

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 26, 2022

M. HANSEN: Perfect. All right, everyone, welcome, and we'll go ahead and get started today. My name is Matt Hansen, and I serve as the Vice Chair of this committee. Senator Brewer is absent today for medical reasons, so I will be chairing the meeting. So let's see, we'll go through the [INAUDIBLE] at this time. All right, the committee will take up the bills on the order posted on the agenda to-- our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. The committee members might come and go during this hearing. This is part of the process as we have bills introduced in other committees. And I'll note that I believe, Exec Board were still going, so that might be where Senator McCollister and Senator Lowe is. I'll ask that you all abide by the following procedures to better facilitate today's proceedings. Please silence and turn off your cell phones. Please move to the reserved chairs when you're ready. These are the first two chairs on either side of the front row. The procedure will go that introducers will make initial statements, followed by proponents, opponents, and neutral testimony. Closing remarks are reserved for the introducing senator only. If you are planning to testify, please pick up a green sign-in sheet on the table in the back of the room. Please fill out the green sign-in sheet before you testify, and please print and complete the form in its entirety. When it's your turn to testify, please give it to the page or our committee clerk. This will help us give an accurate public record. If you do not wish to testify but would like to record your name as being present at the hearing, there is a separate white sheet on the tables that you can sign on for that purpose. This will be a part of the official record for the hearing. If you have handouts, we ask that you make 12 copies and give them to the page when you come up to testify, and they'll be distributed to the committee. If you do not have copies, the page will help you make more. When you come to testify, please speak clearly into the microphone and tell us your name, and spell your first and last name to ensure we get an accurate record. We'll be using the light system for all testifiers. You will have-- we're going to go with five minutes to make your initial remarks on the committee. When you see the yellow light come on, that'll sig-- it means you have one minute remaining, and your red light indicates your time has ended. Questions from the committee members may follow. I'll note that no displays of support or opposition to a bill, vocal or otherwise, are allowed at a public hearing. With that, we'll ask committee members to introduce themselves, starting on my right with Senator Blood.

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BLOOD: Good afternoon. Senator Carol Blood, representing District 3, which is western Bellevue and southeastern Papillion, Nebraska.

SANDERS: Good afternoon. Rita Sanders, representing District 45: the Bellevue-Offutt community.

HALLORAN: Good afternoon. Steve Halloran, representing District 33, which is Adams, Kearney, and Phelps County.

M. HANSEN: Thank you. And I'll note we have our committee clerk, Julie Condon, our legal counsel, Dick Clark, who'll be joining us after he does the introduction. Also note, we have two pages for today. We have Bhagya Pushkaran; she's a junior from UNL-Lincoln. And we have a substitute page, Morgan Baird. With that, we'll move to our first item on the agenda, and we'll invite our committee counsel to open for Senator Brewer on LB843.

DICK CLARK: Thank you, Vice Chair Hansen and members of the Government, Military and Veterans Affairs Committee. My name is Dick Clark, D-i-c-k C-l-a-r-k, and I am the committee legal counsel for the committee. Senator Brewer is unable to attend today's hearing due to a health matter, and he asked me to open on the bill. I will be brief. This bill is the annual omnibus elections cleanup and update bill, brought to Senator Brewer by the Secretary of State. It includes numerous revisions, all in the Election Act, including: a number of definitions, procedures for accommodating voters with disabilities, procedures for appointment of local election workers, a requirement to use the authorized forms when going out and getting voters registered or getting in early ballot requests, update political party name, rules for voter list maintenance, deadlines of various sorts, polling place facility availability for training, adjustment of certain deadlines, change to the procedure for replacing lost or destroyed ballots, and various notice requirements, and so on. These changes were all proposed by the Secretary of State's Office, and it's our understanding that both someone representing the Secretary and someone from a local election office will follow me to explain the rationale for these changes. Thank you.

M. HANSEN: All right. Thank you, Mr. Clark. The tradition is to not ask staff questions. So with that, we'll invite up our first proponent for LB843.

DOUG KAGAN: Good afternoon. Doug Kagan, D-o-u-g K-a-g-a-n, 416 South 130th Street, Omaha, representing Nebraska Taxpayers for Freedom. In reaction to the questionable outcome of the 2020 election, taxpaying

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citizens are demanding that their state senators enshrine additional voter integrity content into state statutes. We support one provision, the first provision of LB843, which would alert the Secretary of State's Office or local election commissioner if an individual or organization was using fraudulent means to retrieve voter personal information or misrepresenting themselves as official government employees. This measure would curtail ballot harvesting, whereby fraudsters influence the votes of voters whose ballots they secure. This bill also would aid in sanitizing and updating registered voter rolls, such as voter material returned as undeliverable, verifying mail in ballot application signatures with signatures on voter registration records, would prevent fraudsters from tampering with such ballots. If Nebraska counties do not continually maintain accurate voter rolls, they quickly become unreliable, allowing fraud and doubts about the integrity of our election system. The U.S. Supreme Court, in a 2018 ruling, declared that the act of not voting in consecutive elections is an acceptable trigger to remove registered voters. Inflated voter rolls can lead to rampant voter fraud because automatically mailing ballots to a list allowed to accumulate a large number of outdated registrations means ballots will go to disqualified voters and impersonators. Voter rolls are not stagnant. Each year, thousands of Nebraskans change residence or pass away. If Nebraska fails to diligently identify and remove these invalid registrations, our rolls only become more unreliable. Left untended, rolls risk becoming useless to officials trying to ensure that only eligible voters cast ballots. Although there exists no specific means to ascertain how prevalent or miniscule is Nebraska intentional or unintentional voting fraud, we must insist on passage of measures that will prevent and criminalize any amount of fraud. Thank you.

M. HANSEN: Thank you for your testimony. Questions from committee members? Senator Blood.

BLOOD: Thank you, Co-Chair Hansen. Thank you for testifying today, Mr. Kagan. Mr. Kagan, you spoke several times about fraud and that perhaps things had been done incorrectly. But yet, then you say there are no specifics that showed that it was prevalent or that it had even happened. Are you aware that any of this has happened in Nebraska?

DOUG KAGAN: Well, Senator, the intent of why we support this bill is it doesn't make any difference if there is vote fraud or how prevalent it is. It's a, it's a preventative. It's like when you get a vaccination so you won't get a disease or get ill; it's simply preventative. So in our opinion, it doesn't make any difference how rampant or intentional or unintentional vote fraud actually is.

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BLOOD: So, so here's the question that I have for you then, based on that statement. So if indeed, it's because it's preventative, usually when we do something preventative, it's because what we've done before has not worked. Are you saying that the Secretary of State and our county election commissioners are not doing their job well?

DOUG KAGAN: No, they are doing their job well. And we have no argument with the Secretary of State's Office. All we're saying is this is an additional preventive that should be enacted into law.

BLOOD: All right. I'm still confused, but fair enough. Thank you.

M. HANSEN: Thank you, Senator Blood. Any other questions? Seeing none, thank you for your testimony.

DOUG KAGAN: Thank you.

M. HANSEN: And I'll note, we had Senator McCollister, Senator Lowe, and Senator Hunt all join us since we did introductions. With that, we'll welcome up our next proponent. And I'll just note, for the record, since Mr. Bena we know is the technical expert, we'll be flexible on the five minutes with you.

WAYNE BENA: Thank you, Senator Hanson, Vice Chair Hansen. And members of the committee, my name is Wayne Bena, W-a-y-n-e B-e-n-a, and I serve as Deputy Secretary of State for elections. I'm here on behalf of Secretary of State Robert Evnen, in support of LB843. LB843 is the annual election omnibus bill. It's a collaboration of the Secretary of State's Office, county election officials, and even state senators, to identify uncontroversial procedural and administrative changes to election laws we see, as each election year moves forward, to better the elections process. It's a 48-page bill, not my longest, not my shortest. So in an effort to help you, I have summarized this into a 4-page document of what each one of the sections has. Some of the policies need more than one section changed. It would set the same policy change that will be reflected in multiple sections, so you can follow along with that document as we talk about what these changes will do. This is to be uncontroversial. However, if there are those that want changes, I have been-- I've received a few phone calls about some amendments, which I have supported, more than willing to work with any member of the committee or any senator in regards to changing what we need to, to get this through. So talk about the various sections. Section 1 is in regards to the remonstrance process. There is a petition process in which, when cities and political subdivisions want to sell their land that they own, there is a process by petition

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in which it could be objected to. The form of the petition is not actually put into statute, so it requires the petition form to be in compliance with other petition forms that we have for various other things, such as recalls. Next is, we are going to put into statute a definition for political subdivisions. There's a lot of places in Chapter 32 that talk about political subdivisions, but we don't actually define what political subdivisions actually are. So it just defines it as all of the different political subdivisions that actually hold elections. It's not for anything to change anything in regards to what they are responsible for. I had a question from rural fire districts if this puts them under Chapter 32 instead of 25, and that's not the case. It's just their election procedures are in 25. This is just to say as these are all the political subdivisions that are subject to elections, so there's no no doubt about that. Five-- Section 5-- next section-- signature definition expands to include more detail on voters providing a mark and allowing the use of a signature stamp for those that cannot make their mark. Any person requiring assistance is required to write their name and address next to that. So, so we can, if there is any question in regards to anything nefarious, we actually know the person that actually provided assistance, but also allowing signature stamps to be used because sometimes that is the way they, that people that are disabled make their mark, so allowing that for the first time. Sections 6 and 9 go in regards to out-of-county poll workers. We found great success during the pandemic, being able to use poll workers from counties that do their elections by mail, going to a neighboring county to help run their elections, 'cause poll workers that no longer have to work a poll still wanted to work a poll, and they were able to go help another county. This also allowed us to bring in the National Guard to help in different communities. In some communities they actually served as poll workers, and in some they just helped move supplies around. But we were very lucky that every poll site was open on time with a minimal amount of people. We had to have this statute by executive order, and --the word I'm looking for-- be able to be not enforced. We want to be able to, be able to use that going forward, and then, under the Secretary of State's discretion, if something like a pandemic were to happen again, they would have the discretion to waive that for a county that might have too many poll workers, to send them somewhere else. So just using something that we found to be helpful in the pandemic and making it permanent. Sections 10, 17, 34, and 40 have to do with special election date fixes. Currently, all political subdivisions have to notify 50 days in advance of a special election, and, well, that always happens on a Sunday. So we're just backing it up to the last business day and requirement of this. And so

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we have a little chart to tell you all deadlines, that a special election will fall actually on a business day instead of a Sunday, since they would have to fall back or fall forward, depending upon the specific deadline. Ballot issue withdraw-- this is something that I took this committee a couple of years ago on one specific issue in regards to sales tax issues. There is no mechanism in state law for a political subdivision to remove an issue from the ballot after putting it on the ballot. And what happened a few years ago, a small town was putting a sales tax issue. They found out after they put it on the ballot that by passing it, that means a previous sales tax issue in multi-counties would be nullified, but there was no way to remove it. I think they removed it anyway, but that's not my concern. But there was no mechanism to do that, so we started that two years ago to see if this committee would be OK with that. They were, and so now we're putting in a mechanism that any ballot issue submitted by a political subdivision can be removed by the same deadline as they were to, to put it on, just in case they realized they shouldn't have done it in the first place or there was a mistake. Next, voter registration application, uniformity, and disclosure. We have seen-- and Commissioner Overstreet from Hall County will talk more of this-- out-of-state third parties are using mailers into the counties that are very confusing and make it look like they're from the Secretary of State's Office or the county election office, and they're not having all the required-- they're not having all the required information. They're confusing voters, and then they're calling the county election office and the Secretary of State's Office: Why did you send this to us? And so this statute will allow for conformance of any third party wanting to do voter registration or early voting applications, that they have to conform to our forms that we use in the state and also outline that the form is from their organization and not from a county election office or a Secretary of State's Office. Civics Nebraska [SIC] has recommended an amendment, and I know Westin will testify later on, and we're supportive of, of his amendment on this and on another statute. Next, the Democratic Party reference fix, so in one part of statute left on the voter registration form, it says Democrat instead of Democratic. Our voter registration forms do say Democratic, but the Department of Motor Vehicles saw this statute, and they follow statute to the letter, so they changed their forms to Democrat and would not change unless the statute was changed. So to be fair to the actual name of the Democratic Party, we are changing this in statute so the DMV has to change their forms. But rest assured, our forms in the Secretary of State's Office do say Democratic. Next is in Sections 13, 22, 26, and 28. This is just a procedural fix on the closing of the polls. In many portions of statute, it says, when the polls close

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at 8:00. Well, we do have many communities in the mountain time zone where it's 7:00 to 7:00. So this is just saying at the time of the close of the polls instead of an actual time, because the western or the Mountain Time Zone was worried that they were going to stay open an extra hour, which was not the intent of that language. Next, this would state that, when we get information that a license or ID card, driver's license or ID card is surrendered out of state, that does trigger being able to be removed from the rolls because, once you get a driver's license in another state, you become a resident of that state. We worked with the clerks of the district court and NACO on making sure that, in 32-330, that the voter list could be used for jury commission purposes. We don't allow driver's license numbers for anyone else that requests the voter lists, but DM-- but jury lists needed the DMV to also balance their lists off of DMV lists to curate their jury list. Section 25 already allowed for this. We just wanted to make sure that 32-330 was-- stated that clearly, that the counties can now use their lists for jury commission purposes. Also in 32-330, we had a request from Senator Machaela Cavanaugh's office, about some, something that I've had some concern on for some time in regards to having the birthdate on the voter registration lists. And so we will be changing that to just having the birth year. So people that need the list can still find out how old somebody is, but we don't give one of those precious pieces of information out that can be used for identity theft. So as more and more people are getting interested in elections, we want to lock down this list and to be able to use it just for purposes. So just the birth year will be listed and not the actual birth date. Next section is in regards to secure resident name confidentiality and court order confidentiality. We have the address confidentiality program, in which you are shielded from being on a voter list if you have a court order or a part of this program. While the program does allow for the name to be shielded, it wasn't actually specific, specifically specified in election law that the name was. We were, but just to keep it in compliance, the two statutes compliant, we're adding name so that the name, any name couldn't be revealed in a voter registration list. Again, we're not doing it now. We just want to be-- we want the two statutes to be synced. The write-in started, as you know, last year because of the census being late for the first time in the history of our country-- and I love saying that as many times as possible. We changed the start of the filing deadline, the start of the filing period to January 5th. We failed to, to move the write-in start date. We're advising our election officials not to take-- did not-- they did not take any write-in affidavits prior to January 5th, but we're just moving that, in sync, that you can't start taking write-in affidavits until January 5th, so. Next, the

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declination of nomination deadline. Currently, a person who won, moved on from the primary to the general election, could withdraw, decline the nomination by September 1st. If they withdrew on September 1st, there was to be no opportunity for anyone to petition onto the ballot to fill the vacancy; and that actually happened in 2020. And we received a lot of phone calls of: Well, can we-- we know this person is, is removing themselves from the ballot. Can we start doing petitions? And I can't give out petitions unless there is a vacancy. And so that's a little bit of a loophole in state law that we felt uncomfortable with, that no one would have the opportunity to fill a vacancy. So we're moving it back from September 1st to the August 1st filing deadline for just general-election-only offices. And by doing so, that will allow anyone that would like to fill that vacancy 30 days to grab the petitions to be able to get themselves onto the ballot, so. For the last 10 years, as long as I've been in elections, we've removed the process to elect delegates to county and state and national conventions on the ballot. Every once in a while, as we're reading through the statutes, we find another reference to delegate elections. Section 20 removes another reference to delegates off the ballot. We have a statute that allows for us that any building that uses taxpayer dollars in the funding of it or to be able to use it as a polling site. And what we found in the pandemic is some of these sites were large enough that we needed it for training purposes because the county election office didn't have facilities large enough to train poll workers. But we had some facilities refuse to let people in for training purposes. This would expand the use of public buildings that use taxpayer dollars to be able to be used for a polling site, as well as for training purposes. Not going to be used all the time but, as we saw in the pandemic, for social distancings, we need bigger spaces than maybe a county courthouse can provide. Section 23 has some various disability reference fixes to update outdated language and how disability, our disabilities are listed, so we work with the disability community to find better ways to-- language and statutes regarding voters with disabilities. Again, we have some third party organizations that do early voting applications. Commissioner Overstreet will talk more about this specifically, but using our form, as well as designated that it's coming from their third party organization and not the Secretary of State's Office or the county election office. And again, this has nothing to do with internal state political parties or candidates who are having problems with-- primarily with out-of-state advocacy groups coming into the state and confusing voters. So not making any implication on anybody in the state, but we're making sure the out-of-state folks are following the rules. Civics Nebraska [SIC] does have an amendment that

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they want to propose for this. I do agree with their amendment. As you know, many counties have chosen to have a permanent early ballot request form list in or-- that allows for a form to be sent out before every election that a voter can turn in to receive an early ballot-- just the form that's going out. Well, this doesn't have anything in state law right now, and so we wanted to put some minimum procedures down for those counties that have an early ballot and what they can use this list for. So they can use this list if-- they can use this list to start the four-year process to remove people from the rolls, if we, if they get the, get the piece of paper back or get the envelope back, the application back, as we would with any other mailing that would come back, then start the four-year process, first contacting the voter if they don't vote. And if they don't reply to the mailing and not vote in four consecutive elections, then they can be removed from the rolls. Next, it would allow a county to remove a voter from that permanent early-voting list if they have not used the application in four consecutive elections. A voter can get back on just by filing another early-voting application, but it's a way to save costs so people that are never going to re-- have shown a tendency not to return the ballot application. And finally, it would allow a process by which a, a county could cease to maintain an indefinite list if they couldn't afford to do so anymore or just didn't have the resources. Civics Nebraska [SIC] had an amendment on that as well, and I'm happy to work on that amendment. Next is replacement ballot requests. This is something, also, that came out of the pandemic. We suspended the need for the early ballot replacement affidavits to have a notary. Many people couldn't get a notary or they were staying in their house. And so we decided to get rid of the oath requirement, the notary requirement, and allow a person to turn in the replacement ballot application and, in the same manner that they would get an early ballot application, but the signatures would have to be verified to make sure that it was the person asking for the replacement, replacement ballot. This was very popular and made it a lot easier to hold the 2020 primary, when people lost their ballots and couldn't go into the office to get another ballot. Next, when we last year did poll watcher, we worked a lot with community groups as well as counties on poll watcher. There was one reference that should have been poll watcher that accidentally listed as poll worker. So it's just changing poll worker to poll watcher. Next is a county canvas board notice requirement. Back in 2002, a requirement to post, on the county election office door, your meeting of the canvas board was repealed by mistake, and so the Secretary of State, starting with Secretary Gale, had a directive for counties to actually put something on their door when their canvas board was first going to meet. This

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would put it back into statute as a, as a law, since canvas boards are a public meeting. Section 32-- recount request deadline change-- I asked for a deadline change a few years back that said, originally 10 days from the start of a canvas board is when someone could ask for a recount. We changed it from 10 days after the canvassing board stops meeting. We wanted to make sure that a canvas board didn't meet more than 10 days, and so someone couldn't do a recount. Going through my first presidential election and general election and how fun that election was in '20, we realized that, if someone were to come in after the state canvas board, after we did a recount and the 10 days and then asked for a recount, we wouldn't have gotten to the day in this room where we certify the election for the Electoral College. So it's moving it back to 5 days so we have enough time to get a recount done, if requested, so we can still do, do our business to get the documents out for the Electoral College, so live and learn by example on that one, so. Township and airport authority building statute is silent if counties can build townships and airport authorities. They do, but this is just putting it that they can't build them for running their elections. We've had a few changes requested for the initiative process, nothing too controversial. The Revisors would like a little more time to review the changes 'cause we give them to the Revisors after filed so they can make suggestions. We've had, in this past year, up towards six or seven filed in a day, and so it's been a lot of work for the Revisors, especially when they're trying to get your bills written, as well. So we're giving them a little extra time, in regards to 10 business days, to get that Revisor review done, and then extending the confidentiality to the sponsor statements; that was accidentally left out of the 2019 bill. And also changes the procedure that we provide the camera-ready copies after we get final language, not after, necessarily, the Revisors get you back your remarks, because it could be months or days after that they turn in final language. So it's just a change in procedure. The next two have to do with electioneering. As you know, one of the things that we did for the 2020 primaries was to ensure that every election office got a drop box, and so we wanted to make sure that drop box was protected just like a polling site. So we are requesting that the same electioneering and exit polling prohibitions apply to drop boxes as well. So you can't campaign within so many feet of a, of a-- 200 feet of a drop box or can't do exit polling 20 feet of a drop, of a drop box, so the same, the same as a polling site. And finally, with the January 5th start date, we can remove the requirement in statute that anyone that files before January 1st has to file a C-1 for the preceding year because the preceding year doesn't exist anymore, because all filings start on January 5th. And that is the omnibus bill, 48 pages in 4

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pages, probably less than 10 minutes, I hope. So with that, I will answer any questions that you might have.

M. HANSEN: Thank you so much. We'll recognize Senator McCollister.

MCCOLLISTER: Yes, and my thanks to you and the Secretary of State for the great way you conducted the '20 election.

WAYNE BENA: Thank you.

MCCOLLISTER: I thought it was very well done. With the early voting that occurs, if a person forgets to sign the envelope or the signature doesn't match, could the Secretary of State institute a process that those counties have to at least notify those people that the ballot would not be counted unless they correct that error?

WAYNE BENA: So let's separate the two issues first. The signature not matching, if that's the case, there's already a procedure in state law that the county election office has to mail something to the voter, letting them know and allow them to fill out a different signature card, because signatures can change over the course of time. And I do know that counties, when it's getting a little closer to election day, will make that phone call instead of sending it in the mail because it could take a while for that piece of paper to get there. In regards to no signature, all counties put it in their instructions. And, and from my understanding, the majority of counties call every voter themselves, and one county works with voter advocacy groups to make those calls, made for them because they don't have the resources to do it. So it's my understanding and our recommendation from the Secretary of State's Office that everyone gets a call to be able to reconcile that signature.

MCCOLLISTER: You know, I talked to the Secretary of State this morning. He said philosophically he agrees with that, but I'm not absolutely sure that all county election officers do that. Would you be averse to putting some mention of that in this bill [INAUDIBLE]?

WAYNE BENA: I have no problem working with you on language on that.

MCCOLLISTER: Would you want some language that-- would you want to develop the language or should we do it in the committee?

WAYNE BENA: What's that?

MCCOLLISTER: We should--

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WAYNE BENA: I can, I can-- we can both figure out something and bring it to the committee and/or I can work with the committee on, on language that would be acceptable enough, but it's already in the process right now.

MCCOLLISTER: Great.

WAYNE BENA: So we--when I was in Sarpy County, we called every voter.

MCCOLLISTER: Great. Well, two-thirds of the, of the states-- no, I'm sorry. One-third of the states in the country have some kind of formalized process. So thank you very much, and I'm grateful.

WAYNE BENA: No problem.

M. HANSEN: Thank you, Senator McCollister. Senator Blood.

BLOOD: Thank you, Vice Chair Hansen. How are you today, Mr. Bena?

WAYNE BENA: Good.

BLOOD: Still miss seeing you around Sarpy County. I just have a real quick question for you. So talking about Section 25,--

WAYNE BENA: OK. Yes.

BLOOD: Do you know off the top of your head-- and I won't hold you to it as long as you're at least trying to be fair when you guesstimate-- what percentage of voters vote in general elections for presidential years as opposed to non-presidential years? What would you say the percentage of difference is?

WAYNE BENA: The difference?

BLOOD: As far as the percentage of people who are registered to vote that vote.

WAYNE BENA: A registered voter that votes-- a, a general election, gubernatorial probably would be in the 50 to 60 percent, your presidential would be between 60 and 70 percent.

BLOOD: So one of the concerns I have-- and this is a lot of information taken, so I'm glad you're giving us time to try and, and really unpack all of this. But it says two consecutive general elections, so I look at what I've seen across Nebraska and in some areas, it's more, as you know, than others where there are people that just do not vote in non-presidential years and people that most

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definitely vote in every presidential year. Why is it not two consecutive presidential general elections? Was it just two consecutive general elections?

WAYNE BENA: We're-- it's kind of modeled after how you can be removed from the rolls-- if you moved, not responded to our mailings and don't vote in two consecutive federal elections. So in that case, you'd have four elections, two primaries, two generals, to request a ballot while being on that list. And if you don't request a ballot, request a ballot, then you could be removed from that, just the early ballot list. So--

BLOOD: OK.

WAYNE BENA: So that'd be--

BLOOD: That's not--

WAYNE BENA: a gubernatorial then--

BLOOD: --how it reads, right?

WAYNE BENA: Two consecutive generals would, would be the presidential and the gubernatorial. So--

BLOOD: So again,--

WAYNE BENA: --four years.

BLOOD: So again, you may not ever vote for city council in Omaha or the council in Bellevue or wherever because you only choose to vote for presidential elections. So if, indeed, say-- and, and I know that just like some of the stories that we hear that are pro and con, like they're a story, but we know, especially where we live, that there's a lot of people that are seniors that might miss a general election, wouldn't vote in the next general election because it wasn't a presidential year, and they'd basically be out of luck and have to like knowingly have to reregister, right or no?

WAYNE BENA: Oh, no, no. We're not saying they're removed from the voter rolls, just from the early ballot application lists to be mailed an application.

BLOOD: But they wouldn't know. You, you're going to let them know that when you do that, when you remove them?

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WAYNE BENA: We can work on a notice for that.

BLOOD: So at, at this juncture, time, though, you're not worried about whether they're notified.

WAYNE BENA: They would still be able to vote at their polling sites. They could still fill out another application themselves, get added back onto the list. It's just a matter of when you have a lot of dead weight on a list, it's very expensive to maintain these lists when you're not getting any results from them 'cause, 'cause [INAUDIBLE]--

BLOOD: And I don't disagree with that. What a-- my concern is that making sure that, especially my seniors aren't left behind because they weren't given notification, that they weren't aware of this. It just seems like there's so many things that we keep doing, year after year after year, where things kind of fall through the cracks and people don't know that the rules have been changed. And then they've-- they don't get the opportunity to go and vote 'cause they're a person with a disability or a senior. And I hear that a lot, not like one or two stories. So I guess I'm a little puzzled when it's the right of all Americans to, to vote, and we don't seem to be making it easier for them to exercise the right to vote. We seem to be making it harder. And I, I am a little concerned about Section 25, so that's something I'll probably come to you with an amendment.

WAYNE BENA: OK. I guess my only-- what I would say is if they're only voting in that presidential general and they're voting early, they're going to use that form and then they're out there. They don't have to worry about it.

BLOOD: Yeah, if indeed, that's what happens.

WAYNE BENA: Yeah.

BLOOD: But again,

WAYNE BENA: We're not trying to disad-- we're-- that we're-- we're not trying, we're just trying to be able to say to a county, you have the ability to cut your costs if you have a lot of people on your list that are not using the list.

BLOOD: Well-- and, and I know what you just started to say there and you stopped yourself. I, I'm not implying that you're trying to purposely disenfranchise. I'm saying that that ends up being the result of doing something like this. Thank you.

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WAYNE BENA: OK.

M. HANSEN: Thank you, Senator Blood. Other questions? Senator Hunt.

HUNT: Thank you, Senator Hansen. Thanks for being here, Mr. Bena. I share some of the same concerns on Section 25. That's basically the only part of this bill that I have a problem with. And to say that this is an elections cleanup bill or it's not substantive, this Section 25 carries some extremely controversial ideas and language, and it shouldn't be a surprise to the Secretary of State or anybody that this is controversial stuff we're talking about. Why is it a good idea to allow an election commissioner or a county clerk to scrap a list of voters? I'm looking at page 30, Section 3, which is on line 27, where it says, "Any election commissioner or county clerk maintaining a list of registered voters requesting an application for a ballot for early voting may cease to maintain such list." It says that if they cease to maintain a list, they've got to put a notice in the newspaper. But what are some reasons that they would want to cease to maintain a list? Why don't we outline any parameters where that would be acceptable for them to just, you know, control a delete, like the whole list? And do you understand why that seems kind of cuckoo?

WAYNE BENA: Yes. Civics Nebraska [SIC] wanted an amendment that you couldn't do it in an election year. I have no problem with that; willing to put that in. Right now, there is no mention of a permanent early ballot application list in statute at all. They've chosen to do this. I wanted to put some basic guidelines to how this list could be used. If this is something the committee doesn't want, I'm not going to fall on a sword on it, but there may be the situation of the county can't afford it anymore.

HUNT: OK.

WAYNE BENA: It is, it is expensive. You know, Dave Shively has said on numerous occasions that he does do the early ballot list, but if it was his decision, he never would have done it. But he's done it because that-- it was started by his predecessor. And I can't tell you there-- for whatever reason, but it could be mainly because of, of financial issues within the county,--

HUNT: OK.

WAYNE BENA: --as, as it would be the number one thing. But I--

HUNT: That's cool.

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WAYNE BENA: --understand.

HUNT: It's good for me to know that because I would rather solve that financial problem for them than possibly disenfranchise one voter. You know, for all the talk that we have about voter fraud, you know, if one person votes fraudulently, then how can we have any trust in the election? Well, what about the other way? What if one person isn't able to vote? Then why should we have trust in the entire process if we're using the same argument? My other problem with Section 25 is it seems to me like the same thing with the two consecutive elections, like if you sit out, if you vote for president and then you sit out, your name could be purged from the voter rolls. And how-- it's not clear to me in this reading that it's not the entire voter registration record, and not just the vote by mail list.

WAYNE BENA: It would be-- this is just for the permanent early voting application list. It is actually against state law to remove someone for not voting.

HUNT: OK.

WAYNE BENA: So the, the instances that you can, the only instances that you can be removed from the rolls is you've died and we know, and we know about it. We have-- we go against the Post Office change of address list twice a year. And if we find that information that you have moved, we send you a confirmation card asking you: Have you moved? Is this just something temporary or have you moved out of state? If you don't return that card and don't vote in two consecutive federal elections, don't sign a petition, don't do a special election-- anything in that four-year period-- you can be removed from the rolls. I modeled that procedure for the permanent early voting application list. So you're not going to be removed from the rolls, just from being mailed an early ballot application.

HUNT: OK. On page, on page 30, lines 24-26, it says, "The name of a registered voter whose application for a ballot for early voting is returned as undeliverable shall be subject to removal from the voter registration records as provided in Sections 32-326 to 32-329." As you were talking, I was trying to look up that statute.

WAYNE BENA: Yes, and that's the statute--

HUNT: Is that just vote by mail?

WAYNE BENA: That-- no. That is one of the procedures that I just told you when we have information that you have moved.

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HUNT: OK.

WAYNE BENA: So-- and that would go for if we sent any piece of mail to a voter and it comes back undeliverable, that would start that four-year cycle. So a return of an early ballot application would start that four-year cycle.

HUNT: OK. I have to think about this, and I know you respect and understand that. So--

WAYNE BENA: Everything's a negotiation.

HUNT: Yes. Thanks for your answers.

WAYNE BENA: Yeah.

M. HANSEN: Thank you, Senator Hunt. Other questions from the committee? Seeing none, thank you for your testimony; appreciate the thoroughness, for the record.

WAYNE BENA: Thank you.

M. HANSEN: All right. With that, we'll invite up our next proponent for LB843. And just as a reminder, we'll be returning to the five-minute light system. But we, but we did waive that for the Secretary of State's Office.

M. HANSEN: All right. Welcome.

TRACY OVERSTREET: Thank you. Vice Chairman Hansen and members of the Government, Military and Veterans Affairs Committee, my-- thank you for taking my testimony today. My name is Tracy Overstreet. Mr. Bena referenced me a couple of times, I think, in his testimony. That's T-r-a-c-y O-v-- as in Victor-- e-r-s-t-r-e-e-t. I serve as the election commissioner in Hall County. Today I am speaking on behalf of myself for Hall County-- my office is in Grand Island-- and also for the Nebraska Association of County Clerks, Register of Deeds and Election Commissioners organization, of which I'm a member of that group's election law committee. I'm here today in support of LB843. I support many facets of LB843, including allowing a disabled voter to use a signature stamp, which would provide dignity and autonomy to some of our voters who have requested being able to use that form of signature. I also support the ability to use a public facility not only as a polling site, but also for election training. In 2020, the Hall County election office was denied using a taxpayer-funded building for election training. LB843 would rectify that. I also

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support being able to utilize poll workers from neighboring counties that have gone to elections by mail. This could help poll worker staffing in Hall County, which is a neighbor to Merrick County, which is a by-mail county. And a lot of people in Merrick County have a Grand Island address, so they already don't understand why they can't necessarily work our elections. But my greatest support of LB843 is for Section 11 on page 12, and Section 23 on page 30 of the bill. Sections 11 and 23 require that third-party organizations sending out voter registration or early voting applications clearly identify that the material is not coming from the Secretary of State, nor the county election official. In 2020, there was an out-of-state organization that sent a barrage of voter registration mailings to numerous Hall County households. This was not just one mailing to many households, but it was a mailing with second and third notices to many households. Many voters complained to my office by phone, by email, or by coming in and asking us to stop sending the mailers. They could not identify that we were not the sender because the return mailer had used all local addresses. Unfortunately, one recipient became so agitated about the con, the constant identical mailer that he used the postage paid response to send an expletive-laced message, which he attached to a skateboard sized box with phone bumpers on it. That box was hand delivered to me from a U.S. postal carrier. It was obviously suspicious. Our law enforcement was contacted. It resulted in our sheriff evacuating our county administration building. Sheriff's deputies, the fire department, the Nebraska State Patrol bomb squad, and the FBI were called in. The box was found to contain a vial of blue liquid, a harmless blue liquid. But during the nearly two-hour ordeal, we lost processing time for our more than 12,000 early voting ballots, for our more than 50 uniformed and overseas citizens' ballots, which we were in the process of processing, those military ballots, when this fake bomb was delivered. We lost three poll workers who came in to sign up to work the election, and they saw the bomb squad and they decided that election work wasn't for them. When the sender of the fake bomb was interviewed, he told the sheriff that he was upset at our office for sending the repeat mailings. This particular individual had actually come into our office the year prior to be removed from the Nebraska voter rolls, which we did. These third-party election mailings have become so look-alike to our official mailings that even the U.S. Post Office can't easily tell them apart. In 2020, I had to write a letter to a third-party organization to collect mailing fees that our county was charged for election mailings the Post Office thought were ours, not the third party's. These look-alike mailings are also dangerous because they have incorrect voter registration or early voting dates oftentimes,

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which can lead to voter disenfranchisement. The third party organization I mentioned earlier sent out a mailing with incorrect dates, including giving voters a date to get mailed ballots that was five days past the official deadline. Voters need clear identification of who is sending them the information. Please support LB843. It's a bill that supports election integrity, election security, and supports Nebraska election officials as the trusted four, trusted source for election information in the state.

M. HANSEN: Thank you for your testimony. Questions from the committee? Senator Halloran.

HALLORAN: Yes, sir. Thank you, Vice Chair Hansen. Ms. Overstreet, can you identify or were you able to identify the third-party vendors that were sending these?

TRACY OVERSTREET: In some cases, we were able to identify the third-party vendor; in some cases, not. There's postage that we incurred that we were not able to recoup because we were not able to identify who had sent, who had sent the mailer out. Those that we could identify, we added up the costs and were able to recoup expenses.

HALLORAN: Are you at liberty to say who some of these were that you could identify?

TRACY OVERSTREET: I have-- I, I can talk to you after the meeting. I don't know that I want to throw anybody under the bus because I think that everyone has the right intent. We want people to vote. We have the same goal, but it needs to be a goal that's exercised without charging our Hall County taxpayers for something that they didn't intend to do, and it needs to be done in an accurate manner and not misleading people with giving dates that are five days past the official deadline.

HALLORAN: OK, thank you.

M. HANSEN: Thank you, Senator Halloran, and thank you for your testimony. I would just encourage you and maybe Mr. Bena to provide some of that to the committee, because I had a similar question. But I understand why you don't want to share it on the record right now. All right, any other questions? All right. Seeing none, thank you for your testimony. Invite our next proponent up. Welcome.

WESTIN MILLER: Thank you, Senator 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 director of

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public policy at Civic Nebraska. I'm here in support of LB843, the elections omnibus bill, with a few suggestions for improvement which are being distributed to you. First, let me thank the elections office for their tireless work, ensuring that Chapter 32 is as clean and as useful as possible. It is not an easy job; it is a constant job. And a double thank you for working with me on these amendments, which it sounds like we can adopt with no stress. Before I get into those suggestions, I do just want to highlight my favorite parts of LB843, as currently written. It does a lot of different things and they're really important. We love the working definition of political subdivision. It's a central clarity for other election discussions. We love the signature stamps for folks who can't sign their name. It allows workers in all-mail counties who are passionate about election day to participate as workers in other counties. It has been well illustrated, the very confusing, confusing situation in 2020. That is a problem we're solving, and I'll get to that in the solutions part-- or the suggestions part, excuse me-- clarifies an election deadline for our friends in Mountain Standard Time, removes a burdensome notary requirement for replacement ballots, and it protects drop boxes from electioneering. I'm happy to talk about any of these items. I think they're all worth supporting, and I think they would all have a real positive impact. With that in mind, let me get to my suggestions, which I think have been passed out to you. First, I mentioned-- and several of us have now mentioned the unfortunate 2020 situation, where out-of-state orgs were bombarding Nebraska voters with very official looking documents for voter registration, early ballot requests, etc. I agree with Ms. Overstreet. I have no doubt the intent was good, but what actually happened is they convinced a whole bunch of people that they weren't registered and convinced a whole bunch of people they'd already voted, and it was dreadful. It happened to me as an individual in Douglas County. I would say that I have an above-average understanding of Nebraska's election and voting process, but I received five different documents from organizations with very official looking print warning me, sometimes inaccurately, about registration and voting deadlines. I got so many that I finally called the Douglas County Election Commissioner's Office because they had convinced me something had happened to my voter registration. This is a serious problem, and it is worth fixing, all that to say my suggestion-- or excuse me-- this, this solution is addressed on page 12, line 14 of LB843 and again at the top of page 30. Those are Sections 11 and 24. My suggestion in both of these sections is just to make sure we're limiting the solution to the actual problem we encountered, which was organizations who are distributing these materials by mail. I think this alleviates some confusion for who is

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responsible for this form and how the form needs to actually look. To be frank, I would love to see this limited to out-of-state organizations. I just couldn't figure out how to actually do that in statute, so I'm not sure it's doable. So my suggestion is to add "by mail" to both of these sections. It could create a little bit more work for some organizations, but I cannot agree enough with Commissioner Overstreet. This is really a problem worth fixing. Our second suggestion for improvement is in Section 25, subsection (3), which begins on page 30, line 27, or just the last part of the paper that I gave you. I would echo Senator Hunt and Senator Blood. This is our least favorite part of the bill. We would really hate to see any county discontinue their early voting list, but two of the important things to note. Number one is that they're already allowed to do this because there's no law about early voting lists to begin with. Number two, Civic Nebraska really values consistency, and we will continue, at every turn, to encourage you to let county election officials do their jobs by removing unnecessary bureaucratic barriers to election administration. This means allowing them to start early voter lists. This means allowing them to conduct their elections entirely by mail, and some are all precincts. And this should, I think, mean that they can choose to not do those things. We will, of course, encourage every county to maintain this list and not discontinue it. But I don't think it's the Legislature's job to say: No, you can't do that. With that in mind, rather than oppose Section 25, we're proposing a reasonable limit on when a county official could actually discontinue use of that list. They just can't do it in a statewide election year. I think this strikes a good balance of giving county officials the ability to make those decisions, but in a way that is impossible to, I'm sure, accidentally surprise voters by eliminating this list in an election year. So again, you would get no tears for me if Section 25 were to be taken out, but Civic Nebraska continues to support counties in making good decisions for their counties. So I do hope you'll put in this basic time constraint to make the section better. My time is almost up. Thank you for listening. I hope you'll support this bill with the amendment that I passed out to you, and I would be happy to answer any questions.

M. HANSEN: Thank you very much. Are there questions from the committee? Seeing none, thank you.

WESTIN MILLER: Thank you.

M. HANSEN: Invite up our next proponent. Welcome.

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SETH PAULSON: Good afternoon. My name is Seth Paulson, S-e-t-h P-a-u-l-s-o-n. I'm speaking on behalf of myself today. In addressing our election and voting systems in Nebraska, we find that there are essentially no statutes that speak to what is access, acceptable or not acceptable in the electronic configurations of our voting machines. To rem-- to remedy this deficiency, I would propose that in LB843, be considered and amended with language that speaks directly to this deficiency. I would propose the following and/or similar language be adopted to strengthen the integrity of our elections. This is only an example, and I would hope that there would be even more language that could be developed that would speak to this. In particular, I would say no partici, no partici-- pardon me-- no partitioning of databases may be made or be contained in the voter, voter databases stored in any part of a voting system hardware, including, but not limited to: motherboard components, hard drive memory chips, memory devices, removable memory devices, modems, and any other conceivable memory device or hardware to include, but not limited to that which may be contained in proprietary software, proprietary hardware or software. Further, no software or any kind, of any kind may be used with or under the use of the voting system, which manipulates the vote by adding or subtracting, multiplying or dividing, partitioning, or any other mathematical procedure. Neither shall any software alter by any means the qualitative or quantitative valid, value of valid votes, such a valid vote being defined as one which fulfills all criteria established by statute. Additionally, I would propose appropriate penalties for violation of such amendment. As I said earlier, this is just an example. There are a number of IT people who have specifics that would speak to this in a larger sense, and I would hope this committee would favor this kind of an amendment and, and act on it. That concludes my remarks. Any questions, please?

M. HANSEN: Thank you for your testimony. Are there questions? Seeing none, thank you. We'll invite up our next proponent.

LARRY STORER: Good afternoon. Larry Storer, 5015 Lafayette Avenue, Omaha, Nebraska 68132. That's spelled six eight one three two. That's spelled S-t-o-r-e-r.

M. HANSEN: And Larry, before we go, did you fill out the green sheet?

LARRY STORER: I'm sorry?

MORGAN BAIRD: Can I have your green sheet?

LARRY STORER: Oh, I'm sorry. It's not easy being green.

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M. HANSEN: Perfect. Thank you.

LARRY STORER: Well, this was a last minute decision of mine this morning to come up for two different bills. I shoot my mouth off a lot at the Douglas County Board, the City Council of Omaha, Nebraska, over various things. I want to start off with Open Meetings Act, when we cannot have a discussion two-way, back and forth, according to some interpretations of that. It limits the citizen. Yes, you can invite me to say something more, or you can ask me a question. I cannot ask you a question. I cannot offer anything you don't want to hear. That's against the citizens. But I am in favor of all four of these on the agenda today. However, I am 78 years old and I'm rather put out that our country has not been able to figure out a fair and unnecessary, confusing election system. Elected people, a lot like to throw away the word democracy. Think about that, ladies and gentlemen. Democracy means that anybody in this room can vote and the majority wins. We do not have anybody elected like you to represent us. There is no such thing as a Democratic Republic, a Republic of Democrats or whatever. It's either democracy or it's a republic, except for us. We are a constitutional republic with a separation of powers. Nebraska, however, seems to think they're different. The Constitution promises us a Republican form of government, but we have a one-horse [SIC] Legislature. The second house is me and everybody in this room and across the state in Nebraska. But the second house doesn't often get to come here, and we don't often get more than three minutes or five minutes; that's entirely at your discretion. But I'm in favor of all of these because I want this Legislature to have a full on open debate. One local politician once said at the microphone in Omaha: We will have that discussion because he will force it. He will go from city down to here and force it through his way of lobbying. I am not a lobbyist. I am not a 501(c)(3) or a nonprofit, and I don't represent Nebraska Taxpayers for Freedom, Nebraska Family [INAUDIBLE] values or anything like that. I'm just a citizen that is irate that we can not have a free and fair election, and that people that we elected cannot have an honest and sensible, sensible discussion about it. We're supposed to elect people that know what they're doing, but we have each other fighting each other for power. Your job is to eliminate that. Your job is to make sure that these elections are not stolen. I remember when I started programming way back with punch cards, and I wrote the World-Herald, I said one day we'll be voting with a punch card. We won't be going to the voting booth. Well, pretty much that anymore, except the people that are technology minded have figured out a way to steal elections, whether you want to believe that or not. Problem is, the legislatures won't hear that, the courts won't hear

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that. There is plenty of proof to that. Anybody that's done any electronic programming or technology knows that it's possible, but we don't discuss it, do we? Your job is to discuss it, so let's have that full open debate. I won't go on and on, but I would like to ask a point of order, if I could, before I'm done. I don't quite understand how Doug Kagan can come up here before any of the people that introduced the bill. Who is Doug Kagan? Has he been elected? Has he been appointed? Excuse me, I don't quite understand that. The other thing is, did I only get three minutes? Some other people went way longer than three minutes. What happened to the three-minute rule? Omaha is five, but just a point of order. And yes, feel free to ask questions.

M. HANSEN: Thank you. Are there questions from the committee? Seeing none, thank you.

LARRY STORER: Thank you.

BLOOD: Don't forget your glasses. Sir, are those your glasses?

LARRY STORER: Oh, thank you. Forget them.

M. HANSEN: All right. Any other proponents to LB843? Welcome.

BETH BAZYN FERRELL: Thank you. Good afternoon, Vice Chairman Hansen, 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 LB843. We just wanted to thank Senator Brewer for offering the bill and thanks to the Secretary of State for all of that office's work on this bill. I know it sounds like a lot of little things that all end up into a big bill, but they're all important, and we do appreciate all the work that goes into this bill and the cooperation. So I'd be happy to answer questions.

M. HANSEN: Thank you. Questions? Seeing none, thank you for your testimony. Welcome next up-- next proponent.

REX SCHRODER: I've never done this before, so my name's Rex Schroder, R-e-x S-c-h-r-o-d-e-r, 11792 C Road in Palmyra. I'm here today to support this bill. I'm also here to give my support to say that this bill doesn't go far enough, OK? I represent myself today, but I'm also a candidate for office in the state of Nebraska. I believe, just like some of the gentlemen that spoke before me today, we have a lot of problems in this state, and the same problems we have are some of the same problems in Arizona, Pennsylvania, Michigan. We have those same

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problems here. We talked a lot about the, you know, the, the technical aspects of the computers and, and the, the lists, that people may be somehow taken off of at some point in time. But there are some very easy ways to fix that. OK, we have to, we have to renew our driver's license every five years. Why don't we just reregister to vote every five years? And make sure you're still alive, because we know, like in Arizona, that people were on the rolls, OK? Every five years we get the correct address, OK? You have to do your driver's license, OK? Register to vote. You're not disenfranchising anyone. You're just making sure that everything goes like it's supposed to. And it'd be really nice if we could verify citizenship when, when people go to vote, OK? Right now, according to the Deputy Secretary of State that I talked to several months ago, he told me that the, the state of Nebraska has no systems in place to verify citizenship of registered voters. OK. Well, in Arizona, they found quite a few people who shouldn't have been registered to vote. In, in my candidacy, I would like to see we severely limit the early voting problem, problems, OK? A lot of the problems we're having is because of the early voting. We have people get ballots in the mail that didn't come from the Secretary of State's Office. How's that work? OK, seriously? That would get rid of a lot of problems. The biggest thing I think that we run into, problem-wise here, is this ES&S contract that we have that basically farms out our entire voting system to ES&S. No private citizen would enter into a contract like that, OK? If you read the contract, that's public knowledge, OK? So if you read the contract, it says any problems with the testing or the verification or any type of problems, we can't tell anybody. There's a nondisclosure agreement. If we find problems or if ES&S themselves find problems, we can't tell anybody; there's nondisclosure agreements. Nobody would go into a legitimate business contract like that. But yet the state has, OK? And we use vote counting machines in this state like everyone else, OK? Well, what's happening right now is there's a, there's a huge movement to get the counties to just not use the machines. There's no state statute that says these counties have to use these machines that are provided by ES&S. So we're working on getting the counties themselves to just say, no, we're not going to use these vote counting machines. We're going to count by hand, OK? You want to talk about a lot of problems happening. Some, some other states, they start to count at 10:00 in the morning, noon, OK? And the next thing you know when you look at the trends, the trends-- all of a sudden they drop off and then they come back up. It's like that's a control system reset, OK? Anybody who knows what that is, it's been around, been around that long enough knows exactly what that is. If, if, if I had my way, if I make it into office, I would like to completely rip that ES&S contract

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to shreds and have every county vote by hand with no machines. And we talk about how all four of these bills today-- I think eventually that's going to help the state of Nebraska, but we could be doing a lot more. So I guess that's all the comments that I have. So if you have any questions--

M. HANSEN: Thank you. Are there questions?

REX SCHRODER: Thank you for your time.

M. HANSEN: Senator Blood has a question.

BLOOD: Thank you, Vice Chair Hansen, and thank you for testifying today, Mr. Schroder. I do have several questions for you, and I think they're clarification questions. I know that you give, get such a short window of time to testify that sometimes we kind of get on a treadmill of like just kind of vomiting out information. And, and I mean that respectfully. I mean, in the, in the process of like dealing with a lot of information, it's a small window of time. So who told you that there is no citizenship policy in place? You said--

REX SCHRODER: Wayne.

BLOOD: --it was a--

REX SCHRODER: Wayne Bena.

BLOOD: Wayne Bena told you that?

REX SCHRODER: He said that the state of Nebraska has no systems in place to verify citizenship from registered voters.

BLOOD: All right.

REX SCHRODER: That happened in his office.

BLOOD: So I, I, I want you to know that I've asked him that same question before and was told differently. So we may want to clarify that.

REX SCHRODER: I know what he said.

BLOOD: But I'm not disagreeing with you in any way, sir. The next question I have: So are you aware that, as a citizen, as a registered voter, that you can go in and watch in any county, you can get permission to go in and watch them count the votes? Are you aware of

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that, that you can be a citizen that, that does that? Have you done that before?

REX SCHRODER: I am aware of that. I haven't done that before, though.

BLOOD: So I am-- myself and many others in Sarpy County, which is actually where Mr. Bena came from, have actually witnessed the counting. And what you're describing, you should know that I think that you would describe differently. And I would encourage you to go and, and watch how they count the votes. This is less about the machines and more about the people. But the things that I'd like to share with you is that they're being monitored, they're being monitored by citizens. And so I'd encourage you--

REX SCHRODER: The machines are getting monitored.

BLOOD: The people that are working with machines and the machines. The whole process is being monitored, especially when the race is closed. There's extra people that get involved from all the parties, too, because nobody wants to be left out, just so you know. And then the last question I have, because I think you kind of morphed it together and it wasn't clear, and I want to make sure it's clear on the record, so you talked about both the counting machines and the voting machines, correct? So did I hear you correctly about your voting via the, the computer system as opposed to the counting system? You were talking about two separate systems, yes?

REX SCHRODER: I'm talking about the actual vote counting machines and the, and the tabulation equipment.

BLOOD: OK, so not, not the ones that-- when you go into and you vote, you're worried about what happens after that.

REX SCHRODER: So when you vote, you get a piece of paper, and you fill--

BLOOD: In some cases.

REX SCHRODER: --out this paper and--

BLOOD: Right,--

REX SCHRODER: OK.

BLOOD: --depends on where you're at.

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REX SCHRODER: So basically what I'm, what I'm talking about, with the machines is, the machine you put the ballot into--

BLOOD: OK.

REX SCHRODER: --and it takes the ballot image--

BLOOD: So you're not worried about the cities or the-- excuse me-- the counties that are more progressive, that are not using paper ballots. You're worried about what happens after people vote and what happens behind the closed doors.

REX SCHRODER: I think, if we're not using any paper ballots, I think that's, that's a worse problem than actually just using the machines themselves.

BLOOD: And why is that?

REX SCHRODER: Well, because how do you verify? How do you verify for sure? If you go on the computer and you just hit this button, how, how do you verify that, two or three days later, that when you hit this button, that it actually counted for this person? You have to trust the software in the computer.

BLOOD: But that, that's actually not the case. And I do encourage you to speak with Mr. Bena. I, I think that what we need to make sure we get on record today is that there are layers of observations and protections in every county. And the awesome thing about Nebraska is that we allow you to go and witness what they're doing. And so I, I would strongly encourage you-- Mr. Bena is right there in the back-- to step out in the hallway with him and talk a little bit more. But, but I appreciate you bringing these concerns forward, and I'm not saying that I disagree that you shouldn't not be concerned. But I, I do think that might be a bit of misinformation that maybe you weren't aware of that maybe could help clarify some of the concerns. Does that sound fair?

REX SCHRODER: Yeah, I, I'm very well aware of how some of the some of the systems work, and you can have people watch the machines all day long, but if nobody outside of the owners of the machines get to do some independent testing, all you're doing is watching that machine. So in my opinion, you can watch the crooked machine all day long, but if you don't independently test the machine, outside of the people who own the machine, all you're doing is watching a machine happen.

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BLOOD: And so if the, if the machine is not connected to the internet, if the machine is not connected to the internet, and the only people that have access to it are the county, are you saying that there's people in the county, there are ne'er-do-wells?

REX SCHRODER: I'm-- what, what I'm saying is, is there are more people that have access to those machines than just the counties.

BLOOD: And who are those people?

REX SCHRODER: You don't, you don't think that the people who actually own the machine and do the updates to the machine, you don't think they have access to those machines, 24-7?

BLOOD: If they're connected to the internet,--

REX SCHRODER: Right.

BLOOD: --which, in Nebraska, we are not.

REX SCHRODER: OK, but how do you know that?

BLOOD: Because I trust that our Secretary of State that we elect and Mr. Bena, who is hired by the Secretary of State, that if you feel that they are lying to the Neb, to Nebraskans, then obviously they should not be elected into office. But it's my understanding that the vast majority of Nebraskans, based on what I see, election after election, trust that they are doing their due diligence. And what I keep hearing-- and, and I'm going to end after this-- what I keep hearing is misinformation, and I, I completely embrace why people are concerned about elections, and they should always be concerned about elections. But I've yet to hear people say that they have stepped in, witnessed how it's actually counted, and witnessed, witnessed how the computer system is run and who has access to it. And so it's really easy for us to put out misinformation and scare people. That seems to be the way of the world right now, where we put out a lot of information and we scare people. But what I like to hear is that somebody has actually witnessed it-- not just guessing, has witnessed it-- and can show me validation and concrete proof that these things are happening. So that, that's my concern is that I have concrete proof that they're not happening. So you don't have to agree with me, but I do encourage you to talk to Mr. Bena because I know for a fact there is a citizenship process in place. So I do encourage you. It sounds like there is a miscommunication. And that's for the greater good of your campaign and for all Nebraskans, if we make sure that we get the information to them and it's accurate. And again, I don't

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question what you believe in any fashion, sir. I don't question why you believe what you believe, but I do ask that you remember that there's always two sides to every story, and that you're also open to hearing the other side.

REX SCHRODER: OK.

M. HANSEN: Thank you, Senator Blood. Other questions?

REX SCHRODER: Thank you.

M. HANSEN: Seeing none, thank you. Next proponent? Can I just get a show of hands, people still planning on testifying on this bill in any capacity? Four? All right. Perfect, thank you. Welcome.

FANCHON BLYTHE: Hi, thanks. My name is Fanchon Blythe, and I didn't plan on speaking--

M. HANSEN: Sure.

FANCHON BLYTHE: --on this bill, but since Senator Halloran asked that previous speaker about those cards, I just wanted to come up and say my household received a lot of cards, and the ACLU sent ours. The other thing I'm really shocked about hearing today is hearing the word and the name Civic Nebraska mentioned so many times and how they are involved with our election in Nebraska. Civic Nebraska was started by a liberal Democrat, Adam Morfeld, who is running for county attorney, and I totally disagree with what he does and his involvement before and after school with our children. Senator Blood, you asked about being a poll watcher. When I called Dave Shively's office inquiring about being a poll watcher-- with many of my friends, we are going to do it this year-- one question, or one comment was made to me: Well, Civic Nebraska is always there. And I said to the guy, Do you know who Civic Nebraska is? He said, No, ma'am, I don't. So then I educated him on it. Anyway, that's all I have to say about this bill, and I support it. Thank you.

M. HANSEN: Ma'am, before you go, will you spell your name for the record?

FANCHON BLYTHE: Yes. F-- as in Frank-- a-n-c-h-o-n.

M. HANSEN: Thank you.

FANCHON BLYTHE: Oh, question.

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M. HANSEN: Senator McCollister has a question, if you'd be willing.

MCCOLLISTER: Yeah. We all have our First Amendment rights, and I'm sure you respect that--

FANCHON BLYTHE: Yes.

MCCOLLISTER: --of free speech, right?

FANCHON BLYTHE: Right. That's why I'm speaking today.

MCCOLLISTER: Do you have-- can you cite any examples of malfeasance by Civic Nebraska?

FANCHON BLYTHE: Oh, I don't have all day. I got to get back to work. You just need to go and educate and maybe go to an after-school and before-school program, Senator.

MCCOLLISTER: OK. Do they go to public schools and talk about [INAUDIBLE]?

FANCHON BLYTHE: They are. They are allowed in my school here, at Lincoln Public School, in Omaha. They receive a grant from our schools, our tax dollars into the tune of over \$200,000.

MCCOLLISTER: To do what?

FANCHON BLYTHE: To-- that supports Civic Nebraska.

MCCOLLISTER: What, what do they exactly do in public schools?

FANCHON BLYTHE: Well, they support liberalism and indoctrinating our children. And I am a conservative.

MCCOLLISTER: Are you sure it's just not about a citizen's right to vote?

FANCHON BLYTHE: Sure. Go to the community centers, pick up your kid. Oh, are you a registered voter? Well, no, we're not. Well, let me help you register to vote. Things like that happen.

MCCOLLISTER: I think the League of Women Voters does that, as well.

FANCHON BLYTHE: Probably do.

MCCOLLISTER: And maybe some, some groups that are aligned on the right. Could that be?

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FANCHON BLYTHE: Well, I tell you, we're going to start.

MCCOLLISTER: Good deal.

FANCHON BLYTHE: Thank you.

M. HANSEN: Thank you. All right. Any other proponents for LB843? Last call. All right. Seeing none, we'll switch to opponents for LB843. Welcome.

NICK GRANDGENETT: Thanks. Vice Chairman and committee members, my name is Nick Grandgenett. I'm a staff attorney with Nebraska Appleseed. Nebraska Appleseed is a nonprofit, nonpartisan organization dedicated to opportunity and justice for all Nebraskans. We are testifying in opposition to LB843. At their best, elections are locally organized and actively facilitate, facilitate participation. We understand that LB843 seeks to address several important issues for Nebraskans across the state. We certainly support legislative efforts to address those issues, but have a few important concerns about the broad language used in LB843. As drafted, LB843 would allow inspectors, election judges, clerks, and receiving boards to be appointed from outside the local county by an election commissioner if authorized by the Secretary of State. Under the new law, elections in Douglas County could be inspected by officials from Banner County and vice versa. It's understandable that such an option may be occasionally a benefit to smaller counties that have difficulties filling these offices, but it's unclear why such broad language is needed to achieve that effect. The use of this authority should be very limited, with a preference for local election officials maintained in the language of the bill. Second, there should be more clarify, more clarity regarding the role of the Secretary of State in the ballot initiative process. Under the current law, ballot petitions are drafted by sponsors and reviewed by the Revisor of Statutes, an impartial office. This allows for a balance whereby sponsors draft language that reflects their own expertise and preferences, while the Revisor makes suggestions reflective of their technical and legal expertise. Changes to the initial filing are then either accepted or rejected by the sponsor. This collaborative approach best maximizes the ultimate quality of the final language. For unclear reasons, LB843 places the Secretary of State at the conclusion of this process and requires them to reject a petition's final language if it is "different from the initial filing or the changes recommended by the Revisor of Statutes." This new language appears to minimize the collaborative process and appears to eliminate the sponsor's ability to accept some, but not all of the Revisor's changes. Finally, some of LB843's provisions would also risk

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impeding voter participation efforts and early voting. LB843 would require many voter participation efforts to use custom voter registration forms provided by the Secretary of State's Office that uniquely identify the organization. This would be more burdensome for many organizations that engage in these efforts. But most notably, what we've heard today, however, is that the current drafting of the bill allows for election commissioner to "cease to maintain" a list of names eligible for early voting merely by publishing "such fact" in a newspaper of general circulation. Under this language, there do not appear to be any factors or guidelines that would limit a commissioner's discretion to take such an action. In other words, it appears the commissioner could cease to maintain the list at any point in time. A decision could, for instance, be made after many registered voters have made the request, but before they have actually received their ballots. Such a provision risks preventing Nebraskans from exercising their right to vote altogether, and we would urge this language should be removed from the bill. Nebraska's elections have always been decided by voters carefully considering the merits of different ideas and candidates. We certainly understand that the unique needs of individual counties may necessitate unique administrative strategies. LB843 seeks to create a framework to do that; however, we urge the committee to adopt narrower language to accomplish that goal. Thank you for your time, and I'm happy to answer any questions.

M. HANSEN: Thank you. First things first, will you spell your name for the record, please?

NICK GRANDGENETT: Yes, I apologize. It is-- my first name is Nick, N-i-c-k, and my last name is Grandgenett, G-r-a-n-d-g-e-n-e-t-t.

M. HANSEN: Perfect, thank you. Questions from the committee? Seeing none, thank you for your testimony.

NICK GRANDGENETT: Thank you.

M. HANSEN: We'll invite up our next opponent, and maybe move the chair away.

JOEY LITWINOWICZ: [INAUDIBLE] move back the chairs so people can pass. Sorry. [INAUDIBLE].

DANIELLE CONRAD: I'll just [INAUDIBLE] and give you some space here.

JOEY LITWINOWICZ: That'd be all right; thanks. OK. Just a moment.

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M. HANSEN: Sure. And we'll start your time once you get your laptop set.

JOEY LITWINOWICZ: Fantastic. Been that kind of day. I will just say my name is Joey Litwinowicz, J-o-e-y L-i-t-w-i-n-o-w-i-c-z, and I love being conspicuous. Good evening-- or good afternoon to the committee, and I'm glad to be here. I'm just, kind of, letting you know, I think it's interesting to point out that yesterday, I guess they thought I had a blood clot, the EMTs. So I went to the hospital and it turns out, after spending all that time and not really sleeping, last night, I, I found out that the doctor said I didn't have a blood clot the whole time. And so the interesting point is that, is that, you know, I didn't even worry about, you know, the blood clot the whole time; I was worried about not being here. So in fact, it's so important that I left AMA, so because I'm a-- as a handicapped person, if I would have stayed-- a person, I have a friend who has two muscles in each arm at work and he can drive, so he picked me up. But he had to be put to bed, you know, if I did-- so I had-- they were only about an hour away from giving me the paperwork to sign. I think we can work something right up there. I was pumped with a high-grade blood thinner, among other things; I think we could trigger it. So anyway, so in that context, I came here. And this morning I was working on this and I spilled coffee-- kind of a bunch-- right on here. And I had to dump it. I mean, so and oh, that's why I don't have anything written. And it's part of the reason why I haven't been really good at this for-- since I was 30. "Anyhoo," if any of you has to fire up the computer, I think we can start at the time now. All right. Yeah, I'm, I, I have a few suggestions for this bill and I don't support it maybe. I like it, but I don't support it and it's coming up here. Let's see. I had a low battery, ha, and so it's really funny. OK. I'm referring to, right now, Section 32-118. And having your name written by another person conjures the-- I wrote this in that context, all right? A little bit of a little bit of aggression, but it conjures the conspicuous cripple when that is unnecessary, you know, to have some other, have your name written by someone else, you know. It might even prevent or dissuade or, you know, or affect somebody's, a handicapped person's desire to vote in the first place. I don't know, 'cause you have to have somebody write your name, then you have to have a mark that you do. And some people-- I don't know how we fix this. And so and then, the person has to write his name and address, the person, the person that, that helped out. And so that's like being waited on, and you're always waited on. So sometimes you don't want to be waited on. And let's see here. So even if this were only to affect a few people, that would be unacceptable. And what if someone doesn't have a stamp? It is

undignified, it is outdated, and it is unacceptable. And I don't know if somebody else-- well anyway. So also, with regard to reading that mark, some people-- you know, I had a little line there-- some people need to be a marksman to leave that mark, and maybe I was wondering why it was the term of use; that's it's just a joke. OK, so the real reason why I don't oppose the bill is because we don't have gender identity and sexual orientation contained. So I'll get to that right now. Also in Section, in Section 32-221, here's a suggestion, I think. So for, for electing, you know, like for qualified people that may-- there's a typo-- and I have some con-- some qualified, qualified people that maybe judges or clerks. And if you read the language of the bill, that-- there's all kinds of funny things like governor and, and president. Well, what if they occur on the same year and we vote for a different president and a different governor? I mean, I'm not on the spectrum, but there's kind of interesting stuff peppered-- anyway. So I suppose I would be, as a person, a good and sufficient or an ill health reason for exclusion because of my orientation and identity, and all the other folks with patches on their sleeves, likewise. So sexual orientation and gender identity must be included. You know, the flat-earthers have denied reality since the Earth was flat. But you know, we-- there's been a percentage of the population throughout history. And so this leads me to the statement that there just has to always be that subsection rather large of humanity that must necessarily think that others-- must nec--- hmm, OK-- there just has to always be that subsection of humanity that must necessarily be depraved. Yeah, there has to be that section that has to be depraved for others to feel better about themselves 'cause, you know, we join clubs and tribes. You know, we're, we're chimpanzees and, like, bonobos. So try to tell me I'm less moral than anyone else; I dare you. And so we have to change this, you know, because of good repute, repute-- there's some great language-- and so that has to be included. Interesting point that, if you're homeless or something, you know, 'cause I, I was homeless for a while in my chair, you, you have to give them your township and range.

M. HANSEN: I'm sorry, sir, you are at your red light. So if you'll just wrap up your thoughts.

JOEY LITWINOWICZ: Yeah, I know. But I had some-- I had some issues with my disability. I didn't even get to print this off. And we used to turn this light off completely with respect. If I may, I would like to continue just a little bit more because my circumstances, even though I don't want to be doted on, are treated differently. I think necessarily that-- it's necessary for me to have, get the same amount

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of output as someone else during their time. And I'm just, I'm almost done.

M. HANSEN: So we'll give you another minute, sir. And if you have anything else, in addition, maybe there's questions or you can submit a written email to the committee.

JOEY LITWINOWICZ: Yes, and my time-- OK, I'll get-- time, you know you're at cares. I have to work a few hours a day just to, just to keep what I have. And it's funny, the things I would like to write-- it, it's a myth and I don't have the time. I, you just don't-- and if you're spilling coffee on your computer. And you know, this just has to be heard, right? And, and while I was there last night-- and I'm done-- I, I talked to the doctor and I asked him, I said: Well, why hasn't, like for the last year and a half, why hasn't people-- people thought that it's the back pressure for the mask, right? So I haven't, he didn't, he hadn't heard, he hadn't heard of it. So it's actually when you breathe through it and when you cough, the rate-- it's rate dependent. The faster that you, you know, you cough, it blocks more. So it's actually an effective link, lengthener in distance. So, you know, in, in engineering or scientific terms, it would be the equivalent lengthier, for example. So you actually lengthen the distance between you by wearing a mask. And if you wear two, you know, it's funny when you feel the air going back, that's actually deflecting the air, and maybe-- he just looked at, he just looked at me and said, hmm. "Anyhoo," so I guess, you know, we need to wear these, and I'll be back for that one. And I thank you if you hear that. I'm sorry that I'm going to go now, and I've been through a lot, a little bit and I wanted to be here. So I have one other one that it's coming up. So thanks a bunch. All right. Any questions?

M. HANSEN: Thank you for your testimony.

JOEY LITWINOWICZ: I really could answer some.

M. HANSEN: I appreciate it.

JOEY LITWINOWICZ: And there's some really cool things that you can look at-- I just-- all right. Thanks a lot.

M. HANSEN: You're welcome. I appreciate it. Seeing no questions, thank you.

JOEY LITWINOWICZ: I must be really scary. All right, take care.

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M. HANSEN: All right. With that, we're still on opponents. Is there any other opponent to LB843? Last call. OK. Is there anybody who wishes to testify in a neutral capacity?

DANIELLE CONRAD: Thank you so much. Hello, good afternoon. My name is Danielle Conrad; it's D-a-n-i-e-l-I-e Conrad, C-o-n-r-a-d. I'm here today on behalf of the ACLU of Nebraska. It's always a little bit of art and science to kind of try and figure out the right positioning. But there are aspects of this legislation that we are very excited and supportive of, and there are some issues that we have identified that we pledged to work with all stakeholders to move forward. So neutral seemed right, which is what I did to couch that. Overall, I think it's just important to know that voting rights are the cornerstone of our democracy. They are the rights upon which all of our civil liberties and civil rights rest. And I think the good news is, is that there is definitely a strong, proud history of running free and fair elections in Nebraska, including through 2020 and beyond, because we have a great legal framework in place. Nebraskans take their civic responsibility very seriously, and we have really awesome local poll workers and local election officials who do their job with due diligence. So I just wanted to note that I think that there are many aspects related to improvements to facilitate the rights of voters who are differently abled that are really, really awesome. Our election protection line receives a lot of intakes about how can we best help folks who are differently abled exercise their, their, their voting rights. And I think that this provides a lot of uniformity and clarity, which is very welcome and very appreciated, and want to commend the Secretary of State for bringing that forward. However, I do think that there are some significant concerns which you've already heard about from some other testifiers here today. Looking at page 12, Section 11, I think there are some pretty significant restrictions there, in terms of voter registration processes, that we need to proceed carefully from a policy practical and legal perspective. Page 30, there are some additional restrictions related-- vote by mail restrictions and potential purge issues, which we've already heard about, that we'd be pleased to work with all stakeholders on moving forward. Definitely concerned about some of the broad language regarding restrictions on ballot initiatives and the right of the people in direct democracy, around pages 40 and pages 41. I think that we definitely want to learn more about potential restrictions and on freedom of the press and otherwise surrounding page 42. And just wanted to finally note that I think, as contemplated in pages 8 through 10, you know, it's really important to remember that Nebraska has, what, 11, 12 counties today that has-- conducts all-mail

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balloting; and how effective and efficient that is. And we saw, you know, a continuing hunger amongst Nebraska voters to utilize vote-by-mail options. And so I think there are good measures pending before this committee. Senator Carol Blood has some carryovers from last session that we could take a look at to ensure clarity and uniformity without restricting the right of people to cast a ballot for all eligible voters. So I went, I went through really, really fast. But I know time is of the essence. And we pledge to work with the committee to address some of those concerns, moving forward. I think it's really important to note, when you look at a lot of these issues, not only are voting rights implicated, but First Amendment rights are implicated. And that includes the right to associate, the right to petition your government, and the right to free speech. And when we're talking about political speech, political speech is the most highly protected form of speech. So any restrictions on that right of that free expression have to be looked at, I think, very cautiously and very skeptically. And so I just-- I wanted to make sure to put that out. The other component regarding freedom of expression, rely, related to some sections in this bill, it does raise concerns about forced speech. When government forces individual stakeholders to utilize a certain script or standard, that also can raise additional First Amendment concerns. And it's something, again, that we'll, we'll work with all stakeholders on. Thank you. Happy to answer questions.

M. HANSEN: Are there questions? Seeing none,--

DANIELLE CONRAD: OK, thank you.

M. HANSEN: --thank you for your testimony. All right. Any other neutral testifiers on LB843?

JENNIFER HICKS: OK. My name is Jennifer Hicks, J-e-n-n-i-f-e-r H-i-c-k-s, and I am testifying in a neutral position because this is supposed to be an elections cleanup. And it isn't that I'm opposed necessarily to what is in it, I'm opposed to what hasn't been addressed. And our elections are not going to be cleaned up until ES&S is no longer part of our voting system. We have a contract the state has signed with ES&S, which I believe is unconstitutional, and I brought this up with-- I have, I've emailed every senator in the Unicameral about this. I have received back replies from a couple; most, most ignore the issue. Their concerns about the constitutionality of this contract, it should be addressed. I believe it's in violation of Article I, Section 22 of our Nebraska State Constitution, as Mr. Schroder mentioned earlier. Part of, part of this contract denies us any transparency. So when you said, Senator Blood,

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that you know for a fact that our elections are secure, you don't, because the contract explicitly says that the results of any security testing, we are not permitted to know; the state is not permitted to tell us. They can't tell the public, they can't tell the media, they can't comment, give an opinion-- nothing. We are not permitted to know the results of any security testing. Of the software that governs our elections, that denies us a right to a free election. It denies us the right to know that our votes are counted as they were cast. And that's really a big deal. I mean, I don't know why, why I'm not getting replies back from senators. This is your job to defend our rights, and our rights are being violated. They're being violated left and right. The back of my shirt-- this is a Convention-of-States shirt-- and the back of this shirt says you need to, you have to use the Constitution to protect the Constitution. And the reason our Constitution is under threat right now is because our elected officials are not using it. Use it or lose it, and we're losing it because you are not using it. And so I'm here to speak on behalf of my rights because they're being eroded away every single day. And it's not going to get better, it's not going to get better. It's only going to get worse until our elected officials do their job-- do, do your job. I don't have the authority to go to Attorney General Peterson and say that this needs to be addressed, because the Attorney General works for the state. You know what that means? That doesn't mean me. That doesn't mean home-school mom in Peru, Nebraska. It means that the Attorney General works for you, the elected officials. Now, the state should be representative of the people because we elected you to be our voice. But I'm not represented in my government anymore. I have no representation. And it's, it's really frustrating. And it, and it's not just with regard to elections; it has to do with medical freedom. Where are our voices being represented? And I know that I'm not the only person that feels this way. I speak to people all across the state and they feel it, too. They feel like we've been left behind, that politicians are protecting each other and they are not protecting us. And so I am calling on every senator, every elected official in the state who has had it brought to their attention that there are constitutional concerns about this contract that we have made to govern our elections that touches every aspect of our voting system, pretty much from start to finish. It's-- I believe it's unconstitutional. It needs to be addressed by our Attorney General, and you can ask him to do that. You can do it today; you can do it today. Ask him to address that and ask our Attorney General to tell Nebraskans why we should accept the terms of this contract because no Nebraska voters in their right mind would have agreed to the terms of this contract that was made-- was it made on our behalf? Or was it

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made-- who is the state? That's a question that really needs to be examined. Who is the state who entered into this contract, and who is going to be protected when constitutional concerns arise regarding this contract? 'Cause Attorney General Peterson, it says in the contract, is the person designated to address any concerns with the constitutionality withthe, with the, if there are any problems with the contract. I'm asking you to ask him to address these concerns, on behalf of me. And I want to find out if I'm represented by the state or not. Are my rep, are my interests as a voter represented by the state? Or is it, is it going to be the interest of the politicians who entered into this contract who get protected when that question is asked? And that's, that's all I have.

M. HANSEN: Thank you for your testimony.

JENNIFER HICKS: If you have any questions,--

M. HANSEN: Any questions? Senator Blood.

BLOOD: I just have a quick clarification question, Ms. Hicks. So who told you that you didn't have the right to have any of that information? Can you put that person's name on record, please?

JENNIFER HICKS: What do you mean? What information?

BLOOD: Well, you said that you were not allowed to be privy to any of the information in reference to the software or when they do checks.

JENNIFER HICKS: Yes, ma'am.

BLOOD: Who specifically told you that? And can you put that on record?

JENNIFER HICKS: I sure will. It is in the contract that the state has made with ES&S, and that can be found on state.contracts.nebraska.gov. And I've likely emailed you the link 'cause I know that I've emailed every senator that's in the Unicameral. And it says, under Security Requirements, Part C on page 19, it says that-- this is under Section, I'll go to Section three. That's the part that says that nothing contained in this section shall prevent the state from reviewing the results. This is regarding security testing. So if our state wants to have a vulnerability scan or a formal penetration test done,--

BLOOD: Can, can you read the whole sentence to me, not an interpretation?

JENNIFER HICKS: Well, there's a lot of it there. But a vulner-- what would you like to know, a vulnerability scan?

BLOOD: 'Cause you specifically said that we are not privy, as citizens, to the information in reference to how the software works or any security checks.

JENNIFER HICKS: That's right. It says that the state agrees to "1) maintain the confidentiality of the testing results and not disclose such testing results to anyone except those employees of the state who have a need to know such information and who are subject to the confidentiality obligations hereunder." They may not "share or disseminate into the public realm the testing results of any other related information and not directly or indirectly publicize in any media or public forum whatsoever any information or materials or any opinions, conclusions, or comments concerning the testing results." That's the security testing results.

BLOOD: But, but wasn't the end of that sentence they reserve the right?

JENNIFER HICKS: Where-- what are you asking?

BLOOD: Wasn't the beginning of that, that sentence, at the very beginning, that they reserve the right to be able to have the ability to do that, not that it's mandatory to do that?

JENNIFER HICKS: No. I, I-- no.

BLOOD: Oh, OK, I'm sorry, I misunderstood you.

JENNIFER HICKS: You're mistaken.

BLOOD: All right. I will review that. So I, I just am concerned that it might be misinterpreted, so I will reread that.

JENNIFER HICKS: I would, I would love it if you would.

BLOOD: But I also did not say that-- to make sure that I was quoted correctly, what I said was I was not aware of any fraud. I did not say there was not fraud in Nebraska. I said that our Secretary of State and their staff work very diligently to make sure there is no fraud.

JENNIFER HICKS: I didn't say that you said there was fraud. What I'm saying is that this, this isn't even a-- I-- this is a contractual issue, right? This isn't-- you, you don't have to even believe there

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was fraud. What I'm saying is we're denied the right to know if our votes were counted as they were cast. That is not a matter of fraud. You don't even have to address fraud to address this concern.

BLOOD: And, and I, I do encourage you to be a poll watcher, and I do encourage you to watch the process because what I hear in this committee, year after year after year, is people who have never actually watched the process and only heard information outside of that room that's been relayed to them that may or may not be accurate. So I do strongly encourage you, especially since you're so passionate about this, to stop to talk to Mr. Bena before he leaves today and make sure that you have the information so you can actually watch what happens in the room. I strongly urge you--

JENNIFER HICKS: I feel like you didn't just hear anything I just said, because what I'm telling you is that this is not a matter of-- that, that--what you're suggesting to me right now is not going to solve the problem.

BLOOD: I, I hear what you're saying in reference to the contract. I do hear what you're saying in reference to the contract, and I want to make sure that we move along so other people get to testify,--

JENNIFER HICKS: I do, too.

BLOOD: --but the point being is not to question what you say about the contract, but the contract and the equipment that you're referring to is part of the voting process. In order to see part of the voting process, you should physically be there so you have a better idea of what's involved with the process.

JENNIFER HICKS: I will reiterate one more time that the problem is that we are not allowed to see the process. And if the state finds out that there are problems, we're not permitted to know.

BLOOD: We can work on that together.

JENNIFER HICKS: Thank you.

M. HANSEN: Thank you. Any other neutral testifiers to LB843? Last call. All right. With that, we don't typically have staff close, and we'll waive closing on that since Senator Brewer can't be here. We'll note, for the record, that we had a variety of position letters. We had 19 proponent letters, 1 opponent letters, and no neutral letters. And with that, we'll close the hearing on LB843, and invite Senator Clements up to open on LB858. Welcome.

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CLEMENTS: Thank you. Vice Chairman Hansen. Members of the Government, Military and Veterans Affairs Committee, I am Senator Rob Clements, R-o-b C-l-e-m-e-n-t-s. I represent Legislative District 2, and I'm here to introduce LB858. LB858 was brought to me by the secre-- Nebraska Secretary of State to address election integrity. LB858 adds a new section into the Election Act, restricting the funding of an election to an appropriation by either the federal government, the state of Nebraska, a political subdivision, or any combination of such sources. In addition, this bill would prohibit the Secretary of State, election commissioners, and county clerks from soliciting, accepting, or using any grants or donations from any private entity for preparing, administering, or conducting an election. Why is this bill necessary? During the 2020 election, a new precedent was set by Mr. Mark Zuckerberg, CEO of Facebook, who backed the organization Center for Technology and Civil [SIC] Life, CTCO, with \$350 million, which rewarded conditional grants to local election officials across the country. No matter what your opinion is of Mr. Zuckerberg and his politics or how the grant money was spent, it did influence the operations of local elections across the country and, at the very least, has an appearance of a large undue influence by one individual. I would like to share from a recent article by William Doyle, Ph.D., the principal researcher at the Caesar Rodney Election Research Institute in Delaware. Published January 10, 2022, he made a few observations after analyzing the federal tax forms of CTCL and where most of the funds were granted. In Doyle's opinion, "Wisconsin provides a perfect example of how laser-targeted conditional CTCL grants worked to swing the 2020 election in favor of Joe Biden." CTCL funding concentrated on mail-in ballot efforts in heavily Democrat areas. He noted, "As a result of CTCL involvement, the outcome of the 2020 election is not the outcome that would have occurred if the election had been conducted on the basis of established election laws, equal treatment of voters, and administrative neutrality." Doyle stated that both houses of the Wisconsin legislature passed a bill to prevent private funding of elections in their state to address what happened in 2020. However, Wisconsin Governor Tony Evers, a Democrat, vetoed the bill. It doesn't take a very big imagination to invent, envision billionaires of all political stripes trying to influence local election operations with conditional and targeted private funding in the future. This direct influence in the operations of local elections with private money is bad optics at best, and a dangerous trend that threatens to undermine the election integrity at worst. Ensuring election integrity should not be a partisan, partisan issue. Again, LB858 intends to help secure our elections from any undue influence in our local election offices from private

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organizations or individuals, to remove even an appearance of interference to an election to favor one candidate over another. I thank you for your consideration of LB858. Deputy Secretary of State for Elections, Wayne Bena, will be following me, but I will try to answer any questions at this time.

M. HANSEN: Thank you, Senator Clements. I believe Senator Blood has a question.

BLOOD: Thank you, Vice Chair Hansen, and welcome to Government Affairs. So Senator, you talked about election integrity. I'm going to have a couple-- because this is going to be a long day otherwise-- yes/no questions for you. So you believe in election integrity. Do you think this is more important of a bill to pass, over dark money where we have validation that, indeed, the election integrity and [INAUDIBLE] voters' voices be heard is more important? Which bill do you think is more important? Grants to help people-- allow other folks to vote or where we have dark money coming in from pretend nonprofits that are definitely influencing voters, which bill is more important?

CLEMENTS: This bill is more important.

BLOOD: Because?

CLEMENTS: I, I should say that I need to review what you were talking about for the alternative of-- I'm not that familiar with, with what you're saying.

BLOOD: With the dark money. Well, we've had a lot of elections won in Nebraska from dark money, where there's been outside influence from other states, and we have a bill stuck in committee that we can't get out. And that's why I wanted to hear what your perception was, since the Secretary of State didn't get involved with the dark money bill. So the nice thing about nonprofits is that their information is available. So you're talking about the Center for Tech and Civic Life. Is that correct?

CLEMENTS: Yes.

BLOOD: OK. So nonpartisan organization backed by not just Democrats, but also Republicans and nonpartisan officials. Would you say that's accurate?

CLEMENTS: Well, I know that they received \$350 million from Mr. Zuckerberg.

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BLOOD: Um-hum, and, and good on, on rich people for trying to make it easier for everybody to vote. So would you say that they only provided funding to jurisdictions that were historically Democratic?

CLEMENTS: The report I referenced said that the largest amount of their funding went to Democrat stronghold areas.

BLOOD: So public information from the nonprofits said they provided funding to all jurisdictions that applied, no matter whether they were historically Republican, Democrat or swing districts, swing districts. And over half the grants went to Republican areas, and it said that they also received-- most of the jurisdictions that received funding historically voted Republican than Democrats. So it was actually to the benefit of more Republican jurisdictions than Democrat districts, which is really what we're talking about, I think. How did you feel about Arnold Schwarzenegger donating to 33 counties for election integrity?

CLEMENTS: I wasn't aware of his activity.

BLOOD: Because he did so as well, 33 counties, and it was really interesting. It was in counties that predominantly get left behind-- Georgia, Mississippi, South Carolina. You know, it seems they have people of color in common, which I thought was really interesting. So here's the question that I have, is that if in Nebraska, we're going to ignore dark money, where we know that that money is meant to influence voters and we do nothing, but when grant money is given to allow a public-private partnership because government doesn't have the money sometimes to, to make it easier for people to vote, why are we going after grant money that has no partisan backing? These are nonpartisan groups that are being misrepresented outside of the facts. Why are we supporting something like this over not supporting dark money bills? I don't understand that. I find that very confusing and very perturbing.

CLEMENTS: I believe that's up to the committee to consider both bills.

BLOOD: So are you familiar with Hans von Spakovsky from the Heritage Foundation?

CLEMENTS: No.

BLOOD: He seems to be the person that's pushing for this movement, much of it through ALEC and other organizations or the Heritage Foundation, things that the Koch brothers are involved in. Does that surprise you that this movement is being pushed by them?

CLEMENTS: No.

BLOOD: No?

CLEMENTS: I think-- which movement? Do you mean to--

BLOOD: Well--

CLEMENTS: Do you mean removing this--

BLOOD: To, to--

CLEMENTS: private--

BLOOD: take away--

CLEMENTS: --private funding?

BLOOD: --opportunities for counties to provide opportunities for people to vote by saying that they can't give out grants anymore? But meanwhile, the Koch brothers and others will still continue to pump money and funds into other things. So like are we going to do all or nothing when it comes to voting?

CLEMENTS: I think the local jurisdiction should fund their election offices with taxpayer dollars and not with private funding.

BLOOD: So we should also do the same thing with campaigns, don't you think?

CLEMENTS: I think that's a different subject.

BLOOD: Hmm, interesting. I appreciate your opinion. Thank you.

M. HANSEN: I have a question, but are there any other questions from the committee members first? Senator Clements, you mentioned the Wisconsin example. You believe the grants-- do you personally believe the grants in this case swung the results in the Wisconsin election?

CLEMENTS: I have-- from the-- that's why I quoted from this article. I, I believe the research that he did looks valid.

M. HANSEN: OK.

CLEMENTS: But I haven't looked into it in depth myself.

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M. HANSEN: So I guess my question is, from his research and haven't read it yet. How-- what, what's the step from the money going to the counties to the election results being changed? What was the actual thing that happened?

CLEMENTS: He said the CTCL was extremely effective in advancing its goals with promoting absentee ballot-- absentee voting, so they increased absentee voting from 5.5 percent in 2018 to 58.9-- 20 and so the-- especially Dane and Milwaukee Counties got 46 percent of their total spending, and he was just thinking that they got, got out to vote more in Democrat areas and that, that had an effect on the election.

M. HANSEN: So more people, specifically more Democrats, voted by mail because of these grants and that changed the election?

CLEMENTS: Yes, that's what it's saying.

M. HANSEN: OK, thank you. Any other questions? Seeing none, thank you.

CLEMENTS: Thank you.

M. HANSEN: Will you stay to close?

CLEMENTS: Yes.

M. HANSEN: All right, thank you. With that, we'll invite up our first proponent on LB858. Mr. Bena.

WAYNE BENA: Good afternoon, Vice Chair Hansen and members of the committee. My name is Wayne Bena, W-a-y-n-e B-e-n-a, and I serve as Deputy Secretary of State for Elections. I'm here on behalf of Secretary of State Robert Evnen in support of LB858. The 2020 elections in Nebraska saw many firsts: the largest number of ballots cast in a primary, young people stepping up to replace their parents and grandparents and becoming poll workers, including the first time that private money was used in election administration. The Lancaster Board of Commissioners solicited a grant from the Center of Technology and Civic Life to assist the Election Commission ahead of the November 2020 elections. To be clear, the acceptance of this private funding by Lancaster County did not change how the 2020 election was conducted by the Election Commission or its outcome. However, it is our responsibility as election officials to be beyond reproach-- reproach. Grants by private third party organizations to election administrators have the potential to raise conflict of interest questions, opportunities to have major strings attached and only be distributed

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to specific offices. These concerns have been raised with the Secretary of State's Office, and that is why the Secretary had asked for this bill to be drafted. LB858 safeguards the integrity of our elections, ensuring all election administration expenses are paid only through government funding sources. Seven states already have similar laws on the books and it behooves us to lead in the way in adopting this model practice. Nebraska election officials already have a statute in place, 32-1201, the county boards are required by law to draw warrants in payment of all bills submitted by the election commissioner or county clerk related to the costs of any election conducted by the Office of the Election Commissioner or county clerk. A statute that I used many times when my board didn't want to give me all the money that it wanted to run my election to the Sarpy County, I got the money that I needed to run the elections in Sarpy County. In addition, in 2020, the Secretary of State's Office had ample money received by the federal government to cover all extra expenses county election officials occurred due to COVID and running elections for COVID. In fact, Nebraska gave back \$2 million in the grant after not being able to spend it all in 2020. In the interest of maintaining the integrity of our elections, the Secretary of State urges you to support this bill. Thank you for your time and I'm willing to answer any questions that you may have.

M. HANSEN: Thank you, Mr. President. Are there questions? Seeing none, thank you. I'd invite up our next proponent. Welcome.

DOUG KAGAN: Good afternoon. Don Kagan, 4-- D-o-u-g K-a-g-a-n, 416 South 130th Street, Omaha, speaking for Nebraska Taxpayers for Freedom. The expanding venture by special interest groups to offer grants to local and state election officers, supposedly to help them meet expenditures necessary to carry out their duties, we believe an underhanded means to influence and generate votes in key and swing districts in order to increase turnout by Democrat voters. Eleven states, including Kansas, already have passed or are in the process of passing legislation to outlaw this crass interference in our electoral process. Although Nebraska has accepted only one grant in Lancaster County, future elections could see additional Nebraska grants. This attempt to infiltrate a private takeover of our elections through ideological nonprofits witness these grants disproportionately going to counties heavily Democrat to increase that vote. These private donors, like Mr. Zuckerberg, have personal political agendas. Although listed as a nonpartisan organization, the Center for Tech and Civic Life, funded with \$350 million "Zuckerbucks" election offices in traditionally Democrat-dominated jurisdictions and consider current state election integrity laws as obstacles it ignores or circumvents.

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For example, this operation spent about \$47 per voter in Wisconsin Democrat strongholds. In several instances, this money allowed Democrat operatives to help manage elections and count votes. A report by economist William Doyle in The Federalist, based on his computerized algorithm, found-- found that this spending likely added about 200,000 Democrat votes in Texas. This illegitimate infusion of private funding and third party subsidizing of election training equipment and staffing by a network of nonprofits at the local level bypasses state administrative processes and results in suspicion about the integrity of local elections. It was a blatant attempt to insert political influence into election offices to influence and manipulate election outcomes. This favoritism violates fundamental principles of equal treatment of voters. Our elections must appear above reproach. If Nebraska election personnel require additional funding to manage elections, let them seek available but unspent public funding. In the last look we had, the federal government still had over half the \$800 million available to local election offices, for local election offices to ask for. We also suggest that the bill add a provision to specifically bar private funds from paying election volunteers, and we would also like another amendment added, if there's a front group for the Republican Party at any level doing the same thing, we would like, likewise oppose it and prefer that it be added to the bill. Thank you.

M. HANSEN: Thank you. Questions from committee members? Seeing none, thank you.

DOUG KAGAN: Thank you.

M. HANSEN: Take our next proponent.

LARRY STORER: Good afternoon again. Larry Storer, 5015 Lafayette Avenue, Omaha, Nebraska, 68132. If I hear the word democracy one more time, I'll probably barf on the table. Two great articles that you should research, I didn't have the money to make 14 copies of these pages. Rob Natelson is a famous professor. I don't think he's a leftwing pro-- progressive professor, but he might be. But he has one in The Epoch Times, you can find it, titled 'Our Democracy' = Their Oligarchy. And another gentleman in Epoch Times also, Josh Hammer. He's talking about American oligarchy. What they're talking about is, oh, excuse the word nonprofits, people with an awful lot of money that form nonprofits so they can influence everybody and not have to spend their money. Two or three years of going down to the Douglas County Board and the Omaha City Council, I've watched a lot of nonprofits march down the aisle asking for money and political influence. They have more power than I do as a citizen. In your State Constitution, it

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says us citizens are the electors. By the way, the last copy of the State Constitution I got at the store here needs to be reprinted, probably edited because a lot of that stuff is very old, not pertinent. This is pertinent. The oligarchs, such as George Soros, is influencing election officials across the country, as well as other people on other things. And people like yourselves get to hear their version, not much ours, maybe sometimes today. Another organization is Common Cause. I think they're the one that has an office right across the street. They get to march over here and bend your ear almost every day. I don't have the money to do that, I don't have the voice to do that. But I am the elector according to them in your Constitution. If that's not true, you should change the State Constitution. But the fact of the matter is democracy is not a valid thing. Now I'll read some snippets, if that's OK with you, that refutes the concept of democracy. Mr. Victor David Hanson I'm sorry. I refused-- confused him with Rob Natelson-- excuse me, that's the wrong article. Rob Natelson. The phrase "our democracy" has become ubiquitous in the progressive political output. Oh, Nancy Pelosi, for example, and Kamala Harris. But you shouldn't confuse our democracy with real democracy. The initial modifier serves to debase the noun, much as sub-- subhuman means less than human or social justice rationalizes acts of individual justice. Conservatives sometimes answer the phrase "our democracy" by responding, et cetera, et cetera, et cetera. But they miss the point. Our democracy as the people use that word nowadays, is not any kind of democracy at all. You know why? Because these nonprofits, not all of them, but the ones with the money and the ones that have ulterior motives, have more say than we do. Our democracy is different. Only some kinds of violence are threats. Black Lives Matter, for example, gets to riot all summer in 2020, not held responsible. And the media lends into that. Why? Because the media is owned by a lot of nonprofits that have ulterior motives. Progressives, they call it, used to be called Marxists, and that's spreading throughout every town and legislature and Congress. And that needs to be stopped. A couple from Mr. Hammer. Sort of agrees with Rob Natelson. It's no longer a democracy. It is a nation bedeviled by a monolithic, intellectually homogenous oligarchy that seeks to subjugate dissenting deplorables by any means necessary. American oligarchy is when a duly elected president is stymied from day one by cynical ruling class fabulous concocting a false story, et cetera, et cetera, et cetera. Now I realize you people are very busy and you don't get to look at the sources that I do, but the Omaha World-Herald is one of those progressive oligarchs owned by somebody else, it's not locally owned anymore. It used to be a great newspaper. But I'm going to end my comments with this: They themselves are defeating us again

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on the concept of a convention of states. I won't go any more into that. But your concept of the convention of states, and I've sent you emails on that, is the wrong concept. You need to study Article V and think about the Founding Fathers. Thank you.

M. HANSEN: Thank you. Take our next proponent.

GEORGE BOLL: Good afternoon, folks.

M. HANSEN: Welcome.

GEORGE BOLL: My name is George Boll, G-e-o-r-g-e B-o-l-l. I'm an American citizen residing in the state of Nebraska for 65 out of 67 years. For the record, I am not a U.S. citizen and I am not-- please do not put my name in the record all capitalized as a U.S. citizen would. Thank you. Now I'm actually representative of some of some people that you don't see here, because this is the first time I've ever come down to Lincoln for a hearing meeting. OK? And I guess the best way to say it, as I probably represent the people that a lot-- the people in Lincoln and Washington bloviate about politics, and we would just prefer to do our job and go about our business and figure out how to deal with what happens in these centers of capitalism. But things have happened-- I actually retired, thankfully, 10 months ago, so I do have a little more time on my hand now. And I have seen some things happening on the political landscape that have actually gotten my attention because I have children and grandchildren that I am concerned about what this country is going to be like in their future. And that is why I'm here. One of the things, as I became aware, and I'll tell you about me personally, I found out it's really easy to do this. I just asked God, what do you want me to do? And if he tells me to do something, I obey it. And then he tells me what he wants me to do next. Well, one of the things he told me to do was go to a Sarpy County GOP meeting in October where Bob Evnen spoke, and he talked about these \$400,000 "Zuckerbucks". We'll just use that term. And I became kind of concerned about that. So I heard him speak again about three weeks later at a Young Republicans meeting in Omaha. And I got the chance to ask him, well, do you know what happened to these \$400,000 of "Zuckerbucks"? And he said, no, I don't know. Well, so I actually did some PRRs on it and found out a little basic information. But the basic information that I, as a public citizen can get is very limited. But I have been told that once in a very great while, the Executive Board of our Legislature might actually investigate what happened. And I believe that this is a matter that we don't need just this law, which I am in favor of, because this law to me, is a slap on the wrist. Don't you guys do that again, OK? Republicans and Democrats

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don't do that again. Well, Senator Hansen, you asked a question of Senator Clements and I basically wrote it down. We were talking about Wisconsin, where my understanding is the mayor of, of Green Bay and the mayor of Madison are currently under subpoena to testify. And they are not answering that subpoena or might be in pretty big trouble regarding those "Zuckerbuck" money. But you did ask a question about Wisconsin, and you asked Mr. Clements if he actually knows what happened with the "Zuckerbuck" money in Wisconsin. My question is this, what happened with the "Zuckerbuck" money in Lancaster County? We have-- that money was offered to Douglas County and Sarpy County and they had the, they had the-- they were responsible enough to say, you know, we don't think we need to take that. But Lancaster did, and this group of people can actually encourage the Executive Board to go ahead and have a legislative investigation done. I've been told that by just recently, two days ago, by our Lieutenant Governor as I saw him in a meeting. Now I do want to say I'm glad this is on the record because I have-- one of the things I got involved with was canvassing in Douglas County, and I am aware that there's some canvassing has gone on in this county, Lancaster County, that actually there raises some real big questions about people receiving more than one mail-in ballot. Not requests, but ballot. And those are investigative things that this legislative chamber needs to know about and start asking questions. And they should actually say what actually happened to the "Zuckerbuck" money in Lincoln and this county. Thank you.

M. HANSEN: Thank you for your testimony. Senator Blood.

BLOOD: Thank you, Chair Hansen. I'm sorry, I didn't catch your name.

GEORGE BOLL: George Boll.

BLOOD: George, thank you for testifying. George, when that money was received, it was actually discussed in one of the public meetings. And a lot of those funds, would you be surprised to find out that it went to PPE equipment?

GEORGE BOLL: I do know that.

BLOOD: You did know that?

GEORGE BOLL: I'm aware of that. That's one, I actually--

BLOOD: OK.

GEORGE BOLL: Like I said, I put out a PRR and I actually got a reply to my PRR. Correct.

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BLOOD: Did I miss that in your testimony?

GEORGE BOLL: I think you did.

BLOOD: OK, so you did say that you were aware--

GEORGE BOLL: I did say that I put out a PRR on it.

BLOOD: Oh, but you didn't say what you found out from the PRR.

GEORGE BOLL: Well, I mean, I actually-- I had my thing here. I found, I found out a general money where it broke down the \$404,000 into \$266, \$134 and, and, and some other, you know, four different broad categories.

BLOOD: Right. But the vast majority of it was for PPE.

GEORGE BOLL: Four different, very broad categories. And there are other ways of looking at it through the audit system that they have in place also.

BLOOD: Right.

GEORGE BOLL: I do know that.

BLOOD: And the state does audit. Yes.

GEORGE BOLL: But there are actually should be minds that are much smarter than me that know the right questions to ask, that have the legislative power to say, we want to know, we want to know a little more specific what happened. Because these people that are getting a slap on the back, how do I know that some of them might actually need a handcuff to the wrist?

BLOOD: Well--

GEORGE BOLL: And they might actually have-- and that doesn't mean go to jail, but there might be some actual fines that they actually broke some laws and it needs to be dealt with.

BLOOD: But that is why the state audits municipal, county entities and state entities. So we can catch, I mean, a really good example is Alvo, Nebraska. I mean, they've been audited and, and vested several times. And so we do find that part of the system that's in place is working. But I appreciate the fact that you did look into it, and as did I when it happened. And I think the information you're getting is

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actually a lot more accessible, perhaps, and our office would be happy to help you get the exact information.

GEORGE BOLL: I appreciate it. And again, I hope the legislative people, the Executive Board especially, will consider looking at this much closer. And by the way, Senator Blood, I do have a copy of that contract that I will send you a copy of too. And I will send you the six, show you the six areas that I have much concern with also.

BLOOD: I actually have reviewed the contract multiple times.

GEORGE BOLL: Great. Fantastic. Appreciate it.

BLOOD: Thank you.

M. HANSEN: Excuse me, sir. I think Senator Hunt has a question of you.

GEORGE BOLL: I'm sorry. I didn't realize that.

HUNT: That's OK. What country are you a citizen of?

GEORGE BOLL: What country am I citizen of? United-- I'm an American citizen of the state, residing in the state of Nebraska.

HUNT: What were you saying in the beginning of your testimony about how you're not a citizen?

GEORGE BOLL: I'm not. I am not a U.S. citizen.

HUNT: OK.

GEORGE BOLL: OK. For the record.

HUNT: What does that mean?

GEORGE BOLL: You know what? There's a-- we could, we can have a long legal discussion over that, that I would tell you I don't know all the answers to. So let me just tell you that right now. I am learning what that means. You're welcome to learn what that means too. Google it.

HUNT: Thanks.

M. HANSEN: Thank you, Senator Hunt. Thank you, sir.

GEORGE BOLL: Any more?

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M. HANSEN: Nope, I believe we're done. Thank you. Thank you for your testimony. We are still on proponents for LB858. So we'll invite the next proponent up.

FANCHON BLYTHE: Thanks. Hello, my name is Fanchon Blythe. You have my spelling. I'm here support of LB858. I'm here to speak about the "Zuckerbuck" money. Mark Zuckerberg has donated close to \$400 million in 2020 across the country. It was through Center for Tech and Civic Life out of Chicago. From there, mainly blue cities and counties were educated on how to write grants so they could receive, receive the "Zuckerbuck" money. Sean Flowerday, the Democratic chair of our Lancaster County board, had a grant written from his office to accept, accept "Zuckerbuck" funds. Lancaster County accepted over \$404,000 for the primary and general election. Outside money should never be brought in to influence elections at any level. Myself and many others have concerns for our future elections. Lancaster County had over 11 unsecured dropoff boxes. All but two were placed in the libraries. I own a salon in town and one of my clients was at one of those libraries that day, and a gentleman was, I'll use the word, stuffing the ballot box. When I heard that, I called Shively's office, he said, Fanchon, that's legal to do in Nebraska. I said, this crap needs to stop. After hearing this, OK, I was told that it is legal. So they gave me an example. People go and pick up ballots, for instance, from nursing homes. What an idiot. When this happens, you lose chain of custody and then ballot harvesting occurs. I personally believe these ballot boxes that were set up created a corrupt outcome within our 2020 City Council and other seats for Lancaster County. That's me personally saying that. There have been many public records requests and FOIAs done on these "Zuckerbucks" money, and that's how we found out about it in Lancaster County. Otherwise, we wouldn't even have known about this money. And it's, it's very broad, Senator Flood [SIC], where this money was spent. I have seen it. You say PPP? Yes, but a couple hundred grand? I want to see through a FOIA request, and I know my friends have tried, to break this money down with no luck. And then Senator Flood [SIC], when you talk it out about dark money, do you consider dark money when then candidate Eliot Bostar, ran for LD29, my district? His war chest came mainly from the east and west coast, over \$600,000 to run for an LD seat. That's ridiculous. The same thing happened with our Liberal Democrat mayor here in Lincoln. Her money came from the east and the west coast. I don't know. I just think it's all wrong. Any questions? Yes?

M. HANSEN: First and foremost, we do need you to spell your name on each bill. It's for the transcribers.

FANCHON BLYTHE: F-a-n-c-h-o-n B-l-y-t-h-e.

M. HANSEN: Thank you.

FANCHON BLYTHE: Senator Hunt.

M. HANSEN: Yeah, Senator Hunt. If you don't mind.

HUNT: Thanks, Ms. Blythe, for being here. Do you know, in October 2020, when Donald Trump had a rally in Omaha that they had ballot collection boxes at that rally? And--

FANCHON BLYTHE: Where were they? I was there.

HUNT: They, they were there.

FANCHON BLYTHE: I was there. I've been to nine Trump rallies.

HUNT: Do you think that he had ballot collection boxes?

FANCHON BLYTHE: I never saw one, ma'am, and I was in the VIP for that.

HUNT: OK, well, there were. But--

FANCHON BLYTHE: Show-- give me pictures.

HUNT: This isn't the forum for me to share that with you, but you can do some research on that. But would you have a problem with something like that with a campaign collecting--

FANCHON BLYTHE: Sure, I would.

HUNT: --ballots from people?

FANCHON BLYTHE: I think we all should go in and vote the day of.

HUNT: OK.

FANCHON BLYTHE: You know.

M. HANSEN: Thank you. Senator Blood.

BLOOD: Thank you, Vice Chair Hansen. So for clarification, my last name is Blood, like what courses through your body. Not flood. So you called me the--

FANCHON BLYTHE: Oh, I'm sorry.

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BLOOD: --the incorrect name twice.

FANCHON BLYTHE: He's on my mind lately.

BLOOD: I don't even want to go there. So I appreciate your enthusiastic testimony, but I think that the one thing I would encourage you to do if you've not done so already, and this is the question I have for you, is that you do know that all nonprofits have to have public reporting.

FANCHON BLYTHE: Sure, they do.

BLOOD: OK, so the, the organization that we keep referring to and the "Zuckerbucks" or whatever ridiculous phrase people are using, the vast majority of the money actually clearly went to Republican-leaning areas. So you're saying you don't care if it's Republican or Democrat, nobody should get the money, right? Is that what I'm hearing from you?

FANCHON BLYTHE: I don't think outside money should influence our-- my local election in Lancaster County. And do you consider Lancaster County a, a blue or red? I mean, our state is red, but our city is blue, and that's where the money came.

BLOOD: I have to say that I think that the partisanship in politics is out of control on both sides.

FANCHON BLYTHE: Amen.

BLOOD: And I'm quite frankly sick of this us versus them narrative, so I'm probably the wrong person to to pose that question at. But I would say the last question I have for you, is that if, if you feel that grant money is influential, have you ever testified in favor of the dark money bills that have keep coming in front of this committee, where we have clear evidence that there have been campaigns influenced and you've told me your opinion about the Lancaster one. There are clearly people that are sitting in this Capitol today who are here because their campaigns were definitely influenced by dark money, outside organizations, wealthy people who want to make sure that folks win in Nebraska so they are consistent with what they believe.

FANCHON BLYTHE: You must be talking about Senator Bostar.

BLOOD: So ma'am, I'm really having a serious conversation with you and asking a--

FANCHON BLYTHE: I'm trying to.

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BLOOD: --question. I'm not going to sit here and list all the people that I know that were influenced by dark money.

FANCHON BLYTHE: I think they're on each side, ma'am.

BLOOD: And so the question I have for you, for it again, if indeed we're going to be doing this hearing the way we're supposed to be doing, is I'm asking you, I don't remember ever seeing you coming and testifying against dark money bills. Can you explain to me, please, why you think one is more detrimental to our voting than the other?

FANCHON BLYTHE: Well, I'm new to all this and I'm going to find out about that, those bills.

BLOOD: OK.

FANCHON BLYTHE: And I will be down here if I can rearrange my salon schedule. Because I believe in we the people speaking in front of our elected officials.

BLOOD: I would concur and I would encourage you to--

FANCHON BLYTHE: Do you have a bill name, number?

BLOOD: I would encourage you to contact my office, we'll get you the bill number.

FANCHON BLYTHE: I'll go there after this.

BLOOD: And let me know that that dark money bill is stuck in committee--

FANCHON BLYTHE: A lot of bills are stuck in committee.

BLOOD: --because people won't vote it out because we know that many people wouldn't be here with dark money.

FANCHON BLYTHE: Well, a lot of bills are stuck. Definitely. On both sides.

BLOOD: So I urge you to come back.

FANCHON BLYTHE: I will. I'll run down to your office right now.

BLOOD: It's upstairs in the tower, actually.

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M. HANSEN: Thank you. All right, we'll take our next proponent on LB858. Last call for proponents. All right, with that, we will switch to opponents to LB858. And just as a housekeeping matter, since we've gone for-- till we're already hitting four o'clock. We still have two more bills. We'll take a five or 10 minute break in between this bill and Senator Groene's bill after this, just for staff and for everyone. Just so that's aware.

JOEY LITWINOWICZ: I'm sorry.

M. HANSEN: It's OK.

JOEY LITWINOWICZ: I haven't figured this out yet. I will at some point. [INAUDIBLE]. My name is--

M. HANSEN: Just a moment. Excuse me, everyone. Excuse me, everyone, we're still doing the hearing. So if we could just have the audience be quiet for the testifier. And if you'll go ahead, we'll start your five minutes now.

JOEY LITWINOWICZ: Also, I don't think I'll be disruptive from time right now, but we really ought to mind the ADA act and how it applies here for people with some dis-- disabilities speaking for the committee. My name is Joey Litwinowicz, J-o-e-y L-i-t-w-i-n-o-w-i-c-z. And, I mean, I don't know if we have to be beyond reproach. Why can't we-- maybe we make this donation money anonymous somehow. It could be funneled and people can do anything with the money and doesn't care who it belongs to. So why can't we just, you know? Just a thought, that's not really what I was getting into. Neither is the fact that we're a plutocracy, near as I can tell, in my opinion. And you know, that's the, you know, I was going to vote for McCain. And I was all set because just merely because of campaign finance reform and then "Draft-dodging W", you know, didn't really do anything. And then when it comes to Pelosi and McConnell, my god, I really support Pelosi's agenda for the most part. But she is only slightly less scary than Mitch McConnell, who I'm convinced he's going to "Palpatine" at any moment. Anyway, so I'm going to get started. You know, I guess I did start. I guess maybe I'm hormonal. I had to stop my hormone therapy because I have a high risk for clots, and so the people who I love said will have to think about you differently if, if you continue to do that. So it's nice that we can supply food and beverages. It's cool. Dark money, I mean, it would probably most likely have little fortunes inside the, inside the meals, happy meals. Anyway, I guess I'm done. This, this bill annoys the hell out of me. Or again, in the

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context of-- it don't matter. Thanks for letting me speak, and if there are any questions, that would be awesome.

M. HANSEN: Thank you.

JOEY LITWINOWICZ: Thank you. We'll get one someday.

M. HANSEN: Sure.

JOEY LITWINOWICZ: OK, thanks, guys. I really, with respect thank you. And have a great-- I mean, you don't have to buy coffee if you bring the mother lode.

M. HANSEN: All right, thank you. With that, we'll invite up our next opponent. Westin, if you don't mind moving the chair up. Feel free. Hi, welcome.

WESTIN MILLER: Senator 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 director of public policy at Civic Nebraska. We engage in such liberal conspiracies as encouraging voter registration and teaching students about the legislative process. I'm here in opposition to LB858, though I am very grateful to Senator Clements, truly, and the Secretary of State's Office for starting this conversation because obviously it's timely, it's sensitive and I think it's important we have the discussion now. That being said, our opposition is very simple. First, I want to make sure we're all on the same page about what private money in elections in this context actually means. We are not talking about the NRA or Planned Parenthood buying ballot counting machines, right? We're talking about the Center for Tech and Civic Life paying for PPE during a pandemic, which is an extra expense. There is no private organization purchasing essential election equipment. So we need to be clear that that's not what we're talking about. Second, I want to make sure we're all staying, I think, rooted in reality in terms of what is actually possible with private money in elections. And I think I toe the line here of being a little condescending, but this bill sort of seems to miss a crucial point, which is that just because a private entity is offering to pay for something does not mean that a county election official has to accept that money. We've talked about all these nasty strings that are attached. The solution to which is: don't accept the money in the first place. If I call Dave Shively and I said, hey Dave, I'm going to pay for a thousand clipboards for Election Day and they're going to have pictures of my face on them. Dave just says no, and he hangs up on me, and that's the end of that. That's-- no, commissioners are not going to accept this kind of money

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if it's attached to ridiculous or unsafe requests. Third, I think just to flag the logic kind of as an aside, if you do support this bill, which is fine, I hope you're ready to vacate your support for all public-private partnerships, period, because that's what we're talking about is banning the public-private partnership because it's for an essential government function. Maybe you're OK with that. Great. I would just, of course, ask that you be consistent. And finally, and I think this is very important. I truly do believe that the future of voter suppression, not like hypothetical, like real actual voter suppression, the future of voter suppression is defunding elections. Now, it would violate all sorts of laws, as was laid out earlier, to not-- to just like refuse to compensate counties for their expenses, right? I understand that. But the future fight is going to lie in our definition of the word adequate. What does it mean to adequately fund elections? I think we cannot just dismiss the possibility that a future Appropriations Committee or a future executive branch or a future Congress or the current Congress would just choose not to fund our elections to the level that we in this room know that we need. And that's when, at least in theory, I think private money could really come through in a pinch. So those are our concerns. I get that this sounds sort of weird. I think the, the whole like blue counties benefit thing is very easy to, to talk about if folks want to ask about that. Otherwise, I just, I hope we stay rooted in what this money is actually used for and what the limits actually are and I think the future downsides of a blanket ban. So I don't think LB858 is the way to go. Thank you for your time, and I would be happy to answer any questions.

M. HANSEN: Thank you, Westin. Senator Halloran.

HALLORAN: Thank you, Vice Chair Hansen. Thanks for your testimony. I'm just curious, since we're talking about funding. Civic Nebraska, did you receive anything from the Center for Tech and Civic Life?

WESTIN MILLER: No. Like grants, you mean?

HALLORAN: Where do you get most of your funding?

WESTIN MILLER: We're funded through a combination of foundations, private donors, some earned revenue.

HALLORAN: Warren Buffett, does he fund any of Civic Nebraska?

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WESTIN MILLER: I don't know about Warren. We, we do get money from the Sherwood Foundation, that's public knowledge, which would be Susie Buffett technically. But yeah, absolutely.

HALLORAN: Thank you.

WESTIN MILLER: Sure.

M. HANSEN: Thank you, Senator Halloran. Can you speak to-- you alluded to it, can you speak to, I guess, any sort of partisan advantage or disadvantage--

WESTIN MILLER: Yeah.

M. HANSEN: --that we've seen?

WESTIN MILLER: Yeah, absolutely. I think there's a little bit of kind of the quiet part being said out loud here, sort of an accident, which is the implication that because turnout goes up in metropolitan areas, then Republicans start to lose elections. That's, that happening is way different than that being done on purpose, like as the result of a grant. None of us have any control over, like if turnout in Atlanta goes up, is that good for Republicans or Democrats, right? Like the-- what we as a-- or you as a body, we as a, as a group of informed citizens have to be very careful about is like, is that money being intentionally spent for that purpose? We're going to elect Democrats, right, with this nonprofit money. That's not OK. In the case of early voting, this is really easy to talk about. The study that's been referenced by two different testifiers referred to Wisconsin and the huge increase in turnout that happened-- or vote by mail turnout that happened between 2018 and 2020. What they do is they state those numbers and say, look, the difference-maker was that grant from the Center for Tech and Civic Life. I would also remind folks that that's when the pandemic happened. It wasn't happening in 2018 for that election, it was happening in 2020, full swing. That's the difference. In every single state where vote by mail is at all accessible, those numbers skyrocketed. The reason the CTCL money was introduced in the first place was to recognize that this brings on new single-time expenses. We know for sure that vote by mail long term is actually more efficient financially than in-person voting. But the first time, let's say, a precinct or a state converts to all vote by mail, very expensive for that first time. To incur extra early voting costs, you have to have an increase in early voting requests. And I say this, just this is just a fact in the news, there was one leader of one party that was spending a lot of airtime publicly eroding trust in the

early voting process. That's just a thing that was happening. So of course, that's going to have disparate impacts in what kind of voters use what kind of system. The Center for Tech and Civic Life does a lot of really important work about the role of technology and design in elections. I totally understand that we should be correctly very skeptical of any private money in elections, but asking those hard questions. And I think that one of the testifiers earlier alluded to the fact that, you know, we have, we have the receipts. Like the allocations are not secret. We can see exactly where they went. They went to PPE and extra early voting costs. So it's not a conspiracy. It's, it was a, it was a cost that I think was well-covered. In our case, we returned the money because we didn't need it.

M. HANSEN: Thank you, Westin. Senator Halloran with a question.

HALLORAN: Yeah, thank you, Vice Chair Hansen. Another question real quick, did Civic Nebraska canvass early voters and help them or encourage them in filling out their ballots?

WESTIN MILLER: We don't help anybody fill out their ballots, no way. We encourage folks to register to vote. We have, like we use our website to say like, hey, if you want a link to register to vote by mail, you can do that. But no, we definitely do not help anybody fill out ballots. That's against a lot of rules.

HALLORAN: Thank you, Senator Halloran. Seeing no other questions, thank you for your testimony.

WESTIN MILLER: Thanks.

M. HANSEN: All right, with that, any other opponents to LB858?

DANIELLE CONRAD: Hello, good afternoon. My name is Danielle Conrad, D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d, I'm here today on behalf of the ACLU of Nebraska, and we oppose this measure. I do want to congratulate Senator Clements, though, because I think he has brought together, rightfully so, all across the political spectrum an opportunity to maybe dunk on Big Tech a little bit and rightly bring forward our skeptic-- skepticism about the role that plays in our lives and in our democracy, and the implications for, for things like voting rights. So that's definitely a bright spot, and I look forward to continuing the conversation with him and others about that. But we oppose this measure. We believe it's overly broad. We believe it's vague. We believe it discourages public-private partnerships, which sometimes are most useful when they need to be the most nimble, like

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an onset of a pandemic that wasn't previously, of course, budgeted for or accounted for in a host of different capacities. And sometimes, private philanthropy can move more quickly to assist in meeting community needs and providing partnerships where appropriate with, with government entities. So that's exactly what we saw happen in, in 2020, for example, and in city elections in 2021 or off-year elections in 2021. There were a host of innovations being utilized and a host of voter engagement and outreach strategies being utilized to help facilitate voting rights, so no one has to choose between their vote and their health. Right? So I think that there's definitely lessons to learn from that experience. And of course, Nebraska is not alone. In reports that I have seen, jurisdictions in 49 out of 50 states at one point or another utilized some sort of public-private partnership to facilitate voting rights. I think again, when you look at money and political speech and private philanthropy, it again may raise some important First Amendment concerns that we'd be happy to talk with the committee and Senator Clements about a little bit more so. Again, we all care about free and fair elections. We have those in Nebraska, thanks to a strong legal framework, Nebraskans taking their civic duty seriously and awesome local election workers. The one thing they do want to note, though, that I think is troubling about a measure like this is that it seeks to perpetuate the big lie. It seeks to undermine trust in our democracy and in our voting systems. And, and I think that's wrong. I think that we can and should have an honest debate about always seeking continual quality improvement in all governmental functions. But we have to be able to start from a basic set of common sense and common facts. And we have to recognize that it's not necessarily about results and outcomes, but it's about ensuring the right of eligible voters to participate in our democracy and government should-- shouldn't have its finger on the scale there. It's the power of the people. It's an individual liberty, freedom and right, and that's where we need to keep the focus. And I think the last piece, my friend Westin did a great job clarifying some of the other pieces here. But it's just a broader issue about election funding. And we know, for example, in very, very recent dialogue that election officials of all different political perspectives have petitioned Congress, for example, for additional election funding. And those appropriations have come in woefully under what election officials again of all different political persuasions have requested as sufficient to help modernize, improve, update and strengthen our democracy. So I think that has to come into play in discussion as well. Happy to answer questions.

M. HANSEN: Thank you. Are there questions? Senator Halloran.

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HALLORAN: Thank you, Vice Chair Hansen. Thank you, Ms. Conrad.

DANIELLE CONRAD: Hi.

HALLORAN: Have you ever been thrown in Facebook jail?

DANIELLE CONRAD: I don't think I have. And I know probably why is because I kind of scan it, but I rarely post.

HALLORAN: That's my problem--

DANIELLE CONRAD: OK.

HALLORAN: --I probably post too much. But you mentioned First Amendment.

DANIELLE CONRAD: Yeah.

HALLORAN: It's not a whole different subject, but it's an important subject because it lends itself to-- too many people have been thrown in Facebook jail for just freedom of speech.

DANIELLE CONRAD: Yeah.

HALLORAN: Freedom of speech.

DANIELLE CONRAD: Yes.

HALLORAN: Fact-checkers go crazy and these fact-checkers have no, really no authority.

DANIELLE CONRAD: Yeah.

HALLORAN: And very little credibility, in my estimation to do that, to set someone's free speech off. The reason I'm bringing this all up, it, it to me, it colors the character of Mr. Zuckerberg. His motives aren't necessarily the fact that he shuts down freedom of speech on his own platform--

DANIELLE CONRAD: Sure.

HALLORAN: --his, his motives, his political motives aren't exactly pure. And so that's why some of us are very skeptical of private money being involved. And it's not a private voting system.

DANIELLE CONRAD: Right.

HALLORAN: It's a public voting system.

DANIELLE CONRAD: Right.

HALLORAN: All right. And so that's, I think, where a lot of us are very skeptical about private moneys--

DANIELLE CONRAD: Sure.

HALLORAN: --having any involvement, whether it went for PPE-- and I'd like to see how that was itemized, maybe it was PPE, maybe it was not. I don't know. But we shouldn't have to-- we shouldn't have to be put in a position to have to try to audit that to find out where it really went. But here we are. That money's in place. Where it went, what it did is, is of question in and in doubt. But Mr. Zuckerberg's motives to me are very clear by the fact that he shuts people off on his own platform. I know that's more of a statement than a question.

DANIELLE CONRAD: That's OK. No, that's OK. I think there's so many really interesting and important issues to untangle there about Big Tech and social media and the First Amendment. And I, I really look forward to continuing, because I think we'd probably have a lot in common as we look at those issues. But I'll tell you, on the flip side, I think that is exactly my, my very general reference about being vague and broad is something that I want to lift out. While there's no doubt some strongly held beliefs and opinions in here about Mr. Zuckerberg and his private philanthropy and his political motives, which I can't speak to. I'm not in his head or his heart. But think, for example, what a restriction like this might mean for a community foundation, right? Like in Nebraska, that might want to spring to action to be helpful for any number of reasons. Right? I think that's something that has-- we have to think about, right? Philanthropy isn't just Mark Zuckerberg, right? It takes a lot of different shapes and forms. And I think it gets really tricky when government starts to pick winners and losers based upon somebody's political perspective and their right to participate in private philanthropy.

HALLORAN: A quick question. Do you think we can get once where-- maybe we'll never get past a pandemic? It seems like we're just in this--

DANIELLE CONRAD: I know, it's-- we're all weary.

HALLORAN: Well, we're all weary. But you know, some of it gets to be perpetuated for, you know, who knows, ulterior motives. But I'm looking forward to the point where we don't have a pandemic--

DANIELLE CONRAD: Yes.

HALLORAN: --and be-- the, the opportunity to get back to a more traditional voting system in which people just actually show up and vote, right? And not have these, these drop boxes that frankly aren't watched very closely in many instances, who knows how they might be abused? But do you look forward to us getting back to normalcy and not just from a pandemic perspective--

DANIELLE CONRAD: Oh yes.

HALLORAN: --but from a voting perspective, right?

DANIELLE CONRAD: Sure. And I, I, I enjoy voting in person. I have really fond memories of connecting with our local poll workers and having it be a family affair and having it be a festive kind of, kind of thing to do. I have utilized vote by mail over the years for different reasons for work or when I was a student or for public health considerations or daycare headaches or whatever. So I have utilized both options in that regard, and I think there's always going to be a lot of folks that like to have that energy and activity on Election Day and like to go in and cast their ballot in, in that fashion. But what we've seen pre-pandemic and post-pandemic is also an appetite from voters across the political spectrum and across the country to utilize vote by mail for a lot of different reasons. Might be a disability issue, a health issue, a work issue? Some folks I know like to take a little bit of extra time with their ballots at home and do some research and things like that. So we, I think pre-pandemic we saw significant increases in vote by mail, almost cycle after cycle. And then it really, of course, went through the roof during the pandemic. And I think you're right, hopefully we'll come through this at some point in time and can return to some sense of normalcy. But I think it also helps us to carry lessons forward. You know, what if there is a natural disaster, what if there is something else that pops forward that we need to allow for nimbleness around to allow people to partner with private philanthropy and government to carry out critical functions?

HALLORAN: Thank you.

M. HANSEN: Thank you, Senator Halloran.

DANIELLE CONRAD: OK, thank you.

M. HANSEN: Seeing no other questions, thank you.

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DANIELLE CONRAD: I might be on Facebook jail after this. I don't know.

M. HANSEN: All right. Any other opponents to LB858? See-- last call. All right, seeing none, anybody wishes to testify neutral on LB858?

SHERI ST. CLAIR: Thank you. I think I'm the first neutral this afternoon. I'm Sheri St. Clair, S-h-e-r-i S-t. C-l-a-i-r, and I vacillated between opposition and neutral, and this is purely selfish on my part. I've been a poll worker. I was a poll worker last fall during the pandemic in Lancaster County, and I, for one, was very appreciative of all the PPE equipment that was provided to us at the polls. I took full advantage of hand sanitizer, extra pins, N95 masks and came through that successfully. So I think we need to be aware that there are gray areas in this. There are gray areas in any public-private partnership and I just would express that I'm glad that we had some extra money last fall.

M. HANSEN: Thank you. Any questions? Seeing none, thank you. Have the next neutral testifier.

JENNIFER HICKS: My name is Jennifer Hicks, J-e-n-n-i-f-e-r H-i-c-k-s, and I'm going to start a little different than I had planned with this because apparently there seems to be a lot of, I would say, misinformation about how this "Zuckerbucks" money, if you will, was spent. Everyone seems to think that a lot of this money went to PPE, and not one red cent of it did. Not one penny went to PPE of this, of this grant. And so I know that because there is a CTCL COVID-19 response grant report because a condition of the receive-- receiving this grant was that Lancaster County, this was-- has the name of David Shively on it, was to submit a report to show how this money was spent. It was \$404,000-- or, yeah, \$404,585.50. And every single penny of it is accounted for in this report. Ballot drop boxes, \$10,940.03; drive through voting, zero; personal protective equipment, PPE for staff, poll workers or voters, zero; poll workers, recruitment funds, hazard pay and or training expenses, zero; polling place rental and cleaning expenses, zero; temporary staffing support, \$110,121.26; election department real estate costs or costs associated with satellite election department office was \$1,500; vote by mail absentee voting equipment or supplies was the bulk of it at twenty-- \$266,197.84; election administration equipment was \$2,002.39; voting materials in languages other than English, zero; nonpartisan voter education, \$13,823.98. And that accounts for every single penny of that grant money spent. Not one penny of it did they report was spent for PPE. So that is not what I came to speak to you about, but apparently there are some myths out there that this money went towards

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PPE, and according to David Shively in his report on how they spent those funds, that's not the case. And what I came to talk to you about is that LB858 seeks to secure our elections from undue influence from private organizations and individuals. And the larger problem, I think, is that our elections are suffering from undue influence of the federal government. On January 6, 2017, the Department of Homeland Security designated elections to be part of critical infrastructure. The involvement of DHS in our elections is unconstitutional. States should have governance over their own elections, and the takeover of elections by DHS under the guise of providing cybersecurity is an unconstitutional intrusion into our state elections. Why do we even need cybersecurity if our, if our machines don't-- we're constantly told our machines don't connect to the internet? And if there's no internet access anywhere, there's no cyber component to our elections, DHS has considered this part of our critical infrastructure, it's foundational to our country's security that they monitor this part of our elections. And so we have concerns because as I brought up earlier the contract with the ES&S appears to violate our state constitution, violates our right to a free election and ES&S has a long history of having the security of the services they provide called into question by both Democrats and Republicans. All Nebraskans should be concerned that the contract that currently exists between the State of Nebraska and ES&S denies us the transparency that is necessary for us to guaranteed-- be guaranteed that our votes are counted as they are cast. The ES&S contract with the state contains within it terms which would bind the state to silence and not permit the public to know the results of any security testing. So if any insecurities in our voting system are uncovered, the state has agreed not to tell the voters about it. This violates our constitutional right to a free election, and I call upon every senator and all elected officials in our state to ask Attorney General Peterson to speak to the constitutionality of this contract before the next election in May. And there are similar nondisclosure terms have been part of ES&S contracts dating back to at least 2006, and ES&S has a history of fighting to prevent transparency of the election services they provide when the security of it has been called into question. So these are very real concerns and I implore every senator to do your do your duty, uphold your oath. If the Constitution matters to you at all, then you need to call on our Attorney General to look at this contract, render an opinion to the Nebraskan-- to the Nebraska voters as to whether or not this is constitutional or not. I believe it's not. And then if we find that it's unconstitutional, we need to get ES&S out of our elections before the primary in May. Because what does it say about us as people and what does it say about our elected officials if we proceed forward

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with an election that we know is unconstitutional? I refuse to give up that right because I know that once rights are relinquished, we don't get them back. And so I'm going to continue to bother every single one of you elected officials, every single one of you until, until I get this addressed. Every, every Nebraskan deserves the right to a free election. It's in our constitution, and I believe it's in violation.

M. HANSEN: Questions from the committee? Seeing none, thank you for your testimony. Anyone wishing to-- excuse me, any other neutral testifiers? Seeing none, we'll invite Senator Clements up to close. While he's coming up, I will read into the record we do have position letters. We have 16 proponents, 4 opponents and 1 neutral; 16-4. With that, Senator Clements, you're welcome to close.

CLEMENTS: Thank you, Vice Chair Hansen. Just be brief. LB858 is not creating distrust in elections, as someone said, I will-- I believe the bill is creating trust and transparency. Many Nebraskans have questioned our election integrity, and I'm hoping that this bill will improve that regarding shortages of funds have been mentioned. Mr. Bena said Nebraska had an excess of funds, and I don't think there was a problem with that in Nebraska. And if there is a need for, a need for funds, grants could go through the appropriation process here to allow public notice and comments about the funding. And mainly the bill is brought to avoid the appearance of impropriety in Nebraska elections. Thank you.

M. HANSEN: Thank you. Questions from committee members? Seeing none, thank you. This will close the hearing on LB858. As I said before, we're going to take a short break. About 4:31 by my count, so we'll come back at 4:40. We'll take a break till 4:40.

[BREAK]

M. HANSEN: All right. Great. We're, we're back on. Welcome back, everybody. Moving on to our last two bills for the day, and we have Senator Groene here to present LB785.

GROENE: Thank you, Vice Chair Hansen. LB785 reduces the amount of time to vote by mail from 35 to 22 days and the time to vote in person from the election commissioner-- before the election from-- in front of the county, in the county clerk's office from 30 days to 22 days. I picked 22 days because it matches the 22 days presently allowed for special elections under Statute 32-953. It also states they're not sooner than, and we changed that language also to harmonize the days and the language. Because if you look, that's different. In addition, the bill

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states that a registered voter could appoint an agent to return a marked early voting ballot. It's basically-- it is Senator Halloran's LB362. We talked to him about being a little bit redundant and combining the bills because they're together, even though his bill still exist. The agent can only act as an agent for no more than two registered voters in an election. Finally, it would be-- bar a candidate or any person serving on a campaign committee from serving as an agent to return a marked early voting ballot unless the marked early voting ballot to be returned for a member of the candidate's family or member of the candidate committee's family. The goal is to harmonize the early voting periods to limit voter confusion and to give more focused window for voters to assess candidates and issues. Everybody would know any mail-in ballot is 22 days, also election officials. It would just harmonize that amount of time instead of different elections, different time periods. It reemphasizes the honored tradition of voting in person on the first Tuesday of November, enhancing voter integrity and limiting the opportunity for ballot harvesting. There's absolutely no reason that in America, and if an early-- if a, if a local ballot initiative can be mailed out and returned in 22 days, so can a general election ballot. They're mailing it to the same people. To get a ballot and fill it out and mail it back in doesn't take 35 days. Ballots shouldn't be laying around on kitchen tables, on dressers. They should be-- it's a legal document, they should be received, filled out and sent back in. As to the second part of the bill, the stories are out there, you know, hearsay, what you want to say or of-- and in the bigger counties where huge amounts of mail-in ballots were dropped off in the last day. There wasn't big, long lines at these drop boxes. They were dropped in chunks. This would stop it because you can only return one ballot or two ballots under Senator Halloran's or a family member's. It's voter integrity, it's election integrity is what I'm after here. And even if you don't think anything happened, what's wrong with improving our election laws to allieve [SIC] fears and concerns of the individual voters? There's 30, 40 percent of the people believe something was wrong the last election, to make it more secure, to allieve [SIC] their fears. Also, it's-- if you look at the existing law, it, it says: except as otherwise provided ballots for early voting to be mailed pursuant shall be mailed-- shall be ready for delivery to registered voters not sooner than 35 days. Not sooner. Could be 40 days could be 50 days. The language is wrong and needs to be corrected. It needs to say not sooner than 35 days or not sooner than 22 days. So that ballots aren't depending on who the election commissioner is or the county official doesn't start mailing out ballots three months in advance because it says not sooner. And "only ready for delivery," what does that mean?

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They should be mailed out by first class mail, so it goes to an address and one individual picks it up. Delivery, what does that mean? Somebody can come in and pick up, bring in a list and say, these folks want their ballots. I'm going to pick them up for them and deliver them. That needs to be fixed. Because further down when we-- on voting early, early in person, it says not more than 30 days. When you look at the statutes, which you don't have in the bill, but the statute on, on local initiatives, the ballot shall be mailed by nonforwardable first class mail, not sooner than 20-- not sooner than the 22nd day before the date of the election. All we're doing is harmonizing the language to avoid fraud or the perception of it. Political actions ever since ACORN, who got caught red-handed, political action committees have been out there focusing on ballot harvesting, going door to door, helping them fill out requests to vote-- to register, then going back and helping them request a mail-in ballot and then going back again because they had 35 and 40 days to pick up the ballot and politely help them fill it out if they happen to be there and then go down to the drop box and drop them off. It happens. And you say, how could you influence an election? We had two legislative races in Sarpy County that's decided by less than 500 votes. You don't have to do a lot to swing an election in America because they're usually pretty close. It's not thousands you have to influence or change, it's just enough to win the election. But by shortening that time period, it shortens the harvest season. And going out and banging on doors and following up to help people get their ballots in. I agree with you, Senator Blood, if I walked into my county clerk and watched him count votes, they got a stack of votes here and they run them in a machine. How could that be fraud? But I'm not there at the kitchen table and neither is anybody else following that mail-in ballot and who filled it out, who dropped it off. And then once it's in the pile to be counted, it's a legitimate vote. It was signed by somebody. It was mailed in, it was filled out by somebody. Once it's in the pile, that's a legitimate ballot. But we don't know-- when, when you vote in person, we know that that person filled it out. Absolutely. That person signed for it. We have got to get mail-in ballots under that same security and we have to get it that we are all assured that my vote isn't canceled by a vote that wasn't intended to be sent in by another individual. That's where I am concerned. And you can tell my concern is in the mail-in ballots. That's what Zuckerbee's [SIC] concern was. You heard the lady where the money was spent. Mail-in ballots. That's where all of the dark money in elections is spent, in the mail-in ballot process. Period. And we need to short-- in Nebraska, we-- 22 days is plenty. I'd like to have somebody explain to me why it was ever 35 days, because 22 days has worked well, even in

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the most rural counties, when they send out ballots for school elections. There's been no complaints that they didn't get the ballot in time, fill it out and were able to send it in. So that is-- and we did also that it has to be sent out by registered mail, not picked up if somebody requests the mail-in ballot by an individual. So anyway, that's what I'm trying to do is shorten the harvest season, make it harmonize the 22 days throughout the election process in Nebraska so everybody knows. One election, somebody thinks they had 30-some days to mail it and to get that done. The next time the special election comes and they're sitting there and they didn't even realize they had a way-- it was only 20 days to get it done. You get the request in and get their ballot mailed out to them. And you might hear something from the county clerks that, oh my gosh, it's going to make extra work. Actually, we clear it up for them. If they want to send out the, the people to-- that they, if they want mail-in ballots, they can do it ahead of time and they can have huge stacks of ballots ready to mail and drop them in the mail 22 days ahead of time if people request them. Doesn't say they can't start preparing the ballots to mail out 22 days, says they can't mail them out before 22 days. And once they get the ballots, they open them and they stack them. They're stacked. By-- in the statues, I don't know if they open them, but the statute says you can't start counting until 24 hours before, and that makes no difference if it's 35 days or 22. You can't start running them through the machine until 24 hours, I believe the statute says. I might have misread that, but that's what I believe it is. We don't pass election laws to make it easier on government employees. We pass election laws to make our elections secure. That's what we do. So the voter knows it's secure. I really don't care what the county clerks think, I really don't. Prior to, prior to all this, they went to work early, waited for people to come in and vote in person. And then they ran those ballots, they counted them, they actually counted them by hand. They didn't have machines. They don't need 35 days. So thank you, committee. Questions?

M. HANSEN: Yes, any questions for Senator Groene. Senator Halloran.

HALLORAN: Just a point of clarification, the using the nonforwardable first class mail is to prevent ballots from being sent by mass mailings, correct?

GROENE: No, it prevents people going in and picking up ballots and saying, I represent this group of people. They have requested their ballots. I'm here to pick up their ballots and get them to them. That's just your part, where your part comes in, where it's only-- you can only pick up one or two individual ballots. And to make sure it

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isn't mailed to somewhere and then forwarded, that somebody has moved and just decides to vote because their name has now been removed from the, from the voter rolls. That's, that's why it's nonforwardable. And we don't want anybody touching that ballot, anybody touching that ballot but the person requesting it and the county election official who opens it.

HALLORAN: OK, thank you.

M. HANSEN: Thank you, Senator Halloran. All right, seeing no other questions, thank you, Senator Groene.

GROENE: Senator Hansen.

M. HANSEN: And we will move on to proponents of LB785. Anybody wishing to testify in favor of LB785? All right, seeing none, we will move on to opponents or-- did you expect to have a proponent?

GROENE: What's that?

M. HANSEN: We'll welcome up, we'll welcome up opponents now.

_____: Proponents or opponents?

M. HANSEN: Sorry. Let me just clarify. Any-- last call for proponents. Any proponents? I saw somebody stand up, but they didn't come up. All right, seeing none, we'll move to opponents. We'll welcome up our first opponent. Welcome.

EDISON McDONALD: Hello. My name is Edison McDonald, E-d-i-s-o-n M-c-D-o-n-a-l-d, I'm the executive director for the Arc of Nebraska. We're a nonprofit of 1,500 members across the state advocating for people with intellectual and developmental disabilities. We oppose LB785 because we believe it will discourage participation in the electoral process by people with disabilities. In 2018, the Secretary of State's Office asked us, along with other organizations, about how to prioritize HAVA funds, or Help America Vote Act funds. What locations needed further modifications? We had a handful of answers, but wanted to expand our dataset to really better answer the question. So in partnership with several organizations, we tried to gather up that data and come up with some analysis of really what needed to happen. Then we continued and worked with this committee, and particularly with Chairman Brewer on LB411 to improve accessibility based upon this data. So we've seen the onset of COVID has heightened the importance of ensuring accessibility, early voting and alternative options like early voting and ensuring that we could help make sure

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that people get their ballots in. We have to thank the Secretary of State's Office for their proactive outreach to stakeholders to discuss modifications in a safe and accessible fashion. This led to significant amendments that helped to ensure a greater number of individuals with disabilities had the ability to vote. LB411 definitely worked. It definitely helped to expand voting accessibility. However, we've got a long way to make sure that we're going to be compliant with the ADA, Section 504 of the Rehab Act and HAVA. So I want to walk through a few of those questions and kind of where we're at off of the 2020 data. Could you open all doors with one closed fist without grasping, pinching or twisting the handle. Only 55 percent of locations complied with that. Were there any doors that were powered? Only 26 percent of locations complied. If so, did the doors remain open for at least three seconds? Twenty-four percent compliance. Was the voting machine set up in position so a voter could vote privately? 89 percent. And I've got to say that that's all Wayne Bena, he helped to skyrocket those numbers up and really improve that privacy of the vote. Was there at least one accessible parking space for every 25 spaces? 60 percent. Was the accessible parking clearly marked by a visible sign? 56 percent. Was there a clear, accessible route to an entrance that was free of curbs, steps or other obstructions? 57 percent. If curbs and steps, were there usable safe curb cuts or safe ramps? 35 percent. Was the parking lot and sidewalk stable, firm and slip-resistant? 61 percent. Was there at least one accessible entrance? 64 percent. And was the door wide enough for a wheelchair? Only 57 percent. Pretty much every voting location in the state has some sort of accessibility issue. We're working on that. I think that committee has been helpful in working on that, but we're still a long way from where we need to be. So we're concerned LB785 will place limitations on our ability to help our members vote and our community members who provide key opportunities for inclusion. In particular, this will limit our capability to help our members and direct support professionals who are frequently called upon to help individuals with disabilities in this role. We've appreciated collaboratively working with this committee and the Secretary of State to improve that accessibility. I want to note that we're currently working on an external contract to gather data regarding the accessibility of county clerks' offices, drop boxes and DMVs to add that to our accessibility data. I look forward to sharing this added information with you. And I recommend that if you want to find a pathway to offer better security, which I think is the intent of Senator Groene and many bills today, that we look potentially at a pathway more like Senator Clements's bill, LB1263. Until this accessibility data changes, we will continue to vocally recommend that

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we focus first on compliance with the ADA, Section 504 of the Rehab Act and the Help America Vote Act. Thank you. Any questions?

M. HANSEN: Thank you. Are there questions from the committee? Seeing none, thank you for your testimony. We'll invite up our next opponent.

NICK GRANDGENETT: Vice Chairman and committee members, my name is Nick Grandgenett, that's N-i-c-k G-r-a-n-d-g-e-n-e-t-t, and I'm a staff attorney with Nebraska Appleseed. Nebraska Appleseed is a nonprofit, nonpartisan organization dedicated-- dedicated to opportunity and justice for all Nebraskans. We're testifying in opposition to LB785. Nebraska has a longstanding tradition of free and fair elections. At their best, elections promote participation and ensure that every Nebraskan's voice is heard. LB785 is contrary to this tradition because it shortens the timeframe by which voters may receive early voting ballots and it shortens the window of time to vote early and in person. Under current law, early voting ballots may be ready for delivery more than a month prior to any statewide primary or general elections. LB785 changes this procedure by preventing election commissioner from sending ballots any sooner than 22 days prior to any statewide election. Current law does not, in other words, dictate the earliest moment that ballots may be mailed to voters. LB785 unnecessarily limits this window of time to a period of three weeks. It's additionally worth noting that it will be LB785's proposed language, it appears to be within the commissioner's discretion to mail ballots at any time before an election, so long as it's within the 20-day-- 22-day period. No language in Section 32-808 appears to limit the commissioner's discretion in this regard. Such a dynamic presents the possibility that a commissioner could mail ballots so close to an election that it prevents registered voters from receiving ballots with enough time to complete ballots before they are due. This further limits the ability of the voter to take corrective action after a clerical error or some other mistake prevents this type of ballot. A robust, healthy democracy is essential to Nebraska and its voters. We would urge this committee to support Nebraskans by voting no on LB785. Thank you, and I'm happy to answer any questions.

M. HANSEN: Thank you. Are there questions? Seeing none, thank you.

NICK GRANDGENETT: Thank you.

JOEY LITWINOWICZ: Just to mention, I'm not-- it was hard to fill out because I put my computer away. So I'm just drawing attention to certain things. And I thank the senator-- first of all, my name is Joey Litwinowicz, J-o-e-y L-i-t-w-i-n-o-w-i-c-z, and I thank the

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community members for hearing me out. Thank you to Senator Groene for presenting the bill. I'll give you my take as a disabled person. That's my point of view. First of all, I just wanted to say the last bill technically [INAUDIBLE]. It was introduced at the request of the Governor. And so I have a problem with, you know, when he shakes hands with President, President Trump last summer. Anyway, so when we talk about, you know, 22 days, you know, and harmonizing. Well, you know, why don't we make a 35 days of harmonizing? Because I tell you, if I get the ballot, I might have to buy a lockbox, you know, to keep it off the counter. I'm not trying to be, I'm not trying to be mean, but as soon as disability covers it, then I'll do that. Because I've got lots of things to do and maybe I can just walk people through what me and others go through. And you know, some people, and some people don't even testify. We have to do the Zoom again. Oh, yeah. OK, so anyway, so, you know, I don't think, you know, we have to worry about election fraud. You know, from the ballot harvesting, you know, just the 12th legislative district of North Carolina. You know, it could happen from anybody. And it does because both sides will do it. They absolutely will. I mean, that's, that's, that's a fact that it probably is equal. Anyway, I'm getting distracted. So what was I going to say? Oh, just with respect to, you know, working this morning, I'm going to talk to Bob Ripley. But when you go into the cafeteria, I think people should know this. If I spend this, this time in this particular meeting just saying some of this stuff, it's good. You know, I like the historical aspect of the building, but the chairs and the tables in there, this low. You got to approach a corner, stick your computer on if you have to do pressure releases. That's why I do that, by the way, I have to do pressure releases for the rest of my life. Let's see, I forget what I'm talking about. And I guess, you know, in thinking about, you know, voting, consistent with that is being able to come to the Capitol, you know, and you know, participate like everybody else would with regard to coming to the Capitol and sitting in on the legislative session. For example, we used to be able to sit back in the legislative chambers, us with wheelchairs, because even if you can get up by the elevator, which I could, you can't make the turn. And I was told, you know, I went to the Clerk, Speaker Hilger's office and I mentioned that and then mentioned COVID protocols. And I, I showed him a picture of it during the government's Rickett's state of the state. And the whole bleacher section, nobody was wearing a mask except one or two people. And so I only did it once, like in the past, I went-- but once you lose something, it's true. Somebody said it earlier, you don't get it back. And if we're going to talk about COVID, well, then let's everybody act like we have COVID. It's every-- because if I get COVID, you know everybody here,

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you know, a lot of people don't-- aren't wearing masks. If I get COVID, even if I don't go to the hospital, it's like getting the flu. I get very weak, and I'm at a point where if I stay in bed for a week or two, we're talking about a lot of money and physical therapy and time. OK, let's see here. And this thing about avoiding the perception of impropriety. I mean, that's a straw. I mean, there's a perception of impropriety about anything. You can come up with anything to figure that one out. You know, I'm just mad, and that's-- unfortunately, that's how I approached a lot of these meetings. And that's not good, I got to get better. It's the, you know, as far as the I-- like a conservative, I-- conservatism, I understand. But I mean, until George Will returns to the party, he's the one who called it a cult. And I liked, you know, David Brinkley growing up. He even apologized when he was caught off-- he thought the air was-- and he apologized to the Clinton in person. I think he's the last really great anyway. As soon as he returns to the Republican Party, then I'll, I'll rejoin what they have to say. And it won't, it just won't be conservatives, you know, that I can understand, it will actually be the Republican Party, too. I'm just guessing, I'm using that as a benchmark because Trump has destroyed that party. And I mean, just obliterated it. And I think, well, you know, that's not it. That's enough, thank you. Any questions?

M. HANSEN: Thank you. Are there questions from the committee? Seeing none, thanks for your testimony.

JOEY LITWINOWICZ: Thanks a lot. I shouldn't be so baroquely boorish, but I try not to be. We'll figure it out. Thank you.

M. HANSEN: Thank you. With that we'll invite our next opponent up. And if we could have one of the pages, I believe, there's a green sheet on the table. Hi, welcome.

DAVID SHIVELY: Good morning. Or good afternoon, Senator Hansen, members of the Government, Military and Veterans Affairs Committee, my name is David Shively, D-a-v-i-d S-h-i-v-e-l-y, I'm the Lancaster County Election Commissioner. I'm also co-chair of the Election Law Committee for the Nebraska Association of County Clerks, Register of Deeds and Election Commissioners. I'm here today in opposition to the portion of LB785 which would reduce the number of days of early voting by mail from 35 days to 22 days. It also reduces the number of days for in-person early voting from 30 days to 22 days. Our association has concerns with this part of LB785. In the 1999 legislative session, the Legislature changed Nebraska law to allow no-excuse early voting. In the 22 years since that change, Nebraska election officials have

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seen dramatic increases in early voting and have adjusted to the processing of the increase in early voting. In Lancaster County, for example, during the 1996 presidential election, we had slightly over 5,000 requests for early voting. In the 2020 presidential election, we had over 90,000 requests for early ballots. Certainly, the dramatic increase in 2020 was partially due to the pandemic, but we have also consistently seen an increase in early voting during every presidential since 1999. Our members are concerned with the adjustment of the workflow in our offices, as well as the-- as getting voters their ballots in a timely manner this legislation would become law. In the 2020 general election, Lancaster County mailed ballots to almost 63 percent of the total number of early vote requests and received back almost 44 percent of the ballots by the 22nd day prior to the election. The Douglas County Election Commissioner informs me that his office has seen similar percentages. The U.S. Postal Delivery Service has changed. We no longer can expect next-day or even two-day business days first class postal service. In the 2020 presidential election, the U.S. Postal Service recommended that voters choosing to return their ballots through the mail to do so no later than at least seven days prior to the election. Getting ballots to voters as early as possible allows for voters to receive their ballots and to return their ballots without worrying about any delays in the Postal Service. Voters that consistently vote early have become accustomed to the 35-day timeframe. They expect ballots to be delivered early and expect receipt of their ballots in a timely manner. I appreciate your time today and I encourage you not to advance LB785 to General File. Be happy to--

M. HANSEN: Questions? Senator McCollister.

McCOLLISTER: Yeah. Thank you, Vice Chair Hansen. If I understand your testimony today, and thank you for being here. Simply the volume of the absentee ballots is the primary reason to retain the 35 days?

DAVID SHIVELY: Certainly it is for us, at least here in Lancaster County and the larger counties. We, we-- people can start requesting early vote ballots at 120 days-- we can start receiving those requests 120 days prior. It's helped us in the past to get our workflow done early and get those ballots out early, and some voters can get them back. So yes, the increase in the number has certainly been our big concern. And you know, it's just volume in every county and we can talk about 90,000 ballots in Lancaster County. But in a smaller county, they've seen similar increases.

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McCOLLISTER: Have the smaller counties seen a similar percentage increase in the number of absentee ballots?

DAVID SHIVELY: I don't know that it's exact same increase, but it's certainly in conversations I've had with other election officials throughout the state they've all seen increase in early vote ballots.

McCOLLISTER: Thank you.

M. HANSEN: Thank you, Senator McCollister. Senator Halloran.

HALLORAN: Thank you, Vice Chair Hansen. Did I understand you correctly, you started mailing early? You can start mailing absentee ballots 120 days--

DAVID SHIVELY: No, we can start receiving requests for absentee ballots 120 days prior. So someone would want-- someone that wants to get an absentee ballot, they can send in a request 120 days prior to the election.

HALLORAN: So if I sent that request in 120 days--

DAVID SHIVELY: We wouldn't mail the ballot until 35 days prior. We get the request in today, but we can't mail the ballot until 35 days.

HALLORAN: But you can prepare for it.

DAVID SHIVELY: Yes.

HALLORAN: You can have it all packaged up and ready to go.

DAVID SHIVELY: Well, once, once we know what's actually going to be on the ballot so that, you know--

HALLORAN: Right.

DAVID SHIVELY: --you know, we don't know the, the layout of the ballot and what's going to be on the ballot, you know, until usually for a primary election until the middle part of March. And for the statewide general election, the middle part of September. So that's when all the races are certified to us from the Secretary of State's Office.

HALLORAN: OK, so 30 or 45 days before the-- you'll have, you'll have the language on the ballots available 30 to 45 days before.

DAVID SHIVELY: It's usually around the middle part of September. You know, I can't remember the exact day. Usually it's about two weeks

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prior, two weeks prior to that 35 days that we get the final certification, and then we have to proof ballots, have to make sure everything is correct. Every, every precinct has the correct ballot layout and that type of thing.

HALLORAN: Just a quick question. Was there a surge of ballots in the last couple of days from drop boxes?

DAVID SHIVELY: No. Honestly, I wouldn't say a surge because we had, like I said earlier, we had, we had 45-- what is it, about 44 percent of our ballots were returned to us by the 20-- by the 22nd day. So we're kind of, it's kind of interesting to watch people who return ballots. You'll get a whole bunch that return them right away and then they start trickling in. But we usually do get quite a few back during that first part. And certainly, you have people that maybe either wait till the last minute, whether they're procrastinating, they got the ballot and waited to get it back, or if they're waiting, you know, to make sure they've had all the information they want to make, make their decision.

HALLORAN: I understand that, but you didn't, you didn't see a spike towards the--

DAVID SHIVELY: We always see a spike on the last couple of days, and that's been pretty traditional. I mean, and I don't know what you mean by a spike, but we do have a larger number of ballots returned to us on, on, on Monday. Monday is probably our biggest day by mail. Tuesday is probably a bigger day on drop-- in in-person and drop, dropping the ballots off to us. The Monday, the Monday prior, just because it's kind of interesting, if you see now we used to get mail-- we'd get a lot of mail on Tuesdays. And we don't get much mail on Tuesdays anymore because of the two-day turnaround and the sorting in Omaha. So we usually get-- our largest day is usually on a Monday, not on a Tuesday, when we get it by mail. But we do get some in our drop box. We did not have our drop boxes opened, our outside drop boxes outside of our office on Election Day. People did have to return their ballots to our office on Election Day. We did not have our outside drop boxes. Just just the one at our office was open on--

HALLORAN: What kind of percentages came from drop boxes?

DAVID SHIVELY: That's a good question. I would have to double-check and give back to you, Senator. I don't remember that exact number.

HALLORAN: OK, thank you.

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M. HANSEN: Thank you, Senator Halloran. Senator Lowe.

LOWE: Thank you, Vice Chair. Thank you, Mr. Shively, for being here. You said in 1999 that we went to this format of couldn't turn anybody down for early voting. Is that correct?

DAVID SHIVELY: Yes. We went to a no-- we went to a no-excuse early voting.

LOWE: No excuse. Yeah. Was that because they wanted to increase percentages of voting and getting the people to vote and not have a, basically you can't get out of your house on that day or something else, they just wanted to increase the number of people voting?

DAVID SHIVELY: I would assume that's probably the reason. Prior to that, the application for someone requesting an absentee ballot, there was about 10 reasons that they could check on the application, whether it was a health-related reason or or religious reason. There's about 10 things, and honestly, I think someone probably could find a reason out of the, out of the 10 if they would have wanted to at the time. But the change in the law-- and I became election commissioner in 19-- in August of 1999, and so that just became, that just became law as I came into office. And we had a special election with Lincoln Public Schools right after that and that was the first time that we did not have to have an excuse on, on, on the requests. So yes, we started seeing an increase at that point.

LOWE: So has there been an increase in percentages of people voting since then?

DAVID SHIVELY: Yes, both, both an increase in percentage of people voting early, but I think it does also help increase our, our--

LOWE: Total.

DAVID SHIVELY: --turnout,

LOWE: Total turnout, there's an increase in--

DAVID SHIVELY: And all-- and certainly, certainly that's not the only reason. You know, turnout in some elections depends on what's on the ballot and who, who is running in those types of things. So what's, what's actually on the ballot. But yes, I think we've seen an increase in voting altogether. I think we've also probably seen with early voting, probably more consistent voters and voters that vote regularly, that vote every election. They never miss an election.

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LOWE: All right. Thank you.

M. HANSEN: Thank you, Senator Lowe. Seeing no other questions, thank you.

DAVID SHIVELY: Thank you.

M. HANSEN: Welcome.

SHERI ST. CLAIR: Afternoon. I am Sheri St. Clair, S-h-e-r-i S-t. C-l-a-i-r, and I'm speaking in opposition to LB785 on behalf of the League of Women Voters of Nebraska. We know that the 2020 election showed that roughly 50 percent of Americans-- of Nebraskans cast their votes by mail or dropped off their ballots prior to official Election Day during the most recent election. Mail-in voting convenient and popular, and even with a record turnout, there were no allegations of fraud brought to the Secretary of State's Office. Early ballots mailed or dropped off were all cast securely. The league works to promote proactive election reforms, including increased rather than decreased access to early voting. A common narrative when considering voting by mail is whether this means of casting ballots advantages a particular party. This topic has been well-studied, and peer reviewed publications show that easing voting and registration restrictions increases turnout, but doesn't have an effect on electoral outcomes. For example, one study used mandatory vote by mail as a treatment variable and included federal elections in several counties in California, Oregon, Washington, Utah, Colorado and four counties in Nebraska in their data pool. Results were consistent with other election law studies that showed easing voting and registration restrictions increased turnout, but had no effect on electoral outcomes. And the citation for that study is in the handout that I gave you. Further, the statement of intent for LB785 states that this legislation also reemphasizes the honored tradition of voting in person on the first Tuesday in November. It's simply not feasible for all eligible voters to appear in-person to vote on Election Day due to barriers associated with employment, child care, health issues, transportation. Given these barriers to participation in our election civic processes, legislation should encourage expanded access to early voting rather than exacerbating these issues. The League of Women Voters works to remove barriers to voting, and we oppose further action on LB785.

M. HANSEN: Thank you. Any questions from the committee? Seeing none, thank you. Next opponent.

KAREN BELL-DANCY: Good afternoon.

M. HANSEN: Welcome.

KAREN BELL-DANCY: I am Karen Bell-Dancy and I am the executive director of the YWCA Lincoln. My name is spelled K-a-r-e-n B-e-l-l-D-a-n-c-y. The mission of the YWCA Lincoln is dedicated to the elimination of racism, empowering women and promoting peace, justice, freedom and dignity for all. I am here to oppose LB785 introduced by Senator Groene. We are very concerned about the limitations that LB785 puts on the community. If Nebraskans were to make changes by shortening our original timeframe, we won't allow our state that is for all people, disadvantaged and rural populations to be provided with accessibility. Our community and many organizations, including the YWCA in Lincoln, we strive hard and we work hard to ensure as many as possible are registered to vote and that they exercise their rights. These restrictions can lead to fewer individuals registering to vote and disparities that are very unnecessary. The Nebraska Constitution states: All elections shall be free; and there shall be no hindrance, nor impediments to the right of a qualified voter to exercise-- voter to exercise the elective franchise. In order to bring harmony in our community, the freedom to vote is essential. In YWCA Lincoln, we continue to advocate for reducing barriers. We highly recommend the committee to rethink shortening early voting timeframes. Let's be sincere when we urge all Nebraskans to get out and vote. Allow us, in all honesty, to say our state will do its best to remove any and all barriers to voting. I urge you not to advance this legislative resolution from this committee. Thank you for your time. And if you have any questions, I will try to address those.

M. HANSEN: Thank you. Are there questions? Seeing none, thank you.

KAREN BELL-DANCY: Thank you.

M. HANSEN: We're still on opponents. Come on up. Hi, welcome.

SUZAN DeCAMP: Good afternoon, vice chair Hansen and committee I am Suzan DeCamp, S-u-z-a-n D-e-C-a-m-p, and I'm here today to testify in opposition to LB785 on behalf of AARP Nebraska as a volunteer member. LB785 reduces the amount of time to vote by mail from 35 days to 22 days before any statewide primary or general election, and reduces the amount of time to vote early in person from 30 days to 22 days before the election. AARP is deeply concerned about the right to vote and has been focused on voter engagement for more than 35 years. The right to vote, along with full and fair representation, is the most basic of

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all rights. And AARP has long advocated for fair and simple election procedures that facilitate a high level of participation of voters aged 50-plus. AARP believes voting systems and registration procedures should be designed to encourage maximum participation. Policymakers have the responsibility to promote maximum participation in the electoral process and should adopt voting procedures that expand the range of voting choices. Supporting LB785 would be reducing the voting options in Nebraska. Despite unique challenges to the voter registration and voting process created by COVID-19, the 2020 election had the highest voter turnout of the 21st century. According to the U.S. Census Bureau data for the 2020 presidential election, 74 percent of the population over the age 65 voted, compared to 71 percent in the 2016 election. President-- presidential election turnout surged to new records in 2020, and voters 50 and older led the way. In Nebraska, the number of voters aged 50 and older surged from 462,153 in 2016 to 526,258 in 2020 for a 13.9 percent increase. The number of voters age 65 and older surged from 214,431 to 276,089, a 28.8 percent increase. Voting systems should be expansive and allow voters more opportunity to vote rather than less opportunity. In reducing the amount of time for voters to vote by mail and to vote early in person, this bill would do the opposite. We do understand the desire to harmonize early voting periods and limit voter confusion. But why not simply increase the number of days that voters can vote by mail and vote early in person in special elections? Reducing the time allowed for voters to cast their ballots could cause significant voter confusion as well, especially if this is done during an election year. People over the age of 65 show up to vote far more than any other age group. They consistently exercise their right to vote, considering it an honor and a responsibility. Nationally in the 2020 election, voters age 50-plus made up 80 percent of the electorate. Over 60 percent of those voters chose to vote by mail or vote early in person, and over 77 percent of the voters aged 65-plus voted by mail or early in person. In Nebraska, 64 percent of voters aged 50-plus voted by mail or early in person. Reducing the amount of time for those two options will damper older Nebraska's preferred method of voting. AARP supports the overall expansion of vote by mail and early in-person voting. The provisions and LB785 will reduce the amount of time that older voters have to return their ballots or to vote early in person and for those reasons, we urge the committee to oppose its advancement. And I will add that AARP is a nonprofit, nonpartisan organization that works across the state to strengthen communities and advocates for those aged 50-plus on the issues that are important to them. So thank you for the opportunity to comment on the bill, and I'd be happy to answer any questions.

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M. HANSEN: Thank you. Are there questions? Seeing none, thank you for your testimony.

SUZAN DeCAMP: Thank you.

M. HANSEN: We'll take our next opponent. Welcome.

BETH BAZYN FERRELL: Good afternoon, Vice Chairman Hansen, 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 here in opposition to LB785. I would just echo the comments you heard from Election Commissioner Shively about his concerns about the adjustment to the workflow and making sure that with the Postal Service delays, ballots can get to voters and get back in a timely fashion. I'd be happy to answer questions.

M. HANSEN: Thank you. Are there questions? Seeing none, thank you. Our next opponent? Welcome.

JOEY ADLER: Thank you. Good evening, Vice Chairman Hansen and members of the Government, Military and Veterans Affairs Committee. My name is Joey Adler, J-o-e-y A-d-l-e-r, and I am the director of strategic engagement for the Holland Children's Movement, and we respectfully oppose LB785. You all have copies of my testimony, so I won't bore you with rereading that all for you. But I will just highlight a few things. In a Holland Children's Institute research we provided last year right after the election, 90 percent of respondents thought that the process of voting in Nebraska was accessible and convenient. Only 25-- 29 percent thought that there was too much voter fraud, with 59 percent saying that that was not at all accurate or not too accurate of a statement. Close to 83 percent of Nebraskans thought the election process in November worked really well, and 44-- 67 percent thought that the vote by mail process is a good addition to the ways in which Nebraskans can cast a ballot. And 60 percent of Nebraskans thought that the way that we did our election was better than the way that the rest of the nation did. So our point is that Nebraskans believe that we did a pretty good job last time, and we don't necessarily think that we need to do too much to change that. And I'd be happy to take any questions.

M. HANSEN: Are there questions? Seeing none.

JOEY ADLER: Thank you.

M. HANSEN: Thank you. We'll take our next opponent.

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DANIELLE CONRAD: Hey, good evening, senators. My name is Danielle Conrad, it's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d, here today on behalf of the ACLU of Nebraska. I think a lot of the issues I was going to cover have already been covered. But wanted to show our opposition on the record. I know we've had an opportunity to work with Senator Groene on some voting rights and free speech issues in the past. Really appreciated that, today is not the day where we'll be in collaboration. We see this as a needless, unnecessary voter restriction and as erecting more barriers to participation in democracy, rather than working together to try and eliminate barriers to participation. So that being said, we'll be happy to work with Senator Groene and all committee members if, if this measure does move forward. But we'd urge you to not advance the bill because the system is working well in Nebraska. The last thing I do want to note, though, because I think Senator Groene made a really, really important point about this in his opening, and I was listening carefully. And I really agree with the point that he was making. Voter suppression doesn't usually happen in big, sweeping kind of ways. We don't have to shut down the system completely to have the intended effect. Rather, it's a chipping away. It's a chipping away at rights, it's a chipping away at access. It's putting up just a little bit more of a barrier here or there to prevent eligible voters from participating in our democracy. And that's exactly what we see as problematic in the measure before you in this hearing, is that it doesn't have to shut down early voting altogether. It doesn't have to shut down democracy altogether, but it contributes to access, to diminishing access. To making things a little bit harder, to making things a little bit more confusing. And we should be working together to figure out how to remove barriers, not erect them. Thanks.

M. HANSEN: Thank you. Questions from the committee? Seeing none.

DANIELLE CONRAD: Thank you so much.

M. HANSEN: Welcome.

MEG MIKOLAJCZYK: Good evening, Vice Chair Senator Matt Hansen and members of the Government, Military and Veterans Affairs Committee. My name is Meg Mikolajczyk, M-e-g M-i-k-o-l-a-j-c-z-y-k, and I'm the executive director of the Nebraska Civic Engagement Table. We're a membership organization serving nearly 80 nonprofits, 501(c)(3) nonprofits in Nebraska committed to increasing our community's capacity for civic participation and for protecting the core tenets of our democracy, which is why, of course, we are in opposition today for many of the reasons colleagues and friends of mine have already

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shared. In the interest of time, I just have to reiterate on behalf of our, our mission and our members that over half of the Nebraskans that voted in 2020 voted early. We need to make sure this remains as accessible as possible. As someone who's dealing with child care and transportation herself today, I'd also be remiss if I didn't also say that the communities we serve are those that do have transportation, child care, illness, work obligation, things that make it harder to vote. So we need to preserve the ability to have these early voting options as much as possible. We should be working to expand access, not limit it. And so, you know, the Nebraska Table really does work to ensure that all voices are heard in the democratic process and that those who are historically underrepresented have equitable access to participation. So we see this bill as cutting against those core values, which is why we ask you not to advance it from committee. Thank you.

M. HANSEN: Thank you. Questions from committee members? Seeing none--

MEG MIKOLAJCZYK: Thank you.

M. HANSEN: Thank you for your testimony. All right. Any other proponents-- sorry, opponents? Welcome.

CLAIRE WIEBE: Hi. Good evening, Vice Chair Hansen and members of the committee. My name is Claire Wiebe, C-l-a-i-r-e W-i-e-b-e, and I am the senior manager of public affairs for Planned Parenthood Advocates of Nebraska. As the advocacy and political affiliate of Planned Parenthood North Central States in Nebraska, our 501(c)(4) organization mobilizes supporters of all parties to protect, promote and expand access to sexual and reproductive health care, as well as fact-based medically accurate sexuality education. We do our work in the community, under the dome and at the ballot box. At PPAN we know that without a voice in our government, we lack full freedom over our bodies and our future. Unfortunately, our democracy and democratic norms that help give us that freedom, including accessibility to the ballot box, are under unprecedented threat due to a global pandemic, unchecked white supremacy and other political pressures that seek to disenfranchise voters across our state and country. From a public health perspective, further limiting access to the ballot box in this way for voters who choose to vote by mail will directly impact the people who have already been hurt most by the pandemic. You know, the pandemic, unfortunately, will probably not be over by May or November of 2022, and limiting access to the polls for people with preexisting conditions, loved ones who are at high risk of debilitating illness from COVID-19, people who are struggling with child care is unjust. We

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all should have an interest in ensuring that all Nebraskans can have their voices heard at the ballot box. By placing this unnecessary restriction on voting by mail, state senators are trying to solve a problem that does not exist, confuse voters and reduce the number of Nebraskans who can fully participate in our democracy. And for this reason PPAN urges the committee to oppose LB785 and all efforts to further restrict voting rights in our state. Thank you.

M. HANSEN: Thank you. Questions from the committee? Seeing none, thank you.

CLAIRE WIEBE: Thank you.

M. HANSEN: All right. Any other opponents? Welcome.

WESTIN MILLER: Hello again, Senator Hansen, members of the committee, my name is Westin Miller, W-e-s-t-i-n M-i-l-l-e-r, I'm still the director of public policy with Civic Nebraska. I'm here in opposition to LB785. I think the first part, the reduced timeframe, has been very well covered. So I'm just going to skip right to the second, kind of the whole the ballot harvesting buzzword. I got to say I really hate that phrase, and I know it's not Senator Groene's fault for inventing it. But it does imply a planting that in modern political discourse is very, I think, nefarious at this point. So we should just call it what it is, which is somebody else returning your ballot for you. This piece, as Senator Groene said, is very similar to Senator Halloran's LB362 from last session. I said it during that hearing, I'll say it again during this hearing, our ballot return system absolutely does need to be improved. There is no doubt about it. But the way that we approach the solution and the order in which we solve these problems, extremely important. I think there's two things that need to be addressed. Number one, we have to have a plan to address the impact of this change would have on folks who do rely on somebody else to return their ballot. Most Nebraskans do not need that. For the folks who do rely on someone else, it's essential. We're talking about homebound voters, we're talking about voters who can't drive, people experiencing unexpected circumstances near the deadline. All of these folks could be affected. I think it's essential that we mitigate the impact on them before we pass a law like this. At an absolute minimum, I think Nebraska would have to provide postage-paid envelopes for all returned ballots for early voters, voters. That's just kind of a, a non-negotiable on this issue for us. Second, I genuinely think that there's a better way to accomplish the security goals that Senator Groene has. And this was alluded to earlier, the North Carolina election fraud example. The reason that bad actors in North Carolina

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were able to almost get away with their election fraud is because they had no way of knowing that something was wrong in the first place. They gave their ballot to some stranger, and that was the end of that. In some cities and states, this problem would have been flagged immediately because the state or city has a robust ballot tracking program. Senator McCollister actually alluded to this solution earlier. Basically ballots can now be tracked like a package from USPS, so voters can opt in and receive alerts when their ballot is mailed, arrives, is received back and when it's finally counted or rejected. I really think that giving voters the ability to answer the question, where is my ballot, is the single most important thing we can do to improve the security of our elections. Without this tracking system, the change that Senator Groene is proposing could, in theory, still be exploited. It's just a shorter timeline. We put some limits, but it doesn't actually have a security mechanism to it, and it just makes the process a little bit more complicated. So I hope that makes sense what I'm saying about the order in which we solve these problems, extremely important. If we work to provide paid postage and implement a better ballot tracking system, then I think we'd be having a conversation about some serious security possibilities. But until then, it's just a cost. So with that, I'd be happy to answer any questions.

M. HANSEN: Thank you. Are there questions from the committee? Seeing none--

WESTIN MILLER: Thank you.

M. HANSEN: --thank you for your testimony. All right, any other opponents to LB785? Seeing none, is there anybody who wishes to testify in a neutral capacity?

FANCHON BLYTHE: Thank you.

M. HANSEN: Welcome.

FANCHON BLYTHE: My name is Fanchon Blythe, F-a-n-c-h-o-n B-l-y-t-h-e. Again, wasn't going to speak on this one until I learned a little bit more about it and listening to all the people in this room today. Hearing so many issues about voting, a lot would be solved by not allowing any mail-in ballots. This started in Nebraska in 1999. We all need to vote the day of on paper, no machines, vote Amish. Any questions

M. HANSEN: Thank you. Are there questions?

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FANCHON BLYTHE: Didn't think so.

M. HANSEN: All right. Thank you for your testimony. Any other neutral testifiers? Seeing none, we'll invite Senator Groene up to close. And while he's coming up to the stand, we will say that there are a series of position letters: 21 proponents, 9 opponents and 0 neutral. 21-9.

GROENE: Thank you, committee. It's hard to brand Senator Groene. I got the far right didn't do it-- testify in front of it because they don't want mail-in at all. And Ms. Conrad is correct. Ms. Conrad-- I've been involved in two law-- lawsuits represented by the ACLU on petition rights, which I won't go into, but we won both of them. And so I am a big proponent of accurate elections and participation. My issue here has nothing to do with the Trump election. As I mentioned earlier, I took note of it during the ACORN issue and there was even, you know, there was the 2012 election, there also were accusations in the 2008 election about mail-in ballots and absentee ballots. I think the sanctity of one individual vote is so important that we cannot have any ability for somebody to cancel one person's vote by harvesting a ballot. Yes, it might be a registered voter, yes, it might be a registered voter who moved away. That they fill out the ballot and it cancels the person, the elderly, the disabled person who actually took the effort to fill out their own ballot and mail it in, drop it off. That is where I'm coming from. We have got to stop the political action groups out harvesting ballots, out knocking on doors. As you heard in one of-- an earlier bill, mailing out to people ask-- telling them, making them look official to mail in to get a mail-in ballot. You heard a lot of numbers here about the 2020 election. We all know that that was an aberration. The election commissioner from Lancaster County didn't admit that they mailed out to every voter with a postcard that they could mail in and request a mail-in ballot. That is why the turnout across the state for mail-in was so huge, that reason and that reason only and the fear of COVID going out and about. So we had an aberration of a voting year, and we've had the most claims of fraud ever with mail-in ballots. I've got hearsay, whatever you want to call it, anecdote evidence of people who came to me in rural Nebraska. In Grant, Nebraska a woman called and said her daughter went in to vote and she'd already voted. It was mailed to her address in Lincoln as a student, but she was still registered back in Perkins County. She voted in Lancaster County. She couldn't vote in Perkins County. And the young lady said, no way, I filled out a ballot. And that's firsthand when I heard anecdotal evidence. How often it happens, I don't know. You also heard Lancaster commiss-- they can still request a ballot 120 days prior to the election. All we're saying is you can't mail them out. You can't expose those ballots

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through the error-- to corruption to ballot more than 22 days. And I, I guess I don't care what nationality you are, what color you are, what sex you are, your disability. I have enough confidence that all Americans have the ability within 22 days to receive a ballot, make their own choices and mail it back in. To claim that certain physical attributes, be it your genetics, of your flesh, or that you're disabled makes you inefficient and you have less ability to return a ballot is absolutely repulsive to me. Repulsive. Yes, they need to be able to get a ballot and a mail-in ballot, everybody should. We just need to make sure it is a reduced amount of time. And as to the election officials, some of them look old enough to remember the days when it was just a madhouse on Tuesdays, and the first Tuesday where all these folks came in and valid-- voted in person and they had ballots everywhere, stacks everywhere that they had to tabulate. I'm trying to figure out why there's more work now with a mail-in ballot. They come in, they've got time, two weeks ahead of time or more. Two weeks, probably, about since you mail it out in 20-- 3 weeks, to open them up, have them piled there neatly and ready to run through the machine. I'm for the life of me, don't understand why they need 35 days to do that. So thank you. I, I really intend this to be-- to protect the individual who votes, does it honestly. That it's no-- we eliminate any chance that their vote is, is canceled by a ballot that wasn't filled out and sent in in good faith. Thank you.

M. HANSEN: Thank you. Questions from the committee? Senator Hunt.

HUNT: Thanks, Senator Hansen. Senator Groene, why, why did you arrive at 22 days, not like 20 days or--

GROENE: You weren't here. Because of--

HUNT: --14 days?

GROENE: --I talked to the election commissioner. There's 35 days now, 30 days and 22 days. The 22 days are for special elections, so your school bond election, let's say Lancaster-- Lincoln Public Schools had a school bond election. They can mail it, they mail it out by law-- they can't mail it out any sooner than 22 days. So I wanted to harmonize all the dates to, to one date, and I picked the 22 dates. I didn't pick the 22 days, it's in statute.

HUNT: OK, thanks.

GROENE: So 35 days, if they mail it out for a general election. It's 30 days if you go in and vote early at the county. And it's 22 days

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for a special election. And my assumption is, is if there is no complaints that in 22 days an entire community of Lincoln can get their ballots back in for a school bond election, there won't be any complaints about a general election, either.

HUNT: OK, thanks.

M. HANSEN: Thank you, Senator Hunt. All right, seeing no other questions, thank you, Senator Groene. And we will close the hearing on LB785, and with that will move to our last bill of the day with LB849 by Senator Bostar. Senator Bostar, welcome to the Government, Military and Veterans Affairs Committee.

BOSTAR: Great to be here. Good afternoon or evening, Vice Chair Hansen and members of the Government, Military and Veterans Affairs Committee. My name is Eliot Bostar, that's E-l-i-o-t B-o-s-t-a-r, and I represent Legislative District 29. I'm here to present LB849, a bill that applies a criminal penalty and subsequent forfeiture of office to members of a governing body of a political subdivision who willfully neglect, omit or take action prohibited by law to block or deny a recall election after recall petition signatures have been validated and found to be in sufficient number in order to trigger a recall election. This criminal penalty, a Class I misdemeanor, and loss of office, already applies to county clerks and county election commissioners who disregard their duties to hold a recall election. And LB849 merely extends the same penalty to political subdivision governing body members. The need for increased penalties came to my attention after a situation that arose in the village of Alvo, Nebraska. Over the past several years, there has been a substantial amount of media coverage regarding alleged mismanagement on the part of some members of the Alvo village board. During the late summer and early fall of 2021, the voters of Alvo circulated a petition among themselves to recall two members of their village board. They required 17.1 validated signatures to trigger a recall election, and 26 total signatures were collected and presented to Cass County Election Commissioner Linn Moore. Of those, 25 signatures were validated by the election commissioner, and in September of 2021, she certified the signatures and notified the village board that a sufficient number of signatures had been collected and validated to trigger a recall election. Existing state statute 32-1306 (2) reads as follows. "The governing body of the political subdivision shall, within 21 days after receipt of the notification from the filing clerk pursuant to subsection (1) of this section, order an election." It's not difficult to see that according to state statute the village board had a clear legal obligation to order a recall election of the members in

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question. On October 5, 2021, the village board met and debate the merits of holding a recall election. Ultimately, the Alvo village board voted 5-0 against ordering a recall election. This was a violation of both state law and the public trust. On October 28, 2022, a lawsuit was filed on behalf of a resident of Alvo against the village board-- I'm sorry, and that's October 28, 2021, against the village board due to their failure to call for a recall election. Finally, under court order, members of the Alvo village board voted in December to certify that a sufficient number of voter signatures had been gathered to force a recall election, which is currently scheduled for February 15, 2022. It took a lawsuit and a court order for the voters of Alvo to get their certified petition recognized and an election ordered by the village board. It has been represented by one of the board members under recall that the village of Alvo will spend up to \$21,000 on the recall election and that much of the cost comes from legal fees Alvo could have avoided if the village board had performed their legal duty and voted to hold the election when initially required. The civil process is insufficient to resolve situations like these, as ultimately the very taxpayers seeking the recall are forced to bear the cost of the court process simply to hold their elected officials accountable. Politicians who are willing to violate the law, as well as the public trust, must be held accountable personally for their actions and should face criminal penalties for trying to stand in the way of democracy. LB849 provides much-needed protection for the recall process through a penalty that will apply to any member of a governing body of a political subdivision who disregards their legal duty to order a recall election. I'm going to add that today I had conversations with the Secretary of State's Office and we will be working on an amendment that I hope to get to you, the committee, soon, in order to avoid creating duplicative elections through this process. So I would ask the committee to wait to consider the bill until that's provided. Just to, just to clean up a couple of things in order to make sure that we're truly accomplishing what we want and we're not creating more burdens than we need to. With that said, I would encourage you to support the will of voters and LB849. And thank you again for your time, and I'd be happy to answer any questions you might have.

M. HANSEN: Thank you, Senator. Are there questions from the committee? Senator McCollister.

McCOLLISTER: Yeah, thank you, Senator Hansen. You cite one example. Can you name any others?

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BOSTAR: Not off the top of my head, however, it has been expressed to me that this is not an isolated incident and that there are other cases. And I would be happy to get you that information. I would, though, assert that one case is too many.

McCOLLISTER: Thank you.

M. HANSEN: Thank you, Senator McCollister. All right, seeing no other questions, we will move on to proponent testimony for LB849. Any proponents?

SPIKE EICKHOLT: Good evening, my name is Spike Eickholt, S-p-i-k-e, last name is E-i-c-k-h-o-l-t. I'm appearing on behalf of the ACLU of Nebraska in support of LB849. And Senator Bostar just explained the bill's purpose and what it does. First, as you probably know, our association generally, if anything, opposes bills that propose to increase or broaden crimes. We looked at this one carefully, though, because arguably, and if you look at the text of the bill, this doesn't so much broaden or even actually expand a crime as much as it expresses the intent that's behind this original statute, 32-1518. Basically, 32-1518 is sort of a catchall penalty provision, if you will, if an elected official fails to perform a duty that's otherwise provided by statute and neglects to exercise that duty and carry it out. Arguably, and I suspect, I haven't looked at the lawsuit that the people and Alvo brought. I suspect that was the argument that they prevailed in the civil suit to compel the recall election being held. So arguably this language at least would put a village such as Alvo or a similar local smaller entity that's not government-- a government body that's not perhaps delineated in the existing statute on notice that they need to comply with the provisions of the Election Act. But as Senator Bostar explained, what happened was the village of Alvo there was, as you probably know from other stories, there's-- they're having this ongoing sort of battle, if you will, over that recycling tire facility. Apparently, a couple of members of the village board have some sort of financial connection to that. A number of the residents wanted to somehow recall over some dispute with that. They only needed to get 18 signatures to be on the ballot. They got the 18 signatures and the board just unanimously decided to disregard that and not hold the election. I can't speculate as to why. Through open meetings requests and public records requests, I have worked with some smaller jurisdictions around the state that probably don't have a full-time city attorney. They probably don't have a lawyer always on duty, and sometimes they some-- and sometimes they think they can just do things the way they think they should do things. But probably what happened is when somebody finally did sue, when they started

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litigating it, the village board realized they needed to comply with, if not the letter, but the spirit of 32-1518. And we think this is a good bill because it just puts that out clearly and explains to local officials what they need to do with respect to recall elections and other duties of office. So we would encourage the committee to advance the bill as amended in cooperation with the Secretary of State.

M. HANSEN: Thank you, Mr. Eickholt. Questions from the committee. Seeing none, thank you. We'll invite up the next proponent. Welcome.

MEG MIKOLAJCZYK: Hello. Good evening, Vice Chair Senator Matt Hansen and members of the committee. My name is Meg Mikolajczyk, M-e-g M-i-k-o-l-a-j-c-z-y-k, I'm the executive director of the Nebraska Civic Engagement Table. We are a member organization serving nearly 80 Nebraska 501(c)(3) nonprofits. We are committed to increasing our community's capacity for civic participation and protecting the core tenets of democracy. And obviously we feel very strongly that LB849 is a good government bill. It's really seeking to make clear to pol-- that policymakers have to remain accountable to their voters, to their constituents. They have to follow the law. There is a state law where we granted the people the power to hold their account, their people accountable and to do recall elections. It's not their choice whether or not those people being recalled can put that on the ballot. Our democracy would actually be meaningless if the will of the people could simply be swatted away when politically expedient. The situation in Alvo, you know, perfectly illustrates all of this. It's been pretty well described what happened. The public trust was eroded. The people did what they were supposed to do, the petitions were verified. And when that happened, there should not have been any question whether the village board should then have voted to permit this recall election to happen. The people had decided that it needed to go forward. It is encouraging that the judicial system worked in this instance and that the recall will go forward. But again, not a choice, not a question. To quote Dave Domina, and I can't help myself because I just think he's the best. He's a legal expert and I've had the privilege to work with him and learn from him. He is the attorney who filed this case on behalf of the petitioner circulators in Alvo: Local policymakers can't disregard the law. If you don't like it, then change it. Fine. Until you change it, you have to obey it. And so whether or not it was in good faith that the village alleged that the law was maybe a little unclear, now we know. Now this is clear. LB849 does, does that. The Nebraska Table works to ensure that all voices are heard in the democratic process, not just those that are in power. We make sure that those who are historically underrepresented have equitable access to participate, especially when their elected

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officials need to be held accountable, or at least let it be going to a vote. LB849 clearly aligns with these values, which is why we ask the committee to advance the bill. And by the way, Beatrix Bowen is a six-year-old kindergartner who has sat here for five hours. I think she deserves a little shout out from her mom, and thank you all for tolerating all of our coloring. She drew a very nice picture of you all that I will share later. Thank you.

M. HANSEN: Thank you. And we're honored to have Beatrix here today. Questions from the committee? Seeing none, thank you for your testimony.

MEG MIKOLAJCZYK: Thank you.

M. HANSEN: Any other proponents to LB849? Seeing none, are there any opponents to LB849?

MEG MIKOLAJCZYK: One sec.

M. HANSEN: Welcome back.

WAYNE BENA: I will say she's paid more attention than most of us in the back. For one more time, good evening, senators. My name is Wayne Bena, W-a-y-n-e B-e-n-a, and I serve as Deputy Secretary of State for Elections. I'm here on behalf of the Secretary of State Robert Evnen in opposition of LB849 as written. As the senator mentioned, we spoke this morning and I informed him there are some unintended consequences with the wording of this bill, but I am in complete agreement that there needs to be a remedy when a political subdivision calls for-- fails to call for a recall election as required by law. And as answer to one of your question, Senator McCollister, this has not been the first time, even in my four years in my office, this has happened. However, the current language in LB849 has some unintended consequences. If the language were to be adopted, the board members that do not vote for a recall election would first need to be prosecuted, and then once found guilty, they would lose their office. Once they lose their office, there's no more quorum on the board to be able to call an election. Thus, by law, the Secretary of State's Office would then become the political subdivision, call for a special election to be held to fill the vacancies of all the people that just lost their job for not setting the election, 50 days notice, at least, for that. And then you fill the vacancies, then you can set an election 50 days from that point. And this entire time, the person who was set to be recalled is still in office as long as they didn't not vote for their own recall. So we're talking six, seven months they are

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still in office because of this. So, I mean, it's unintended. It's an extra election that would have to be held because we've obliterated the board because of this, because if they don't hold the election, thus a majority said no to the election. We've been in contact again with Senator Bostar's office. We are in complete agreement that we need to come up with something and we've juggled around some ideas and we're happy to continue that work and then bring those results to the committee to-- for an amendment to bring forward. So again, we want these, we want these elections to be held and we want some accountability. Thank you.

M. HANSEN: Thank you, Mr. Bena. Senator McCollister.

McCOLLISTER: Yeah, thank you, Senator Hansen. Thank you for your full day here, just about. Now the-- it becomes a criminal prosecution?

WAYNE BENA: The bill would make it a criminal misdemeanor and loss of office.

McCOLLISTER: In the state or in the county?

WAYNE BENA: In the-- well, you would, you would charge it in the county.

McCOLLISTER: Charge it in the county.

WAYNE BENA: Yeah.

McCOLLISTER: And what kind of, kind of penalties could be levied in this?

WAYNE BENA: I don't practice criminal law. I can't remember. It, it-- one year. Less than one, well, it would be less than one year for a misdemeanor, yeah.

McCOLLISTER: Is it a misdemeanor or a felony?

WAYNE BENA: This would be a misdemeanor.

McCOLLISTER: OK. All right, and then could it go to a civil action?

WAYNE BENA: I would say in the meantime, you could have a civil action. But again, you're waiting for a majority of the board to come back to be able to actually vote to hold that election.

McCOLLISTER: Is there a monetary penalty as well, as well as a, you know, misdemeanor of this sort?

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WAYNE BENA: There can be, yes.

McCOLLISTER: OK, thank you.

M. HANSEN: Thank you, Senator McCollister. All right, seeing no other questions, thank you, Mr. Bena. All right, any other opponents to LB849? Seeing none, anybody wishing to testify neutral on LB849? Seeing none, we'll invite Senator Bostar up to close. While he's coming up, I will read into the record we did have three position letters, and they were all supporters, all proponents. With that, welcome to close.

BOSTAR: Just want to say thank you again for your time, I know it's been a long day. We will be working together with the Secretary of State's Office to ensure that we're not potentially making a problem worse. We're adding new elections that aren't necessary, but providing expeditious justice to situations where public officials abuse their office. And we'll get that to the committee as soon as possible. Thank you.

M. HANSEN: Thank you. Questions from the committee? Seeing none, thank you, Senator Bostar. That will close the hearing on LB849 and our hearings for the day.