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Government, Military and Veterans Affairs Committee
February 20, 2009

[LB321 LB503 LB529 LB532]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Friday, February 20, 2009, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB503, LB321, LB529, and LB532. Senators present: Bill Avery, Chairperson; Pete Pirsch, Vice Chairperson; Robert Giese; Charlie Janssen; Russ Karpisek; Rich Pahls; Scott Price; and Kate Sullivan. Senators absent: None.

SENATOR AVERY: My name is Bill Avery. I am Chair of the Government, Military and Veterans Affairs Committee. We are ready to begin our session today. Before we start, I would like to introduce the members of the committee, those that are here. Senator Pahls from Omaha will be here later and seated next to him is Senator Charlie Janssen from Fremont who is also running a bit late today. You will notice from time to time members have to get up and leave--that's because they have other bills that are being heard in other committees, and they usually return. Then we have here, actually in person, Senator Bob Giese from South Sioux City; seated next to him is Senator Pete Pirsch from Omaha who is Vice Chair of the committee. And seated next to me is Christy Abraham, the legal counsel for the committee. Senator Karpisek from Wilber will be joining us later. Senator Scott Price from Bellevue, and he is going to be seated next to Kate Sullivan when she arrives, and Kate Sullivan is from Cedar Rapids. Sherry Shaffer is our committee clerk. You will want to give her your sign-in sheet. I'll talk about that in a minute. And the pages are Courtney Lyons from Plattsmouth and Nick Bussey from Lincoln. If you have any handouts that you want to share with the committee, you'll need 12 copies for all of us to get one. You should give them to the page and they'll distribute them for you. Now, let me make a few comments about some of our procedures. If you...we will take up the bills in the order listed outside the door...the agenda you saw coming in. We will...I'll ask you to prepare, if you are testifying, prepare one of these sheets. Print it clearly and hand it to the clerk. If you are not planning to testify, but you wish to be recorded for or against a particular bill, you need only to sign up on this sheet. These are available at both entrances. Make sure that you use the right form. This one with the multiple lines is only for registering support or opposition to a bill, but you do not wish to testify. This one is for those who wish to testify. When you arrive at the table, we're going to ask you to keep your comments to no more than five minutes. And it looks like we have about a full house today, so I may have to be strict in enforcing that rule. I'm going to ask you to turn off your cell phones or put them on silent or vibrate so that you don't disturb the proceedings. Introducers are going to be given ample time to make initial statements. They will be followed by proponents, who will be followed by opponents and people in a neutral position. Closing remarks are reserved for the introducers. Okay, we are about ready to get started. We've had Senator Janssen join us. Welcome, Senator. Starting today, Senator Langemeier, LB503. Welcome, Senator. [LB503]

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SENATOR LANGEMEIER: (Exhibit 1) Thank you. My name is Chris Langemeier, it's C-h-r-i-s L-a-n-g-e-m-e-i-e-r. I represent the 23rd Legislative District. I am here to open on LB503, and I want to say it's great to be back to this committee. This is the committee where I started my legislative career, sitting on Government, so Senator Price, I got that seat warmed up for you in my first two years here. LB503 is, in all reality, I want to say, a simple bill. But there are technical aspects to it that make it not so simple. My letter of intent that you've all had and you've read is...pretty much sums it up the best. LB503 would provide shooting range operations with protections that would allow these ranges to continue to operate when facing urbanization. The reality is, is gun range development is always a challenge. This bill is not out to aid a new gun range in any way, to beat the system, as they want to build a new one. The reality is as law enforcement and as well as private citizens have gone to a lot of work to make good gun ranges. They've put them out in the country; they've put them out...they've given good separation. But as urban growth continues to grow around larger communities, we want to make sure that these gun ranges don't become the enemy number one as people move towards them. The reality is, is they don't build them in downtown residential districts, they do build them in the country. As I'm going to offer an amendment. There was some confusion in the bill, whether or not law enforcement training facilities were adequately covered in this, and so I do have an amendment to add some language for that. But, again, this bill is designed to take...and there's going to be so many testifiers behind me that will give you more examples, so I'm not going to go into giving examples because you're going to hear plenty of that after me. But the reality is, is we need to provide some common-sense protection for these facilities as community or urban growth comes out around them. And so with that, I'm going to kind of conclude. We'll wait for some closing comments to see what wasn't touched on and to save some time. And now I'd take questions, if there are any. [LB503]

SENATOR AVERY: Any questions from the committee? [LB503]

SENATOR LANGEMEIER: I am going to add one more note. There is going to be a proposed amendment, and I have read it. I'm not so sure whether I'm for it or against it at this point, that would put a sunset date in. Initial blush of a sunset date to me is problematic in a number of ways. If you have a gun range that's out there a ways and the community is growing to it, and you say we're going to sunset this provision in 20 years...it might be 10 years before they even get to it. And so that's yet to be discussed, and I'm sure the League of Municipalities are going to offer that, and I do appreciate the League's willingness to come talk to me about their issues prior to today. It's always helpful when we can continue to communicate as this goes forward. [LB503]

SENATOR AVERY: Senator, I have one question. You're trying to protect existing facilities. What impact would this have on the creation of new ones? [LB503]

SENATOR LANGEMEIER: It would be effective to a new facility. It would not aid them

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in any way of development of a new facility. I mean, they still got to go through all the hoops that are out there as far as designing a safe and a reliable gun range. And the NRA actually puts out a very nice book, and I could have brought it. It's about that thick with guidelines and regulations to designing a new proper range. But then in the green copy, once it is built, then it would fall under the protection if urban growth got to it later in life, yes. [LB503]

SENATOR AVERY: Any questions from the committee? Seeing none. You are, do you have a question? [LB503]

SENATOR PIRSCH: Just a quick question. When it says, this bill would establish a reasonable amount of protection for ranges, what exactly...what does it do? What's the protection afforded to ranges, and is it just ranges that used to be outside the jurisdiction of the...it doesn't apply to create a gun range within a political subdivision, so to speak. There's, could you comment on that? What is is... [LB503]

SENATOR LANGEMEIER: It's designed for urban sprawl and the one thing you're going to see in here right now is there's no real standard out there for when a gun range can run or be operated. So you'll see in the bill, we put in a time frame from 7:00 in the morning until 10:00 p.m. to, I think, all gun owners and range operators are respective that we're not going to have a midnight shoot to disturb the neighbors. So they're willing to go and put in some times as well as just be respective of the neighborhood. There is a provision in there that they cannot be taken by eminent domain. And the fear with that is, is into the future, you say, well, we're going to get rid of this facility; we're just going to condemn the property and build a shopping center type of mentality. So they get some protections in that manner as well. [LB503]

SENATOR PIRSCH: This would protect gun ranges within city limits as well as out in the county. [LB503]

SENATOR LANGEMEIER: Yes, yes. [LB503]

SENATOR PIRSCH: Okay. And it would just say as long as the gun ranges are operating with these safeguards, then they cannot be shut down. [LB503]

SENATOR LANGEMEIER: Correct. [LB503]

SENATOR PIRSCH: Okay, thank you. [LB503]

SENATOR AVERY: Seeing no more questions, you are going to stay for closing? [LB503]

SENATOR LANGEMEIER: I am going to stick around. I do have a committee to go run,

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so we'll see how it goes. [LB503]

SENATOR AVERY: All right. Well, I'll poll the audience here so you can get some idea. [LB503]

SENATOR LANGEMEIER: I'll watch. [LB503]

SENATOR AVERY: How many people plan to testify on this legislation for, against, or neutral? Okay, I'm going to ask you to pay close attention to the testimony that's been given prior to your turn at the table and if you don't have anything new to say, I'm going to ask you not to say it. Oftentimes what happens in these hearings is that we get to a point where everything has been said, the only thing is that not everybody has said it. So we don't want to get to that point here today, and I'm not trying to shut you down, I just want you to know that if what you have to say has already been said, be...you can come to the table, register your support or your opposition or whatever it may be. It looked like we had about a dozen. Is that what you saw? [LB503]

SENATOR LANGEMEIER: I'm going to go back to my committee, but I will come back. [LB503]

SENATOR AVERY: You will come back? [LB503]

SENATOR LANGEMEIER: Yeah. [LB503]

SENATOR AVERY: Okay. All right. Now, we'll move to proponents of the legislation here being proposed. Anyone wish to testify in support of LB503? You can pick the order in which you appear. If you move up to the front seats here, it'd probably be easier for you to get to the table. Welcome. [LB503]

JORDAN AUSTIN: (Exhibit 2) Good afternoon, Mr. Chairman, members of the committee. I'll get organized here. My name is Jordan Austin, J-o-r-d-a-n A-u-s-t-i-n, and I am a registered lobbyist speaking on behalf of the National Rifle Association. I come before you today to speak in support of this legislation, LB503, introduced by Senator Chris Langemeier. I feel this is a very good bill. This bill is doing a lot to protect our shooting ranges which we feel is very important in the state of Nebraska. Hunting, marksmanship, and sports shooting are longstanding traditions here in this state, and I think it's important for shooting ranges to be protected to allow these traditions to continue. Public ranges, private ranges, ranges for law enforcement; they all benefit and help these sports and pastimes grow. You...the hunters need to, you know, sight in their rifles for accuracy when going out hunting. Sportsman and, you know, enjoy practicing marksmanship. They enjoy having these ranges to further their sport, enhance it, and improve on their skills, and these ranges provide opportunities for this to exist. I mentioned law enforcement and military; it is vitally important that their ranges exist for

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these professions. They need to provide...these training facilities need to exist for them to meet certain criteria and qualifications for their professions. But as far as what the Senator mentioned, he talked about urban sprawl and why this bill is necessary to protect these ranges against this urban sprawl. I think as communities start to grow, these ranges are impacted by individuals who might have grown up in urban settings and aren't familiar with some of the traditions that go on in more rural parts of the state, not limiting...I'm not saying limiting hunting to just communities outside these urban settings, but some people don't have the right understanding of, you know, what it's like to go out in the woods and go hunting or go to a shooting range and practice with a rifle or go shoot sporting clays, things like that. Some people just aren't aware of the enjoyment folks see in that. They just tend to view it in a negative light and as they move into these new areas, they come to realize there might be a range in their neighborhood, and they have a...I guess I would say a fear or a misunderstanding on what goes on there. They're not aware of the safety features that are put in place; the extensive training that is provided by the instructors at these facilities to make sure everyone who shoots and comes to their ranges operate in safe manner. It's important for folks to know about these things that go on at these ranges and I think sometimes they don't and they react through legal means. And it's these legal means, you know, whether they try to enforce zoning ordinances or noise restrictions or even discharge bans which I think is some sort of reaction. They might go to an attorney and say I don't like this range, how can I have it shut down, and they will offer these various aspects. I think this bill accomplishes and provides for a certain amount of protection against these types of actions. I think it allows to preserve what these ranges have right now and maintains them and prevents, you know, folks who might not understand from forcing their closure. I think, you know, as we...as more and more people come up and discuss and point out various aspects of why these ranges are important to them and their lifestyles, I think what I'd like to conclude with is that I think this bill covers a lot of aspects which are important. And I think it will provide a significant amount of protection to allow these ranges to remain in place and remain in operation and allow people to enjoy this pastime they've done for many, many years. But I'd like to thank this committee for the opportunity to speak, and I'd be happy to answer any questions about my testimony or the content of the bill. [LB503]

SENATOR AVERY: Thank you, Mr. Austin. Senator Janssen. [LB503]

SENATOR JANSSEN: Thank you, Chairman Avery. Mr. Austin, thanks for being here today. Would you say...I was kind of listening to your testimony and I wanted to make sure I got this right because I think I agree with you. Not only are these shooting ranges an enjoyable part of entertainment for responsible gun users, but also...and I appreciate the military analogy that it's really...in your opinion, is it a safety issue that if people aren't out actually actively using their firearms and practicing and sighting in it could be a safety issue if they were out hunting or other activities with that? [LB503]

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JORDAN AUSTIN: I would think so. I'd have to agree with you there. I think it's important for people who undertake these sports and these pastimes as hunting. They enjoy the opportunity to make sure their equipment is in the proper working order. I think, you know, I guess you could use an analogy similar to a golf course and a driving range. Most people wouldn't want to go out after a long winter and go to a driving range or go to a golf course without going to the driving range first. I think the same can probably be said for hunting. You wouldn't want to go out without sighting in your rifle before deer season. [LB503]

SENATOR JANSSEN: Mr. Austin, I have property next to a shooting range, and I have once lived next to a golf course, and I felt much safer living next to the shooting range than at the golf course. (Laughter) Thank you. [LB503]

SENATOR AVERY: I must have been playing the course. Senator Pirsch. [LB503]

SENATOR PIRSCH: With respect to the...looking at the bill language and Section 6 in particular on page 3, it says: A sport shooting range that exists on the effective date of this act, even if not in compliance with any in part regulation, ordinance of the city, county, village, etcetera, shall be permitted to do any of the following if done in compliance with the generally recognized operation practices. And then it says: Repair, remodel, or reinforce any improvement and facilities or building or structure that may be necessary in the public interest or to secure the continued use of the building; Reconstruct, repair, rebuild...do anything authorized under generally...the language I'm looking at is in lines 9 and 10, if done in compliance with generally recognized operation practices. Are there...is there a definitive source, I guess, of generally recognized operation practices or is it...I mean, if a village or ordinance...I'm sorry, if a village or a city alleges that they're doing something not in compliance with generally recognized operation practices, would that just be a matter of looking at the comment, looking at the words themselves here and interpreting them in their common meaning and seeing what that is? Or is there some sort of a definitive source that would help guide...see...help a court determine whether a city or village's claim had merit, that it's not in compliance with the generally recognized operation practices? [LB503]

JORDAN AUSTIN: I mean, I guess it would have to do with what the claim was. I mean, these people would have to point to a definitive aspect that's going on at the shooting range that they would feel is out of context or character for what this...you know, a generally recognized practice. I'm not sure what type, what they would really go for. As far as our organization, we have an NRA source guidebook which advises folks. It's kind of become a standard, I would say, for construction...it's more tailored to construction of ranges and the safety features that are necessary and put in place and how this is best done. But I mean, general range of practices, it varies on ranges. You can have, you know, whether it be a rifle range or a pistol range or trap and skeet, just shotgun only. There's a variety of ways. I think that's why we chose the language such as this

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because it allows for a multitude of ranges to exist at a facility including and not limited to archery as well as with fire arms. [LB503]

SENATOR PIRSCH: There would be a variance in type, the purpose of the facility might vary from type of firearm to firearm and therefore, it's hard to define. You're saying one specific set of principles or...a definitive set of guidelines that would be able to govern...so in other words, if a city was to close down a shooting range and say, this doesn't...this particular one isn't in compliance with generally recognized operation practices, it would hinge on the peculiar set of facts that are in play with that shooting range and litigation would then...the owner of the range would have to bring forward a suit then against the city, is that right? And then they would just kind of argue that in court, whether or not that's in compliance with generally recognized operation practices? Is that...if a city attempts to, in the estimation of the owner of a range, go too far and shut down a range, ultimately that will end up in the courts based on this language then whether that shooting range was complying with generally recognized operating practices, right? I mean, is that... [LB503]

JORDAN AUSTIN: Yes. I think what would happen if a suit was brought against the range and they made this claim, they would have to prove that what was occurring at this range would not be considered a generally recognized practice. I think it would be kind of a stretch...depending on what the situation would be. I can't imagine and can't recall right now what type of explanation they would be able to use to bring forward that type of claim. But I would think through the range owners and through experts that would be in there to testify in support, barring some strange circumstance, it would likely fall within what are considered by many to be normal range practices, if it just involves simple target shooting or trap shooting. [LB503]

SENATOR PIRSCH: Very good. The only other question I have is one of semantics in line 25, on page 3, when it says, essentially it says: within these hours cannot limit the...the range can operate within the hours of...outside of the hours of 10:00 p.m. to 7:00 a.m. That limitation won't apply to a law enforcement officer or a member of the U.S. Armed Forces. Is that...would that include members of the Reserve, do you know, or National Guard? [LB503]

JORDAN AUSTIN: I believe they would fall under that. Just for the...why...the reasoning for that provision is it's important for night operations to exist for law enforcement and military. I think that completes and rounds out their training. If they're not able to practice evening conditions at some points throughout the year, they're not...they don't have the full set of skills, I think, that would benefit them. So that's why this provision is in there, to allow law enforcement, military... [LB503]

SENATOR PIRSCH: Sure. [LB503]

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JORDAN AUSTIN: ...and I would assume under my reading this, National Guard would fall in here. [LB503]

SENATOR PIRSCH: Okay. That's what I wanted to know. Very good. That's all the question I had. Thank you very much. [LB503]

SENATOR AVERY: Any other questions from the committee? Senator Price. [LB503]

SENATOR PRICE: Mr. Chairman, thank you. Mr. Austin, can you tell me how many other states have legislation similar to this either in place or in process? [LB503]

JORDAN AUSTIN: I don't have the exact number for you, but I can mention roughly some of the states that I know offhand: Kansas, just to the south of us, has range protection in place; Colorado does; Wisconsin; Utah; I believe, Minnesota; West Virginia; Maryland. There's a large number. I would...if I was to guess, I would say around 30 states right now. And I can get you that exact number after the hearing after a quick e-mail or two. [LB503]

SENATOR PRICE: Good. Thank you. All right. Thanks. [LB503]

SENATOR AVERY: Any more questions? Senator Giese. [LB503]

SENATOR GIESE: Thank you, Mr. Chairman. Mr. Austin, then, can you just tell me if you know, I'm assuming that ranges have been closed and cities are looking at doing this now. Can you give me just a number on, in Nebraska, for instance, how many have been closed or are looking...potentially going to be closed? [LB503]

JORDAN AUSTIN: I believe a lot of this, when the history of this legislation is Senator Tyson, who used to be in the body, had a range closed in his district. And that was, I believe it was zoned...it was zoned in a different way and without any zoning protection, it was forced to close because the area that the range operated on was rezoned in a different way that didn't allow for the range to exist and it was shut down. He has offered legislation and I believe he met with some resistance in the Statehouse over that legislation. So offhand, that's the only one I'm familiar with, but I think without any type of protection, multiple ranges are open to threats, and I think we're getting close to that point now. There's a number of people who will be...testify after me who might have better examples because they're members of various ranges throughout the state. So they might be able to answer that more completely for you, sir. [LB503]

SENATOR GIESE: Okay, thank you. [LB503]

SENATOR AVERY: I have a question. If you go to page 2 on Section 5, it states that, "No city, county, village, or other political subdivision of the state may enact any law,

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rule, regulation, or ordinance regulating or having the effect of regulating the discharge of a firearm at a sport shooting range. Any such law, rule, regulation, or ordinance in existence at the time of the effective date of this act is hereby repealed and may not be enforced by such city, county, village, or other political subdivision of the state." What...why is that section necessary? [LB503]

JORDAN AUSTIN: Well, I think what you have is, and I believe this exists here in the city of Lincoln, you have a discharge ban within city limits. And sometimes that expands out beyond the borders of the city. So if you have a discharge ban, and there's no reference to shooting ranges at all, that discharge ban could potentially apply and affect a new shooting range that's put in place or be used by groups to say, well, there's a discharge ban in this city or county, therefore you cannot discharge a firearm at this shooting range. So with that section there and I believe later sections of the bill add in provisions where sport shooting ranges are included in what cities, counties, and villages are allowed to do, and it gives them an exemption in there so that it can't be used as a way to force a range to close. [LB503]

SENATOR AVERY: Even if the ordinance already exists? [LB503]

JORDAN AUSTIN: I believe the ordinance will apply to discharge of a firearm, but not at a sport shooting range. [LB503]

SENATOR AVERY: That would make sense. Any other questions? Seeing none, thank you very much, Mr. Austin. [LB503]

JORDAN AUSTIN: Thank you, Mr. Chairman. [LB503]

WES SHEETS: (Exhibit 3) Good afternoon, Chairman Avery, and welcome back. We're glad to see you here. [LB503]

SENATOR AVERY: Thank you. [LB503]

WES SHEETS: My name is Wes Sheets...and members of the committee, by the way. My name is Wes Sheets. I live here in Lincoln, Nebraska. It's spelled W-e-s S-h-e-e-t-s. I'm appearing before you as a member of the local Izaak Walton League Chapter which, in fact, has a shooting range. And our interest in this legislation obviously is very, very high. And we thank Senator Langemeier for bringing this proposal. There are actually 18 other chapters of Izaak Walton across the state of Nebraska, most of which have shooting ranges, as well as a number of other shooting ranges that I'm familiar with. So it's a particular germane issue. The Izaak Walton League, of course, our ranges are first and foremost in enacting a lot of education for young people. We do a lot of hunter safety classes. We have marksmanship classes, etcetera, for young persons, primarily in the goal of educating those folks in the benefits of being out of doors and hopefully

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impact their life in a positive way for the rest of their life. It's our collective opinion that we need, in the state of Nebraska, some guidelines of how we can be good neighbors. And we think LB503 provides that guideline of being good neighbors. We recognize that many people in our society do not appreciate gunfire. It's offensive to them. However, we believe it ought to be protected in some manner for future generations for sure to have a place to do that. A personal example of the issue of urbanization is that our local chapter did own some property on North 48th Street here in the city out near the old landfill. In 1949 or just prior to that, they acquired that property, installed a fishing lake and a shooting range, etcetera. Over the course of time, of course, the city grew up and around them to the point that shooting a rifle was certainly discouraged if not a real concern. So in the mid-sixties our organization, way before my time, but they did acquire some property several miles outside the city of Lincoln to the south and east. The situation today is that in most recent history, they are now within the three-mile zoning limit of a city or town, and we expect that it won't be very long before there will be residences spring up all around us. We want to be good neighbors and we see this legislation as a way to help us be good neighbors of those people and at the same time, we would hope that it would help them recognize that at least we think we're legitimate, and we'd like to remain legitimate in our future endeavors. I guess with that I would, since there are several other people to speak after me, I would not say any more. I would like to respond to Senator Price's question about legislation in other states. And in preparing for this presentation, I contacted the Congressional Sportsmen's Caucus in Washington and they did, in fact, provide me with copies of legislation in 47 other states, leaving only Nebraska, the state of Hawaii, and Washington State as states that do not have some form of legislation. And I might point out that that really runs the whole skillet from A to B. There's extensive law, and there's very minimal legislation in other states. But in fact, there are 47 other states that have some form of legislation. I guess with that, I would conclude my remarks, unless you have questions, I'd be happy to try and answer. [LB503]

SENATOR AVERY: Thank you, Mr. Sheets. Let me start by asking you a little bit about these generally recognized operation practices. I'm sure that those practices include safety measures? [LB503]

WES SHEETS: Absolutely. [LB503]

SENATOR AVERY: Yeah. What about things like noise abatement? Because when you get, right now, where you are in southeast Lincoln, you're probably not worried about that and you don't have many neighbors, but pretty soon you're going to as you recognize. And noise might be an issue. Do you have any noise abatement practices that are generally recognized? [LB503]

WES SHEETS: Well, certainly. And of course those, many times, are engineered projects. You know, it takes some real...there is science available to help provide

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methods of minimizing sound impacts and you're exactly right. We recognize that firearms create sound and we know that neighbors within two and three miles of our operation today know we're there because the sound carries that far. We do a number of things like planting tree rows and you know, building dirt berms and all those sorts of things that can minimize that, and I think that's one of the reasons for that, that outline of having the ability to go forward and engineer those things and actually construct physical barriers to things like sound. We're very, very proud of the safety aspects of our shooting range. We've, knock on wood, have never had any kind of an accident historically for...since we've been in operation since 1950. So I think everyone should be responsible for their own safety issues and I think that's a separate...a separate bearing as long as the shooting range has the opportunity to engineer and construct things that are most...and we do this all the time, we're continually improving our operation with things to make it safer. [LB503]

SENATOR AVERY: Any questions from the committee? Seeing none, thank you. [LB503]

WES SHEETS: (Exhibit 4) As I leave, I'd like to leave a letter of testimony from Bill Schultz from the city of Omaha. He befell a recent surgery where he had his back fused and is not able to be here, so he asked if I would provide this written testimony, and asked that you put it in the record. And if the page would deliver that, I'd appreciate it. [LB503]

SENATOR AVERY: Thank you. [LB503]

WES SHEETS: Thank you very much for the opportunity to be here. [LB503]

SENATOR AVERY: Next testifier. [LB503]

LARRY WILBECK: (Exhibit 5) Good afternoon, senators. My name is Larry Wilbeck from Deshler, Nebraska. I am a proponent of this bill. I am currently a member of two long-established shooting ranges. Those clubs are Heartland Shooting Park in Grand Island, Nebraska, and the Lincoln Trap and Skeet Club of Lincoln, Nebraska. [LB503]

SENATOR AVERY: Excuse me, sir. Would you please read your name and spell it into the record? [LB503]

LARRY WILBECK: All right. It's Larry Wilbeck, L-a-r-r-y W-i-l-b-e-c-k. [LB503]

SENATOR AVERY: Thank you. [LB503]

LARRY WILBECK: All right. Pardon me. Either through luck, gifted land, or good visionary planning, these two clubs occupy land that is either zoned for industrial use,

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which is the case with the Lincoln Trap and Skeet Club, or condemned for either commercial or residential habitation, and that is the case of the Heartland Shooting Park which occupies land that used to be formerly the ammunition depot in the 1940s. This bill, however, protects those clubs that thought they were safe from residential and industrial encroachment when they established themselves many years ago. It appears that some consideration is given to potential neighbors by giving the local political subdivisions the right to regulate shooting hours not to begin before 7:00 a.m. and ending by 10:00 p.m. on a given day. I would think most shooting clubs would be able to live with that. Having said that, however, I recall in the 1980s driving to O'Neill, Nebraska, to shoot trap. Many of the locals didn't show up to shoot until about 9:00 p.m. I assume that time is different for certain locales and has its own unique culture. Perhaps we will hear from them here today. Their gun club at that time was on the edge of town with housing developments starting in and around it. I do not know how they handle a situation in later years or even if it was a problem, just something for you to think about and be aware of. It appears that local subdivisions are protected by reserving the right in this bill to exercise the right of eminent domain if highways, bridges, power lines, etcetera, are needed for these local subdivisions, and they have to condemn the shooting range property. It would seem wise to me that real estate agents, sellers of land, homes, etcetera, for habitation or industrial sites should be required to tell the potential purchaser of nearby noise, safety, odor issues, etcetera. Perhaps there is such a law and I am unaware of it. I cannot speak to other aspects and issues of this bill. It was a rather lengthy bill and some of it looked like it was amended. So I cannot speak to other issues, just that pertaining to shooting ranges. Thank you for your time and consideration. I will try to answer some of your questions. [LB503]

SENATOR AVERY: Thank you, Mr. Wilbeck. Any questions from the committee? Seeing none, thank you for your testimony. [LB503]

RONALD GRAPES: (Exhibit 6) Thank you, Chairman Avery and members of the committee. I'm Ronald Grapes, R-o-n-a-l-d G-r-a-p-e-s, from Kearney, representing Fort Kearney Shooting Sports Association. I will answer one of your questions about how many ranges have been closed. But we urge you to consider favorably the provisions contained in LB503. Our organization was originally chartered as Fort Kearney Wildlife Club in 1940, and operated a trap range at Cottonmill Lake just west of town until 1988 when it was closed by the city of Kearney due to urban sprawl. In 2003, a group of interested parties returned the club to active status, and we acquired 160 acres of land seven miles northeast of Kearney where the range currently operates. Our facility includes a warehouse, caretaker's quarters, nursery, education building are located on the premises, and a clubhouse which will be available for community events is nearing completion. We offer trap, skeet, 5-stand, sporting clays, rifle, pistol, and archery ranges. The facility is open to the public, and our mission is to promote active and responsible gun ownership by offering safe, educational, competitive shooting and sporting events combined with youth education and training in central Nebraska and

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surrounding areas. To fulfill this mission, we have become a multifunctional facility used extensively by Buffalo County 4-H for their trap, rifle, and archery programs; area junior and senior high school teams for trap practice; Boy Scouts and conservation groups such as Pheasants Forever for their youth mentor hunting programs. The Scouts right now are establishing a Venturing Program that will be based here that will be shooting sports for boys and girls from the age of 14 to 20. We have approximately 80 law enforcement officers, all of the Kearney Police Department, and all of the Buffalo County Sheriff's Department that use this for their training and qualification and practice. Game and Parks has utilized the facility for their numerous training and educational things including the hunter's ed, Learn to Shoot program, which was added about a year ago. We have three rows of trees around the fenced quarter section and we have planted various grasses, cover crops, etcetera, and this has created 130 acres of permanent wildlife habitat. We've been able to complete this program to get to this point through grants, donations, and a God-awful amount of volunteer labor. And, you know, our construction costs have been about 20 cents on the dollar, but if this had to be replaced, it would be about \$1.5 million. We are committed to providing these services to youth education, wildlife, law enforcement, and the community in general, but without passage of the bill, this ability is threatened and subject to the whims of new after-the-fact neighbors, local government boards, etcetera. So we urge your support of the bill, LB503, and thank you for listening. And if you have any questions, I'll be glad to respond. [LB503]

SENATOR AVERY: Thank you, sir. Questions? No questions. We went through this last year pretty thoroughly, so that's maybe why there are no questions this year. (Laugh) [LB503]

RONALD GRAPES: That's good. [LB503]

JEFF RAWLINSON: Good afternoon. I'm Jeff Rawlinson, J-e-f-f R-a-w-l-i-n-s-o-n, and I'm here on behalf of the Nebraska Game and Parks Commission to testify in support of this important piece of legislation. Our North American model of conservation is probably one of the most respected and revered models of conservation throughout the entire world. I think everybody in this room would agree with that. Of the many important tenets of that model of conservation, probably most important of all is public involvement of all the citizenry within the state and shooting ranges are a very important part of that public involvement. Not only are they important for some of the reasons I won't go into that you've already heard--certainly hunter education, hunters improving their skill, shooting sports enthusiasts--but from the economic stimulus that they provide the state of Nebraska and that conservation model as well. Generally speaking, in Nebraska, hunters will provide \$260 million annually to the economy. That's stimulus in terms of over \$30 million in taxes to the state of Nebraska. Now, outside of just the economic impacts of shooting ranges to the state of Nebraska and the impacts, of course, that they provide for our education efforts and public recreation, obviously

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they're an important part of our heritage and our culture as well. And I think most would agree in this room that any facility you visit across the state of Nebraska, you would find not just a place to shoot, but an important part of that community, and an important part of Nebraska and that region. So understanding those issues, the Game and Parks Commission here in Nebraska is in support of this piece of legislation, and we appreciate your support on this as well. I'll entertain any questions you may have. [LB503]

SENATOR AVERY: Thank you, Mr. Rawlinson. Senator Giese. [LB503]

SENATOR GIESE: Thank you, Chairman Avery. Mr. Rawlinson, can you just tell me today how close can...if somebody wanted to come in and build up next to a shooting range, how close can somebody be now? What are the...are there guidelines, standards, I'm sure there are, but can you tell me that? [LB503]

JEFF RAWLINSON: Outside of what might be considered general county zoning laws, I couldn't tell you if there are any laws to prevent someone from building right on the back side of the shooting range. If that's your question? [LB503]

SENATOR GIESE: Um-hum. All right. Thank you. [LB503]

SENATOR AVERY: Any more questions from the committee? Seeing none, thank you. [LB503]

JEFF RAWLINSON: Thank you. [LB503]

SENATOR AVERY: Any other proponents? [LB503]

TERRANCE COPPLE: I'm Terrance Copple, T-e-r-r-a-n-c-e C-o-p-p-l-e. I'm the secretary of the Nebraska Shooting Sports Association. Now we did not poll our membership, but my views are normally representative of the majority of the association. And encroachment of housing is the main problem that we're facing with the shooting range that I'm a member of. We find that people build homes without exercising due diligence, like checking three miles upwind for hog confinement or cattle feeding operations or within a mile radius for noise problems like a shooting range. Now I'm a member of the Grand Island Rifle Club. The city of Grand Island is now three miles closer than when the range was built in 1952. Our main protection is the cattle feedyard located on the same section that we're on. But when it goes, there will be more building pressure, we anticipate. Now, we've made extensive improvements. Our outdoor ranges with the berms, noise abatement tree plantings, an indoor range which is a poured concrete, a clubhouse, storage buildings. It's the sort of an operation, you can't move it. And we don't have enough money to build a new one. We ask that LB503 be enacted as presently written, and that we are against a sunset provision, because the danger of

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encroachment will continue to exist well beyond any sunset feature that might be thought of. We, at our range, like others that have spoken, support various other public groups in utilizing our facility and including the state of Nebraska. Are there any questions? [LB503]

SENATOR AVERY: Questions from the committee? [LB503]

TERRANCE COPPLE: All right, thank you. [LB503]

ANTHONY METZ: (Exhibit 7) Good afternoon, Senator Avery, members of the committee. My name is Anthony Metz, that's A-n-t-h-o-n-y M-e-t-z. I'm from District 9 in Omaha and I'm a member of about...I'm one of about 800-plus members of the Eastern Nebraska Gun Club. I want to try to put a human face on this. I'm a proponent of this bill. In Omaha, we, you know, have a hunters sight-in that serves, you know, hundreds of hunters from Omaha and Omaha is a place where you just can't go out to the back 40 to sight-in a gun. We have, you know, strict safety requirements so the members...the people who come do have a, you know, opportunity to experience kind of a mini-hunter safety experience that they'd better handle their guns. A number of the members of our club are retired military personnel. They have spent a lifetime developing skills that we hope that they never had to use. What they do is act as tremendous instructors to give the general membership and pass on to the population at large, you know, gun handling skills and safety training that has been a benefit that they've received that, you know, by and large, we don't get. I have seen young men, you know, with an interest in firearms become rather proficient, go into the police force, go into the military. I've seen women, one particular young woman, a teenager in fact, who acquired hunting, gun handling skills that I can only envy. But more important than the gun handling skills is the discipline...the focus that the young men and women get. It's a focus and concentration, it's a discipline in mind and body, and it's a general aid in developing maturity which we want to get with our young people. The shooting sports can be a fast-paced activity or a slow-paced activity. It's enjoyed by people of all ages. In closing, I'd simply like to say that a shooting range is a place where the sportsman or sportswoman, you know, armed with the firearm of choice can clear their mind, focus on a target in a place that's, you know, designed for that, a place where it's safe. The shooting sports do clear the mind like no other activity that I know of. I ask you to support LB503. Any questions? [LB503]

SENATOR AVERY: Thank you, sir. Questions from the committee? Seeing none, thank you for your testimony. Any other proponents? [LB503]

TIM SCHMITZ: Good afternoon. My name is Tim Schmitz, T-i-m S-c-h-m-i-t-z. I'm a sergeant with the Madison County Sheriff's Department in Madison, Nebraska. I've been employed there for approximately 20 years. I have worked for four law enforcement agencies during my career. I am a firearms instructor now with the state of

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Nebraska. And today I'd like to also represent the Madison County...or excuse me, the Northeast Nebraska Shooting Association, the Nebraska Association of Law Enforcement Firearms Instructors, and as such, the Northeast Nebraska Shooting Association has approximately one hundred members. The Firearms Instructors Association has approximately 120 members, and we represent members in three different states. The Northeast Nebraska Shooting Association allows law enforcement officers from nine different law enforcement agencies to shoot there, and each year, the state of Nebraska uses our range to certify or recertify, I should say, law enforcement officers. I am currently aware of two different ranges in Madison County that have been closed due to encroachment. There is a third range right at this time that's in jeopardy of being closed due to some construction. The ranges...that range is currently used by the Nebraska Game and Parks Commission and there are some other local law enforcement agencies that also use that range. I tried to determine the number of law enforcement ranges in Nebraska. I checked with the training center. They're unable to tell me exactly how many. But my guess is from talking to other law enforcement firearms instructors, there's probably a law enforcement range in every county and many cities have a range, not all of them shoot on the same ranges. All of our ranges seem to be in some jeopardy from encroachment, and I feel that there's a real need to protect our ranges. Most of these ranges were selected because of their location. Many times it's a location of opportunity, but safety issues are always considered when you're choosing a range. Many times natural berms were selected and so, you know, it's harder and harder to find a place to shoot, and now with the cost of land, if we have to move any of these ranges, it could be cost prohibitive. In Nebraska, we are required to certify once a year in firearms. Most agencies also have to deal with federal case law which requires that we shoot different types of courses such as low-light shooting which gets into nighttime. We also have to shoot combat courses and decide to shoot or not shoot types of courses. All these issues come up and need to be considered in our ranges, and again I would ask that you consider passing this bill to protect the ranges that are currently in existence. [LB503]

SENATOR AVERY: Thank you, Mr. Schmitz. Senator Price has a question. [LB503]

SENATOR PRICE: Mr. Chairman, thank you. Sergeant. Schmitz, I'd like to know in your considerations for training, do you all take in consideration already for your after hours, nighttime operations, the local communities in planning these events by trying to put them all into one time instead of stretching them out or... [LB503]

TIM SCHMITZ: Generally, when it comes to nighttime shooting, we shoot usually once a year. That may take...that might be over two days, that's just with our department. But we also train almost all the agencies in Madison County. So you're probably talking into 10:00, 10:30, 11:00 range. We are fortunate enough, our range is located seven miles north of Pierce, Nebraska, and then about a mile and a quarter west, and so we really don't seem to have too much of a problem at this time. However, the ranges that...the

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range that was closed down just east of Norfolk, that particular range, it became a problem. I realize there was a question earlier about how close to a range can you build? In that particular case, houses were built on top of about a 50-foot natural berm that was our backstop. Noise became a problem and also safety issues, so that's why that range was shut down. I hope that answers your question. [LB503]

SENATOR PRICE: Absolutely. [LB503]

SENATOR AVERY: Any other questions? Senator Giese. [LB503]

SENATOR GIESE: Just a...so when these houses were built, you said on this 50-foot berm, could you hit the houses from there? Somebody, I mean, I know you wouldn't, but would some...I'm just amazed that somebody would build that close to the range where... [LB503]

TIM SCHMITZ: Yes, sir. That was...that was an issue. Actually, if you were standing on the pistol ranges, I don't believe that the houses could have been...could have been hit. We think someone...someone shot from a distance and hit the houses. [LB503]

SENATOR GIESE: Thank you. [LB503]

TIM SCHMITZ: Yes. [LB503]

SENATOR AVERY: Any other questions? Seeing none, thank you, Sergeant. We will have additional proponent testimony. [LB503]

RICK HOFFMAN: My name is Rick Hoffman, R-i-c-k H-o-f-f-m-a-n. I'm from North Platte, Nebraska. I represent the Lincoln County Wildlife Gun Club located in North Platte. It's probably one of the largest in western Nebraska and we ourselves are very close to having problems with encroachment. We have subdivisions within a very short distance and so far, one of the best things that's happened is some of these subdivisions have in their covenants that you will not object to anything that goes on around this vicinity because it is a recreational area--power boats, shooting ranges, etcetera. So we've been very fortunate for that so far. But there are more areas that can be developed, and we may not be that lucky again. Our club is very heavily involved in youth shooting activities. We've taught thousands of kids how to shoot. I digressed to take a different approach to the benefits of shooting ranges. The Second Amendment of the U.S. Constitution guarantees the right to keep and bear arms. The Founders of our Constitution felt it necessary to include this amendment to assure that no one dare infringe upon the rights in the Constitution. The Second Amendment is the teeth in the Constitution. I say to you, what good are firearms if no one knows how to use them? It is the ranges in Nebraska that teach the proper use of firearms which, in turn, gives the Second Amendment the power to protect all we hold dear. These same ranges are in

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danger of being swallowed up by encroachment of a once distant civilization. It is LB503 that holds our hope of survival. If we lose our ranges, along with them go our knowledge of how to defend ourselves and to protect our freedoms. Thank you for your considerations. [LB503]

SENATOR AVERY: Thank you, Mr. Hoffman. Questions from the committee? Seeing none, thank you for your testimony. [LB503]

RICK HOFFMAN: Thank you. [LB503]

SENATOR AVERY: Do we have any additional proponents? [LB503]

MICHAEL GOC: (Exhibit 8) My name is Michael Goc, M-i-c-h-a-e-l G-o-c. I am from Geneva, Nebraska, Mr. Karpisek's district. And I guess I'm here to speak on behalf of you folks, everybody behind me, and other people that don't come up and voice their opinion because they find it's easier not to do so. I am a chairman for the Crossroads Friends of NRA in central Nebraska. And we are strictly a volunteer committee and what we do is we do generate money across the state of Nebraska. In doing so, if you have kids, or if these folks behind me have kids, that want to become participants in shooting sports industry, funds are made available through our fund-raising and then through our gun clubs throughout, in this room right here, those people have access to those funds to help generate the education, youth development, whether it's the Game and Parks, 4-H, Boy Scouts, whatever it may be; but I can tell you right now from going across the state of Nebraska, participating in these clubs' activities, how important it is that I ask for your support and they do have mine so that's why I'm asking for yours. This letter, if you have one in front of you, well, I'm not going to read it to you. I'll just keep it short and sweet, but it is important. As a kid, I had all the options, being a farm, country kid, born and raised with a gun and a fishing pole in my hand. And I see the deterioration in that activity coming down the line. And if we keep...everything is going to keep deteriorating, those kids will not have that opportunity because I have people come up to me all the time, where's a great place to go shoot? And they always ask, is there a safe place we can go shoot? So that's a concern of everybody that I deal with. And that's the concern of everybody on this committee. And these people behind me, I do know that they work their very best to do so. And I do believe when these people teach our youth and even adults that have never been involved with firearms before or the shooting sports programs, you teach them that value and that respect. I've seen kids come from the city, and they're just elated to see the activity that people are doing out there and they want to know and they want to learn. They don't want to be careless. And honestly, I can run all day, so I'll just leave it short, and if you have any questions, I'll be happy to answer them. [LB503]

SENATOR AVERY: Thank you. Thank you, Mr. Goc. Questions from the committee? Seeing none, thank you, sir. [LB503]

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MICHAEL GOC: Thank you. [LB503]

SENATOR AVERY: Additional proponent testimony. [LB503]

STAN PATZEL: Senator Avery of the committee, I'll try not to be redundant. I used to be a golfer, and within... [LB503]

SENATOR AVERY: Could you... [LB503]

STAN PATZEL: Oh, my name is Stan, S-t-a-n, Patzel, P-a-t-z-e-l. I used to play golf and within 30, 40 miles of Lincoln, there's probably 30, 40 golf courses that I could participate in. In the state of Nebraska, there are only about 10 skeet ranges. And to open up a gun club in today's world is very, very difficult because of the noise problems and so forth and people in a lot of areas are not real happy about that. So we're very, very concerned about losing any existing facility we have because there's some of us that really enjoy this sport. At the Lincoln Trap and Skeet Club, we have 550 high school kids at a shoot every year, plus we have over 200 of them that practice on a weekly basis at the club. There are many people like myself that instead of belonging to a country club, we have our social life at the gun club because the people that are out there have very similar interests that we do. So it's more than just a place to go shoot, and there are not very many of them and we're very, very concerned about those that are here, being able to maintain them and keep them. Any questions? [LB503]

SENATOR AVERY: Thank you, sir. Questions from the committee? Senator Sullivan. [LB503]

SENATOR SULLIVAN: Thank you, Senator Avery. Just curious as to the location of your skeet club here in Lincoln, if you've had problems with encroachment? [LB503]

STAN PATZEL: We're at an area, the dump is to the north of us, Oak or Salt Creek is to the west of us, and it's pretty commercial. However, on the other side of Salt Creek, there are some apartments. Well, there are a lot of apartments, and there have been people that have complained about noise. Now we've had the noise tested and we're way under any limits. We are probably going to be annexed and so that could create some problems and there has been discussion of additional development of apartment houses right on the other side of Salt Creek there. So there could be people that could complain in that area. We're a shotgun facility. Shotguns aren't quite as loud as rifles are from a distance, so we...you know, those of us that are shooters don't feel that it's really a serious problem. But there's those that might not agree with us, but. [LB503]

SENATOR SULLIVAN: Thank you. [LB503]

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SENATOR AVERY: Any more questions? Seeing none, thank you, Mr. Patzel. [LB503]

STAN PATZEL: Thank you very much. [LB503]

SENATOR AVERY: Continuing with proponent testimony. Anyone else wish to testify in support of LB503? All right. We'll now move then to opponent testimony. How many wish to testify in opposition? [LB503]

MICHAEL NOLAN: (Exhibit 9) Senator Avery, members of the committee, my name is Michael Nolan. I am the executive director of the League Association of Risk Management which is an adjunct of the League of Nebraska Municipalities. I've been... [LB503]

SENATOR AVERY: Can you spell your name? [LB503]

MICHAEL NOLAN: N-o-l-a-n. I was authorized by the League director to make this testimony because this is going to be strange testimony. In my prior life, I was the city administrator of Norfolk for 28 years. I know about half the guys in the audience here who are shooters because I've shot with them. And in my prior life to that, I was an explosives specialist and a light weapons specialist on a special forces A team. So I know all about the ballistics of weapons. This discussion is not just about that. It's about zoning as well. Early on this year, I asked the League director for permission to become an advocate for some version of LB352 that was introduced last year. The reason I did that is because I have an association with the Northeast Shooting Association, and I need to tell you the story about what happened there--the accurate story. They are right now located about ten miles north of Pierce and everything that Tim related to you is how difficult that relocation was happened to them. But what you didn't hear from the first proponent was an entirely...not an entirely accurate explanation for why we left. We didn't get chased out by zoning because Stanton County didn't have any, and this club was...facility was located in Stanton County. And for years it had a backdrop of a huge cliff in the background of the pistol shooting range. And Stanton County allowed houses to go develop up around it. And one day there was a gentleman from our club who was shooting at this facility at the pistol range and a lady from one of the houses on the top of the cliff came over to the edge of cliff and shouted down to him: Sir, why are you shooting into my baby crib? And what had ended up in the baby crib was a 45 ACP round and the individual who was shooting that round was the Right Honorable Judge Gordon. Now, the club left because it realized what the situation was. Nobody forced the club to leave. We went out and did our own subscription. We did a lot of sweat equity, looked for a lot of sites, and moved that site north of Pierce. So this has basically been there once, learning that we need to do this again. I don't know what size of the round that Judge Gordon was shooting, but I shoot a 230 grain ACP bullet that's backed by about six grains of powder which is about as big around as the end of your little finger. And when that lands in a baby crib, that's a fairly serious thing to a person on the

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other end. Now whatever Stanton County should have done, I'm really reemphasizing this to you because I'm going to come to a conclusion here pretty quickly that this is also about zoning, it's not just about shooting. And there are other kinds of things that cities have to be concerned about besides shooting ranges that go into the extraterritorial jurisdiction. Now you'll notice that NACO hasn't taken the same position on this issue that we have. And the primary reason that NACO hasn't is because there's a lot of space out there for counties that have zoning to do their zoning. But most of the real problem that happens with city zoning happens in that extraterritorial jurisdiction, and that's what we hope to work out here. Now one of the reasons I think we're at an impasse is because we...Senator Langemeier has got a lot of stuff that's on his plate right now as a committee chair and Lynn's got a lot on hers. And Lynn doesn't know how to shoot. I've tried to get her to think about it a couple of times because she has a concern about what happens when she leaves the office at night in the downtown. But she hasn't done that. And we need to get the two sides together to engage in this, because I want to assure you that there are some very legitimate interests that these guys have about trying to protect what their investment is. Most of them go out and do community subscriptions to raise the money to do these things, and they're into a lot of other civic things besides shooting that they do. The other interest that I have in it, which is the reason I'm asking to hold this bill over so we can fix it, is we have a whole set of protocols that are largely due to the state statutes we operate under that have everything to do with deadly force and strict liability as far as the way the law enforcement people perform their duties. And for a police officer and a sheriff who uses one of these ranges, this is about as much...actually a range in their training is more about self-restraint than it is about shooting. It's about learning how to do those protocols over and over and over again so that if they have to use deadly force, they use it the way the police protocols are established. So I want you to take all that into account. I told Senator Langemeier's staff that I'd like to do everything I can to try to make this thing work. I'm asking you not to indefinitely postpone it, but to hold it over. Let us get the groups together. We can get some stakeholders from this group of people and try to make this thing a better bill than it is. I'll answer any questions if you have any. [LB503]

SENATOR AVERY: Mr. Nolan, what specifically are you talking about in terms of amendments? [LB503]

MICHAEL NOLAN: Say again? [LB503]

SENATOR AVERY: What are you talking about with respect to amendments to this to improve it? [LB503]

MICHAEL NOLAN: Well, I think that the...I can tell you what I think the problem areas are. And Senator, I'm...I have to be doing the best job that I can to speak for the League because I haven't had an awful lot of time to understand what Lynn's particular interests

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are. But I think based on...primarily what we're trying to determine is what is the appropriate zoning? When does the grandfathering clause permits still the city to do some appropriate zoning that's there? What is the protection of the shooting associations that would be defined under the word "unreasonable"? How does that work? And then the amendment that Senator Langemeier prepared, what Section 5...how does Section 5 reconcile with Section 9 from the standpoint of how we define what the city's extraterritorial jurisdiction authority should be? What I was told by the League Director yesterday was that if we were operating under LB352 and we had...which was the bill that was introduced last year, and we had some kind of a grandfathering provision where the city could, after the grandfathering provision was over with, the cities could resume all of their full zoning authority, and that would be acceptable to her. That may not work for Senator Langemeier. But I think, Senator, that what we want to do, if the bill has some legitimate interest for the people who are the stakeholders out here in the audience, let's take some time to look at those zoning issues, so that they align well. What we don't want to create, I think, from this is a protected class that gives some opportunity to try to get other types of...land use classifications, looking at that as something that they want to accommodate. You've got...you know, in a populated area, you've got more than just shooters who have to have their interests accommodated when it comes to land use issues. And I don't think that the League is going to have any hostility to what these folks want to have, but we need to make sure that our zoning interests for all these cities are taken care of as well. [LB503]

SENATOR AVERY: Thank you. Any questions from the committee? Seeing none, thank you, Mr. Nolan. [LB503]

MICHAEL NOLAN: Thank you. [LB503]

SENATOR AVERY: Anyone else wish to speak in opposition to LB503? [LB503]

JOHN LINDSAY: Thank you, Senator Avery, members of the committee. For the record, my name is John Lindsay, L-i-n-d-s-a-y, appearing as a registered lobbyist on behalf of the Nebraska Association of Trial Attorneys. Our objection to this bill is limited to Section 10. There are two concepts in the bill. One is, deals with municipal issues related to siting of gun ranges, and we have no position on those issues. Section 10 is an issue which expands the Recreational Liability Act or that portion of it that is included within the Political Subdivision Tort Claims Act, to include shooting ranges. NATA's position has always been expansion of protections under that act are something that we would object to. The rationale behind that is that when accountability for someone's activity is removed, it tends to breed negligence. If persons know that they will not be responsible for their reactions, it's human nature to simply not be as careful as you would be if you know that the accountability of a negligence action is available. For that reason, NATA would oppose any expansion of the protections afforded by the

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Subdivision Tort Claims Act including extending that protection to shooting ranges. Again, no objection. We have no position on the balance of the act. We would simply ask that Section 10 be deleted. [LB503]

SENATOR AVERY: Or at least referenced to sport shooting in Section 10? [LB503]

JOHN LINDSAY: Well, and that's, I believe, all Section 10 does is to add sports shooting to the act. [LB503]

SENATOR AVERY: That is correct. [LB503]

JOHN LINDSAY: Right. [LB503]

SENATOR AVERY: Yeah, so you would just delete those two words, not the entire section? [LB503]

JOHN LINDSAY: Well, the entire section...and that would be fine, but I think then the rest of the section becomes irrelevant, so. [LB503]

SENATOR AVERY: All right. Any questions from the committee? Seeing none, thank you, Mr. Lindsay. Anyone else wish to speak in opposition? Anyone wish to testify in a neutral position. Seeing none, Senator Langemeier...pardon, oh, I have one. Okay. [LB503]

ELAINE MENZEL: I'm sorry. I'm not quick enough. [LB503]

SENATOR AVERY: We're used to people popping up like popcorn. [LB503]

ELAINE MENZEL: Chairman Avery and members of the committee, my name is Elaine Menzel, M-e-n-z-e-l. I am here on behalf of the Nebraska Association of County Officials. Our association did not take an official position on this bill. I just am here to express our appreciation to Senator Langemeier for proposing language that would clarify that this would include the law enforcement training facilities. That's all that I have at this point. [LB503]

SENATOR AVERY: Thank you. Any questions? Seeing none, thank you for your testimony. Any other neutral testifiers? Senator Langemeier has returned to close. [LB503]

SENATOR LANGEMEIER: Thank you, Chairman Avery and members of the committee, for your patience. And I'd like to thank everybody that testified today. I think you can tell that this is a very important issue to a lot of people and we're not entering into the wild, wild west--as you saw very responsible people come before you and testify and give

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you examples of situations they have. Even with the League's testimony, I think you saw a responsible action on an inadvertent action that happened with their gun range when they relocated it. So with that, I would ask you to keep an open mind about this, and we will work with those entities on addressing some of those issues. Thank you. [LB503]

SENATOR AVERY: Any other questions? Senator Sullivan. [LB503]

SENATOR SULLIVAN: Thank you, Senator Avery. Well, I'm just curious to know how you feel about what Mr. Nolan said about the possible future of this legislation? [LB503]

SENATOR LANGEMEIER: I think we can come up to a resolve. I know he said just hold it over. I'm not sure hold it over today, hold it over tomorrow, hold it over for a year. I'm not sure exactly what he was thinking on that, but...and he's right, I am busy, and as well as you all know that, we're all busy. But we'll work with them in trying to work on some of that language and see if we can come to some meeting of the minds and hopefully move this sooner than later. [LB503]

SENATOR SULLIVAN: Okay. [LB503]

SENATOR AVERY: Senator, I remember this bill from last year. How far did it get? I've forgotten? [LB503]

SENATOR LANGEMEIER: This fine committee saw it fit to put it out last year. [LB503]

SENATOR AVERY: Did it make it to General File? [LB503]

SENATOR LANGEMEIER: I had prioritized another bill, so it died without a prioritization. [LB503]

SENATOR AVERY: Okay. I see no more questions. Thank you very much, Senator. [LB503]

SENATOR LANGEMEIER: You bet. Thank you. [LB503]

SENATOR AVERY: Before we end this hearing, let me read into the record a letter of support for LB503 from Chris Zeeb, President of the Nebraska Firearms Owners Association. That ends the hearing on LB503. (See also Exhibits 11, 12, and 13.) Thank you all for coming. We will move now to LB321. You're all welcome to stay and talk about mentoring if you want. (Laughter) [LB503]

SENATOR PIRSCH: We'll move on to LB321. Chairman Avery, you are the sponsor, so whenever you're ready to begin. [LB321]

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SENATOR AVERY: Thank you, Senator Pirsch. My name is Bill Avery, A-v-e-r-y. I represent District 28 here in Lincoln. I am here to introduce LB321 which is a mentoring bill. Last year, the governor of Kansas signed an executive order that allows full-time state employees to spend about three hours a month being a mentor on a regular scheduled work time, and they can do that with compensation. When Kansas did this, they joined a growing list of states that are allowing employees the opportunity to participate in mentoring activities during their regularly scheduled work time. They include: Arizona, California, Connecticut, Delaware, Florida, Massachusetts, and Oregon. Mentoring by state employees can be used as one small, but very effective way, to reach the kids in crisis that this Legislature dealt with last year. We know that Nebraska has a problem with kids in crisis. Mentoring has been a very effective tool in dealing with troubled children, particularly troubled teenagers. The people who will follow me will talk about this, the value of such a program in more detail. But we can all agree that the cost to our state to provide meaningful relationships for children in need is very low compared to the benefits that will be realized by children in the future who participate in mentoring. Mentoring is not a very expensive program. But when kids have a role model, someone who will spend some time with them on a weekly basis, it makes a difference in their lives. According to a study which focused on the Big Brother/Big Sisters community-based mentoring program, a young person who meets with a mentor is less likely to use illegal drugs, less likely to engage in the consumption of alcohol as an underage person, less likely to skip school, engage in fighting, more likely to succeed in the classroom. LB321, as it would apply to Nebraska, would allow a state employee to request up to four hours per month of mentoring leave with full pay to participate in a qualified mentoring program. A qualified program would be one administered by a political subdivision or a nonprofit. The employee, of course, would receive his or her regular hourly wage for the time spent during mentoring, and that is up to four hours per month being proposed here. This is not a bill to mandate mentoring. It is simply a bill that would allow employee volunteers to participate in the program if they wish and do so for a limited amount of time while they are on the state payroll. There are many businesses that do this, and they have done it with success: Blue Cross/Blue Shield of Nebraska, State Farm, Union Pacific, Kiewit Corporation. It is a successful venture. I think Coach Osborne has established, I think, in Nebraska, quite clearly the value of this kind of activity with young people. And I think that it's not asking a great deal of the state of Nebraska to allow employees to participate up to four hours of their work a month. So I would ask you to advance this to General File. I'd be happy to take any questions. Thank you. [LB321]

SENATOR PIRSCH: Why don't you go ahead, Senator Price. [LB321]

SENATOR PRICE: Senator Pirsch, thank you very much. Senator Avery, in talking to the state bar rep, Ms. Kalkowski, hopefully I haven't butchered the name. I apologize, it's not right in front of me. I do have two questions. And that was what mechanism...and I'm in favor of mentoring. I enjoyed a lot of mentoring in my life so I'm very much in favor

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of it. But what mechanism would be in place in this bill to ensure that those people taking advantage of this are truly involved in a mentoring program and not an extended cigar bar trip? [LB321]

SENATOR AVERY: My experience with mentoring is that the kind of people who show an interest in it, are not the kind of people who would abuse it. [LB321]

SENATOR PRICE: But then again, you could see also that, which was a great segue, thank you for helping me there, with the number of employees in an agency at any one time who could be involved in mentoring, of course, I only say this, again, as a note of caution. But that when someone is presented the opportunity to say, hey if you're a mentor, you can leave work for an hour a week and the shop says, hey, it's Friday, time to go mentoring, you know, and getting paid for that, that's at the worst-case scenario understood, but I would really like to see that there's something in there that keeps that from happening. You know, that they're actually, people are actually going and doing that mentoring they said and that people aren't taking extended breaks. And that the work center, you know, if your work center, I think we've had testimony with 15,000 employees, you know, they would all have 15,000 man-hours a month, that aren't being sent towards mentoring. If we could get that much mentoring, how much better a place we would have, no doubt. But, again. [LB321]

SENATOR AVERY: This is permissive legislation. It's not...it doesn't mandate anything. It's permissive legislation, and it does not substitute for the responsibilities of supervisors in the workplace. It does not. [LB321]

SENATOR PRICE: Good. [LB321]

SENATOR PIRSCH: Senator Sullivan. [LB321]

SENATOR SULLIVAN: Thank you, Senator Pirsch. Senator Avery, is there anything right now that prohibits a supervisor or an employer from allowing their employee or staff person to take an hour off to go mentoring right now? [LB321]

SENATOR AVERY: I don't think there's anything that prohibits them from taking time off; it's just they can't do it with pay. And this would allow them to take...the supervisors can give them up to four hours a month with...and they would not have to take leave or vacation time or sick leave or something like that. They can get paid for that hour. [LB321]

SENATOR SULLIVAN: Or work over their noon hour and then to get it at the later, latter part of the day. [LB321]

SENATOR AVERY: Yeah. Or they could go and take a kid out to lunch and then spend

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an hour talking to the kid without being penalized at the workplace by losing wages for that hour. [LB321]

SENATOR PIRSCH: I appreciate this concept coming forward. It's very intriguing, Chairman. You know, I've served as a mentor in many of the formalized programs; seven years for Big Brothers and Big Sisters and so I know the good work they do. Is there any threat or is there any safeguards in the legislation as you see it to prevent somebody from setting up kind of a shell 501(c)(3) with saying the primary...we're all familiar with legitimate organizations. Big Brothers, you know, Coach Osborne's Teammates mentoring. I think All Our Kids out of Omaha comes to mind as well. Is there potentiality for anyone who...we all have the ability to set up a 501(c)(3) to somehow sift through that, look at the substance of what an organization really is and say, you know, technically that may be a 501(c)(3), but other provisions in here safeguard against using, you know, using that as kind of a shell. Let me pose just a hypothetical. [LB321]

SENATOR AVERY: Are you talking about gaming the system? [LB321]

SENATOR PIRSCH: Kind of gaming the system and here's how...there's nothing in this that would prohibit you from mentoring your own child, right? If I was to set up a 501(c)(3) and say I want to mentor one of my kids, I mean, that's all I'm...I'm playing devil's advocate here in trying to see if there's any loophole or something. [LB321]

SENATOR AVERY: That would be...kind of a cynical prostitution of this legislation. I don't know for sure. I don't think there is any language in the bill. That, of course, could be added. [LB321]

SENATOR PIRSCH: Yeah. It's nothing that you can't add a little safeguard to. [LB321]

SENATOR AVERY: Maybe I'm a little naive, but I go back to what I said before. When I...the people I know who are involved in mentoring are dedicated to it and would never engage in that kind of activity. In fact, I have been surprised at the people that I run into who are mentoring, that I had no idea, no idea in the world that they even had any interest in it. And it just...it restores my faith in people, in human nature, when I see it. [LB321]

SENATOR PIRSCH: Absolutely. I think that's a great concept. So that's...Senator Karpisek, you have a follow-up question? [LB321]

SENATOR KARPISEK: I do. Thank you, Senator Pirsch. Senator Avery, Senator Pirsch just made me think of when he was talking about that. Are we going to have employees that say, well, then I should get four hours off so I can go home and be with my kid. We can prove that it's a lot better if I spend more time with my kid. I'm playing devil's

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advocate too. I think mentoring is wonderful, and I don't want to be misconstrued, but that worries me. [LB321]

SENATOR AVERY: I think that, yeah, it might...you might see some of that. But if they're really interested in mentoring, mentor a kid that needs it. [LB321]

SENATOR KARPISEK: Well, I'm just saying, me, right now, heck with this. I think my son is at hunter safety. I'd like to go there and help teach that. [LB321]

SENATOR AVERY: Are you asking if there's language in here to prevent that from happening? [LB321]

SENATOR KARPISEK: Well, no, no, I'm not asking that, but wouldn't that, couldn't that be brought up, and is there anybody, I mean, I'm just wondering about the legalities and the unions. [LB321]

SENATOR AVERY: There are all kinds of ways to pollute, to pollute the good laws and to really subvert efforts to give people who really do have an interest in doing the right thing in helping others, to keep them from doing that, I guess. [LB321]

SENATOR KARPISEK: Well, I think it's a great idea, I'm just wondering how it's going to play out. And geez, when the Legislature decides to give the Friday before Easter off, the whole state about loses their mind because they're getting paid. [LB321]

SENATOR AVERY: Here is where the supervisor comes into play. The supervisor in the workplace would have a responsibility for monitoring the people who take advantage of this program, so that they would not abuse it. [LB321]

SENATOR KARPISEK: Okay, thank you. Thank you, Senator Pirsch. [LB321]

SENATOR PIRSCH: Well, I think you bring up a good point. And I think you're right, since it is discretionary in line 15, state employee may request up to four hours. But that doesn't mean that the director has to approve the four hours, so that's a very good point. Senator Price. [LB321]

SENATOR PRICE: Senator Pirsch, thank you very much. Senator Avery, do you know offhand how many hours, in the state of Kansas, were utilized for this program in the last year? [LB321]

SENATOR AVERY: No, but Ms. Lindau behind me can answer that. [LB321]

SENATOR PRICE: Okay, thank you. Passing the buck is a good deal. (Laughter) [LB321]

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SENATOR PIRSCH: Very good. Senator Giese. Senator Giese has a question. [LB321]

SENATOR GIESE: Thank you, Senator Pirsch. Senator Avery, I really applaud you for bringing this bill before us today, and I agree that the people that do mentoring are not going to abuse the system. But I would offer as we try to find a way to make this work, a suggestion potentially is that for every hour that somebody does mentor up to four, if we as a state are going to pay for that, that they work an additional hour. So if they work...if we pay them for one, they work another one. If they work two, if we pay them for two, they do two hours, up to four hours, so. [LB321]

SENATOR AVERY: Oh, in the mentoring program? [LB321]

SENATOR GIESE: In the mentoring program, which would really make somebody take a hard look at mentoring, if they're going to do that. And I would certainly be... [LB321]

SENATOR AVERY: I think most mentors do spend a lot more time than just one hour per week. Basically, how this would work out is four hours a month. [LB321]

SENATOR GIESE: Well, some do. Some do only just spend one, but if we're going to pay them for an hour, they have to do two. [LB321]

SENATOR AVERY: So you would include language that would require them to do additional mentoring beyond that? [LB321]

SENATOR GIESE: Right. Right. And not just do it to sign up for... [LB321]

SENATOR AVERY: Four hours a month. [LB321]

SENATOR GIESE: Cigar bar hour, as was suggested by somebody else. But, no, I think the people that do it are sincere and, but I would just like to see that one step. [LB321]

SENATOR AVERY: We can probably learn more by looking at what's done in the handful of other states that have these programs. I think that might be something we'll want to do. [LB321]

SENATOR GIESE: That's...thank you. [LB321]

SENATOR AVERY: Yeah, thank you. [LB321]

SENATOR PIRSCH: Well, I appreciate. I can tell you firsthand from seeing Big Brothers and Big Sisters, that there's a lot of good that can be accomplished by mentoring, so thank you. Any other questions? Seeing none, we'll move on to the first proponent then.

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Good afternoon. [LB321]

SARAH LAMPRECHT: (Exhibit 1) Good afternoon, members of the committee. My name is Sarah Lamprecht, L-a-m-p-r-e-c-h-t, and I'm coming to you on two fronts: One as a...I'm the current chair of the Midlands Mentoring Partnership which serves youth serving...it's a collaboration of a youth serving organization, mentoring organizations in Douglas and Sarpy Counties. And then also I am the current recruitment manager for All Our Kids, a mentoring and scholarship program in Omaha. To go back a little bit with what you guys were talking about a minute ago, the Midlands Mentoring Partnership, the members in the Midlands Mentoring Partnership become members because they prove that they follow the elements of effective practice brought forth by the National Mentoring Partnership. Those elements are things such as they do background checks on all of their...we do background checks on all of our mentors. We do an extensive training and ongoing training with our mentors. We have insurance. We're a 401(k) and so, 401(k)...we have a 501(c)(3) status. So all of those things...and it's listed in Section 1 when they were talking about a quality mentoring program, those are all things I think that fit under that. And what we try to do is we try to encourage mentoring programs in Douglas and Sarpy Counties to become quality mentoring programs. And so that's what I would encourage on that stance. And then on...but what I wanted...I also handed out this handout that says "Mentoring Works," and I think Senator Bill Avery mentioned that before when he talked about how the statistics of how mentoring works, that kids are less likely to use drugs, less likely to skip school, and to get into fights. Now I can only talk on local numbers, but in Douglas and Sarpy Counties, Building Bright Futures, recently mentioned that there's 10,000 students in Douglas and Sarpy Counties that are considered economically disadvantaged. And we, our target market of students in our program, are students who are economically disadvantaged. And also through Building Bright Futures, it was noted that only 3,000 mentoring relationships are documented through the different agencies in Douglas and Sarpy Counties. So obviously those 10,000 kids we're looking to reach, only 3,000 are being reached. And I think all mentoring programs could probably tell you that mentor recruitment is probably our hardest...our biggest challenge in going out to companies. And while you're saying, Senator Price, that, you know, to go into an agency and try to...and having everyone sign up is what we would love to see, it's unfortunately what we don't see. And so I would kind of think that this wouldn't be something that everyone would be signing up for. People who become mentors know that this is going to be a life, you know, a long-term commitment and nothing they can just do to get out of work for a couple of months. Let's see, what else do I have here. Other companies that we work with who do this, who provide time for their employees are: UPS in Omaha, Omaha Steaks, QTEC Rock, First National Bank, and Creighton University. So I just would encourage you to support this bill. I think it's really great that you're giving your state employees time off to give back to the communities that they serve and kind of be a part of that change. Thank you. [LB321]

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SENATOR PIRSCH: Very good. Thank you for your testimony. Are there any questions for this testifier? I just have one. Would it...and I find this approach where I think you're right. There's this 10,000, you said, kids who are...could certainly benefit from having a sponsor and only 3,000, I think you said, available sponsors. Would it be, do you look at even expanding this concept to an even greater level than the bill currently encompasses perhaps to even nongovernmental employees? I don't know, some mechanism you could...inducement that you could use similarly, a tax credit or is that something that may also help to fill the gap or do you think this would pretty well fill the gap, so to speak? [LB321]

SARAH LAMPRECHT: I definitely think it would help in mentor recruitment to get some more mentors who would sign on for this. It really is an encouraging thing to go into corporations...senior management, support by senior management, is always important because people don't feel like they have the ability to stand up and say that they would do this. But I definitely think we could talk about some sort of other changes inside the bill. I mean, I think there's always going to be kids who need mentors or need positive role models in their life, so there's always going to be a shortage, unfortunately, of mentors. [LB321]

SENATOR PIRSCH: Great, thank you for your... [LB321]

SARAH LAMPRECHT: Thank you. [LB321]

SENATOR PIRSCH: Any other questions? Very good. And I am presenting a bill as a sponsor in a different committee, so I will turn the chairmanship over to Senator Pahls for chairing. [LB321]

SENATOR PAHLS: The floor is yours. [LB321]

SHERYL LINDAU: Okay. Good afternoon, my name is Sheryl Lindau. I am the partnership development director for Big Brothers/Big Sisters of the Midlands. My name is spelled S-h-e-r-y-l L-i-n-d-a-u. I want to thank Senator Avery for introducing this bill, and he already gave you some significant information about the program with Big Brothers/Big Sisters so I won't repeat some of those points that I was going to make. Big Brothers/Big Sisters, of course, is a member of the Midwest Mentoring Partnership. We are...Big Brothers/Big Sisters of America is one of the oldest and largest mentoring organizations in the country. Our agency in Omaha has been serving the community for about 50 years. We serve five counties in Nebraska, including Omaha, Douglas County, Sarpy County, and then the contiguous counties around there of Cass, Saunders, and Washington Counties. The mission of Big Brothers/Big Sisters is to help children reach their full potential, and we do this by providing them with a professionally supported mentor with, and our mentoring program is strictly a one-on-one mentoring relationship, and we are a evidence-based mentoring program so that everything in our program

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model is based upon national research that Big Brothers/Big Sisters of America has done to know that we have certain elements in our program model that we know work to achieve the outcomes for the kids. And so that's a very important part of our program. You know, it's really nice to see children interacting with adults, but our program is much more than that. You know, we like to see those relationships, but we know what we have to have in place to get the outcomes, and Senator Avery referred to the outcomes that we get for children. They're less likely to become involved with drugs and alcohol, avoiding risky behaviors. We are a preventative program. It's our aim to help kids stay on the right path before they go down, make poor choices that really can impact their life later on and then, you know, then they become, go through the juvenile justice program which, of course, costs the state money and that's what we want to avoid. Another thing, locally our agency in Omaha, less than 1 percent of the children that have been involved in our program--this is based on our own agency data over the last ten years--have become involved in substance abuse, teen pregnancy, or been involved with the juvenile justice system. And last year, all of the high school seniors in our program graduated from high school. I wanted to speak just a little bit to some of the concerns. Senator Karpisek, when you talked about why wouldn't someone just want to go home and, you know, mentor their own child. The other important point, I think, to make with our program is, you know, there are probably a lot of kids out there that would like to have a mentor, but we have to be very intentional about who we serve. We serve children who we have identified as being at risk. We consider at risk a child who comes from a single-parent household, a child who is living in a poverty situation. We also serve children through our agency that are in foster care or also we have a special program for children who have a parent incarcerated. So we accept, we can only accept a limited amount of children into our program, so we need to serve the ones who need us most. So someone who becomes a volunteer in our program, while there may be lots of children who could benefit from a mentor I'm sure, we need to serve the ones that need us most. And I think some of your other concerns about abuse of this kind of leave policy for state employees...agencies and other mentoring organizations that are involved with the Midwest Mentoring Partnership, we have things in place with our program where we could report back to a supervisor. We, particularly Big Brothers/Big Sisters, part of our program model is all of our matches are...receive professional supervision. They're followed up on a regular basis. We know if matches are meeting or not meeting, what activities that they're doing. This is a really important part of our program, so that would be a good way that you could be assured that people that are mentoring in our program are really meeting their obligation. We ask a lot of our volunteers, we ask them to take this commitment very seriously. In our community-based program, the minimum time commitment for those volunteers is six months and our school-based program we ask...we're asking people to commit to a minimum of a year. So we have tried to be a little bit more strict with our volunteers and of course, it limits...makes it a little bit more difficult for us to recruit people, you know, because of that fact. But we know that in order to achieve the outcomes for the children, our strongest indicator is length of relationship. So it doesn't do a child any good to

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match them with a volunteer that's only going to be there for a month, two months, three months. In fact, what you will end up with negative outcomes as opposed to positive outcomes. It's better not to match that child at all then to have a short-term relationship is more damaging for them. So length of relationship is very...we take that seriously, and I think we would love to work with you to...you know, if there are any parts of the bill that you think could be improved on to, you know, be assured that volunteers who take advantage of this legislation, if it was enacted, you know, would really be fulfilling their commitment. And I'd be happy to answer any questions. [LB321]

SENATOR PAHLS: So just picking up, so quote, if we have a certified mentor group that we would allow the state employees, that would probably eliminate anybody from trying to mess with the system? [LB321]

SHERYL LINDAU: Yes, I believe so. [LB321]

SENATOR PAHLS: Okay. [LB321]

SHERYL LINDAU: And I think you could establish a criteria for what is involved in a certified mentoring program. [LB321]

SENATOR PAHLS: Okay. Senator Sullivan. [LB321]

SENATOR SULLIVAN: Thank you, Senator Pahls. Do you know, by either evidence or experience, when is the best time for a mentor to work with a youth? Is it after school, during school, on the weekends, in the evenings? [LB321]

SHERYL LINDAU: I don't think it's so much the time as the length and regularity of the commitment. In our program, what we have found in our school-based program that one hour per week is the minimum. And we really need kids to have that full, complete hour of exposure to the volunteer to get the outcomes that we want to see for the children, so. [LB321]

SENATOR SULLIVAN: So possibly we're talking about two different things here. One is simply encouraging a worker to engage in a mentoring program; secondly, not necessarily having to do it during a workday? [LB321]

SHERYL LINDAU: Correct. But I think for us, one of our...which was mentioned before, one of our struggles always is to find volunteers who not only have the time or the opportunity to mentor and what we're hoping is if they can be provided some flexibility within their workday to make it more convenient to them to mentor that that will help our recruitment efforts. Does that make it... [LB321]

SENATOR SULLIVAN: Okay. Sure, sure, yeah. I hear you. [LB321]

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SENATOR PAHLS: Senator Price. [LB321]

SENATOR PRICE: Senator Pahls, thank you. Ma'am, quick two-part question here. Are there currently state employees that you know of and can venture an idea of how many state employees are currently mentoring? [LB321]

SHERYL LINDAU: No. I don't know that for a fact. I'm not sure within our own agency, how many people are...I'm sure that we have some. Off the top of my head, I couldn't tell you how many. [LB321]

SENATOR PRICE: Okay, and then earlier we heard about...there are about 3,000 mentors in this region. Now, you know, we have statewide...there could be so many more. And there are probably people who are mentoring in programs we're unaware of. [LB321]

SHERYL LINDAU: Correct. Right. [LB321]

SENATOR PRICE: But to get to an understanding of the universe of numbers,... [LB321]

SHERYL LINDAU: Okay. [LB321]

SENATOR PRICE: ...how many more do you suspect will take on the burden of being a mentor, as you said, in a program, a qualified program, predicated on this new incentive? [LB321]

SHERYL LINDAU: I don't personally know if we forecasted exactly how many statewide potentially we could be looking at that would take advantage of this. If it helps with the numbers at all, within our program, Big Brothers/Big Sisters of the Midlands, last year, we served 1,200 children and the Heartland Agency which is located here in Lincoln and we have some representatives of that agency, they serve a little over a thousand children last year, and we also have a couple of other Big Brothers/Big Sisters smaller agencies outstate. If you would combine that with the number served by Teammates, all our kids in the other mentoring programs, I'm not sure what that totally adds up to, and then if we all had, you know, an enhanced recruitment capacity, you know, what sort of...but I think our combined effort, you know, we could see a significant impact with this kind of an opportunity for enhanced recruitment. I know our agency has looked at what we have identified children at risk in our service territory which is the five counties in Nebraska and plus we also serve Pottawattamie and Mills County in Iowa. We...and those...these children at risk are based on the risk factors that I talked to you about earlier. We estimate that there's about, a little over 22,000 children at risk just in our service territory and it's our agency's goal to serve 10 percent of those children

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ourselves. That's our long-range, you know, vision for the future, which would move us to adding another thousand mentors just with our agency and of course probably, you know, that's a pretty lofty goal and we have a long ways to reach that. But I personally as part of my job with Big Brothers/Big Sisters of the Midlands is to also do recruitment among the private sector and corporations and so I'm, you know, continually working with the private sector on a similar kind of basis to recruit volunteers for our program. [LB321]

SENATOR PRICE: Great. Thank you. [LB321]

SENATOR KARPISEK: Senator Pahls, thank you. Ms. Landau, I want to try to straighten out maybe what I was babbling about before. (Laugh) Senator Price leaves at 4:00 to go mentor a child that's in your care. [LB321]

SHERYL LINDAU: Um-hum. [LB321]

SENATOR KARPISEK: I'm sitting at the desk next to him, my son has gotten a B actually just yesterday,... (laugh) [LB321]

SHERYL LINDAU: Uh-huh. [LB321]

SENATOR KARPISEK: ...and so why shouldn't I...devil's advocate, why shouldn't I be able to go home and be with my son and get paid for it? He's going to help someone's kid; I'm going to help my kid. That's where I'm scared we're going to have problems with employees. [LB321]

SHERYL LINDAU: I think the difference is the at-risk youth category. I guess if you go home and think that your child is in this category of an at-risk youth, they should be enrolled in one of our programs. I guess that's the argument that I would make as opposed...you know, we all know that spending more time with our own children, you know, is going to help them grow up to be more productive adults. But I think what we're trying to do is help those children who need another caring adult outside their own family. [LB321]

SENATOR KARPISEK: And I absolutely agree and I think what you're doing is wonderful and I wish that this could work. That's what I'm worried about, the argument is. Gosh, you know, my kid, I need to spend some time with him, too, he's having some problems, so. Anyway, I just wanted to clarify that. I'm not saying that that's... [LB321]

SHERYL LINDAU: Yeah, I think it's the youth at risk would be the argument I would make in that case, and you know, if someone said that their child should be enrolled in a mentoring program and, you know, be mentored by someone else outside the family. [LB321]

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SENATOR KARPISEK: And my son would probably agree to that. (Laughter) Thank you. [LB321]

SHERYL LINDAU: Okay. Any other questions? [LB321]

SENATOR PAHLS: Seeing none, thank you for your testimony. [LB321]

SHERYL LINDAU: Okay, thank you. [LB321]

SENATOR PAHLS: Any more proponents? Opponents? Neutral? Senator? [LB321]

SENATOR AVERY: I waive. [LB321]

SENATOR PAHLS: (Inaudible) Senator closes. [LB321]

SENATOR AVERY: No, I changed my mind. You thought it was over, didn't you? [LB321]

SENATOR PAHLS: Okay. Don't go nowhere. I'm going to ask you a question now. [LB321]

SENATOR AVERY: I do want to point out one thing. If you look at the bill, the green copy, it limits the program to people who are currently in the state personnel system. I would be pleased if the committee would want to amend that to expand it to include, for example, people who work for the Legislature who are not in the personnel system. [LB321]

SENATOR PAHLS: Senator Price. [LB321]

SENATOR PRICE: Senator Pahls, thank you. Senator Avery, thank you for coming back up. (Laughter) No, the one question...and again, I don't want to be a naysayer, again, on this whole thing, but one of the key linchpins for this whole thing is supervisors. Supervisors, supervisors, supervisors. Yet we do have a case in Omaha where supervisors didn't watch for something that wasn't going to happen, and they said they would watch and it wouldn't happen, and we have a union pension fund that's having problems because hours were spiked. And all you hear on the radio now is about spiking, you know, hours that supervisors swore that they were going to watch and it wasn't going to happen. So that human nature, you know, in that work center when something like what Senator Karpisek brought up is why, again, I bring up, it would be really nice to see something in here where you could have some type of mechanism and we could talk about it when we can and work on it, I'd be glad to try to work with a mechanism that ensures that we're not being taken advantage of because it

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would sully the reputation of these mentoring programs. That's the last thing you would want to have done is someone saying, oh, like in the military, we used to have what we called our golden burrito cries, you know. And people just running off on a bake sale and trying to get all these awards and stuff and it made it all...it watered it down when people were getting awards. We want to make sure that no one waters down the mentoring program, that they don't get their name sullied by some bad apples. So that's all I would proffer to you. [LB321]

SENATOR AVERY: Yeah, I appreciate your concerns there, and I don't know how we could...how we could legislate against human nature's bad side from appearing in this program or any other, but we'll certainly see what we can do. [LB321]

SENATOR PRICE: Thank you. [LB321]

SENATOR AVERY: Whatever it takes to get your vote. [LB321]

SENATOR PRICE: Okay. (Laugh) [LB321]

SENATOR PAHLS: Senator, I was going to close, but since you're going to allow me to have a question now, right? And I'm using it from some of the literature that happened today. During the Trojan War when Athena was the guardian over Odessa's son, under what name was she hidden? [LB321]

SENATOR AVERY: You know, I have a 17-year-old son that could answer that. [LB321]

SENATOR PAHLS: Yeah. [LB321]

SENATOR AVERY: But I might not be able to. [LB321]

SENATOR PAHLS: Well, I'm just giving you a bad time, as a mentor. Just information that was handed out to...I was going to ask the young lady, but. (Laugh) [LB321]

SENATOR AVERY: If you're a parent of a teenager as I am, you have a mentoring responsibility and it's full time. [LB321]

SENATOR PAHLS: Well, we thank you and that does close the LB321. Next one we have coming up is... (Laugh) [LB321]

SENATOR AVERY: Now it's my turn.

SENATOR PAHLS: Oh, it is, it is. Then you can have fun today.

SENATOR AVERY: Okay, Senator Pahls is here to open on LB529. [LB529]

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SENATOR PAHLS: Good Friday afternoon. My name is Rich Pahls, P-a-h-l-s. I represent District 31 which is actually the Millard of Omaha. It's good to see you, again, Chairman and committee. You look much different on this direction, you know, much more intelligent. (Laughter) It is Friday afternoon, so. Okay, I'll get serious now. LB529 was brought to me by the Secretary of State's Office and I agreed to introduce the bill. In 1999, the Legislature required the Secretary of State to provide each county clerk with a computer hardware and a printer. That was in 1999. The computers are connected to the database of financing statements and collateral on file with the Secretary of State. LB529 requires the Secretary of State to transfer the ownership of the hardware and printers to the county clerk. I'm going to let the official from the Secretary of State explain the reason behind this, and how this will affect fees and financing of the upkeep and maintenance of the hardware and printers. Now, they have provided me with a number of numbers and the rationale behind it, but I do think that this would be appropriate for that office to explain the rationale why they want to move this from their office to the county offices. And I have a feeling there will be some...probably also some opponents to this. [LB529]

SENATOR AVERY: Thank you, Senator Pahls. Questions from those of us who remain? (Laugh) [LB529]

SENATOR PAHLS: Yeah. Chased them away. [LB529]

SENATOR AVERY: You're going to hang around for closing? [LB529]

SENATOR PAHLS: Yeah, right. [LB529]

SENATOR AVERY: Okay. Anyone wish to testify in support of this, LB529? [LB529]

RON MORAVEC: (Exhibit 1) Chairman Avery, members of the Government, Military and Veterans Affairs Committee, my name is Ron Moravec, M-o-r-a-v-e-c. I am the Chief Deputy Secretary of State. And on behalf of Secretary of State John Gale, we would like to thank Senator Pahls for proposing and sponsoring this LB529 that we are here on at this time. \$162 per year. In 1999, when the Nebraska's Uniform Commercial Code was some 30 years old, there occurred a major revision of that Uniform Act by this legislative body. And part of that revision included the provision that we are here for today, that being Section 9 of Uniform Commercial Code, part 531, and one part of that bill, subsection (b)(1). And with your indulgence, I will just briefly read...summarize what that subsection (b)(1) requires. It required the Secretary of State to furnish each county clerk with a computer terminal hardware including a printer, all of which was compatible with the database that then existed in the Secretary of State's Office. And the purpose of that was to allow the county clerks and interested parties to be able to search the database that the Secretary of State's Office had established at that time. And that

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subsection (b)(1) also indicates at the end that the terminals shall be readily and reasonably available and accessible to members of the public for search inquiries and searches that being in the local county clerk's office. LB529, as the statement of intent indicates, will not change that. That is...if it passes as proposed, that would still be the requirement that the county maintain the terminal for searching purposes. To comply with that legislative mandate in 1999, the then-Secretary of State did purchase the equipment, which is identified in the handouts that I have given, for each of the 93 county clerks in the state of Nebraska. At that time, computer equipment was a little more expensive and the Secretary of State expended some \$227,000 to put that equipment in each county clerk's office in Nebraska's 93 counties. There was also an installation fee which we are estimating was near some \$10,000 but don't have the actual number for that. So in 1999, there was in excess of \$230,000 spent for that purpose. As with technology and warranties on that technological equipment, the warranties expire and time takes a toll on the equipment and it begins to expire. So in 2002, Secretary of State Gale did, again, provide that same type of computer equipment to the 93 counties in the state of Nebraska. That was for lesser costs of some \$87,000 for the equipment. Now the installation of that equipment, which was handled by a different contractor than in 1999, cost approximately \$10,000 above the \$87,000. The installer of that equipment was MIPS, which is an entity that was created by the Nebraska Association of County Officials. So in 2002, there was approximately \$97,000 spent for just the equipment that the Secretary of State provided under this section of the Uniform Commercial Code. And during that time period, it would average out to some \$32,000 a year just for the equipment. In addition to those outlays for the physical equipment, the Secretary of State's Office has been paying three types of fees throughout the years that relate to the use of those computers. Now it's not solely just to those computers, but they are able to piggyback, if you will, on this system. One of those is what is called a retainer fee paid to the Office of the Chief Information Officer and that...the good news of that is it was costing the Secretary of State \$31,400 per year. That fee will cease as of July...June 30, 2009. The Chief Information Officer will not be charging the Secretary of State that fee for the access to the AS400 system which the counties were able to utilize. Another fee that the Secretary of State's Office has been paying in relation to this program under 9-521 is that for...the fee for the wide-area network, the WAN network. The Secretary of State, the Court Administrator's Office, the Department of Health and Human Services, and the Department of Motor Vehicles share the cost of that process and the Secretary of State's share for that is \$125,000 a year. That fee for the WAN program, \$125,000 or if it changes, will remain the responsibility of the Secretary of State's Office, and we are not asking that that fee be placed onto the...each individual county. The third type of fee, and the number that you heard me describe when I started my testimony and which is the reason for this bill before you, is called a device fee that is paid again to the Chief Information Officer, at this time, by the Secretary of State's Office for network cable hookups in 88 counties. And we have 88 counties because 5 have returned the equipment back to us, so we're not paying for the full 93, but we're paying 88. That fee is \$13.50 per device per county.

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So in the last year, the Secretary of State's Office expended a sum of \$14,200-and-some for that device fee. At \$13.50 per month times 12 months, you come up with \$162. So, yes, if you look at this in this bare bones fashion, this is passing an expense on to those 93 counties of \$162 a year to have the same service, to have the same capabilities to search the Uniform Commercial Code database that the Secretary of State maintains and for other purposes that the system can be utilized for. It's our opinion that throughout the approaching ten-year period that the Secretary of State's Office has contributed greatly, if you will, to the benefit of the 93 counties by paying those fees that are associated with having to provide those computers to those 93 counties. So our purpose in this bill is to transfer the ownership of those computers, printers to the counties, and then in conjunction with that, they would be responsible for paying the \$13.50 per month if they so chose to utilize the program that's available for them. With that, I believe that's the testimony I would have. I will try to answer any questions that you might have. [LB529]

SENATOR AVERY: Thank you, Mr. Moravec. A question from Senator Price. [LB529]

SENATOR PRICE: Yes, thank you, Chairman Avery. Sir, a couple of quick questions, actually a few, and they're probably are not going to be the easiest because I can barely form them, so I apologize. First, isn't it an advantage in bundling services, fees, hardware, and software for the state versus the individual counties? [LB529]

RON MORAVEC: In some instances, there probably would be an advantage, but the fee is not...is not going to change if the bill... [LB529]

SENATOR PRICE: So it's always going to be set, there's no...and that's why I apologize. I didn't know if there were other software in particular when we get to software licenses. Is there any software that's being transferred that you have a site license or a different type of aggregate license that's cheaper for us where when we have a refresh pushed out. [LB529]

RON MORAVEC: No, there is not such a program. [LB529]

SENATOR PRICE: Okay. And then the next thing is, when we move this equipment out that was bought in '02, correct... [LB529]

RON MORAVEC: That's correct. [LB529]

SENATOR PRICE: ...that's sitting on shelves ready to be...some of it or is most of it's already out at the counties? [LB529]

RON MORAVEC: It's all out, well, with the exception of five counties, it's all out in the county, yes. [LB529]

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SENATOR PRICE: Is there a tech refresh on the horizon for this hardware that we would be escaping at the state level and having the counties pick up...you know, a new terminal coming out because the other terminal...I mean, in IT years, this thing is about 400 years old, okay. [LB529]

RON MORAVEC: Sure. [LB529]

SENATOR PRICE: So that's my next question is if we're going to refresh this technical equipment and we do this now and next year there's a tech refresh required that will cost the state, and do we have standardization for all that equipment? [LB529]

RON MORAVEC: I don't believe there's any standardization requirement for the computers that we're talking about in this situation. [LB529]

SENATOR PRICE: Okay, and the part about a tech refresh coming up on the horizon? [LB529]

RON MORAVEC: It's...could you rephrase that again, Senator? [LB529]

SENATOR PRICE: Is there a planned required purchase in the next two to three years to update the hardware? [LB529]

RON MORAVEC: By the state or by the Secretary of State? [LB529]

SENATOR PRICE: Correct. [LB529]

RON MORAVEC: No. [LB529]

SENATOR PRICE: Predicated on it moving out or staying with you? If you had to keep it under your control now, it's still...would you have to...would the state be buying it and shipping it out or would each county be buying it, I guess is more importantly? [LB529]

RON MORAVEC: If the statute remains as is, it would be the state, the Secretary of State. [LB529]

SENATOR PRICE: Okay. [LB529]

RON MORAVEC: If it's changed, it would be the county. [LB529]

SENATOR PRICE: All right. Thank you. [LB529]

RON MORAVEC: Um-hum. [LB529]

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SENATOR AVERY: Any more questions? I have one question. Maybe you covered this and I missed it, but what would be the total cost to the county after the transfer of ownership, the computer, monitors, and printers that each county is responsible, just to pay the device fee? [LB529]

RON MORAVEC: That's correct, Senator. That would be, at this point, is the \$13.50 per month. [LB529]

SENATOR AVERY: So \$162? [LB529]

RON MORAVEC: Yes. [LB529]

SENATOR AVERY: Okay. Have you gotten any reaction from the counties to this proposal so far? [LB529]

RON MORAVEC: Well, I have from their representative, who will be appearing before you, I'm sure, yes. [LB529]

SENATOR AVERY: Right now, they have use of the equipment, but they don't have ownership. [LB529]

RON MORAVEC: That's correct. [LB529]

SENATOR AVERY: So this would change that to ownership? [LB529]

RON MORAVEC: This would change to give them the ownership and the responsibility for the device fee. [LB529]

SENATOR AVERY: And give them the responsibility for paying the fee. [LB529]

SENATOR PRICE: And maintenance? I'm sorry. [LB529]

SENATOR AVERY: Go ahead. [LB529]

SENATOR PRICE: And that would include the maintenance of the, like the printers? Do you have a...would that fall under the county? I would hope that each county has a maintenance contract for all their printers and things or do they have to go to a separate state one to have that printer serviced? [LB529]

RON MORAVEC: The printers we're speaking of, they would service at their own request. [LB529]

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SENATOR PRICE: They do that now? [LB529]

RON MORAVEC: They will occasionally call our IT individual and sometimes will ship the system in for minor repairs, but obviously if this goes into effect, it would be their responsibility to... [LB529]

SENATOR PRICE: Okay. [LB529]

RON MORAVEC: ...either have their IT person fix it or dispose of it after the 400-year period ended and purchase new. [LB529]

SENATOR AVERY: Senator Pirsch. [LB529]

SENATOR PIRSCH: And I'm sorry, I was in a different committee introducing a bill, but forgive me if I...if this question has been asked already. But is the underlying purpose behind it that this is simply a change in the ownership of the equipment, right? As far as the public is concerned, the same type of equipment, the same information would be accessible by them, correct? [LB529]

RON MORAVEC: That's the intent, yes. It's just to transfer the title, the ownership of the equipment, the services that are available at each county clerk's office would remain the same. [LB529]

SENATOR PIRSCH: Right. [LB529]

RON MORAVEC: Unless obviously each county changed it. [LB529]

SENATOR PIRSCH: And is it the effort to kind of get it off one set of books and onto the other set of books, is that because once the information is presented, then counties are utilizing the services in different amounts or different volumes and so it seems more fairer to assess those costs to...when there's a high volume of demand, of utilization of those services in certain counties because of population or whatnot and a very small volume of demand in other counties that if it's a statewide entity paying for it, the Secretary of State's Office, that doesn't necessarily, it's not as fair as if this equipment were on the individual county's books, so to speak. Is that the idea or... [LB529]

RON MORAVEC: That would be part of the purpose behind it, Senator. The other part is that it's a significant expense. We are, of course, not getting rid of the majority of the expense, but any assistance of the device fee is...it's \$13.50. To some that's minimal, to some, it may not be. But it's the time every three to four years, the Secretary of State having to purchase, spend \$80,000 to \$90,000 to buy equipment for everyone when we believe that during this ten years we have done that and would ask that the counties now take care of that responsibility. [LB529]

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SENATOR PIRSCH: Very good. Thank you. [LB529]

SENATOR AVERY: Any additional questions? Seeing none, thank you for your testimony. [LB529]

RON MORAVEC: Thank you. [LB529]

SENATOR AVERY: Any other proponents? Anyone wish to testify in opposition to LB529? [LB529]

LARRY DIX: Senator Avery, members of the committee, for the record, my name is Larry Dix, spelled D-i-x. I'm executive director of the Nebraska Association of County Officials appearing today in opposition to LB529. I'm not quite sure where to start on this one. The fiscal note, you know, we'll start with the fiscal note. On the fiscal note, on the surface, you know, someone would say and look at this and say, gosh, it's \$162 per month. That shouldn't be really, really a big deal. [LB529]

SENATOR AVERY: You mean per year. [LB529]

LARRY DIX: I'm sorry. [LB529]

SENATOR AVERY: You said, per month. [LB529]

LARRY DIX: Per year. Yeah. [LB529]

SENATOR AVERY: Okay. [LB529]

LARRY DIX: And really when you look at it, it's a shift of the \$14,256 from the state side of the ledger to the county side of the ledger. And that being said, somebody say, well, that, you know, that isn't such a bad deal. We'll shift it from state income and sales tax, we'll just move that over to property tax because that's where it will be made up, there isn't any question about that. But the bigger piece of it is when you look at the equipment. The equipment that is out there is a 2002 PC. The shelf life of that equipment is long gone. And so it isn't the fee that we would have to pay to connect it, now it is simply, counties, you're going to have to replace the PC. So it's a little bit odd to look at the fiscal note and say it's \$162 per year because at any point in time, it may be \$162 a year, but for a very, very small county, like some of the counties in Senator Sullivan's area...now it becomes an additional \$2,000 right away. That's only for the PC. That isn't for the printer that we're also talking about that's out there. The reason these computers are out there, and if you go back and you look at the original intent of the bill when it was passed in 1999, is that the Secretary of State shall furnish each county clerk computer hardware, terminal, and as you read on through it, it is for inquiries and

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searches of information to the centralized computer system. So we're searching, in the counties, we're searching for state data. This isn't the county's data. This is state data. It's on a centralized computer system. The terminals shall be readily and reasonably available and accessible to the members of the public for such inquiries and searches. So the counties are making them available to the public. So these old antiquated PCs are sitting in a county on a terminal so that when somebody walks up, they can search UCC information that is stored at the state of Nebraska. That's what's really going on with it. In addition, when you look at it...at that bill, one other piece that wasn't mentioned was the Records Management Cash Fund. And it was created, at that point in time...let me read why that was created: There is hereby established in the State Treasury a special fund to be known as a Record Management Cash Fund which when appropriated by the Legislature, shall be expended by the Secretary of State for the purpose of providing records management service assistance to political subdivisions for development, maintenance of an electronic network accessing public records and for grants for public subdivisions. All the fees and charges for the purpose of the records management services and analysis received by the Secretary of State shall be mailed to the State Treasurer and credited to the fund. There are fees that are being charged on the UCC filing that go into a records cash management to sustain the whole system. And part of the whole system is part of it that is out in the counties so the public can have access. So if we're going to get rid of the computer, I mean, for the most part, I mean, giving a 2002 computer to the counties isn't much of a gift. And in fact, when the 1999 version of the computers were out there, I think one of the reasons why we participated in is because we wanted to have an avenue to get the computers back to Lincoln, because otherwise the county is sitting there with state equipment in their courthouse with no way to dispose of it because we don't own the equipment. So it's sitting down in our basements. So we participated only so we could bring them back and get rid of them. In this instance, we would rather take the bill, if this is the case, and on page 2, strike the public access part of it. This stuff is up on the Web. You know, there's no reason to have a computer out there solely for that reason. Those computers out there in the county, they're used for the UCC. Also what wasn't mentioned is HHS has requested the counties to use that computer to log in marriage license information. And so that also is one of the uses for that system. At a minimum, if we're going to not continue to pay for it, I would think we would reduce the fee that we charge for filing UCCs because the fee goes into this fund that is set up to maintain the network and keep these computers out there. So it, to me, just sort of seems a travesty that for all these years, we've had a great partnership with the Secretary of State--don't get me wrong. We've worked together on this. We think it's good, we think it's good for the people in the state of Nebraska. We think it's been good to provide public access to that. But simply to balance the state budget on the backs of the counties, we think is wrong. And if you want to move some of the cash fund and the collection...the fees on the UCCs over to the counties to cover for the cost which it was originally intended to do, then certainly, yeah, we would look at that. But I don't see any of that really, really happening in this bill. So you know, with that, we're...you know, we're not really wild

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about getting a seven-year-old computer only so we can start to pay a device fee to the CIO and then have to turn around here very shortly...as you'll notice, one of the unique things, the first computer lasted three years. The second computer now has been out there seven years, which would tell you it's probably about time for those things to be updated and replaced. When I went out and looked, I think some of those are running Windows 2000. I'm not so sure, some of them may even have Windows '98 running on them. If anybody has worked with networking and things like that, there's nothing you can really load on a computer of...in today's computer world, that's going to run. They're just simply out there for that single purpose. So with that, I'll certainly open up to any questions that you may have. [LB529]

SENATOR AVERY: Senator Price. [LB529]

SENATOR PRICE: Yes, Senator Avery, thank you very much. Mr. Dix, lots of information, I appreciate that. You...two questions, this data is available via the Web right now? [LB529]

LARRY DIX: I believe it is. [LB529]

SENATOR PRICE: Okay. And secondly, did you say that HHS has directed that the marriage...they would like the marriage licenses to be entered in via these terminals? [LB529]

LARRY DIX: There is a program in the counties that the counties enter marriage license data into the computer system. It doesn't have to be on these computers. It could be on a county-owned computer. But in talking to a number of the counties, in the smaller counties, they said, well, we have a computer here, can we utilize that? Yeah, certainly if the software runs on it, you certainly can. And that is being utilized. [LB529]

SENATOR PRICE: So then a terminal that was provided for public access is being utilized by employees to put in state data, does that not set up for a potential conflict where the public can't get in and use that terminal or are we just taking software and rehosting it on other PCs? [LB529]

LARRY DIX: I think the application is running, I think, on the 400 side of it. I don't think the application is actually running on that PC. The PC gives you a gateway to get to the 400, to get the access to the state of Nebraska. [LB529]

SENATOR PRICE: But then if they're using it, in an office, to put in marriage licenses, would that make it a little tough for the public to get to, do you think? [LB529]

LARRY DIX: Well, keep in mind, when you're issuing marriage licenses in an Arthur County, you're probably not going to use a whole lot of computer time. It's going to be

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very, very sparse. I would also tell you that the amount of people that go to a courthouse to access UCC information is very, very limited. There are not people lined up to access information that way. It's there as a courtesy. If the state of Nebraska really wants to start looking at this, and I have thought of this, you know, really quite a while. I've been involved in these computer projects with the state since 1990. So if you want to talk about LB14 that created all this and the AS400 network, I've been around through all that. If the state really wants to solve the problem, then the state of Nebraska needs to step up to the plate, put a kiosk system in all 93 counties so that the public can access public access records, not only for the Secretary of State, but there are other records out there that they need to do. That would be the solution as opposed to going to each and every office and saying, here, let me give you a terminal here and a terminal there and do a little bit of this and provide it with public access. If we do it, do it right, put one in all 93 counties, and make it a kiosk system. [LB529]

SENATOR AVERY: Senator Sullivan. [LB529]

SENATOR SULLIVAN: Thank you, Senator Avery. Larry, several things. Do you have any idea how much fee income flows into that cash management or record management fund? [LB529]

LARRY DIX: I do not. I do not. [LB529]

SENATOR SULLIVAN: Okay. And you refer to Health and Human Services, I think their goal through ACCESSNebraska is, in fact, to allow the public to come in and actually access...or get an application for services through HHS. So it's important for a county to have that access to a computer for state services. [LB529]

LARRY DIX: Right. [LB529]

SENATOR SULLIVAN: And I guess the third thing is, has there been any communication with your association and the Secretary of State on this issue? [LB529]

LARRY DIX: The first communication I had was when I read LB529, and I called the Secretary of State's Office and said, you know, what's going on? You know, it surprised me that we need a bill to address giving computers to counties. I would think we would have a partnership in place that we would sit down and sort of discuss this. But that's the only real conversation I've had. I've had conversations with the CIO's office. The other conversation with the Secretary of State's Office was to verify exactly the age of the computers that were out there. The ones that are out there now are Dell Dimension 2200s. They have a 15-inch monitor, and they were placed out there in 2002. And by today's standards, of course, a Dell 2200 is...cannot be found. Very, very few people are going to have a 15-inch monitor on their desk in this day and age. [LB529]

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SENATOR AVERY: Any more questions? Seeing none, thank you, Mr. Dix. [LB529]

LARRY DIX: Thank you. [LB529]

SENATOR AVERY: Any other testimony in opposition? Any neutral testimony? Seeing none, Senator, you are recognized to close. [LB529]

SENATOR PAHLS: I'm still looking for Athena. As I think you picked up from the testimony that there are some...probably some concerns or some issues with this bill. To me, it shows that you have government that may be strapped at the state level and at the local level or trying to find ways of making things happen. I'll just give you an example. I tried to have a one-stop shop with a car--you go in there to a car dealer, you can do it all there; 20-some states do that. So I went to the Department of Motor Vehicles and she almost fell over. She said you're going to collapse my old system. And she said, you know, that cost...we're talking about in the millions of dollars. So maybe this ought to be generating some ideas with us that the state is in trouble technologywise because of the shelf-life of some of the programs that they have. So I see this as probably as two, two different groups of people trying to make something work. And I will find out about the cash fund because...but this is important. If the public, somebody from the public wants to have access to this, this could be very important if you're looking at somebody's financial. Also, it's interesting to know that I found out some of this could be on a Web site. I mean, so there may be other avenues of doing this. So if you will allow me to do some talking with the individuals who have concerns, both to the positive and to the negative, I would take that up. [LB529]

SENATOR AVERY: Are you familiar with this kiosk system that Mr. Dix discussed? [LB529]

SENATOR PAHLS: Well, just think about it, it's like going to a mall. There are kiosks in there where you do all, you know, that's basic. That's what I was trying to say, even with this bill, that I had with the car license plates. I mean, if you want to, you can do all this...there are states that you do, you get your driver's license and everything on this little system. It's out there. [LB529]

SENATOR AVERY: But it is expensive. [LB529]

SENATOR PAHLS: But we can't do it with our...the way, with our... [LB529]

SENATOR PRICE: Antiquated is what you're looking for. [LB529]

SENATOR PAHLS: ...antiquated, right. And like I said... [LB529]

SENATOR AVERY: So you have to come in with a whole new system to replace the old

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ones. You can't just do a piece here and a piece there because the whole thing collapses? [LB529]

SENATOR PAHLS: Well, right. It may work and all of the sudden, as she explains it to me, if you add one thing onto it and she was not in argument or disagreeing with what's going on, but she said it may...she didn't say it would, but it may cause my system to collapse. So if you can see with the Motor Vehicle Department, if that would go down, we could be in a major issue. I mean, I can see...I was razzing her for trying to use me as a way to get money, but we're talking about millions of dollars. [LB529]

SENATOR AVERY: Any questions? Seeing none, thank you. [LB529]

SENATOR PAHLS: I appreciate it. [LB529]

SENATOR AVERY: That closes the hearing on LB529, and we will now move to LB532, Senator Scott Price from Bellevue. Welcome, Senator Price. [LB529]

SENATOR PRICE: (Exhibit 1) Thank you, Senator Avery, members of the Government, Military and Veterans Affairs Committee. I notice the mikes are a little loud today, so I'm going to move this back just a little bit so I don't blow anybody's ears out today. Chairman Avery, fellow members of the Government, Military and Veterans Affairs Committee, my name is Scott Price, P-r-i-c-e. I represent the 3rd Legislative District. LB532 would allow Nebraska counties to enact ordinances just like their counterparts in municipalities. Generally, counties have the authority to enact resolutions, but a resolution does not have the weight of law like an ordinance. The Nebraska Supreme Court described a resolution as a formal expression of opinion in response to a disputed resolution passed by Lancaster County. I believe that elected county officials should have more than an opinion with regards to the safety and well-being of the residents. While I may be new to the Legislature, this issue is not. I suspect that previous senators understood as I do that there are a number of safety issues as well as inefficiencies which counties are not able to adequately address under current statute. While this issue is of particular importance to urban counties like Sarpy and Douglas County, there is also an interest in the ability to enact ordinances in rural counties. As I mentioned, LB532 would allow counties to enact ordinances that carry the weight of law. Under the bill as drafted, municipalities would retain jurisdiction within city limits. A county board would be required to hold a public hearing on the proposed ordinance and allow for public review and input before an ordinance is enacted. Finally, counties would be able to enforce enacted ordinances by assessing fines and penalties for violations. I won't go into too much detail because I believe others will provide examples of how counties would utilize this new authority. However, we should not prohibit counties from addressing issues like repeated false fire alarms, snow emergencies, and other issues. Each false fire alarm is wasted resources and time that are already in short supply for many volunteer fire departments. Allowing counties to implement snow emergency

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policies will increase safety for both residents and nonresidents. The authority provided under this bill would protect Nebraskans and save lives. Due to narrow streets and the ways cars are parked on streets, fire trucks had a difficult time responding to a fire at my neighbor's home. In another case, emergency responders would have wasted valuable time finding a passable route to attend another neighbor who was having seizures. In both cases, enforcement of sensible parking policies would allow emergency responders to pass through narrow streets while allowing residents to park on those streets. I believe giving this authority to counties will allow them to maintain order, safety, and eliminate inefficiencies. Frankly, I'm surprised that counties already have this authority. I understand that past discussions on this matter have revolved around whether to give county boards authority to enact ordinances or to give counties a list of ordinances to choose from. Concerns have been raised by the agricultural community that a county board could enact burdensome ordinances and it has been suggested that a menu of options may be the way to address these concerns. Municipalities have raised concerns that the bill could impede on what they perceive as their jurisdiction, specifically the extraterritorial jurisdiction of municipalities. And these are valid concerns. However, I would make a couple of points. First, LB532 provides county boards with the option of enacting ordinances. Nothing in this bill attempts to require counties to enact any ordinance or a particular ordinance. I would bet that many counties in the state have no immediate interest in the authority granted in this bill. Sarpy County sees the use of this authority, but Garfield or Wayne Counties may not have a use for this authority. Second, county boards are locally elected officials. The fear is that local officials will enact or be tricked into enacting ordinances that will burden county residences or businesses. These officials answer to the same people they attend church with, that they buy groceries from, and their kids play basketball together. County board members know what is and is not in the best interest of their constituents. Third, my intent is not to preempt or replace the authority of city officials. Development through SIDs and the use of ETJs are good for orderly growth. However, there are more people living outside of city limits than there are inside city limits in Sarpy County. We can have a discussion about who should have the authority to enact ordinances for these areas, but more important is who will enforce these ordinances? My intent when I introduced this bill is to afford the same protections that individuals in cities across Nebraska currently enjoy to those in unincorporated areas. The 50,000-plus people living in Sarpy County but outside city limits expect county officials to protect and maintain a level of order in their neighborhoods. But in many cases, the hands of county officials are tied by the current limitations in statute. While we throw around the term "local control" a lot in this body, this is really about local control. We give city officials the tools they need to protect their citizens and to preserve order. Let's give those tools to county officials. I appreciate your attention to this important matter, and I'm happy to answer any questions that you may have. [LB532]

SENATOR AVERY: Thank you, Senator. Any questions from the committee? I have one. Do you have any idea why counties have never been given this authority in the

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past? [LB532]

SENATOR PRICE: Senator Avery, I won't propose to have the history of the Constitution of Nebraska understood. And I know there are people behind me who can talk in depth to some of the rules and why we do the things we do. But the short answer is they didn't anticipate it as necessary in the very rural and agricultural state with very small population centers. But time has changed. And when you look at, again, when you look out in Sarpy County or you look in Douglas County, you have so many people living outside of that control. We are denying those people the ability to have the protections they need for safety and orderly conduct within those communities. That's what it comes down to is times have changed. [LB532]

SENATOR AVERY: Thank you. Senator Pahls. [LB532]

SENATOR PAHLS: I'm going to have to stir my gray matter. I just can't recall, but this bill has been slapped around a lot in the past. So I'm trying to figure out what...because it didn't show much light. So I need to just for my own self do some more research on that. But you're primarily doing this for Sarpy County. [LB532]

SENATOR PRICE: I am doing it for Sarpy County but also because as I live in the neighborhood where I see these problems every day. And the city doesn't have the authority to do things, they can't enforce it. And we have a lot of people living there who, quite frankly, if you have in a city like Bellevue in Sarpy County, if a street is narrower than 30 feet or 35 feet, you can only park on one side of the street. That's good so safety vehicles can get down the streets. But you live outside and you can't do that. And we are limiting and hindering the ability for a county to take on these small things or like a snow route. And I do have your past testimony in front of me if later on we want to look at that. [LB532]

SENATOR PAHLS: Okay, okay. Thank you, appreciate it. [LB532]

SENATOR AVERY: Any more questions from the committee? Seeing none, thank you. Are you going to stay around for closing? [LB532]

SENATOR PRICE: Absolutely. Thank you. [LB532]

SENATOR AVERY: We'll now move to proponents, LB532. [LB532]

LEE POLIKOV: (Exhibits 2 and 3) Thank you. Chairman Avery, senators, and staff, I am Lee Polikov, P-o-l-i-k-o-v, of Bellevue. And thank you for letting me testify in support of LB532 this afternoon. Today, I represent the Nebraska County Attorneys Association as I currently serve as president. Additionally, my perspective is based on 26 years as chief deputy and counsel for the Sarpy County Sheriff's Office, and I am now in my tenth

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year as county attorney. Senator Price's bill recognizes the need to empower elected officials, in this case county commissioners, to meet the responsibilities and deliver necessary services to citizens that need and expect those services. These needs are typically in the area of public safety and health. The concept of county ordinance authority is not radical. Selected authority has long been statutory. Today counties often provide the same services as cities, and the county needs the ability to formulate and enforce rules and regulations. It is inefficient for county officials to return to the Legislature to modify and adapt legislation to meet the dynamic needs of growing counties. The description of a county by the standards of the late 1800s is that cities regulate urban development and counties regulate rural areas. The problem is that in the twenty-first century urban development can flourish outside city limits. The sanitary and improvement district development model, which is peculiar to Nebraska, actually contributes to this demographic. In a suburban county like Sarpy County, there is a significant population living in urban areas but outside the limits of any city. These urban concentrations need and expect the same services that city residents are receiving. Oftentimes these areas are only separated by a street or highway. As areas are annexed into cities, new SIDs are being planned and built. It makes sense to allow county commissioners elected and accountable countywide to formulate ordinances or laws to better serve the county and to relate that to the largest city in that respective county. For example, the population of unincorporated residents in Sarpy County is greater than the population of Bellevue, its largest city. Some fear the expansion of power of any government. Every measure this body considers could be abused, but there is a control in place and that is accountability to the electorate. Some oppose county ordinance authority because of the fear that true agricultural interests will be in conflict with city rules and regulations. We see this with animal control ordinance power that we have on the books now, but the control is that the ordinance process is well defined and public in nature. And the county commissioners are also, again, accountable to the electorate. Finally, the bill addresses conflict of authority with cities. The intention is that city ordinance is superior and supersedes county ordinance power. Implementation of this authority would encourage cooperation between cities and counties to address common issues of concern. Cities and the county could find common ground to coordinate and standardize regulations for the benefit of everyone. I respectfully request that you vote LB532 out of committee. Thank you. I distributed a map which depicts Sarpy County. It's color coded. I think it's kind of self-explanatory. I'd direct your attention to the brown lines that are squared off. Those are sanitary and improvement districts. Those are population concentrations of urban development, many of which are outside even the ETJ, the extraterritorial jurisdiction, of any city and therefore in need of municipal type services that's provided...that could only be provided by the county. I'd be glad to answer any questions. [LB532]

SENATOR AVERY: Thank you. Senator Pirsch. [LB532]

SENATOR PIRSCH: Thank you. I appreciate your testimony here today. Just a quick off

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the top. You don't see any constitutional issues, the separation of powers kind of problems for this type of a structure, do you? [LB532]

LEE POLIKOV: I don't believe so. I think the governmental bodies are established, and the questions were well made earlier as to why this has happened over development. I kind of believe that it's always been in the background but not necessarily a priority of anyone. And as we discussed it more, it's common sense and becomes more obvious that there are areas that need this kind of opportunity. [LB532]

SENATOR PIRSCH: But as far as the Legislature devolving, you know, obviously they've been set up, you know, cities and townships and imbued them with the power to act in this manner. And so is there anything peculiar about the nature of counties that would somehow because of the separation of powers and, you know, not allow us as much as we'd like to as a legislative body or as much as the counties would like to receive that power? Does anything about the structure of the constitution prohibit us from being able to devolve the power? [LB532]

LEE POLIKOV: Well, the first thing that comes to mind is the limited authority that's already in place--zoning regulations which are encouraged and also some limited authority on animal controls, some on parking, some on traffic, health and safety issues so there is a standard already set. [LB532]

SENATOR AVERY: Senator Sullivan. [LB532]

SENATOR SULLIVAN: Thank you, Senator Avery. Do you think that this is more of an urban-suburban-county issue as opposed to more rural area? [LB532]

LEE POLIKOV: It's almost hard for me to imagine that. As I told you, I spent 26 years with the sheriff and now 10 years as county attorney. In all that time, I see a change even in my own organization, the county attorneys. When I first started, it's always...because I came from Sarpy County and when I first started in 1973, we had a lot of urban development, some of which was virtually south Omaha and the people there thought they lived in south Omaha, quite frankly. And so we had to provide a municipal police function, if you will, as the sheriff to those areas. It's always been in the back of my mind. What I see over my years with the County Attorneys Association, county attorneys across the state recognizing the potential in larger jurisdictions certainly, but even in the smaller jurisdiction. And as Senator Price mentioned, it's not required. They can pass ordinances if they want. [LB532]

SENATOR SULLIVAN: And I suppose that if we do grant more urban counties this privilege, it would have to be across the board rather than just counties would be different. [LB532]

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LEE POLIKOV: Well, I think there might be some merit to talk about a population limitation if the Legislature so decided. One example and it pops into my mind that we often use is the animal authority that the Legislature already gives the county to control dogs. At some point they didn't expand that and so now if Sarpy County wants to license cats, we'd be required to come back to the Legislature, go through the legislative process. I'm sure your committee or other committees wouldn't necessarily like to take that time to discuss the merits of whether we should or should not license cats. And that would be something, an example of with ordinance power, they could do at the local level, counties could decide and make those choices. And I'm sure they'd have as much discussion as the Legislature does over animal issues. Those are always going to be in contention. But nonetheless, those are real problems that face us. [LB532]

SENATOR SULLIVAN: Yeah, thank you. [LB532]

SENATOR AVERY: Any other questions? Seeing none, thank you, sir. [LB532]

LEE POLIKOV: Thank you, Chairman. [LB532]

SENATOR AVERY: We're still on proponents. Any additional testimony in favor of LB532? [LB532]

LARRY DIX: Senator Avery, members of the committee, my name is Larry Dix, D-i-x. I'm executive director of Nebraska Association of County Officials, appearing today in support of LB532. Certainly the discussion, the topic of ordinance authority has been around I think for as many years as I've been executive director there's been a bill in front of the Legislature that talked about ordinance authority. And from the counties' point of view, certainly we have tried for years to gain that authority. And some of the comments that were made earlier tell you really, really why. Another event that happened here in Lancaster County and it was a situation where they were trying to control an operation outside the city limits that would allow topless dancing, and the county board passed a resolution that said, you know, we're not going to allow that. It went through the courts. In the end, the court came down and said, well, county board, you passed a resolution but that resolution does not have any standing in law. And so that is one of the reasons why year after year we have come forward trying to get ordinance authority. That was also one of the reasons why in the last three or four days we spent an inordinate amount of time talking about trapping in county right of ways and getting language introduced in that particular bill that stated that the resolution shall have the force and effect of law. Because otherwise, you know, people will say, well, counties have resolution authority. Well, if you have the authority but nobody is going to, you know, be accountable for it, and I always use the example, you know, when was the last time you heard of anybody being arrested because they violated a resolution? You just don't hear that. You certainly hear people arrested because they violated a city ordinance. And as our society moves ahead, you know, we are getting a little bit mobile.

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We're seeing a lot more acreages on the edge of these cities. I would tell you this is not just a Sarpy County issue. This played itself out just last year in Dawson County, almost the same exact scenario as what happened here in Lancaster County. So there is a reason why we are here and why we think we need that authority. Certainly from NACO's perspective, it's not a power grab. It's not that counties are trying to step on the toes of the cities. And surprisingly on this bill, I had a number of calls from city administrators. And over the years I've got to know those folks, very, very nice folks, and they were saying, well, why does NACO want to come into the city side of it? And I said, well, from NACO's point of view, we really don't. We're not trying to get into that extraterritorial jurisdiction from NACO's side. And typically I cite a section of statute that's in the zoning regs, and that's 23-114. And it says, "At such time as a city or village exercises control over an unincorporated area by the adoption or amendment of a zoning ordinance, the ordinance or amendment shall supersede any resolution or regulation of the county." So we have an example on the books that really lays out that, hey look, counties are not looking to jump into that extraterritorial area. And it's worked very well in our zoning process. And so, you know, we would relate back to that saying if we move forward with this, certainly, here's some language in law that may be sort of a groundwork, an area to start to look at for language as we move forward with this ordinance authority. So that, we're not in conflict with the cities. And I've visited with the League of Municipalities, and we've really talked a lot about this bill. And that seems to be one of the concerns I know that the cities have and, like I said, certainly from NACO's perspective, when I look at it statewide, that isn't what we're trying to do here. So with that, certainly, I would appreciate the committee taking a good hard look at this, because there are becoming some situations in counties where I think for the protection of our citizens, we do need to give counties additional authority, ordinance authority, if you will. With that, I'd be happy any questions you may have. [LB532]

SENATOR AVERY: If you were to put a...I'll just ask one question, if you were to put a population qualifier on this, where would you start? [LB532]

LARRY DIX: Well, you know, I'm not so wild about the population qualifier because normally when we have population qualifiers in statute, typically we're always trying to look at Douglas, Sarpy, and Lancaster. We've got all kinds of statutes that have those thresholds in it. But in this instance, that would do nothing for the problem that was going on in Dawson County. It just wouldn't touch it because they would be left out of the mix. And that's what we're starting to see. We're starting to see it in some of our rural counties, especially as you move up and down the I-80 corridor. And so with that, when you look at the I-80 corridor, we have some counties that are pretty small in population. You look at Deuel County has probably got 4,000. But they could have some of the same problems because they're right off of that Y that separates between Wyoming and Colorado. So I'm not so sure that I would be too wild about the population threshold. [LB532]

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SENATOR AVERY: Thank you. Senator Sullivan. [LB532]

SENATOR SULLIVAN: Thank you, Senator Avery. I want to get back to your comment that you made about the trapping bill that we added that amendment that it said the resolution has the force of law. Does that mean by saying that in statute that it basically has the same level of enforcement as an ordinance? [LB532]

LARRY DIX: Well, one of the great things about being in the position that I am, I do not have a law degree, so I can...I get out of jail free sort of on these questions. Not being an attorney, I don't know if it does or not. We feel that that gives us as strong of a case as we could possibly make. And that language really came out of that court case in 2002. And I think your legal counsel that's sitting here today, Senator Christensen's legal counsel, and the Natural Resources District legal counsel, we all talked about it. And that's sort of where we grabbed that language because the judge made reference to that in that case, that it was just a resolution, and it wasn't a resolution that had the effect of law. So we're hoping. It may take another court case to determine if that's right or not, but we're certainly...we're certainly hoping that that will hold up. And that may be an option that we go through here. Certainly, it's on the table now. [LB532]

SENATOR AVERY: Senator Karpisek. [LB532]

SENATOR KARPISEK: Thank you, Senator Avery. Mr. Dix, I see the guys who are going to come up after you in opposition so I'll just...before you get away, I know why, I mean, sometimes I'll drive by an abandoned house or a farmstead that's just junk or there's a junkyard and the county can't go out and say, clean this up, can they? Because they have no ordinances to do that? [LB532]

LARRY DIX: You know, you can do so much with zoning, but some of those issues, I don't know how you would write zoning laws to handle that situation. So, no, we couldn't. We have to come back to the Legislature for everything that we're allowed to do. And I always use the example with the city folks, you know, the cities can go and they can take the fee that they charge for people to swim in a swimming pool and double it, triple it, do whatever they want, through their authority. But if we as a county would say, we'd like to charge you an extra penny for a copy that we charge, we have to come back to the Legislature to get that authority because all of our authority comes from the Legislature. So that's why we're sort of interested in this resolution with the effect of law. But, no, we don't have the authority to do that. [LB532]

SENATOR KARPISEK: So I guess my question is, is I absolutely understand what they're going to say because they're worried that the county will take livestock out or something crazy like that. But how about a few certain things, instead of a blanket coverage. I mean is there any... [LB532]

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LARRY DIX: You know, I think last year Senator Rogert had a bill in front of this committee. I think it was narrowly drawn. It identified specific instances that gave county authority on specific instances. And we were here to support that. And if that's the direction that the Legislature wants to go, I would tell you, we would be in favor of it. Full well knowing, we may have to endure eight hours of debate on every stage of it, because we're going to have some folks that are saying, oh my gosh, it's giving somebody authority or maybe the agricultural sector is going to say, oh my gosh, I don't know that we want that, but if that's what it takes, then that's what it takes. [LB532]

SENATOR KARPISEK: One again, I do see their concern. So I just wanted to throw that out to you, and I forgot that Senator Rogert's was that narrow and anyway. [LB532]

LARRY DIX: And I don't think it got out of committee last year. [LB532]

SENATOR KARPISEK: No. All right. Thank you, Mr. Dix. [LB532]

SENATOR AVERY: Senator Pahls. [LB532]

SENATOR PAHLS: By my listening to you, this is...in other words, if we give the counties and we actually as a state are giving away some of our authority to you, are we not? So if we do give that to you, we've actually created another body that can basically set or make laws to some degree? [LB532]

LARRY DIX: I believe that's correct. [LB532]

SENATOR PAHLS: So maybe that's the hesitancy of some people at this level not to give that...I mean, the gray matter is starting to stir a little bit now is because we don't want to lose that. [LB532]

LARRY DIX: Yeah, and I certainly can appreciate that. You know, don't get me wrong. As I started out, I said from NACO's perspective, this is not a power grab. We're just looking to try to do the right thing for some citizens in the state of Nebraska to make it better for them. [LB532]

SENATOR PAHLS: But you also mentioned SIDs. I've been on, in the past on SID, we always had, for example, if we wanted to put parking signs, we had to get approval. We couldn't make those decisions or a speed bump. We had to go through probably the county I'm assuming. [LB532]

LARRY DIX: Yeah, I'm not as familiar with the SIDs, but I know the SIDs are a huge issue in Sarpy County simply because of the number of them, and there are quite a few in Douglas County yet. But as you move sort of from east to west, you see fewer and fewer SIDs. [LB532]

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SENATOR PAHLS: Right, yeah. Okay, thank you. [LB532]

SENATOR AVERY: Any more questions? Seeing none, thank you, Mr. Dix. [LB532]

LARRY DIX: Thank you. [LB532]

SENATOR AVERY: Any more proponents? Seeing none, we'll move to the opponents of LB532. [LB532]

GARY KRUMLAND: Senator Avery, members of the committee, my name is Gary Krumland, it's spelled K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities and appearing in opposition to LB532. I'm not here because we opposed the concept. The case that's been referred to in Lancaster County from 2002, the Nebraska Supreme Court Case, I think surprised a lot of people that said counties can't enforce their resolutions. And I think that was what I had thought before then too. But there is some language...so I'm not opposed to that concept of making sure that they can enforce regulations that they adopt. A couple of things about LB532 though I do have problems with. In Section 1, subsection (2), it seems to preempt any state laws that grant cities authority for planning and zoning in the extraterritorial zoning jurisdiction. And as you know, cities are granted authority, and I think Mr. Dix referred to the statute 23-114 that says that if the city extends their zoning out, it preempts what the county is doing, and that is still the law. So Section 1, subsection (2) seems to go against that. Right now, cities, depending on their size can extend their zoning jurisdiction out beyond the corporate limits. The two largest classes of cities, metropolitan and primary, which is Omaha and Lincoln, can go out three miles. Cities of the first class which are 5,000 to 100,000 go out two miles, and the smaller cities, the second class and villages, can go out one mile. And that the statutes do allow them to do zoning and other sorts of regulations in that. And the concern about the language in Section 1, subsection (2) is it seems to counteract that, so you'd have conflicting statutes. The other thing I just want to mention is Section 1, subsection (1) talks about the county possessing the authority in that ordinance in the largest city...that the largest city has, and the idea of that giving a local political subdivision, just grant authority to enact laws or ordinances themselves. Nebraska Supreme Court is what...has adopted what they call Dillon's Rule which is basically saying that a political subdivision has only that authority which is specifically granted by the statutes by the Legislature or the authority implied from that. And the Lancaster County case, they do say: a county, like all political subdivisions, only has that power dedicated to it by the Legislature and any grant of power to a political subdivision is to be strictly construed. We deal with this all the time, that's why we actually come in with a lot of bills every year because the Supreme Court has said if the city wants to do something, you have to have authority from the Legislature to do it. And a general grant of authority even to any other political subdivision seems to be in the same situation. That there may need to be specific

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authority to do specific things. So that would be a concern if just there was a general grant of authority. I know it's inefficient, but it's the way the Supreme Court has ruled and seems to continue to rule. For example, like there is authority in the statutes to have a swimming pool. So if a city raises the rates, it's because there is authority from the statutes that the Legislature has given it to build and operate swimming pools. And then it's implied from that, that you can charge a fee. So with that, I'd be happy to answer any questions. [LB532]

SENATOR AVERY: Thank you. Any questions? Seeing none, thank you for your testimony. Next testifier. [LB532]

DOUGLAS KINDIG: (Exhibit 4) Good afternoon, I'm Doug Kindig, K-i-n-d-i-g. I want to thank you for the opportunity to speak to the committee this afternoon. I am the mayor of the city of La Vista, and I am here representing the United Cities of Sarpy County, which is a coalition of the five municipalities in Sarpy County: Bellevue, Gretna, Papillion, Springfield, and La Vista. Our coalition is working together to foster cooperation and assure the effective delivery of municipal services. Today I am here to voice our opposition to LB532 and to make you aware of our concerns. LB532 would preempt municipal authority in the city's extraterritorial jurisdiction and without repealing the statutes, appears to do away with the authority of municipalities to enforce land use and zoning regulations, nuisances, building codes, and health and sanitation requirements. The ETJ of a municipality is its growth area. As a result, jurisdictions want to enforce rules and regulations that allow their ETJ to be developed in accordance with the same standards and regulations as would be required within the municipal boundaries. Accordingly, when that area is annexed, it will have been developed consistent with the city's rules and regulations, provide a smooth transition, and keep the municipality from looking like a hodgepodge of designs and standards. LB532 is very broad and gives a county the same authority that the largest city in the county has. For example, would a county be allowed to create its own utility, such as a gas or electric system? LB532 states the county ordinances may be amended to authorize a waiver of county authority to enforce particular ordinances within the ETJ of such municipalities. Point 1, this must be at the request of the municipality, and Point 2, for good cause. What is defined as good cause? Does each individual county decide what good cause is? LB532 does not detail any parameters for counties when contemplating the adoption of an ordinance nor what counties can control by ordinance. Senators, I would like to inform you, we have had preliminary conversations with NACO on this matter. We are open and encourage those conversations to continue. But at this time, I would like to let you know that...I would like to reiterate our strong opposition to LB532. I appreciate your consideration, and at this time, would like to answer any questions if you have any. [LB532]

SENATOR AVERY: Thank you, Mayor. Any questions from the committee? I see none. Thank you, sir. Next opponent. [LB532]

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ERVIN PORTIS: (Exhibit 5) Good afternoon, Mr. Chairman and thank you. My name is Ervin, E-r-v-i-n, Portis, P-o-r-t-i-s, City Administrator for Plattsmouth. Not to be redundant or repetitive to Mr. Krumland and Mayor Kindig, our primary concern in Plattsmouth is zoning and the effect on...this statute would have on...or this bill would have on an extraterritorial jurisdiction. Actually Mr. Krumland and Mr. Dix have both pointed out an existing statute. This statute, I think, would create some very clear conflict between two statutes if it were created. But then you also have Nebraska Revised Statute 13-301. I think there's a very important clause in this statute, and I reference it in my letter. It's legislative policy: counties containing larger municipalities are typically experiencing population and economic growth and that growth creates or promotes increased urban and rural land-use conflict. So our point in Plattsmouth is in order to minimize, reduce, eliminate that conflict, respect...it's very, very important to respect that zoning jurisdiction and extraterritorial zoning jurisdiction. If the county wants authority to enact ordinances for parking, traffic regulation, licensing, creation of snow emergencies, fees, I don't believe Plattsmouth would object to that. But our concern is the effect on the extraterritorial jurisdiction and our zoning authority. As a matter of fact, I live in an SID outside of Plattsmouth. Frankly, I would like the county to declare snow emergencies and come plow my streets in that SID so I wouldn't have to pay higher SID taxes. Any questions, senators? [LB532]

SENATOR AVERY: Questions from the committee? One advantage to being last or nearly last on Friday afternoon is that we're worn down by now. (Laughter) [LB532]

ERVIN PORTIS: It has been a long afternoon, Senator. [LB532]

SENATOR AVERY: Thank you for your testimony. [LB532]

ERVIN PORTIS: Thank you, sir. [LB532]

KORBY GILBERTSON: Chairman Avery, 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 LB532. The realtors have opposed this legislation in years past and continue to do so based on the thought that this should not be a blanket authority, but that the Legislature should consider specific grants of authority. I think Mr. Dix talked a little bit about being able to charge certain amount for copies provided, snow emergencies, other things like that have been discussed. Those would be the types of things we think that maybe could be granted specifically in a legislation rather than just giving them blanket authority, and that's why we would oppose the bill. I'd be happy to try to answer any questions. [LB532]

SENATOR AVERY: Thank you, Ms. Gilbertson. Do we have any questions? You, too,

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have the advantage of coming late. [LB532]

KORBY GILBERTSON: Thank you. (Laugh) [LB532]

DAVE NIELSEN: (Exhibit 6) Good afternoon. I'm the ag guy everybody's been waiting for, I guess. (Laughter) My name is Dave Nielsen, D-a-v-e N-i-e-l-s-e-n. I'm a farmer from northern Lancaster County, I serve as chairman of my county Farm Bureau State Affairs Committee, and also am a past member of Nebraska Farm Bureau's State Legislative Policy Committee. I'm here today to testify on behalf of Nebraska Farm Bureau in opposition of LB532. From a big picture perspective, we have some great concerns as to the long-term ramifications of providing broad ordinance authority to the counties and, in particular, what that could mean for agriculture in Nebraska. Our largest concern is giving county boards the ability to establish county ordinances stems from the growing disconnect that we see in the countryside where we have people moving into traditional farming areas that don't have any farming background and their perceptions of country living don't match up with the reality of country living. Let me give you a few examples on our farming operation. One day we pulled in to harvest a 70-acre field, soybeans; basically a one-day operation. We had a neighbor an eighth of a mile away that was complaining about the dust. There's some dust generated when you harvest soybeans, it blows around a little bit. But yet they live 50 feet from a gravel road that has a tremendous amount of acreage people going back and forth every day. But apparently that dust doesn't bother them, but our one day of operation, that dust bothered them. Another thing is we're a cooperator with the city of Lincoln. We spread a lot of municipal sludge, biosolids, fertilizer. All of you contribute to this program, and I greatly appreciate it. (Laughter) Now that's delivered out in trucks on our gravel roads, you know, there's quite a bit of it. We put on 35 tons per acre, so there's a lot of volume of material that is delivered, creating a lot of dust. People complain about that, but yet they want to live out in the country. Basically, they want all their roads paved in the county, but that's not possible. Well, there's also somewhat of an odor to that. It's like a septic tank odor. And we have had a tremendous amount of pressure from some people in the area on that odor. Now there is a gentleman up here that talked about, well, the county commissioners would be responsible to the constituents. Okay, our farm covers about three sections of ground. We have about four constituents on that: me, my wife, my dad and my mom. We'd probably all vote against the ordinance. Yet, one mile away from our operation, there is a quarter section of developed land that probably has 20 constituents. Now, we're all in the political business here; we know what 20 votes against 4 votes means to an electoral person as a county commissioner. Odor, dust, early morning and late night farming with loud farm equipment are all part of ag production and have been forever, however, we've learned not to take it for granted that everyone recognizes 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, especially in counties with larger population centers and acreage

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development, could be pressured to place restrictions on agriculture that could eliminate or drastically alter common farming practices as a way to mitigate perceived nuisance issues. The last thing our members would like to hear about is a proposed county ordinance to prohibit the operation of farm equipment after 9:00 p.m. because of noise pollution, which we think could be a very real possibility if we open up that door for that type of action to happen. We recognize that there are many scenarios and potential reasons why counties would seek this authority; however, we are greatly concerned that the long-term implications of granting this power would ultimately harm agriculture producers and our state's largest industry which employs...which is responsible for one in every three jobs. We appreciate your consideration of these comments and the opportunity to testify, and I'd be glad to try and answer any other questions you might have. Thank you. [LB532]

SENATOR AVERY: Thank you, Mr. Nielsen. Any questions from the committee? Thank you for your testimony. [LB532]

DAVE NIELSEN: Thank you. [LB532]

SENATOR AVERY: Any other opponents? Anyone wish to testify in the neutral position? Senator Price, you're recognized to close, if you wish. [LB532]

SENATOR PRICE: Senator Avery, members of the committee remaining, I appreciate your dedication. It is Friday, it is late, and in the interest of that, I won't take a lot of time pontificating. The bottom line is this bill has been here a lot of times. It's going to continue to be here each time because this shows you, when we look at the effort that was put out by the proponents and opponents, this is where things meet. This is where we're going to constantly have a problem. One day, the state is going to have to deal with it. It may not be today. It may not be tomorrow, but somebody is going to have to deal with this. Now, to the interest of getting it dealt with, I'm more than happy to sit down with all of the parties and figure something out. We came here with a broad list knowing that we would...or a broad axe, if you would, knowing we would have to narrow it down. And we will narrow it down, and I will work and endeavor with the parties to get something done so that this does get some traction and does get out of committee and gets to the floor, because we will have to deal with it constantly. And in the interest of saving time for the committee next year and the years ahead, if we could get something done, I think that would be in the interest of all parties, and again, I will work with all of them, and I look forward to working with you all to get a resolution to this. And if you have any further comments or questions, I'd be glad to take them. [LB532]

SENATOR AVERY: Thank you, Senator Price. No more questions from the committee? You win, we're beaten down. (Laughter) That ends the hearing on LB532 and the hearings for today. I thank all of you for coming, hope you enjoyed it as much as we did. [LB532]

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Disposition of Bills:

LB321 - Held in committee.

LB503 - Placed on General File with amendments.

LB529 - Held in committee.

LB532 - Placed on General File with amendments.

Chairperson

Committee Clerk