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Government, Military and Veterans Affairs Committee
January 22, 2010

[LB686 LB768 LB826]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Friday, January 22, 2010, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB686, LB826, and LB768. Senators present: Bill Avery, Chairperson; Robert Giese; Russ Karpisek; Bob Krist; Rich Pahls; and Kate Sullivan. Senators absent: Scott Price, Vice Chairperson; and Charlie Janssen. []

SENATOR AVERY: Good afternoon. Welcome to the 11th day of the session. You are in the Government, Military and Veterans Affairs Committee. My name is Bill Avery. We will be hearing three bills today. And these are posted outside the door, and we'll hear them in the order they are posted: LB686, LB826, LB768. Before we proceed with that, let me take care of a few matters. First I want to introduce the members of the committee. On the very far end right here to my right is Senator Rich Pahls from Omaha. He will be joined in a few minutes by Senator Charlie Janssen from Fremont. Senator Robert Giese will be here later as well; he is from South Sioux City. Our Vice Chair, Senator Scott Price, had pressing business at Offutt today and could not attend. Committee counsel is Christy Abraham, sitting right next to me. On my left, here, is Senator Russ Karpisek from Wilber. He is next to Senator Kate Sullivan from Cedar Rapids--and our newest member, Senator Bob Krist of Omaha. Sherry Shaffer is the committee clerk. If you are testifying for or against or in the neutral capacity, we ask that you fill out this sheet; these are available at each door. Print your name very clearly, and when you get to the table to testify, give a copy to the clerk. And if you are not wishing to testify but you wish to be recorded for or against the bill, you can merely sign this form--they also are at each door--and you will be recorded in support or in opposition to the particular bill that you wish to be on record. Now when you are at the table, please spell your name for the record and speak clearly and keep your remarks as brief as you can and still cover the points that you want to cover. The introducer will be allowed to close, and only the introducer gets to close. We would ask you if you have anything to give to the members of the committee that you have 12 copies. And you give those to the clerk; she will give them to the pages for distribution. Our pages are Lisa Cook from Omaha and Mark Woodbury from Oswego, Illinois. Cell phones, please turn them off or put them on vibrate so as not to disturb the proceedings. With that--I think I covered everything--we're going to proceed to a hearing on LB686. Senator John Wightman. Welcome, sir. []

SENATOR WIGHTMAN: (Exhibit 1) Thank you. Chairman Avery, members of the Government, Military Affairs Committee--Veterans and Military Affairs Committee, excuse me. I am John Wightman, spelled J-o-h-n W-i-g-h-t-m-a-n, representing the 36th District. LB686, which--you've had similar bills before you, I think, the last year or two--seeks to increase recording fees charged by the county register of deeds for recording documents such as deeds, mortgages, and other legal documents that are

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filed in the office of the register of deeds in counties throughout the state of Nebraska. Under that bill, the fees would be increased from \$3 for filing a mortgage foreclosure and \$5 for all other documents--now it's \$5 per page for all other documents--to \$10 for the first page of a document and to \$6 for subsequent pages. In addition, however, to the fee increase, the bill would eliminate and repeal an indexing fee that has been in effect for--since 1983, in which there was a 50-cent indexing fee charged for each lot or section for the first five lots or sections. Considering the index fee--the current fee for a single page is really \$5.50 minimum but could be up to \$10--would be increased to \$7.50, the elimination of the indexing actually would be increased to \$10, but we will talk about a portion of that fee being used for probably placing these instruments on the Internet, but just generally for increased documentation that would go with that, and a portion of the fee will be set aside for that. The increase in fees will adjust the fees to take into account at least partially the substantial increase in costs since the fees were last changed, which was in 1983, or 27 years ago. I usually refer to the cost--consumer price index--I know that gets a little old when you've heard that enough times, but we really are looking at that, which is 27--the past 27 years, and it would result in about an \$11 fee. We're looking more, however, at what the cost--budget cost of running a register of deeds office is. And I've visited with several of them. And it's typical, since 1983, that these budget costs have almost tripled, with a very low increase. Now I am not speaking for the larger counties; they may have a much larger increase. But if you get to the outstate counties, there's not been a substantial increase at all in the number of recordings. So basically it's costing about three times as much to record documents as it did then. And, of course, that comes from increased overhead costs, salaries and health insurance and various benefits, in addition to additional office equipment. As I've discussed before, this is primarily a user fee. Somebody records a document because that's going to be proof of their ownership for the rest of time--hopefully, for the rest of time--for the next 100 years. That's the proof of their ownership. They may own it for 100 years; they may transfer it. But that is the proof of their ownership when they transfer it. So the users are the people primarily benefited by the filing, and that's why there is a cost of recording. I would suggest that after 27 years the taxpayer has been bearing an ever-increasing portion of that, because the user fees are not covering the expenses of recording. The bill also increases fees paid to the Nebraska Secretary of State for recording documents under the Uniform Federal Registration Act and the Uniform State Lien Registration and Enforcement Act. And those fees are raised from \$6 to two times the fee required for filing with the register of deeds. So if it was \$10, it would be raised to \$20. Since these documents must be filed both with the Secretary of State and the county, the fee is split evenly between the Secretary of State and each designated county in the filing. So it's doubled because it's being filed in two places. The county officials, particularly the registers of deeds but also the county commissioners, have requested that this bill be filed for the reason that they have been subsidizing, through tax levy, operation of this office--the register of deeds office. This would help the counties balance their budgets, by authorizing fees that are commensurate with the services rendered rather than subsidizing the services at taxpayers' cost. As I say,

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it's--we've been over a quarter of a century now since they have been increased. The registers of deeds also face increased costs because of the need to preserve aging records and to move to an online and electronic system to access deeds, mortgages, and all types of filed documents. The persons most benefited, again, by the electronic system will be persons engaged in real estate transactions, such as realtors, mortgage lenders, and title insurance companies. Because of the pressure not to raise property taxes, the funds used for building an online system should be paid by the users of the system through an increase in filing fees. And so that is what we're proposing to do. In the past, this has been opposed by the realtors, and it's been opposed by the bankers on certain occasions, just because it was an increased cost of doing business to their customers. I'm happy to advise the committee that I am--we have indicated a willingness to agree to a compromise that will address the problem facing the registers of deeds and the users of the system. And I hope this compromise might find acceptance with this committee. I have met with representatives of the Nebraska Association of County Officials and the Nebraska Realtors Association, who have a longstanding position, as I said, in opposition to these increased fees. But the idea now would be that one-half of the proposed increase in the filing fees would be dedicated to a fund for the much-needed project of preservation and restore existing records for modernization of the current paper system to an electronic system that can be accessed on-line. Some counties have gone a long way toward doing that. These monies would be dedicated to the preservation and modernization of the records held by the registers of deeds; the other half of the increase would go to the registers of deeds to address 27 years of increased costs. Until such time as the principals of the Nebraska Realtors Association have reviewed these and taken action, they will not be able to report back to you. Their lobbyist will appear here today saying that their position in the past has been in opposition to this but believes that they will accept this provision that the fee increase be split between modernization and increased technology, which would make these available on-line. Now I think that getting on-line is going to be a long time. I know we're going to hear as a proponent of this bill the Scotts Bluff County Register of Deeds. They have been extorted to place theirs on-line, and that might be typical of counties of that size. And I think she said they have...and she'll report to you, but they have about ten years online, but they are working their way back. They want the most recent ones online first because people don't look at these records nearly as often that are a hundred years old as the more recent ones, particularly mortgage holders. So it does have a fiscal note, but the fiscal note is positive, I'm happy to say. The state indicates that it will receive for the half year--from the time the bill went into effect to the end of the fiscal year--about \$34,000...would then increase their revenues about \$68,000. The counties will see a substantial increase, and we have some figures here that...Sarpy County estimates their increase of revenue that would not have to be paid for by the real estate taxpayer or personal property taxpayer of \$330,000 annually, and Lancaster County estimates \$525,000; I don't think we have one for Douglas County. But that's shown in the fiscal note. So it would--I'm not saying it'll lower, but it might keep property taxes from being increased to cover this function that the county has to cover. With that,

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I'll take any questions that any of you may have. I think I referred to the realtors, but the bankers also have from time to time opposed this bill, again as being a cost because of their mortgages and deeds of trust. And they, I believe, are satisfied with the compromise that we're proposing. So we would ask that you hold the bill until the bankers association has met and are able to get back to us with the fact that their association has approved the bill and--or stand either neutral or not in opposition to it. [LB686]

SENATOR AVERY: Thank you, Senator. Is the compromise reflected in this amendment that we have? [LB686]

SENATOR WIGHTMAN: Yes, and I should have said that. We have passed out an amendment--and that came from the Bill Drafter--that would reflect the compromise. I appreciate that, Senator Avery. [LB686]

SENATOR AVERY: Any questions from the committee? Senator Pahls. [LB686]

SENATOR PAHLS: I must be interpreting these figures incorrectly. You're saying the state, in revenues, is going to receive, like, \$34,000 and \$68,000. And then you say the county--one county is going to receive almost \$500,000. I don't...how do those numbers make sense? Are they going to split the fees? What am I missing? Because... [LB686]

SENATOR WIGHTMAN: Well, no. Most of these fees go only to the county. [LB686]

SENATOR PAHLS: Okay. Okay. [LB686]

SENATOR WIGHTMAN: Only these that are lien registration... [LB686]

SENATOR PAHLS: Okay. [LB686]

SENATOR WIGHTMAN: ...figures are filed in two places... [LB686]

SENATOR PAHLS: Yeah. [LB686]

SENATOR WIGHTMAN: ...Senator. So... [LB686]

SENATOR PAHLS: I got you now. Yeah. Thank you. [LB686]

SENATOR WIGHTMAN: But 90 percent of them, I suppose, or more maybe--I could be high on that... [LB686]

SENATOR PAHLS: Yeah. [LB686]

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SENATOR WIGHTMAN: ...but I would guess 80 percent to 90 percent of them, for sure, would be filed only in the register of deeds office... [LB686]

SENATOR PAHLS: Right. [LB686]

SENATOR WIGHTMAN: ...anything involving real estate. It would be the liens only that would... [LB686]

SENATOR PAHLS: Okay. Thank you. [LB686]

SENATOR WIGHTMAN: ...and that wouldn't be deeds of trust or mortgages; they'd still only be filed in one place. [LB686]

SENATOR AVERY: Any other questions? Senator Sullivan. [LB686]

SENATOR SULLIVAN: Thank you, Senator Avery. Senator Wightman, do you have any idea how these fees compare with neighboring states? [LB686]

SENATOR WIGHTMAN: My understanding is that the increase would be in line with them, but I have not done a study. And I probably could get back to you with that information, but... [LB686]

SENATOR SULLIVAN: That's all right. I was just curious. [LB686]

SENATOR WIGHTMAN: ...but in light of the fact that ours haven't been increased for more than 25 years, I suspect that ours are a little bit lower than most states now. [LB686]

SENATOR SULLIVAN: Um-hum. Um-hum. [LB686]

SENATOR WIGHTMAN: And then I might explain: Part of the reason for this first page is I talked to registers of deeds--and I've talked to a few of them. The first page usually results in all the phone calls that they particularly had in the past when they have indexing fees, because people miscompute the indexing fees. And then the register of deeds has to call the party that was filing it from wherever they might be, and a lot of time is spent, but it's always because of the document itself, which only involves the one page. [LB686]

SENATOR SULLIVAN: Um-hum. [LB686]

SENATOR WIGHTMAN: So that's the reason for having \$10 on the first page and \$6 for succeeding pages. And some of that was taken up by the indexing fee previously, which we would not have under this bill. [LB686]

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SENATOR SULLIVAN: Okay. [LB686]

SENATOR AVERY: Senator Karpisek. [LB686]

SENATOR KARPISEK: Thank you, Senator Avery. Senator Wightman, do you know how much they went up in '83 when they did change it? [LB686]

SENATOR WIGHTMAN: Well, we reviewed that, and I don't have it in front of me right now, but I think it was \$9 up to three pages, so it could be, in many instances, actually have been higher. At least we found that section in the bill that changed it. I believe that was correct that it was a fee that provided for up to three pages to be filed. Many, many of the deeds are only one page. And on those it could have been higher prior to the change in 1983. [LB686]

SENATOR KARPISEK: Okay. Thank you. Thank you, Senator Avery. [LB686]

SENATOR AVERY: Anybody else? Senator Giese. [LB686]

SENATOR GIESE: Thank you, Chairman Avery. Senator Wightman, I applaud you for your efforts working with the counties and appreciate the fact that everybody is okay with raising the fees now, everybody's on board with... [LB686]

SENATOR WIGHTMAN: We believe they will be. Their association, in one instance, has not met yet, of course, and they're to meet Saturday, as I understand it, but Walt Radcliffe is here representing that association, and he has visited with them, and he thinks they're okay with it. I shouldn't speak for him. [LB686]

SENATOR GIESE: And I think they probably will be okay. But my question is I think we've done a lot--or we do a lot in the state that shifts costs back to the counties. So you hear counties that are crying out for ways to help with their budget crisis right now, and I'm a little bit intrigued by the on-line--people moving on-line with this. Can you explain how many are doing that now, or, if you know, how many are moving to that and how we can by raising...so will all the raising of the fees go towards--not all but help us move on-line? [LB686]

SENATOR WIGHTMAN: It would help. But it goes to technology, as much information and technology, which could include other things in the office. And that was what the realtors wanted to make sure, that some of that stayed with the register of deeds office to increase their services to the public. You know, whether all of the smallest counties will ever be all on-line, I can't tell you. Hopefully, they would be. But I can give Scotts Bluff County as an example, and you will hear from their register of deeds, who will testify that they have started putting them on-line. And this certainly will accelerate that

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process. [LB686]

SENATOR GIESE: But if you move on-line, won't that in turn save money? [LB686]

SENATOR WIGHTMAN: You know, first of all, I think it's going to have to be placed in the record to be on-line, so how much it will save...I find increased technology a lot of times helps the information process, but I don't know that it always saves money. And whether it will here, I think it may take as much money or more to place that on-line as to record it in a book. [LB686]

SENATOR GIESE: Thank you. [LB686]

SENATOR AVERY: Any more questions from the committee? Seeing none, thank you. Do you wish to stay and close? [LB686]

SENATOR WIGHTMAN: I will stay and listen to the testimony and may wish to close. [LB686]

SENATOR AVERY: Okay. Thank you. We'll now hear proponent testimony. Welcome. [LB686]

JEAN BAUER: (Exhibits 2 and 3) Thank you. My name is Jean Bauer, and it's spelled J-e-a-n B-a-u-e-r, and I'm the Register of Deeds for Scotts Bluff County. And I'm currently in the last year of my third term of office. I believe Scotts Bluff County's filings over the last several years have been representative of most counties throughout the state. We all saw increases in filings during the years of 2001 to 2004, but since that time we've been seeing a steady decline in our filings. If you compare Scotts Bluff County's filings from 2003 to 2009, they're down almost 45 percent. And I believe other counties have seen similar declines. Since all of our filing fees are generated and retained by the counties, this drop in revenue has a direct impact on our county budget. Most county offices have between four and five employees, and that includes the official and a deputy. I have--there's myself, my deputy, a full-time person, and a part-time person. And I really can't reduce staff any more, and I don't think other counties can either. One of the handouts that I'm giving you is kind of a summary of things that have happened in my county. I list the filings by year and show...basically what I did was I divided the number of filings just in half; and assuming half of those filings are one-page documents with one legal and half of those filings are two-page documents with two legals, you can see what our fees are at the present rate and what our fees we would generate at the proposed increase, just based on the bill without any amendment to it. On its face, LB686 is a good bill, offering counties a solution to the declining revenues we are seeing due to reduced filings. However, this bill could be better by adding an amendment, which I feel all registers of deeds, county clerks, and ex officios would support. I would propose to amend LB686 to set aside \$1 from each filing into a

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proposed records preservation and technology fund. The money set aside in this fund could be used only by registers of deeds and ex officio registers of deeds for records preservation and implementation of technology. In addition, any spending of these funds for records preservation projects or technology projects would have to be approved by the board of commissioners for that county. This would allow the money to be set aside, projects to be identified and bid, and give the final yes or no to the commissioners. As to the uses of this fund, let me address records preservation. We are required by law to keep copies of all documents filed and keep a numerical index of those documents. In my county, my indexes date back to the late 1800s. And as you might imagine, some of these documents and the indexes are deteriorating over time. These funds could be used to help stop that deterioration and keep those records intact for the general public's use. We are also required by law to microfilm our records, and ideally that microfilm should be stored off-site in case of disaster. There are many counties across the state which have not microfilmed documents for years and even some that have microfilmed documents but they don't store them off-site. When you ask officials why this hasn't been done, it comes down to one thing: money. No one has the money to get this vital function performed. As to technology, there's only a small portion of counties across the state using computers for indexing their documents. Many counties still only index everything by hand and will continue to do so because they don't have the funds available in their counties to purchase indexing programs even by computers. We also have counties who are using computer indexing software but are still handwriting in the numerical index books because they can't afford to buy public access terminals and printers to allow the searchers of the records to view those computerized indexes. I can assure you there's a need for a records preservation and technology fund for every register of deeds office throughout the state, both large and small. Taking a dollar from every filing and placing it in this fund may not seem like a lot for a smaller county, but proportionally that smaller county has fewer records to deal with. Many county officials are used to taking a large job and doing some of it one year, some the next, and so on. In closing, I would urge you to approve LB686 with the proposed amendment and move this bill out of committee. Thank you. [LB686]

SENATOR AVERY: Thank you, Ms. Bauer. Any questions from the committee? [LB686]

SENATOR SULLIVAN: Senator. [LB686]

SENATOR AVERY: Oh, I'm sorry. Senator Sullivan. [LB686]

SENATOR SULLIVAN: Thank you. Thank you. Thank you very much for your testimony. [LB686]

JEAN BAUER: Um-hum. [LB686]

SENATOR SULLIVAN: Why are filings down? [LB686]

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JEAN BAUER: I just think it's a--because of the market. I really do. And in Scotts Bluff County...I mean I can't address Lincoln and Omaha; they're just kind of different counties than any other across the state. They're not representative of other counties across the state, because the population base is here, and it's always growing. In our county, our population really hasn't increased. So you only have people buying real estate if they're moving--you know, buying a bigger house or moving up in the real estate market and that kind of thing. So, you know, there's not a lot of real estate moving in our area. We don't have a lot of industry in our area to attract people the way, like, Lincoln and Omaha might. And that's why I think, kind of, Scotts Bluff County is representative of most counties across the state. [LB686]

SENATOR SULLIVAN: It seems like we almost have two issues going here: one is the actual filing and management of that, but the other is record preservation. [LB686]

JEAN BAUER: Um-hum. [LB686]

SENATOR SULLIVAN: Is there going to be a necessity to have some compatibility among counties in the process of preserving, with respect to computer software or storage or scan... [LB686]

JEAN BAUER: Well, I think the only form of records preservation that's really approved by the Records Management Division is microfilm. [LB686]

SENATOR SULLIVAN: Okay. [LB686]

JEAN BAUER: Are you talking about putting documents on CD-ROM and that kind of thing? [LB686]

SENATOR SULLIVAN: Um-hum. Um-hum. [LB686]

JEAN BAUER: There are counties that do that, but it all falls back, really, to microfilm. That's the only one that's approved and has really stood the test of time so you don't have problems retrieving that 20 years down the road. [LB686]

SENATOR SULLIVAN: Okay. All right. Thank you. [LB686]

SENATOR AVERY: Any more questions? Seeing none, thank you. Your suggested amendment will be discussed--I saw notes being taken there by Senator Wightman's aide. And I believe his amendment that he discussed deals with that as well. [LB686]

JEAN BAUER: Okay. All right. All right. [LB686]

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SANDRA STELLING: Good afternoon. I'm Sandra Stelling, S-a-n-d-r-a S-t-e-l-l-i-n-g, and I'm the Jefferson County Clerk, Register of Deeds, and Election Commissioner. And I'm also co-chair of our Clerks, Registers of Deeds, and Election Commissioners Association. And I'm here just to say that on behalf of our association we would support LB686. And I think Jean has done a very good job of testifying on why we would like this. The smaller counties need this revenue to get it up. I have only been on computer for approximately two years. And we still do manual indexing, because of not having everything back on the computer. So I would just ask for your support. If you've got any questions, I'd like to answer them for you, if I can. [LB686]

SENATOR AVERY: Thank you for your testimony. Questions from the committee? Senator Krist. [LB686]

SENATOR KRIST: Thank you, Senator. I...the microfiche versus CD-ROM or electronic transfer is intriguing. And maybe you don't want to answer it, but I'd like to ask the question for the record. Microfiche is the only approved method? [LB686]

SANDRA STELLING: That's the only approved method in statute at the present time. Like Ms. Bauer said, there are other avenues that other counties are doing, but I think the statute only says microfilm right now. [LB686]

SENATOR KRIST: What's your opinion of the statute? I mean, do we need to...? [LB686]

SANDRA STELLING: Well, I think as technology advances, I think we're going to have to. But as long as the CD-ROM is not proven that it will stay as long as the microfilm does, we're going to have a problem with that. And we don't know how long the CD-ROMs are going to hold the information, because it hasn't been tested that long yet. [LB686]

SENATOR KRIST: Okay. Thank you. Thanks. [LB686]

SENATOR AVERY: Any other? Senator Giese. [LB686]

SENATOR GIESE: Thank you, Chairman Avery. Ms. Stelling, so you said you've only had computers for a couple years? [LB686]

SANDRA STELLING: Yes. [LB686]

SENATOR GIESE: And so is it a move, then, to get these on-line? Or, I mean, do you see that as a good thing? [LB686]

SANDRA STELLING: Yes, I do, because that's the way everything is going. Technology

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is our avenue now, and as far as the realtors and the abstracters and stuff, this is what they are wanting. That way they can--if they can access our records, they can do it in their own office. They don't have to physically come to the courthouse and look it up. [LB686]

SENATOR GIESE: So you think it would ultimately be a cost savings someday? [LB686]

SANDRA STELLING: I can't answer that. We're still going to have to file the instrument, scan the instrument; we're still going to have to do everything we do right now. [LB686]

SENATOR GIESE: Um-hum. [LB686]

SANDRA STELLING: So for us, for a cost savings, I can't see where it's going to change our office that much. But it would change other entities on how they do their work. [LB686]

SENATOR GIESE: Thank you. [LB686]

SENATOR AVERY: No more questions from the committee? Thank you for your testimony. [LB686]

SANDRA STELLING: Thank you. [LB686]

SENATOR AVERY: Next testifier. [LB686]

LARRY DIX: Good afternoon, Senator Avery and members of the committee. For the record, my name is Larry Dix; I'm the executive director of the Nebraska Association of County Officials. Last name is spelled D-i-x. Certainly we want to thank Senator Wightman for bringing this bill forward. And we've worked with him, and we believe we've worked genuinely with folks that initially opposed this idea. And so we think we've gone through that, and we hope that we can come to a good agreement. I wanted to jump up, though, real quick to talk a little bit about--when we were talking about the microfilming and the microfiche, the CDs, the things like that--certainly, from a technology background, one of the things that we have to always be cognizant of, I think, when we're talking about register of deeds records is that these are permanent land records, and these things go back forever and forever and forever. And folks search ownership forever and ever and ever. And having grown up in that technology world...and I know at times I've often thought, you know, I could bring a 3.5-inch diskette in to anybody and say: Here's the information. Or I could bring a CD in and say: Here's the information. Or I could bring a 5.5-inch diskette in, or I could bring an 8-track tape in. And as you can see, as you go through the iterations of technology, you've got to have a standard, because before long you've got this 5.5-inch diskette that many of us grew

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up and our computers had. But today, it would be very, very hard to get that information off a 5.5-inch diskette, because nobody has a diskette reader. But what has stood sort of the test of time is the microfilming. And it's also stood the test of time of saying that many, many years you can go back, and if you don't necessarily have a microfilm reader, you can still hold it up to the light and you could read that document, as crazy as that sounds. But that's one of the reasons, I think, why microfilming has sort of been there for years and years and years. This last year, year and a half, I sat on a committee that the Secretary of State put together, and it talked about media and what was the media that we should have for certain instances. And I think it all relates to how long you have to keep a record, because there were some state agencies that said: You know, a CD is going to work good for us, because our records retention is only about three years. And when it's only about three years, then I think you can meet that requirement with a CD or with current technology. But with these land records--that they have to go back for such a long, long period of time, and they're all stored at the Historical Society once it goes onto microfilm--I think that lays out a little bit, a little higher standard of what we can do. Would counties--you know, would we like to just scan them, put them on a CD? Probably. But I don't think that if we were to do that, we wouldn't necessarily be the stewards of the records that I think we should be for a continuum over a course of a number of years. So I think that that might address a little bit on that, why it's microfilm and why we always talk about microfilm. So that issue certainly is there. And I'd be happy to answer any other questions that anybody would have. I think the other testifiers sort of addressed the other--the fee side of it. But I'd be happy to address any of those. [LB686]

SENATOR AVERY: Thank you. Any questions from the committee? Senator Karpisek. [LB686]

SENATOR KARPISEK: Thank you, Senator Avery. Mr. Dix, I agree on everything; I just--I wonder: Is microfiche still relevant because it is there, and otherwise it would have probably been gone? I mean, I think if we set a standard of CDs, that then CDs would go on for another hundred years also, but...I guess I should have just been quiet, but I'm just thinking... [LB686]

LARRY DIX: No, I don't think you should have been quiet. One of the things I find that's always interesting is, without really getting into the technology side of it...but, you know, when you put a CD and you write it, magnetically it stores data on there. And so if I lay that on top of a magnet, pretty much my data that's on there is garbage. I think we've all had that happen. We've checked into a motel room, and we've put that key beside a money clip or a cell phone. And we go to check in, and it's gone, because it's scrambled that magnetic data. And that really isn't any different from what happens really, really on a CD--that, sort of, that technology. And so...but with microfilming, you put it on this piece of film, and it's just sort of there--sort of like the negatives that we all probably have from high school--old pictures--and we don't ever want to get rid of, because we

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think someday if all of our other pictures--you know, something happens to them, I could always go back and reproduce it. And that's sort of that same logic with microfilm.
[LB686]

SENATOR KARPISEK: And I guess that's my point: we don't do that anymore, though.
[LB686]

LARRY DIX: Yeah, we don't do it. [LB686]

SENATOR KARPISEK: We don't have the negatives. [LB686]

LARRY DIX: No. All of our pictures now are stored on... [LB686]

SENATOR KARPISEK: Yeah. [LB686]

LARRY DIX: ...well, heaven's sake, they aren't even backed up anymore. [LB686]

SENATOR KARPISEK: Right. [LB686]

LARRY DIX: They're just stored on iPods and all those kinds of wonderful things.
[LB686]

SENATOR KARPISEK: Anyway... [LB686]

SENATOR AVERY: You don't still have punch cards for computer programming, do you? [LB686]

LARRY DIX: No. But, Senator Avery, unfortunately, I can tell you I grew up programming on punch card programs. (Laugh) [LB686]

SENATOR AVERY: So did I. Any more questions? Seeing none, thank you, Mr. Dix.
[LB686]

LARRY DIX: Thank you. [LB686]

SENATOR AVERY: Any more proponent testimony? All right, we'll move now to opponent testimony. Those opposed? Come forward. [LB686]

WALTER RADCLIFFE: Thank you. Chairman Avery and members of the Government Committee, my name is Walter Radcliffe, R-a-d-c-l-i-f-f-e, appearing before you today as a registered lobbyist on behalf of the Nebraska Realtors Association in opposition to LB686 as it was introduced. Substantially, what Senator Wightman said regarding conversations have occurred...and was an accurate representation. Let me just very

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quickly--background and then fast-forward for you. This is a bill that's been in--I suppose this may be its third or fourth year, and Korby Gilbertson always drew the short straw and had to come over and testify against it. Now that we've worked something out, I thought I'd show up. (Laughter) Actually, she's got another meeting this afternoon. But historically the realtors have opposed this. And they haven't met, so that's why I'm here on the opposition side. Roger Keetle came to me right after Senator Wightman introduced this and said: The deed fee bill is back; can't we do something about it? And so I talked to Korby, and I said: Tell me again why we've always opposed it, and she did. And one of our reasons was that the money was just all going into the county general funds. So Senator Wightman acknowledged that concern and has offered the amendment that you have before you, which is AM1598. And I have visited with the executive director and the staff of the Realtors Association, and they concurred with proceeding this way--to come in and testify like this and to say that I will go back and advocate to the realtors that they should adopt this and then no longer oppose the bill. I've got a meeting with them Saturday morning, and then their legislative committee meets next Wednesday, so we'll get an answer quickly. And I'm going to be very disappointed and surprised if this is something that they would not support. And if they don't, I obviously haven't had a chance to work it too hard so it'd move quick. (Laugh) I'd be happy to answer any questions. [LB686]

SENATOR AVERY: Questions from the committee? Senator Krist. [LB686]

SENATOR KRIST: Just a comment, Chairman. Thank you for working out your differences and coming to the committee ready to negotiate with a bill that is worthy to go forward. Thank you, Senator Wightman, for bringing it... [LB686]

WALTER RADCLIFFE: Well, Senator Krist, that won't always be the case. But I'm glad that you...you weren't here the last three years. (Laughter) [LB686]

SENATOR KRIST: You weren't here yesterday when I... [LB686]

WALTER RADCLIFFE: Oh, I heard it, though. [LB686]

SENATOR KRIST: Okay. [LB686]

WALTER RADCLIFFE: But I probably should...the one thing we will do is always yell: "Duck." [LB686]

SENATOR KRIST: Right after I get hit? [LB686]

WALTER RADCLIFFE: No, no. We'll holler "duck" before you get hit. [LB686]

SENATOR KRIST: All right. [LB686]

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SENATOR AVERY: Any more questions? Seeing none, thank you for your testimony. [LB686]

WALTER RADCLIFFE: Thank you very much. [LB686]

SENATOR AVERY: Any other opponent testimony? Anyone wish to testify in a neutral capacity? [LB686]

ROBERT J. HALLSTROM: Chairman Avery, members of the committee, my name is Robert J. Hallstrom. I appear before you today as a registered lobbyist for the Nebraska Bankers Association to testify in a neutral capacity. The bankers association has traditionally expressed some concerns over filing fee increases, whether it be associated with the register of deeds or, more commonly, with the local filing officers, the county clerks, and the Secretary of State with regard to Uniform Commercial Code filings. We somewhat have mixed emotions, in that we've found over the years that as long as there was a justification for the fee increases--either for system operations or to accommodate technology and the need to update and upgrade the systems--that we could step aside and allow those things to happen. I think that's exactly what Senator Wightman's amendment that he's worked out with the realtors and shared with us is designed to do: to make sure that those monies go back into the system to cover cost and to provide for upgrading. I probably agree with some of the witnesses that suggested they really can't anticipate whether that leads to reduced costs in the future. But certainly the ability to file and search electronically--particularly on the UCC side--has been a dramatic improvement for the lenders in that regard. So with that, I'd be happy to address any questions. [LB686]

SENATOR AVERY: Thank you. Any questions from the committee? Senator Sullivan. [LB686]

SENATOR SULLIVAN: Thank you, Senator Avery. I don't know that this is so much of a question, but being in the business that your association represents, I feel the pain when any type of fees are raised, except...and it's a increased cost of business. However, I look at the flip side and realize the challenges that county budgets, state budgets have. And if you use it, you pay for it. I'd just like your feeling on how you think the bankers are thinking about that, because that's the reality that we're all in. [LB686]

ROBERT J. HALLSTROM: Yeah, and thank you, Senator. I think that the biggest issue is that recognition that it can be used for the better good if there are upgrades in technology that assist and improve the system. But I think, somewhat surprisingly, when I testify on issues like this, there's a mixed bag of what bankers are doing out there in terms of how close to home those fee increases hit. Obviously, you can always categorize it as a cost of doing business. But there are many financial institutions who

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pay those fees themselves--eat those costs, if you will--rather than directly passing them on. So that's why I think there's more of a concern immediately or up-front with regard to the fee increases, because in many cases those are being paid, particularly by community banks, up-front. [LB686]

SENATOR SULLIVAN: Thank you. [LB686]

SENATOR AVERY: Any more questions? Seeing none, thank you. [LB686]

ROBERT J. HALLSTROM: Thank you. [LB686]

SENATOR AVERY: Any more neutral testimony? Welcome. [LB686]

JUDY JOBMAN: (Exhibit 4) Chairman Avery and members of the Government, Military and Veterans Affairs Committee, I'm Judy Jobman; that's J-u-d-y J-o-b-m-a-n. I'm the Deputy Secretary of State for the Business Services Division. I have provided a copy of a letter from Secretary of State John Gale for each of you. And today on behalf of Secretary of State I am here to offer our neutral position with regard to LB686. We support the clerks and registers of deeds in their effort to increase their fees as necessary. The portion of the fee we will retain in our office from this bill is consistent with our other UCC filings. But we also recognize that this will fiscally impact other state agencies who file documents with the Secretary of State's office pursuant to the Uniform Federal Lien Registration Act and the Uniform State Tax Lien Registration and Enforcement Act. To share a bit of history, filing fees for the Uniform Commercial Code section of our Business Services Division were increased to \$10 in July of 2004. At that time it was the intention to propose an increase in the Secretary of State's fee from \$6 to \$10 for recording federal and state tax liens. However, this proposed fee increase was missed, and the fee has remained at \$6. We can work with the statute as proposed. And I'd be happy to try and answer any of your questions. [LB686]

SENATOR AVERY: Any questions from the committee? I see none. [LB686]

JUDY JOBMAN: Okay. [LB686]

SENATOR AVERY: Thank you. [LB686]

JUDY JOBMAN: Thank you. [LB686]

SENATOR AVERY: Any more neutral testimony? Senator Wightman, are you...you want to close? [LB686]

SENATOR WIGHTMAN: I might. [LB686]

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SENATOR AVERY: Okay. [LB686]

SENATOR WIGHTMAN: One comment. Thank you. I just wanted to reiterate that we do wish to have the bill advanced. We don't want it advanced tonight. We want to give the realtors a chance to meet. I'm kind of in the position of the old cowboy song that says: We all want to go to heaven, but we'd just as soon it not be tonight. (Laughter) So we do urge your advancement of the bill. Thank you. [LB686]

SENATOR AVERY: Okay. Thank you, Senator. That closes the hearing on LB686. Thank you all. We will now move to the second item on the agenda, LB826. We invite Senator Pahls to take the stand. [LB826]

SENATOR PAHLS: (Exhibit 1) Good afternoon. My name is Rich Pahls. I represent District 31, basically the Millard of Omaha. My name is spelled P-a-h-l-s. The pages--they are handing out some information I think that you might want to peruse as I give my little spiel here, because I think it could answer some of the questions that may occur. LB826 is the first step to change the structure of our county government. LB826 does not say how we're going to accomplish the goal; it begins the process. The bill directs the Legislative Planning Committee to develop a plan to reduce the number of counties we have in the state. The bill does not specify how the committee will achieve its mission. Now our current law allows counties to consolidate on their own. None have done so. In fact, there are probably a number of people who probably don't realize that is a possibility. The Legislature's authority to redraw county boundaries is limited by our state constitution. Under the constitution, any county consolidation must have voter approval in each of the counties that are merged. The Legislature could adopt a county plan, but it could not be implemented until the voters in each county approved it. It becomes apparent that any plan to reduce the number of the counties must take this constitutional point into consideration. I personally can't predict how the Planning Committee would approach the subject. Obviously, any plan would need input from a variety of sources. You may ask: Would the committee propose amending the constitution? Would the committee develop a statewide plan of consolidation and then put it to the voters of these counties? Would the committee start out by working with one area of the state and then move to the other areas? It is important that we try not to write a plan in this bill. The bill sets up the process, not the solution. Since I introduced this bill, I've heard from numerous individuals who have given suggestions how it could or should be done. My goal with LB826 is to get us started. The issue of merging counties in Nebraska has been around for a while. Fifteen years ago, the Nebraska Tax Research Council issued a report reorganizing Nebraska's local-government structure. And I have a copy of this report if you guys so choose to take a look at it. In 1995 we still had over 650 school districts. The Legislature achieved the reduction in districts through a variety of means over the years. We did not reduce the number of school districts in one swipe in one bill. The important point is the Legislature did not redraw school district lines; we set up a process for it to occur. In some cases it was merely a

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matter of setting up a state aid formula that included incentives for reorganization. Eliminating Class I school districts was a totally separate issue. Even then, the Legislature did not redraw any school lines. We set up a process for it to occur. But school district lines are not in the statute; county lines are. In 2005 the Government Committee had an interim study on this idea. And again, I have copies of this report if you'd like to have one. In 2005, the Fiscal Office did a report for the committee that shows the inefficiency of smaller-populated counties. The per capita cost is demonstrated in one of the handouts that I gave you. The more-populated counties have a far lower per capita cost to run county government than all other counties. For example, counties with populations of 100,000 are more than three times expensive per capita than counties such as Douglas, Sarpy, and Lancaster. Again, I can't predict how the Planning Committee might approach this subject. Ideally, someone like the Nebraska Association of County Officials would work with the various counties across the state and do the job without legislation. This law does allow this to happen. And I have been told they are making some efforts of working with each other. And, hopefully, they will explain that a little bit more when they come up if they choose to testify. Again, LB826 doesn't mandate how we get the job done; it sets the wheels in motion to develop a plan. I believe it's time to get started. Now we need help from NACO members, not their resistance. We need their ideas to help move this idea along. Now I have reviewed the fiscal note on the bill. I believe the office was a bit premature on estimating the cost of the bill. We do not know how or what the Planning Committee would do when they approach this subject. Let's not jump to conclusions about how the Planning Committee might approach this issue. And I have to be honest with you; after listening to some of the concerns of money for counties in the bill that we just heard, I think that adds some validity to why we should be taking a look at this issue. Thank you. [LB826]

SENATOR AVERY: Thank you, Senator Pahls. Questions from the committee? You bite off big chunks, don't you, when you...? [LB826]

SENATOR PAHLS: I'm asking people simply, let's do some thinking on that. And I..can I respond to that question? [LB826]

SENATOR AVERY: Sure. (Laughter) [LB826]

SENATOR PAHLS: I'm getting all that chunk out of my mouth. But just to alleviate some of the causes of concern, I would like to have you just even refer to the first page. To get this project...let's say that we would merge counties. It's not what I want or what this committee wants. If you take a look, it would initiate from a bill. This committee would have to approve it. We would give it to the full Legislature and say: Hey, let's do it. The Governor would have to approve it. Then the Planning Committee would be involved. And then there would be the Legislature getting it, and then we'd have to approve that. And then the people could vote on it. So this has many ways to keep this bill from

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moving...or this concept from moving forward. So it's not just tomorrow it's going to be done. [LB826]

SENATOR AVERY: Don't you see a big obstacle in having only the voters in each county decide on consolidation? [LB826]

SENATOR PAHLS: If I'm not mistaken, that's the constitution, written. [LB826]

SENATOR AVERY: Is that the way the constitution...? [LB826]

SENATOR PAHLS: You have to have...the people in that county must approve that. So, see, right there, let's say that you happen to have a county that...what's the smallest county? Is it Arthur? So 300-and-some people. If they said: We want to remain Arthur County no matter what...the vote--they could stop that county. But let's say three counties beside it would like to do that; they could vote and say: Yeah, we see this as a good way of maybe taking a look at the situation. The history of this is just amazing--when you found out how the counties all occurred. [LB826]

SENATOR AVERY: Senator Sullivan. [LB826]

SENATOR SULLIVAN: Thank you, Senator Avery. Senator Pahls. [LB826]

SENATOR PAHLS: Senator Sullivan. [LB826]

SENATOR SULLIVAN: You've presented a model here that starts with yourself and ends up with the counties--the voters in the counties. I suggest that perhaps maybe you've got it turned around, because statute already allows the voters at the local level to make that decision. Might not that should be where the decision starts, rather than with you and the Legislature? It may end with us... [LB826]

SENATOR PAHLS: Right. [LB826]

SENATOR SULLIVAN: ...creating a different statute, but shouldn't the decisions start at the grass roots? [LB826]

SENATOR PAHLS: And that's...I cannot disagree with that. That has been...or they could do that right now. They could do that from Day 1. Some people have chosen not to. Apparently everybody has chosen not to, or we would have the consolidation if that's what they desired. But it isn't...so what I'm saying is let's see if we can't put this in motion. To me, it's sort of an educational process for us all to understand what this is all about. But I can't disagree with you that people could do it tomorrow if they got together and said: We want to take a vote on merging counties. They can do that right now. [LB826]

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SENATOR SULLIVAN: And you've talked about consolidating counties. One other model is to coordinate and consolidate city and county operations. Lincoln and Lancaster County is a good example. I'm wondering if you've proposed that in your own home county. [LB826]

SENATOR PAHLS: That may be what comes out of the discussion. That may be--that's not my goal--but that could be one of the outcomes, is, hey, you know, we're taking a look at this. That could stimulate the people in Lancaster, Douglas County, or any county--say, hey, let's make this the city instead of a--you know, think in terms of a city-county...instead of a county...dash-city. That's a possibility. That's why I'm not trying to set up any parameters or saying that you can or cannot do this. And some of the information that they've collected in the past--like in 2005 and in '95...I think you would be intrigued at some of the things that they came up with. It was almost predetermined, as I looked at this, this is the direction we're going to go--like, no county would be less than 5,000 or more than...and I think that probably stopped a lot of the thinking, or the frustration is you're trying to get us all, you know, ten counties together into one. [LB826]

SENATOR SULLIVAN: Um-hum. Well, and for your comment earlier about the per capita cost, you should know as well as I do, living in--having lived in rural Nebraska--that, of course, we don't have the economies of scale out there... [LB826]

SENATOR PAHLS: Right. [LB826]

SENATOR SULLIVAN: ...but we have the distances and the challenges of...that goes along with the wide-open spaces. [LB826]

SENATOR PAHLS: Right. And the interesting thing about this--in one of these studies, they showed a 50-mile radius of some of the larger communities, and you'd be surprised--until I started looking at that--how they overlap. It is really amazing how far we are but how close we are. And to me, with...the technology and all that could eliminate some of the needs of this. We just heard that from the Supreme Court justice, you know, that we don't need to go there. We just heard that from some people sitting in this chair within the hour: Well, you don't need to go to courthouse. I mean, it's...to me, this had some interesting concepts. And I am, actually, originally from a small town, so I understand the significance of the county. [LB826]

SENATOR SULLIVAN: Thank you. [LB826]

SENATOR AVERY: Any other questions? Senator Karpisek. [LB826]

SENATOR KARPISEK: Thank you, Senator Avery. Senator Sullivan stole my first part

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about... [LB826]

SENATOR PAHLS: Okay. [LB826]

SENATOR KARPISEK: Yeah, thanks. The other part...now I can't remember. Anyway...(laugh) [LB826]

SENATOR PAHLS: I like that part. [LB826]

SENATOR KARPISEK: Boy, I'm doing great today, aren't I? No, I did want to say that I understand why you put this in for the discussion, and I do appreciate that. And this is, I would say, the best that I've seen since I've been here, that it's not already set. However, I think that might cause some consternation, too, is you don't know what's going to happen...and that, you know, to vote it out of here, and then it gets over there, and it creates a different animal. [LB826]

SENATOR PAHLS: And the interesting thing about it is--like one of my friends on the floor made a comment: There's an Omaha senator trying to tell what to do in western--basically western to middle Nebraska. And if you take a look at the Planning Committee, more people on the Planning Committee live outside of--I'm using the word, let's say--Lincoln area. So they would bring a different perspective. I think once we can have people from across the state taking a look at some of the potential of maybe a regional concept--and some of them say: No, we don't want to do that--and you allow that to happen, you might be surprised. There may be parts of the state that there would be just some reorganization, some parts there would not be. And you may say--as you get to the larger populations--they may say: You know, what are we really...are we gaining anything here? Because everybody's going to be interested in their own county, I know that for a fact. That number on the license plates is significant. [LB826]

SENATOR KARPISEK: Except in Lincoln and Omaha, where there isn't one. [LB826]

SENATOR PAHLS: Right. [LB826]

SENATOR KARPISEK: But you did liken this to the school consolidation, and I just wanted to say I didn't like that either. (Laughter) [LB826]

SENATOR PAHLS: Yeah. Well, when I saw that, I figured that that would raise some emotion. But just let me tell you guys, right now we have 253. Now if we would go back, which--if you have a chance to read this--if we would go back before anybody in this room was born, let's say, 1920; that covers us all. (Laughter) [LB826]

SENATOR AVERY: That's safe. [LB826]

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SENATOR PAHLS: Barely, but we're safe. At that time we had 7,200 school districts. [LB826]

SENATOR AVERY: 7,000? [LB826]

SENATOR PAHLS: The 1920s--7,200 school districts, and the...and I won't go into that, but if it does get to the floor, I'll go into the history of that. So we have been, you know...so that is to your school issue. [LB826]

SENATOR KARPISEK: Thank you. [LB826]

SENATOR AVERY: Do you see any implications, Senator, that this might have for county and city mergers too? [LB826]

SENATOR PAHLS: Well, that...right. That could really bring that concept up and say: Hey, let's take a look at that. That could be an outcome. That's not what I am--the direction I'm going. But after we start talking, everybody says: Hey, you know, this may not be a bad idea; this may be cost-saving. If you could recall, the group of people who came just before--they're talking about increasing something from \$5 or \$6, doubling it, and that was going to make a significant impact on their county, because they're looking for ways to have money to make county government better or more efficient or just allowing it to happen. Did you hear about technology? We can't even afford computers. I'm not saying that's bad, but it's the crunch that some of these organizations are in. And this could be just one way for them to look at it and say: Hey, gee, you know, several counties, we're getting together on certain things, and we're trading...and I'm hoping that somebody from the counties would say: Well, we already do some of this stuff. So it may not be quite as evil as it appears. [LB826]

SENATOR AVERY: Senator Sullivan. [LB826]

SENATOR SULLIVAN: Thank you. You're making the assumption that consolidation equates with cost savings. I don't know that you can...do you have enough information to actually support that? [LB826]

SENATOR PAHLS: The information that I've read...or is...okay, are we going to be able to turn these counties over and they're all going to have unbelievable buildings, computers, the technology? No, I'm not saying that. The potential, it appears, is there. But I have not at this point--we've not investigated it enough. And you may...and some of this other data is a little old, even 2005, because they probably had to use some data a little bit before that. Because, if you notice, I gave you 2008 census information; well, that's not...on the book that this organization puts out, it's not even the same. And with the 2010 coming up--or with reviewing the new data on census, that might be a surprising thing. [LB826]

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SENATOR SULLIVAN: Well, sometimes if we're not getting the right answers, we're asking the wrong question. And if we make the assumption that just because we consolidate counties we're going to save money...where you've got to look at a much more holistic view of what happens to rural Nebraska when you have consolidation of counties and the impact not just on county budgets or state budgets but on those communities and the taxes at the local situation. I mean, there's just a lot of things involved. [LB826]

SENATOR PAHLS: Yeah. And that's the reason why I didn't say this is the way...you are assuming that I have assumed that it would be an automatic increase in monies for the counties. By looking at it on the outside looking in, it looks like there would be. But that's why that Planning Committee...and I think, if I'm not mistaken, you're on that, aren't you? [LB826]

SENATOR SULLIVAN: Surprise, surprise. (Laugh) [LB826]

SENATOR PAHLS: Oh, that's right. So right there...that's why I usually included the names of everybody. No. And I understand the people who can be a little bit frustrated or this could be a little bit scary. But it could be stopped anywhere. And the final thing is that big box at the bottom: the people can make that decision. [LB826]

SENATOR SULLIVAN: That's right. That's right. [LB826]

SENATOR AVERY: Any other...? Yes, Senator Krist. [LB826]

SENATOR KRIST: Three comments. The first is just...I've got to wonder what happens...and these are not, I mean, these are just what-ifs. [LB826]

SENATOR PAHLS: Yes. [LB826]

SENATOR KRIST: I'm sorry, but...I have to wonder what happens to those county seats that are historical landmarks that have to be maintained one way or the other... [LB826]

SENATOR PAHLS: Right. [LB826]

SENATOR KRIST: ...and to the community pride in being their own entity, which is a very difficult, intangible thing to look at. I also have to think that rather than...and I think that's what the senator was alluding to--the top-down versus the bottom-up, the citizen doing something that they want to do. I applaud the question; I applaud the effort. But I just--I don't know that they want to hear government telling them what to do again. And I...that's just my own reservation. [LB826]

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SENATOR PAHLS: Yeah. [LB826]

SENATOR KRIST: And the last one--although it might appear to be a bit comical--but in our own county, in Douglas County, there isn't anybody else that's going to want to join up with us, because they're going to be afraid of annexation. So there's another spin-off... [LB826]

SENATOR PAHLS: Yeah. [LB826]

SENATOR KRIST: ...on unintended consequences, that the city of Omaha is going to go get everybody else if they get out and combine the counties. Again, I applaud your effort, but I just...there's a whole bunch of gut-wrenching intangibles that are there that I just--I don't know that it can come from top-down. [LB826]

SENATOR PAHLS: May I just address it? And I understand the historical significance of some of these communities and some of the value of that. That would be something that they would look at. Again, that county would have that decision. We want to keep that--we want to keep ourselves...see, so that is their choice. And like you say, instead of government doing it to them, well, we are them. And what I'm saying is if anybody is afraid, it always can be stopped anywhere along the line. This is not just going to open the spigot and everything's going to run down, you know. At every stop along the way, we're going to have some issues and some questions, and, hopefully, we'll have more clarification; we'll say: Oh, gee, never thought about that. Well, for this to move on, we have to find the answer or it's not going to move on. This is not something that I anticipate people are just going to walk up and give you 25-plus A's to move along. But if we take the view that people don't want things to be happening to them, well, on the bill that we possibly may pass that's sitting right before this one, I don't want to pay more fees, but we're going to make that decision, yea or nay. [LB826]

SENATOR AVERY: Senator Giese. [LB826]

SENATOR GIESE: Thank you, Chairman Avery. Senator Pahls, just one comment. So you have three counties that are going to combine. And Senator Sullivan mentioned you have--and Senator Krist, I think--a courthouse that is going to close. So what are the--and I know these are questions that are what-ifs--but what are the citizens of whatever county going to do with a courthouse that closes? I mean, are they going to turn it into a--a historical courthouse--turn it into a museum, which, I mean, how do you fund that? I mean...and the cost-savings idea I'm intrigued with, but I guess the question I have is: Is anybody else doing this... [LB826]

SENATOR PAHLS: No. [LB826]

SENATOR GIESE: ...in any other states that you know of, combining counties? [LB826]

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SENATOR PAHLS: It's a rare thing. I think it's only happened a couple times across the history of the United States. It's not something that people are looking at. But I think we're in a different day and age now; we need to find some solutions. And if we choose not, I mean, even if we would pass this and go to the vote of the people, we could still end up with 90-some counties, because they just don't want to do it. And I know there would be a cost factor there, but I'm assuming the Planning Committee--after they went out and about across and, I would assume, making some voyages across the state and talking to the people--they would say: Wow, this is maybe too hot of a potato to handle and--you know what I mean--we just need to back off. [LB826]

SENATOR GIESE: Well, we just went through an issue in the past six months in Dakota County that had to do with doing away with their "70" county license plates. So good luck. And that didn't pass. But good luck with your... [LB826]

SENATOR PAHLS: Yeah. [LB826]

SENATOR GIESE: ...intentions. [LB826]

SENATOR PAHLS: Right. Yeah, I have been accused that I'm trying to do away with license plate numbers. And just to give you an idea, the state that I grew up--they used to have the name of the county--I was from Osborne County; they used to have OB and then the numbers. Well, they did away with that, but there was such a: Oh, we want our county...you know, we still want that. So they did end up putting OB, you know, that county's...on every county--Sedgwick County--and this was in Kansas--all those counties. They did put that little thing back, because even after it had been...you know, everybody was okay with how they were doing the license plate--not the county reorganization, I'm just talking about the license plates. There was so much strong feeling that they did find a way to do that. [LB826]

SENATOR GIESE: Thank you. [LB826]

SENATOR PAHLS: Yeah. [LB826]

SENATOR KARPISEK: Any other questions? I think we've grilled you long enough, Senator Pahls. [LB826]

SENATOR PAHLS: I'll be here for closing. No, and I do hope, as I say, the people coming behind have some comments that will help us make this a better bill. [LB826]

SENATOR KARPISEK: Do we have anyone in support of the bill, proponents? Welcome. If you could, please state your name and spell it for the record. [LB826]

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RICHARD GOODBAN: I'm Richard Goodban, G-o-o-d-b-a-n. I live here in Lincoln. I've been to every town in the state of Nebraska with a post office. And I've traveled the state, and I enjoy the state. But I'll tell you what, when I get into these counties, I think some of the counties need criterias. And if I think that I'm going to go to Harrisburg and get a cup of coffee and a tankful of gas, out in Banner County, you better think twice, because you can't do it. And if you're driving up into the Sandhills and you think, well, just stop and have a cup of coffee like we do here in Lincoln. You know, we're driving quite a ways, and pretty soon thinking about getting a cup of coffee is a thing of the past, because you just can't do it; you can't find a place. And they're on the map, like Harrisburg, and if we have somebody from a foreign country or from another state traveling and they think that they can go into Harrisburg and get a tankful of gas when they're almost out...yes, those people are going to get them a tankful of gas, but it might take them an hour to do it. And this is the way I feel. I think that if you've got 300-and-some people in a county, I don't think that that should be a county anymore. And I think that if they can't provide county fairs, which a lot of them don't, I think that this needs to be abandoned. And that's the way I feel. And I represent myself. (Laugh) [LB826]

SENATOR KARPISEK: All right. Thank you. [LB826]

RICHARD GOODBAN: And I've brought this up in the past, and I feel like it needs to be done. I know in Australia, they've done it. If you look at the records, South Dakota, North Dakota, Nebraska, Montana, Wyoming--it's just terrible. I mean, there's hardly any population out there anymore. And in order to be represented, I think they need to be banded together as a group. And we used to have four districts, and we'll probably be down to two districts real soon. And having 93 counties, if you just look at the license plates when they come in for basketball, why, you can just about tell A-69, you know, B--there's no numbers to them. So that's the way I feel. [LB826]

SENATOR KARPISEK: Okay. Thank you. Any questions? [LB826]

SENATOR AVERY: I would like to ask one. [LB826]

SENATOR KARPISEK: Senator Avery. [LB826]

SENATOR AVERY: I didn't hear all your testimony, but you did mention Australia has consolidated counties. [LB826]

RICHARD GOODBAN: They have not consolidated counties, but they have smaller areas, you know, smaller states. And I think that in the...if we don't get our act together, and if people don't want us out in the western part of the state, it's going to be a fold-up. And we need to get something going out there to get these people, you know, whether it be a... [LB826]

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SENATOR AVERY: Do you know of any states that have done this that we could look to as a model? [LB826]

RICHARD GOODBAN: No, I do not. But I know that I traveled across the state of Wyoming; and, boy, when you leave Salt Lake City and you drive to Cheyenne, it's almost impossible to get a cup of coffee on the interstate. And it's impossible to get a cup of coffee up in the Sandhills as well. And I've been to every town in the state of Nebraska; I've traveled every road in the state of Nebraska that's been paved, with my family. And I think it's a great state. But I started doing county fairs, and I checked into it a little bit, and I think, well, you know, some of these counties don't even have a fair. They've combined them, you know, and they might be represented at the state fair, but they don't have a carnival and all the good stuff that goes along with it. [LB826]

SENATOR KARPISEK: Any other questions before I turn it back? I guess we're going to have to get you a thermos. (Laughter) [LB826]

SENATOR AVERY: Do we have any other proponents who wish to testify? Seeing no more proponents, any opponents? [LB826]

LARRY DIX: Senator Avery, members of the committee, for the record, my name is Larry Dix; I'm the executive director of the Nebraska Association of County Officials, appearing today in opposition to LB826. And although I would say we are here in opposition, I don't think that was going to be a big shock to anyone. But I don't think we're as far apart from what Senator Pahls is talking about, maybe, as what some people think. Certainly, I appreciate Senator Pahls bringing this forward. I know, as many of you have noted, in the newspapers there's been a bunch of interviews on this. One of the things that wasn't quoted was, somebody had asked me: Well, are you upset that Senator Pahls, a senator from the eastern part of the state, would introduce a bill like this? And I said: Absolutely not. I think it's good; I think it's good anytime we talk about efficiency in government. I'm not...NACO would never back down from that. We think that's a good conversation to have. But I don't think we should stop with the counties. I think we've got to talk about efficiency in our cities, our school districts, our NRDs, our ESUs, all of those numerous political subdivisions that we have out there. I don't think we can stop with the counties. And so when I see this come up--and it comes up about every couple of years--so I'm sort of going over in my mind, you know, why does this come up? Why does this come up? Because, here, the NACO board at their--last week, which Senator Pahls alluded to and I talked about, the NACO board voted that this year we are going to start a process to examine efficiency in counties: What do our counties look like? What are they going to look like ten years from now? One of the things that I think we do disagree on is the consolidation of counties. We want to look at--and we want to maintain--the heritage of those counties, of those county seats, of those courthouses. We think it's important to maintain that heritage. But

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by the same token, we think we need to look at efficiencies; we need to look at how do we do business. But we also think every other political subdivision needs to do the same thing. One of the things that occurred to me is that as this comes up, I wonder, well, why does it keep coming up? The one thing that occurred to me is that I'm probably not doing my job; I'm probably not doing the job that I should be doing in talking about what has happened in county government and what have we done to address some of the concerns that Senator Pahls has brought up. And so in that vein, you know, I would like to talk about some of the things that we currently have done, and I would grant and tell any of you that there's always room for improvement. But some of the things that have been done in county government--it doesn't always make the headlines, and so not everybody knows it. But the consolidation--it hasn't been the consolidation of counties that has been going on, but it's been the consolidation of services that has been going on across county lines, in between cities and counties. And I'm going to give you quite a few examples of these so that everyone is aware of those. When we talk about consolidation, Senator Pahls has talked about efficiencies, and then we start talking about saving money, and we start talking about the number of 93 counties, you know; I don't know, you know, if it's truly about saving money or if it's truly about efficiencies. I know there was a study Senator Pahls alluded to that talked about the cost per capita of delivering county services. And, of course, probably with anything else, you get more population in a concentrated area, your cost to deliver those services are going to diminish. I would tell you that Douglas County, Lancaster County, Sarpy County certainly do not have the lowest tax rate of the counties, and the tax rate is what you pay regardless of the population; it's what you base your taxes on. The lowest tax rate in the state of Nebraska is in Sioux County. And I would tell you Sioux County is not a populated county. So it all depends on the perspective and where you want to come at that--from that. But some of the examples I want to give you--and I want to take you back in time and take myself back in time. When I grew up, certainly something would happen--I'd live in town; there was a phone number to call for the city cop. That's if you had an accident on the street, you'd call the city cop. If I was out on the farm, I didn't call the city cop number; I called the county sheriff number. In the county and the city that I live in, you no longer have two numbers to call; you have a number to call. Numerous, numerous counties are doing the law enforcement for our small cities. That is happening right before our very eyes, right as we're sitting here. I'm hearing from sheriffs all the time that as cities run into fiscal problems, they're asking the county to take over the law enforcement, because they no longer can afford a city cop. Now that isn't consolidating a county; it's consolidating a service, and it's saving the taxpayers money. And it's happening from the taxpayer level on up, which I think is important. One of the things that we always talk about--E911 services. I would tell you Keith County dispatches E911 calls for seven other counties. That has been an agreement among the counties; that has been an agreement made to them, so that they have consolidated that service, and they have provided some efficiencies, because they are buying one set of equipment and doing that--the call center--for those nine counties. So that is something that's going on. One of the ones that surprised me--we have a

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number of weed superintendents around the state; we are required by law to have a weed superintendent in each and every county. There are not 93 weed superintendents; there are many, many fewer than that, probably somewhere around 70. And so those counties have gotten together and agreed to it. This example is--brings me back to whenever you see somebody draw a map of county consolidation, everybody draws it a little bit differently. I think Senator Pahls alluded to within the 50-mile radius, and I think if I were to draw it, I may draw it a little bit different than Senator Pahls. I'm on record as saying if I were to redraw it today--if we were to redraw the state of Nebraska today--we would never draw it the way we have now. We would never do it. And I would say--starting with Sarpy County--we would never have a Sarpy and Douglas County if we were to redraw it today, nor would we probably have some of the smaller counties, based on what we know today. But I also was surprised that--with the weed superintendents--of which counties went together to share a weed superintendent: Dundy County and Arthur County; they're not adjoining counties, but they share a weed superintendent. But it was based on a local decision, local input, local control. Our clerks: Many of you may or may not be aware--and this, again, is where I come down saying I probably haven't been doing my job as well as I should have--but our clerks: We have a number of county clerks who are also the clerk of the district court, who are also the election commissioner, who are also our register of deeds, and who are also our assessor. There are 13 counties in which our county clerk wears all those hats. And so that's intra-county consolidation. And that's happened over the course of our history; that's happened due to population shifts, population change. Twenty-five of our clerks are clerk, election commissioner, register of deeds, and clerk of the district court. Thirty-seven of our clerks are the election commissioner and the register of deeds. Eleven of our clerks are the clerks and the election commissioners. We really only have seven counties that the clerk is only the clerk. And that's happened over the history, over the course of time. And let me give you some examples that have happened more recently. Lancaster County, a large county, within the last ten years, I believe--they have merged the county assessor and the register of deeds; that is now one office. That's happened in a large county. Douglas County--one thing that's happened in Douglas County just in the last couple of years--we used to have two jails up there; we had a city jail and a county jail. That has been consolidated; that's been merged. Dakota County--just recently, I think the last election, the county clerk is now the register of deeds. And so that has happened. Adams County--the county clerk just became the election commissioner. These are in some of the larger counties that we're seeing this consolidation. One of things that we're also seeing is township form of government, because that's another tier of government that we have out there in 20-plus counties. And Senator Stuthman is going to have a bill later on about that. Last year, Phelps County--the county board put it on the ballot to see if they wanted to eliminate the township form of government. The voters in Phelps County decided to do that. That was also on the ballot in Buffalo County; it was also on the ballot in Fillmore County. It did not pass in those two counties; the voters did not want to do that. One of the things that NACO brought forward was the ability for counties to have cameras in our courtrooms

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and our jails; so that when we do arraignments, we don't have to take the prisoners out, haul them to court. That was something that came from NACO; that bill was introduced on behalf of NACO for an efficiency, to save money. We've built a number of jails recently in the state of Nebraska. And I've got to tell you, a majority of those jails have all had interlocal agreements with other counties surrounding them to house prisoners; so that we no longer have a jail in every county, but we certainly used to. Motor vehicle system--we have now...all the motor vehicle components are in one office, all handled by the county treasurer. When I got into this business, if you were to register a motor vehicle, you had to stop at the clerk's office to get a title, the assessor's office to get it assessed, the treasurer's office to pay the taxes. That's all been consolidated. There are...technology--we talked a little bit about technology. Right now, I think, there are 40-some counties now that are starting to move towards the technology of allowing taxpayers to look at their valuation and their taxes on-line. And so while that isn't consolidating, there's an efficiency that's going on within the counties that are doing that. There's all kinds of different consolidation of services I think that are happening right before our eyes. I truly believe that. And I think that will continue to happen. I'm very proud that the NACO board took the position to be forward-thinking and look out over the next few years. I certainly appreciate Senator Pahls--when you look at the bill, Senator Pahls included in there that the Legislative Planning Committee work with members of the county association. I appreciate that; I think that's vital; we certainly have a vested interest in that. So, you know, when I look out, again, I wonder, well, what's really going on here? And it may be that I'm just not doing my job; maybe I haven't told everybody of what I believe is going on in counties; maybe I haven't done a good enough job of letting everybody know. But I believe it's happening right before our eyes. Last thing--I'll touch on just a couple of things that came up with other questions. Somewhere there was noted the fiscal note. And, Senator Pahls, I haven't even looked at the fiscal note, so I don't know what it...good or bad, one way or another. Somebody talked about: Is there any precedent for consolidation of counties? There are over 3,000 counties in the United States. I contacted the National Association of Counties; they are not aware of any consolidation that's ever happened in counties in recent history. But there has been...in Colorado they added a county; they actually added one in the last 15 years. You know, it was interesting that we talked about the license plate. I think in Dakota County, when the county board brought that up, immediately there were people starting to circulate recall petitions for those folks. So this is a very, very emotional issue, no question about it. And I would tell you that there are small counties in other states--Loving County, Texas, is the smallest one in the United States, and it has 67 people in that county. So it's interesting. I loved the discussion on county consolidation; I love to talk about county efficiency. Certainly, I'll be happy to answer any questions you have. One last comment: When we talk about money, I would tell you, consolidating counties doesn't always save money. I'll leave you with this example. I asked the McPherson County sheriff what they were paid; I asked the Logan County sheriff what they were paid; and I contacted Lincoln County, which sits right below them. And if we were--because a lot of people would say: Well, it makes sense to put Logan and

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McPherson in with Lincoln County. The sheriffs said: May not be a bad idea; I would get an instant pay raise if I would start for Lincoln County at the lowest-paid deputy's salary in the county. And the reason for that is we have some negotiated contracts with Lincoln County. So if we're going into it saying we're only going to look at this from a money perspective, don't be surprised; we may not save a whole lot of money, because of some of those issues. But we are certainly open to looking at efficiency and certainly happy to talk about anything about any of our counties. I'll be happy to answer any questions you have. [LB826]

SENATOR AVERY: Thank you. Questions from the committee? Senator Sullivan. [LB826]

SENATOR SULLIVAN: Thank you, Senator Avery. Larry, how much conversation does NACO give to...you've talked about discussions of consolidation of services, sharing of services. Does NACO look at addressing the issue that that man mentioned earlier about the fact that you drive across parts of rural Nebraska and there are no services? [LB826]

LARRY DIX: That is true. And I found that interesting, because I've driven across all those roads too. Of course, I'm not looking for coffee; I'm looking for Diet Coke. And as long as I can find a gas station, I can find that. But, surprisingly, he's right. Banner County does not have a gas station--in Banner County. I've had some pretty serious conversations with the folks of Banner County and Scotts Bluff County in saying: Why don't you look at consolidation? Take away the emotional side of it. The folks in Scotts Bluff County are saying: We really don't want Banner County, because their tax rate is so much higher than ours; they bring a lot of debt and a lot of cost, and so it would then be a burden on our county taxpayers to assume them. But we would love to have more economy across the state of Nebraska in those rural counties. Simply consolidating them isn't necessarily going to put more places out there. After listening to him, jokingly I thought maybe we should contact Starbucks and put 93 Starbucks... [LB826]

SENATOR SULLIVAN: Exactly. [LB826]

LARRY DIX: ...out in all 93 county courthouses and have a heck of a business. [LB826]

SENATOR SULLIVAN: That's right. [LB826]

LARRY DIX: But I understand what he's saying; I drive those counties every year. [LB826]

SENATOR AVERY: Any more questions? Seeing none, thank you, Mr. Dix. [LB826]

LARRY DIX: Thank you. [LB826]

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SENATOR AVERY: Any other opponent testimony? Welcome. [LB826]

CALEB POLLARD: Thank you, Senator Avery, members of the committee. My name is Caleb Pollard, C-a-l-e-b, last name Pollard, P-o-l-l-a-r-d. I'm executive director of Valley County Economic Development and the Ord Area Chamber of Commerce. I'm here on behalf of my own organization as well as the Valley County Board of Supervisors to express my concerns regarding the proposed county consolidation act. It's written within the bill: The purpose of LB826 "is to realize economic efficiencies for taxpayers." If I may call you Professor, Senator Avery, as you taught me when I was a student of yours to do the research on... [LB826]

SENATOR AVERY: Please do. (Laughter) [LB826]

CALEB POLLARD: ...to do the research on some of the precedent that had been established and some of the information that existed on county consolidation on a national scale. And based on what I was able to find, was that county consolidation writ large as one-size-fits-all approach to creating economic efficiencies is not grounded with fact. The University of Tennessee's Municipal Technical Advisory Service reviewed the literature on government consolidation a few years ago, and study after study found that consolidation costs more and did less than expected. People assume a larger government would provide better services to a more satisfied citizenry, but when the results of consolidation are measured, the UT discovered that the opposite was found. Furthermore, in a book titled Case Studies of City-County Consolidation by Suzanne Leland and Kurt Thurmaier, local government reformers have not been able to point to substantial evidence that consolidation increases accountability, equity, efficiency, and effectiveness of local government service delivery. And another study, by Dr. Marc Holzer, a Ph.D. of the Rutgers School of Public Affairs and Administration, penned a white paper in 2009 called "Local Unit Alignment, Reorganization, and Consolidation." Although there is some support for reducing the number of governments and consequently increasing the size of remaining governments, there is a considerable body of literature that does not support consolidation. In fact, many studies have found that larger municipalities are not generally the most efficient for specific service types. I'd like to add a little bit of background on the county which I'm representing. It is a county which has been part of a national trend within the upper Great Plains--it essentially goes through the heart of the United States of America--which is population loss. And I think it is an inefficient and ineffective measure to only count population loss as one of the only reasons for county consolidation. The county that I am from realized within the last ten years about a 10 percent loss of population. However, given some of the circumstances that may be because of population loss, county officials along with the city of Ord and the Ord Area Chamber of Commerce--in what I like to call our band of merry do-gooders, a nonprofit 501(c)3--used a current Nebraska law that is in existence now, which is the interlocal agreement law, established a agreement about

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ten years ago to create Valley County Economic Development. And Valley County Economic Development was one of many tools within a cooperative arrangement to assist in our county in growing within the last five years overall valuations in our county by 46.73 percent and overall tax receipts by 49.56 percent. This growth did not result from raising taxes; this growth resulted from job creation and investment. According to a new report that we actually received last week from the Nebraska Public Power District, total non-farm wage and salary employment in our county alone increased 15.9 percent, which over the same period--which is from 2001 to 2008--compared to a statewide increase of 5.6 percent and outcompeted the metropolitan communities, based on economies of scale. So we actually outcompeted the state as well as Lincoln and Omaha in terms of job creation in that same time period. I offer that only as an example of one county that used creative measures to create mechanisms to address issues such as depopulation within our community. What that's resulted in is Valley County's current cash-on-hand balance at a positive \$2.07 million in the bank right now. So, you know, from a fiscal as well as a fiduciary standpoint, we're sitting quite well. The last thing that I'd like to wrap up with and then entertain any questions that may exist is a local business owner has told me he and his employees can always tell by the traffic in their store when the courthouse is closed for a holiday. You take out the local courthouses in these communities and you will also permanently damage them from an economic standpoint--and I would even argue accelerate the rate of depopulation within these communities. You're exacerbating the problem. So I ask you to please oppose LB826 for that reason alone. I thank you for this opportunity to share our story and would entertain any questions at this time. [LB826]

SENATOR AVERY: I am happy to see that you retained your research skills. (Laughter) [LB826]

CALEB POLLARD: Thank you, sir. [LB826]

SENATOR AVERY: Any questions from the committee? Senator Karpisek. [LB826]

SENATOR KARPISEK: Thank you, Senator Avery. I just want to agree with your assessment of business. My business was in a county seat, and you could really tell. Many people--they'd be in once, twice a year; they'd come in to pay their house taxes and car taxes. And our courthouse needs some renovation; many people have said: Oh, heck with it, let it go to Crete. And I was saying: Are you crazy? You know, no; we need it here. So I completely agree with you on that point. Thank you. [LB826]

SENATOR AVERY: Senator Sullivan. [LB826]

SENATOR SULLIVAN: Thank you, Senator Avery. Caleb, I know you're involved in the statewide economic development group. Are a lot of counties structured similar to Valley County in terms of having an economic development director? And are they

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seeing similar results? [LB826]

CALEB POLLARD: I would say not all counties are structured in that fashion. Some counties have private 501(c)3's that operate as their economic development arm. But also, some counties are structured like us; I can offer two, for example. That would include Valentine in Cherry County as well as one that was recently formed within this last year, in the summer of 2009, which is Cuming County, which...the county seat would be West Point. And the whole point was to create cross-community collaboration. Sometimes some counties have one or two communities; other counties have more. But what this has allowed these counties to do is to create not only mechanisms for economic growth and development but also collaboration that may not have existed prior to the creation of these entities. So it is not 93 economic development organizations. Some counties have more, in fact; they're privately created. And there are also regional economic development organizations. Our county and our city of Ord belong to Central Nebraska Economic Development District, and that promotes collaboration on a regional standpoint. So, you know, given, you know, the circumstances that the voters would have to approve this, there's already precedent as well as already organic will--as I'd like to call it--that exists for communities to collaborate across political subdivision lines. And I would, you know, argue that this necessarily doesn't need to take place, because it's already happening. So when the need arises, the need is filled by the will of the local people, because they understand what's in front of them. So I hope that that answered your question. [LB826]

SENATOR SULLIVAN: Do you think Starbucks would be interested in putting a franchise in every county courthouse in Nebraska? (Laugh) [LB826]

CALEB POLLARD: If we could prove to them that the traffic would take place. But I would have several angry business owners within my own community that would oppose that, so I don't know if we would like Starbucks, to be quite frank with you. [LB826]

SENATOR AVERY: Anybody else? Thank you, Mr. Pollard. [LB826]

CALEB POLLARD: Thank you. [LB826]

SENATOR AVERY: Any more opponent testimony? Anyone wish to testify in a neutral capacity? [LB826]

KIM ROBAK: Senator-Professor Avery and members of the committee, my name is Kim Robak, R-o-b-a-k. I'm here today on behalf of the Nebraska Land Title Association. The Nebraska Land Title Association is an organization of title agents, title insurers, abstractors, title researchers, and attorneys who make sure that your title records--the records to your real estate deeds and documents--are valid and that they protect you in

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the event that you attempt to transfer, buy, or sell real estate; so that you know that what you're attempting to buy is actually what you think you're buying and that they insure you against any defects or any breaks in that title. First of all, we want to commend Senator Pahls for looking at methods of government efficiency. Having been an officeholder myself, I can't tell you how many times I heard people say we have way too many counties--we just need to eliminate counties. And my personal opinion is one thing, but the Nebraska Land Title Association has members on both sides of the issue. So they are neutral on the issue of whether or not we should consolidate. But they do feel strongly about one issue and something that we should just raise for your edification and something that needs to be kept in mind in the event that we ever decide to eliminate counties or if this bill should go forward that we should keep in mind. That is that real estate records or deeds specifically indicate a county when it lists the description of the real estate. And so if you eliminate a county, if you consolidate counties, we simply need to keep in mind how you would address that issue. I don't know that there aren't ways that we could figure it out, but it would certainly be something that has to be kept in mind, something that we need to look at, whether or not we transfer those real estate records. We talked...Larry Dix talked earlier from NACO's perspective of the need to keep those records; they're kept forever. My father was a lawyer and was--read abstracts. And if you've ever seen an abstract, they are this big, and it goes back from the date that the land was originally transferred, first time. And it talks about every single transfer and every single potential defect in that title. All of those records are essential; they need to be kept someplace. How you keep them on-line or not on-line is not the issue. But the fact is we do need to look at them, look at the real estate as it relates to counties and make sure that that's looked at in the event this bill should proceed. So we testify in a neutral capacity, and I'd be happy to answer any questions. [LB826]

SENATOR AVERY: Any questions for Ms. Robak? Seeing none... [LB826]

KIM ROBAK: Thank you. [LB826]

SENATOR AVERY: ...thank you for your testimony. Any other neutral testimony? Senator Pahls, we have no neutral testimony; you may close. [LB826]

SENATOR PAHLS: Well, we're just starting. (Laughter) I think today is an example: Let's say that you were the Planning Committee, and you were getting information from the various people that came up here, and they would convince you: Hey, we need to do this or we do not. And I like the idea of Larry Dixon...there are a lot of things that they are doing. And I'm not blaming him for not being--not everybody knowing about it. But that shows you the potential of this. Instead of looking at the downside, look what this could have us evaluate and see what the things that are happening in the state of Nebraska. I mean, we're looking like we're going to take something away; no, maybe we're going to add more value to the counties. That's why I'm saying...I just mentioned

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so many counties in a year just to get people's attention. No direction that it needs to go 30 counties but to take a look at that. And a couple of things that...and I can see where you're coming from, because if you were in charge of an organization that dealt with the counties, you may feel that, you know, gee, we're being--why are we being picked upon? Well, I have the same attitude when I'm taking--and you know this, Senator Sullivan--when I'm taking a look at the money the schools are spending, and I have an education background; I think we ought to check into that. And even also my stand on dealing with taxes, exemptions--we ought to take a look at that. Historically, a lot of those things have occurred. We need to retake a look at that. We need to reform some things, and county government may be one of those things, or it may not be. But once you create that dialogue, you're going to find out that, hey, we're not all bad; we have some things we need to take a look at. And today I think it was pointed out some of the good things that are happening now. And here's another...I heard about interlocal agreements like that's God's answer. Well, I see the interlocal agreements as a way to get around the tax lid myself, because some of them--not all of them--but some of them fall...you don't have to worry about the money. It's not necessarily because I want to agree with you; I want to save my tax dollars. But again, my intent is not to pile upon the counties, because I have several county commissioners in Douglas County that are personal friends. But here's what I'm going to ask some of the senators--and I don't hear it as much as I did several years ago: Property taxes are too high. Stand up on the floor: I want my farmland evaluated differently. And now most of those dealings are with certain counties. And people want: I want, I want, I want. Well, here's an example that may help you. But...just the next time you hear somebody stand up on the floor and they talk about property tax, I want you to say: Okay, now where are they coming from; why are they doing this? And I think part of the reason--they're looking for ways to save money, and that may or may not be with county government. Another thing--we talked about Starbucks and all this. I'm not a Starbucks lover, so I don't care, but I do like to go to ma and pa's and to have my cup of coffee. But I...here's another indication, is, keep in mind, as I mentioned earlier, the Supreme Court--when the judge was up there talking about how they're doing everything, filing--attorneys are filing by the computers. It's...you don't have to go to the courthouse--they didn't say do away with it. But there are ways--in fact, in one of the studies, they said we need to make a...and take a look at the historical needs or concerns of some of these communities. This is in some of the past studies they have taken a look at. And now here's another thing, too--that we need to be realistic. Remember we were talking about the pharmacy bill a week or so ago. How many counties do not have pharmacies? People will travel just because they have to, because there's no pharmacy in how many counties?--10, 12 counties, where there's no pharmacy. We have to think some of this stuff through. All I'm asking is take a look at this; I'm not saying this is the way it's going to be. In fact, after the Planning Committee--if they have a chance--take a look at this, say: Let's do away with this concept; let's put it to sleep forever or forever and a day or something. So all I'm asking is take a look at that. And again, keep in mind, the voters have that choice at the very end; it's their choice. Not Senator Sullivan's. (Laugh) Thank you, guys. [LB826]

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SENATOR AVERY: Are you finished? [LB826]

SENATOR PAHLS: I am. [LB826]

SENATOR AVERY: All right. Thank you, Senator Pahls. That ends the hearing on LB826. We will now open the hearing on LB768. Invite Senator Stuthman to the table. Good afternoon, sir. [LB826]

SENATOR STUTHMAN: (Exhibit 1) Good afternoon. Chairman Avery and members of the Government, Military and Veterans Affairs Committee, for the record, my name is Arnie Stuthman, A-r-n-i-e S-t-u-t-h-m-a-n, and I represent the 22nd Legislative District. I am here today to introduce LB768. LB768 affects only the townships where the entire township board or a majority of the board has resigned and no one is willing to be appointed or run for a seat on the township board. This bill is necessary because when a township board is inactive, there is no one left to conduct the business of the township. This means the entire county picks up the tab to maintain the roads of one township, because no one is authorized to touch the township funds levied in the inactive township. Subsections (1) and (2) start the process of terminating townships. In subsection (1), after a township board has become inactive and the county board of supervisors shall hold a hearing to determine whether or not to terminate the specific township, a notice shall be published "in a newspaper of general circulation in the county" for two weeks. A township board is inactive when two or more seats are vacant and the county board is unable to fill the position "in accordance with Section 32-567 for six or more months." In subsection (2), if no appointment is made to the township board "within 30 days after the public hearing because no resident of the township has provided written notice to the county board that he or she will serve on the township board, the county board may adopt a resolution to terminate the township board on the following June 30. If the resolution is adopted on or after June 1 but before June 30, the township board shall terminate on the following July 31." Subsection (3) allows for the county to use the inactive township funds to take care of the business in the township. "Between the date of the public hearing and the date of the termination of the township board, the business of the township shall be handled" by the county board. "No tax distributions shall be made to the township. Such funds shall be held by the county board in a separate township fund and disbursed only to pay outstanding obligations of the township board. All claims against the township board shall be filed with the county clerk and heard by the county board. Upon allowance of a claim, the county board shall direct the county clerk to draw a warrant upon the township fund. The warrant shall be signed by the chairperson of the county board and countersigned by the county clerk." Subsection (4) deals with the record retention and tying up the loose ends. "Upon termination of a township board, the county board shall settle all unfinished business of the township board and shall dispose of all the property under ownership of the township. Any proceeds of such sale shall first be disbursed to pay any outstanding

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obligations of the township, and remaining funds shall be credited to the road fund of the county board." Any remaining township board members still serving upon that date of termination shall deposit with the county clerk all the "township records, papers, and documents pertaining to the affairs of the township and shall certify to the county clerk the amount of outstanding indebtedness in existence on the date of termination. The county board shall levy a tax upon the taxable property" within the boundaries of the township to pay the outstanding indebtedness. Finally, in subsection (5) that deals with putting the question before the voters whether to keep or terminate all townships within a county: "If more than 50 percent of the township boards in a county have been terminated, the county board shall file with the election commissioner or the county clerk a resolution supporting the discontinuance of the township" organizations in the county. I do have some testifiers here that will answer (inaudible) questions, but I would like to ask the pages to come here, and I've got a letter from Saunders County Board that I'd like to have read into the information. So with that, that is my testimony, and I'd be willing to try to answer any questions. [LB768]

SENATOR AVERY: Thank you, Senator. Well, we're down to three of us. You may not get many questions. [LB768]

SENATOR STUTHMAN: I apologize for scaring them off. (Laughter) Thank you. I'll stay for closing. [LB768]

SENATOR AVERY: Any questions from the committee? You want to take questions? I think Senator Sullivan has one. [LB768]

SENATOR STUTHMAN: Oh, I'm sorry. [LB768]

SENATOR SULLIVAN: Well, that's all right. I've got a lot to learn as far as township and county government, but on this map, are all these townships in all these counties active? [LB768]

SENATOR STUTHMAN: Yes. Um-hum. [LB768]

SENATOR SULLIVAN: Okay. [LB768]

SENATOR STUTHMAN: Um-hum. Um-hum. [LB768]

SENATOR SULLIVAN: All right. Okay. [LB768]

SENATOR STUTHMAN: That they are. [LB768]

SENATOR AVERY: Any more questions? Thank you. [LB768]

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SENATOR STUTHMAN: Okay. [LB768]

SENATOR AVERY: You going to stay for closing? [LB768]

SENATOR STUTHMAN: Yes. [LB768]

SENATOR AVERY: (Exhibit 2) Okay. Proponent testimony. I, too, have a letter of support to read into the record from Patti Lindgren, Saunders County Clerk. Pass that down to Sherry. [LB768]

LARRY DIX: (Exhibit 3) Senator Avery, members of the committee, my name is Larry Dix. I'm executive director of the Nebraska Association of County Officials, here today in support of LB768. And before I start, I want to make sure--I'm not sure, is that the map you're referring to? [LB768]

SENATOR SULLIVAN: Um-hum. Um-hum. [LB768]

LARRY DIX: Yeah? [LB768]

SENATOR SULLIVAN: Um-hum. [LB768]

LARRY DIX: Okay. Then I'll...no need to hand those out, unless...do you have a pretty, colored one? [LB768]

SENATOR SULLIVAN: No. [LB768]

LARRY DIX: No. [LB768]

SENATOR SULLIVAN: That might help. [LB768]

LARRY DIX: Then I'll hand these out. First we want to thank Senator Stuthman for introducing this bill. This is one that NACO is bringing forward. And it is a result of sort of a typical problem or a problem that we're starting to see across the state in some of our townships. And you've got a couple of letters there from Saunders County because this really sort of played out in Saunders County when someone...I think the letter from Patti Lindgren probably describes it better than I can. But they actually got to a point in a township where someone moved, someone resigned, and then they were unable to even conduct business, and so we looked at that. But what happens in that event...of course, the folks that live in the county--they still want their roads maintained; that's primarily what our townships do. And so that burden falls back on the county. All the while that that township is collecting money when you pay your taxes, it's going into a township fund or a township account. And, of course, once that township becomes inactive, we virtually have to come in and maintain roads. But there's no county money.

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There's no money going to the county to maintain it; it's going to the township. But now that the township is inactive, we as the county can't get access ever to those township funds, because they've become inactive; they don't have enough people to conduct business. So what we brought together was sort of a process that you'll see in LB768 that says when that happens, we want to make sure--we're not trying to do anything behind closed doors or anything like that; we've laid out a process where it has to go onto an agenda on to the county board. There has to be a discussion about it. We have to notify them that this process is going to take place. So we want it to be very, very public. And even then the township can still go out, solicit, find members to reactivate themselves and maintain what they had been doing in the past. But short of that, that burden then falls on everybody else in the county--all the other county taxpayer dollars--to maintain that township when that township is actually collecting funds but the county certainly cannot get their hands on those dollars. So what we're looking at is a process when this happens. And like I said, this is starting to play out more and more across the state. And what you'll see...these are the only counties left that have the township form of government. We're certainly...this bill is not advocating that we get rid of township form of government. You'll hear from some counties that say: It's working very well for us. But as you can see in this list, there's a number of...the counties are listed, and in parentheses are the active number of townships. So there are many counties where not all of their townships are active. And that's what we're starting to see. I call your attention to Hall County. Hall County still has the township form of government, but they no longer have any--any--active townships. So the county maintains all the roads in that county, but they still have that form of government. So it's an interesting dynamic that's playing out. It's sort of...earlier when I talked about...Phelps County got rid of the township form of government, but this is sort of a measure, we believe, that would sort of solve a financial issue when a township just becomes inactive, and what do we do? Counties certainly have the liability to continue to maintain those roads. With that, I'd be happy to answer any questions that anybody has. [LB768]

SENATOR AVERY: Thank you, Mr. Dix. Questions from the committee? [LB768]

SENATOR SULLIVAN: Thank you. [LB768]

SENATOR AVERY: Senator Sullivan. [LB768]

SENATOR SULLIVAN: Okay, so in the case of Knox County, there are 30 different active townships? [LB768]

LARRY DIX: Yes. [LB768]

SENATOR SULLIVAN: Does that mean that each of those townships has a person on the county board? [LB768]

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LARRY DIX: No, that means that each one of those townships has a three-member board--not on the county board. That is a separate government entity, a township board. So there are 30 different township boards within Knox County, and each one of those townships would probably be a three-member board. [LB768]

SENATOR SULLIVAN: And they have levy authority. [LB768]

LARRY DIX: And they have levy authority; they have to come to the county board for approval of that levy authority. County board has ultimate authority to say here's how much we're going to levy for that township. But they bring a budget to the county board. [LB768]

SENATOR SULLIVAN: And the budget is primarily for roads. [LB768]

LARRY DIX: Budget, in every sense, I would tell you primarily for roads. In some instances we know of that there is--some instances where there would be a township library, and we have heard of some instances where there is a township cemetery. So a small amount of that would probably go to maintain the cemetery and the library, but that's a very rare occurrence. [LB768]

SENATOR SULLIVAN: Okay. [LB768]

SENATOR AVERY: Any more questions? Seeing none, thank you Mr. Dix. [LB768]

LARRY DIX: Thank you. [LB768]

SENATOR AVERY: Any other proponent testimony? Welcome. [LB768]

DENNIS KIMBROUGH: Chairman Avery, committee members, thank you. My name is Dennis Kimbrough, K-i-m-b-r-o-u-g-h. I currently serve as a Fillmore County supervisor. Past president of NACO last year. And they're shooing me out the door, I guess. I'm here because this is an issue that we're dealing with right now. This started about eight years ago for us. We have sixteen townships; we had one of them who just said: We're not going to serve anymore. We have no mechanism to handle this, so we went to a neighboring township and approached them and said: Would you consider taking over the business of the adjoining township? And they decided that they would, so we have assigned that to them. We don't know if that's completely right or wrong, but that's how it worked at the time. Last year we were approached by another township who has ceased doing their functions, but they still exist and are now contracting with us to do their roads. We were approached this fall and asked to consider in 2011 taking over another township. We had last year--or two years ago on a...must say, you know, been last year's election--a proposal to convert to commissioner style of government, to

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eliminate the townships and assume those into the county. Failed by 80 votes, with very little information being provided. We've been asked if we will consider putting it on the ballot in this next election, and we will. And I think we will actively try and inform the public what is going on. If that fails, we will probably be the last time we try that. And so this mechanism is vitally important--if it would happen to fail again--that we have some type of mechanism to serve the public. It isn't...as I listened to some of the other bills today and they talked about the rural population, that's exactly what's happening; we have townships we have virtually nobody living in. And I'm in a county of only 6,000 people, and in 1964 there were 2,200 people in Geneva; there are 2,200 people today, but there are from 850 to 500 kids in our school. So you know who we've lost--all the young families, businesses; we're a retirement community. But we still have our farmer roads to take care of. In fact, it's even more vital today than it was in the past. So the function of a township government really has become more important. We've been dealing with this just in this last two snowstorms, because it used to be when we would have a storm like this, you would wait till the roads were cleared, get your truck out, and haul grain. We now get the call at 8:00 in the morning--it's snowing--and it says: I want my semis on the road at 9:00. And because of the volume of grain being produced, the demand that it be delivered to the ethanol plants immediately, because they have a limited supply, things do happen a little differently than they used to. And we understand that, and everybody has worked very good, but we definitely do need this mechanism to go through so we have some avenue to take care of our people and our townships that we've not had in the past. So thank you. [LB768]

SENATOR AVERY: Thank you, sir. Questions from the committee? Seeing none, thank you for your testimony. [LB768]

DENNIS KIMBROUGH: Thank you. [LB768]

SENATOR AVERY: Any more proponent testimony? Any opponent testimony? Neutral testimony? Senator Stuthman. [LB768]

SENATOR STUTHMAN: Thank you, Senator Avery. I just--in closing, I just want to mention that this deals with a situation that, hopefully, that we can try to access those funds in some manner when no one, you know, is accepting the responsibility to be on that township board. We've had counties that have, you know, township boards that serve very well. In Platte County we have several townships that we have to almost beg people to put their name on, and then they accept it. I have two...two of my sons both serve on a township board. But the main emphasis that we want--that I want to convey this afternoon is the fact that we need a mechanism to access those funds from a township that has, you know, the prior year assessed a levy, but now no one is able to sign a check to get those dollars out to maintain the indebtedness of that township and maintain the roads. The county, yes, is responsible for their county roads, but when it comes down to--to push and shove, they really do take care of all the roads when

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nobody is responsible. So with that, I'd ask for your support to move this out to General File. [LB768]

SENATOR AVERY: Thank you, Senator. [LB768]

SENATOR STUTHMAN: Any questions? [LB768]

SENATOR AVERY: I don't think so. [LB768]

SENATOR STUTHMAN: Thank you. [LB768]

SENATOR AVERY: Thank you. That ends the hearing on LB768 and the hearings for this committee today. I am asking the committee to stay for a brief executive session. So I will ask the rest of you to clear the room. [LB768]