



LEAGUE OF WOMEN VOTERS®  
OF NEBRASKA

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Testimony in Support of LB216  
Executive Council of Nebraska Unicameral  
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This is the testimony of the League of Women Voters of Nebraska in support of LB216. First, we congratulate Senator Harr for bringing forth this legislation. Redistricting legislation is critical to open and fair government; this is one of the most important legislative initiatives before the Nebraska Unicameral. As is apparent in the experiences of the four states discussed below (Florida, Arizona, California, and Iowa), redistricting is a complex issue—and Senator Harr has prepared an outstanding bill based on the best practices among these four systems.

Florida passed a Constitutional Amendment brought by voter initiative in 2010. The Amendment left the redistricting process with the state legislature but mandated a set of criteria, most of which are in LB216. The Florida legislature challenged the Amendment in state court both before and after the ballot. Since the validity of the Amendment was affirmed by the courts, the legislature created districts in 2011 and 2013. Those districts were challenged in both state and federal courts. In all cases, the courts have found that the process for creating the districts and some of the districts themselves violated the Amendment. The courts found unbelievable dishonesty and deception in the legislative process. After six years of litigation, the court approved a district map created by the challengers, which included the Florida League of Women Voters. It appears that Florida represents a good, but problematic model.

Arizona passed a Constitutional Amendment initiated by voters in 2000. The Amendment delegates redistricting power to a 5-member bipartisan independent commission composed of 2 Republicans, 2 Democrats, and one Independent chair. The Appellate Court Screening Committee creates a list of 20 Republican candidates, 20 Democratic candidates, and 10 Independent Candidates. The Republican and Democratic leaders in the Senate and House each select one person from these lists. These four members select the Independent chair. The process worked fairly well in 2001, but there were tremendous conflicts in 2011 which led to a failed attempt by the Governor to fire the chair as well as multiple court suits. One suit settled by the U.S. Supreme Court—ruled that a popularly passed Constitutional Amendment fulfills the requirement in the U.S. Constitution that “the times, places, and manner” of electing members of congress “shall be prescribed in each state by the Legislature thereof.” Thus, this seems to be a major model to be followed by Nebraska.

California passed Constitutional Amendments initiated by voters in 2008 and 2010. The Amendments delegate redistricting power to a Commission composed of 5 Republicans, 5 Democrats, and 4 Independents. In 2010, the non-partisan Bureau of State Audits conducted a broad recruitment campaign that received over 30,000 quite diverse applicants. A review panel of 3 independent auditors screened the applicants and selected 20 Republicans, 20 Democrats, and 20 Independents. The Republican and Democratic leaders of the Senate and House are each allowed to strike 2 candidates from their party list. The panel then draws 3 Republicans, 3 Democrats, and 2 Independents from the

remaining names on the lists—that ensure ethnic, geographic, and gender diversity. These 8 Commission members then select the remaining 6 commissioners with the intent to maintain or improve diversity. The Commission held public hearings, drew district maps, revised the maps after additional public hearings, and drew districts. The districts received positive votes from all 3 required groups of Commissioners and survived legal challenges in state and federal courts. Another positive model.

Iowa’s redistricting process was passed by the legislature in 1980. It provides that the districts are drawn by the nonpartisan Legislative Services Agency (LSA), using all the criteria in the Nebraska bill plus the disregard of incumbent addresses. The Temporary Redistricting Commission consists of four citizens selected by the 4 party leaders in the Senate and House, who then jointly select a fifth member as chair. The Temporary Commission does not draw district maps; rather it schedules, chairs, and prepares a report on the public hearings on the first district map drawn by LSA. The new district maps and public hearing report are then submitted to the legislature. The legislature votes on the maps, with no substantive amendments allowed. If it votes “no,” the LSA draws a second map, taking into consideration comments made in the legislature, and submits them to the legislature. If the legislature votes “no” a second time, again without amendments, the LSA draws a third map and submits it to the legislature. This time the legislature can make amendments. If it votes “no” a third time, then the Iowa Supreme Court is mandated to create the redistricting map. This system has been very positive. None of the plans have been challenged in court. In 1981, the third plan was enacted. In 1991 and 2011, the first plans were enacted. In 2001, the second plan was enacted.

How does LB216 compare with these four state redistricting laws?

1. Nonpartisan Unicameral: None of these states have unicameral legislatures, so there must be adaptations for Nebraska. For instance, since there are not party leaders in the legislature, the members of the commission are chosen by parties in the Congressional District Caucuses.
2. Non-Partisan Commission: LB216 mandates that the Legislative Service Agency (LSA) draws the districts, which is positive. LB216 prescribes a non-partisan commission to conduct and report on four Legislative hearings in the three Congressional Districts. To ensure a non-partisan process, for example, Arizona and California select an equal number of Republican and Democratic members and then one or more Independents, one of whom must be chair. LB216 uses a similar process by mandating that 6 members, one from each party from each of the 3 Congressional Caucuses constitute the Commission. Those 6 members then elect the one Independent, who serves as chair.
3. Maps Drawn by Non-Partisan Legislative Office: The Iowa system uses the Legislative Services Agency (very similar to the Nebraska’s Legislative Research Office (LRO) to draw the districts.
4. Ignoring Incumbent Addresses: LB216 does not ignore incumbent addresses. The Nebraska Constitution provides that senators in office after redistricting are allowed to remain in office for the remainder of their terms: “the law providing for such redistricting shall where necessary specify the newly established district which they shall represent for the balance of their term” (Article III, Section 7). This provision creates some problems, because avoiding incumbent addresses may mean drawing new districts only around existing districts. This makes it very difficult to draw the best overall district maps. However, we are assured that there are procedures for addressing this issue.
5. Finally, five issues raised in Governor Ricketts’ veto message are satisfied:

- Points 2 & 3 above satisfy Governor Ricketts’ concern (in his veto of LB580 dated April 20, 1916) that that the bill should reflect “the spirit and tradition of our non-partisan Legislature.”
- This bill gives the Legislative Service Agency (NOT the Independent Advisory Commission) the authority to draft the maps. The LSA is the agency that drafts all legislation. The drafting of maps by the Legislative Service Agency avoids the Governor’s concern that that the Commission “could become a hyper-partisan, unelected advisory commission that will likely be comprised of formal political party activities and former elected officials.”
- The bill also provides for hearings held in all three Congressional Districts (rather than simply in the Capitol). While the Commission schedules, chairs, and reports on these hearings, the reports on the hearings come before the Legislature, the same as the reports of other hearings.
- The bill does not contradict the Nebraska Constitution. There is nothing in the Constitution that prohibits the Legislature from delegating part of the responsibility of conducting hearings and providing reports. The Commission does not draw the maps. They are drawn by the LSA. Furthermore, the final decisions about the maps is retained by the Legislature—and if it is not satisfied with the second set of maps, it retains the authority to draw its own maps.
- Finally, this provision—that the Legislature retains the authority to draw its own maps—avoids the Governor’s final concern. It significantly reduces the likelihood of delays that could create a need for “a special session to be called for the purpose of enacting redistricting plans.”

#### 6. Several Minor Issues:

- The maximum allowable variations in populations except for U.S. Congressmen is 10 percent. This may be a larger variation than the Courts would accept, but that is not certain.
- It appears that amendments to the redistricting bills are not allowed, but that is not specifically stated in the bill.
- If the Unicameral is unable to approve any of the first two sets of bills, the Unicameral itself becomes responsible for drawing and approving the maps.
- This bill does not include the language in LB580 (2015-16) asking that the Secretary of State provide a formal opinion on the constitutionality of the proposed maps. This eliminates one of the issues raised by Governor Ricketts in his veto message.

We believe this in an outstanding bill that will serve well the citizens of Nebraska. It deserves the strong support of our tremendous non-partisan Legislature.

Sincerely,

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Social Policy Director

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