

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 7, 2019

**La GRONE:** Welcome to the Government, Military and Veterans Affairs Committee. My name is Andrew La Grone. I'm the Vice Chair of this committee and I represent District 49, which is Gretna and northwest Sarpy County. Senator Brewer, who you were probably expecting to see, is introducing a number of other bills in other committees today, so I'll be standing in. And I will go-- start off by having the committee members introduce themselves, starting on my far right.

**BLOOD:** Hi. Good afternoon. I'm Senator Carol Blood, District 3, which is western Bellevue and southeastern Papillion, Nebraska.

**LOWE:** John Lowe, District 37, which is the southeast half of Buffalo County, Kearney, Gibbon, and Shelton.

**HILGERS:** Mike Hilgers, District 21, northwest Lincoln and Lancaster County.

**KOLOWSKI:** Rick Kolowski, District 31, southwest Omaha.

**La GRONE:** We also have Senator Hansen and Senator Hunt on this committee, that they are not able to be with us at this moment. To my immediate left is Dick Clark, who's the committee's legal counsel, and to my very far left is Julie Condon, the committee clerk. Today we also have our pages Kaci and Preston. We will be hearing-- just a few things before we get started. Just a reminder to mute all of your cell phones. If you wish to have your position shown in the record but do not wish to testify, you can fill out a green sheet which is over there on the table. And if you do want to testify, please complete a green testifier sheet located on the table and provide that to the clerk when you come up. If you'll be passing out materials or exhibits to the committee, please give them to the committee page to distribute. Please provide 12 copies of paper materials. If you need additional copies of exhibits, please ask the page to assist you. Please be seated in the front of the room when you're ready testify, and we'll begin testimony with the introducing senator's opening statement, followed by proponents, opponents, and then those speaking in a neutral capacity, and then the senator's closing remarks. When you begin to testify, please state and spell your name for the record. Please speak into the microphone clearly. Today we will be using our three-minute clock. When there-- so you will have two minutes on green, one minute with amber, and then the red light will turn on and then your time is finished. With that, we will go ahead and open it up. I do not see Senator Geist at the moment. OK, we'll just skip to

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the next one first, so I will hand the committee over to Senator Hansen momentarily.

**M. HANSEN:** All right. Welcome, Senator La Grone, to your Committee on Government, Military and Veterans Affairs.

**La GRONE:** Thank you, Senator Hansen. I'm here to introduce LB608, which simply-- sorry. My name is Andrew La Grone, A-n-d-r-e-w L-a G-r-o-n-e. I represent Gretna and northwest Sarpy County in District 49. LB608 just does a few things. It implements the remaining recommendation of the Special Committee on Election Technology from 2016. So essentially what the bill does is it clarifies that electronic voting is not legal in the state. It also creates a structure for precinct-based counting systems, if a county were to choose to use them. And then the current version sets up a process by which a county would apply to the Secretary of State to change their counting method. However, I do have an amendment to take that out regard-- in speaking with the Secretary of State, there were some fiscal note concerns on that. And given this committee's good relationship with county election officials, I think that the goal of that provision was to solidify that the state should be the one purchasing the machines to get the most buying power. I think our relationship with local county-- with local election officials, they are all aware of the processes going on here that started with the Election Technology Committee. And so hopefully that will be able to take care of it so we don't have a fiscal note on the bill. With that, I would take any questions.

**M. HANSEN:** Thank you, Senator La Grone. Are there questions? Senator Kolowski.

**KOLOWSKI:** Yes, thank you, Mr. Chairman. And, Senator, thank you for your presentation. Would you go back and tell us how far back this has been implemented, and you made it sound like there was a number of years, that we're into the X year of this?

**La GRONE:** Yes.

**KOLOWSKI:** Give me a little more his-- fill that history.

**La GRONE:** Yes. So in the 2016 Session, Senator Hansen actually introduced an LR, I forget the number of it, to create this Special Committee on Election Technology. That committee came out with a report in 2016. It recommended a number of things, most of which have

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already been put in the statute. You may remember the elec-- the electronic poll book bill from last year that was a recommendation of the committee. Its last remaining recommendations are to create a structure whereby we make clear that electronic voting is not valid in the state, it currently is allowed under law, and to create a structure for precinct-based counting. Now there's some ambiguity of whether or not that's currently allowed, so this just makes clear it definitely is allowed if a county chooses to use that method. Under HAVA, it is one-- the preferred method of-- of-- according to the Help America Vote Act.

**KOLOWSKI:** Talk to us about the safety of that type of balloting and how that's been looked at.

**La GRONE:** So it's your normal optical scan ballot. It's essentially for the voter. If a county were to choose to use it, there would be no difference for the voter in how they're voting right now, except rather than dumping their ballot into one of the large black ballot boxes they would put it directly into the optical scan. Well, they would hand it to an election worker, who would then put it into an optical scan machine. And the reason for that, that a lot of-- of that has been-- that a lot of places trying to switch that after HAVA is because it allows for second chance voting. So if you over vote or under vote, it will spit the ballot back out and then the election official would notify you that, excuse me, there's either an over vote or an under vote on a ballot and you would have an opportunity to correct that accordingly. Currently, Nebraska and many other states who still use central count, that's a perfectly acceptable method. They do the second chance voting mechanism by posting a sign within the polling place that you can correct your ballot.

**KOLOWSKI:** Thank you very much.

**M. HANSEN:** Thank you, Senator Kolowski. Senator Blood.

**BLOOD:** I-- I just want to clarify something. So an over vote or under vote,--

**La GRONE:** Uh-huh.

**BLOOD:** --so-- so if the person chose to purposely under vote because they didn't like either of the candidates that they-- they had to vote

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for, for a candidate they had to vote for, they are still opted that, that choice, right? It isn't considered--

**La GRONE:** Correct. Absolutely.

**BLOOD:** OK, I just wanted to clarify that.

**La GRONE:** Yeah. No, under federal law, so when HAVA passed, I believe in 2002, it had a provision for states that use central counting machines, like Nebraska currently does mostly statewide, that if-- if you are using a machine like a central count that does not have a second chance voting mechanism, you need to post a sign in there making sure voters are aware that they have an opportunity to correct an under vote or an over vote of whatever ballot position they may have if they want to correct it. With--

**BLOOD:** So not necessarily correct it but amend it, because perhaps they had not known.

**La GRONE:** Correct.

**BLOOD:** OK, that's [INAUDIBLE].

**La GRONE:** Right. They can-- if they can purpa-- if they-- it's to make sure, like, so this came about after the 2000 election in Florida, where you had a lot of voters unintentionally either leave a-- a office blank or over vote in another office. So this is part of those updates that took place after that incidence. And so this is under federal law that these machines do this. This isn't a Nebraska-based--

**BLOOD:** Right, and I understand that.

**La GRONE:** Yes. Uh-huh.

**BLOOD:** Thank you.

**La GRONE:** Uh-huh.

**M. HANSEN:** Senator Blood. Any other questions? All right, seeing none, thank you, Senator La Grone. We'll take our first proponent for LB608. Welcome.

**ROBERT EVNEN:** Thank you, members of the committee. My name, for the record, is Robert Evnen, R-o-b-e-r-t E-v-n-e-n. I serve as Nebraska's Secretary of State. I am appearing today in support of LB608,

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introduced by Senator La Grone. This bill would codify Nebraska's existing practice of using paper ballots. It also reinforces what type of equipment can be used to count paper ballots, as the senator has just described. Nebraska has a long tradition of being a paper ballot state, which I support in my role as the state's chief elections officer. Later the Legislature will consider our budget request to replace the state's aging ballot-counting equipment. This legislation helps guide that process on what types of equipment can be considered during the procurement process. I also would like to express appreciation to Senator La Grone for working with us on an amendment that will eliminate any fiscal impact for this bill. I appreciate your time. I'd be happy to answer any questions that you have.

**M. HANSEN:** All right. Thank you for your testimony. Are there questions from the committee? Seeing none, thank you.

**ROBERT EVNEN:** Thank you.

**M. HANSEN:** We'll take any other proponent for LB608. Welcome.

**WESTIN MILLER:** Thank you, Vice Vice Chair Hansen. Members of the committee, my name is Westin Miller, W-e-s-t-i-n M-i-l-l-e-r. I'm the policy and communications associate for Civic Nebraska. We're a nonpartisan, nonprofit organization. We work with the Legislature on elections and voting rights legislation. I'm here testifying in support of LB608. It's a pretty simple bill, so I'll be quick. First, I wanted to thank Senator La Grone for bringing this bill but also for his prior work on the Election Technology Task Force, and for your continued work to enact the task force's recommendations. We really appreciate it. In our opinion, the Secretary of State's 2017 Election Technology Task Force report is one of the most useful documents that we have when it comes to discussing practical, forward-thinking election policy, and we endorse its findings wholeheartedly. For LB608 specifically, as was addressed, we really appreciate any elimination of language about electronic voting systems, which we believe is the least secure and least reliable way to cast a ballot. We also appreciate specifically page 9, lines 5 through 7, which to us continues to demand that a paper trail be available for all forms of casting a ballot. This is really useful for postelection audits and it's really helpful for encouraging public trust in elections. But at the same time, I think this provision still preserves certain essential electronic functions, like electronic ballot access for overseas service members. So in short, we appreciate this bill because it continues to eliminate electronic voting machine language and it

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helps reinforce the need for a verifiable paper trail. Thanks for your time. And I could answer any questions.

**M. HANSEN:** Thank you. Are questions from the committee? Seeing none, thank you for your testimony. All right. Are there any other proponents for LB608? Seeing none, is there anybody who wishes to testify in opposition to LB608? Seeing none, anybody who wishes to testify in a neutral capacity on LB608? Seeing none, Senator La Grone, would you like to close? Senator La Grone waives closing and did we have any letters?

**DICK CLARK:** We do not on this one.

**M. HANSEN:** And we have no letters for the record, so that will end our hearing on LB608. And I'll pass the gavel back to Senator La Grone, our Vice Chair.

**La GRONE:** Thank you, Senator Hansen. We will-- we'll now be moving to LB412. We will just pause for a moment.

[BREAK]

**La GRONE:** --Government, Military and Veterans Affairs Committee.

**GEIST:** Thank you.

**La GRONE:** You're free to open on LB412.

**GEIST:** Thank you. Thank you for your patience and thank you, Senator La Grone, and good afternoon, members of the Government Committee. I am Suzanne Geist. For the record, that is S-u-z-a-n-n-e G-e-i-s-t. I represent the 25th Legislative District, that is the east side of Lancaster County, and it includes the city of Lincoln, part of the city of Lincoln, Walton, and Waverly. I am here to introduce LB412 which requires that before forming-- the forming of a joint public agency, a vote is required in a statewide primary or a statewide general election. Currently a joint public agency can be formed and implemented-- and implement an occupational tax without giving taxpayers a say in how their taxpayer dollars are spent. The vote to form a joint public agency would only occur during a statewide primary or a statewide general election in order to lessen the cost burden on political subdivisions. Political subdivisions would have to follow the current election requirements that are already set in statute for elections of other issues. Joint public agencies are very important in encouraging inter-- intergovernmental cooperation, but the intent of

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this bill is to allow the citizens to have a vote in how their tax dollars are spent. Thank you for your time and I'd be happy to answer any questions.

**La GRONE:** Thank you for your opening.

**GEIST:** Sure.

**La GRONE:** Are there any questions? Senator Blood.

**BLOOD:** Thank you, Senator La Grone. And thank you for presenting your bill. I do have a couple questions. So when we talk about organizations that are taking-- putting together a joint public agency, are there not public hearings when-- ? So there are public hearings.

**GEIST:** There are public, yes.

**BLOOD:** So can you give me a couple examples of what entities would do this and--

**GEIST:** Uh-huh.

**BLOOD:** --and so the public hearings would be, obviously, promoted to the public so they'd have opportunity to come and speak on it.

**GEIST:** Uh-huh. That's correct.

**BLOOD:** So why, why would-- first, I guess I'll start with the first one. Can you give me some examples?

**GEIST:** You know, I actually have two case studies that are-- were presented in the-- in a-- let's see, I'll take it from-- this is an article. Let me see who the actual publication is. It's from NACO and it talks about joint public agencies. And here are two examples. One is how the Lancaster County Event Center is-- was-- and just so I'm clear, you want me to give you an example of a joint public agency?

**BLOOD:** Right. That--

**GEIST:** OK.

**BLOOD:** --that happened as a result of.

**GEIST:** OK. The Lancaster County Agricultural Society needed additional funds to develop an event center. By law, ag societies are limited to

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a 3.5-cent levy for operations and a 3.5-cent levy for capital improvements or real property acquisition. To generate more funds for the event center, the ag society entered into a joint public agency with Lancaster County. The JPA issued the bonds for the project with the ag society pledging their 3.5 cents of levy authority as dedicated debt service for the bonds. So there's an example. And-- and for clarity's sake, I want to make sure the committee understands I am not in any way not approving of that. And I'll also clarify that when a joint public agency forms and then decides to issue a bond, that bond issue would go before the people for a vote. So there is a precedent for voting with an-- in-- in the whole process of a joint public agency. However, let's say that this agency wanted to form and then they were going to authorize an occupation tax. They could form. They can authorize an occupation tax. They do have to have a public hearing, but they do not have to have a vote of the people. So the-- and the intent behind this legislation would be that the formation of a joint public agency has an intent of using taxpayer dollars. Therefore, the taxpayers should be able to vote on how their ta-- how or if they would like their tax dollars used.

**BLOOD:** So if I hear you correctly, we'll use this as an example, that there were public hearings.

**GEIST:** Uh-huh.

**BLOOD:** And so people from the community, and they didn't have to necessarily be registered voters but anybody that was a resident has the ability to come to these public meetings--

**GEIST:** Correct.

**BLOOD:** --and say whether they like something or don't like something?

**GEIST:** Correct.

**BLOOD:** Was there any of it done behind closed doors, anything that wasn't made public? Is that what the concern was?

**GEIST:** No, that's not the concern. The concern is not that something inappropriate is happening. The concern is letting the taxpayer know that this committee or this agency is forming and it will-- it will be a taxing agency. It will be an additional taxing agency.

**BLOOD:** And that's not done during the public hearings?



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**GEIST:** It is done during public hearings, but it's only confined to that public hearing. If this goes before a vote of the people, that allows a broad spectrum, in my opinion, of people to be exposed to the information. A public hearing-- hearing happens usually one time, and if an individual or group of individuals cannot attend or, for whatever reason, don't know about it, that one time might not be adequate.

**BLOOD:** But would it be your opinion that-- that when it comes to public hearings that usually people that are passionate either for or against usually find out and do show up?

**GEIST:** I would say if people are passionate and find out about it, they probably do show up. But if people are passionate and find out about it and a vote is coming, there would be more time for their passion to spread to let other people know about what's happening. And I just think as a general-- as a citizen, I'll just speak to you as myself as a citizen and a senator. But putting the senator hat aside, if my tax dollars are being used by an agency that is being formed that I may or very often may not know about simply because I may not know about a public hearing, I lead a busy life and I realize that these are publicized but I might not read that particular publication, and that agency forms and I have additional taxes taken out of my budget, I feel like I-- I would like to know, I would like to be asked personally and I would like to give personal permission for my tax dollars to be used.

**BLOOD:** So, and-- and I'm sorry that I keep-- I'm just trying to get this really clear in my head.

**GEIST:** OK.

**BLOOD:** So I apologize for-- for asking you to keep clarifying things. So do we not do that? I mean some of these, these organizations, are people that-- that have actually been elected to this, these positions, yes?

**GEIST:** The-- in most cases I would say that or I would say some cases that's the case.

**BLOOD:** And who elects those people?

**GEIST:** The people that they represent.

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**BLOOD:** And so I don't-- I don't know about you, but when I go to vote I-- and I would hope that most people would do this. Unfortunately, we know that it's mostly the minority that comes to the polls, not the majority, because of apathy. But I know when I vote, I vote people that I can trust will do the job that has been assigned to them under the description of-- of where they're being elected to, be they city council, be they a county board, be they a school board. Would you say that that's the norm or do you think people in general don't know who they're voting for and what the expectation is of the duties they perform?

**GEIST:** I believe we, in many cases, have a very informed public. But I would also assume that if-- if your assumption is, is that there's not much of a voter turnout because of apathy, if there's an apathy problem it probably shows itself in a public hearing as well. And-- and if you take the number of people who vote and there's apathy there, but I would suggest that the number of people who vote is probably broader than the number of people who would testify at a pla-- public hearing. If apathy plays a part of one, it probably plays a part of another. You're going to hear from more people in the voter box than you are in a public hearing. And-- and actually, regardless of that, it is all of our tax dollars, not just those who attend a public hearing and not just those who vote. But if the potential is to get more input, then you're going to have more people vote and show their yea or nay on their money than you are in a public hearing. And so I think you're going to get a broad, sweeping view of whether the taxpayer finds this agency important enough to tax. And if they can make a compelling case that it is important enough to tax, then the voters will-- will vote for it. And if they cannot make a compelling case that their money is not going to be well spent, then it is appropriate that the voters say no.

**BLOOD:** So what if there's a small window of time that they have to get a project done?

**GEIST:** Uh-huh.

**BLOOD:** Do you feel it is worth the taxpayers' dollars to have a special election?

**GEIST:** This does not propose a special election. This is only for a statewide primary or statewide general. So it-- it does not, in any of the statute, propose a special election.

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**BLOOD:** But if they have a small window of time, what are they to do?

**GEIST:** They are to ask the people whose money they're going to use first.

**BLOOD:** What if we have a tornado and it wipes out a city?

**GEIST:** I would suggest there are other ways to accomplish that than forming a joint public agency.

**BLOOD:** I-- do-- do you see what I'm talk-- I-- I think, have coming from city government and I think about partnerships, I think about what needs to be done. And I'm not disagreeing with you that it's the people's money, without a doubt. But I do question, and I need to do a little more research on the bill,--

**GEIST:** OK.

**BLOOD:** --but I-- I do question if this is government overreach and I do question whether it's practical, and maybe we'll hear some of this in the testimony, when it comes to urgent situations.

**GEIST:** I believe, in my opinion, urgent situations have different remedies. And I would say government overreach is never asking the people their opinion. I-- I just happen to disagree with that.

**BLOOD:** Can you give me examples of those remedies that you're talking about?

**GEIST:** Well, there's FEMA in a tornado. There's-- there are dol--

**BLOOD:** I-- I can tell you last time Bellevue needed FEMA, it took them almost three years to pay us back, by the way.

**GEIST:** Well, a joint public agency--

**BLOOD:** Or NEMA, excuse me. It was actually Nebraska Emergency.

**GEIST:** Nebraska, right. A joint public agency, I'm not sure that you would ever end the tax dollars that are taken from a-- from a population when an agency is set up. It's very rare for government to end taxing. So it might take three years to be-- get a return payment on a-- on NEMA or FEMA or whatever the agency may be, but this never ends.

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**BLOOD:** Fair enough. Thank you.

**GEIST:** Thank you.

**La GRONE:** Thank you, Senator Blood. Are there any additional questions? Seeing none, thanks for coming down.

**GEIST:** Thank you.

**La GRONE:** We'll now move to proponent testimony. First proponent. Welcome to the Government Committee.

**COBY MACH:** Thank you and good afternoon. My name is Coby Mach, C-o-b-y M-a-c-h. I am here on behalf of the Lincoln Independent Business Association, LIBA. We're supporting LB412 which would give voters the opportunity to directly weigh in on whether a joint public agency, JPA, should be created. JPAs are an additional or new government body and an added level of bureaucracy. State law allows JPA government bodies to levy and collect property taxes, occupation taxes, enter into contracts, purchase land, build buildings, hire staff, and issue debt as well as revenue bonds. Since the Joint Public Agency Act was passed in 1999, seven have been established in Nebraska. However, three of those seven were created here in the city of Lincoln and we almost had a fourth last year. A typical Lincoln homeowner pays property taxes to a dozen government entities here in our city, a fourth of which are joint public agencies. A Lincoln property owner with a home valued at \$165,000 will pay \$108 in property taxes to JPAs, yet they're unable to vote on whether or not they should be created. The last JPA created in the city of Lincoln was to build the Pinnacle Bank Arena in 2010. As is often the case, when government agencies are created, the bureaucracy created to build the arena has continued to grow. As an example, the West Haymarket JPA gave the city \$575,000 to pay city staff for working on the JPA projects during 2016-17. That's nearly \$120,000 a year more than 2011 when the arena itself was being built. Last year the city of Lincoln and Lincoln Public Schools attempted to create yet another fourth JPA, this one for security needs for Lincoln Public Schools, including the hiring of additional school resource officers. Under the proposed agreement, the JPA would have been able to levy a property tax of approximately \$2 million to pay for the added school security measures. We supported, as an organization, that \$2 million being spent. We did not support creating a new government body. After outcry from the community, the city and Lincoln Public Schools decided to enter into an interlocal agreement and spend the same \$2 million from existing funds on school

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security. In other words, they were able to do it without creating the JPA. If a local natural resources district, NRD, community college, or school district, or county government wants to create a new government body in your hometown, you might want to be able to vote on it. We would ask that you support this bill since JPAs are governing bodies. They do have taxes, as well as eminent domain. Thank you.

**La GRONE:** Thank you for your testimony. Are there any questions?  
Senator Blood.

**BLOOD:** Thank you, Senator La Grone. Can you tell me, please, if every member of your body votes on-- on you coming here today?

**COBY MACH:** They do not.

**BLOOD:** Who decides whether LIBA is going to support or oppose a bill?

**COBY MACH:** We have-- it starts with our committee structure. Any 1 of our 1,300 members can sit on our committee. The committee had met even today with approximately 25 people in the room. They take a position of support or opposition on a bill. That then goes to my board, board of directors, and they have the final say.

**BLOOD:** Interesting. So even though a lot of what you just talked about had to do with, I'd say, quality of life issues in your community,--

**COBY MACH:** Uh-huh.

**BLOOD:** --are of those not things that are-- are good things for the independent business community?

**COBY MACH:** They are.

**BLOOD:** All right. That was my only question. Thank you.

**COBY MACH:** Sure.

**La GRONE:** Thank you, Senator Blood. Are there any additional questions? Seeing none, thanks for coming down.

**COBY MACH:** Thank you.

**La GRONE:** We'll take the next proponent. Welcome to the Government Committee.

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**CHARLOTTE RALSTON:** Thank you. Hello, Senators. Thank you for having me today. My name is Charlotte Ralston, C-h-a-r-l-o-t-t-e R-a-l-s-t-o-n. I am here on behalf of tax-paying citizens. I have watched the JPA since it was introduced for the West Haymarket redevelopment project. And before that I wasn't aware that JPAs were happening and they were so complicated I didn't understand them. And so now I'm testifying out of support of this bill because I think it's very good for the citizen. Just to review, a joint public agency is a quasi government body formed by two or more government entities working together. It could have three or four or five entities. It doesn't matter. It has its own rules, its own board, and its own taxing power derived from the bodies that form it. Even though created by member agencies, it's legally independent from them. To recount a bit of history, in our town of Lincoln the JPA has been used on major projects such as the city-county jail, of which the bonds had been previously voted down by the citizens, and they came around and did a JPA to build the jail instead. The Lancaster Event Center was also a JPA, and the West Haymarket-- market project-- excuse me, I'm nervous-- was crafted by putting a small \$25 million turnback tax on the ballot. This is all the voters were asked to vote on, and many felt deceived by this ballot language when they later found out that there was going to be \$353 million of bonds issued by that JPA. Today, even though the JPA has over \$39 million in reserves, it has not begun to pay back even the principal, only paying the interest due, ensuring an eternal life for this JPA. And you can verify that with a Lincoln Journal news article. I want to thank those of you who took a stand in the 2015 Session to require that future JPA bonds be voted on by the people. This decision was a wren-- win for representative government. Because bonds are debt paid by the taxpayers, it makes sense bonds should be voted on by those who pay the debt. Now I want to ask you to take this one step further and allow the voters to authorize the creation of a JPA. Interlocal agreements already accomplish what JPAs do. A JPA just creates less transparency and has the ability to tax without representation. We do not need more government bureaucracy to monitor. As a citizen, it's already difficult to keep elected representatives accountable in their actions and spending. So this loophole called the JPA created by the state two decades ago has been abused and should be reined in, so the creation should be voted on by the people who have-- are affected by them. Please help good government take a step forward in our state by supporting LB412 and let us in our communities decide if we want or need a JPA. Thank you. Appreciate your ear.

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**La GRONE:** Thank you for your testimony. Are there any questions? Seeing none, thanks for coming down. Take the next proponent. Welcome to the Government Committee.

**NICOLE FOX:** Thank you. Good afternoon, members of the Government, Military and Veterans Affairs Committee. My name is Nicole Fox, N-i-c-o-l-e F-o-x, and I am here today to testify on behalf of the Platte Institute in support of LB412. The Platte Institute believes this bill helps to increase voter participation and local transparency pertaining to taxes. Currently when a joint public agency is formed for the purpose of bonding, they must go to a vote of the people. But the formation of a joint public agency with the intent of imposing a tax does not require that same vote of the people. LB412 proposes that any political subdivision in the state of Nebraska that has the authority to levy a tax or issue bonds and wishes to create a joint public agency must first obtain approval via a vote of its residents. LB412 would require that this vote go through the normal election requirements and must be done at a regular election, such as a primary or general election. Of note, when two political subdivisions join to form a joint public agency and only one has taxing or bond-- bonding authority, the political subdivision without such authority can use the taxing or bonding authority of the other. We understand that joint public agencies are formed to provide certain infrastructure and municipal services. However, when it is for the intent of bonding or taxing, it is important that these are always put to a vote of the people. At a time when many Nebraskans desire tax relief, LB412 gives voters a voice when it comes to the local taxing authority. Thank you for the opportunity to testify today and I'm happa-- happy to answer any questions the committee may have. And thank you, Senator Geist, for introducing this legislation.

**La GRONE:** Thank you for your testimony. Are there any questions? Seeing none, thanks for coming down. Take the next proponent. Welcome to the Government Committee.

**JESSICA SHELBURN:** Thank you. Good afternoon. My name is Jessica Shelburn, J-e-s-s-i-c-a S-h-e-l-b-u-r-n. I am here representing Americans for Prosperity Nebraska, and we're here to support LB412 which would require voters to decide if a JPA should be created. JPAs are nothing more than an additional government body that in most cases have very little accountability and are often used to levy more taxes without Nebraskans having a say. Once a JPA is created, it can levy and collect taxes, issue debt and revenue bonds, purchase land, and

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hire staff in some cases. And in other cases it can create additional nonprofits or committees, all with little to no say of the Nebraskans. Creation of another government entity should always be the last resort and should not be entered into lightly. Just last year the city of Lincoln and Lincoln Public Schools attempted to create a JPA to address security needs within LPS. While assessing a 1-cent tax per hundred dollars of valuation, totaling \$2 million in new taxes annually, the proposed JPA would have created not one but two new governing bodies. The proposed method for accomplishing the JPA's mission and purpose was a blatant mismanagement of taxpayer resources and presented a serious transparency issue for Lincoln residents with taxpayer dollars at stake. The revenue that would have been generated from the new tax would have had to pay for the legal, financial, and administrative expenses of these new government entities. Despite voting for the school board members and the city council members and the mayor, all of whom would have made up the membership of the JPA board, Lincoln residents would not have had a voice in saying who was actually on that board other than those elected officials, because if I remember correctly it was the mayor who would have appointed those members of the JPA board. And they would have had no voice in the voting-- in voting for the members of the nonprofit that would have been created. And when you think about it, it was created to address the security issues. The members of the school board who were going to be on it and the city council should have been enough to be able to address those issues. Why did we need another board? After pushback from citizens and several groups, including AFP Nebraska, the city council and LPS were able to find the resources that they needed to address the security concerns through an interlocal agreement. AFP Nebraska supports 412-- LB412 because it is a step towards accountability and transparency, letting voters decide if there's truly a need for the creation of a government entity. Requiring a vote of the people at a statewide or primary or general election to form a JPA gives Nebraskans a voice that they have not had, without the cost of a special election. We would like to thank Senator Geist for introducing this legislation and thank the committee for your time this afternoon.

**La GRONE:** And thank you for your testimony. Are there any questions?  
Senator Blood.

**BLOOD:** Thank you, Senator La Grone. Just for clarification-- and thank you, by the way, for your testimony-- isn't it not the norm that--



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that mayors are allowed to appoint, for instance, to planning commissions, bridge commissions, etcetera, etcetera?

**JESSICA SHELBURN:** They are, and I think that that is acceptable. But when you go on to create a nonprofit that's going to help oversee the use of taxpayer dollars and the taxpayers are not having a say in that representation-- and in this case, in this case of LPS and the city of Lincoln last year, this also came after LPS had and was boasting about an \$18 million, I believe, windfall from higher property valuations. There was the money there. They were seeing this and using this as a new revenue source.

**BLOOD:** So--

**JESSICA SHELBURN:** So--

**BLOOD:** --were they having meetings behind closed doors?

**JESSICA SHELBURN:** I don't think that they were having meetings behind closed doors. But I think that there comes a point when the taxpayers should have a say. Why-- why shouldn't a taxpayer be allowed to vote on whether or not a JPA should be created? If there is truly a need for-- and let's just go back to the situation in Lincoln last year. If there is truly a need for the security resources and there isn't the money within LPS or within the city of Lincoln and the interlocal agreements to do it, I think the citizens of Lincoln and any citizens across the state would say we want to do this and they would be in favor of it. So why can't we let them say in a vote of the people that they support it? Why does it have to be done by just having a public hearing? Like Senator Geist said, there are a lot of people who aren't aware of those public hearings. I know that for years I was unaware of them.

**BLOOD:** But aren't a lot of those public hearings televised, put on the Internet? I know in Bell-- I mean I use Bellevue as an example--

**JESSICA SHELBURN:** Uh-huh.

**BLOOD:** --because that's what I know. But I know I've been stuck in a hotel in Lincoln before and fell asleep watching something Lincoln was doing nights and-- no offense, and-- and-- and same as Omaha. And you know sometimes I feel that-- that we present it as not everybody knows. And at the same token, I think you'd be surprised how many people do know and they just, like, just like the people who don't go

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out and vote, they're just apathetic. But the ones that do care, that do go to the polls and vote, are voting in elected officials, knowing what that job description is, we would hope. And now it seems to me, personally, that we are picking apart that job description and deciding what we like and don't like as it goes along because maybe we're offended by something that happened. And-- and I just-- I question if we-- we continue to go in that direction if we are truly respecting what the voters who did go to the polls and vote for these elected officials truly want, or we're just nitpicking because there's something that maybe we don't want. And so that's kind of where I'm at with this--

**JESSICA SHELBURN:** Uh-huh.

**BLOOD:** --right now. And so I'm a little concerned about this bill. But I'm still listening to what everybody has to say and taking notes as needed. So thank you.

**JESSICA SHELBURN:** Thank you.

**La GRONE:** Thank you, Senator Blood. Any additional questions? Senator Hilgers.

**HILGERS:** Thank you, Vice Chair. Thank you for coming down today. Thought I heard in your testimony a series of things that the JPA are able to do. Could you list some of those besides levying taxes, which were-- we've already discussed?

**JESSICA SHELBURN:** OK, issue debt and revenue bonds, they can purchase land, buildings. In some cases, when need be, they can hire staff.

**HILGERS:** OK. And those-- so issuing bonds would require a vote of the people, correct?

**JESSICA SHELBURN:** Correct.

**HILGERS:** But the others that you reference would not. And then traditionally the board of these, of a JP-- a standard JPA, would that include-- none of those board members would be directly elected by the people. Is that right?

**JESSICA SHELBURN:** Well, like in the case last year, the Lincoln LPS, they would have been directly elected by the people because they were gonna be members of the city council and then members--

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**HILGERS:** Right.

**JESSICA SHELBURN:** -- of the school board.

**HILGERS:** Well, it's a derivative. In other words,--

**JESSICA SHELBURN:** Right.

**HILGERS:** --someone is elected, but they're elected for one particular--

**JESSICA SHELBURN:** Uh-huh.

**HILGERS:** --role, and by virtue of that role they're, therefore, on the board.

**JESSICA SHELBURN:** Right.

**HILGERS:** Is that right?

**JESSICA SHELBURN:** Yes.

**HILGERS:** In other words, there's not a chair of the board of the JPA--

**JESSICA SHELBURN:** Uh-huh.

**HILGERS:** --on the ballot.

**JESSICA SHELBURN:** Correct,--

**HILGERS:** OK. So--

**JESSICA SHELBURN:** --to my knowledge.

**HILGERS:** --so isn't this just a-- I mean, isn't this just an accountability mechanism then for-- to ensure that taxpayers have the ability to have some oversight over entities that can purchase land, issue bonds that-- that otherwise they wouldn't be able to--

**JESSICA SHELBURN:** Correct.

**HILGERS:** --have oversight over?

**JESSICA SHELBURN:** We believe so. Uh-huh.

**HILGERS:** OK. Thank you.

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**La GRONE:** Thank you, Senator Hilgers. Are there any additional questions? Senator Kolowski.

**KOLOWSKI:** Thank you, Mr. Chairman. Thank you for being here today. I wanted to ask you, you mentioned that Lincoln Public Schools found a way to go ahead and-- and help with their re-- school resource officers.

**JESSICA SHELURN:** Uh-huh.

**KOLOWSKI:** What did they-- what did they do? How was that brought about?

**JESSICA SHELURN:** Well, they entered into an interlocal agreement with the city. I'm not a hundred percent sure right offhand where all the funding came from, but I do know that they were able to add additional resource officers and meet the needs without having to go the route of the JPA.

**KOLOWSKI:** They did that all--

**JESSICA SHELURN:** Uh-huh.

**KOLOWSKI:** --through \$2 million--

**JESSICA SHELURN:** Uh-huh.

**KOLOWSKI:** --with their community.

**JESSICA SHELURN:** Uh-huh.

**KOLOWSKI:** OK. Thank you.

**La GRONE:** Thank you, Senator Kolowski. Senator Lowe.

**LOWE:** Thank you, Vice Chair. And thank you, Ms. Shelburn, for being here and presenting. So, to go along with Senator Kolowski's point, by going through this interlocal agreement, no-- nothing else was set up. There weren't any other employees hired. There was-- it was done prudent-- prudently to the-- for the taxpayers.

**JESSICA SHELURN:** I would say so, yes.

**LOWE:** All right.

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**JESSICA SHELBURN:** And definitely without adding any additional tax to the taxpayers of Lincoln.

**LOWE:** Or another layer of government.

**JESSICA SHELBURN:** Uh-huh.

**LOWE:** Thank you very much.

**JESSICA SHELBURN:** Thank you.

**La GRONE:** Thank you, Senator Lowe. Are there any additional questions? Senator Kolowski.

**KOLOWSKI:** Just to ask again, if they solved the \$2-- \$2 million resource question, officer question in their schools, they had to hire someone. You don't have phantom cops--

**JESSICA SHELBURN:** Right.

**KOLOWSKI:** --walking around when you need your-- your buildings covered. I was a high school principal for 15--

**JESSICA SHELBURN:** Correct.

**KOLOWSKI:** --years and the officers we had were extremely important to us and did a variety of things in the building that-- that kept it safe.

**JESSICA SHELBURN:** Well, maybe I misunderstood Senator Lowe's question. Yes, resource officers were hired. But I thought you were asking if there were additional staff hired to administer accomplishing, like, city or--

**LOWE:** Yes.

**JESSICA SHELBURN:** --cities, committees,--

**LOWE:** That-- that was my point.

**JESSICA SHELBURN:** --a JPA. Whereas the JPA could have hired additional staff to manage the JPA, there was no additional bureaucratic staff, if you will, hired in order to accomplish. It was the resource officers, the staff that was needed, that the schools were asking for.

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**KOLOWSKI:** As in the school district had additional people someplace that were overlooking them, overlooking the hires that they made with the SROs then. The school district did not add to [INAUDIBLE]--

**JESSICA SHELBURN:** The school, right, they didn't have to add additional--

**KOLOWSKI:** --besides the officers.

**JESSICA SHELBURN:** --administrative staff other than the officers.

**KOLOWSKI:** OK. Thank you.

**La GRONE:** Thank you, Senator Kolowski. Are there any additional questions? I just have a couple real quick. So I'm looking at the-- the JPA statutes right now and it looks to me, and I'm curious as to whether you know the answer, that the entities creating the joint public agency can set the standards for being qualified as their representative on the JPA. Are you aware of anything else that would prevent them from putting someone who wasn't an elected official on that JPA?

**JESSICA SHELBURN:** I am not. When I spoke to it I was mainly speaking to what was going on in Lincoln last year.

**La GRONE:** Uh-huh.

**JESSICA SHELBURN:** But to answer your question, I'm not aware of any other statute that would prevent that.

**La GRONE:** So unless there's something out there that I haven't found in my quick research, there theoretically could be someone who was unelected--

**JESSICA SHELBURN:** Uh-huh.

**La GRONE:** --put on a JPA board. OK.

**JESSICA SHELBURN:** I would assume so, yes.

**La GRONE:** OK. Well, thank you for your testimony. Thanks for coming down.

**JESSICA SHELBURN:** Thank you.

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**La GRONE:** Next proponent. Welcome to the Government Committee.

**JOHN PAUL SABBY:** Thank you. Dear members of the committee, my name is John Paul Sabby, J-o-h-n P-a-u-l S-a-b-b-y. I'm here today in support of LB412. LB412 gives voters the opportunity to determine if a joint public agency should be created. JPAs are another potential taxing authority which can levy and collect property taxes, purchase land, hire staff, issue debt and revenue bonds, and even buildings. As recently as last year, the city of Lincoln and Lincoln Public Schools attempted to create a JPA to address security needs at LPS. This JPA would have hired additional school resource officers and levy a property tax of \$2 million. Due to negative feedback from such groups as the NAACP, AFP, ACLU of Nebraska, and LIBA, an interlocal agreement was found to be the best course of action. The interlocal agreement used \$2 million of existing funds on school security. saving taxpayers from another property tax levy here in Lincoln. LB412 promotes transparency and gives voters the opportunity to voice their opinion on the ballot box whether a new government body should be created. Thank you very much.

**La GRONE:** Thank you for your testimony. Are there any questions? Seeing none, thanks for coming down.

**JOHN PAUL SABBY:** Thank you.

**La GRONE:** I'd just like to point out real quick that I did find in the other statute where they do have to be a member of the body. So I just wanted to correct that real quick. Next proponent. Seeing none, we'll now move to opposition testimony. Mr. Mayor, welcome to the Government Committee.

**CHRIS BEUTLER:** Thank you. It's feeling like longer and longer ago every time I come back, but it's good to see you all doing good work still. Well, if I could dig in real quickly, I know you have very strict time limits these days. My name is Chris Beutler and I serve as mayor of Lincoln. I'm here to testify in opposition to LB412, which of course would require the formal election for the creation of a JPA. Joint public agency statutes were put in place back in 1999, back when I was in the Legislature, although it was not my legislation, to encourage cooperation between local governmental units. It was done to legally enable them to cooperate with other governments for the mutual benefit of the entities, to make the most efficient use of their taxing capabilities. The Legislature in the late 1990s placed tough restrictions, tough restrictions on all political subdivisions over

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taxing authority, over budgets, and over local tax revenue sources. At the same time that they did that they tried to encourage the political subdivisions to work together on things so as to use less resources but to cooperate overall in the use of resources. Joint public agencies exist for many reasons. They-- I've been told they have assisted with county fairgrounds, correctional facilities, joint school facilities, development agencies, and also our West-- our West Haymarket JPA, of which we are incredibly proud. The formation of a JPA requires a formal agreement that spells out the member agencies' intentions, the powers that they will share, and other mutually agreed upon conditions. These agreements help governments to cooperate on broader solutions in complex situations. The public decides upon elected officials in a representative government to make studied, informed decisions on these complex issues. And the issue of direct democracy versus elected representatives of course comes very much into play in this discussion. The city of Lincoln joined together with other public entities in-- in two instances to address community problems through JPA solutions. One of those instances was the West Haymarket JPA. It was a partnership of the University of Nebraska with the city of Lincoln. That partnership was designed to do something that the university could not do: provide athletic facilities to-- for the kids of the state. It was also designed to provide an entertainment venue for the city of Lincoln, and the partnership has worked out very well. But it does illustrate a situation where one entity could not act and so two entities acted for the benefit of both. That enterprise consisted of about \$347 million in bonds and is going along splendidly. The other JPA that we entered into was before that. It was initiated by the county. The county-city jail JPA was formulated after the Legislature gave direction for more strict accounting and strict standards with regard to corrections facilities. The Lancaster County Corrections Facility was out of date. To help them meet the legislative mandate, the city of Lincoln paired up with them in a joint public agency and lent them about 1.75 of our levy. By the way, we have one of the lowest levies of all cities in the-- in the state of Nebraska. By virtue of that, we have levy authority available to lend to other institutions in our community, and we give thought to what is the-- what are the strengths and weaknesses of our community. If our weakness is-- is in education, we try to think of ways to partner with our school district to make education stronger. That's the way we think in Lincoln.

**La GRONE:** Mr. Mayor, we are at time, but I'm sure someone will--



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**CHRIS BEUTLER:** Yeah. That's all right.

**La GRONE:** --ask you a question to allow you to continue. Are there any questions? Senator Blood.

**BLOOD:** Thank you, Senator La Grone. Thank you, Mayor. So I'm just going to keep asking the same question. So these meetings that you talked about [INAUDIBLE] these partnerships, were they behind closed doors--

**CHRIS BEUTLER:** No, not at all.

**BLOOD:** --or were they public meetings?

**CHRIS BEUTLER:** In fact I think a strength of the JPA is-- is their transparency, because everything they do is set aside and a separate board does it, a separate group of people do it. Their meetings are covered by the newspapers. The board that acts on their behalf is chosen by each of the separate entities at open meetings with lots of dialogue and interplay between the public and the-- and the city council in one instance, or if it was with county board, the county board in the other instance. All members sitting on these JPAs that I've been involved with are elected officials. When-- the West Haymarket JPA, for example, has its own budget so you can see separately from the city budgets. It's not like an interlo-- local agreement that's buried in a city budget, totally buried. It's out there for everybody to see. They can come to, and they do come, to meetings of the joint public agency. So I would argue that these are very transparent organizations, more so than would be the case if you tried to bury these expenditures in the existing political subdivisions' budgets.

**BLOOD:** Fair enough. And would you say that many of those meetings were also shown electronically or on your public access channels or-- ?

**CHRIS BEUTLER:** Yes. In Lincoln, we're-- we're blessed to have a public access channel.

**BLOOD:** Uh-huh.

**CHRIS BEUTLER:** I don't know if everybody in Nebraska does. I suppose not. But the proceedings are live on TV. They're covered by the press. They have all the coverage that a normal city council meeting would

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have in city government. So, yes, there's widespread publicity the same as if it were a city council action.

**BLOOD:** And so would you say that the-- the ones, the projects, that you brought up and some of the projects that we heard in the-- the proponents' testimony for the bill, would you say that they've all been successful and benefits to the community?

**CHRIS BEUTLER:** Well, I-- I really can't comment about the ones I-- I-- I don't know about, but--

**BLOOD:** Seemed like they talked about Lincoln a lot, so I-- I mean would you say that the partnerships have been successful and--

**CHRIS BEUTLER:** Absolutely. All the--

**BLOOD:** --and--

**CHRIS BEUTLER:** --partnerships that we've had in Lincoln have been successful.

**BLOOD:** --positively affected the quality of life in Lincoln?

**CHRIS BEUTLER:** Oh, absolutely.

**BLOOD:** And doesn't Lincoln rank quite high when it comes to people who want to live in Lincoln--

**CHRIS BEUTLER:** Yes.

**BLOOD:** --continually?

**CHRIS BEUTLER:** Lincoln--

**BLOOD:** Quality of life.

**CHRIS BEUTLER:** Yeah. I thank you for mentioning--

**BLOOD:** Sorry, I read a lot.

**CHRIS BEUTLER:** --all of those things. No. The-- the people of Lincoln are quite supportive, for example, of the West Haymarket JPA. They think it's a-- a mechanism that's transformed the community, and indeed it has. It's led to almost a billion dollars of investment down in the West Haymarket area and in other places. And it was a big boon

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to the university, too, to get a great place to play and-- and they pay absolutely no rent at all.

**BLOOD:** And hasn't that resulted in the younger demographic coming to Lincoln and staying in Lincoln?

**CHRIS BEUTLER:** It has been helpful in that regard, definitely.

**BLOOD:** All right. Thank you very much.

**CHRIS BEUTLER:** Yeah.

**La GRONE:** Thank you, Senator Blood. Are there any additional questions? Senator Hilgers.

**HILGERS:** Thank you, Mr. Vice Chair. Thank you, Mr. Mayor, for being here. I hope we will see you again in the Government Committee this year. I will say if we don't, though, I will say thank you for your long distinguished service, public service I know here in this body and then--

**CHRIS BEUTLER:** Thank you.

**HILGERS:** --certainly for the last 12 years as mayor. We really appreciate it and appreciate you coming down here today, taking some time to testify.

**CHRIS BEUTLER:** Thank you.

**HILGERS:** The quest-- it seems to me that it's sort of a philosophical question that's of-- over this bill, is philosophical. If you think that there needs to be a certain accountability, then figuring out some of the mechanics of having an election or not is not a big issue. So the question I've got for you is, starting with the premise that we-- I think you and I agree that we don't make a lot of our decisions through direct democracy. We do have elected representatives for a reason. My question for you is at what point, if any, right, in your view is there-- does-- do we layer on-- do the individuals that we have on these boards, so the JPA since we have a board that's derivative of the city council, LPS or city council and county, whatever it might be. At what point does it become too attenuated from the-- the actual decisions made by the people to put those-- those individuals into office that we should be concerned?

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**CHRIS BEUTLER:** Yeah. Well, when you're putting the people in, into office, if it-- if the voter has done the basic homework to know what authority those people have, they would know that it's possible that some of them would not only represent them on the political entity to which they were elected, but they would also know that if there were a partnership to be formed in the future that these elected officials could well be part of that also. And-- but your question goes back to the fundamental questions of the Founding Fathers, of course. It was to be a representative government, insofar as the people elected are concerned to represent other people. But on the other hand, there were certain rights that were protected in the Constitution and-- and believed to be subject only to a vote of the people. As time has passed, we've gotten away from that first breakdown that the Founding Fathers made a long, long time ago, for better or for worse. And I think we've kind of gone through a period of time where we think everything should be a vote of the people. And theoretically that sounds good. The Founding Fathers didn't do it because it took you a long time to get from New York to Philadelphia in those days and-- and communication was poor. Some arguments can be made, I think, that communications are better so maybe there's more leeway that should go to direct democracy. However, in the end, life is complex. Men and women have children. They have jobs. They have errands to do. They have family situations to take care of. They don't have a lot of time to sit down and study the issues of government. They find people that they trust and they vote for them and-- and they hope it goes well. And they do their best to keep some kind of background information in their head that gives them a signal as to whether those people are doing well or not. But the more you multiply the votes, the weaker people are going to be in voting in the sense that the less they are going to know about what they're voting on. They elect us to learn, to know, to be trusted to know, and to do the right thing based on that knowledge. I guess the bottom line is, taken to the extreme, a direct democracy will flounder in the-- in the-- in the chaos of the inability of the electorate to come to terms and to know about so many issues directly.

**HILGERS:** Thank you.

**CHRIS BEUTLER:** Is that a long answer or what?

**HILGERS:** It was a long question, so I think it's fair.

**La GRONE:** Thank you, Senator Hilgers. Senator Blood.

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**BLOOD:** Thank you, Senator La Grone. I'm sorry, I have one more question.

**CHRIS BEUTLER:** Sure.

**BLOOD:** So I think you heard me speaking to Senator Geist in her opening. One of the concerns that I have with this bill is that sometimes things are time sensitive, that emergencies happen and organizations are formed, and the time to get something done is the day before. Do you think that a bill like this might negatively influence some of these organizations actually getting things done if they had to wait until the next primary or general election for their bills to be heard?

**CHRIS BEUTLER:** Uh, do you--

**BLOOD:** Or do you think that nothing's ever that urgent?

**CHRIS BEUTLER:** Yeah, I'm not sure I'm-- I'm understanding the import of your-- of your question.

**BLOOD:** So, for instance, if an organization, two organizations got together and decided that they had to-- to get a building--

**CHRIS BEUTLER:** To get together to solve a problem?

**BLOOD:** -- up to replace something that exploded or something. I know I always use these really drastic scenarios, but say it exploded and-- and it was the gymnasium that's used for the Nebraska football players and it-- it would require the city and the University of Nebraska getting together. Do you think voters would want you to wait until the next election or you think voters would want you to hurry up and get on it and decide what to do?

**CHRIS BEUTLER:** Yes. You know, it's-- it's hard to-- it's hard to talk about that sort of thing in the absence of a-- of a specific. But I can--

**BLOOD:** Right.

**CHRIS BEUTLER:** --imagine specifics where people would want to act sooner and would want to act in a conjunctive partnership fashion and form that partnership in some transparent, open way with specific responsibilities that could be set for-- to last over a period of time that it would take to solve whatever problem it was. And I can imagine

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situations where people would be disturbed by waiting for that solution.

**BLOOD:** And-- and that's pretty much what you do now, though, right? You get together. You-- you are very concerned about how the public perceives what you're doing so you're very public with what you do. You make sure the information is available in multiple forms. Anybody is allowed to come to your open meetings. Correct?

**CHRIS BEUTLER:** Right.

**BLOOD:** All right.

**CHRIS BEUTLER:** Yeah.

**BLOOD:** Thank you.

**La GRONE:** Thank you, Senator Blood. Any additional questions? Seeing none, thanks for coming down.

**CHRIS BEUTLER:** OK. Thank you.

**La GRONE:** Next opponent. Welcome to the Government Committee.

**LYNN REX:** Thank you very much. Senators, members the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. Thank you for the opportunity be here today. We're here in opposition to this bill, and there are several reasons, one of which is, as Mayor Beutler has commented on already, which is the notion that back in 1996, when the Legislature passed very severe, restrictive levy limits on local governments. Senator Warner was Chair of the committee. Some of you are young enough that you may-- well, I'm not. You and I are the same bracket here, so you would have remembered. But basically, some of you are young enough that you may not even know what was happening at that time. But at that time there was a statewide effort to try to put basically severe limits, as a statewide constitutional proposal, on state government. As a consequence, Senator Warner said, you know, we're going to look at this, we're going to look at this differently. And so he did a major study across the state. He came back and he said, you know, there's some areas of this state that are not paying enough in property taxes, there are other areas paying too much, so we're going to have a "levelizer," we're going to level this. And to level the playing field, they, the Legislature, passed LB1114. That put in place severe levy limits to the point that for second-class cities and villages

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they went from a \$1.05 per \$100 of valuation down to 45 cents plus 5, and they had two years to do it. So imagine if the federal government said to you, state of Nebraska, you reduce all your revenue sources, because for them mainly it was property tax, by half and you have two years to do it. So what was going on and concurrent with that was passage of what is now the lid on restricted funds. So in 1996 the levy limits passed, LB1114, took effect 1998. In 1996 what also passed was LB299 on the lid on restricted funds. That was supposed to go away in two years, but it didn't. It just kept going on. How does this come into play? Because Senator Warner got a group of us together, and I was a much-- much younger then and-- but my-- my predecessor and I were there, as with representatives of the counties and the schools. And he said and lectured us, local governments are not doing enough to collaborate. We want you to collaborate. We're going to create incentives for you to collaborate. And the interlocal agreement laws were significantly changed to open them up and make it easier to collaborate. In addition, the joint power [SIC] agencies here in 1999. Senator Wickersham did this bill, and it was amended then later. So what you have before you here has been is a-- a serious effort for collaboration. There are hundreds and hundreds of interlocal agreements, and those are all on file with the State Auditor's Office and others for your review. But let me just refr-- just put this in perspective. There are 272 school districts in Nebraska. There are 529 cities and villages. There are 93 counties. You only have seven JPAs? This isn't an abuse of anything. And I would submit to you the reason why the JPA distinction was important is because Senator Wickersham felt very strongly that, unlike interlocal agreements, where you can have elected and appointed officials, that with a JPA you have to have elected officials. And we do believe in representative government. And in closing, I know my light is red, let me just underscore the fact that if the state Legislature had to go to a vote of the people on everything, your HVAC system, some day you're going to need some more money maybe for another correctional facility or something of that nature, how would Nebraskans vote, because municipalities are dealing with those kinds of issues too, serious issues that need to be addressed. So with that, I'm happy to respond to any questions that you might have. But just to underscore the importance of JPAs to the state of Nebraska. You have to have a vote of the people for bonds. That passed in 20, what was it, 2015 with passage of LB132. Interlocal agencies also have to have a vote of the people when they're doing public facility bonds. There are lots of protections. They're subject to the Open Meetings Act, the public records law. And just to underscore for JPAs, elected officials are subject to-- to recall

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elections. If you don't like what they're doing, you don't have to vote for them again. If you don't like what you're [SIC] doing, you can recall them. And if you really don't like what you're doing, they-- or what they're doing, you can put your name in and run for public office. And I commend all of you for doing it. I wouldn't have the courage to do what you're doing either. With that, I'm happy to answer any questions.

**La GRONE:** Thank you for your testimony. Are there any questions?  
Senator Blood.

**BLOOD:** Thank you. Senator La Grone. Just a quick question, staying on theme. So any of the organizations that you referred to, are there any that don't fall under the Public Meetings Act that they don't have to have open meetings?

**LYNN REX:** They all have to. And in 1997, when the Legislature opened it up even further because of Senator Warner, they passed LB269 to say that whatever one public agency has authority to do, if they partner with another one through an Interlocal Cooperation Act agreement or through a JPA, then they both have the power to do, so that you don't have to have a school that decides we're going to have-- we need a swimming pool but it's only going to be for kids. The city can partner with them and say, we're going to have a swimming pool and, in fact, elderly people can use it, other people can use it on weekends. Those are the kinds of projects that are going on across the state of Nebraska. These things are critically important, whether it's an interlocal agreement or a JPA. But the added protection with the JPA is that you do have only elected officials and that is required in state law. And those folks are voted on by all of us. And I realize it is not a direct vote for a member of a JPA but we voted them in.

**BLOOD:** And would you say the projects that you're aware of, 'cause, not-- not to be offensive but you've been around for a while, and--

**LYNN REX:** Thank you very much. Thank you. [LAUGHTER] I view it as experience but I understand your point.

**BLOOD:** I-- "experience" is an excellent word. In your experience, would you say that these-- these shared projects have been successful here in Nebraska?

**LYNN REX:** They've been extremely successful. And I would tell you that just an added incentive that the Legislature created because of a



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federal mandate, not unlike what Lincoln's facing when they deal with their jail-- jail issue, why that JPA was created on the corrections side, on another side that happened all across the state was back in the '90s when Subtitle D regs came out: federal mandate on solid waste agencies, to create them. The federal government gave the state of Nebraska not one penny, said to all 50 states, go forth and take care of it. You're not going to just dump garbage in ravines anymore; you're going to deal with this. The state legislature-- Legislature then promptly said to cities and counties, we're not going to give you a dime either, but you go off and do it and good luck with that. But here's your incentive: Work together, try to create regional landfills, work together. And on that one you don't have to have a vote of the people to create the bond because nobody voted for them. It's that controversial.

**BLOOD:** Thank you.

**LYNN REX:** You're welcome.

**La GRONE:** Thank you, Senator Blood. Senator Hilgers.

**HILGERS:** Thank you, Mr. Vice Chair. Thank you for being here. I appreciate your testimony today. I just briefly want to grapple with one of the things--

**LYNN REX:** OK.

**HILGERS:** --points you made with a hypothetical, which actually I think is very illuminating, which is the-- the example of the Legislature maybe paying money-- spending money for the HVAC system.

**LYNN REX:** Yes, which desperately was needed.

**HILGERS:** It was needed. And I will-- and actually I think that's a very good example, but maybe for different reasons. Because we're not-- I don't think this bill purports to do anything as it relates to the city, for instance, or the county within their scope of authority. So the example with the-- in the Legislature, the Legislature determined that the HVAC system was needed. The Legislature asked for the money. The Legislature appropriated the money. Wouldn't the better example in that instance be where the Legislature then creates some sort of joint entity with some met-- some member of the Attorney General's Office? And then on that-- on that board is Senator La Grone and it's Senator Lowe. It's not me. And they say, OK, let's go spend a

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lot of money. And now it's some other entity that's not the Legislature, might have a legislative component but it's not the Legislature, and they decide to go spend a bunch of money. And now doesn't that illuminate the lack of accountability in those types of schemes because now it's not the Legislature doing it? I can just say, hey, look, I didn't-- I wasn't on the JPA, I didn't vote about-- maybe people didn't even understand the connection, the nexus, between the-- the-- the board of that mythical entity and the-- and the Legislature. I mean doesn't that sort of-- isn't there-- doesn't that help illuminate the lack of accountability [INAUDIBLE] ?

**LYNN REX:** I think that's a better example probably than mine. But let me give you one that-- and there are those behind me that I'm going to bank on will come up and clarify me if I'm stating something that's incorrect. And if I do state something incorrect, I'll get back to you and clarify it. One of the things I think that's important, too, is that you've got the State Office Building. You've got other buildings around Lincoln. That didn't just happen. That happened because the state of Nebraska partnered with the city of Lincoln. The city of Lincoln issued the bonds. There was no vote of the people on that. The city of Lincoln issued the bonds, because sometimes you have entities, and the state Legislature has been in this position, where you don't have authority to do certain things but you have certain needs that need to be met and certain things that need to be done. And so I think that the-- it's so important to underscore the fact that whether it is a state working with a city, whether it is a city working with-- or a village, in the case of Exeter, working with their school system so that they can all have a shared communication facility for training EMTs and the kids get to use it for a communication center during the day, I think those are all really, really good things. I just don't think that it's fair to say in any way, shape, or form there's been an abuse when you have so many political subdivisions out there and you have only seven JPAs. I wish there were more of them because I think that this collaboration does need to happen more and more. But I think your example is much better than mine.

**HILGERS:** No, I-- I took it from you. Thank you very much.

**LYNN REX:** Thank you.

**La GRONE:** Thank you, Senator Hilgers. And we'll excuse the fact your example violates separation of powers.

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**LYNN REX:** I was going to overlook that, but thank you, Senator.  
[LAUGHTER] Better coming from you.

**La GRONE:** Are there any additional questions? Seeing none, thanks for coming down.

**LYNN REX:** Thank you so much. Thank you.

**La GRONE:** Any additional opponents? Welcome to the Government Committee.

**BETH BAZYN FERRELL:** Thank you. Good afternoon, Senator La Grone, members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials and I'm appearing in opposition to LB412. It's my understanding that you've received a letter from Lancaster County setting out the reasons that they oppose the bill. I think most of those have been addressed by Mayor Beutler and Ms. Rex, so I would just refer you to the letter. And I would be happy to take questions.

**La GRONE:** Thank you for your testimony. Are there any questions? Seeing none, thanks for coming down. Are there any additional opponents? Seeing none, any neutral testimony? Seeing none, Senator Geist, you're welcome to close.

**GEIST:** Very much. Well, I think it's important that you hear from me that I'm not here to say that JPAs are bad. I'm not even here to say that they're not effective because I think in many cases they are. For instance, the West Haymarket JPA, as our mayor talked about, has been extremely positive development in the city. The voters approved that JPA and I voted for that JPA. This bill simply asks that, as state officials, we ask the taxpayers; before we form a new small form of government that taxes the citizens, that we ask the citizens first. I would also say that there are many examples that you can look at where we have gone to the voters to get a different result because we know, or we think we know, we're going to get a different result if we ask the voters than if those who are elected to represent those voters vote. I could give you a number of examples of that and I will. For instance, expanding Medicaid, death penalty, medical marijuana. We ask the voters because we think we might get a different result than what our representative government is giving us. And in this case we may get a different result from the taxpayer than what the representative government is giving. And in this case, maybe not in every one but in

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this case, I think it's appropriate to ask the people because that's where the resources come from. And again I will just circle back and say it's not because the JPAs are doing anything bad. It's simply respectful to ask the taxpayer if we could use their money in this way. Thank you. Happy to answer any questions.

**La GRONE:** Thank you. Are there any questions? Seeing none, thanks for being here.

**GEIST:** Thank you.

**La GRONE:** We do have a couple letters to read into the record. Proponents, we have Nancy Carr from Lincoln; opponents, Jennifer Brinkman, the chair of the Lancaster County Board of Commissioners. And with that, we will close the hearing on LB412. And we'll move to LB246. Mr. Baker, welcome to the Government Committee. And just-- I think this is the first time we've had a staff member in this committee so far this year so just to clarify some things, generally when staff testifies we don't ask the staff questions and they don't-- they also don't have the opportunity to close. So with that, Mr. Baker, you're welcome to open on LB246.

**TONY BAKER:** Thank you, Vice Chairman La Grone. And good afternoon, Senators of the Government, Military and Veteran Affairs Committee. I am Tony Baker, that's spelled T-o-n-y B-a-k-e-r, and I am Senator Brewer's legislative aide. Senator Brewer sends his regrets today because he cannot be here to introduce this bill. He's introducing four bills today, including one brought at the request of the Governor and also his priority bill. This bill was brought to Senator Brewer at the request of the Secretary of State. It affects elections in Nebraska. The bill is 29 pages long; 15 different election-related topics are addressed in the bill. It is Senator Brewer's understanding that none of these things changes-- none of these changes represent a significant departure from current policy and that these items are technical updates or clarifications to existing statute. Therefore, I will not explain every element of this bill. I will leave most of these technical details to the representative from the Secretary of State's Election Division who will testify after me. I'll bring to the committee's attention, however, that we do have an amendment to this bill that strikes language from page 22. Secretary of State became aware of a possible constitutional issue with language related to a residency requirement. The amendment removes this language from the bill. We've e-mailed this amendment to the Secretary of State, so he can make distribution of it to the committee when he testifies. As

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staff members introducing bills are not extended the privilege of closing remarks, this concludes the introducer's testimony for LB246.

**La GRONE:** Thank you, Mr. Baker. We'll now move to proponent testimony. First proponent. Secretary Evnen, welcome to the Government Committee.

**ROBERT EVNEN:** Good afternoon once again, members of the committee. It's a pleasure to be here. For the record, my name is Robert Evnen, R-o-b-e-r-t E-v-n-e-n. I serve as Nebraska's Secretary of State. I appear today in support of LB246, introduced by Senator Brewer on behalf of my office. It's common practice for the Secretary of State to submit a bill for this committee's consideration that makes various administrative changes to election law. These changes, I would point out, are a result of a collaborative effort between county election administrators, the Nebraska Association of County Officials, voter advocacy organizations, this committee, and the Secretary of State. Now following my remarks, deputy secretary of state for elections, Wayne Bena, will provide you a summary of the bill and will answer any substantive questions that you may have about it. But I want you to know I support this bill and I look forward to future collaborations with the groups I mentioned and with this committee. I thank you very much for your time and for your consideration of this bill. I'll be happy to answer any questions.

**La GRONE:** Thank you for your testimony. Are there any questions? Seeing none, thanks for coming down.

**ROBERT EVNEN:** Thank you.

**La GRONE:** Move to the next proponent. Mr. Bena, welcome back to the Government Committee.

**WAYNE BENA:** Thank you, Mr. Vice Chair. Is it the same chair you were in before?

**La GRONE:** No, I was in that one.

**WAYNE BENA:** Thank you, members of the committee. My name is Wayne Bena, W-a-y-n-e B-e-n-a, deputy secretary of state for the Elections Division, here on behalf of Secretary of State Robert Evnen in regards to LB246, which, commonly referred to as the Secretary of State and county election officials omnibus bill. So for members of the committee that might not be familiar with me, I've been with the Election Division since September of 2017; previously was the Sarpy

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County Election Commissioner for eight years prior to that. I am-- I love elections. I'm an elections geek. And so I offer to any member of this committee or your staff our door. The Election Division is always open to answer any election-related issues before or after bills are submitted so you can have a sense of-- of how election law would impact the counties and voters as well. So I've passed around, is an index of the various pages of this very long bill. And I recognize that bills like this are not glamorous. They're not going to get on the front page of the newspaper or obviously have any cameras outside of our-- our Internet. Hi, Mom. She is watching. But this is some of the most important work that we do in elections. This are little tweaks that happen and suggestions that come to our office from our county election officials that just say, well, maybe this can be done better this way if we just tweak it this way. And so I provided you an index that tells you what each piece of change in every section and what page that is on the bill so if you wanted to follow along. And I appreciate the committee's indulgence allowing us to have a good record being able to go through this document with you and I will answer any questions you have regarding this. So our first index of provisions regarding deadlines and organization of discontinuance of townships, this was submitted to us by the Nebraska Association of County Officials and it just clarifies that in current practice these petitions were due 70 days before an election, whereas any other thing that would go onto a primary or general election ballot is usually March 1 or September 1. It would harmonize those deadlines for this specific instance in order to have them be March 1 or September 1. Second is in regards to the removal of an economic development question from the ballot. This is our first test of a-- of a thought of something that's not been previously addressed in election law. If a board has put something onto the ballot, are they allowed to withdraw it? And this, an instance in a village in Nebraska, they put something, an economic development question, on the ballot and found out that if it passed it actually was in conflict with something else that had already been passed in their district. They didn't want that to happen. While there wasn't a mechanism, we decided to put specifically a mechanism in there in this instance that they can remove it by the same deadlines that they would have to put it on. The next section regards to-- may I continue?

**La GRONE:** Would you mind walking us through the remaining sections of the bill?

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**WAYNE BENA:** Thank you, Senator. The next section, they'll be in two parts, this and some changes to recall provisions. I think you'll have a bill later on that talks a little bit more about recalls, but in the meantime we've, in regards to some of the issues that we're seeing in recalls, we had to change the definition of the "affidavit" that the sponsor originally files to "petition filing form." There was a lawsuit a few years back that said that the affidavit that is filled out doesn't meet the legal definition of what an affidavit is, and we consider this form is just to be a filing form to start the recall process. So we're just changing the name to what it really is, just the "petition filing form." Next section involves a clarification of residency. We had an issue in which a resident from out of state wanted to run for office in Nebraska and claimed that just being a registered voter was good enough to be able to run for that office. And while statute is pretty clear that you have to be a-- a-- a registered voter, which is an elector, which is a resident of the state, if we put "in Nebraska" in the residency statute, it clears it specifically that in those cases where you have to be a resident of Nebraska, that it is actually residency in Nebraska. Next section, clarification of Secretary of State duties, this allows the Secretary of State to adopt rules and regulations as necessary for conduct of special elections. This is in regard to previous hearings in regards to rule and reg authority of the Secretary of State's Office. The next section in regards to voter registration and register access, while many page-- many parts of this bill were introduced last year, but that bill did not move on and pass. But the reason for many of the things that you see in this section was because of the feedback the office received in regards to the Presidential Commission on Election Integrity requesting the voter registration list from the state of Nebraska. And while we would, the registration list is a public document, many people thought that their Social Security number or their driver's license number was going to be issued in there. And while that never would have happened, we didn't have a singular place in statute to show them physically that that wouldn't have happened. And so what this allows to do is, first, specifically state it's a common practice. The Secretary of State is authorized to provide that list, just as the county election commissioners as well. Now this-- this-- this register will not contain confidential information of individuals on the confidential voter list already in another part of statute, specifically put in here so we can go to this statute anytime anything asks. Next, this specifies the specific content of the voter registration list. So as you see in the bill, we-- we put exactly what fields can be put in a voter registration list, and those are the

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exact fields that are given out right now. So if someone says, well, you're giving out my driver's license number, we'll go to 32-330. We do not give out your driver's license number. And finally, it adds some more information on the affidavit that they fill out with our office, the people that request this list, so we have more contact information to reach out to them if we feel that the list is not being used in the-- in an appropriate manner. Next, district boundary revision, this was requested by Sarpy County and they will testify a little bit about this. But this puts specifically into statute what a political subdivision has to provide a county election commissioner in regards to a boundary change. While there is a deadline, there's not specifically what has to be submitted at that deadline and we-- there was a request for more clarification. Next, some terminology regarding petitions, this language is changing from "presented to" with "filed with." These things are not presented; they're actually filed. So we wanted to make the language consistent in other parts of statute. Next, modification of publishing requirements, as you imagine, many counties-- counties and specific precincts within counties, have decided to conduct their elections completely by mail. And currently it states in the statute that sample ballots will be done no earlier than 15 days, no later than 10 days. Well, by this time, most of these or all of these voters would have already had their ballot, which is really not the point of a sample ballot. So it will allow those county election commissioners that do conduct elections in that matter to move that deadline to 30 days so there's a sample ballot prior to them actually getting their ballot. Next, election plan modification, this will require all election commissioners to submit their plan to the Secretary of State within five days of getting a request of having a special election. This came about, without a deadline. I was receiving election plans in my office after ballots were even being mailed out. And if there's any mistakes in that plan or in the election, the conduct of that election, if we know the earlier the better, those remedies can be fixed. So it allows for a deadline to start that process. Over the course of the last five years, we've tried to harmonize all of the provisions of when a replacement ballot can be sent to a voter. As we know, mail delivery standards have changed and prior deadlines would not allow for a-- the current deadlines do not allow for being able to send a ballot, maybe not even getting there, let alone for the ballot coming back. This was the last one in that we've missed, replacement ballots in a special election by mail, moving back to the second Friday preceding the election. Voters should still go to their county election offices to get a replacement ballot up until the polls close, but getting the-- in the mail, we're



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changing that back. And it's the last of the deadlines that we see that should remain consistent. Next, modification of the provisional ballot verification deadline, currently county election officials have seven calendar days to process all provisional ballots and determine their eligibility to be counted. In many cases, and especially in our larger counties, they are going right up against that seventh day. And nine times out of ten, Veterans Day is within that seven days and so these county election officials are not only working overtime but on a holiday. This will allow a few extra days for them to process those. It would go towards the end of that week. It will not-- it will not affect any other deadlines for them to canvass an election or the state to canvass an election. A recount request deadline modification, right now it says in statute that you can request it ten days from a canvass board starting. Well, in many cases there are canvass boards that take multiple days and we feel it's not fair for a person not-- getting a shortened amount of time because they don't know if there's going to need to be a recount until it concludes. So they changed it from "convenes" to "concludes" for those multiple days. Next, some additional recall provision changes in regards to changing from "affidavit" to "filing form." We also-- 15C we are removing. This was in another part of statute that I've come to find out was ruled unconstitutional and not removed from statute. So next year you'll probably see something for me around removing that provision in regards to residency requirements to file a recall petition. It removes a specification that a recall defense statement must be typewritten. It can be-- it can be done with a pen, just like-- just like a filing form. It allows for an extra process and once a defense statement is filed in a recall election five days for a election commissioner to put the petitions together before the people can actually pick them up. And before, as soon as the defense statement was turned in, that the people who wanted the petitions could ask for them immediately. Well, some [INAUDIBLE] just need a little time to actually put them together. This gives them five days. It will also change the recall elections must be held not less than 50 and not more than 80. Prior, it was 30 days, and any other type of special election in the state of Nebraska needs at least 50 days, especially to do it by mail. And so this will allow that to-- to happen. So the election commissioner can determine if it can be done by mail and allow-- 50 to 80 will allow two different months to be-- for that election to be held. Also allows for the cancellation of that recall election, if the official up for recall resigns, up to 24 days instead of 16. The election can be stopped. And why we're doing that, since many of these elections are being held by mail now and they can start mailing them

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22 days out, if they can stop, if they can resign by the 24th day, the expense to the subdivision of actually mailing the ballots will not have to happen. Finally is modification-- we're in the homestretch, I swear we're in the homestretch here-- modification of initiative and referendum petitions. It provides additional confidentiality of the proposed measure, and how this would work is right now a initiative is filed with our office and it goes to the Revisor for ten days for review. And once that review comes back, that review is confidential for five days. However, during that entire time the actual initial filing is public record. And the policy in this is to say that many of these are citizen-led efforts and they may not know that there's something wrong in their petition until they get the Revisor review back. So if it can remain confidential until at least they can review the Revisor's remarks, someone else that have grabbed that petition can't make the argument that they weren't-- didn't know what they were doing or frame the argument before the initial folks that turned it in got that Revisor review. So we want to make everything public but once the review, confidential review five-day period has expired. It will require that a blank copy of a petition be filed with the Secretary of State prior to circulation. That's been past practice, want to codify that into statute. Once we give you the camera-ready versions, we want to know that you have it ready. And once that blank copy has been filed, we know that it's out for circulation and can let-- then when we get requests, we know this officially starts the circulation process. It removes some obsolete provisions of-- and also would require a process that once those petitions are turned in, they certify to us how many petition signatures have-- they have that they're turning in with us, and then that meets the actual minimum number of signatures, if every one of them were to be accepted, that it would make it onto the ballot. We had a situation a few years back in which three petitions were turned in. Two of them didn't even have the minimum number of signatures. Even if everyone did, we don't want to waste the county's time verifying all of these. So we also-- we want them to certify that they have the correct number, at least bare minimum, and also to allow us, if we're doing counting on the back end and we see a discrepancy, we can ask them why there might be a discrepancy of what they turned in versus what we counted. It's a check and balance. And finally, it provides a mechanism for the Secretary of State to halt signature verification upon reaching a 110 percent threshold. The counties have that ability now on county petitions. However, the Secretary of State realized in 2015 that they were not have-- doing the death penalty petitions; that they didn't have that specific authority. And so we are seeing more and more

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petitions being filed with our office. Just we have three for 2020 filed already. If everybody were to turn everything in, we need to be-- have a mechanism to stop so we can move on to the next one. So 110 percent is the threshold for counties and it's also the threshold for requesting for the Secretary of State. Hopefully, that was painless.

**La GRONE:** Thank you. That answers my question perfectly. Are there any additional questions? Senator Kolowski.

**KOLOWSKI:** Thank you, Mr. Chairman. Thanks for your presentation. Do you have this many items on a yearly basis or how-- how is it accumulated, over how many years?

**WAYNE BENA:** Last year was the first year, I believe, in about five or six that this bill didn't pass. So my recommendation, if you want me to talk less, pass this bill. There will be less things in the hopper. But it's accumulation of last year and stuff that came as effect of the 2018 election.

**KOLOWSKI:** There's about that many things on a yearly basis then.

**WAYNE BENA:** Sometimes it's-- I will say last year was the first time we attempted to. There used to be a Secretary of State's bill and a county election commissioner bill. I was in charge of the county election commission's legislative portfolio when I was election commissioner. And taking on this role with the state I saw, you know, it's one less hearing you have to worry about when we can put everything into one bill, so.

**KOLOWSKI:** Thank you.

**La GRONE:** And correct me if I'm wrong, but didn't that bill last year pass unanimously out of the committee? We just didn't get to it because we ran out of time.

**WAYNE BENA:** Just didn't get to it, correct. Yeah.

**La GRONE:** That's what I thought. Are there any additional questions? Seeing none, thanks for coming down.

**WAYNE BENA:** Thank you.

**La GRONE:** Next proponent. Welcome back to the Government Committee.

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**DAVID SHIVELY:** Thank you. Good afternoon, Senator La Grone and members of the Government Committee. My name is David Shively, D-a-v-i-d S-h-i-v-e-l-y. I am the Lancaster County Election Commissioner and also cochair of the election law committee of the Nebraska Association of Clerks, Election Commissioners, and Registers of Deeds. I'm here today in support of LB246. I'd like to thank Secretary of State Bob Evnen, deputy secretary of state for elections, Wayne Bena, and Senator Tom Brewer for their efforts in drafting in their support of this bill. LB246 contains numerous changes in state election law that election officials from throughout the state have suggested to the Secretary of State's Office. I'm not going to take up much of your time, as I am in agreement with the previous statements made by Secretary Evnen and Mr. Bena who have also testified on this bill. However, I do want to focus on a couple-- focus on two sections of the bill. First is Section 14, which changes the deadline for election commissioners to verify and investigate provisional ballots from seven days to seven business days. This change would be extremely helpful following statewide general elections when we have the largest number of provisional ballots cast. It is extremely challenging and time consuming to thoroughly investigate each provisional ballot cast to meet the current deadline in state law. Lancaster County had 2,641 provisional ballots cast in the 2-- 2018 general election, and 3,479 cast in the 2016 general election. For each of the-- for each election it took my staff almost the full seven days allowed by law to properly investigate and verify the provisional ballots. This included working the weekend following the election, daily overtime, as well as working on Veterans Day to complete the verification process. The additional overtime plus working on Veterans Day is costly for us. The change in state law would allow us to spread the verifica-- verification process over a few additional days and would hopefully eliminate working on venator days-- Veterans Day and some overtime. Section 22 is the second portion of LB246 that I'd like to discuss. The section deals with statewide initiatives and referendums. The bill requires that at the time of filing, the sponsor of the initiative or referendum would certify that they have had-- they have at least the minimum number of signatures necessary to place the issue on the ballot. In 2016 my office verified signatures from petitions on three separate issues. Two of those issues did not contain the minimum number of signatures required to be placed on the ballot. In Lancaster County we spent over \$16,000 to verify signatures on all three petitions. While my-- my office did not account separately on the cost of each of the three petitions, I think it'd be safe to say it was close to \$10,000 for the two petitions that did not have the minimum number of signatures. This

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section would also allow the Secretary of State to end the signature verification process once counties have verified 110 percent of the signatures required for the issue to be placed on the ballot. Again, this would-- this would be a cost saving for counties, especially counties that hire temporary staff to assist in the verification process. I would like to thank Senator Brewer and members of the Government Committee, Military and Veterans Affairs Committee for your time and consideration of LB246. I urge you to advance 246, LB246 to General File. And I'd be happy to answer any questions if you have any.

**La GRONE:** Thank you, Commissioner Shively. Are there any questions? Seeing none, thanks for coming down.

**DAVID SHIVELY:** Thank you.

**La GRONE:** Mr. Kruse, welcome back to the Government Committee.

**BRIAN KRUSE:** Thank you. Good afternoon. I believe Miss Condon has-- I e-mailed my testimony to her yesterday in the event I wasn't here today due to inclement weather, so she's put that into the record for all of you to review. So, Vice Chairman La Grone and members of the Government Committee, my name is Brian W. Kruse, B-r-i-a-n W. K-r-u-s-e. I am the Douglas County Election Commissioner and I am here to testify in support of LB246. I would like to begin by thanking Senator Brewer for introducing this bill. The bill has numerous components that will help clarify election laws. I will touch on three of those items this afternoon. I would like to start by talking about the voter list or the voter file that [INAUDIBLE] available to the public. The clarifications in this section of the bill will provide a list of what information will be made available on the voter file. There is also additional language which was added to the oath to help ensure the voter information will only be used for the prescribed purposes set forth in statute. The next item I wish to speak about is processing provisional ballots, a vital part of the voting process. The bill would simply change the processing time from seven days to seven business days. These additional days are vital for Douglas County as we generally have 40 percent of all provisional ballots cast statewide. That translates into 4,523 in the 2018 gubernatorial general and 6,294 in the 2016 Presidential election. These quantities require us to work 12 to 16 hours each day following an election, including weekends and Veterans Day, in general elections. This change would result in the staff, who are already exhausted, potentially not having to work such long hours and it has the

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potential to save taxpayers money through the reduction of overtime, especially on holidays. Another item of importance is statewide petition verification. When LB246 is signed into law, petition gatherers would have to sign an affidavit clarifying the petitions have at least the necessary number of signatures. In 2016 there were two petitions submitted for statutory changes and the minimum number of signatures statewide was not collected. This resulted in Douglas County spending over 3,200 hours and \$37,000 of taxpayer funds for temporary employee wages, knowing full well there was no possibility of successful verification. This was just the cost in Douglas County, a true waste of taxpayer resources. In addition, there is a provision which would allow the Secretary of State's Office to cease petition verification upon 110 percent of the necessary signatures being verified. This would clearly result in a savings to the citizens of Nebraska. In conclusion, LB246 helps to clarify numerous issues that will result in a win-win for both voters and election officials in the future. I urge this committee to advance LB246 to General File. Thank you for your time and I'd be happy to answer any questions.

**La GRONE:** Thank you for your testimony. Are there any questions? Seeing none, thanks for coming down.

**BRIAN KRUSE:** Thank you.

**La GRONE:** Commissioner Andahl, welcome to the Government Committee.

**MICHELLE ANDAHL:** Good afternoon, Vice Chairman La Grone and members of the Government, Military and Veteran Affairs-- Veterans Affairs Committee. My name is Michelle Andahl, M-i-c-h-e-l-l-e A-n-d-a-h-l. I am the Sarpy County Election Commissioner and I'm here to testify in support of LB246. I'm going to keep this really brief. The one section that I am going to focus on, while all of the bill affects all of the election officers in the-- in the state, there is one section that definitely affected Sarpy County in recent years. This is Section 9 of the bill, starting on "tage"-- on page 12, which addresses the requirements for political subdivisions requesting the adjustment of election boundaries. Current language only reads as follows: At least five months prior to an election, the governing board of any political subdivision requesting the adjustment of boundaries of elections shall provide written notification to the election commissioner or county clerk. The language is vague and in past years, especially last-- for the primary last year, we had some issues, unfortunately, for different cities within Sarpy County because the language is so vague that they weren't sure what was actually required and what is a wit--

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a written requirement or what constitutes the right to change those boundaries. So what we're asking is, at least in the way we've handled it, the practice and precedent in Sarpy County has been to accept or deny boundary changes, a boundary change request based on property ownership. Legal opinion has been that political subdivisions cannot govern or change boundaries of property that they don't own. So in line with that, boundaries, for boundaries to be moved, we've always required that political subdivisions provide revised election district boundary map that's been approved by the requesting political subdivision governing board, and that's been subjected to all public review and challenge ordinances of the political subdivision. And it's important to understand the reason this is so important, is that election offices immediately begin adjusting the boundary lines of election districts upon acceptance of these requests. And when we be-- it kind of becomes a dangerous practice when we go and we move boundary lines based on an axe-- an-- an annexation that has not yet occurred. So we received a letter from a certain city in Sarpy County saying that they had an intent to do an annexation at a later date and we had an ordinance or-- that was presented to us, a package from one city that had everything from the initial hearing, the public hearing, the passing of the ordinance and the accepting of documents that they had already approved it through their city council. And you can understand where that leaves a little bit of room for question for any of these political subdivisions. So in closing, I would ask you to advance this to General File and I definitely appreciate Senator Brewer introducing this bill and I'm happy to answer any questions.

**La GRONE:** Thank you for your testimony. Are there any questions? Seeing none, thanks for coming down. There any additional proponents? Welcome back.

**BETH BAZYN FERRELL:** Thank you. Good afternoon, Vice Chairman La Grone, members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials. I'm appearing in support of LB246. We'd like to thank Senator Brewer for introducing the bill and Secretary of State Mr. Evnen, and Mr. Bena for their work in combining the Secretary of State's bill, and the county election officials bill. I'm just going to speak to one piece of it and it's the one that Mr. Bena mentioned that we had brought to him from NACO. This summer we were contacted by some residents and county officials in Dixon County. They were looking at putting the issue or preparing a petition to potentially put on the ballot the question of whether to change from a

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township form of government with supervisors to a commissioner form of government. When we started looking at the statutes for putting that on the ballot there was a conflict between a 70-day deadline and a September 1 deadline. We worked with the Secretary of State's Office on that, and they were gracious enough to include that in this bill, and we appreciate that very much. I'd be happy to answer questions.

**La GRONE:** Thank you your testimony. Are there any questions? Seeing none, thanks for coming down. Next proponent. Welcome back to the Government Committee.

**CHRISTY ABRAHAM:** Thank you, Senator La Grone and members of the Government Committee. My name is Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m, representing the League of Nebraska Municipalities. And like everyone who testified before me, I want to point out one section of this bill that the league is very grateful that Mr. Bena brought to our attention. I like to call this the clerk of Ansley bill. Every year we have a village or two where you have write-in candidates and they get one or two votes. And imagine their surprise when they're told that they're elected to the village board. [LAUGHTER] And I think that she put it well when she said, Christy, could you at least get us someone on our board who wants to serve? And I said, that's an excellent point. And so when Mr. Bena contacted us, we were very excited. So it's in page 20 of the bill, Section 15, and basically what that-- eliminating that language is going to do is it's going to say if you want to run for any elected position you have to file that affidavit that-- that says, yes, I am actively pursuing a write-in campaign. And only then will your votes be counted. Right now there's an exception for villages that if you basically get their first name right and their last name, it's a vote. And so you've had, you know, people at the bar think it's funny and they're writing in their friend. The next thing you know, he's the chair of the village board. So thank you to the Secretary of State and Wayne Bena and-- and to Senator Brewer. And I appreciate the Government Committee's time on this.

**La GRONE:** And thank you for your testimony. Are there any questions? Seeing none, thanks for coming down.

**CHRISTY ABRAHAM:** Thank you so much.

**La GRONE:** Are there any additional proponents? Welcome back.



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**WESTIN MILLER:** Thank you. Vice Chair La Grone, members of the committee, my name is Westin Miller, W-e-s-t-i-n M-i-l-l-e-r. I'm the policy and communications associate for Civic Nebraska, a nonpartisan nonprofit who works with the Legislature on elections and voting rights legislation. I also have one section to talk about. But first, I want to thank Senator Brewer for bringing this bill and also thank Secretary Evnen and his staff for making sure that the Election Act is continually updated and useful. This bill I think is pretty easy cleanup. I really appreciate the collaborative nature of the bill. One section we're particularly grateful for is on page 15, lines 16 through 21, which allows for earlier publication of sample ballots in elections that are conducted using a vote by mail standard. I think that sample ballots are really useful for informed voting. I think they generally promote public trust in the election process. And yet we think the earlier the better. So I just wanted to note that we appreciate this small change. Thank you.

**La GRONE:** Thank you for your testimony. Are there any questions? Seeing none, thanks for coming down. Any additional proponents? Any opposition testimony? Any neutral testimony? Seeing none, we will close the hearing on LB246. We have a couple of letters first before we close the hearing on LB246. Proponents: Douglas County Election Commissioner Brian Kruse; Joann Fischer, Knox County Clerk. And that is it. No opponent or neutral letters. We'll close the hearing on LB246 and we will open the hearing on LB280. Mr. Baker, you're welcome to open.

**TONY BAKER:** Thank you, Vice Chairman La Grone. And good afternoon, Senators of the Government, Military and Veteran Affairs Committee. I am Tony Baker, that is spelled T-o-n-y B-a-k-e-r, and I am Senator Brewer's legislative aide. You're already aware Senator Brewer is unable to be here to introduce this bill. I will be brief. This bill changes one word in the law. It updates the maximum civil penalty for a violation of the Nebraska Accountability and Disclosure Act. It changes this penalty from \$2,000 to \$5,000. The current maximum penalty was established by the Legislature in 1999. This bill was brought to Senator Brewer by Mr. Frank Daley, the executive director of the Nebraska Accountability and Disclosure Commission. It is my understanding Mr. Daley will follow me and provide additional information in his testimony to the committee. As staff members introducing bills are not extended the privilege of closing remarks, this concludes my introducer's testimony for LB280.

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**La GRONE:** Thank you for your opening. We'll now move to proponent testimony. Are there any proponents? Senator, welcome back to the Government Committee.

**TOM CARLSON:** Thank you. Senator La Grone and members of the Government, Military and Veteran Affairs Committee, I am Tom Carlson, spelled T-o-m C-a-r-l-s-o-n. I served as a state senator of District 38 from 2007 through 2014. At that time, I lived in Holdrege. Now my wife and I live in Lincoln. As was indicated, this is a very, very simple change on a bill. In LB280 the change is the maximum penalty for a civil penalty would be changed from \$2,000 to \$5,000. And I think that this was implemented in 1999, so it's 20 years ago, and I think what happens over time, what can happen, is that a fine that stays the same doesn't become very important and can easily be interpreted simply as a cost of doing business. And we don't want that in this. I currently serve on the Accountability and Disclosure Commission and I believe strongly that rules help keep order in an organization. That's why we have them. And so the purpose of LB280 is to kind of tighten things up a little bit and allow this to happen that gives a little more order and I think will help in the-- in the future. If somebody runs for public office, they need to understand the rules. They need to understand what happens when those rules are violated. And they need to be aware of them and follow them. So that's as simple as it is on LB1080 [SIC]. And I'd be happy to try and answer questions that you may have. Thank you for allowing me to testify.

**La GRONE:** Thank you for your testimony. Are there any questions? Seeing none, thanks for coming down.

**TOM CARLSON:** Thank you.

**La GRONE:** Any additional proponents? Welcome back to the Government Committee.

**JACK GOULD:** Thank you. My name is Jack Gould, that's J-a-c-k G-o-u-l-d, and I am here representing Common Cause Nebraska. I really like bills that have one word, I guess. I would like to just testify to the fact that I attend most of the Accountability and Disclosure meetings for not-- for Common Cause, a nonprofit, nonpartisan organization. And I want to reflect only on the fact that, although this raises the limit on the amount that can be charged in penalties, the commission itself is extremely fair in the way they administer penalties. And many times people who come before the commission, rarely do they say they disagree with the penalty. They may ask for

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relief from the penalty and the commission itself is extremely careful and at the same time fair in the way they deal with those requests. At times they do reduce the penalties. And keep in mind this is the extreme that they're dealing with in this bill. I also want to make sure that everyone understands that the decisions of that body never reflect any political preferences and the fact that they are very careful to be evenly-- their penalties are even and fair and the judgments do not show any kind of favoritism. And that's all I have to say.

**La GRONE:** Thank you for your testimony. Are there any questions? Seeing none, thanks for coming down.

**JACK GOULD:** Thank you.

**La GRONE:** There any additional proponents? Welcome back.

**WESTIN MILLER:** Hello again, Vice Chair La Grone, members of the committee. My name is still Westin Miller, W-e-s-t-i-n M-i-l-l-e-r. I am the policy and communications associate for Civic Nebraska, a nonpartisan nonprofit organization. We work with the Legislature on elections and voting rights legislation. I'm here in support of LB280 to round out this trio of good bills today. All three of the bills I've spoken on today we think support public trust in elections in some different way. So we have LB608, which steers us further away from unreliable electronic voting machines; LB246 allows us to publish sample ballots earlier; and LB280 is a great step in the direction of promoting public trust in the campaign process. As political campaigns at all levels become increasingly dictated by who can raise the most money, I think it's essential that Executive Director Daley and his office have the ability to impose penalties that are substantial enough to actually give campaigns pause. As sad-- as sad as it is, I think \$2,000 is just not very substantial to even many legislative campaigns, many of which raise over six figures for a single election. Nebraska elections are consistently run with integrity and I think we're really lucky that most of our candidates are very upstanding, ethical people. That being said, it's very important to empower our Accountability and Disclosure Commission to, on the rare occasion that they need to, to make a really substantial impact. I think that's an easy way to promote campaign integrity without creating democratic barriers of any kind. And so that's why we support this bill. Thanks for your time.

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**La GRONE:** Thank you for your testimony. Are there any questions?  
Seeing none, thanks for coming down.

**WESTIN MILLER:** Thank you.

**La GRONE:** Any additional proponents? Seeing none, any opposition testimony? Seeing none, any neutral testimony? Seeing none, we do have a couple letters for the record. Proponents, we have Lynne Elwood, who's the government director of League of Women Voters of Nebraska. And then that closes our hearing on LB280, but we did have one correction for the record on LB608. We also had a letter from Lynne Elwood in support, again with the League of Women Voters. That closes our hearings for the day.