for Senator Chambers or Mr. Daley, but there's an example on your list here, and I won't say the name, but there's a candidate who dissolved one committee, but the recipient committee was for that same candidate, just for another office. And so is it your understanding that the intent of this bill or your preferred preference of the bill is to restrict a candidate's ability to use those funds just for a different office? [LB817]

JACK GOULD: You mean for their own? In other words, they took the money from their account and ran for another office (inaudible) used the money? [LB817]

SENATOR HILGERS: Correct. Right. There's at least one example on here where that happened. So I wasn't sure if that's just...is that statutory language or is that the intent? [LB817]

JACK GOULD: Under this bill, that would be going to the original language that was there. That would be permitted if the candidate was given the money initially and they ran for another position, they would be allowed to do it. I think it's a...it's a fuzzy line there. I mean, you're bringing up a good question and I'm glad Frank Daley is here to answer it for you. (Laughter) But I mean, the idea being that the donor did have trust in the individual to give him a donation. And if they choose to run for another office is a good chance that they would say, yes, I support you. But that's questionable. They may not be. Maybe they favor the other candidate. So I...again, my favored outlet for the funds is a charity that services mankind. [LB817]

SENATOR HILGERS: Like Common Cause maybe. (Laugh) [LB817]

JACK GOULD: Well, we would not...I think we would be very careful about accepting political contributions. [LB817]

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SENATOR HILGERS: Thank you, Mr. Gould, I appreciate it. [LB817]

SENATOR MURANTE: Thank you, Senator Hilgers. Seeing no additional questions, thank you for your testimony. [LB817]

JACK GOULD: Thank you very much. [LB817]

SENATOR MURANTE: Additional proponent testimony to LB817? Welcome back. [LB817]

FRANK DALEY: Thank you very much, Chairman Murante. Members of the committee, my name is Frank Daley, D-a-l-e-y; I serve as the Executive Director of the Nebraska Accountability and Disclosure Commission. And I'm here today to express the commission's support for LB817. Perhaps I can make a couple of remarks, then circle back to some of the questions that I heard. The original intent in the...or the original Accountability and Disclosure Act included an absolute prohibition against one candidate committee transferring funds to another candidate committee. The idea here was to ensure that an office holder in a safe seat in a legislative body with an ability to raise money could not then turn that money over to favorite candidates for the legislative body such that the newcomer came into the body beholdng to the person that had provided all the money. That was my understanding the original rational for the absolute prohibition. Not long after the law was passed, some dissatisfaction was expressed. People running for public office was saying there ought to be at least a limited exception. I need to be able to attend the fund-raisers of other candidates because I want to make contact with people that I think would be important to my campaign and people who might donate to my campaign. An example might be someone running for Legislature might want to attend a gubernatorial fund-raising event because you could mix with a larger group of people. And so in 1980, the Legislature amended the Accountability and Disclosure Act to provide an exception. So the law still states that one candidate committee can't transfer funds to another candidate committee except for a fund-raising event of another candidate committee. Now originally, the way this was looked at was that, okay, you can purchase a ticket to a fund-raising event of another candidate committee for the purpose of attending for your own campaign purposes. But as time goes on and people look closely at the language of the statute, it doesn't really say that; it just says for a fund-raising event. So what occurred was more and more people were transferring large amounts

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of money, but it was for a fund-raising event. And so it was within the confines of the language of the statute. So rather than just buying a ticket, now I'm buying a table, and now I'm buying the "gold admission" that allows me to do five more things. So that's kind of what's been happening there. To circle around to some of the questions that some of you asked. The other section deals with what to do with campaign money when the candidate committee is dissolving. Under current law, you can transfer that money to another candidate committee; you can transfer it to a political party committee; you can return it to the donors; or you can give it to some nonprofit charitable entity. Those are permissible uses. LB817 would eliminate the possibility of transferring it to another candidate committee. Now, one of the things that is still available to candidates, however, if let's say I'm serving in one office, I have a committee, I'm now going to run for a different office. Under current law you have two options. Option number one is to start a new committee; at some point dissolve the old committee and transfer the money. Option number two which would still exist even under LB817 is simply to amend your statement of organization to change the office being sought and perhaps the name of the committee. So that works as well. Senator Blood is not here, but she did raise the issue about, well, what about these campaign statements that say "donation." Actually, whenever there's a transfer from one candidate committee to the other. That raises a red flag with our auditors. They inquire to find out if this was in association with a fund-raising event or if it was an out-and-out donation. If it's an out-and-out donation, we make them do something to reimburse their own committee for that transfer. Thanks very much for the opportunity to testify. And thank Senator Chambers for bringing this bill. It kind of closes a loophole that's been getting wider and wider over the years because the language in the exception is pretty broad. And I think we all agree it is a matter of public policy. If you've got a prohibition, you want a pretty strict exception. So if you like the public policy of having prohibitions against candidate-to-candidate transfers, then you should either move the bill forward or at least do something to tighten the language in the exception. Thanks for the opportunity to testify. [LB817]

SENATOR MURANTE: And thank you for your testimony. Are there any questions? I see none. Thank you, sir, much appreciate it. [LB817]

FRANK DALEY: Thank you very much. [LB817]

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SENATOR MURANTE: Additional proponents wishing to speak? [LB817]

JACK GOULD: I'm not coming back, even though Senator Wayne is here. I'm not coming back. [LB817]

SENATOR MURANTE: We were talking about giving you money, so that's the context there. Any additional proponents? [LB817]

SENATOR WAYNE: Just for the record, while he was coming up, I was in Judiciary introducing a bill. It was a lot faster because Senator Chambers was in here today. (Laughter) [LB817]

SENATOR MURANTE: We'll keep this public hearing going for as long as possible for the sake of the Judiciary Committee. Welcome. [LB817]

JAMES WOODY: Thank you. Chairman Murante, members of the Government, Military and Veteran Affairs Committee, my name is James Woody. For the record, J-a-m-e-s W-o-o-d-y; I live across the street which is in Senator Patty Pansing Brooks's district. I'm here today speaking in favor of LB817. I'm a veteran. I am a voter. I am a taxpayer. One thing I'm not is a lawyer, but I am a nerd, and I enjoy following law. So I watch legislation and litigation. On the legislation side of the house, I have been blessed with the privilege of the Nebraska Unicameral. The floor debate is streamed live via NET and I get to listen to it. I'm very proud of the gem that we have, the nation's only non-partisan, one-house state government. I also listen to testimony in the standing committee hearings such as this one. If I can't listen to them, I always have the transcripts available to me to go back and review. And through this I try to keep aware of what's going on in my state. I also follow litigation. I look at the cases that are in the federal court system. And one of those cases at the Supreme Court is kind of the nexus that brings me here to speak on LB817--Citizens United. I observe in our country a degradation of civility. Other people say it's polarization, people sliding to the farther ends of the left and the right and it greatly concerns me. In my view, Citizens United plays a part in that. My non-lawyer understanding of it is that money is speech, corporations have a constitutionally protected right of speech, therefore they can spend unlimited amounts of money in our political processes. I know that in the last day or two on the national stage, there has been a lot of talk about special

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interests and campaign funding. And that is something else that brings me here to speak on LB817. Basically, as I read LB817, it seems like a simple, straightforward, commonsense thing that would help protect the integrity of this body and I would be in support of it. I'd be happy to answer any questions. [LB817]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? I see none. Thank you very much for coming down today. Is there additional proponent testimony on LB817? Welcome. [LB817]

DONNA ROLLER: Hi. Good afternoon, Senator Murante and committee. My name is Donna Roller, D-o-n-n-a R-o-l-l-e-r. I haven't read the bill, but I came here to listen to these important bills. And I heard Senator Blood say one key thing and that she would be in favor of limiting state campaigns for \$5,000. I think that's great. I think that this Legislature should act on campaign reform in general. And I support campaign finance laws that preserve our wonderful, nonpartisan Unicameral. We have a gift in the state. We have a gift and we should do everything we can to protect our nonpartisan status, because I am proud to be an Nebraskan and I have known for many, many years how great this body works as a unicameral. We are an exception. And I think we're such an exception that the whole United States looks to us to lead. So please, if there's ever an opportunity to do that, do that, and I support LB817. Thank you. [LB817]

SENATOR MURANTE: Thank you. Let's wait to see if there are any questions. [LB817]

DONNA ROLLER: Oh, I'm sorry. Any questions? [LB817]

SENATOR MURANTE: It's okay. I see no questions. Thank you for your testimony. Additional proponent testimony on LB817? Any additional proponents? Is there any opposition...oh, excuse me, do you wish to testify on LB817? [LB817]

SUSAN WATSON: Yes. [LB817]

SENATOR MURANTE: Come on forward. Welcome. [LB817]

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SUSAN WATSON: Hi. Hello, my name is Susan Watson, S-u-s-a-n W-a-t-s-o-n. And this is going to be really short. But I support this bill. I do believe in financial reform. I do believe in a lot of things that have already been said, so I'm not going to try and repeat them. But I did want to come up and say that I do support this bill. [LB817]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? I see none. Thank you very much for coming down, much appreciate it. Is there any additional proponent testimony LB817? I see none. Is there any opposition testimony to LB817? Is there any neutral testimony to LB817? Seeing none, Senator Chambers, welcome back to close. [LB817]

SENATOR CHAMBERS: If you have any questions. [LB817]

SENATOR MURANTE: That is the best closing I have ever heard, Senator Chambers. (Laughter) Are there any questions? Senator Brewer. [LB817]

SENATOR BREWER: Thank you, Mr. Chairman. All right, Senator Chambers, you know I had to come back for another round with you here. Now, if this bill passes, as you designed it, once...if we're in an environment where you have term limits, once a person was reelected, there really wouldn't be much reason to go to all the lobbyist events because those are usually designed to find money for a campaign and you're not going to run again and if you can't transfer that to another campaign you're never going to accumulate a \$187,000 because, obviously, beyond that reelection then it would probably not be very honest of you to continue to collect money. I understand you can use that money in the district for things to help during that next term, but it seemed like some of those numbers get pretty high in how much they build in that war chest during that period. But that was the idea behind the bill, right? Is to keep from having that nest egg at the end of eight years and building from four to eight so that you had that to then use for whatever purpose you want to be on, you actually serving in the Legislature, is that kind of what you envisioned? [LB817]

SENATOR CHAMBERS: To be honest, I hadn't even thought of that aspect. I have to make clear again, I don't accept money at all. People have sent me money and I write "canceled" on the

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check so it's clear and then I send it back with an apology that I appreciate it, but I don't accept contributions, so I've never had any money on hand and I hadn't even thought of what you said. But here's what might could legitimately be done. This is flying by the seat of my pants, so to speak. I came back after the four-year break. If somebody thinks that they may come back after the four years of sitting out, and they haven't done anything inappropriate with that money in the meantime, then they'd have something to use if they should run again. But let's say that they don't run again, then it's necessary to find out under the law what can legitimately can be done with that money. But I hadn't thought of it. [LB817]

SENATOR BREWER: Actually, I hadn't thought about that piece too. I guess if you were thinking about, then you really wouldn't give the money to Red Cross and then have to go back to the process of trying to get enough to build a run after that before your break. Some of us don't have the luxury of being as famous as you are, so consequently you are well known. So your requirements for running are simply announcing you're running and you're the selection. Some of us have to scrap and fight to have that advantage. But you do bring up a good point. Thank you. [LB817]

SENATOR CHAMBERS: Now, Senator Brewer, if I didn't believe in complete disclosure, I would not say this. The people in my district wanted to break two walnuts with one stroke. By sending me here, they got me out of the community and they punished the Legislature. (Laughter) [LB817]

SENATOR BREWER: I'm sure that we have committed such sins in life that we deserve you. Thank you. [LB817]

SENATOR CHAMBERS: That's all that I would have if you don't have anything. [LB817]

SENATOR MURANTE: I see nothing else. Thank you, Senator Chambers. [LB817]

SENATOR CHAMBERS: Thank you very much. And it's good to see Senator Wayne back at his committee. [LB817]

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SENATOR WAYNE: I'll let them know to vote as fast as they can back there before you get there. (Laughter) [LB817]

SENATOR MURANTE: All right, that closes the public hearing on LB817. We'll proceed to the next item on the agenda, LB839. Senator Crawford, welcome back to your Committee on Government, Military and Veterans Affairs. [LB817]

SENATOR CRAWFORD: Thank you. I don't think I've been here yet this year. [LB839]

SENATOR MURANTE: No, you haven't. I think you're boycotting. [LB839]

SENATOR CRAWFORD: (Exhibit 1) Yeah. Yeah, wow. I have a handout for the page to distribute with one of those. Thank you. Good afternoon, Chairman Murante and members of the Government, Military and Veterans Affairs Committee. For the record, my name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th Legislative District of Bellevue, Offutt, and eastern Sarpy County. And I'm honored to be here today to introduce LB839 for your consideration. LB839 is a rewrite of my electioneering reporting bill from last session, LB252. After the hearing on this concept last session with the thoughtful questions and concerns raised by this committee, I felt it was important to revise the legislation to address some of the concerns of the committee. Even with these changes the intent of the bill remains the same, as LB839 requires the reporting and disclosure of electioneering communications. Electioneering communications are materials that are targeted at the electorate of a candidate that are distributed right before an election. These communications allude to a candidate without explicitly recognizing the election or their candidacy and, therefore, do not have to be reported. They don't say "vote for" or "vote against," but they refer to the candidate. LB839 does not restrict or limit the activity of citizen groups, what can be said in electioneering communications, or free speech in any way. Instead, LB839 simply creates a reporting mechanism to bring more transparency and accountability to our state's elections. If powerful groups or organizations are pouring money into Nebraska to shape campaigns in our state, the citizens and candidates have a right to know who they are. LB839, as originally written, requires that any corporation or person who makes an electioneering communication in an amount of \$250 file a report of such communication with Nebraska Accountability and Disclosure Commission. As defined by the bill, electioneering

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materials are communications that are publicly distributed 60 days immediately preceding election, refer to a clearly identified candidate, and are directed at the electorate of the office sought by that candidate. I have brought an amendment to raise the reporting level to \$1,000, which I will discuss in a minute and to change the days. So I'll talk about both of those in a minute. Under current law, groups and individuals are not required to report communications that are intended to be educational. Unfortunately, what is "educational" has been misconstrued by various groups who use this exception as a loophole to distribute electoral communications and avoid reporting for ads that are obviously directed at or allude to a candidate or advocate for or against said candidate. Some of these ads identify or name the candidate, but do not explicitly mention the upcoming election. These ads also use creative language to encourage the electorate to vote a certain way without saying outright, vote for or against X candidate. Creative evasion of explicit statement does not make a persuasive electioneering mailer and educational communication only. There is no doubt that distributing these types of communications is a constitutional right. They should, however, be reported in a manner similar to how other communications in our state that work to influence elections are reported. By requiring disclosure for electioneering communications we ensure transparency and give candidates the opportunity to publicly respond to groups and organizations behind possible misleading ads. It is important to note that communications that are truly educational in nature are excluded from the reporting requirements outlined in LB839. Exclusions include: voter guides; a communication while the Legislature is in session about a specifically named pending legislation--so, for example, if we were voting on a gas tax you would still be able to send things out about telling...contact Senator Crawford about...to not vote for the gas tax, even if you're in that window before the primary election if there's pending legislation on the floor; a candidate debate; a communication for any news story or editorial; or communication by a membership organization to its recognized members. There's nothing stopping any organization from contacting its own members about a candidate. Electioneering communication in this bill also does not include a contribution for an expenditure. The reporting requirements in LB839 mirror those required for independent expenditures in Nebraska outlined in 49-1467 in several ways. These reporting requirements provide transparency so that constituents can better understand who is communicating with them during the course of an election and hold those influencing our elections accountable to the statements they make about candidates. Recent Supreme Court cases have ruled on electioneering communications, the very subject of this bill. In 2010, the U.S.

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Supreme Court ruled in Citizens United v. Federal Election Commission that corporations and labor organizations are allowed to make independent expenditures and to fund electioneering communications. This ruling did not affect the reporting requirements for independent expenditures or reporting requirements for electioneering communications in any way. In fact, the court upheld in this ruling that reporting requirements for these types of expenditures are, in fact, constitutional. The federal government requires reporting and disclosure for electioneering communications in federal elections. So this type of requirement is already required in federal elections. LB839, as amended, though not as strict as the federal reporting requirements, which define the electioneering period as 60 days before an election and do not exclude voter guides, helps to bring some of this transparency and accountability to the state level. Since the last hearing I've made some changes to the language to help address committee concerns. First, we have added an exception for advertisement communications which may feature an individual running for office but have nothing to do with the election or candidacy. For example, if Senator Murante goes on and has a Fred's Pizza ad, right, he is free to do so and even if it targets voters and even if it's right before the election, it would not be considered an electioneering communication or a Hauptman, O'Brien and Lathrop ad neither. This language can be found on page 3, lines 10 through 13. Further, I've eliminated the language that required the reporting of the names of individuals who contribute over \$250 to an electioneering material. Now the bill will capture information on the individual or corporation responsible for circulating the communication only, not individual donors to that organization. Finally, I just already shared with you an amendment, AM1581, that will change the reporting period to only 30 days before the election and will only require reporting for electioneering communications exceeding \$1,000 as opposed to \$250. I had a conversation with one of our fellow senators who talked about the fact that this \$1,000 limit mirrors our late contribution expectations so there's a sense that our election law that something close to the election of \$1,000 is something that would deserve reporting and I thought that also makes sense to bump that line up so we're really talking about something that at least costs \$1,000. Colleagues, LB839 is an important step the committee can take to uphold the integrity of elections across our state. This bill does not change what communications can be sent during elections or what messages can be relayed to voters. Instead, this bill simply closes a loophole that allows interest groups to avoid disclosure under the guise of distributing "educational materials." Over the interim I worked closely with stakeholders to craft language that would address concerns raised by the committee members last session. I

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appreciate this committee's continued attention to this important issue and I am happy to answer any questions that you may have. Thank you. [LB839]

SENATOR MURANTE: Thank you, Senator Crawford. Are there any questions? I see none. Thank you. [LB839]

SENATOR CRAWFORD: And I will not be here for closing. I have some other bills that are in HHS that I need to be there for. So thank you. So I guess this is my last chance to visit my Government Committee. [LB839]

SENATOR MURANTE: Sounds important (inaudible) HHS. A single tear drop. [LB839]

SENATOR CRAWFORD: Oh. I'm happy to work with you to try getting this bill out of committee. I'll come back and visit for that. [LB839]

SENATOR MURANTE: Thank you, Senator Crawford, much appreciated. We'll proceed to proponent testimony on LB839. Mr. Gould, welcome back. [LB839]

JACK GOULD: Senator Murante, members of the committee, my name is Jack Gould, J-a-c-k G-o-u-l-d, and I think last year on a similar bill I was kind of the bad guy because I did bring up a lot of examples of problems that were faced. If you remember, we had Senator Seiler and Senator Johnson testify as to their rather brutal attacks by Trees of Liberty. Again, a rather shadowy group with no names attached, a group that originated at one time in Iowa, disappeared for two years, reappeared in Denver, and then ran attack ads against Nebraska candidates. And when I say attack ads, you remember those ads involved lies, outright lies about Senator Seiler's attendance record. They put Senator Johnson's head on a basketball player and sent that around with candidates. They made a lot of ads that were simply nothing more than character assassination. They weren't political. They didn't say vote for, vote against, they just simply attacked the character of the individual. And until I think you experience that and you experience it in the last 30 days of your election cycle and you have no more money left in your account to fight back, then you realize how devastating this kind of an attack can be. And the people who do these things, they're cowardly people who do these things, don't put their name on it because they

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can hide behind the nonprofit status and they have no problem going after honorable people and destroying their name. So what is being suggested in LB839, it's not that we can go after the individuals, but we can have more disclosure of the money amounts that are being used. It gives the candidate a little more of a warning as to what's coming. It has those things which would be acceptable under the First Amendment. With that in mind, I hope that you will continue to look at this bill and continue to look at the problem and hope that none of you experience the kinds of attacks that Senator Seiler and Senator Johnson, Senator Crawford, and many of the other senators have received from these kinds of organizations that have deep pockets and can attack at any time and destroy people's character. Thank you. [LB839]

SENATOR MURANTE: Thank you, Mr. Gould. Are there any questions? Senator Brewer. [LB839]

SENATOR BREWER: Thank you, Mr. Chairman. All right. What you're saying hits home and so I appreciate you describing it the way you did. And let me give you an example. When you're against someone who has pretty much unlimited money, the mailers are kind of one of those methods of getting their message to folks and there really doesn't have to be an ounce of truth with any of that. And if I'm tracking what you're saying correctly, if it's "Friends of Whoever" and they decide to send out...let me give you an example, mine. A flier came out and it was myself and Al Capone together. Now the reason Al Capone and I are one in the same is because while I was serving overseas I didn't pay my fair share of taxes because in a combat zone you're allowed a certain level of income before you pay taxes on it. Now, that was true. There was a certain level I didn't pay taxes on. And, of course, at the time I was doing that I was also being shot at, so I thought maybe that was enough compensation. But you can't go back and undo what they do. The perception of myself and Al Capone will probably always be in at least a few people's mind. But if I am tracking what you're saying is, this would then give visibility to understand who the "Friends of Whoever" are, so you know the root of the problem there? [LB839]

JACK GOULD: By the way, you and Al both had machine guns, so I just thought I'd mention that. [LB839]

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SENATOR BREWER: I feel better now. [LB839]

JACK GOULD: You would have a name that would be a person who registered the ad, okay? And you'd probably have an address or a phone number. I know the account with the Public Service Commission when robo calls are filed, they have a higher requirement where they do get a name, they get a phone number, they get an address. So the robo calls you can track back to a certain extent. But the mailers, it just usually has Trees of Liberty on it and you really have nothing else to go back to. So this bill would give you more information. It wouldn't give you all the information. You wouldn't necessarily know who paid for it, but we do have a pretty good idea of somebody's name is on it. In the case of the robo calls against Seiler, we had a name--Al Davis--no, excuse me, Mike Davis. Don't say Al. [LB839]

SENATOR BREWER: I didn't, you did. [LB839]

JACK GOULD: It was a Mike Davis and it was an address and a phone number. And I did call the number, but I never got an answer. So...but we would have more to go by, that's my point, if you have these. [LB839]

SENATOR BREWER: Just to kind of share that same track with you, another mailer had a picture of my vehicle parked beside another vehicle who happened to have Kansas plates and I was being influenced by shady elements from Kansas, who happened to be a blacksmith who was helping on a particular event. So they can take what is a common activity and turn it into...pretty much twist it any way they want. So I understand what you're saying, I appreciate what you're doing. [LB839]

JACK GOULD: Thank you. [LB839]

SENATOR MURANTE: Thank you, Senator Brewer. Seeing no additional questions, thank you for your testimony. [LB839]

JACK GOULD: Thank you. [LB839]

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SENATOR MURANTE: Additional proponents on LB839. [LB839]

SHERRY MILLER: Hello. [LB839]

SENATOR MURANTE: Welcome back. [LB839]

SHERRY MILLER: Yeah, well, I did send letters yesterday, but my knight in shining armor got me here today, so. I'm Sherry Miller, S-h-e-r-r-y M-i-l-l-e-r, and today I'm testifying from the League of Women Voters of Nebraska, of course. We strongly support Senator Crawford's bill, LB839. The League believes that the methods of financing political campaigns should ensure the public's right to know, combat corruption and undue influence, enable candidates to compete more equitably for public office, and allow maximum citizen participation in the political process. We adopted this position in 1974 and updated it in 1982. The definitions in LB839 are crystal clear in meaning. Legitimate communications are not targeted in any way, but communications that bombard the electorate within the last days of a campaign too often are created with the intent of defaming the candidate or misrepresenting his or her platform. Such communications would and should be subject to the requirements spelled out in the bill. We've all been recipients of such advertisements in past campaigns underwritten by groups with big titles and very difficult to research for names of organizers or supporters. Transparency in government is a hallmark of the League and it must begin with the campaign process. And I would like to add that reports received after the mandated two days following an electioneering communication in an amount of more than \$1,000--I changed that--should be assessed the full penalty of \$25 per day for every day they are late. The League opposes any relief for late filings, particularly from organizations which underwrite electioneering actions meant to derail a campaign. And we urge you to advance LB839 to General File without delay. Thank you. [LB839]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? I see none. [LB839]

SHERRY MILLER: That's good. Thank you. [LB839]

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SENATOR MURANTE: Thank you. Are there additional proponents wishing to speak on LB839? Welcome. [LB839]

FRANK DALEY: Hello, again. My name is Frank Daley, D-a-l-e-y, I'm the Executive Director of the Accountability and Disclosure Commission, appearing in support of LB839. The purpose of LB839 is intended to ensure that activity which is identical in purpose is treated substantially the same under Nebraska law. And before I go any further, I can't help circling back to Senator Brewer's observation about how you can twist the truth around. And it always reminds me of that old story that took place in an election in the South where candidate A was running against candidate B. Candidate A circulated the rumor that candidate B was Homo sapiens and caused all sorts of consternation and caused all sorts of problems for candidate B. About the time that everything was dying down, candidate A let loose that candidate B's wife was a thespian, so I mean that's how you can take things and twist them around. I think the best way to explain what this bill is about is with a scenario. Let us say that two mailers arrive in your mailbox a couple of days before election day, sent to the voters of Legislative District 50. Here is flier number one: Senator Jones voted to raise the gasoline tax. Nebraska citizens don't need increased taxes in any form. Tell Senator Jones we don't need new taxes by voting against him on November 9. Okay, that's scenario number one. I think everyone recognizes that as a campaign ad. Here's flier number two: Senator Jones voted to raise the gasoline tax. Nebraska citizens don't need increased taxes in any form. Call Senator Jones and tell him, we don't need new taxes on anything. So the second one is no mention of elections, no mention of votes, no mention of anything like that, that he's a candidate. The first scenario is a campaign ad, everybody recognizes it's that. The second scenario is most people would recognize as a campaign ad, but the Supreme Court does not. And that's what we're trying to address, the second scenario where it's, call Senator Jones, tell him we don't need new taxes. It doesn't mention he's a candidate, it doesn't mention a vote, doesn't mention an election day. the first ad, if someone paid for that, that would be disclosable under the Accountability and Disclosure Act. There's some reporting requirement. With the second ad, which I think we can all see has the exact same purpose, there's nothing about that that's reportable right now. And so what LB839 is trying to do is bring the second ad into the reporting requirements of the Accountability and Disclosure Act. What the second group would have to do is they have to disclose who they are, how much they spent, who was the candidate that was named in the ad...who was the person that was named in the ad, and

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who they paid the money to. That's what LB839 does. So I guess that ultimately the purpose of all this is to disclose who's talking, who they're talking about, and how much they spent. I know that at different times we've talked about this bill on a variety of occasions, so I think I've made it as simple or brought it down to the grass-roots level as much as I can, so I do want to thank Senator Crawford for bringing this bill, the updated version of the bill. And thanks for the opportunity to testify today. [LB839]

SENATOR MURANTE: And thank you for your testimony. Are there any questions? Senator Hilgers. [LB839]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Mr. Daley, for being here. I appreciate your comments and we...last year we had, I thought, a very informative back and forth on some of the virtues of anonymous speech. And I don't want to maybe retread all that old ground, but I do want to touch on one point. I do think--which I think is implicated here--and I'll say the question, but I'll preface it by saying, I don't know if I totally buy the notion that if you just disclose, then these awful attacks will not occur, because...and I'm not saying this is what you're saying, Mr. Daley, but there are a number of members in this committee and a number of our colleagues who had pretty vicious character attacks and they put their name all over it. And so I don't...if that is the policy justification, then I'm unpersuaded. But one of the...and I think at least speaking for myself, certainly more disclosure in general I think is a very good thing. But it does implicate a concern of mine which is, in a typical race where you have an incumbent and a challenger, the incumbent is going to have a significant differential in political power because he's an incumbent in office and can introduce bills and vote against things and all the rest. And so there is a...without the ability to have some anonymous speech, are you...and then it's policy discussion. I just want your thoughts. It's not a leading question. If...without that ability to have an anonymous speech, are you adding another layer of protection for incumbents that otherwise wouldn't exist, because it will chill groups or individuals that might be unhappy with that incumbent but don't want to risk any retribution from publicly going against the incumbent? [LB839]

FRANK DALEY: So the essence of your question, do I think it will chill speech? And I think the answer is, probably not. We certainly have plenty of speech going on. And the fact that a group

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has to disclose, this is the name of our group, this is the address of our group, this is the amount we spent, and this is the candidate we were talking about, I don't think that chills much, because certainly it doesn't go to the donors to the group who maybe are speaking through the group. And it seems to me that we're not really dealing with situations that occurred when the roots of anonymous leafleting were popular in the United States. We're not currently under the alien and sedition laws, we're not currently worried that the British are going to hang traitors for their political speech and things of that nature. I mean, we have First Amendment protections and you have the right to free speech. [LB839]

SENATOR HILGERS: Sure. I guess I take that point. And I don't want to overstate whether I think there would be significant reduction of speech. Although, I do feel...I do think that the idea that there is no repercussion to speech...something less than but still pretty significant than being killed, for instance. [LB839]

FRANK DALEY: Sure. [LB839]

SENATOR HILGERS: There are people who have lost their jobs, for instance, for contributing to politically unpopular campaigns or politically unpopular causes. And so I guess I hear your point. I do think there is, at least in my mind, there is concern that it could really chill some speech. But I guess I do agree with you that compared to last year's bill, which did have--if I recall--the donor disclosure requirement. [LB839]

FRANK DALEY: It did, yes. [LB839]

SENATOR HILGERS: I do think that's an improvement in that regard. So thank you, Mr. Daley, I always appreciate your thoughts. [LB839]

SENATOR MURANTE: Thank you, Senator Hilgers. Seeing no additional questions, (inaudible). Thank you. [LB839]

FRANK DALEY: Thank you, members of the committee. [LB839]

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SENATOR MURANTE: Additional proponent testimony to LB839. Welcome back. [LB839]

DONNA ROLLER: Good afternoon. My name is Donna Roller, D-o-n-n-a R-o-l-l-e-r, and I'm listening carefully to all of this testimony. There's one obvious fact. The monster in the room is Citizens United. It is the most single factor that has destroyed our democracy and our elections with all the bad talk and the diminishing and just the awful, negative things and character assassinations of our candidates. And I think that's where the problem lies. So this bill is going to kind of fix one avenue of this bad-mouthing going on. And so I'm going to stand up again and say, we need campaign reform. Can the state take the lead? And I'm not a lawyer, I don't know what is even legal based on that Supreme Court decision. But back when I was young, there was such...when we had papers and before computers and before all the negative things happened, we had what was called the voter's guide. It was in the paper and I read it religiously. And I believed what was in the paper and I voted accordingly. So, what's wrong with doing that? You know, I'm just offering a suggestion. Like, can we have some kind of official thing where our candidates each get to say what they stand for and their platform and limit the campaign donations? And then if there are donations, clearly state them underneath, certify it, give it to all the Nebraskans. Make it available and cut this nonsense out. I mean, you might think I'm crazy for suggesting this, but I think that's a simplistic way to just stop this bull****. Thank you very much. [LB839]

SENATOR MURANTE: (Exhibits 2-5) Thank you for your testimony. Are there any questions? I see none. All right. Additional proponents wishing to speak on LB839. All right. Is there any opposition testimony to LB839? Is there any neutral testimony to LB839? Senator Crawford waived closing, but I do have a letter of support from: Ann Chalson of the League of Women Voters of Greater Omaha; and Sherry Miller of the League of Women Voters of Nebraska. Two letters of opposition: one from Mark Mix, the President of the National Right to Work Committee; and Doug Kagan of Nebraska Taxpayers for Freedom. And that closes the public hearing on LB839. We'll proceed to the next item on the agenda, LB1129. Senator Kuehn, welcome back to your Committee on Government, Military and Veterans Affairs. [LB839]

SENATOR KUEHN: (Exhibits 1, 2) Thank you, Chairman Murante and members of the Government Committee. I am Senator John Kuehn, J-o-h-n K-u-e-h-n, and I represent District 38, seven counties in the south-central part of Nebraska. I'm here today for your consideration of

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LB1129. LB1129 is a bill which is based very closely on what is known in the federal system as the Hatch Act and is intended to foster an important discussion about acceptable conduct of state employees in terms of separating their role as a public servant from political activity. As outlined in the bill, it says a few things which I won't read to you the bill, but I wanted to hit a few high points. I'm certainly happy to engage you in discussion as you so see fit. First, the bill would restrict any state employee from holding office in a political club or party, and then sets out a series of guidelines, almost identical to the federal Hatch Act that states that no employee while on state time in their official capacity or using government resources--and I do want to emphasize that in using their private time, using their private resources, it has not impacted their behavior in any way--however, they cannot campaign for or against a candidate; make a campaign speech; collect campaign contributions; sell tickets to a political fund-raising function; develop or distribute campaign materials or communications; organize or manage a political rally or meeting; circulate petitions for a candidate or a ballot initiative; work to register voters for one party only--although they certainly can register voters in general; use any digital medium to communicate about party politics, a candidate for office, or a ballot initiative unless required in the performance of his or her official duties; or wear political buttons. The rest of the language of the bill then establishes a process by which a violation report would be made to the Nebraska Accountability and Disclosure Commission and then report to the Attorney General for investigation. A violation could result in a Class I misdemeanor and removal from employment. I realize this has fostered a lot of discussion within this building and throughout state government in general. And I want to highlight a few points that I think are important to make. One, this is not an unusual or atypical concept. Forty-three of the fifty states and several territories have specific restrictions on state employee engagement in political activity in their official capacity on public time or using public resources. In fact, I handed out for you a section in Nebraska state law, Section 81-1315, which actually has a specific prohibition for state employees for participating in political activity. What this bill does, by placing it in Accountability and Disclosure specifically enumerates activities that mirror the federal Hatch Act as well as provides the mechanism for reporting a violation and how that investigation would be handled. So this concept already in existing Nebraska state law is not unusual and is not atypical. I think that this particular issue is important for us to discuss as a body and from a public policy perspective, especially in the era of social media and electronic communication. And to that end, I also handed out to the committee frequently asked questions which is distributed to federal

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employees, specifically regarding the use of social media and e-mail. So if you are a federal employee and you are under one of the covered groups under the Hatch Act, you have specific restrictions on how you engage in social media. Federal law does have some distinctions. Federal law has some employees which have a greater degree of restriction than others and that is outlined in the handout. And while I certainly won't go through it in detail, I'm happy to discuss it with you if you have specific questions. But providing greater clarity about appropriate use of electronic communications and appropriate activity in today's expanded role of state government, as well as the use of electronic media blurring that line between when we are and are not at work and when we may or may not be engaged in our official capacities, is always helpful as we discuss appropriate behavior with state employees. So with that, I am happy to entertain any questions that the committee may have. [LB1129]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? I see none. [LB1129]

SENATOR KUEHN: All right. Thank you. [LB1129]

SENATOR MURANTE: And we will proceed to proponent testimony on LB1129. Are there any supporters of LB1129? Welcome. [LB1129]

FRANK DALEY: Good afternoon. Chairman Murante, members of the committee, my name is Frank Daley, D-a-l-e-y, I'm the Executive Director of the Accountability and Disclosure Commission, and I'm here to express the commission's support for LB1129. LB1129 is what I would call a clarifying piece of legislation. Section 49-14,101.02 of the Accountability and Disclosure Act currently provides that public official or public employee shall not use or authorize the use of public resources for the purpose of campaigning for or against the nomination or election of a candidate or the qualification, passage, or defeat of a ballot question. Section 20-160, which is not part of the Accountability and Disclosure Act, but which is a section in the civil rights statutes of Nebraska provides something to the effect that no employee of the state or political subdivision shall be prohibited from participating in political activities, except during office hours or when otherwise engaged in their official duties. So I see LB1129 as providing a bit more in the way of specificity as to what types of activities are prohibited and

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they kind of dovetail very well with existing statutes. It seems to me that clarity is always a good thing and that's really what LB1129 does. If the committee sees fit to advance LB1129, I might make two suggestions. Number one, Section 2 of the bill, paragraphs (3) and (4) establishes a process by which a violation of the provisions of the bill may be investigated and prosecuted by the Attorney General's Office. I will tell you there are already provisions in the Accountability and Disclosure Act for investigation by the commission for civil matters, investigation by the Attorney General's Office for criminal matters, and a process by which we refer one to the other. And so it seems to me that this is somewhat duplicative. We can probably agree that if there's a process for investigation and prosecution, it ought to cover the entire Accountability and Disclosure Act. LB1129 provides a process that applies to just one provision of the Accountability and Disclosure Act. That's probably not a good approach. Next, if you look at Section 2 you will see what I'll call the laundry list of provisions. And it says things such as: An employee shall not campaign for or against a candidate. A campaign shall not make a campaign speech. I think the use of the word "campaign" is a little bit problematic because in the Accountability Act "campaign" is not a defined term. So while we may think campaign speech, are we talking about a speech in the Campaign Against Hunger? I think what we probably intend is partisan or campaigns involving the election of candidates. So perhaps where it says "campaign," we could say something to the effect, shall not give a speech supporting or opposing the nomination or election of a candidate. Wherever the word "campaign" appears we would substitute that language. Also used is the language "political." So if you look at subsection (j), I believe it is, wear political buttons. Well, political buttons could include Save the Whales, but I doubt that's what we're trying to reach with this bill. So, again, instead of saying, wearing political buttons, wearing buttons that support or oppose the nomination or election of a candidate, might be a better approach to doing this. With that, I want to thank Senator Kuehn for the opportunity to engage in an interesting conversation and thank you for the opportunity to testify on this bill. [LB1129]

SENATOR MURANTE: And thank you for testifying. Are there any questions? I see none. Thank you. [LB1129]

FRANK DALEY: Thank you. [LB1129]

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SENATOR MURANTE: Additional proponents wishing to speak on LB1129. Are there any additional supporters? Opposition to LB1129. Welcome. [LB1129]

AMANDA GAILEY: Hi. My name is Amanda Gailey, G-a-i-l-e-y. I'm speaking only as myself today, but I am employed by the state, the University of Nebraska, and I also hold office in a political club, Nebraskans Against Gun Violence, a combination that would be illegal under this law. I am also a military brat and as my family moved to different military bases around the world when I was a kid, I was taught by my conservative parents to believe that the United States of America was the best country on earth and that it is our obligation as citizens to participate in democracy to keep it that way. One of the reasons our country seemed so great was because it was not the kind of place that would pass repressive legislation like the one before us today, legislation intended to stifle and strong-arm some of the state's most educated and devoted citizens because they are likelier than not to dissent from the billionaire Governor's destructive agenda. I am one of those people. Just this Sunday, as president of Nebraskans Against Gun Violence, I convened a short-notice meeting that was so packed with citizens sick and tired of gun proliferation that we had to scramble to accommodate the high numbers. Right before this very hearing I was speaking by invitation on a panel answering students' questions about how to be politically engaged. I am wearing right now some dangerous political buttons here today and I want to confess to the committee that I once placed a pile of buttons that said, Immigrants Make Our Country Better, in a public place on campus so that our immigrant students could feel that they were not alone when the government treated them with contempt. I want to be very clear that I will never stop taking my duty as a citizen seriously and I will never stop volunteering for political clubs in whatever capacity I, and not Pete Ricketts or his surrogates, see fit. So if this bill passes and the commission receives a report about me that compels the executive branch of government to investigate me and charge me with a crime, because apparently nothing says American values like empowering anonymous political informants and mandated stalls the investigation of citizens, I will happily be the person who brings a civil liberties lawsuit against the state government and I would love nothing more than to pursue it, perhaps for years, all the way to the Supreme Court. It would be my pleasure. [LB1129]

SENATOR MURANTE: All right. Are there any questions? I see none. [LB1129]

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STEPHEN RAMSAY: (Exhibit 3) Good afternoon. My name is Stephen Ramsay, for the record, S-t-e-p-h-e-n R-a-m-s-a-y. Senator Kuehn has taken a marked interest in matters of ethics, and he is certainly to be applauded for that interest. I fully support his efforts to establish an Ethics Board in the state Legislature, and I would go further: I think all state agencies would benefit from having a forum in which ethical matters are discussed and debated. But I do believe that LB1129 goes too far. Two provisions are particularly worrying. The first, and by far the most alarming, is the prohibition against state employees holding officer or positions in political clubs. I have been unable to find any statutory definition of the term "political club," but given the definition of the word "politics," it seems obvious that we are dealing with a hopelessly broad category of human activity. It could refer to a local chapter of the National Rifle Association, but it could as easily refer to a group that calls itself "Knitters For Bike Lanes." Both are concerned with public matters, the most ancient definition of the word "politics." I doubt that many state employees are confused about the standard prohibitions against using state resources for political ends or, indeed, for any purpose beyond the stated goals of the agency or organization. Such prohibitions are articulated in countless HR memos and agency bylaws, and in some cases in state and federal law. But the concept is intuitive. State resources are owned by the people and are for conducting the people's business. Using them for any other purpose is at least problematic, if not in many cases patently unethical. But as I said, I don't think many people are in the dark about this. Such prohibitions, though, are not meant to compromise the rights of state employees as ordinary citizens. The case law established by the 1939 Hatch Act offers an overwhelming consensus on this point: What state and federal employees do on their own time and with their own resources is their business. To suggest otherwise is to deny them their most basic constitutional and civil rights. And this law goes much further, by actively criminalizing such activity. Class I misdemeanors are the most severe nonfelonious penalties under Nebraska state law and can carry up to a year in prison. The idea of imposing such penalties on citizens who seek only to participate in political activity of whatever kind offends against the most basic principles of democracy. The second problematic provision is more nuanced, but no less alarming. It prohibits the wearing of "political buttons." Today, I am wearing a button that says, I Love Public Schools. Is that a political button? It depends on who you ask. On its face, it seems entirely innocuous. I do, in fact, love public schools, and I hope you do too. But what if the state Legislature is currently debating legislation involving charter schools? Some would undoubtedly read my button as political, and rightly so. The idea that a state employee can't wear such a thing

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on a jacket or put it on a backpack without facing jail time, termination, or both, seems to me an obviously aggressive attempt to render state employees politically mute, unable to exercise the most basic right to free expression. It imagines a workplace in which any sort of political discussion is summarily silenced. I fear for the janitor who wants to "Make America Great Again" with a hat. Remove those provisions and their astonishingly severe penalties and we are left with a bill that is almost entirely redundant with respect to state law. Should we be talking about ethics as state employees? We should, and we are. But let us not make the terrible mistake of rendering state employees less than what they are: citizens, with all the rights that that proud title entails. I strongly encourage the committee to vote against LB1129. [LB1129]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? Senator Blood. [LB1129]

SENATOR BLOOD: Thank you, Chairman Murante, and thank you for your testimony. I'm sorry to walk in, in the middle of it. I'm really sorry to have missed what came previous to you. [LB1129]

STEPHEN RAMSAY: I submitted copies. [LB1129]

SENATOR BLOOD: And I can read, so we're in luck. So that was really interesting, what you had to say about political buttons. A lot of things on buttons are up for interpretation. Like I'm wearing my "I'm Going to Take Over the Patriarchy" button today. [LB1129]

STEPHEN RAMSAY: Yes. Yes. A cause I support, Senator, incidentally. [LB1129]

SENATOR BLOOD: But that's my secret. Nobody knows that, so. So I think that's a really valid point. After reading through this that was something that didn't come to mind. So...and right now in Nebraska we already have this in Chapter 20, right, as far as what you can and can't do at work? [LB1129]

STEPHEN RAMSAY: Yeah, there's quite a bit of statutory law behind the idea that...and, as I said, in countless bylaws and HR memos prohibiting...and as I said, I think even if it were not

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expressed both in statute and in the Hatch Act and in other places, I think the concept is pretty intuitive that you can't use the people's resources, the people's money to do things that are... [LB1129]

SENATOR BLOOD: Right. And the First Amendment doesn't cover us when it comes to being at work and having a say so on things like that, so. [LB1129]

STEPHEN RAMSAY: I'm sorry. Say that again. [LB1129]

SENATOR BLOOD: Our First Amendment rights aren't protected when it comes to work time and participating in government activities that pertain to political activities, not government activities but political activities. Right? Or not? [LB1129]

STEPHEN RAMSAY: It...the...that's a very complicated legal question, because it pertains to whether you're speaking on behalf of the organization. Can I have a political discussion at work? I hope so. [LB1129]

SENATOR BLOOD: Right. But to have a button that says "Vote for Joe Blow," our rights aren't protected as state employees. [LB1129]

STEPHEN RAMSAY: I think...let's consider a hypothetical situation. Let's suppose that we have a U.S. Census worker--okay, this is a federal worker because this is a federal case--but let's imagine we have a Census worker. He probably wears some kind of insignia indicating that they work for the Bureau of the Census. Let's say they also have a button that says "Reelect Pete Ricketts." Okay? The problem there is that it may lead to confusion on the part of the public. The U.S. Census Bureau is an explicitly nonpartisan organization. It is there to carry out the constitutional mandate in Article I, Section 3 of the U.S. Constitution and it is misleading, to say the least, for someone to appear at someone's door taking the census to give the impression that this is, in fact, some kind of partisan organization or something like that. The question I think we're here to talk about is, what do we do about that? I would suggest that the way we deal with that is not throw that person in jail. Call up the Attorney General, possibly get that person terminated, fined, whatever. I think that existing ethics rules actually in that organization would

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empower someone to go and talk to that person and say, look, you can't do that for all the reasons I've just enumerated. So I think there's a proportionality issue here. There's a...that may be a bad idea. It may be a very bad idea, but I think that the agencies...the state agencies and organizations are fully equipped to kind of deal with that kind of ethical lapse without bringing in the Attorney General, bringing in the...criminalizing the activity, especially since the response may well be...Senator Brewer earlier alluded to, I did something wrong, but I didn't realize I was doing something wrong. And very often in ethics cases that is exactly the case. I realize I couldn't do that. And as soon as it's pointed out they go, oh, hey, I'm sorry. I'll stop doing that, of course. But launching an investigation seems to me exactly the wrong thing to do. [LB1129]

SENATOR BLOOD: I'm kind of surprised this isn't in the Judiciary Committee, based on that. I think that's odd. I look at Chapter 20, at the civil liberties in state statute, Article I, that talks about individual rights. And with the exception of the punishment, pretty much everything that's in this bill as far as the workplace is already in state statute. [LB1129]

STEPHEN RAMSAY: It's already in state statute, I would agree with that. And I think already--if I may--I think already well articulated in the case law following the Hatch Act, which of course has guided state law on this question as well. [LB1129]

SENATOR BLOOD: It's too bad the NLRA doesn't apply to state employees, but I guess that's just part of the benefit of being a state employee. Thank you. [LB1129]

SENATOR MURANTE: Okay. Senator Hilgers. [LB1129]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Mr. Ramsay, for being here, for your comments. I wanted to follow up to see if you know the answer, because you did discuss some of the case law of the Hatch Act which I appreciate, after my lawyer heart. And I know you mentioned, too, as I took it, two provisions of the statute that pose some interpretive problems and that they might be overbroad, the political buttons as well as I think the holding an office in a political club. My question, if you know, and you may not, but I'm just curious. Are those terms or similar terms used in the Hatch Act? If so...and then my follow up, if so...I'm impressed

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you've read some of the case law...have trial courts grappled with that interpretive question?
[LB1129]

STEPHEN RAMSAY: Yeah. I'm glad you brought that up, because it is actually an interesting aspect of the Hatch Act. The answer is, no. The Hatch Act is not banned participation in political clubs, with one exception. And that is, it bans participation in an organization whose stated purpose is the overthrow of the United States government. I think that's different than "Knitters for Bike Lanes." I think that's different from almost any others. I think that's not what we're talking about here. Right, that is a provision that attempts to prohibit federal employees from participating in sedition. I don't think that's...I think this is overly broad, precisely. [LB1129]

SENATOR HILGERS: I appreciate that. Is it...the answer is still, no, on political buttons as well? Is that... [LB1129]

STEPHEN RAMSAY: I'm not aware. No, the Hatch Act makes no mention of anything like that, as far as I know. Although it...yeah. I'll just leave it there. [LB1129]

SENATOR HILGERS: Thank you, Mr. Ramsay, I appreciate it. [LB1129]

SENATOR MURANTE: Okay. I see no additional questions. Thank you for your testimony. And we're still on opposition testimony to LB1129. Welcome. [LB1129]

GERARD HARDISON: Thank you. My name is Gerard Hardison, that's G-e-r-a-r-d H-a-r-d-i-s-o-n. And I think I've got a...I've been a professor at the University of Nebraska for 26 years, but I don't represent the University of Nebraska, except in Chancellor Green's nightmares. There is something that nobody has brought up. I've held office in political clubs all my time at UNL, four different political clubs. One was College Republicans, one was the Huskers for Rubio, one was Young Americans for Freedom, and one was Americans for Prosperity. I was a faculty adviser. It's an office. In fact, those clubs could not have existed without someone on the faculty being an adviser to the club. UNL's policy says, a recognized student organization has to have a faculty adviser. So we would basically wipe out every political club among the students. I don't think that's something we want to do. Furthermore, I did all of my functions in office, which

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weren't terribly arduous, in my office between 9:00 to 5:00, probably using a UNL pen to sign some of the forms. Again, those would have been forbidden under this act. So that's point one. That is...it's incredibly broad. There was one club that I was a member of, that I was adviser for, that wasn't political, which was the Anime Club. But even so, there's something called the Equal Access Act of federal law that says that if a university bans political or religious clubs, it can only do so if it bans all clubs. So in banning political clubs you would also ban every student club. And this is just a technical point of the law that needs to be looked at. The second point is just more general. I really resent Section 2, part (1). It seems to me to be part of an attack by some of the members of this body on the faculty at UNL. We've seen all sorts of things. We've seen faculty being defamed on legislative blogs. We've seen (inaudible) and now you want to take away our basic fundamental rights to act as political...to act as citizens. And, frankly, I'm not the only one who thinks this way. There is a lot of resentment on campus about efforts like this one. It's sort of ironic, because I understand the proponent of this bill is also on the faculty for private college in Nebraska so...and also serving as a senator. So basically he's doing the things that he wants to prohibit us from doing, which seems to me a little hypocritical. Finally, buttons...everyone's got buttons today. "Goldwater 1964," it's one of my favorites. Is that a political button? It was a political button in 1964. Now it's a collectible. This one's a little more subtle. It says, "Boycott Grapes." Probably...maybe some people here know what that's all about. It doesn't seem political but, in fact, it was really political back in the '60s. It belongs to my wife, by the way, and she's told me she'll kill me if I don't bring it back. It was part of the lobbying campaign by Cesar Chavez for recognition of the United Farm Workers in California, so it was incredibly political back in the '60s. So the whole thing about political is silly. Finally, state time. What's state time for a faculty member? We don't work 9:00 to 5:00. The university doesn't tell us to work 9:00 to 5:00. Sometimes I work overnights writing federal research grant proposals to bring in money for the university. They don't pay me overtime. Is that state time? Next day I might not come in till 1:00 because I'm sleeping. Am I shirking from my state time? There is no definition of what state time is, at least for a member of our faculty. So this is my problem: If you vote this bill into law, I will found the Nebraska Chapter of the British Monster Raving Loony Party, which I could run for election and get a lot of votes. I will elect myself president for life of the Monster Raving Loony Party and I will go down to the Attorney General's Office and turn myself in and demand to be arrested. So I think that would be great entertainment for the whole state. Thank you very much for your time. [LB1129]

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SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? I see none, but I have read your blogs on Leavenworth Street many times, so it's nice to finally see you in person. [LB1129]

GERARD HARDISON: Well, thank you again. [LB1129]

SENATOR MURANTE: Additional opposition testimony to LB1129. Welcome. [LB1129]

PATRICIA WONCH HILL: Good afternoon. My name is Patricia Wonch Hill, that's P-a-t-r-i-c-i-a W-o-n-c-h H-i-l-l, no hyphen. I am in fact a faculty member of the university, but I'm not here representing the university today. Instead, I am here to testify on behalf of the Nebraska State Conference of the American Association of University Professors. This is a professional organization with members in 12 different Nebraska universities and colleges across Nebraska. We oppose LB1129 for several reasons. It would seem on its face to be an extension of the Hatch Act. For example, some provisions of LB1129 follow this lead by prohibiting the use of state resources and employees' time from engaging in partisan campaigning. However, this is a laudable goal to keep public resources from being deployed for partisan purposes. LB1129 becomes excessively restrictive, particularly when weighed against the penalties. In its current form, state employees could potentially receive a sentence of up to one year in prison for wearing political buttons on their backpacks, maybe as they walk into work. If, for example, their private phones should even inadvertently connect to the office Wi-Fi during their lunch hour as they are e-mailing and trying to get together friends for a political meeting, they could be similarly guilty of a Class I misdemeanor. These provisions become especially problematic in the context of university employees, as some people have already pointed out. Our work lives and home lives are extremely fluid. It's difficult to say when salaried employees are off the clock. To be safe, such employees would be wise to refrain from any political advocacy at all. And this seems to be the point of this bill, to discourage political participation by the tens of thousands of state employees of Nebraska. And, indeed, how else can one interpret Section 2, part 1, which states point blank that no state employees shall hold office in a political club or party? There are no restrictions of state time or state resources on that clause at all. State employees are simply banned from taking any leadership role in any organization that might be deemed a political club. If I were a faculty adviser for the College Republicans, would that trigger a consequence? If the

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president of the College Republicans, a student, had a work study position and was a state employee, could they be in trouble or be investigated for having a position in a political club? Finally, and most disturbingly, Senator Kuehn's questions to a University of Nebraska professor who gave testimony on a bill before a committee earlier this month point to even more troubling use of this bill, namely that it would be used to restrict the testimony of experts in their field since the research which renders them experts would likely have been generated in the course of their work as employees at the state university. So should such research be presented to advocate for a particular position on a bill during a hearing, the senator's questions implied it could run afoul of this bill, opening the professor testifying in her area of research to prosecution under LB1129. Do we really wish to restrict the sharing of information by experts in their fields when our legislators are attempting to make difficult decisions regarding the governance of our society? Is opinion informed by countless hours of rigorous thought and investigation and research to be specifically prohibited? LB1129 is a bill whose consequences would be profoundly damaging to our democracy by severely restricting the rights of those who choose to serve our state in their daily work by disproportionately penalizing those who attempt to participate in the political processes and by practically rendering illegal the offering of expert testimony in front of the Legislature. We strongly oppose this bill and urge the committee to reject it. [LB1129]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? Senator Hilgers. [LB1129]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you for being here today. I appreciate your testimony. I just wondered if you could elaborate on that last point. I was reading the statute as you were...about the expert testimony piece. Could you just maybe walk me through where that...how that's implicated in this...in the statutory provision? [LB1129]

PATRICIA WONCH HILL: There was a hearing earlier this month where Senator Kuehn was questioning a UNMC faculty member who was testifying in her area of expertise, in this case it was reproduction, and was asked about the use of state resources and state time and whether she could prove that she wasn't using state time and resources in that testimony. Of course, that would be very difficult because of the fluidity of our faculty...fluidity of our work as faculty and

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researchers. And so although it doesn't explicitly say that in LB1129, it is so broadly written and the way that these questions were asked of this testifier earlier this month, we think that this might be the intent. And that's really worrisome. [LB1129]

SENATOR HILGERS: Thank you. [LB1129]

SENATOR MURANTE: Thank you. I see no additional questions. Thank you for your testimony. Additional opposition testimony to LB1129. Welcome. [LB1129]

MIKAYLA FINDLAY: (Exhibits 4-6) My name is Mikayla Findlay, M-i-k-a-y-l-a F-i-n-d-l-a-y, I'm a concerned citizen here to testify against LB1129. I'm a former budget analyst for the Nebraska public assistance programs of the Department of Health and Human Services. I am nearly a lifelong Nebraskan. In my position as a budget analyst I was responsible for the monthly DHHS indicators report, managing the budget programs...the budgets for programs including: childcare, refugee resettlement, Title XX, assistance to the blind and disabled. I made sure annual reports for major federal funding sources, including the CCDF, Child Care Development Fund, TANF, Temporary Assistance for Needy Families, ensure that that funding was secured for our state. Lots of money, millions and millions of dollars. I did the job for four and a half months, I was very satisfied, my position with my supervisor was in good standing. A little bit of background. Before that I attended Lincoln High School and then I went to Grinnell College where I studied economics. I picked up a second major, gender studies, which I refer to as power studies. So I came here today to speak truth to power, to make you think about why people organize, and to prevent LB1129's dehumanizing assault on the constitutional rights to free speech and public assembly, and to stand up for state workers' rights. So a few of the reasons people organize include: to fight ableism, to fight sexism, to fight racism, specifically, Nebraskans Against the Death Penalty are working to end the death penalty, state-sanctioned violence. People also organize against the war on drugs, prison overcrowding, classism, access to healthcare, etcetera, etcetera. Now I will provide three main reasons why LB1129 should not advance. First of all, it's impractical and wasteful. So I distributed more information about the Hatch Act. Passing this bill will not change the fact that state employees can or can't do what they already can or can't do. I believe that my termination was unrightful, but there was not due process because I was in my probationary period. Anyway, so, it's impractical. I'm of the firm

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belief that the lack of definition of "political activity"--we've gone through that--will create a bureaucratic wild goose chase of any state employee that doesn't fall in the Pete Ricketts, Doug Peterson, GOP power vortex. The bill doesn't clearly define political, because anything can be political. I brought my headphones today, I constantly had these at work. They say, not your mom, not your milk. I'm vegan. Brains not bombs; anything to be political. Rather than trying to kick individuals out of their state jobs that you need them to do, why don't you try to fill the empty seats. So the definitions are arbitrary of the bill. Somebody testified in proponents of the bill saying that it provided clarity. However, it does not. There is no definitions provided in the bill. Whereas, in the Hatch Act, which already applies to federally funded positions for state government, like mine, those definitions were clear. Second of all, it's unnecessary. They're already...yeah, the Hatch Act (inaudible). I'm going to skip forward to the third reason, being that this bill is un-American. Senator Kuehn's bill is an assault on Nebraskans' right to free speech and assembly. It is a thinly veiled attempt to implement costly surveillance programs to monitor the political activity of individuals who dedicate their lives to public service. Your fear mongering will not work. Okay, going back. It's going to cost money. This bill is going to cost money. Like...I don't know if there's a fiscal note. I was responsible for fiscal notes for the department. It didn't affect my performance. You're losing the best people. There's going to be a mass exodus of state personnel from the state, from Department of Health, from the university. People are not going to stay in their jobs if they feel like they're going to be restricted in this way. Like they said, they're willing to go to jail over this. They're willing to sue you over this. This is unnecessary. So you can read my full statement. Got a little bit blurted out. But, yeah, I'm strongly urging you to kill the bill. [LB1129]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? I see none. Thank you for coming down today. Additional opposition testimony. Welcome. [LB1129]

SUSAN WATSON: Hello, again. I'm Susan Watson, S-u-s-a-n W-a-t-s-o-n, and I'm reading a statement written by a friend of mine named Donna Roller, who couldn't be here today. She had to go to another hearing, so she asked me to read this for her. It starts out with: I doubt that LB1129 is constitutional. The state cannot and should not prohibit any citizen to free speech and to be politically active. This bill is attempting to silence the voice of citizens and employees at a

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time when every institution is under attack in the USA at the state and federal level. Our public schools, our university, our parks, our voting rights, our unions, our environment, our citizenship, our nonpartisan Unicameral are all under attack. The words engraved on the north side of the building says, "The salvation of the state is the watchfulness of its citizens." First and foremost, a state employee is a citizen and this is their right to hold the state under checks and balances. The current Governor is also a state employee and this law should foremost apply to him. If we are going to make this law for state employees, then I suggest the state also write into law the job description of the Governor's Office. The Governor of Nebraska shall not collect or contribute campaign contributions to senators or the state Legislature to influence legislation. The Governor has contributed at least \$118,682 to various senators and this endangers our nonpartisan Unicameral. The Governor of Nebraska shall not contribute to a political party in the amount of \$1,683,588; and the state political party for \$40,000 and another \$10,250. The Governor shall not receive out-of-state campaign contributions from family and other sources of \$1,483,988. The Governor shall not contribute campaign funds to state employees or elected members of state positions, Secretary of State, a Nebraska Regent. The Governor shall not make ballot contributions indirectly or directly for \$300,000 for the death penalty. The Governor shall not override any federal laws that prohibit purchasing drugs for execution and using state funds, \$50,000 to a scam artist in India. The Governor shall not participate, organize, contribute in a political party fund-raising event. The Governor shall not campaign or give free speeches or participate in protests, marches of any political platform, or legislation of a party or a citizen's group, like wearing yellow scarves promoting school choice in the Capitol rotunda and marching in a pro-life rally and making false statements on the Capitol steps. The Governor's Office job shall be defined as a public servant, not head of the state as a CEO. The Governor shall not threaten any state agency or institution by withholding state funds in a budget to further political agenda nor shall the Governor solicit state senators or state employees to do the same. The Governor shall not make political speeches at any state organization or private groups for money, influence, or profit. I oppose LB1129 for the intent to stifle citizens' rights to protest and participate in political causes. [LB1129]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? I see none. Thank you. Next opponent. Welcome. [LB1129]

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SUE MARTIN: (Exhibit 7) Good afternoon, Chairman Murante and members of the committee. My name is Sue Martin, S-u-e M-a-r-t-i-n. I'm here today not in my usual capacity. I am here today as a 26-year state of Nebraska employee in opposition of LB1129. I'm submitting for the record a letter from NAPE/AFSCME, Local 61, because they were unable to be here today. I wasn't planning on testifying today, but sometimes I just can't help myself. I just have a few points that I want to make. First, I want to address the second part of LB1129 first, where it prohibits state employees from using government resources for campaigns or political activity. As Mr. Daley pointed out to you earlier in his testimony, that already currently is in the Nebraska Accountability and Disclosure Act. This, to me, is just more of a laundry list of things that I don't think is necessary. We can't...state employees cannot now use state resources for personal use or any of that, and that's evidenced by...I came from the Department of Education and in our rules and regulations it also covers this in our rules and regulations, this type of activity that we can't use those resources. The other issue in this bill, as I read it, states that no state employee shall hold office in a political club or party. I interpret this to mean that I, as a state employee, would be unable to run or be elected, for example, the chair of the Lancaster County Republican Party. I am not an attorney or a policymaker, but I interpret this to be a violation of my First Amendment rights under the constitution under the right to assembly. And what I do and to what capacity I serve in my off-duty time should not be dictated by my employer, whether I be a state worker, government, public, or private employee. So I would ask that you carefully consider the existing legislation. I think current now covers Senator Kuehn's concerns. I thank you for the work that you do and the other important legislation that you must address this year. And I ask that you oppose LB1129. [LB1129]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? I see none. Thank you for coming down today. [LB1129]

SUE MARTIN: Thank you. [LB1129]

SENATOR MURANTE: Additional opposition testimony. I think you're all that's left. [LB1129]

JUDY KING: I'm really not prepared because I was going to finish her speech if she wasn't done, but I do have some comments. My name is Judy King and I oppose this bill, and it's J-u-d-y K-i-

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n-g. And I haven't figured out how to bring the Koch brothers into this conversation yet, but I'm going to try. [LB1129]

SENATOR MURANTE: I'm sure you'll figure it out. [LB1129]

JUDY KING: I'll figure it out. I've been coming to these hearings and I'm really concerned about what's gone...you know, the way we're headed. One of the first ones I went to...well, I went to a voter ID bill, which makes voting harder for some people. I went down to the bill that shut down the videos...they wanted to shut down the videos so that...on these hearings and not make it public record, and now this. And I used to be a state worker and I think we had enough regulations on what we could and couldn't do and I just can't believe that you would actually put this on paper and try to push it ahead. But, again, I don't like the way everything is headed right now. You're trying to shut down free speech and public records, so I'm opposed and that's all I have to say. [LB1129]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? I see none. Is there additional opposition testimony to LB1129? Is there any neutral testimony to LB1129? Seeing none, Senator Kuehn, you're recognized to close. [LB1129]

SENATOR KUEHN: (Exhibit 8) Thank you, Chairman Murante and members of the committee. Just a couple of points of clarification. First, there tends to be some confusion between participation in a political club or activity and holding a leadership position which, again, is also for some restricted employees a component of the federal Hatch Act. So there's been some claims of constitutionality and patently unconstitutional. The Hatch Act in its provisions have withstood multiple Supreme Court challenges, one actually referring to: as long as it does not impact voting rights that is appropriate restrictions of employment activity. So I think I want to make clear that distinction. I appreciate Mr. Daley's commentary on the language and certainly agree with everything he had to say. Just as a point of clarification so you understand where some of those terms were since there's been some accusations of intentionally broad for nefarious consequences. I'll provide this for the page and they can hand it out, too. This is literally the federal guidance document that is given to each and every federal employee now on the Hatch Act. And it uses the term "political activity" and it defines it on the sheet, which you

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can have, as political activity refers to any activity directed at the success or failure of a partisan group or candidate in a partisan election. So there is existing federal law, federal regulatory guidance that defines "political activity." It does not include Save the Whales and those types of issues. So with that, I want to close by saying that...and I hope that was clear in my introduction, those of you who visited with me about the bill prior. There is not a nefarious attempt to stifle free speech, to somehow punish or silence someone's political view. As much as anything, this is an opportunity to have a reminder...it's interesting, some of the people in testimony commented that this was inhibiting their free speech, but yet at the same time it was redundant, because it's already accompanied in statute, which is in and of itself a contradictory idea. But we do have existing statute and I think it's always important to remind everyone about what the public expects of individuals on public time. So whether that is use of state resources in their public role, the use of their public office. The one individual referenced some issues in committee. I think we've all experienced that phenomenon where someone says I'm here testifying on my own but then utilizes information as a result of a public office, so it blurs that line. I don't know where that line is, but I do think it's one that we need to discuss and be mindful of, of how that line is (inaudible). So with that, I'm happy to answer any questions the committee may have on the act. [LB1129]

SENATOR MURANTE: Senator Blood. [LB1129]

SENATOR BLOOD: Thank you, Chairman Murante. And, Senator Kuehn, I'm sorry, I missed what I'm sure was a very eloquent opening. [LB1129]

SENATOR KUEHN: Always. Always, Senator. [LB1129]

SENATOR BLOOD: I'm sorry to have missed that. So you heard me refer...I love when you bring your bills because it gives me opportunity to start reading through state statute. And I had remembered when I was a freshman senator reading a chapter on something like this and I found it. And, by the way, we already have copies of that Hatch Act. [LB1129]

SENATOR KUEHN: Okay, great. [LB1129]

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SENATOR BLOOD: So Chapter 20 talked about civil liberties, Article I, individual rights, and it basically addresses all of this. [LB1129]

SENATOR KUEHN: Right. [LB1129]

SENATOR BLOOD: So can you help me understand why we need two different... [LB1129]

SENATOR KUEHN: I don't know that we do. So this is, you'll note, located in Accountability and Disclosure as opposed to the other area. And there's an area in Section 83, which is under state employment law. What's referred to as a laundry list of the enumeration is exactly as Mr. Daley had indicated, an opportunity to be more specific and enumerate, as I hope has been my consistency throughout the bills that I've brought is a process that is clear and provides specific guidelines is always better than one that is less. The second really is more of a discussion point, and that is if you look at those statutes, they don't necessarily include what an enforcement or a consequence would be. And this just picked one that mirrored some in federal statute that would provide an opportunity for what happens or what would be a potential consequence or what do we think as a body is a consequence for that behavior. So that really is the intent, to bring awareness of those other chapters and also to provide a greater degree of clarity. [LB1129]

SENATOR BLOOD: Well, it does say in Chapter 20 that any employee violating this section shall be subject to disciplinary action. Sorry, I'm losing my...under the rules and regulations adopted and promulgated, pursuant to Sections 83-1301, blah, blah, blah. Disciplinary action can include demotion, dismissal, reduction of salary, or suspension. So we'll have to talk. [LB1129]

SENATOR KUEHN: Absolutely. And, again, it's a reference back to that. Section 83 gets kind of complicated into where it goes, so yep. [LB1129]

SENATOR BLOOD: Additional questions I have...I'm sorry, I wasn't here earlier. So I'm looking at some of these things, wearing political buttons. So who...where's the definition of what a political button is? [LB1129]

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SENATOR KUEHN: That is exactly taken from Hatch Act language, so I have no particular marriage to the idea of a political button. It was literally just to provide parity with that federal statute. So if you operate under the federal definition of a political button or a political activity that would be that directed towards success or failure of a partisan group or a candidate. So unless a whale was on the ballot, that wouldn't be a partisan group or candidate. [LB1129]

SENATOR BLOOD: So you think...so your definition of political would be something that's current. [LB1129]

SENATOR KUEHN: Correct. [LB1129]

SENATOR BLOOD: So I know that Senator Kintner used to have a giant picture of Ronald Reagan in his office. So those aren't political? [LB1129]

SENATOR KUEHN: No, they wouldn't be considered political activity unless, through cryogenics, Ronald Reagan was on the ballot again, so. [LB1129]

SENATOR BLOOD: Do you have a bill for that? [LB1129]

SENATOR KUEHN: No, not at the moment. [LB1129]

SENATOR BLOOD: That would be awesome. And then I'm looking at these in reference to registering people to vote. Don't you have to have two people from two different parties to even register people to vote? [LB1129]

SENATOR KUEHN: Well, it would be registered...note that it says, register to vote for only one party. So if you were just doing a general voter registration drive, that's cool. If you were going out and saying...if you were...I'm just going to give you a scenario. Let's say you are an HHS caseworker and you're doing a home visit and you said, hey, while you're here would you want to register to vote for the Libertarian Party? That would be an overt political activity. [LB1129]

SENATOR BLOOD: But they can't do that right now anyway, right? [LB1129]

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SENATOR KUEHN: No, but it's not enumerated yet, so. [LB1129]

SENATOR BLOOD: So you want things enumerated is the purpose? [LB1129]

SENATOR KUEHN: Correct. Correct. [LB1129]

SENATOR BLOOD: I've got to say, Senator, some of the things that are described here, I'm a little concerned about because I think they're open to people's own views of what they think something is. [LB1129]

SENATOR KUEHN: That is fair. [LB1129]

SENATOR BLOOD: And there's so many civil, nonpolitical things that you can do and wear. And if you're not hip enough to know what they mean, you could very well be doing it and get away with it, too. Right? [LB1129]

SENATOR KUEHN: Again, I guess, if you're...that's where...when you look at the federal definition of activity directed at passage or failure of a candidate or partisan group in a partisan election...we're not just talking about campaigning for Abandon the Patriarchy...is that what your button is about? [LB1129]

SENATOR BLOOD: I'm taking over the patriarchy, yes. [LB1129]

SENATOR KUEHN: I'm taking over the patriarchy. So that you might consider to be a message. And we can get into CALM Theory about group messages and messages that are known and known only to members of the group. That wouldn't be a partisan activity. And if there was a greater clarity or definition you wanted to that term, I'm absolutely open to providing greater enumeration or clarity to that definition. [LB1129]

SENATOR BLOOD: Patriarchy is not any one party, so it's not partisan. [LB1129]

SENATOR KUEHN: I think some people might disagree apparently. [LB1129]

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SENATOR BLOOD: I apparently have some fans today. So the other concern I have is that I think back...and I'm sorry, your bills always make me think and I apologize. [LB1129]

SENATOR KUEHN: That's good. Don't apologize. I'm glad someone is thinking. [LB1129]

SENATOR BLOOD: I don't think our Chairman necessarily agrees with that, but thank you. And I don't mean that offensively in any way. I just like to have my questions answered. [LB1129]

SENATOR KUEHN: You're okay. [LB1129]

SENATOR BLOOD: So I think about one time when Senator Krist spoke on something on the floor this year and somebody accused him of making a campaign speech after he had apparently filed for Governor. I found it not to be a campaign speech. Again, interpretation. So to say that that person who had accused Senator Krist of making a campaign speech, then that person ultimately filed a complaint. [LB1129]

SENATOR KUEHN: Well, again, you have to think about...and I encourage you...since you like to investigate these issues, I encourage you to do to the NCSL's Web site on state employee ethics. And, again, states all, including Nebraska, have definitions of what constitutes a state employee. And as elected officials, even though we receive a paycheck from the state, we are not considered state employees. So the Senator Krist example would not follow through logically, because he would not be considered a state employee. Now, if Senator Krist's staff member were to stand in the rotunda during a point in time in which she was being reimbursed by the state and advocated for his campaign, that would be a different scenario because we'd be dealing with a state employee on state time making an overt, partisan, in the sense that advocating a political candidate activity, yes. [LB1129]

SENATOR BLOOD: One last question. Are you bringing this bill forward more so because you want to start conversation or more so because you'd really like to see this become law. [LB1129]

SENATOR KUEHN: I want to have it as a conversation. I'm under no illusion. It is legislative day 31, 32, we're well beyond priority designation unless you guys are really gung-ho and want

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to add it into some committee priority vehicle. I recognize that this is not one of the bills that will be discussed on the floor. I do think it is important to have, again, a broader discussion and conversation about conduct that is ethical. To a degree, I resent the accusations that it has somewhat nefarious intent. Again, the language is mirrored, based on the federal Hatch Act, which has seen U.S. Supreme Court challenge and survived. So, again, it is purely about a broader part of discussion. And one of my major intents is to bring awareness to the sections of statute that you referenced, which in my informal survey of many state employees they had no idea even existed. [LB1129]

SENATOR BLOOD: Well, they should read their own policy. [LB1129]

SENATOR KUEHN: Exactly. [LB1129]

SENATOR BLOOD: So I appreciate the education and the homework. I will look those things up and hope we can talking the existing bill as well. Thank you. [LB1129]

SENATOR KUEHN: Certainly. Thank you. [LB1129]

SENATOR MURANTE: (Exhibits 9-12) All right. Seeing no additional questions. I do have letters of opposition from: Sarah Zuckerman, representing herself; Susan Wells, representing herself; Amy Miller of ACLU Nebraska; and Kara Viesca, representing herself. And that closes the public hearing on LB1129. We'll proceed to our final item on the agenda, LB1027. Senator Wayne. Senator Wayne, welcome back to your Committee on Government, Military and Veterans Affairs. [LB1129 LB1027]

SENATOR WAYNE: (Exhibits 1, 2) Thank you for having me, Chairman Murante. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e. And what I am passing out initially was last year's opening statement on this issue. I was so passionate about it last year, sometimes I cannot repeat the exact same passion, so I wanted you guys to at least read it in your spare time, how important this issue is. I represent Legislative District 13, which is northeast Douglas County and north Omaha. I think I've already spelled my name. But this is a really simple bill that this committee has heard and I will not belabor the issue that came out of this committee. And we had a great three-rounds

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debate and it went all the way to the Governor's Office. It is no secret that in Nebraska we still have a legacy of our dark past in which our constitution brought in a section that disallowed felons the right to vote completely. A statute was passed by this body to allow after two years. I won't go into the horrors of how this came about. We all heard it last year and this committee is very, very familiar with it. By no means, those who are watching on-line my shortness of a opening disrespects or diminishes the value of this bill. It's still very important. It's still something that I will continue to introduce every year. But I also recognize it's a short session. With the Governor's veto last year, there is a political time and not a political time, but I will continue to introduce this bill and when there's a new committee here, they will get to hear the full passionate speech with the 1990 copies or 1976 books sitting here like they were last year where they talked about African-Americans and Chinese and Native Americans not being able to vote. And the reason they included this section to include felons because there was a movement across the country in 1890 to insert this into many state constitutions because they knew, as Carter Glass said when he later became the Treasurer of the U.S. Department, that we know we can charge an African-American or a freed slave with a felony way before we will ever be able to charge a person who...of Caucasian descendant with that same felony for the exact same crime. This was stated in multiple (inaudible) throughout the country and this is why, to not shift subjects, it is this legacy why I'm also against voter ID. The same things were said nationally about voter ID something no longer than five years ago. When the legacy of racism still touches our ability to vote we, as a body, must do something about it. This is not a republican or democrat issue. For the record, Texas, Arkansas, Oklahoma, Missouri, Kansas, Montana, Tennessee, Georgia, and California all allow ex-felons to vote. It is a simple matter. When you've done your time, you should be able to participate. Last year we heard multiple study after study show that people who participate in the political process are more than 30 percent less likely to reoffend. It is also a way for us to reduce our recidivism rate. There are multiple reasons why this should be allowed. And I am looking for one more thing to pass out. That's why I'm stalling, because...what'd we do with that, Joe? I will pass this out. And I'm passing it out once I figure out where it went, because I want it to be a part of the record. We had somebody who testified who was here during the two-year...you passed out Senator Lowe's, I mean Senator Lowen Kruse's statement? Okay. The reason why I think that's important is because last year when he testified, he was the one on the floor who came up with the two-years idea. And it was simply a negotiation to make sure they got it passed. That was an arbitrary number and it was a political

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number. As we both know...everybody knows in this room, there are elections every two years and they didn't want to disrupt their electorate and that's why they settled on two years. It would keep everybody safe. So I passed out that because he has since passed away since the last hearing. And every hearing I will continue to bring that to make sure that his statement is always in the record and that he was so passionate about it and even started to shed tears, because it a passionate issue that will always be remembered, at least in this body and regarding this issue. With that, I will answer any questions. [LB1027]

SENATOR MURANTE: Thank you, Senator Wayne. Senator Blood. [LB1027]

SENATOR BLOOD: Thank you, Chairman Murante. Thank you, Senator Wayne, for your persistence. I texted you asking if you had a bill like this yesterday, because I couldn't read all 149 of your bills, but I tried. And I'm going to ask you if you remember the important speech...were you here yesterday for the Willa Cather and... [LB1027]

SENATOR WAYNE: Correct. [LB1027]

SENATOR BLOOD: Okay. So do you remember the speech that the biographer talked about? [LB1027]

SENATOR WAYNE: Correct. [LB1027]

SENATOR BLOOD: Do you remember his words? [LB1027]

SENATOR WAYNE: When he was quoting Standing Bear at the trial? [LB1027]

SENATOR BLOOD: What did Standing Bear say? [LB1027]

SENATOR WAYNE: He said that when you pierce my hand, I will feel the pain the same as you will feel the pain. The blood that comes from my hand will be the same color as the blood that will come from yours. I paraphrased it. [LB1027]

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SENATOR BLOOD: And I am a... [LB1027]

SENATOR WAYNE: I am a man. [LB1027]

SENATOR BLOOD: And when you told me you had the bill and I was driving home last night that speech came to mind on your bill, because the previous day we had talked about prisons and phone calls. And as you know, I've worked for the prison system. I've also run a crisis center for abuse victims and children. I've worked with law enforcement for ten years, so I've seen all sides of what happens in the justice system, some good, some bad. And then people are standing on the floor and referring to people who have been incarcerated who were not even necessarily found guilty as being guys who deserve to be there. So the question that I have, leading up to all this discussion is, isn't the bottom line of your bill about the fact that these are people who made mistakes, they're people like just you and I who deserve the same rights that you and I have because they've paid the price, ultimately for their crimes? [LB1027]

SENATOR WAYNE: That is the...very correct. That is the second reason for this bill. It's high on my priority list, but that is the second reason. The first reason on this bill--and there will be other bills in the future, I'm not going to hedge what I'm going to do--but we must do some things to erase the legacy of racism in our country. And this is one of those bills. There are other bills. And Senator Murante knows about school districts that I have issues with from the legacy from our conversations when I was on Omaha Public Schools. There are certain things in our statutes that derive from a time that we were still trying to create a more perfect union. So I will continue the fight. That is the number one reason we have to erase that legacy. And that's the same reason why I'm so adamantly opposed to voter ID right now. Maybe one day in the future there will be a time, but as long as people live and say the reason they're doing it is to press votes, I can't support that. As long as the reason we pass this bill was to make sure free slaves in Omaha, Nebraska, and around Nebraska at the time couldn't vote and we knew that we can charge them with felonies, we have to get this off our books. The second reason is that I do believe once you do your time you should be able to participate. But this is more of a personal thing where I believe that any legacies and tentacles of racism should be wiped from our books. [LB1027]

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SENATOR BLOOD: Is there a third reason as to people that we have tried to rehabilitate do better when they can get integrated into society? [LB1027]

SENATOR WAYNE: So the third, fourth, and fifth reasons are...and there's a couple of other reasons but I'll just give you the third and fourth, is that study after study show people who participate in the political process, participate in civic engagement, are less likely to recommit crimes. And at the end of the day the fourth one is, and it's not necessarily fourth as in lower, but voting is a fundamental right. And we should make it easier for all people to be able to vote. I just truly believe that. [LB1027]

SENATOR BLOOD: Thank you. [LB1027]

SENATOR MURANTE: Are there any additional questions? I see none. Thank you, Senator Wayne. [LB1027]

SENATOR WAYNE: Chairman Murante, how does that work? Is it attached as an exhibit, those two things that I passed out? I just wanted to clarify for those who wanted to look at home, it would be an exhibit to the hearing? [LB1027]

SENATOR MURANTE: I'm not following your question, Senator. [LB1027]

SENATOR WAYNE: The two items that I passed out to the committee would be exhibits, right, to the file? [LB1027]

SENATOR MURANTE: Yes, they're kept on the record, if that's what you're asking. Sorry. Yep, absolutely. [LB1027]

SENATOR WAYNE: A convoluted question. [LB1027]

SENATOR MURANTE: All right. Proponent testimony to LB1027. Mr. Gould, welcome back. [LB1027]

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JACK GOULD: Thank you. Senator Murante, members of the committee, my name is Jack Gould, that's J-a-c-k G-o-u-l-d, and I'm here representing Common Cause Nebraska and we have a history in support of this legislation. This is not, as was said, not a Democrat or Republican issue, it's a fairness issue. And it's not really...when the judge sentences someone to a punishment, it's not the place of the state to pile on and that's what's happened in the past. And so with that, you know my position. Thank you. [LB1027]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? I see none. Thank you, Mr. Gould. Additional proponent testimony to LB1027. [LB1027]

KAREN BELL-DANCY: Good afternoon, Chairman Murante and members of the committee. I appreciate this opportunity to testify. My name is Karen Bell-Dancy, K-a-r-e-n B-e-l-l-D-a-n-c-y, and I serve as the executive director of the YWCA of Lincoln. The mission of the YWCA is dedicated to the elimination of racism, empowering women and family, and promoting peace, justice, and dignity for all. In support of LB1027, this really aligns closely with our mission. The YWCA supports the continued fight for suffrage for our Voting Rights Act and for reform of the criminal justice system by asking the committee to support LB1027. We support expanding the right to vote to all Americans of voting age. America historically has withheld the right to vote from certain citizens. Through decades of very hard work and unyielding determination, the right to vote has become more inclusive. However, there is much yet to be done. Some significant information that is available from The Sentencing Project, for example, two states, Maine and Vermont, incarcerated people never lose their right to vote. There are 14 states and the District of Columbia where voting privileges are lost only while incarcerated and automatically restored upon release. In 22 states, the right to vote is lost until completion of sentence, parole, and/or probation and automatically restored after release. It is in this last category of 12 states which Nebraska falls. All who are incarcerated in jails and prisons lose their voting rights and felons lose this right indefinitely for some crimes. The right to vote is restored at the end of the citizen's completion of their sentence, parole, and/or probation plus a two-year waiting period. Some other states who fall into this most rigid and unforgiving category are Mississippi and Arizona. The widely varying rules state to state, person to person, crime to crime create confusion, complicating further the lives of our released citizens. It is the rule that released folks must register or reregister to vote in their district. We feel the state of Nebraska has a responsibility to

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all of its citizens. There are approximately 9,000 people in Nebraska's jails and prisons. There are approximately 14,000 additional Nebraskans on parole or probation. Approximately 18,000 Nebraskans are not voting. They are incarcerated, on probation, on parole, or in that two-year waiting period. Disproportionately, about 4,000 of these Nebraskans are black, about 1,500 are Hispanic. We feel eliminating a waiting period of two years, giving our citizens back the right to vote, is in their best interest and also the best interest of our community. As each person deals with all the challenges that come with reentering society, some basic rights need to be restored immediately. Voting is one way to reconnect to society and to the community, to family and neighbors, and to our democratic system. What a hateful and dismissive message we send to incarcerated citizens. These folks are counted to provide heft to their legislative representatives because for census purposes they are counted within the prison/jail where they are assigned. Yet, they cannot vote while detained for or against the very person who counts them as a constituent. Released persons are taxpayers. They may have children in schools, may choose to attend an educational or training facility, may own or wish to buy property, support local businesses, use our roads and highways, public transportation, and take advantage of other resources within the community. We have a program that we serve over 1,400 individuals annually called our Job Outfitters. Many of those are recently released clients that come into our program. And we hear the stories of what would make them whole reentering the community. And often voting and the voting right is one of those that's mentioned. Senators, I believe we have a big problem and we can begin to fix it by passing out of committee LB1027. I want to thank Senator Wayne for introducing this bill and this committee for its consideration. Thank you. [LB1027]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? I see none. Thank you. [LB1027]

LAZARO SPINDOLA: (Exhibit 3) Good afternoon, Chairman Murante and members of the committee. Thank you very much for receiving me today. For the record, my name is Lazaro Spindola, L-a-z-a-r-o S-p-i-n-d-o-l-a. I am the Executive Director of Latino-America Commission and I am also testifying on behalf of Nebraskans for Peace. I'm here in support of LB1027. Last year I supported this bill also and if Senator Wayne brings it along again in the future, I will be supporting it, too. According to the Nebraska Department of Corrections, minorities are disproportionately represented in the inmate population of Nebraska, 45 percent in

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2016. I wish to point out that within the last 20 years, this percentage has been slowly but continuously increasing. Once their sentence has been completed, these individuals have paid their debt to society, yet I have spoken with convicted felons who were absolutely convinced that they had lost their right to vote on a permanent basis. Personally, I have a family member that didn't know that two years after completing his sentence he could vote. His own lawyer had told him about the loss of voting rights at a permanent level. Adding to this problem is the fact that a study conducted by ACLU of Nebraska suggests that only half of Nebraska's county election officials know the law when it comes to voting rights for felons. This is not just a training issue. Such ignorance and confusion of state voting laws creates an institutional barrier to those aspiring to vote. Currently two states, Maine and Vermont, allow felons to vote from prison. Fourteen other states restore voting rights immediately after prison. Voter turnout in the 2016 election was 55 percent, which is the lowest since 1996. The challenge that we face is getting more voters to cast their ballot. Barriers to this process will continue to lower the number of citizens voting and further eroding the exercise of our basic right to vote. Furthermore, felons who have completed their sentences need to be motivated to reenter society as productive individuals regarding past mistakes. I urge you to advance LB1027. I would also like to point out something. I continuously read in the news media a term, which is called "impeachment." Seems like nowadays somebody wants to impeach somebody all the time, from the President down, either that or have a recall election. I also read constantly a comment that there is already impeachment, too, in our hands, which is simply to vote them out of office. Well, racial and ethnic minorities, due to a number of reasons, federal rights, redistricting, moving polling sites to other sites, are being slowly but surely deprived of this right, of this truth. I am not a believer in conspiracy theories, but I can't help but give it a second thought when I see this (inaudible). Thank you very much for listening to me today and I would be happy to try to answer any questions. [LB1027]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? I see none. Thank you. Additional proponent testimony to LB1027. Welcome back. [LB1027]

JOHN CARTIER: (Exhibit 4) Thanks. Members of the Government, Military and Veterans Affairs Committee, for the record my name is John Cartier, spelled J-o-h-n C-a-r-t-i-e-r. I'm

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testifying today in support of LB1027 in my official capacity as director of Voting Rights for Civic Nebraska, a nonpartisan, nonprofit organization dedicated to creating a more modern and robust democracy. Members of this committee are familiar with last year's attempt to restore voting rights to returning citizens by LB75. After an extensive hearing on March 1, where not a single individual or group voiced their opposition, this bill passed Final Reading in a great display of bipartisanship. Unfortunately, due to some last minute political maneuvering the bill was unable to overcome the Governor's subsequent veto. In this testimony I'd like to address the Governor's two primary objections. One, restoring the right to vote does not relate to criminal justice reform. And, two, is underlying constitutional concerns. For the first objection the Governor unilaterally states that this issue does not relate to criminal justice reform. This objection ignores history, existing research, and the personal testimony of Nebraskans who are directly affected by voter disenfranchisement. From a historical perspective, Senator Wayne spoke repeatedly in last year's hearing and in the floor debates about the clear legislative record left behind by proponents of felon disenfranchisement. Looking back, the intent of these laws was to eliminate as many African-Americans from voting as possible. That is the irrefutable reality. Today, while I don't think the good members of the Nebraska Legislature intend to continue voter disenfranchisement laws to the detriment of communities of color, the undeniable effect is that this still disproportionately takes away votes from minorities. Mentioned before the Legislature already were two reports by the Florida Parole Commission released in 2011-'12. These reports found significant a drop in recidivism rates for ex-felons whose voter rights were restored. Additional studies conclusively show that voters are less likely than nonvoters to commit crimes. Opponents are quick to say that correlation does not equate to causation. However, this is precisely why I rely on the expertise of those whose lives are dedicated to reducing recidivism rates across the country. Last year the American Probation and Parole Association sent a letter to this committee regarding LB75. In this letter the case was clearly laid out for why restoring the right to vote is instrumental in strengthening public safety. Voting allows those with prior convictions to participate more in their community and to create supportive bonds with others. Research strongly supports this notion that ex-felons who are able to reenter society with stable work and familial relations are less likely to engage in criminal activity. Research also indicates that active participants in the democratic process are more likely to adopt the shared values of their communities. Other empirical research supports that democratic participation is positively associated with a reduction in recidivism. One such study

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showing that voting behavior was significantly correlated with subsequent measures of incarceration, rearrest, and self reporting criminality. In other terms, senators, disenfranchisement is counterproductive when trying to foster the skills and capacities required for rehabilitation that are proven to help them become law-abiding citizens. Opponents will criticize our use of empirical studies and still use the argument they're requiring convicted felons to wait before allowing to vote provides an incentive to maintain a clean record and avoid subsequent convictions. Now this is a statement that is not supported by any research. The Governor also dismissed testimony by several Nebraskans with felony records who repeatedly said that the depriving them their right to vote stands in the way of normalcy needed to fully engage them in their communities and to provide the necessary tools to turn their lives around. Here the message was clear that giving people the immediate right to vote after completing their sentence can help them feel like part of the community, which directly leads to lower recidivism rates. The Governor's second objection lies with specific constitutional concerns governing the powers of the Board of Pardons and the separation of powers provision found in Article II, Section 1. Presented alongside this testimony is a letter dated January 20, 2005, addressed to this very same committee regarding LB53, which would later be passed after amended into providing the two-year waiting period. A fantastic argument here is laid out supporting that LB1027 falls safely within the constitutional powers of the Legislature. The one thing that I would add is, if only the Board of Pardons is granted the ability to restore voting rights, then the original two-year waiting period passed is unconstitutional. If this is really the case, then we would have already seen challenges to the current practice in place. Furthermore, this is added to the fact we still haven't seen an advisory Opinion from the Attorney General's Office on this issue. Following seminal case State v. Spady, it appears that the arguments in favor of upholding constitutionality of voting restoration by the Legislature are stronger than the Governor would lead you to believe. If I could finish real quick, Senators? Okay, thank you. Therefore, to say that restoring the right to vote has no impact on criminal justice reform and is unconstitutional ignores a great weight of the evidence which points to the contrary. It is clear from the legislative history that the two-year limitation placed on returning citizens was an arbitrary number that only accomplished getting the original lifetime ban lifted in the first place. There is no data that supports the opposition's argument that leaving in place the two-year waiting period is an incentive to prevent future crimes. In fact, it has been repeatedly demonstrated to the members of this committee and the Legislature at large that there are benefits to granting individuals their

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rights back with the hopes that it will facilitate their return to society. Committee members, LB1027 is simply adding a new tool to aid reintegration back into society, civic engagement. This comes at no cost to the taxpayer and with significant benefits to thousands of Nebraskans who just want a second chance to do what's right. With that, thank you for the opportunity to testify. I respectfully ask the committee to advance LB1027. [LB1027]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? Senator Briese. [LB1027]

SENATOR BRIESE: Thank you, Chairman. And thank you for being here. Do you feel that the studies conclusively show a causal relationship between early restoration of voting rights and a decrease in recidivism? [LB1027]

JOHN CARTIER: I think the studies are definitely conclusive that those who vote more often are less likely to, first of all, end up in prison or reoffend their original sentence. I would love that there be additional research on this topic. Spending time that I have going into this subject, it is clear that there does need to be more research done. But the results coming out are conclusively showing a very strong correlation between the two. [LB1027]

SENATOR BRIESE: But you mentioned correlation between increased voting and (inaudible). [LB1027]

JOHN CARTIER: Yes, sir. Increased voting right after their release from prison. [LB1027]

SENATOR BRIESE: And you think that equates into a causal relationship between... [LB1027]

JOHN CARTIER: I think so. When you look at other studies that show what sort of indicators we look for, for providing a framework for returning citizens to go about their lives, return to normalcy, right? So they got to have...first of all, they've got to have a job, they've got to have a strong family support, and they've got to have sense of belonging to the community. So they don't want to reoffend, right? A strong sense of belonging to your community is directly tied-- and the research shows--to voting and being involved in the democratic process. [LB1027]

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SENATOR BRIESE: Thank you. [LB1027]

JOHN CARTIER: Thank you. [LB1027]

SENATOR MURANTE: Thank you, Senator Briese. I see no additional questions. Thank you very much for your testimony. [LB1027]

JOHN CARTIER: Thank you. [LB1027]

SENATOR MURANTE: Welcome back. [LB1027]

SHERRY MILLER: Hi. If memory serves me, I had sent a letter in support of this bill on behalf of the League of Women Voters. But my name is Sherry Miller, S-h-e-r-r-y M-i-l-l-e-r, and right now I just want to tell you about my friend, Richard. I met Richard about a couple of years ago shortly after he was released from prison and he had served 16 or 17 years and he was released on probation...on parole, actually. Richard is probably in his early to mid-60s. Richard is a white Anglo-Saxon Protestant. Richard left prison with a substantial amount of money accrued in a retirement fund, an IRA. And with that money, which he withdrew for living expenses, he paid a ton of money in federal taxes. But with the money he had left, Richard purchased a home, Richard purchased a car, Richard moved into an area where he helped form a housing...an HOA, a homeowners association. Richard works a job driving medications all across this state when it's an emergency delivery. And you know what Richard's main complaint is? It's been two years now in January since he left prison and by the end of June he'll finish his parole or his probation and he can vote. But his main complaint has been, he has been taxed without representation for two and half years. He may not be typical of a person coming out of prison, but I'm just saying there might be more people like him than we suspect, especially anyone who might have been convicted of a white collar crime. And I just wanted to tell you about Richard. He couldn't be here and I thought, I'll just come down and speak for Richard and that's what I wanted to do today. Okay? [LB1027]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? I see none. Thank you. [LB1027]

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SHERRY MILLER: Thank you. [LB1027]

SENATOR MURANTE: Additional proponents wishing to speak. Welcome. [LB1027]

MARY MOORE SALEM: Thank you. My name is Mary Moore, M-o-o-r-e S-a-l-e-m. I'm here as a private citizen who has...I've taught school for 25 years, mostly in social studies. One of my degrees is in American history. A big thing that I would always work on with my students was to think for themselves, to get involved, and do some leadership, you know, and follow their passions. Being an American history teacher, we needed the Thirteenth, Fourteenth, and Fifteenth Amendments to actually make sure that the ex-slaves had the right to vote. And knowing that this bill was passed in the late 1800s I know the history. I thank Senator Wayne for going over that again, briefly. It just amazes me that it was passed but that's still on the books, because if there's an unjust law then what we do is, we try to get rid of it. I also have volunteered with prisons...at prisons and with prisoners for over 20 years in a capacity with a group called Alternatives to Violence. I'm not representing them, but I am representing the people that I have known, and it's been hundreds. We do workshops. I work with the people at Work Release and so many of them have said, I want to pass on recovery to my children. The ones who have children seem to be the most involved. And some of them have children that are in jail, but the thing is, if they get the right to vote after they have served their time, the thing is if they mess up they go back to jail or they go back on parole. There's a consequence. But the people that have served their time want to do good. And being able to vote passes on that action to their children as well. So...I could say other things, but it's probably enough. [LB1027]

SENATOR MURANTE: All right. Thank you for your testimony, much appreciated. Are there any questions? I see none. Thank you very much for coming down today, much appreciated. [LB1027]

MARY MOORE SALEM: Thank you. [LB1027]

SENATOR MURANTE: Additional proponents wishing to speak. Welcome. [LB1027]

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GREGORY LAUBY: (Exhibit 5) Good morning, Senator Murante and members of the committee. My name is Gregory C. Lauby, G-r-e-g-o-r-y C. L-a-u-b-y, I support LB1027 for the reasons stated already here today and for some others. But I believe it can be improved by restoring voter eligibility for felons who are no longer incarcerated. I'm somewhat repeating my testimony given last year in support of Senator Wayne's bill, LB75, at that time and I see no reason though to back off of giving support for the concept or the encouragement that the committee go just a little bit farther in restoring voter eligibility. The potential considerations of administrative costs and safety may justify denial of voter eligibility to the incarcerated, but those justifications do not apply to felons who are now no longer in jail, prison, or house arrest. Released felons pose no measurable increase of risk and harm to poll workers than other voters who routinely come to the polls and they are as informed as many 18-year-old voters, which the state recognizes that their involvement in the voting process benefits the general welfare as well as the youths of Nebraska. It seems to me, while the power to commute sentences may rest exclusively with the Board of Pardons under our constitution, the loss of voter eligibility is not part of the sentence given to a felon. Felony sentences are set forth in statute, principally 28-105. Loss of voter eligibility is, rather, a consequence of a felony conviction and, as such, can be restored by an act of the Legislature. Otherwise, the authority of the Legislature to legislate, granted it under Article III, would be usurped by the executive department. Article VI, Section 2 listing voter disqualifications also was enacted in 1875. I think Senator Wayne, both this year and last year previously detailed some of the motivations that would be unacceptable today for that language inclusion, but it was also before sentences systems of parole and probation were established. In addition to an impermissible motivation, for the exclusion of felons, the founders did not consider either the present number of felony offenses, nor the duration of sentences now served outside of incarceration itself. With the shift to increased sentences being served entirely or in part outside of physical confinement but under long-term supervisions, by parole, probation, or specialized courts, restoration of voting privileges upon release from incarceration would encourage community integration and a personal sense of citizenship and citizen involvement. It would also do away with the fiscal note costs of \$3,940, which is really much reduced from what it was last year. And it would also spare the county sheriffs and election clerks the expense that they will incur in accurately trying to keep listings, data banks, and reports. And I would hope that at some point, if it comes to litigation courts would recognize the fundamental right to vote and employ an appropriate level of scrutiny when reviewing any

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restriction. So my hope is that Senator Wayne will come back next year with an even stronger bill than what he has this year. I think it's rational, I think it's based on fact as has already been proposed, and I think there's a legal basis for it. Any questions? [LB1027]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? I see none. Thank you for coming down today, much appreciated. [LB1027]

GREGORY LAUBY: Thank you. [LB1027]

SENATOR MURANTE: Additional proponents wishing to speak on LB1027. We're taking the unorthodox approach of taking stand-up testimony due to a physical ailment, so...pain and suffering, ACLU can stand up. [LB1027]

SPIKE EICKHOLT: (Exhibit 6) Thank you. Good afternoon, Chairman Murante, members of the committee. I know this is awkward. My name is Spike Eickholt, first name is S-p-i-k-e, last name, E-i-c-k-h-o-l-t, appearing on behalf of ACLU of Nebraska in support of LB1027. I'll kind of look down so I make sure I get into the microphone and get caught on the record. I want to thank Senator Wayne for introducing this bill. It is a very similar bill, if not identical, to the bill he introduced last year. You have a copy of my written statement, so I'm not going to read it, but I'll just summarize some main points. Senator Wayne explained the historical significance or explanation of why we have the felon prohibition for voting rights of felons. But one thing I should want to respond to what Senator Briese asked Mr. Cartier, and that is, if there's a causal relationship between a reentry program for former offenders who are given the right to vote and lower recidivism. And I don't know that it's causal, necessarily, but I think that the studies are clear that a comprehensive reentry program that includes voter restoration rights and includes things like "Ban the Box", an opportunity for persons to seal their record or set aside convictions once they complete their sentences, all those repeatedly show that those people are going to have a lower rate of recidivism. And really, when you talk about what Senator Wayne's bill would do, it just would eliminate that arbitrary two-year waiting period. The only people who are really affected or impacted by it are those people within those two years who are trying to register to vote. Those are people who are trying to reintegrate themselves into society. In other words, if a person is released from prison, released from jail, and they are disengaged, they are still living a

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life of criminality, they're not going to try to bother to register to vote, they're not going to want to care, they're just not going to do it. So, unfortunately, the odd two-year waiting period really impacts those people who are trying to reassert or at least maybe even for the first time assert a positive role in society. One thing, not just the historical significance, as Senator Wayne explained about the reason we don't allow felons to vote, at least why there's that provision in Article IV, Section 2 of the Constitution. Perhaps at one time felons meant something that...oh, here's a convicted felon. We automatically think it's a violent offense, it's a significant threat to society. Felony crimes are bad, but if you look at our criminal code we have an arbitrary designation for many felonies. Not all felonies are violent. And, as a matter of fact, some violent crimes are simply misdemeanors. I list some here in the written statement I have, but if you write a check for more than \$1,500, a bad check, that's a felony offense. Operating a motor vehicle to avoid arrest, if it involves reckless driving, which is really any operating a motor vehicle to avoid arrest, is a felony. Conversely, you have third-degree assault where you punch somebody in a bar, disturbing the peace by fighting where you fight with somebody, those are misdemeanors. And anything that is designated as a felony does not necessarily mean there is a nexus of a reason or an explanation why the person shall lose their voting right in our modern criminal code. As a matter of fact, if you look at Chapter 32, which deals with election laws, a number of those different sanctions providing those election laws, some of them are felonies but some are misdemeanors. And you might think, well, that makes little sense if anything that you can write a bad check or you can do something bad or have a residual amount of drugs in a pipe and be a felon and lose your voting rights, but if you somehow forge a signature on a mail-in ballot or something you don't. And that just shows some of the arbitrary, we would argue, pointless designations of losing a person's voting rights if they're convicted of a felony. Mr. Cartier talked about this. I just want to real quickly say there's two sort of reasons that were given by the opponents to LB75 last year. One, is that somehow this is unconstitutional and it infringes on the Board of Pardon's prerogative. State v. Spady, our Supreme Court case back in 2002 explained that our set-aside provision was part of this law does involve 29-2264 is valid because it's only a partial restoration of civil rights. And if you look at Article IV, Section 2 of the Constitution, felons lose their right to vote until their civil rights are restored. It doesn't say, by the Board of Pardons, it simply says until civil rights are restored. In State v. Spady the Supreme Court said that the Legislature can provide for a partial restoration of those rights. And then, finally, with respect to the waiting period, when we did LB605...when the Legislature did that a couple of

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years ago, we created a process where we do have a waiting period when someone is released from jail or prison and that's called the post-release supervision time. It usually lasts for a certain period time. In other words, we have now got a sentencing scheme where people simply...fewer people, at least, are walking right out of prison into society. They're almost always supervised. They're on parole or on probation on post-release supervision, so we do have that waiting period. And we would urge the committee to consider this bill, if not this year, the next (inaudible). [LB1027]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? I see none. Thank you, sir. Additional proponent testimony wishing to speak on LB1027. Is there any opposition testimony to LB1027? Oh, do you want to testify? All right. Is there any additional proponent testimony? Welcome. [LB1027]

MARGE SCHLITT: Thank you. Senator Murante and members of the Judiciary Committee (sic--Government Committee), I'm Marge Schlitt, M-a-r-g-e S-c-h-l-i-t-t. I am not here representing anybody else, I'm just representing me and my experience. And I don't know where to start. I've been a long time proponent of voting rights for everybody. And I ring doorbells before any election, I work at the polls, I care that people vote. I've also been for 30 years a volunteer with a program called Alternatives to Violence, where we work with people in prison who are coming out of prison. And they want to become just like everybody else. They want to be part of our community. My dream is that Nebraska...I've lived in nine states and I've been to all 50 states and I love Nebraska and I want Nebraska to be as good as Maine and Vermont, where they never take away the voting rights. I think that is our goal and I think the time will come when we get there. I think this bill should go sailing through this committee and sailing through the Legislature and eventually it will become law, because is the right thing to do. Thank you. [LB1027]

SENATOR MURANTE: All right, thank you. Are there any questions? I see none. All right. Still on proponent testimony to LB1027. Any proponents? Double-checking this time. Okay, opposition testimony to LB1027. Seeing none, is here any neutral testimony to LB1027? I see none. Senator Wayne, you are recognized. [LB1027]

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SENATOR WAYNE: I think this qualifies for consent calendar. [LB1027]

SENATOR MURANTE: I have some letters to read it. [LB1027]

SENATOR WAYNE: Let me start off by saying, in 1866 the Constitution of Nebraska specifically barred African-Americans--I won't repeat the entire story--but we all know that Nebraska was the only state in our history of statehood to be vetoed not just once, but twice, specifically over the provisions of not allowing African-Americans to vote. It's not mysterious that in 1871 when we had to rewrite our Constitution, per our agreement somehow the word felon replaced blacks. We will talk more about this on the floor, hopefully, later this year as we talk about a different word that was inserted into our state Constitution that Senator Murante has brought forward and gave me more time to research our state Constitution. I do want to take a second to thank this committee. Last year as a freshman senator you allowed a freshman senator to take a passionate bill forward and I want to thank the people who stood by me through the process. It was a learning experience. And that is why we had a late hearing this year, because politically there are some things changing. And we shouldn't have to allow politics to dictate some basic civil rights, but there's also an interesting case that came out February 1 in Florida. We have a very similar process in which rights are restored in Nebraska as in Florida. And the Florida district court judge banned or said that their process in which restoring voting rights was unconstitutional, because the Pardon Board--in their case the Clemency Board--is more subject to political winds than actual reality of what we should do with voting rights such as fundamental rights. So I'm waiting to see how that shakes out a little bit more. Furthermore, LB605 has only been around for three years, so I'm waiting to see the data on how many people are in that post-release supervision. If the fear is when people get out of jail they shouldn't have to register to...or they shouldn't register to vote after a felony, assuming that their jail sentence is a felony, that assumes it's a jail, but if there is substantial numbers of people being released on that 18-month, 24-month post-release supervision, then my argument for two years to go away makes more sense because at the end of their post-release supervision they will have done significantly the same time. So that's why this bill was requested by me to be scheduled late. There is more data to be gained from LB605 and this other Supreme Court case or a case that may go up to the Supreme Court. But at least the district court...Court of Appeals that I can see a little bit more...some rulings on. But with this, I do want to thank this committee last year for

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allowing me to have the fun of getting vetoed and not being successful on the override. But with that, I will answer any questions. [LB1027]

SENATOR MURANTE: (Exhibits 7-19) Thank you, Senator Wayne. Are there are any final questions for Senator Wayne? I see none. I do have a series of letters. First, for the proponents: Shakur Abdullah, Shawn Fitzgerald, Brad Stephan, Alisa Parmer, all representing themselves; Ann Chalson of the League of Women Voters of Greater Omaha; Vickie Taylor representing herself; Nate Dobbs representing Nebraska Appleseed; Mary Boschult representing the League of Women Voters of Lincoln and Lancaster County; Darlene Mason representing herself; Sherry Miller representing the League of Women Voters of Nebraska; Mary Bahney representing the National Association of Social Workers, Nebraska Chapter. And two letters in opposition: Kevin Cooksley representing the Nebraska State Grange; and Kathy Wilmot representing herself. That ends the public hearing on LB1027, ends our public hearings for the day, and we will do a quick Executive Session. [LB1027]