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Government, Military and Veterans Affairs Committee
January 26, 2007

[LB172 LB195 LB208 LB212]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Friday, January 26, 2007, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB208, LB195, LB172, and LB212. Senators present: Ray Aguilar, Chairperson; Greg Adams; Bill Avery; Mike Friend; Russ Karpisek; Rich Pahls; and Kent Rogert. Senators absent: Mick Mines, Vice Chairperson.

SENATOR AGUILAR: Good afternoon, everyone. Welcome to the Government, Military and Veterans Affairs Committee hearing. First, I'd like to introduce the committee members. I'm Ray Aguilar of Grand Island, District 35; to my far right is Senator Kent Rogert of Tekamah; next to him is Senator Russ Karpisek from Wilber; next to him our legal counsel, Christy Abraham; on my left is our committee clerk, Sherry Shaffer; next to Sherry is Senator Rich Pahls of Omaha; Senator Greg Adams of York; and Senator Bill Avery of Lincoln. The bills will be taken up in the order that they are posted on the door: LB208, LB195, LB172 and LB212 will be heard together. Sign-in sheets are at both entrances. Sign in only if you're going to testify and then put the sign-in sheet up here, in this yellow box on the table, the box on the table. If you're not going to testify, but would like to be on the record either as a proponent or an opponent of this bill, there is another sheet that you can fill out, and those are on the tables at the entrances. Print your name and indicate who you are representing. Before testifying, please spell your name for the record. Introducers will make initial statements, followed by proponents, opponents, and neutral testimony. Closing remarks are reserved for the introducing senator only. Listen carefully to the testimony before you and try not to be repetitive. If you have a prepared statement or exhibit, give it to the page and he'll distribute it. We'll need 12 copies to go around. Please turn off your cell phones and pagers. Our pages today are Adam Morfeld, from Sioux Falls, South Dakota, and Kristin Kallsen, from Big Springs, Nebraska. Now ready to open on LB208. Senator Adams?

SENATOR ADAMS: Sure, sure.

SENATOR AGUILAR: Good afternoon, members of the Government, Military and Veterans Affairs Committee. My name is Ray Aguilar, that's spelled A-g-u-i-l-a-r, representing District 35, and I'm here to present to you today LB208. Current law provides that the state of Nebraska and all public bodies must have a payment bond in an amount not less than the contract price for the furnishing, erecting or repairing any public structure or improvement for projects of the state. This applies to all contracts in excess of \$15,000. For a political subdivision, this applies to all contracts in excess of \$5,000. LB208 will...would provide that the \$15,000 threshold would apply equally to the state and to the political subdivisions. The cost thresholds were enacted in 1990, when construction prices and labor were considerably lower. A \$5,000 bond may cost a small local contractor \$200, which is passed on to the cost of the project to the local subdivision. Also, the small contractor may not meet the bonding company

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requirements or simply will not bid on this small of a contract. For housing authorities which contract frequently for the repairs and improvements necessary under the Americans With Disabilities Act for routine upkeep, these bond costs have eaten into the dwindling revenue stream. It is the intent of LB208 to update the bonding threshold to reflect current construction and repair costs and to encourage more local participation, especially among minority and women's businesses. I'll try to answer any questions you have at this time. [LB208]

SENATOR ADAMS: Questions from the committee members? Thank you, Senator. We next take proponents to the bill. [LB208]

CHRIS LAMBERTY: Good afternoon. Thank you for having this hearing today. I'm Chris Lamberty and I'm the president of Nebraska NAHRO, which is organization of over 100 local public housing authorities across the state of Nebraska, and I'm also assistant director of the Lincoln Housing Authority. Local housing authorities in Nebraska... [LB208]

SENATOR ADAMS: Chris, excuse me. Would you spell your name for the clerk, please. [LB208]

CHRIS LAMBERTY: L-a-m-b-e-r-t-y is my last name. [LB208]

SENATOR ADAMS: Thank you. [LB208]

CHRIS LAMBERTY: You're welcome. Local housing authorities across the state of Nebraska, as Senator Aguilar said, do a lot of small contracts for basic maintenance, service, and repair contracts under \$15,000. Currently, under state law we're required to require those contractors to provide a labor and materials bond for anything \$5,000 and over, which was established as a dollar amount in 1990. This does limit our ability to seek additional...to wide...to have a large pool of contractors willing to bid on a lot of our small contracts. A number of small contractors simply are unwilling to go through the process and the hassle and the expense necessary to get bonded by a bonding company, and this limits the pool of contractors that are available across the state. It is a problem here in Lincoln. And it's a bigger problem in a lot of smaller communities where a lot of small housing authorities that I represent work. And their interest is in trying to contract to local, smaller contractors whenever possible or at least have the broadest pool of contractors to get bids from. This would help with that greatly. I did some checking across the state. In Hall County, in Grand Island the director of the Housing Authority said...there told me that approximately 50 percent of all their contracts are under \$15,000, and 40 to 45 percent are between \$5,000 and \$15,000. So that would help them greatly expand the pool of contractors on a large number of their contracts. Pretty much you can count on at least a 3 percent or more add-on to every contract that we have to do that requires a labor and material bond. So it's really a cost

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that is passed through to us in the bid, and in addition to that it limits the number of contractors that are willing to bid on our project. So I would ask that you support the bill. And I thank you for hearing me. [LB208]

SENATOR ADAMS: Are there questions of the testifier? Hearing none, thank you. [LB208]

CHRIS LAMBERTY: Thank you. [LB208]

SENATOR ADAMS: Are there additional proponents? [LB208]

IVAN KRING: Thank you for listening to me. My name is Ivan Kring. I'm a small contractor that works mainly with the Lincoln Housing Authority. [LB208]

SENATOR ADAMS: Ivan, could you...I'm going to interrupt you for a moment. Could you spell your name for the record, please. [LB208]

IVAN KRING: Okay. K-r-i-n-g. [LB208]

SENATOR ADAMS: Thank you. [LB208]

IVAN KRING: Okay. For about 15 years, I've been in a lot of small jobs for Lincoln Housing Authority. And in the last few years, bonding has gotten more difficult each year. You have to have a CPA do a capitulation of all your records for the last year before you can get a bond, and that's getting more strict. So it's a hassle to get that done. It's an expense, \$500 to \$1,000 to get that done before you can get a bond by the bonding companies. Once I didn't have that done and the bonding company said, well, if you sign over your house to us, we will give you a bond. And I thought that wouldn't be very good if I had a heart attack and my wife would lose our life savings and our house. That was the other option besides having a CPA do it. So I see a lot of small, young contractors coming in, where I used to be 10, 15 years ago, when I started, finding out that they have to go through this hassle of getting bonded, getting an accountant to look through all their books and see if they'll pass, so they don't bid on a small job, so you lose a lot of people, especially the minorities and people just starting out in business. So I guess I'm open for questions. [LB208]

SENATOR ADAMS: Are there questions? Thank you, Mr. Kring. Are there other proponents that wish to speak to this matter? [LB208]

GARY KRUMLAND: Senator Adams, members of the committee, my name is Gary Krumland, it's spelled G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities in support of LB208. The bill will give local officials more discretion for some of these smaller contracts. They still can decide if it's appropriate to require the

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bond, but by raising the amount from \$5,000 to \$15,000 it just will give the local elected officials more discretion and they will be the ones to make that decision, depending on the circumstances. So we do support the bill. [LB208]

SENATOR ADAMS: Are there questions for Mr. Krumland? Thank you then. [LB208]

GARY KRUMLAND: Um-hum. [LB208]

SENATOR ADAMS: (Exhibit 1) Are there other proponents? All right. I would like to read into the record a letter here in support from the Nebraska Association of County Officials. Their legislative committee has taken a position in support of LB208, a bill increasing the triggering amounts for labor and material bonds. Under existing law, labor and material bonds are required for public building, bridge, highway and other projects with a total cost of \$5,000 or less. And this bill increases the triggering amounts, and they would support that. Let's next move to the opposition on this bill. Is there anyone who wishes to testify in opposition? Could you state your name and spell it for the record, please. [LB208]

DICK JOHNSON: Yes, Senator. I'm Dick Johnson, J-o-h-n-s-o-n. I'm here today representing Associated Builders and Contractors, a statewide group of commercial and industrial builders. We don't have a problem with moving the threshold up a little. But the reason this language was put in the statutes to start with was to protect the small contractor that may be doing work for a little larger contractor. So, in fact, if a larger contractor or supplier wasn't able to get paid, and on public works, you know, you can't file a lien against any public or municipally owned property. So, you know, we would suggest that maybe \$10,000 would more realistically affect or impact what the change in construction dollars were since the original statutes were written. But we really hesitate, you know, to raise it to \$15,000 because the same contractors that maybe are paying, you know, \$150 to \$300 for a bond, depending on what the price is, that's an insurance policy for them that they will get paid. And I have a real concern that there's no protection. And if we have a contractor that goes out and buys from a supplier and decides not to pay the supplier, the supplier has no recourse on public work other than this particular statute. So we're opposed to the \$15,000. You know, we could agree that a number like \$10,000 would probably be much more realistic on what the construction costs difference are. And if you have any questions, I'll be happy to answer them. [LB208]

SENATOR ADAMS: Are there questions? [LB208]

SENATOR PAHLS: Yes, I have a question; \$10,000 is the number you're throwing at us? [LB208]

DICK JOHNSON: That would more realistically impact. When \$5,000 was put into

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place, you know, the cost of the construction probably has doubled since the seventies. And so...but we think the protection is critical, you know, because if a small contractor or a supply house, you know, sells something to a project and they don't get paid, there's no recourse whatsoever. And so we think \$15,000 might stretch the limits on what a small contractor could absorb within their business or a small supplier. And those typically are those starting in business or by choice are a one- or two-man shop. [LB208]

SENATOR PAHLS: Thank you. [LB208]

SENATOR ADAMS: Thank you. Any other questions? Okay. Other opposition testimony? [LB208]

CURT BECK: Good afternoon. My name is Curt Beck, C-u-r-t B-e-c-k. I'm the executive director of the Nebraska Chapter of the Associated General Contractors, AGC. I am testifying today in opposition of LB208. Our membership includes general contractors, as well as suppliers and subcontractors. Currently, Statute 52-118 provides the resource for suppliers and subcontractors to have recourse in the event of nonpayment. It is very important that there is a level playing field when competitively bidding public work. Allowing the contracting officer or entity the flexibility to require a bond on a certain project and not require a bond on another project creates the potential for inconsistent perception of the bidding process. As you know, the valid purpose of the bonds is to protect suppliers and subcontractors. We ask you to oppose LB208. Thank you. [LB208]

SENATOR ADAMS: Questions? [LB208]

SENATOR KARPSEK: Thank you, Senator. Curt, there already is the \$5,000, so if you apply it...I didn't get where you said apply it to one and not the other? I mean, if it's on this project, I wanted to build a new rest room in the park and if it's \$10,000, neither one would need to be bonded then, correct or to have the bond on that particular... [LB208]

CURT BECK: For anything...it's currently at \$5,000. [LB208]

SENATOR KARPSEK: Yeah, if we would raise this to \$15,000, if it's at \$10,000. [LB208]

CURT BECK: Yeah. Really, from our vantage point, it's not the dollar figure, it's the consistency in the projects having the bond or not having a bond. And so that's the only issue that we really have. [LB208]

SENATOR KARPSEK: Well, I guess I just...if it's \$5,000, I don't see the consistency part? You can already have a project that's under \$5,000. [LB208]

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CURT BECK: Right. [LB208]

SENATOR KARPISEK: So that's... [LB208]

CURT BECK: That's correct. We would hope that there would be consistency with that as well. [LB208]

SENATOR KARPISEK: Okay, thank you. [LB208]

SENATOR ADAMS: Anyone else? [LB208]

SENATOR AVERY: Yes. So I take it, you oppose this? [LB208]

CURT BECK: We oppose LB208, yes. [LB208]

SENATOR AVERY: Any kind, \$5,000 you oppose that, what's current law. [LB208]

CURT BECK: No, we support bonds, the idea of having the bond; it's just a matter that there should be a bond on all of the projects or not, in either case. [LB208]

SENATOR AVERY: So you don't see setting limits like this? [LB208]

CURT BECK: We would prefer on a public project that there be, yes, it's going to require a bond or no, that it's not, not left up to the discretion of the contracting entity. [LB208]

SENATOR ADAMS: Other questions of the testifier? If not, thank you. [LB208]

CURT BECK: Thank you. [LB208]

SENATOR ADAMS: Is there other opposition testimony? If not, anyone who wishes to testify in the neutral capacity? If not, Senator. [LB208]

SENATOR AGUILAR: Thank you, Senator Adams. I just wanted to comment on one thing that was said in creating a level playing field. I think that's exactly what this legislation does. It allows for smaller companies to be able to participate at that level. I don't want to relegate any, you know, public bidding, just to big companies, I don't think that's fair. Let's open up the pool a little bit and allow for more competitive bidding to take place. Thank you. [LB208]

SENATOR ADAMS: Any questions for the Senator? [LB208]

SENATOR KARPISEK: Thank you, Senator. Senator Aguilar, in my previous life I was a

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mayor. I tend to remember that it was \$20,000 that you didn't need bids on anything like my example of the bathroom. I guess, from my point of view, \$20,000 would make more sense if you don't have to have bids. I mean, it seems like we've got too many different levels there. [LB208]

SENATOR AGUILAR: Yeah, and I would touch that. As far as the state itself, they've already come to me and asked me if we'd consider raising that up as well, strictly because of the cost of construction these days, as well as everything that goes along with it, labor and everything. So, you know, it's very possible that all those numbers are going to take a jump. [LB208]

SENATOR KARPISEK: Well, I guess being in a small town, trying to do a small project, it's sometimes very cumbersome when, well, it's \$20,000 so we didn't need a bid. Oh wait, it was \$16,000 so you needed a bid bond. And I just think one level would be easier. Thank you, Senator Aguilar. [LB208]

SENATOR AGUILAR: Yeah. [LB208]

SENATOR ADAMS: Senator, maybe you said this in your opening comments, if so, I apologize for not picking up on it. When was the last time that this was adjusted? [LB208]

SENATOR AGUILAR: I don't think I did...yes, I did, 1990. [LB208]

SENATOR ADAMS: Okay. Any other questions for the Senator? If not, that will close the hearing on LB208. [LB208]

SENATOR AGUILAR: Now ready to open on LB195, Senator Preister. [LB195]

SENATOR PREISTER: Thank you, Chairman Aguilar, members of the Government, Military and Veterans Affairs Committee. It's nice to be before you today. I am Don Preister, P-r-e-i-s-t-e-r, represent the 5th Legislative District in south Omaha and Bellevue. LB195 repeals the State Quarter Commission. The commission has completed its statutory task and the Nebraska quarter was issued in 2006. There is no further need for the commission to exist. That concludes my testimony. I don't always bring you controversial things. [LB195]

SENATOR AGUILAR: And we do appreciate that, Senator Preister. [LB195]

SENATOR PREISTER: (Exhibit 1) I have passed out a copy, because the bill doesn't really tell you what we're repealing. For those of you who have campaigned against expanded government, here's a chance to eliminate a commission, to eliminate wording in statute. And I don't think there's any opposition. [LB195]

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SENATOR AGUILAR: Questions for Senator Preister? [LB195]

SENATOR PREISTER: I have checked, and Senator Erdman and I had both supported this. Senator Erdman was really pushing it. I checked with him, he's okay with doing this. He suggested that we check with the Historical Society for any concerns they may have. They were okay. It's in old sections of statute, so it would still be available, if anybody needed it for that purpose. The floor debate, the committee, all those records still exist, if anybody needed that for reference. So at this point it's extraneous language. They've completely served their purpose and it just cleans up statute and eliminates something that's no longer necessary. And for those of you who want to see the quarter, you may have one in your pocket. [LB195]

SENATOR AGUILAR: Questions? Seeing none, I'd just like to touch on the fact that one of the responsibilities of this committee is to make sure that if there are already commissions out there that aren't doing anything, then it's our responsibility to see that they go away. Thank you, Senator Preister. [LB195]

SENATOR PREISTER: Thank you, Senator. [LB195]

SENATOR AGUILAR: Proponents? [LB195]

SENATOR PREISTER: I'll waive closing. [LB195]

SENATOR AGUILAR: Opponents? Neutral testimony? Seeing none, Senator Preister has waived closing. That will close the hearing on LB195. We're ready to open on LB172. We're going to hear LB172 and LB212 together. Senator Kopplin will open on LB172, then Senator Rogert on LB212. [LB195]

SENATOR KOPPLIN: Senator Aguilar and members of the Government Committee, my name is Gail, G-a-i-l, Kopplin, K-o-p-p-l-i-n, and I represent Legislative District 3, located completely in Sarpy County. I appear before you today to introduce LB172, which would grant county governments the authority to adopt and implement countywide ordinances. I understand that this isn't the first time the Government Committee has heard bills that would grant counties ordinance authority, and the outcome in the past hasn't exactly been favorable. I hope we can change that outcome today with LB172. This bill is modeled after legislation offered by Senator Foley in 2005. We made a couple of changes that I think will improve the bill. Those changes include simplifying the language in subparagraph (2) to make it clear that a county ordinance will not apply within any incorporated municipality or its extraterritorial zoning jurisdiction. I want to make it clear that we do not intend that county ordinances infringe on or replace the proper authority of cities or towns. We also removed language referring to booking fees. These are fees collected when someone is arrested and booked by the arresting

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authority. To my knowledge, those fees aren't collected now and don't belong in this type of legislation. The need for counties to have ordinance authority was brought home to me by a constituent who was experiencing some troubling behavior near Tiburon Golf Course outside of any municipal authority. You will hear from Sandra Rahe later, and she can detail the situation for you. What her situation did for me was point out the inadequacy of protection from these nuisance or disorderly type conduct or violations county residents experience. Sarpy County in particular has a definite need for ordinance authority. Sarpy County is becoming one of the most urbanized counties in the state. There are 131 sanitary improvement districts in the county. New developments seem to spring up overnight. Many of these people who move into these SIDs have moved from other cities or towns where they have come to expect and have enjoyed the protections provided by city ordinances. Now they find that even though they appear to live in a suburban or even an urban setting, they no longer have the security and safety they previously enjoyed; county ordinance authority would provide that protection. Other counties also have experienced their own problems. One of the reasons Senator Foley introduced his bill in 2005 was because of the inability of Lancaster County to regulate nude dancing by resolution. The Nebraska Supreme Court has ruled that resolutions do not have the force of law and only express an opinion. Ordinance authority would be required before Lancaster County or any county could limit or control nude dancing. The state of Nebraska providing its county with ordinance authority is not out of the ordinary. In a quick check of our neighboring states, we found that Iowa, Missouri, Colorado, and South Dakota have some form of ordinance authority. Kansas also has a form of this authority, but they refer to them as resolutions, which obviously carries a different meaning in Kansas than in Nebraska. I know that the Farm Bureau, for instance, is worried that granting a county ordinance authority could lead to some unintended negative consequences for the production of agriculture. This is certainly not my intent. And I believe we can trust county commissioners in Nebraska especially to recognize the importance of agriculture. But if this is a legitimate concern, I would be more than willing to work with the committee to develop appropriate language to address that issue. Finally, I understand there may be some concern that my proposal is too broad, that we are trusting county commissioners with too much authority. I would remind you that we already trust these commissioners with zoning authority, budget authority, the ability to maintain and regulate jails, maintain and build roads, any number of important functions where their judgment is trusted and respected. I think we can trust them with ordinance authority. Thank you. And I would attempt to answer any questions you may have. [LB172 LB212]

SENATOR AGUILAR: Questions for Senator Kopplin? Seeing none, thank you. Senator Rogert, to open on LB212. [LB172 LB212]

SENATOR ROBERT: (Exhibits 1, 2, and 3) Senator Aguilar and members of the Government, Military and Veterans Affairs Committee, my name is Kent Rogert, R-o-g-e-r-t. I have the honor to represent the 16th Legislative District. I would like to

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introduce to you today LB212. This is a bill that authorizes counties to pass ordinances specific to towing, control of cats and dogs at large, and removing sidewalk obstructions. This bill does not allow counties to impose ordinances within the boundaries of incorporated municipalities. It is intended to assist certain sanitary and improvement districts that are outside the jurisdictions of city ordinances that will not be annexed in the future by these cities. This bill was a legislative remedy to a problem that stems from a subdivision of Norfolk that resides within my district. It's across the Madison County line, in Stanton County, it's called Woodland Park, Sanitary Improvement District #1. It's within the two-mile zoning jurisdiction of the city of Norfolk. It consists of about 1,900 people, 540 houses, and 3 businesses. This is the largest group of people actually in Stanton County. Residents of Woodland Park SID #1 are presently unable to address the following issues: cats and dogs at large, inappropriately parked motor vehicles, and sidewalk obstructions such as snow, ice or mud. For example, many children are walking around motor vehicles parked on sidewalks and in yards and into the streets, risking accidents. Unfortunately, the county sheriff is unable to enforce stringent recommendations that certain individuals move their motor vehicles for the general safety of the community. The SID #1 is located outside the scope of the city ordinances of Norfolk, and there are no SID rules or regulations or county ordinances that have power to resolve these issues, let alone enforce them. Some of the difficulties with certain remedies that we've had suggested to us in the past: granting SID the police authority to enforce rules and regulations could be problematic due to the fact it's not consistent with the SID concept. It's not considered an elective body of government, and the board of trustees is elected by property owners rather than by registered voters. It also holds the limited purpose of raising funds to build infrastructure in new areas, such as roads, sidewalks, lighting, and provides water and sewer to SID residents. Woodland Park SID #1 has existed for 35 years and is permanent. The city of Norfolk, which is within two miles, has no intention or interest in annexing the particular district, and for the most part the SID has no interest in being annexed by the city of Norfolk. What this bill does not do: it doesn't allow counties to impose ordinances that are in conflict with state law or that intrude on incorporated municipalities. But that may impose fines, forfeitures, and penalties, and provide for the recovery, collection and enforcement of such fines, forfeitures and penalties. It also requires that before a county ordinance is adopted or final action be taken that the county board must hold at least one public hearing, must publish a notice in the paper of general circulation once a week for three consecutive weeks, and must provide a copy of the ordinance, and must publish a book or pamphlet of such ordinances available at the county clerk for public inspections. I've sent you a couple letters of people that were not able to testify. The sheriff of Stanton County was not able to be here, but he is in support of this issue and, for the most part, is willing to work with the SID and the county commissioners to find a way to control some of these problems. Also, I got a letter from Mark Fitzgerald here for you. And he is the attorney representing the SID, has been there for a few years. And he states a few of the concerns that he has as well, which are pretty similar to what I talked about. We're going to have some testifiers here today that are going to testify in

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support from the SID. And probably I'll agree with Senator Kopplin that we'll have some opposition from Farm Bureau. The difference in my bill versus Senator Kopplin's bill is it's much more narrow, and it addresses a different issue. SID #1, in Stanton County, is within a zoning jurisdiction, so we need to have some language in there that gives it power to go within that zoning jurisdiction, but not within the incorporated boundaries of the municipality. We limit it to three basic concepts: control of animals at large, cats and dogs specifically, not livestock; vehicles that are abandoned or parked improperly; and sidewalk obstructions that include ice, snow, and mud or those vehicles. If necessary, I would also be willing to work with the committee. We have an amendment that we've looked at that would limit the powers within the sanitary improvement district rather than the county, but that would be...that's another difference that would be between mine and Senator Kopplin's bill. Any questions from the committee at this time? [LB172 LB212]

SENATOR AGUILAR: Questions for Senator Rogert? Yes, Senator Pahls. [LB172 LB212]

SENATOR PAHLS: Mr. Chairman, Senator, I've...something like this was brought up last year, as I can recall. [LB172 LB212]

SENATOR ROGERT: Yes. [LB172 LB212]

SENATOR PAHLS: Just for clarification on this, this SID, if Norfolk...they could be incorporated, if they chose to? [LB172 LB212]

SENATOR ROGERT: You'll have to help me on this. This runs into two problems. They don't...there is a...it would be a skip annexation. There's some area in between the city and the SID that's not annexed, and it's also across the county line. So that kind of eliminates that problem there, but it's still...the zoning jurisdiction goes out and cuts through the center of the SID. [LB172 LB212]

SENATOR PAHLS: And you're saying it's 3,000 people? [LB172 LB212]

SENATOR ROGERT: About 1,900, 540 households. My information might be different from the attorney's letter. [LB172 LB212]

SENATOR PAHLS: Mine just says...it says 3,000 residents. You're saying households. [LB172 LB212]

SENATOR ROGERT: Yes. [LB172 LB212]

SENATOR PAHLS: That's larger than many of the towns in Nebraska. [LB172 LB212]

SENATOR ROGERT: It's a good size; it's the biggest population center of Stanton

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County. [LB172 LB212]

SENATOR PAHLS: Okay, thank you. [LB172 LB212]

SENATOR AGUILAR: Further questions? Senator Adams. [LB172 LB212]

SENATOR ADAMS: I have to ask the question just for my own interest. [LB172 LB212]

SENATOR ROBERT: Sure. [LB172 LB212]

SENATOR ADAMS: And I'm sure that the answer is inherent within all of this material from county sheriffs and attorneys. If municipalities and counties exercise only those powers that are granted to them by the state, so the state of Nebraska then passes a statute that allows cities to implement a nuisance ordinance. Then, I'm thinking out loud here more than anything else, why wouldn't the same ordinance or the same statute...could it not be exercised within a county jurisdiction? [LB172 LB212]

SENATOR ROBERT: Right now, counties do not have ordinance authority. [LB172 LB212]

SENATOR ADAMS: Yeah, I know they don't. I mean, they don't have an ordinance. But what I'm saying is, if the state creates a statute that says you can clean up the cars, then does the county have to pass an ordinance to mirror that or does the county sheriff then have the statutory (inaudible) to implement that statute within the county, outside of the municipality? [LB172 LB212]

SENATOR ROBERT: That's actually a fairly good question. I think,... [LB172 LB212]

SENATOR ADAMS: I mean apparently they must not or this wouldn't...or I'm sure the Stanton County Sheriff would understand that. But I'm trying to get a handle on this myself. [LB172 LB212]

SENATOR ROBERT: I think, actually, both are true. If we give those counties power then the counties have to elect to take that power. [LB172 LB212]

SENATOR ADAMS: Okay. [LB172 LB212]

SENATOR ROBERT: And that's why we talked about, in subsection (3) of Section 1, they have public hearings that have to be taking place. [LB172 LB212]

SENATOR AGUILAR: Further questions? Seeing none, thank you. We'll now take proponents on either bill or both. [LB172 LB212]

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DARROLD LIDGETT: Good afternoon, honorable Chairman, committee. I'm Darrold Lidgett. Name is spelled D-a-r-r-o-l-d, Lidgett L-i-d-g-e-t-t. I'm the chairman of the SID #1 of Stanton County, representing approximately 1,900 people. I brought some notes with me, but I decided not to because I'm representing from the heart of these people that I represent. I've lived in the park myself approximately 40 years. And we've grown from 50 homes up to about 540 homes. And it's an unusual situation in the fact that these SIDs were formed, and I'm sure you're aware of this, for the purpose of eventually being absorbed into a surrounding city. Well, this has not happened. And my gosh, we're out there hanging on a limb there with no laws and no nothing to enforce things of these kinds. And we do need your help. And these people, I'm speaking for them, and so will some others that will follow me. I do have four kids that are going to that school, four grandkids, they're quads. And we had an incident here just not too long ago where an obstruction was in the way of a sidewalk, and the child went around, he slipped, and was almost run over by a car. We've had in the past a car run over a child simply because there was an abandoned car sitting in the way and they couldn't see him. And I certainly don't want my grandchildren to fall into this situation. This is why we're here today, to ask you for that help and to see what we can do to make this situation, rectify it so that we're able to do something about that. There was some question I heard as far as absorbed into the city of Norfolk. At this time, in talking with the city of Norfolk, there is no plans to do that in the near future or even the immediate future beyond that. It just isn't going to happen. And several reasons why we do have some amount of indebtedness and no city will absorb anything with that. It is my understanding that SIDs are not a good situation for cities to absorb in. It's kind of a situation where it winds up being costly a lot of times, and I think a lot of it is the city is looking at it that way. And the city has done some things with us. They've tried to help in several ways. And I do appreciate them doing that. Other than that, I just want to leave you with the thought of those children and the things that happen. And I simply would like you to look at that carefully and really consider this. I don't have any further things to say. If you have any questions... [LB172 LB212]

SENATOR AGUILAR: Questions from the committee? Senator Adams. [LB172 LB212]

SENATOR ADAMS: It seems in your testimony that what you're, in essence, asking for are the kinds of protections that a municipality could grant you. Is that a correct assumption? [LB172 LB212]

DARROLD LIDGETT: That's correct to a certain extent. We don't want total municipality control, but we want something to be able to remove, as we've said and as has been stated in the letters, cars that are an obstruction, unlicensed cars, obstructions of sidewalks and situations of this sort. [LB172 LB212]

SENATOR ADAMS: The kinds of benefits... [LB172 LB212]

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DARROLD LIDGETT: Yes. [LB172 LB212]

SENATOR ADAMS: ...that if you were incorporated, you would have? [LB172 LB212]

DARROLD LIDGETT: Right. [LB172 LB212]

SENATOR ADAMS: Have you considered just incorporating? You're predominantly of a residential character, aren't you? [LB172 LB212]

DARROLD LIDGETT: Okay. If you take a look at our state laws it says something in there that you can't do that within certain miles of the city of Norfolk. Okay? [LB172 LB212]

SENATOR ADAMS: Okay. [LB172 LB212]

SENATOR AGUILAR: Further questions? Seeing none, thank you for coming down today. [LB172 LB212]

DARROLD LIDGETT: I would like to thank Senator Rogert for introducing this and the work that the committee has done on this. And I would also like to thank you again, thank you very much. [LB172 LB212]

SENATOR AGUILAR: Thank you. Next proponent. How many do we have testifying on this? Whoa. Thank you. [LB172 LB212]

MIKE SMITH: Good afternoon. My name is Mike Smith, S-m-i-t-h. I'm a deputy county attorney in Sarpy County. I'm here as a proponent of LB172. I think, as Senator Kopplin said in the introduction, we find ourselves in a situation where we have some very densely populated residential areas outside, not only the cities, but the zoning jurisdiction of the cities within Sarpy County. And just because of the density it creates a number of problems and a number of expectations among people as to...they can't be resolved under the existing authority granted to counties. We find ourselves under the existing state law able to regulate dogs, but not cats or lizards or snakes. We can control nuisances, but only in the sense that they are a zoning or land use problem, an ongoing problem in that particular instances of them. We have situations where a city imposes a curfew on juveniles. And right across the street there is no curfew. And so necessarily the party moves across the street. We have dense residential areas who are affluent, who have burglar alarms that go off inadvertently from time to time. We find ourselves unable to impose a fee, which many cities do, to account for the fact that they are tripping way too often and causing our sheriff to go out and have to respond to those very often. I come here as a proponent of LB172 because of the broad authority that it would grant. In answer to a question that Senator Adams asked about city and county and enacting the ordinance, we believe we should have at least the ability to

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enact any ordinance that a city could in that regard. The reason being is that there is no difference at the residential level to that person living there between his situation and the situation within the city. And if the city does grow out the city...and obtain that area, then the transition wouldn't be as severe. We wouldn't have all of a sudden, which we have seen from time to time in Sarpy County, in the position of a lot of rules at once, pretty suddenly, which causes some consternation among people who have kind of gotten used to the way things are, for better or worse. So we like that broad authority. It would be a vote by an elected body after a public hearing; hearing the voices not only of the cities that were involved and are nearby, and of the residents in that area. I would also like you to look, in both bills, LB212, the authority within ETJ. I don't believe that the bill, however it's passed, should impose any restriction at all upon the ability of a city, should not supersede anything that a city is rightfully allowed to do now. But there are instances where the zone between the extraterritorial jurisdiction and the city limits, you create a zone in there where a city ordinance may not apply or may not apply very well. And it may be permissible in those areas or a better fit for the county to go enforce. I know we have instances where, for example, the city of Bellevue has a restrictive ordinance on the number of pets that one can have. However, their nuisance ordinance on bad structures is a little bit more loose. And there have been times in there where there have been houses which have been dilapidated, but neither one of us has the present existing authority to really address that in a good situation. And we think that whatever bill you pass ought to at least allow for a county to extend some of its authority within the ETJ of a city, if a city doesn't have authority for that particular type of action. And I also would again support LB172 and its broad grant of powers for the reason is there's things going that we can't anticipate. I mentioned curfew, alarms and nuisances. But I think you're going to hear about a little later today a situation in Tiburon, urination on a golf course. It's something that wasn't on our radar screen a year ago, and now it's a problem that I believe our county board would like to address but find that we can't. There are simply some things beyond our power to do in this regard. And that's why we believe that the broader grant of powers is necessary so that we aren't coming back every year or every couple of years to address something that came up. We're always acting within, if nothing else, the authority that you're already granting to the individuals in the more densely populated areas that are within cities other than outside of the cities. [LB172 LB212]

SENATOR AGUILAR: Thank you. Questions from the committee? Senator Adams.
[LB172 LB212]

SENATOR ADAMS: I don't know if you have an answer to this. Again, I'm thinking out loud. Why is it that the Legislature did not grant to counties? There has to be some reason. Why don't they have ordinance authority? Why was it given to municipalities and not to counties? Do you know that? [LB172 LB212]

MIKE SMITH: As to why it wasn't? [LB172 LB212]

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SENATOR ADAMS: What the rationale would be? [LB172 LB212]

MIKE SMITH: I can only tell you that maybe just the difference in sort of the nature of the beast. Counties were largely rural for a long time and there wasn't a need. You will see areas where the grant was given in particular areas, like dogs, and I'm assuming because there became a dog problem. Zoning ordinance can be given, and again because it was determined that zoning needed to be done. Where cities had those problems from the inception, didn't have the same dense residential areas we had, and it's more the nature of a city to be able to have those broad regulations other than a county. [LB172 LB212]

SENATOR ADAMS: Indeed, I can see that. I'm just trying to understand the logic of why those powers were, in effect, denied to counties in the first place, which creates this hearing today. [LB172 LB212]

MIKE SMITH: Well, if you are individual who is suspicious of the grant of authority, you might resist that. You might say, gee, I'm not sure what these guys in the county seat are going to do, I'm just going to ask my state senator to oppose that. [LB172 LB212]

SENATOR ADAMS: Um-hum. [LB172 LB212]

SENATOR AGUILAR: Further questions? Seeing none, thank you. [LB172 LB212]

MIKE SMITH: Thank you. [LB172 LB212]

SENATOR AGUILAR: Because of the large number of testifiers, and we do want to hear every one of them, I'm going to limit your testimony to five minutes. We'll let you know when you're at four, so you got a minute to wrap up. Please come up. [LB172 LB212]

BECKY SCHMITZ: Good afternoon. My name is Becky Schmitz, B-e-c-k-y S-c-h-m-i-t-z. I am the clerk of Woodland Park SID 1 and just want you to know that I'm very much in favor of getting this LB212 passed, just simply for the protection of our community out there. Abandoned vehicles, of course, is, you know, a major...I was fortunate enough to help with the snow removal last weekend, and ran into many problems with vehicles sitting, you know, and we, please move your vehicle. Well, I don't have to because there is nothing out here that says I really need to. And so, you know, from that it would just be we don't want to put, you know, a lot of restrictions on anything, but just the major that is posing the problems to our community and keeping our community safe. I therefore appreciate your time and Senator Rogert for taking this issue into its matter for us. Thank you. [LB172 LB212]

SENATOR AGUILAR: Questions? [LB172 LB212]

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BECKY SCHMITZ: Thank you, appreciate it. [LB172 LB212]

SENATOR AGUILAR: Seeing none, thank you. [LB172 LB212]

SANDRA RAHE: (Exhibit 4) Chairman Aguilar, members of the Government, Military and Veterans Affairs Committee, my name is Doctor Sandra Rahe, and I appear today in support of LB172. [LB172 LB212]

SENATOR AGUILAR: Would you spell your name, please. [LB172 LB212]

SANDRA RAHE: Sandra, S-a-n-d-r-a, last name R-a-h-e. I'm a farm girl, raised by Harbine, Nebraska, graduated from Tri County, so I know what small town living is like; I love it. Grew up on a farm; I think it's great. Earned my Ph.D. from UNL. Work as a school psychologist in Omaha and I'm a family therapist in Gretna. But I'm here today because I am very dismayed and frustrated with the county not being able to have ordinances to enforce specifically this following problem. I live on Tiburon Golf Course. I have been very involved with my neighborhood. We're very frustrated with men that are exposing their genitals while urinating in public, in front of children and families. They don't just urinate, they turn around and flash you. Now it's my understanding you have to show sexual gratification to prosecute. So if you can't show that they're sexually gratifying themselves by exposing their genitals, it's not a prosecutable offense. I learned this because, after this going on and on, I called the sheriff to think, okay, cities have ordinances where you can't do this. I'm thinking I live at Tiburon, two miles from the Sarpy/Douglas County line, I'm sure they can do something. Wrong. They can't because counties don't have ordinances. So Sarpy County Sheriff said, you got to videotape these guys so we can get them on tape and maybe we can help. Fine. I did that. I videotaped one man. It aired on KETV, Channel 7, ten o'clock news, six o'clock news, it videoed for two weeks, the advertisements, and they couldn't ticket the man, they couldn't give him a citation because in Sarpy County currently, I guess, that's okay because there is no county ordinance. No one agrees that it's okay, but there is no legal thing right now. All right. So KETV covered the story. Sheriff went and found the man, gave him a verbal warning. Nothing legally we can do. All right. So after over a year of doing this, going to the clubhouse owner, owner of the golf course saying, please help, please help, it's not decreasing in frequency, it's a problem. Sheriff has tried to help, but again counties don't have ordinances like cities do. If this would happen two miles away, we could give him a ticket. Sorry. Went to the homeowners association. Oh that's the social group, we don't handle that. Went to the SID boards, we have two where I live. Oh I'm sorry, that's not an area of responsibility for us. So a bunch of homeowners got together, filed complaint letters to the Sarpy County court against the liquor license of the golf course, thinking we got to do something, what can we do, we've turned to everybody we know and no one can help us. So we had a Sarpy County board hearing on January 23, this Tuesday. That aired on KETV ten o'clock news also. Front page of

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the Omaha World-Herald, right up there with President Bush's State of the Union proposal. That tells you this is a problem in Sarpy County. Now we're going to have another Sarpy County board hearing on February 8, this is with the Health Board. I need your help. No one has been able to do anything to stop these men from exposing themselves. This isn't out in the country, this isn't out in somebody's cornfield, this is from here to that wall, when I'm on my property and they're right there, and there are kids there, and apparently we can't stop that. So I'm here today in support of some type of county ordinance, just like cities do. The county sheriff goes to Gretna, two miles from my house, and Springfield, and he's the police there. They have ordinances. People can't expose themselves in Gretna or Springfield, but two miles, where I am between Omaha and, you know, Papillion, Gretna, you can. And it's very, very frustrating. Approximately, 50,000 people live in Sarpy County, just like I do, outside of the city limits with no ordinances. So I'm asking for ordinance protection. The Douglas...I'm sorry. The Omaha city attorney said he prosecuted over 100 public urination cases last year. Just last night in the Beatrice paper they wrote a citation and a man was fined for public urination. Okay, they can do it in Beatrice, you can do it in Gretna, you know, give them tickets and cite them and stop it, why can't you do it where 50,000 people live? I don't understand why we can't get county ordinance authority. So I'm here to ask for your help. That's it. [LB172 LB212]

SENATOR AGUILAR: First, just let me say, you're not the only one that needs help. (Laughter) [LB172 LB212]

SANDRA RAHE: I can help those people if you arrest them and send them to therapy. (Laughter) [LB172 LB212]

SENATOR AGUILAR: One question, just for my own information, because I don't know the answer to this. What if the sheriff witnessed this? Would he be able to arrest them at that point? [LB172 LB212]

SANDRA RAHE: Well, the sheriff came out, looked at the video. We couldn't...according to the county attorney and Sarpy County attorney can address this better, he said we had to prove intent. There is no intent of sexual gratification. Saw the stream of urine coming out of the man's body, and there was no sexual gratification intent, so it was not a prosecutable offense. [LB172 LB212]

SENATOR AGUILAR: Further questions? Senator Pahls. [LB172 LB212]

SENATOR PAHLS: I understand where this (inaudible) and I'm not recommending this. But I was watching them starting to put these people all over the Internet, trying to embarrass them that way. But I'm curious, Tiburon, since it actually is probably Tiburon's responsibility to... [LB172 LB212]

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SANDRA RAHE: You mean the golf course? [LB172 LB212]

SENATOR PAHLS: Yeah, the gold course. Right, the golf course. Are they helping out by putting those portable Johns or whatever you call them? Are they putting those around on the golf course? [LB172 LB212]

SANDRA RAHE: After the hearing Tuesday or after the actual hearing, I guess, he agreed to put one more Port-A-Pot up. The average Port-A-Pot on a nine-hole course are three, one every three holes. Tiburon has three Port-A-Pots for 27 holes, he adds one, that's four. [LB172 LB212]

SENATOR PAHLS: Well, but I think that this is a corporate issue, whoever owns that. They need to take part of the responsibility of helping you out. I mean, I don't know what we can do here. But I'm just saying they should look at this too, because that's a money making operation, is it not? [LB172 LB212]

SANDRA RAHE: Oh, it's a huge money making operation. But what's their motivation to help us when there's no... [LB172 LB212]

SENATOR PAHLS: The pressure of the people living around Tiburon. I mean, I know that area quite well. [LB172 LB212]

SANDRA RAHE: Well, we got the county board hearing, we had it Tuesday; we have another one. I mean, I think we're trying to do as much as we can, but... [LB172 LB212]

SENATOR PAHLS: No, I'm not saying you're not working at it. But just one more. What about...you actually talked to the directors of the country club there? [LB172 LB212]

SANDRA RAHE: Yes. Or no, I have made phone calls and e-mailed; they have not talked to us, the people. They did go to an SID board hearing, meeting, whatever you want to call it. [LB172 LB212]

SENATOR PAHLS: Right. But I do think that there's a responsibility, since that's on their property and it's a money making adventure...adventure, venture, that I would even press them more, no matter what happens here, they need to step up and take some of that responsibility. It's not a...it's not a... [LB172 LB212]

SANDRA RAHE: I agree with you, but when the...that hasn't decreased the frequency of the exposure problem. That's why I'm here to say, okay, I need some help. [LB172 LB212]

SENATOR PAHLS: Yeah, okay. Thank you. Okay, thank you. [LB172 LB212]

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SENATOR AGUILAR: Maybe you ought to try the Liquor Commission. Maybe they're selling too much beer. [LB172 LB212]

SANDRA RAHE: That's what the hearing was on Tuesday was for their liquor license. And the county attorney said that they didn't violate their liquor license. [LB172 LB212]

SENATOR AGUILAR: Senator Karpisek. [LB172 LB212]

SENATOR KARPISEK: Thank you, Mr. Chair. First of all, Dr. Rahe, I'd recommend you move back to District 32 to get away from that. (Laughter) [LB172 LB212]

SANDRA RAHE: You want to buy a house? [LB172 LB212]

SENATOR KARPISEK: No, because then I'd have to move there. I think that goes on maybe a little bit in Crete, too. This isn't so much a question for you, but maybe everyone. Do we not have a state statute about public urination? I mean, to me isn't that the easiest way to go about that, instead of saying, well, you can here and you can't there? I don't think anybody would grant that. I'm sure if my son was out by his swing set and had to go, I don't think that he would get in trouble. But anyway, that...I'm just thinking out loud also. (Laughter) [LB172 LB212]

SANDRA RAHE: Apparently, there's not a state statute, because it's my understanding Sarpy County has to follow the state statutes. And if there was one, they should have been able to give a citation to these people. It's a very frequent problem. [LB172 LB212]

SENATOR KARPISEK: I guess we don't have an attorney on this board. That's odd. Thank you, Mr. Chair. [LB172 LB212]

SENATOR AGUILAR: You're welcome. And I apologize, if you think we're making light of this. But I agree, you do have a problem. We'll try to help you any way we can. [LB172 LB212]

SANDRA RAHE: Thank you. [LB172 LB212]

JEFF KUHR: (Exhibits 5, 6, and 7) Senator Aguilar, members of the committee, my name is Jeff Kuhr, J-e-f-f K-u-h-r. I'm the director of the Three Rivers District Health Department, which serves Dodge, Saunders, and Washington Counties. And I'm here today on behalf of the Public Health Association of Nebraska and the State Association of Local Health Directors. And we are in support of allowing Nebraska counties the ability to adopt ordinances with powers and duties as outlined in LB172 and LB212. Our associations feel strongly that the basic infrastructure of our health departments should be standard across the state as we now have 93...or health departments covering all 93 of our counties. And in fact, we're currently in the process of installing operating

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standards in relation to the three core public health functions of public health assessment, policy development, and assurance. An important tool in achieving public health operating standards would be to have the ability of counties to adopt and enforce ordinances. Two examples of such ordinances are in these draft documents that I've given to you, one is a nuisance ordinance, and the other is a quarantine and isolation, I'm sorry. And the latter, the quarantine and isolation law is very important to us in our preparation for pandemic influenza as well as for things that we see from day to day, such as tuberculosis, which is on the rise in the state of Nebraska. So outside of a municipality, we do not have the ability to legally isolate or quarantine someone. Between the two bills, the broader scope of LB172 would best fit the public health needs. However, within that bill the language relating to the extraterritorial zoning jurisdiction, we feel, should be stricken as we have many instances where we try to use municipal ordinances, nuisance ordinances in the two-mile or three-mile buffer zone outside of a city. And we don't get cooperation. And so that's a very grey area, and it would continue to be grey if we recognize this buffer zone in the law. In addition, we'd like to see language added to allow counties and municipalities to develop agreements, if they so desire, for county ordinances to cover municipalities. And I'm speaking strictly from the standpoint of public health. But we found that when we go into, you know, if you've heard about the dogs in Alvo and various things like that, I mean, a lot of the municipalities don't have the ability to enforce their ordinances or just don't have the resources to do so. And so there would be, from my experience, there would be situations where I believe that we would have municipalities and counties in agreement that those ordinances would cover both. So that's all I have. I thank you for your time. And I do offer the assistance of the Public Health Association, if you choose to tailor or combine these bills. [LB172 LB212]

SENATOR AGUILAR: Thank you. Questions for Mr. Kuhr? Seeing none, thank you. Next testifier, proponent. [LB172 LB212]

WILLIAM GOODPASTURE: My name is William Goodpasture, G-o-o-d-p-a-s-t-u-r-e. I was down here last year, but I think it was LB1185. I came down to testify. I was that hillbilly from Woodland Park. I'm still wearing the same suit that I wore last year and my Army shoes. But everything that was said, everybody already said. I don't have nothing to really talk about. But I am no longer on the board of trustees. I am a water operator now for Woodland Park and park superintendent. And I just got elected county commissioner for District 1, and I'm in favor of LB212 so that we can get some things done. This last snowfall we had, last Monday, we had parked cars on the road. The sheriff went out and put stickers on. Then the people came out and we plow our own streets. When the plow came by the cars were still there because there ain't no ordinance. They came out and said, well, there ain't no ordinances, they don't have to move their cars. So here we are, going down an emergency roads and stuff, we don't have any ordinance to pass the...just ticket them, get their cars moved. But I'm in favor of this bill. And I think it...we're not out here to...commissioners are not out here to point

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out things or go after the farmers or the rural route people. I mean, we're the...like they said, we're the largest community in Stanton County. And we don't have nothing we can do. We're like a ball on the ground, we can't get balanced no where, we're just stuck. We don't have nothing we can do. And it's just...I guess, it's up to you people to help us out. I mean, we need help. I mean, we're taxpayers, we represent...I mean, we represent...I mean, we're people of the good state of Nebraska. But it just seems like we're in limbo. I mean, we're just left off to the side. Yeah, you're an SID, but yet you're nobody. You know? But I don't have a college education. I beat a doctor out, you know, and I beat a big contractor out. I'm just a high school graduate, got 70 percent of the vote up there. I like working with people, talking to them, I'm honest. But I just think that as a new commissioner I just think that Woodland Park needs some ordinance to where they got a bite in to do some of the things that we need to do there in the community. And I am part of the community, I've been there for 27 years. I had 27 years of military service, retired. And I just...we need your help down here in Lincoln. We're not no big people like you all down here and educated. You know, we're just simple, little people up there in northeast Nebraska. And last time I was here everybody thought I was a hillbilly from southern Woodland Park. But I just had...my throat was all tied up the last time. So that's all I got to say. [LB172 LB212]

SENATOR AGUILAR: Thank you. [LB172 LB212]

SENATOR AVERY: Seventy percent, that's pretty good. [LB172 LB212]

WILLIAM GOODPASTURE: Yes, sir. For an old hick, they was running television commercial against me and everything else and telling me that I can't do nothing. But that just shows you how somebody can get out there and...but I went door-to-door and talked to everybody. [LB172 LB212]

SENATOR AVERY: Smart voters. [LB172 LB212]

WILLIAM GOODPASTURE: Pardon me? [LB172 LB212]

SENATOR AVERY: Voters are smart. [LB172 LB212]

WILLIAM GOODPASTURE: Yes, sir. And I'm just a common old Joe, up in that part of the woods. [LB172 LB212]

SENATOR AGUILAR: Senator Pahls. [LB172 LB212]

SENATOR PAHLS: I just have a question. You served on the SID at one time? [LB172 LB212]

WILLIAM GOODPASTURE: Yes, sir. [LB172 LB212]

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SENATOR PAHLS: Now I'm just curious. Now you could make road improvements. You have that ability? [LB172 LB212]

WILLIAM GOODPASTURE: Yes, to a consent that we can. See we got 11 miles of road in Woodland Park. And the money that we generate from the water and sewer, that's the only thing we got to take care of what we got in the whole thing. Supposedly, I guess, the county kept telling us that we didn't have no right to road allocations. I mean they claim our roads, but we have no right to them, to repair our roads, so we got to do it a little bit at a time. And then this last snowfall, we bought a truck out in Pennsylvania, because we can't get the county to come up and clean our roads, because we got to pay them to clean our roads. So we ended up buying a snowplow and a sander ourself to... [LB172 LB212]

SENATOR PAHLS: Well, now your role as a county commissioner, that ought to improve. Well,... [LB172 LB212]

WILLIAM GOODPASTURE: Yes, I understand what you're saying, but... [LB172 LB212]

SENATOR PAHLS: The question I have, though, like when I was on an SID, when we needed to repair our roads, we had the ability to do that. [LB172 LB212]

WILLIAM GOODPASTURE: Right, but we don't have a lot of the equipment. We're not... [LB172 LB212]

SENATOR PAHLS: I mean we hired it done. I mean... [LB172 LB212]

WILLIAM GOODPASTURE: Yes, yes, we can, yes. But we are little, the county gave us...they gave us \$14,000 to repair 11 miles of road a year, you know? Then at the last meeting, when I went down there, they said, well, we don't have to give you the \$14,000. But I said, well, how come you been giving it to the SID for all these years then? Well, it was just a favor we did for you. Well, something is wrong somewhere. [LB172 LB212]

SENATOR PAHLS: Yeah. [LB172 LB212]

WILLIAM GOODPASTURE: I mean, I'm already in trouble with them commissioners for the first meeting last month I'm already in deep water with them people down there. [LB172 LB212]

SENATOR PAHLS: I think it's important that you continue asking questions. Thank you, appreciate your... [LB172 LB212]

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WILLIAM GOODPASTURE: Yeah. [LB172 LB212]

SENATOR AGUILAR: Any further questions? Seeing none, thank you very much for coming down today. [LB172 LB212]

WILLIAM GOODPASTURE: Thank you. [LB172 LB212]

FRED UHE: (Exhibit 8) Senator Aguilar, members of the Government, Military and Veterans Affairs Committee, my name is Fred Uhe, last name is spelled U-h-e. I'm the chief deputy clerk in Sarpy County and the registered lobbyist for the county of Sarpy. What we're handing out now actually is an SID map of Sarpy County, which may help explain part of our situation a little bit and maybe clarify the situation to kind of see the urban issues we're facing. Dr. Rahe lives a little bit west of Wehrspann Lake here. And actually on the discussion of whether zoning ordinance authority should go within the extraterritorial jurisdiction, we probably do need to take a look at that as our cities grow. But the small brown boxes are the 130-plus SIDs that Senator Kopplin referenced, and these are basically neighborhoods. I mean they are residential, the vast majority of them. And what's probably frustrating for us at the courthouse is that these citizens call expecting services. As was touched on previously, they oftentimes have moved out of cities where, you know, hey, our neighbor is not shoveling their walk, you know, they won't move their cars, the plows can't get through, there are 12 cats running around. And we're basically helpless to do anything with them. And, Senator Adams, you touched on, I think, on some of the..even different class cities are granted different authorities. So oftentimes when legislation has passed it does not include necessarily the counties. As mentioned previously, we were granted authority over dogs, but not cats. I know since I've been looking at this issue, I know the city of Lincoln has passed an ordinance on ferrets, which apparently became a problem. Again, if we had such a problem in Sarpy County, we would not be able to address it. So that's why we're back again. We do, I guess, prefer the broad authority versus the shopping list. If the committee's preference would be to do kind of a shopping list, we would hopefully have the opportunity to participate. I've looked at Colorado. They have a rather extensive shopping list as to how they do it. But it's again just a grant of authority. Some Colorado counties have not passed a single ordinance; one I found passed 1, several others as many as 30. So again, it's kind of local control, passing ordinances that would answer the local problems. And touching on another question that came up previously, we did check with the Omaha city prosecutors on the...Omaha actually has an ordinance on indecent exposure that they will sometimes do it as public urination. They have even used littering as part of their enforcement, both Paul Cook, a retired Omaha police officer, is on our county board, and Senator Cornett, in separate conversations, mentioned, have you ever thought about littering? Again, that puts the officer or the deputy in the position of having seen the event taking place. So naturally the cruisers are not out on the golf courses quite often. And, Senator Pahls, you are correct; the businessman does have some obligation to provide the proper number of facilities on

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the golf course. But there's also some incentive, you know, some of these scrambles and fund raisers, where the beverage carts traverse quite heavily, they make a lot of money off of those events, and so they're walking that fine line of being maybe a little too heavy-handed and, of course, some neighbors may not want a port-a-potty in their backyard either. So it's kind of walking a fine line. But often, if we had the authority, we could at least help assist the solution. Right now our hands are kind of tied. So with that, I'll close. I'd be willing to answer any questions, if there are any. [LB172 LB212]

SENATOR AGUILAR: Questions for Mr. Uhe? Senator Avery. [LB172 LB212]

SENATOR AVERY: This is a really interesting map. I see more SIDs than I do...than I knew existed. Don't you have the option of requesting annexation and resolving the problem that way? [LB172 LB212]

FRED UHE: Well, most of our cities will expand. The SIDs were created basically as a development tool. Usually, the debt ratio of the SIDs play into whether the municipality wishes to take them in. I know there are two SIDs adjacent to the city of LaVista, for example, that are begging to get in, but right now their debt is more excessive than the city wishes to handle. So it's really a city decision. The county cannot say, well, go join the city and they'll solve these problems, because usually the finance folks of the cities will say, it's not your time. [LB172 LB212]

SENATOR AGUILAR: Further questions? Senator Friend. [LB172 LB212]

SENATOR FRIEND: Thank you, Mr. Chairman. Fred, good to see you again. I wanted to ask you, and the thought occurred to me while we were going through some of the testimony. And I apologize, I missed a little bit of it. But it would probably be easier, more consistent with maybe legislative precedent and probably more consistent public policy to change the laws relating to incorporation of a city...of a...I don't want to get a reaction out of anybody, but a first-, second-class cities and also villages than it would be to allow counties ordinance capability. That's my view. And I've been on the Urban Affairs Committee for four years, and I realize that that could get somewhat complicated, too. But let me give you an example of what I'm talking about. Wouldn't it be preferable to you if you said in Sarpy County you had some of these areas in there, and even in Senator Rogert's situation, an SID with 3,000 people, quite frankly, I live in Omaha, but I don't care about...I don't care what Omaha says. An SID of 3,000 people, if you're that close to Omaha, maybe you should have the right to incorporate, because Omaha is pretty expansive as it is. Wouldn't that be preferable and a more legislatively effective way to go? Because offering counties the opportunity to create ordinances is out of the realm. I mean changing annexation law seems to be pretty common over the last 50 years. [LB172 LB212]

FRED UHE: Well, I've been with Sarpy County for 19 years, and that discussion came

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up early in my career. I've been lobbying for about 12 years now. And out in the area around Wehrspann Lake, is affectionately called Chalco. There's probably 20,000 to 30,000 people out there. They at one time, I think Mr. Stadtwald, off your staff, can probably give you some of the historical background, talked about actually incorporating. But Nebraska statute did not allow that. And I think now you would find probably the city of LaVista, the city of Gretna, city of Papillion probably come in and fight you, saying, these are our natural growth territories. So I mean, it's part of our solution. I mean, we're not trying to hurt the municipality by creating a new municipality within the county of Sarpy. And I think one of the things you would have with the SIDs, you don't have a town center or community of interest. I mean, I guess, Main Street would be out by Sapp Brothers or something. So I know what you're saying, it's you know, whether there's enough taxable valuation and population to function as a city. But I'm not sure where you'd address park issues, library issues and etcetera. [LB172 LB212]

SENATOR FRIEND: Well, yes, Fred. And thank you, Mr. Chairman, again, just to finish up, there is a class of city that can skip annexation in this state. There are two other classes of cities that can't. So the point is, it's been done in the past. And nobody in the state, in the 93 counties, have said, well, let's let this county have the ability to create laws the way a municipality can or even remotely close to the way the state can. So, I guess what I'm saying is there's precedent for this. I can't see any clear reason why 3,000 people living across the river from Norfolk can't incorporate. And I think if somebody walked into Urban Affairs Committee and we had a line of testifiers and they made that argument, it would be tough for me to say, you know, you're not making a good argument. Here while everybody is making a good argument, it's tough to deal with. There is no precedent for allowing counties in this state to go ahead and create ordinances. Not only that, you've got them bumping up against those extraterritorial jurisdictions. So what's easier, I guess, Fred? That's how I'd close. And that might be tough to figure. [LB172 LB212]

FRED UHE: I think Gary Krumland, from the League, is going to testify after me. [LB172 LB212]

SENATOR FRIEND: Oh, he is? Good. Well then, there you go. [LB172 LB212]

FRED UHE: Maybe he can enlighten it a little bit, because I would think...now we've kind of worked on this concept with these cities. I don't know what stance Mr. Krumland is going to take today. But I can probably rest assured that he would probably know he's got a number of cities that would strongly oppose the creation of a new municipality in Sarpy County as it sits today. [LB172 LB212]

SENATOR FRIEND: I would think...I just want to debate you, Fred. (Laugh) I knew you were in Sarpy County, so I thought you might enjoy it. [LB172 LB212]

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FRED UHE: Well, I believe we got a bill or two coming before Urban Affairs later, so you'll get another shot at me. [LB172 LB212]

SENATOR FRIEND: Okay. [LB172 LB212]

SENATOR AGUILAR: Further questions? Seeing none, thank you, Fred. [LB172 LB212]

FRED UHE: Thank you. [LB172 LB212]

SENATOR AGUILAR: Next proponent. [LB172 LB212]

ELAINE MENZEL: For the record, my name is Elaine Menzel, M-e-n-z-e-l. I'm appearing on behalf of Nebraska Association of County Officials in support of LB172 and LB212. And we have been in support of the bills that would allow counties authority to create ordinances for the past several years and, as you know, that hasn't passed. Just the one thing, so that I'm not repetitive, that I would like to state for the committee is that during the 2003 interim a report was prepared that indicated that 33 states have the authority to enact ordinances, including a number of things, such things as animals, junk, litter and control that type of thing. So they do address those types of issues. [LB172 LB212]

SENATOR AGUILAR: Thank you. Questions from the committee? Seeing none, thank you. [LB172 LB212]

ELAINE MENZEL: Thank you. [LB172 LB212]

SENATOR AGUILAR: Next testifier, proponent. I think we're ready for opponents. [LB172 LB212]

DAVE NIELSEN: (Exhibits 9 and 10) Senator Aguilar, members of the Government Committee, good afternoon. My name is Dave Nielsen, spelled N-i-e-l-s-e-n. I'm a farmer from northern Lancaster County. I currently serve on the Nebraska Farm Bureau Federation State Legislative Policy Development Committee, and I'm here today testifying on behalf of the Nebraska Farm Bureau in opposition to both LB172 and LB212. Over the last couple of years, the Farm Bureau has been in front of this committee to register opposition to bills that would grant counties ordinance authority. That opposition has and continues to be founded in the growing disconnect that we see in the countryside where we have fewer and fewer people involved in production agriculture and more and more people moving into traditional farming areas. Unfortunately, the result is that more rural residents are finding their perceptions of country living don't match up well with the reality of life in agricultural areas. Odor, dust, early morning and late night farming with loud farm equipment are all part of ag

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production and have been for a long time. However, we've learned not to take it for granted that everyone recognizes this and understands that. Given some of the conflicts that we have seen related to the location of livestock operations in our state, particularly as it relates to odor issues, it doesn't take much of a stretch for us to foresee situations where county boards could be pressured to use this ordinance power to place restrictions on agriculture as a means to eliminate the perceived nuisance issues that come with common farming practices. While one would think this would be applicable in more urban counties, surprisingly, we see the same growing disconnect in some of our more rural counties as well. Agriculture remains the backbone of Nebraska's economy. A Nebraska Policy Institute report from last February shows that one in three jobs here in Nebraska is dependent on agriculture and agribusiness compared to one in four in a similar study done in the early nineties. Agriculture and food production is becoming more important to Nebraska and Nebraskans, not less. We are greatly concerned that granting ordinance powers to counties would set a precedence that ultimately will severely hinder and undermine our state's largest industry into the future. While we appreciate the concerns that are out there and the reasons why these bills have been introduced, we remain in opposition. In closing, I appreciate your consideration of these comments and would encourage the committee to indefinitely postpone LB172 and LB212. Thank you. [LB172 LB212]

SENATOR AGUILAR: Thank you. Questions for Mr. Nielsen? Senator Pahls. [LB172 LB212]

SENATOR PAHLS: I have a question. I'm reading the pamphlet you handed out. It sounds like you feel zoning has taken care of a lot of the issues? [LB172 LB212]

DAVE NIELSEN: Yeah, I think, for example, we have Initiative 300 that has basically been taken out of our constitution as of yesterday, I believe. Now that we have zoning in all our counties, I believe that will take care of a lot of them problems. And zoning does take care of a lot of problems. But let me use an example. Farm ground within the city of Lincoln, there is some that is farmed. We had a member of our county Farm Bureau that farmed some of this ground. He raises alfalfa on it, very unintrusive crop, basically. It's planted once, you harvest it, you know, three, four times a year. To put up quality alfalfa you need to let it dry completely, as in all day, maybe for two days, and then bale it at night. Well, this is within the city where city ordinances comply. He was out there baling at 11:30 at night to produce the best quality crop he could for sale. Some neighbors complained. The county or the police came by and said, you have to cease. And he goes, why? Because we have the noise ordinance and that's why he had to stop. And we see if you start letting the county do these kind of ordinances, that's the kind of stuff we're going to come up against. I farm out in northern Lancaster County. Quite a few acreage developments around my area. We're just...I farm just outside of the three-mile jurisdiction of the city. We had a neighbor that complained to my dad about us combining, the dust. There's more dust created by all the acreage people living out in

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the country going by their farmstead than our combine, which was a quarter mile away, the field was a quarter mile away from their place. Big pine windbreak in between, yet they were complaining about our dust. We do not have the numbers as ag farm producers out there that we could stop these type of ordinances beginning, if the county had that kind of authority. [LB172 LB212]

SENATOR AGUILAR: Further questions? Senator Karpisek. [LB172 LB212]

SENATOR KARPISEK: Thank you, Mr. Chair. I'd just like to ask on LB212, as I read it is dogs, cats, sidewalk obstruction and towing. There is nothing about dust, nothing about farm animals. So I think you're trying to stretch that one, because if it's in here and it says that's all it's to, then that's all it's to. [LB172 LB212]

DAVE NIELSEN: Have state statutes ever been changed or added to? I believe so. I guess, I go to you're opening a Pandora's box. Yeah, I agree with you, Senator Karpisek. I've read the bills and I know that's all that it states now. But what about in the future? [LB172 LB212]

SENATOR KARPISEK: I just think that you need to look in the mirror, too, and it's a two-way street. So, you know, I just think that you need to help these people if you want help back. [LB172 LB212]

DAVE NIELSEN: Um-hum. [LB172 LB212]

SENATOR KARPISEK: I just don't see...yes, LB172; LB212 I don't see that at all. [LB172 LB212]

DAVE NIELSEN: Um-hum. [LB172 LB212]

SENATOR KARPISEK: And I think that's why Senator Rogert has addressed it that way, because he's obviously from one of the more farming parts of the state. So thank you. [LB172 LB212]

DAVID NIELSEN: Yeah, I understand where you're coming from, and Farm Bureau would be more than willing to work, you know, through those situations and problems. [LB172 LB212]

SENATOR KARPISEK: Well, I'm sorry. I don't know work through what? [LB172 LB212]

DAVID NIELSEN: Okay, okay. I see where you're coming from. Thank you. [LB172 LB212]

SENATOR KARPISEK: I mean it's not there. Thank you, Mr. Chair. [LB172 LB212]

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SENATOR AGUILAR: Further questions? Seeing none, thank you. [LB172 LB212]

DAVID NIELSEN: Thank you. [LB172 LB212]

SENATOR AGUILAR: Next opponent. [LB172 LB212]

KORBY GILBERTSON: Good afternoon, Chairman Aguilar, members of the committee. For the record, my name is Korby Gilbertson. It's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of the Nebraska Realtors Association in opposition to LB172. And precisely for what I think Mr. Nielsen pointed out very well was there are differences between highly populated areas and counties that aren't so highly populated, and the potential problems that could arise if you allow broad authority for counties to enact ordinances. Specifically, the portion of the bill that the realtors have issue with is the language on lines 10 and 11, on page 2, that just states, but shall not be limited to. I know that the representatives of Sarpy County said that they do not want to have to have a laundry list. But, unfortunately, this is a grant of authority state, Dillon's Rule is here. As Senator Kopplin stated in his opening, we allow counties the authority to do things like tax and zone. But, yes, those authorities are limited. They cannot assess taxes at any level that they wish. The Legislature tells them at what levels they can assess those taxes. And that's what we would like to see respected in any type of action you would take on these bills. There weren't any objections to the things listed in this bill as being covered by countywide ordinances, just the grant of the broad authority. And with that, I'd be happy to try to answer any questions. [LB172 LB212]

SENATOR AGUILAR: Senator Pahls. [LB172 LB212]

SENATOR PAHLS: So what you're telling me, if we have a laundry list, opposition would disappear, for the most part? [LB172 LB212]

KORBY GILBERTSON: Depending on the...I mean, of course, depending on the laundry list. But Senator Rogert's bill that deals with the cars and the sidewalks, cats and dogs did not get any opposition whatsoever. [LB172 LB212]

SENATOR AGUILAR: Further questions? Seeing none, thank you, Ms. Gilbertson. [LB172 LB212]

KORBY GILBERTSON: Thank you. [LB172 LB212]

SENATOR AGUILAR: Further opposition? Neutral testimony? [LB172 LB212]

GARY KRUMLAND: Senator Aguilar, members of the committee, my name is Gary

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Krumland. Last name is spelled K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities, appearing neutral today. We don't have a position on the main issue about county ordinances. But there is an issue that I want to bring up that's already been brought up before, and that's the relationship between city ordinances and, if this bill passes, the county ordinances. Appreciate both Senator Kopplin and Senator Rogert's comments that they're not intending to supersede city ordinances. But we would feel more comfortable with some more specific language. There is authority in the statutes right now for cities to extend ordinances to their extraterritorial zoning jurisdiction. They can do zoning, building codes, first-class cities can do a lot of things, nuisance authority. There's even some...several statutes that allow ordinances to go beyond that. For example, cities of the second class, those are with a population between 800 and 5,000, can pass an ordinance that gives the mayor jurisdiction up to five miles beyond the corporate limits for enforcement of health and quarantine ordinances. And cities of the second class and village can go up to 15 miles beyond the corporate limits to protect their water supply. So there are situations that go beyond the zoning jurisdiction that we would like to have addressed. And so we just would like to make sure there is some language in there. An example, and this would probably need to be modified, in Section 23-172, which gives authority to counties to adopt standard codes, there is some language there that talks about the county can adopt in this area, unless the city adopts an ordinance to extend jurisdiction in that area. And then the city ordinance supersedes that. So we would, I guess, look at...hope to have something like that in this bill if this would advance. And as was mentioned several times, Nebraska is a grant of authority state. It's called Dillon's Rule, and the Nebraska Supreme Court has, for over 100 years, had a series of court cases which basically say that local governments can only do those things which the Legislature specifically authorizes them to do or is implied from that authorization. Probably the only exception is that the U.S....or Nebraska Constitution does allow certain home rule cities. Even that is fairly narrowly defined by the Supreme Court, until just recently. And Lincoln and Omaha both have home rule, but they have to have a charter that gives them the additional authority. So I'm assuming the same rules would probably apply. The court would apply those to counties, so there may be no other choice than to list specific areas. But that's just something that we've dealt with, and that's probably why we come in and bother the Urban Affairs Committee every year with all of these...what appear to be relatively minor bills, but they are there because of the court cases that say local governments can only do those things which are specifically authorized by the Legislature. So with that, I guess I would be happy to work with Senator Rogert, Senator Kopplin and the committee on working on language, if the committee decides to advance the bill. But we do have that concern to make sure that it's very clear what happens when city and county ordinances conflict. [LB172 LB212]

SENATOR AGUILAR: Thank you, Mr. Krumland. I'm going to read from the language in the bill here. It says, "ordinances adopted by county may not be imposed within the boundaries of an incorporated municipality." That's not specific enough for you? [LB172

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LB212]

GARY KRUMLAND: Well, cities can do it outside of the corporate limits. Cities can adopt an ordinance that affects the zoning jurisdiction, depending on the size of city, that's up to to...and then those I read can go way beyond the corporate limits. [LB172 LB212]

SENATOR AGUILAR: Okay. [LB172 LB212]

GARY KRUMLAND: So it would be those ordinances that we're concerned about. [LB172 LB212]

SENATOR AGUILAR: I see. Further questions? Seeing none, thank you, Gary. Any more neutral testimony? Seeing none, Senator Rogert, to close. [LB172 LB212]

SENATOR ROBERT: Thank you, Mr. Chair. I've been making a few notes here on the testimony and I'm going to address some questions, but I think a lot of them got answered throughout the testimony. Senator Adams, you asked a couple questions about why wouldn't they incorporate? There is a five-mile regulation right now that stops that. You also asked, why, you know, why do ordinance authorities to counties...why didn't we give those things to municipalities or to counties, rather than municipalities? And I think farmsteads is the reason. If counties had originally had full ordinance authority, it would...those issues would be, for example, our pasture has been the graveyard for our tractors and trucks and things that die. If an ordinance was allowed by the county that broad that they could come in and say, we need you to move those things. So I imagine that's why they've limited that as much. Senator Friend, you also mentioned many issues, why wouldn't they consider incorporation? I think the cost would be prohibitive. They don't have a building in which to have their city government; they don't have...there's no businesses in town to generate income for the area, and they're all so in debt already, so they wouldn't have any money to run the city. That's probably what I'm thinking. On the issue the Farm Bureau brought forth, I have proposed an amendment that we may consider in committee, and it basically limits the scope a little more to just within the boundaries of a sanitary and improvement district. So it would not allow ordinance authority outside of those boundaries. And, I guess, that's really...oh, also there are 35 states, so far, in the Union that have a county ordinance authority: Iowa, Colorado, and Missouri are three of those. So it's not a new thing to look at. But with that, I will close. Any questions? [LB172 LB212]

SENATOR AGUILAR: Senator Pahls has a question. [LB172 LB212]

SENATOR PAHLS: Yes, Senator. I just in fairness to you, earlier you had said 1,900 people. [LB172 LB212]

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SENATOR ROBERT: Yes. [LB172 LB212]

SENATOR PAHLS: Well, that's in on one document. And I did hear from a resident of that. But the sheriff said 3,000. And that almost sent me a message. If I'm the sheriff of a...I wish he had been here, I would know probably a closer number to the number of people living there. [LB172 LB212]

SENATOR ROBERT: Yeah. I noticed that, too. And I'm... [LB172 LB212]

SENATOR PAHLS: And the thing that discourages me a little bit, if this is the largest community, basically, in that county, if I'm the county sheriff, and if I do have issues there, I would think that that would be...I mean, I know this is not for you, but that just raises... [LB172 LB212]

SENATOR ROBERT: Yeah. [LB172 LB212]

SENATOR PAHLS: Is there a mismatch in the county of how this community is being treated? [LB172 LB212]

SENATOR ROBERT: Not to my awareness. In conversations with the sheriff, I'll have to check. (Laugh) And it may be...that may be a misprint. The county itself probably has about 3,500 total. So it's...the population of Woodland Park is about half the population. But not that I notice that there isn't any problems there. [LB172 LB212]

SENATOR PAHLS: Okay, thank you. [LB172 LB212]

SENATOR AGUILAR: Further questions? Seeing none, thank you, Senator Robert. [LB172 LB212]

SENATOR ROBERT: Thank you. [LB172 LB212]

SENATOR AGUILAR: Senator Kopplin, to close. [LB172 LB212]

SENATOR KOPPLIN: Well, again I want to thank you for listening to us. I know how complex it can be for your committee. We're dealing with an agricultural state, and we have to be very cognizant of the problems that it causes for our rural neighbors. At the same time, we have areas that are becoming urbanized much faster than we can handle. And they produce a different set of circumstances that we need to consider. So I appreciate the time you took to listen to us and hope that you will give some good consideration of countywide ordinances. Thank you. [LB172 LB212]

SENATOR AGUILAR: Questions? Senator Avery. [LB172 LB212]

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SENATOR AVERY: Senator Kopplin, would you be...could you accept a more narrow piece of legislation than the one you propose? Say one on the...similar to what Senator Rogert is proposing? [LB172 LB212]

SENATOR KOPPLIN: We discussed that, would I be acceptable to that. I'm trying to solve a problem, so I'm pretty much acceptable to anything. But we did discuss that the problem with going narrow is Dillon's Rule, it was just given to you, and that is if the state doesn't say specifically what you can do, then probably you can't do it. And that produces the problem of having to return to you every time. So that's the reason we decided to give some examples of things that would happen, but leave it broad-based. Now what you as a committee do with it, if it's to limit the bills, you know, that's your right to do so. And you're in a better position to judge those things, actually, than I. [LB172 LB212]

SENATOR AVERY: Is it fair to say you would prefer something rather than nothing? [LB172 LB212]

SENATOR KOPPLIN: What? [LB172 LB212]

SENATOR AVERY: Is it fair to say that you would prefer something, even if it's more narrow than what you want, rather than nothing? [LB172 LB212]

SENATOR KOPPLIN: That's correct. [LB172 LB212]

SENATOR AGUILAR: Further questions? Seeing none, thank you, Senator. [LB172 LB212]

SENATOR KOPPLIN: Thank you very much. [LB172 LB212]

SENATOR AGUILAR: And that closes the hearing for the day. I would ask the committee's indulgence, give me a five minute Exec Session, please. [LB172 LB212]

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Disposition of Bills:

LB172 - Indefinitely postponed.
LB195 - Advanced to General File.
LB208 - Advanced to General File, as amended.
LB212 - Indefinitely postponed.

Chairperson

Committee Clerk