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Government, Military and Veterans Affairs Committee
February 08, 2012

[LB827 LB936 LB1094 LB1101]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, February 8, 2012, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1101, LB827, LB1094, and LB936. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Charlie Janssen; Rich Pahls; Les Seiler; Kate Sullivan; and Norm Wallman. Senators absent: Russ Karpisek.

SENATOR AVERY: (Recorder malfunction) ...to determine whether there is a quorum. I determine we have a quorum, and we're going to start. So let me introduce the members of the committee who are here. First of all, welcome to the Government, Military and Veterans Affairs Committee. My name is Bill Avery. I Chair the committee, and I serve District 28 here in south central Lincoln. Senator Pahls has informed us that he will be late. Senator Pahls is in that chair...will be representing Millard. Next to him will be Senator Seiler from Hastings. Senator Seiler has his Hastings leadership group in town, so he will be a little bit late because I think he's meeting with them. Senator Charlie Janssen is the next one, from Fremont; and next to him is Senator Scott Price, the Vice Chair of the committee, from Bellevue. Seated next to me, on my right, is Christy Abraham, the legal counsel for the committee. Senator Karpisek, who sits here, will not be here today because of a death in the family. Seated next to him is Senator Kate Sullivan from Cedar Rapids; next to her is Senator Norm Wallman from Cortland; and on the very end is Sherry Shaffer, who is the committee clerk. We will take up four bills today in the order as they are posted outside the door, starting with LB1101, followed by LB827, and then LB1094, and, finally, LB936. Before we start, a few comments about our procedures. If you are here and wish to testify for or against any of these bills, we ask that you fill out this form for testifiers only. Please print the requested information clearly so that we can read it, and give that to Sherry, who is our clerk, here on the end. This form is available at each entrance to the room. If you are here and wish to record your opposition for or against any of these bills but do not wish to testify, we ask that you sign in on this form and provide, clearly printed, the requested information, and they are also available at the entrances. If you have any written material that you would like for us to see, you will need 12 copies of that. If you do not have 12 copies, then you can give it to the clerk, and she will pass it to our page who will get the copies that you will need. And our page is Catherine Larsen, from Omaha, and she's over here, seated next to the wall. If you have a copy of your...a printed copy of your testimony, we'd like to have a copy, and you can do...you can provide that to us in the same manner as documents or supplemental material. Now if you have an electronic device that makes noise, we ask that you turn it off; or, at a minimum, put it on vibrate so as not to disturb people around you or to disrupt these proceedings. If you are a member of the credentialed press, most of the time these rules about electronic devices do not apply to you, but we ask that if you have to take a call, take it outside. And if you need to do anything that would make a lot of noise or commotion, please do that on the outside of

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the room. When you arrive here to testify, please state your name clearly for the record and spell it so that we have a clear record of who you are, and then you will be given a total of five minutes to present your testimony. We will be using the lights system. The green light is a four-minute light, and then the amber light is one minute. When the amber light comes on, you should be preparing to finish because at the end of five minutes, the red light comes on, and we hope that you're finished by that time. If not, I may have to stop you. Okay, I think that covers everything that we need to cover. We'll start now with Senator John Wightman, with LB1101. Welcome, Senator.

SENATOR WIGHTMAN: Thank you, Senator Avery. Chairman Avery, members of the committee, I am John Wightman; Wightman is spelled W-i-g-h-t-m-a-n. I represent District 36. LB1101 was introduced on behalf of the Nebraska Association of County Officials. LB121, enacted in 2009, returns a property tax assessment function back to nine counties in Nebraska that previously were being serviced by the Department of Revenue in the state of Nebraska. The state of Nebraska had assumed the functions of the county assessor's officers in these nine counties. LB121 made the policy decision to phase out the state-operated assessment program and its funding. As the nine affected counties reassume this function, an assessor must be appointed until the office is filled by election. By elimination of a reference to this office being filled at the next election, LB1101 is intended to address concerns that the next election might not be one in which the candidates are typically elected, such as a bond election. LB1101 merely clarifies that the assessor's election will be placed on the same election cycle as other county officials. A brief history of current law is necessary in order to understand why is it important to enact LB1101 this session. From 1998 until 2006, a total of nine counties requested and were accepted by the Nebraska Department of Revenue to take over the functions of the county assessor's office and those duties. The accepted counties were Dakota, Dodge, Garfield, Greeley, Harlan, Hitchcock, Keith, Saunders, and Sherman. No additional state funds were appropriated to administer the program at the time the last two counties were accepted. As the state reassessed its ability to fully fund this program, the remaining 84 counties continued to provide their own assessment function at their own expense. In 2009, LB121 was enacted to phase out the state's program to operate the assessment function and shift the assessment function sought back to the nine counties. Because LB121 placed a \$3 million financial burden on the nine counties, LB121 provided for a phase-out period of three years. As counties are reassuming the assessment function, the law must be clarified so that the newly-appointed county assessors will run for office after a primary election and at the regular election cycle for county officials. The next election may not be the general election but may be for a bond issue or for a special election, and that's not going to work very well with regard to our general election laws. I really think it's important...and I don't usually come in suggesting that you move with some urgency, but I really think it is important that there be some urgency here because of the fact that if they're going to make the primary election, that should be passed out probably with the emergency clause, and I think it is very important that it be. And I think Senator Sullivan did have three; I don't know if you still

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have three or whether you may now have two, but--or maybe four with the redistricting--but I would urge this committee to advance LB1101 to make the needed and necessary clarification to the law, and so that the counties know where they stand in this regard. I'll try to answer any questions you may have. [LB1101]

SENATOR AVERY: Thank you, Senator. Do you see this as possible Speaker priority or consent calendar bill? [LB1101]

SENATOR WIGHTMAN: I would hope it might be a consent calendar. If it appears it would not be for any reason, then probably we would ask for a Speaker priority. [LB1101]

SENATOR AVERY: Well, there is some urgency; we are aware of that. [LB1101]

SENATOR WIGHTMAN: Yes. [LB1101]

SENATOR AVERY: Okay. Questions from the committee? Senator Sullivan? [LB1101]

SENATOR SULLIVAN: Thank you, Senator Avery. Thank you, Senator Wightman, for advocating for this because I think it is good. I guess I don't know the three counties that were involved, what their status is right now, but I'm guessing--and Larry may tell us also--that they would be totally in favor of this and wanting it very much. Have you heard from any of the counties? [LB1101]

SENATOR WIGHTMAN: Um-hum, thank you. My understanding is that NACO itself took a position, and I think they certainly were in contact with all of the nine counties. [LB1101]

SENATOR SULLIVAN: Uh-huh. Okay, um-hum. [LB1101]

SENATOR WIGHTMAN: Some of the counties, as I think I said, that have already converted--two of them, I think, and maybe a third one in the process--but I'm not sure any of the counties in your district have. [LB1101]

SENATOR SULLIVAN: Um-hum. No, I'm not sure either, quite frankly. Thank you. [LB1101]

SENATOR AVERY: Any other questions? Don't see any. Thank you. [LB1101]

SENATOR WIGHTMAN: Thank you, and I'll waive closing. [LB1101]

SENATOR AVERY: All right. Proponent testimony? Welcome, Mr. Dix. [LB1101]

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LARRY DIX: Good afternoon, Senator Avery and members of the committee. For the record, my name is Larry Dix, spelled L-a-r-r-y; last name Dix, D-i-x, executive director of Nebraska Association of County Officials, appearing today in support of LB1101. And, as is typical, Senator Wightman did an excellent job of laying it out and discussing exactly what it is. I'm here a little bit more to follow up a little bit and solidify the urgency scenario. This came to our attention when we had a couple of assessors that, as we are in an election year, which we are in 2012...who had said, well, we know we're going to be appointed, and that appointment--our appointment--is going to take effect July 1, 2012. And as I read through and the county attorney read through the statute as it was written, the county attorney said, well, you know then that you're going to stand for election in November. And they said, no, we didn't know that, we assumed. And I think even if you go back to the transcript and the testifying that we did back then in the debate on the floor, I think everybody assumed the next election meant the next election when all the assessors in the state were elected, on the next four-year cycle, but it didn't spell that out. And so then we had some folks that were a little bit panicked saying, okay, now just because of that, we are...our name wasn't on the ballot in the primary. Now what hoops do we have to jump through to get our name on the ballot in November? And so that's when we really started to look at it, looked at the word, at "the next election," worked with Senator Wightman. I know I talked to Senator Sullivan and a number of senators that have assessors in their specific districts and brought this bill forward simply to solve that problem. In addition to that, it isn't just the election. There are also...assessors have to...are required to have a certain number of continuing education hours and things like that; and that is sort of on that same four-year cycle as their election, and so their education hours accrue according to that cycle. So there are some other little things off to the side that certainly are very, very important to those folks. So, for that reason, NACO completely supports this bill, would urge the committee to, you know, move it out as rapidly as we can--and certainly if there is no opposition--and then we can get a clean bill of health on it that we do look for it as consent. So I would be happy to answer any questions that anybody may have. [LB1101]

SENATOR AVERY: Thank you. Questions? Senator Sullivan. [LB1101]

SENATOR SULLIVAN: Thank you, Senator. So just a clarification then. Those county assessors that have been appointed would be standing for election this year or...? [LB1101]

LARRY DIX: Well, as you read that the way the statute says, it says at the next election. And we actually had one county attorney that said in their county they happen to have a school district that encompasses the whole county, and if they were to have a school bond election, then that assessor would stand for election at the next election. And, you know, that...I don't think that was ever anybody's intent to do that, so for that reason, I think that is the case. [LB1101]

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SENATOR SULLIVAN: Okay, but I'm talking about this election that will be coming up this year... [LB1101]

LARRY DIX: Right. [LB1101]

SENATOR SULLIVAN: ...because it says, okay, county assessors are not elected in 2012 but they will be in 2014. I'm not...I don't... [LB1101]

LARRY DIX: Right. The county assessors, as are most of our elected officials, are all up for election during the gubernatorial cycle, so that would be the 2014. [LB1101]

SENATOR SULLIVAN: Okay. [LB1101]

LARRY DIX: Now we...that is a little bit different for county board members because they...they're...we have some of them elected on each election cycle. But the county assessors, if you looked at the whole state other than these eight state-assessed counties, they're all elected; they all will stand for election in 2014. But without the clarification in this bill, there are folks who are interpreting it to say you would have to stand for election at the next election, whatever election that is. [LB1101]

SENATOR SULLIVAN: Okay, so then...and how...what's the term of a county assessor? [LB1101]

LARRY DIX: Four years. [LB1101]

SENATOR SULLIVAN: But those...there will be some county assessors...I'm sorry, my small mind is...I'm trying to just interpret this. [LB1101]

LARRY DIX: No, that's fine. [LB1101]

SENATOR SULLIVAN: Those county assessors that are appointed, they'll be on the ballot this fall. They won't...the... [LB1101]

LARRY DIX: Well, if this bill passes, they will not. [LB1101]

SENATOR SULLIVAN: Okay. [LB1101]

LARRY DIX: If this bill does not pass, there are people that believe they need to be. [LB1101]

SENATOR SULLIVAN: They would...gotcha. Okay, okay. [LB1101]

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LARRY DIX: Although then you get into the gray area of how did they get their name on the ballot because they were not on in the primary, because they will not be appointed by the time the primary election takes place. [LB1101]

SENATOR SULLIVAN: Gotcha. Okay, thank you. [LB1101]

LARRY DIX: Okay. All right. [LB1101]

SENATOR AVERY: Don't the counties like to have assessors all elected at the same time? [LB1101]

LARRY DIX: Yes. [LB1101]

SENATOR AVERY: So if you had somebody elected in 2012, they would throw them out of the cycle for those who...elected in 2014. [LB1101]

LARRY DIX: Yes, exactly. Exactly, yes. Yeah. [LB1101]

SENATOR AVERY: Okay. Any other questions from the committee? I don't see any. Thank you. [LB1101]

LARRY DIX: Thank you. [LB1101]

SENATOR AVERY: Any other proponent testimony? Welcome, sir. [LB1101]

DICK ERICKSON: Thank you. Let me get this. I just got a new knee, so I'm a little careful about how this leg works, but... [LB1101]

SENATOR AVERY: Well, we've had several of those in this body, by the way. [LB1101]

DICK ERICKSON: I thank the committee for allowing to hear me today. My name is Dick Erickson. I serve as the assessment manager and chief appraiser for Dakota County, which is currently a state county. All right. [LB1101]

SENATOR AVERY: Could you spell your name for the record? [LB1101]

DICK ERICKSON: I'm sorry. Dick, D-i-c-k; Erickson, E-r-i-c-k-s-o-n. I've already been appointed by the county board to be the assessor when the county takes the office back July 1. That appointment was made last September. I've worked in assessment offices for over 17 years. I started in Rock County in 1995 and moved to Dakota County in 2000. I am here in support of LB1101. There are several election issues that I see with this bill. First off, all elected officials should be on the same cycle, as is in the intent of existing statutes. I believe in this...in county government's best interest to keep it this

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way. I think it would be a mistake to change things and split the election cycle. Replacement officials are appointed at a time...at the time, and each fills--pardon me. Replacement officials are appointed all the time, and each fills out the term to the next election cycle. This should be the case in the newly-created county offices. The office currently does not exist; therefore, the current assessment manager--or any other person, for that matter--who should decide to run can't file in the primary. Then, after July 1, when the office is created, the only way to get on the November ballot are either by petition, by write-in, or by party nomination--all of which are time consuming and expensive. The candidate will be required to pay the full filing fee for a four-year term when only probably going to serve a two-year term because they want to get them back on the four-year cycle with everybody else. It will be forcing a candidate to endure the expense of an election and then face the same expense in just about another 14 months. This just doesn't seem right to me. Neither the candidate nor the county should have to bear the expense of an off-year election when it's only for a two-year term. This does not demonstrate to the taxpayer good budget management on the part of the county or the Legislature when an unnecessary election is called for. Much of what goes on at the county level is based on the election cycle. The county boards set wages, they see term and benefits, they appoint committee members, they select holidays, and so forth, all in that four-year cycle. The continuing education requirements for the assessor's certificate run concurrent with that four-year cycle. That four-year cycle is very important to the assessment office. There are some personnel issues here also. Of the nine offices that either have or will go back to being county assessment offices, to the best of my recognition, only three of the people in those offices held today have ever been an elected official, so it's new to most of them. To deal with the conversion to the county, the personnel issues they're going to face when they have new...when they have employees that are going under different wage scales, different benefits, so on and so forth, plus doing a budget for the first time, plus new equipment, new computer programs, and, on top of that, having to run for office in an election just seems like an unnecessary burden. The four-month period prior to the November election does not give the new assessor sufficient time to demonstrate to the voter the changes that will occur under his or her supervision. The appointed assessor should be given time to settle in and establish his management process. This change...because this change causes residency issues for some, it may be necessary for some of us to relocate. My wife and I have bought a house in Dakota County, and we are selling our house in Dixon County so that I can be in Dakota County--not the greatest move in a slipping real estate market. It's my understanding the majority of the new positions were created by this Legislature will take a reduction in wages, we'll be taking a reduction in our benefits, we'll be losing accumulated benefits, and I've not heard one person complain about that. The issue is we don't want to run for election in two years two times. And in Dakota County it costs \$5,000 to \$7,000. Last, and most important, I don't think it was the intent of the Legislature to create this problem when the original bill was passed and that as a result, speaking for myself and all the other assessment managers I've talked to, I ask you to correct this and return to the appointed cycles. Thank you for your time. [LB1101]

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SENATOR AVERY: Thank you, sir. Any questions for Mr. Erickson? I don't see any, sir. Thank you. [LB1101]

DICK ERICKSON: Thank you. [LB1101]

SENATOR AVERY: Any other proponent testimony? Good luck with your knee. [LB1101]

DICK ERICKSON: You know, it's really working good. [LB1101]

SENATOR AVERY: Any opponent testimony? Any neutral testimony? All right, don't see anybody else wishing to testify, and Senator Wightman has waived closing. That will end the hearing on LB1101, and we'll now move to Senator Dubas' bill, LB11--no--LB827. Welcome, Senator. [LB1101]

SENATOR DUBAS: Good afternoon, Senator Avery and members of the Government Committee. It's a pleasure to be here. My name is Annette Dubas, A-n-n-e-t-t-e D-u-b-a-s, and I represent the 34th Legislative District. Last year, we passed LB62, which established that a county board could not unduly hinder a county officer in carrying out the duties of his or her...of her offices. But the new statute also went on to further require that that office must prove, by a clear and convincing evidence, that any budget revision is arbitrary, unreasonable, or capricious. I supported that bill because it is...I do firmly believe it is ultimately the county board's main responsibility to establish that budget. And so it's not my intention to do anything that undermines that authority, and again I want to be very clear on that point. During the course of the debate last year though, I know--if your e-mail box was like mine--we heard from many county officials, elected officials who felt that now they had no ability to challenge budget decisions without spending a great deal of their money to go through a court challenge. That led me to introduce an amendment to the bill. And while we had a good discussion about it, the majority of the body felt that the substance of the amendment really needed to go through a public hearing process. So, because of that, I withdrew the amendment with the intention of coming back to you this year with an actual bill, and that's what brings me to you today. LB827 creates a mediation process, so if a county officer wants to challenge a board's budgeting decision, that would...it would require that officer and the board to participate in mediation. If, after that process, the mediator determines that there is no resolution for the situation, then the officer could challenge the decision in court. The county officer would still have to have the burden of proving that there is undue hindrance by clear and convincing evidence, but the cost of the mediation would be equally shared by the board and the officeholder. And I know there are still some county officers who feel that requiring them to...putting that extra burden on them puts them at an unfair disadvantage, but I'll go back to the point that I made in...as I started my testimony. It is the county board's responsibility to set the budget. They have to

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answer to their constituents for the way that money is spent, and so I think we can't do anything to undermine that. And while county officers are also elected officials, it is not their main duty to set the budget. So while it may, on the surface, to many of those officers, appear that they are at a disadvantage, I understand why the statutes read the way they do. But I think by putting a mediation process in place that they're required to use before going to that next more costly step, it gives an opportunity for a resolution to be found without having to...by having that impartial third party mediate the problem and hopefully alleviate any potential court costs, which not only costs the individual officeholder out of their pocket, but it costs our taxpayers, too, through those court challenges. Our current statutes, 23-1111, provides that county officers do have the right to make employment decisions to carry out their duties. And last year, as I said, many felt that LB62 tipped that scale in favor of county boards by placing that burden of proof on them, the officer. But, as I stated, I think there's...you know, the county board has that responsibility, and by putting this mediation process in place, it gives that officer an avenue to make their case and see if there's any common ground that can be found to strike resolution. Nobody wins when things ultimately end up in the courts. As I said, it costs the individual, it costs taxpayers. And especially if you get into our more rural counties where people go to church with each other and kids are in school together, it creates a lot of friction and ill will within that community and within that county. Mediation has a proven track record. It's very effective, it's usually a quicker way to resolve things, it appears to be more efficient, and, I think, in the end it provides that win/win opportunity for everybody. So the reason I introduced LB827 was to try to find that balance, to strike that balance between those elected officials and those county boards who ultimately answer to all of the same people. I mean, they were all elected to do a job, and so if we can put a process like this in place...I know that both the county officials and the county board members take their duties very seriously, and they want to do what's right. And so I think by providing this type of a venue, we can try to smooth the waters. And I don't think this is something that we see on a very regular basis in our counties; I believe our county officials and the boards try very hard to work well together. But, you know, there are times when things just are at that point where there's not an ability to reach an agreement. And I'm a firm believer in mediation, and that's why I bring this bill to you today for your consideration and would be happy to try to answer any questions you may have. [LB827]

SENATOR AVERY: Thank you. Do you have a specific instance in mind that prompted this bill? [LB827]

SENATOR DUBAS: Well, the bill that was brought forward last year came from an instance that happened in my own home county of Nance County, and so I do know. I mean, I know all of those people personally, and I know it caused a great deal of ill will. And ultimately I believe the court decision came down in favor of the officer, but that was only after it went through a great deal of time, turmoil, and cost on the parts of all of the parties involved. [LB827]

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SENATOR AVERY: Yeah, I remember that quite well. Any questions from the committee? Senator Janssen? [LB827]

SENATOR JANSSEN: Thank you, Chairman Avery. Senator Dubas, thank you. I was going through your...the fiscal note, which there's no impact on us. But in reading it, it says the cost for mediation is to be shared by the county board and the county officer. And I was here at the hearing last year, that case you're referring to, and it seems that, at the time, that he was telling us that he had to bear the cost of that. In this case, would it be the county board that has a budget behind it would be sharing the cost with the county officer that would be paying that personally, or would he be paying that out of his office? [LB827]

SENATOR DUBAS: My intention is that he would have to pay for that out of...just like he would for the court costs, so...you know, this is mediation. Hopefully it's less cost, but I would see the county officer having to pay that out of his or her own pocket while again the county board has that overarching authority,... [LB827]

SENATOR JANSSEN: Right. [LB827]

SENATOR DUBAS: ...so they would have the taxpayer dollars behind that. [LB827]

SENATOR JANSSEN: Let's look at...with "clear and convincing" having to be the level, that's pretty, pretty steep to get to, so that could be...one, it could be much more expensive, which you're trying to avert,... [LB827]

SENATOR DUBAS: Right. [LB827]

SENATOR JANSSEN: ...but again still expensive for the individual officeholders, some who aren't paid a whole lot of money. [LB827]

SENATOR DUBAS: Right, and I guess...I don't know that I have costs for mediation; that's something I probably should have looked into before I came here. I just know that there is substantially less cost to the mediation than there is to court costs. [LB827]

SENATOR JANSSEN: Oh, yeah. Yeah, definitely, definitely. All right, thank you. [LB827]

SENATOR AVERY: Senator Price? [LB827]

SENATOR WALLMAN: Go ahead, go ahead. [LB827]

SENATOR PRICE: All right. Thank you, Senator Avery and Senator Wallman. Senator

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Dubas, Senator Janssen hit on one of my questions. But the next question is...it seems that if there's a disagreement...I'm looking for the triggering mechanism to make sure. I would be concerned, in some cases, when it does become feudal. Somebody just throws it up and there could be a lot of mediations. So how do we...it...do you know, in your research on electing to go to mediations, that there's a defined process of when a mediation is kicked off? So, in other words, you get your budget, you have somewhat of a prescribed time frame for doing a...pulling the mediation card out? [LB827]

SENATOR DUBAS: You know, I guess I don't have a...specific information to...that would guide that--you know, do you have 30 days to challenge this budget decision or what have you. And possibly that's something that we would need to look into as far as clarifying. I mean, I wouldn't...I would see that any county officer that is not happy with their budget appropriation would be unhappy right at the get-go, so I wouldn't see this as something that would pop up well into...after a budget has already been passed and operations are up and running. But I think that's a legitimate question, and I would be very willing to look into specifically. And I've had visits with NACO about this, and that might be a concern that they...I know they...I've met with their people and do have some concerns, they said, but they didn't feel they were insurmountable concerns, so that might be something that they'd be willing to work with me on. [LB827]

SENATOR PRICE: All right, thank you. [LB827]

SENATOR DUBAS: Um-hum. [LB827]

SENATOR AVERY: Senator Wallman. No? [LB827]

SENATOR WALLMAN: No. [LB827]

SENATOR AVERY: Any other questions from the committee? Don't see any. Are you going to stay to close? [LB827]

SENATOR DUBAS: I will stay to close, yes. [LB827]

SENATOR AVERY: All right, we'll take proponent testimony. Welcome back, sir. [LB827]

LARRY DIX: Good afternoon once again. My name is Larry Dix. I'm executive director of Nebraska Association of County Officials, here today in support of LB827. And certainly, Senator Dubas and I have had some discussion on this. And I know that some people would say, well, last year after LB62, well, why would NACO be here in support of something like this? Our board had a pretty lengthy discussion, really, about this. And while we think LB62 went a great distance in determining who has the final say within the budget, the board members--county board members and affiliates--did like the idea

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of trying to keep the dialogue open, allow something that would always keep that dialogue open in the best interest of the county. And I think a number of you--I think Senator Price maybe touched on a couple of the questions that we, too, had and that we're, you know, more than willing to, over the interim or at whatever point in time, work with Senator Dubas to try to pin down. You know, when does somebody go to mediation? When does it rise to that level? Sort of, what are the rules? What are the general premises? But it was interesting that our board felt that this was an idea that they felt had some merit, worth looking at, and worth having some continued discussion on it. So with that, I would be happy to answer any questions you may have. [LB827]

SENATOR AVERY: Do you think that there are plenty of mediators out there, that this would fill the need? [LB827]

LARRY DIX: Well, you know, one of the questions that came up was: Who will do the mediation, or who could do that? And that certainly isn't a question that we had. I think, as you move from the eastern part of the state to the western, I think there are fewer and fewer people that they said may be able to do this type of mediation. Or how specific does it have to be? How trained does the mediator have to be? And I think those are continuing questions that probably still have to be answered. [LB827]

SENATOR AVERY: Well, this might be...create a new stimulus for the industry. [LB827]

LARRY DIX: Could be. [LB827]

SENATOR AVERY: Questions? Senator Price? [LB827]

SENATOR PRICE: Thank you, Senator Avery. Thank you, Mr. Dix, for coming forward and helping us to get our heads wrapped around it. Again, the question that I have...I still have a question on the triggering the time lines. I heard you say, over the interim to work on it, so maybe that means we're going to be having discussions for a long period of time. But my next question: Does NACO...can you tell me, in your understanding, do we often have a case where two parties enjoin in arbitration, and they're both doing it for a government purpose, they're both an officeholder, yet one bears the cost personally and the other one gets the taxpayer backing? [LB827]

LARRY DIX: Yeah, the...my...I want to make sure I get your question right. You're asking me, are there other situations where this occurs, where one person would bear the cost? This, typically, is where that is. Normally, where there are other areas of arbitration unrelated to a county board versus a county affiliate, what we call affiliates...the best example I can give you is if a county board reverses a valuation that an assessor has placed on a parcel, then the assessor can--what we call--take the county board to TERC. And when that happens, of course, then you have both parties, both county parties, both governmental entities going to TERC and spending money to

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discuss and arbitrate the proper valuation that you have on that property. It is always the county attorney's job, within county government, to defend the county board, so the county attorney at TERC would represent the county board. Therefore, then the county would have to find outside counsel. The question...getting to the crux of your question, who pays for this outside counsel? Then that becomes a sort of a joint decision, again, of the county. Sometimes we have seen county boards say, yeah, we will pull that money out of a miscellaneous fund, or the assessor may have some funds budgeted for legal costs, but that is a county-by-county decision. It doesn't always have to happen that way. [LB827]

SENATOR PRICE: So, in other words, right now if I want to go to the TERC board, the assessor could have to pay out of his own personal monies to...defense of his decision and in doing his duties? [LB827]

LARRY DIX: Normally, that's the only one I can compare that's even close. But I would tell you, most of the time I don't...I can't tell you there's a case where they would have to pull out of their personal money. I'm only bringing forth...that's the only time I can think there would be an arbitration because of the two entities probably at different sides. [LB827]

SENATOR PRICE: Okay. [LB827]

LARRY DIX: But I believe that, in that situation, the county would pick up the cost of the outside counsel for the county assessor. [LB827]

SENATOR PRICE: Okay, thank you. [LB827]

SENATOR AVERY: Any other questions? Senator Wallman. [LB827]

SENATOR WALLMAN: Thank you, Chairman Avery. Yeah, thanks for being here, Larry. [LB827]

LARRY DIX: Sure. [LB827]

SENATOR WALLMAN: As you realize, we had a little trouble in our county with the assessing, TERC board, all this...I was sitting on some of those. But the landowner had to pay some of that cost for appeals. [LB827]

LARRY DIX: If the appeal identifies the landowner, yes, then that landowner of course ends up at TERC, and there are some costs there. [LB827]

SENATOR WALLMAN: And this mediation thing, you know, between county employee and county board, if they appeal that decision, then the county board is off the hook?

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You know, if a county employee gets charged with something like sexual harassment or something like that... [LB827]

LARRY DIX: I believe that to be the case. [LB827]

SENATOR WALLMAN: Okay, thank you. [LB827]

SENATOR AVERY: Any other questions? Senator Janssen? [LB827]

SENATOR JANSSEN: Thank you, Chairman Avery. Do you have any idea what the average cost of mediation would be on a daily basis or anything? [LB827]

LARRY DIX: I do not, I do not; I wouldn't have an idea that I could give you. [LB827]

SENATOR JANSSEN: I think I've done it a few times within my company's structure and it's not inexpensive. It's cheaper than prolonged lawsuits; it's in the thousands a day, in this particular...well, in most situations, if it takes a full day. I just wonder if this isn't...I mean, that's a lot of money for a county clerk that is elected to serve, and if the board really has it out for a county clerk, which sometimes happens,... [LB827]

LARRY DIX: Sure. [LB827]

SENATOR JANSSEN: ...or county officeholder, and sometimes it's the other way. [LB827]

LARRY DIX: Right. [LB827]

SENATOR JANSSEN: But I just think this almost puts them in a very bad position to question because, one, it's going to cost them a lot of money to even go through mediation. And then, really, the board who's got the taxpayer money behind it is not all that motivated, because it's not their money, to settle. So it seems almost unfair in mediation without both parties having skin in the game, per se. [LB827]

LARRY DIX: Sure. Yeah, and I understand exactly what you're saying because you're right. At some point in time, somebody makes a decision, on their personal finances, to say, do I stand up for what I believe in--because it's a personal finance--where on the other side, somebody is making it based on not their own personal money but government money. And so if there were these two pools of money, then I think the decision process may be a little bit different. I see exactly what you're saying. [LB827]

SENATOR JANSSEN: Thank you. [LB827]

SENATOR AVERY: Any more questions? Senator Sullivan. [LB827]

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SENATOR SULLIVAN: Thank you, Senator Avery. How much does mediation cost, and how long does it usually go? [LB827]

LARRY DIX: Well, it...you know, that's just it. We've never really...we don't have anything to go on to really, you know, decide how long does it go. Typically in this instance, we're talking about a budget. I mean, we're talking about somebody's budget to operate their office, and so I would think it would be somewhat limited in scope because you're really talking about what does it cost to operate the budget, what do I have to do statutorily to do my job. And on the board's side, what do we do? Where are we at within the lid? What do we have to do for the overall taxpayer? And so I think it's more of a defined discussion, so I don't think it would go that long. But even with that, there is some cost involved if you get someone who is a qualified person to handle mediation. [LB827]

SENATOR AVERY: Any other questions? Senator Seiler? [LB827]

SENATOR SEILER: Senator, thank you. I think I can help with that. We do quite a bit of mediation with insurance companies in personal injury cases, and a good rule of thumb would be about \$2,000 for a full day, and that includes costs and...of getting documents put together and stuff like that. [LB827]

SENATOR AVERY: So it's not cheap. Any other questions? I don't see any. Thank you. [LB827]

LARRY DIX: Thank you. [LB827]

SENATOR AVERY: Any other proponent testimony? All right, seeing none. Any opponent testimony? Anyone wish to testify in opposition? Neutral testimony? Senator Dubas, you are recognized to close. [LB827]

SENATOR DUBAS: Thank you very much, and thank you for your questions. I think they were very good questions; I think they are things that we can find answers to. As I stated, probably several times in the course of my opening, I want to make sure that we preserve that budget-setting authority with the county boards. And, you know, maybe requiring that county officer to have to come up with that money out of their pocket is going just a little bit too far to protect that county board's authority. You know, I think I heard Mr. Dix say something about, you know, these officers sometimes do have discretionary money in their budgets that perhaps they could use. Yes, mediation is still costly, but it's a whole lot less than...I mean, I know personally what the costs were that were involved with the Nance County case, and that officer had to spend that money out of his pocket, and I know that wasn't...I know that was a hardship for him, but he felt very strongly, and so he was willing to do that. So if we can find some kind of a balance

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between these costs for mediation, I'd be very willing to work on that, so I'll have some more visits with Mr. Dix and see, you know, if this isn't something that we can find a resolution for this session. I think it's an issue that deserves consideration and deserves work. I know that we do have existing statutes in place that deal with mediators and mediation, so maybe some look at those statutes and seeing if there's some things we can take out of there. But I appreciate the committee's consideration, and as I work forward I'll probably be staying in touch with you, Senator Avery, to see if there's a quick resolution to what we're wanting to do. You know, I'd appreciate your consideration to advance; if not, it's something that I will be back with next year. [LB827]

SENATOR AVERY: Thank you. [LB827]

SENATOR DUBAS: Thank you. [LB827]

SENATOR AVERY: All right, that ends the hearing on LB827. We'll now move to Senator Harms's bill, LB1094. Welcome back, sir. You're a frequent visitor to this committee this session. [LB827]

SENATOR HARMS: (Exhibits 1-2) Thank you. Yeah, I sure have been, haven't I? Okay. Senator Avery, committee members, my name is John N. Harms, H-a-r-m-s. I represent the 48th Legislative District. Today I'm here to introduce LB1094. Thank you, first, for giving me the opportunity to come as usual and visit with you about this particular bill. LB1094 provides that any county with a 10,000 population or fewer inhabitants, that the county board may, by resolution, place the question of holding all elections by mail before the voters at a primary, general, or special elections held, as provided in Sections 32-559, or by a petition of registered voters equal to a number...to 10 percent of the total votes cast for the Governor in such a county at the preceding general election. Senator Avery, turnouts in American elections have been at a steady decline since 1960, and Nebraska is actually no exception to this national trend. In the recent 2010 midterm elections, a mere 43 percent of the registered voters in Nebraska chose to come out and vote. To address this issue and to reduce, I think, administrative costs, which we're finding across the country, is that many states have turned to absentee voting forms like...including early voting, no-excuse absentee voting, permanent absentee voting, vote by mail--and when you look at the literature and the research, they normally refer to that as the VBM elections. Together, absentee election reforms constitutes a spectrum of practice that can decrease time/travel/information costs for voters and improving overall of voting quality, and, particularly in the case of voting by mail, streamline the election administration. Roughly, today, about two-thirds of all states offer some form of absentee voting. Permanent absentee voting, which is essentially opt in to vote by mail, is available in seven states. Two states, Oregon and Washington, have successfully adopted the VBM--vote by mail--for all elections. Seventeen states, including Nebraska and neighboring states like Colorado and Kansas, currently conduct certain elections by mail, based on either election or

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precincts criteria. When adopted, permanent absentee voting has proven cost effective and extremely popular among voters because of its convenience, and it can provide the framework for more thoughtful and, I believe, energetic citizenry. The benefits of voting by mail election in Nebraska for counties with a population of 10,000 or less, the...are...I've narrowed them down to actually five areas. When I've done the research and I looked at what's happening across the country, at the top of that list is cost. Adopting a vote by mail has lowered county administration cost in some states by as much as 30-50 percent, particularly in Oregon and Washington. And keep in mind, again, in my previous comments, that they do the entire state, okay? Common election costs such as polls, site rental fees, poll workers' salaries, training costs, and maintenance of poll site tabulators are eliminated entirely, and they're actually replaced by less-expensive postal costs. Adopting the VBM will compensate for the upcoming loss of election funding due to the expiration of the funds from what we call Help America Vote Act, and I believe that's in about three years we lose those federal dollars for that type of assistance. Two, it's proven to work. Administration of vote-by-mail elections is more efficient than our current two-tier system of both absentee polling voting...or running one vote-by-mail election, rather than two, has obvious advantages to it. Adopting vote by mail simplifies the voting process, signifies decreasing the number of voting procedures, and results in the consistent election results. Three, it also...they have found, while they have done this, it does reduce fraud. States with a vote-by-mail election reduce potential vote fraud and makes it easier to detect. Every voter has to sign the ballot envelope in order for their vote to be cast, and that signature is checked against the signature on the voting registration card. So if there's a problem it's much quicker and easier for them to track it down. They know exactly where to go and how to get to that particular issue. Four, its popular support...its popularity...its popular support--I guess that's what I'm trying to say. All vote-by-mail elections has proven a method of election in Nebraska. Nebraska already conducts over 100...has conducted over 100 local elections using the vote-by-mail system, and absentee voters already make up about 15-20 percent of Nebraska's electorate in the statewide elections. Simply put, many Nebraskans are already choosing to vote by mail, and many county election officials recognize the benefits that vote by mail can bring to an election system. And, five, it's convenient. And voting by mail is easy, it's convenient, it's hassle free, and it results in more-informed voting overall. And in a vote-by-mail system, voting no longer involves taking off from work or trying to balance all your special time, whatever it might be. You could take the time to get that in advance, and you could study the actual issues, and I believe that it would help people understand a lot of the political process that we go through. And I'd also tell you that some of the other research shows that there's about an 80 percent approval rate; people really like it, and Nebraska is no different than that when they have these special elections. So in closing, Senator Avery, I would say that the vote by mail has a number of administrative benefits. It simplifies procedures, cuts costs significantly, and brings election officials into a position where they can calmly and efficiently carry out their professional duties. Moreover, Nebraska is in a good position to benefit from...like Washington, Oregon, if

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we would happen to bring this out and it would be approved, to eliminate some of the errors they made when they first started. It also increased turnouts without significantly altering the voting population...and vastly increasing voting. What they found...I mean, that's true in my own community. We've had a couple of school projects that that's the way they did it in our region, and I was surprised by the vote, and it was very successful and people liked it. It also significantly lowers the incident and potential of fraud in all elections, consequently remains extraordinarily popular among voters--particularly in Oregon and Washington as well as in Nebraska--for special elections. That closes my formal testimony. I do have some things I'd like to hand out. I held onto this because this is an amendment that I received, I guess a little bit late yesterday, but I didn't really get a chance to look at it until--thank you very much--late last night. This comes from the Secretary of State. They have made amendments to this bill which I do support. I'm not going to walk you through the amendments; they're here for you to look at. What I did is I outlined for you exactly what they do, and, to be honest with you, it made the bill better, and I think it answered some questions that people might have if this bill would come out of committee or even here. So I do support the amendments, and I think that it was well done, and I appreciate... [LB1094]

SENATOR AVERY: Does this deal with the distribution issue? [LB1094]

SENATOR HARMS: Pardon me? [LB1094]

SENATOR AVERY: Does this amendment deal with the distribution of votes? [LB1094]

SENATOR HARMS: Well, yeah, it just...it deals with quite a few things in regard to that aspect. It talks about, you know, the sections of the counties that--of 10,000 or fewer in habitants--it goes ahead and talks about that, that it removes a distribution clause. [LB1094]

SENATOR AVERY: Um-hum. [LB1094]

SENATOR HARMS: I mean, it...yes, it does. It goes all the way through this, and I think there was some question that, oh, that might have caused us some problems later on about the constitutionality. I think they've answered all those for me, and so this is for your review and your thoughts and to do what...kind of what you'd like, I think. [LB1094]

SENATOR AVERY: Okay. [LB1094]

SENATOR HARMS: But I do support this, think it's good, and I've... [LB1094]

SENATOR AVERY: Thanks for the summary, by the way. [LB1094]

SENATOR HARMS: Yeah, thank you. [LB1094]

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SENATOR AVERY: That helps. [LB1094]

SENATOR HARMS: It helps you really...makes it much easier for you to go through those amendments, particularly like this, so I'll be happy to answer any questions or... [LB1094]

SENATOR AVERY: Senator Wallman. [LB1094]

SENATOR WALLMAN: Thank you, Chairman Avery. Thank you, Senator Harms, for being here. I pushed for mail-in ballots when I was running for election, you know, and always had them in the office and stuff. [LB1094]

SENATOR HARMS: Um-hum. [LB1094]

SENATOR WALLMAN: But do you think...as a whole county, would you...a simple majority would put this in place of the voters? [LB1094]

SENATOR HARMS: Well, it has to be...I really think...well, you have two choices that way. You can have the county commissioners do it, or then you can have the people petition it. You have to have 10 percent, though, that have been...voted in the previous race for the Governor, and then that has to be spread out over the precinct so that...appropriately so that you...if you have a large city, it doesn't dominate what some of these smaller ones might have. Now large...10,000 or less is not very big, but for us in rural Nebraska, it really is, so. [LB1094]

SENATOR PRICE: Thank you, Senator Wallman. Senator Sullivan? [LB1094]

SENATOR SULLIVAN: Thank you, Senator Price. Thank you, Senator Harms. Do you have any idea how many counties this would...? [LB1094]

SENATOR HARMS: It takes in about...I think it takes in almost all of the 3rd district. It's awful close; it's fairly large in that amount, so. [LB1094]

SENATOR SULLIVAN: Do you...have you received any reaction from...? [LB1094]

SENATOR HARMS: I've had both very positive, and I've also had some who said, this is new, I'd like to think about it. But the nice thing about all this is that it's really up to them. See, I believe very strongly that we need to give our voters...or our citizens the opportunity to choose, and this is another choice. It's kind of like the management of former county government that we talked about last year. It was their choice. It's the same way with here. It's the citizens' choice to decide would they would like this to be more convenient. You know, and...can I...there's a couple. There's really five basic

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reasons why I'm doing this. Can I share those with you? Would that be okay? It might help you a little bit. One is when you look at our...if you look at the 3rd district in general, we have about 45,000 people--almost 46,000 people--that have disabilities, that are disabled. And I just believe that for some of those people who have difficulty being able to get to the polls--and a lot of them don't want to ask to have people come pick them up every year or every time they want to go out to vote--this really helps them. And then the senior citizens aspect of those that are 65 and over, like myself, we're seeing that slowly increase in the census review and particularly in some of the things we looked at, as you know, with our long-range planning process. And then the population loss, we know that that's going to continue. We've seen that in our planning process that we have done; there's no question about that's going to occur and continue to increase. Unless we can turn this around in some form or manner, this just gives them an option to participate, and I also think that long-term, it would save us some money. So those are... [LB1094]

SENATOR SULLIVAN: Your comment about somebody reacting that, well, I have to think about this little awhile, that's probably one of my concerns is that perception is nine-tenths of reality. And when you look at the reason we might do this--because of the decrease in population--sometimes it might almost be perceived as yet another way of taking away something, and I don't think that that's the way it is. So I think...and I don't know if you feel that there would be then a need to basically educate the citizenry to this kind of change. [LB1094]

SENATOR HARMS: Yeah. Oh, I think that would probably be true. But, to be real honest with you, our citizens are pretty smart, and I think if you actually give them that option and let them choose and decide, they'll go through that hassle. They'll go through that pretty quickly, whether they want to do it or not. A lot of it is tradition. [LB1094]

SENATOR SULLIVAN: Sure, absolutely. [LB1094]

SENATOR HARMS: You know, we have always gone...it's a place where in rural America we can go and we can see Joe--we haven't seen him for a while on the farm--and that sort of thing. But that's going to become more difficult in the future for us, and all I'm trying to do is to give our citizens in rural Nebraska another option to look at, so. [LB1094]

SENATOR SULLIVAN: So even with the suggested amendment, it still is two different options to make the change--either a resolution by the county board or by petition? [LB1094]

SENATOR HARMS: Right. Um-hum. People can do it. [LB1094]

SENATOR SULLIVAN: Okay. [LB1094]

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SENATOR HARMS: See, originally when I had this, I really just had it for the people, and other folks thought that maybe...at least that we ought to give the commissioners an opportunity to have a part of it, if they'd want to choose to do that, but it still goes back to the vote of the people, so. [LB1094]

SENATOR SULLIVAN: Thank you. [LB1094]

SENATOR HARMS: Um-hum. [LB1094]

SENATOR PRICE: Thank you, Senator Sullivan. Are there...Senator Pahls. [LB1094]

SENATOR PAHLS: Thank you, Senator. Okay, if I'm going to follow the logic of your proposal... [LB1094]

SENATOR HARMS: We'll probably have trouble then, don't we? (Laugh) [LB1094]

SENATOR PAHLS: Well, my logic was good. [LB1094]

SENATOR HARMS: Okay. [LB1094]

SENATOR PAHLS: No, this is...and you told me nothing but basically the good. Why would this...why not raise the limit to 20,000? Because that would be 80 counties, probably. All the...everyone. [LB1094]

SENATOR HARMS: Well, that's the...that's a problem for me, and the reason I'll tell you that's a problem is that I don't know whether we really want to do that to start with. I think you've got to start small and make sure that we don't have any errors. I mean, I wouldn't want to be in this...the Secretary of State to have to do that. Plus, I think what we have found is that we made some pretty good investments with some of the equipment and things and what we have now in rural Nebraska. And for every county that might choose to do this, we'll be able to move that equipment back here to eastern Nebraska where we probably need to have that. And I would just hate to see us get into something that's too large, too many people, opportunity for too much error. This just starts kind of small, and it...I've always been that way. I've always thought, take a pilot, do it, see how it works, then if you want to do it in the rest of the state, go ahead and do it, but that's my... [LB1094]

SENATOR PAHLS: You sound like a true educator when I hear the word "pilot."
[LB1094]

SENATOR HARMS: Yeah, you...we've both been there, haven't we? [LB1094]

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SENATOR PAHLS: But what would...how many...I did hear you; you mentioned a couple states. [LB1094]

SENATOR HARMS: Oregon and Washington do the whole state VBM. [LB1094]

SENATOR PAHLS: So they've...it's already been done, it's... [LB1094]

SENATOR HARMS: Um-hum. [LB1094]

SENATOR PAHLS: The model is out there. [LB1094]

SENATOR HARMS: Um-hum, it is, it is. [LB1094]

SENATOR PAHLS: Okay. [LB1094]

SENATOR HARMS: I just worry about going too quick with something like this and having a concern, and that's my...that would be my reasoning. [LB1094]

SENATOR PAHLS: Okay, thank you. [LB1094]

SENATOR HARMS: Whether it's valid or not, I don't know, but that's how I feel. [LB1094]

SENATOR AVERY: Any other questions? I don't see any. Are you going to stay around for closing? [LB1094]

SENATOR HARMS: Yes, I will, um-hum. Thank you. [LB1094]

SENATOR AVERY: Okay. Proponent testimony? Welcome, Mr. Morfeld. [LB1094]

ADAM MORFELD: (Exhibits 3-4) Good afternoon. I actually have some handouts as well here. I caught her while she was pouring some water. Chairman Avery, members of the committee, good afternoon. My name is Adam Morfeld; that's A-d-a-m M-o-r-f-e-l-d, and I'm the executive director of Nebraskans for Civic Reform. Nebraskans for Civic Reform is a nonpartisan, nonprofit organization, dedicated to making our civic institutions more accessible and strengthening K-12 civic education...see a few new members of the board. Just to give you background on our organization, we're a group of young professionals, mainly, a politically diverse group of young professionals, mostly young attorneys, that work on these issues. Nebraskans for Civic Reform is testifying in support of LB1094 for four reasons. First, all vote-by-mail elections make elections more accessible for rural voters. Second, all vote-by-mail elections streamlines and simplifies the election process for election administrators by eliminating the two-tiered election system. Third, all vote-by-mail elections are a proven system of...or a proven method of

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running elections in Nebraska. Finally, all vote-by-mail elections are extremely popular among the electorate and the election administrators. In regard to my first point, that all vote-by-mail elections make voting more accessible for rural voters, unlike urban voters, rural voters often have to travel longer distances to vote. Weather, time restraints, and other issues may prove to be more of a burden for rural voters than urban voters. All vote-by-mail elections eliminates many of these potential conflicts and barriers. In addition, I often vote by mail because it gives me an opportunity to become more informed on issues that are usually down ballot or may be more complex constitutional amendment issues, things like that, that I may have not anticipated before going to the polls. LB1094 will not only make voting more accessible, but perhaps it will lead to more informed voting. Next, our current election system is a two-tiered election system in which there are essentially two different kinds of elections: one by mail and one at the polling location. Nebraskans are increasingly voting by mail, but election administrators must administer two very different kinds of elections. Adopting all vote by mail simplifies the voting process and significantly decreases the number of voting procedures and perhaps results in more consistent election results. In the fall of 2011, I traveled northeast Nebraska and met with nearly 20 election administrators. In the course of talking to them, I asked them about their thoughts on not having all-mail elections. Much to my surprise, not one of these county clerks thought that it was a bad idea; in fact, most were incredibly enthusiastic. They noted the costs of, and administrative logistics of, recruiting poll workers, paying poll workers, training poll workers, paying for polling location supplies, coordinating polling locations, and the list goes on and on. Long story short, all vote-by-mail elections eliminates many costs associated with polling place locations and creates countless administrative efficiencies. In Oregon and Washington, election administrators have reported double-digit percentage savings in their election budgets. Now I know that in Nebraska there may be some elections where it's more cost efficient, and there could be elections that are less cost efficient, and I'm sure the Secretary of State may testify to that effect. I should also note that we had talked extensively with election officials in Washington and Oregon and most of their...and the election officials that we actually talked to were election officials that had implemented it, had seen the system before that, implemented all vote-by-mail elections, and their thoughts on the system were extremely enthusiastic. They actually saw a lot of administrative efficiencies, and they really enjoyed and appreciated having a one-tier election system where they only have to worry about the rules and regulations for having all vote-by-mail elections and not polling place locations at the same time. Third, all vote-by-mail elections is a proven way of running elections in Nebraska. Under current statutes, counties may apply to the Secretary of State and hold special elections all by mail. This has been proven not only to be a successful way of running elections but also a popular way of administering elections among election officials. Voters find it convenient. This is particularly true among...in some counties as they consolidate polling and precinct locations to save money. Polling places are no longer always just down the street. Fourth, all vote-by-mail elections have a...have been proven to be incredibly popular among the electorate in both Washington and Oregon, both of which

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completely...have completely all vote-by-mail elections statewide. In Washington, the approval rating of all vote-by-mail elections is polled at 80 percent. In Oregon, all vote-by-mail elections were actually enacted statewide by referendum. In conclusion, LB1094 is popular among citizens and election administrators alike. It is cost effective and will make voting more accessible for rural Nebraskans. I ask that you advance LB1094 out of committee and to the floor for consideration. I'd be more than happy to answer any questions that you may have. [LB1094]

SENATOR AVERY: Thank you. Questions from the committee? Senator Wallman? [LB1094]

SENATOR WALLMAN: Thank you, Chairman Avery. Yeah, thanks for coming down. And I have no qualms with your numbers in Washington and Oregon. [LB1094]

ADAM MORFELD: Um-hum. [LB1094]

SENATOR WALLMAN: But as we get to cost-cutting measures in the postal service, I can see maybe rural delivery will be gone. [LB1094]

ADAM MORFELD: Um-hum. [LB1094]

SENATOR WALLMAN: So then we'll still have to have collection points or something. [LB1094]

ADAM MORFELD: Certainly, and... [LB1094]

SENATOR WALLMAN: Then you've got to have security somewhat. [LB1094]

ADAM MORFELD: Um-hum. And actually, I believe...I can't remember whether it's Washington or Oregon. They actually have drop-off boxes, so they do a mail system, and then they also have a drop-box system, too, depending on convenience of the voter, if they don't want to pay for postage or they just want to drop it off in a secure location. I think Secretary Gale, or maybe Neal Erickson, could talk a little bit more about the mail system because I know that they have talked to the U.S. Postal Service. However, I think that what will probably happen is they'll cut down service, maybe on Saturdays. And then, you know, the Secretary of State promulgates the rules and regulations, I believe, under this proposed legislation. I mean, there could be some leeway allowed for when those ballots are due and when is the last day you can send them out and things like that, so I think there's ways to mitigate that issue. [LB1094]

SENATOR WALLMAN: Thank you. [LB1094]

SENATOR AVERY: Any other questions? Senator Janssen. [LB1094]

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SENATOR JANSSEN: Thank you, Chairman Avery, Mr. Morfeld. And actually, Senator Wallman, that's a good point with the number of post offices that are proposed to be closed here. That could make it extremely difficult. Is there...one of the reasons you brought up was voter fraud or security--I think strengthened ballot security. [LB1094]

ADAM MORFELD: Um-hum. [LB1094]

SENATOR JANSSEN: Is there an issue with that right now? [LB1094]

ADAM MORFELD: No, there isn't, but I actually inserted that in our memo just for you, Senator, because I know that's an issue you're concerned about greatly. [LB1094]

SENATOR JANSSEN: Right. I appreciate that. [LB1094]

ADAM MORFELD: No problem. [LB1094]

SENATOR JANSSEN: Is that in the bill, too, that...this signature verification process? [LB1094]

ADAM MORFELD: I think the Secretary of State can speak to that better. But, I believe, under our current process, that signature has to be verified before actually opening the ballot and counting it. But if that's not the case with our current process, I think it should be. [LB1094]

SENATOR JANSSEN: So it's...and I'll ask this to you and...although there are risks doing so. [LB1094]

ADAM MORFELD: Um-hum. [LB1094]

SENATOR JANSSEN: It...so the signature is verified on an outside of an envelope, or how does that...? [LB1094]

ADAM MORFELD: Yeah, when you send your all vote...when you send your current ballot with...using the all...or not the all vote...a vote-by-mail process, you have to sign the outside, and it's my understanding is that they currently have to match that signature up to your voter registration card. And then if that matches up, they open the ballot, and then they put it in the ballot counter. [LB1094]

SENATOR JANSSEN: I'll be interested to hear if that's actually what happens. [LB1094]

ADAM MORFELD: Um-hum. [LB1094]

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SENATOR JANSSEN: Is...are we concerned about then the secrecy of the ballot, because my name is on the outside, and they're going to open it up, and they're going to know that...who I voted for? [LB1094]

ADAM MORFELD: And yeah, it's...and Senator Schumacher actually brought a bill, as you probably all know, that would address that issue. We...I wasn't able to testify but I did send a letter of support. You know, I believe that is an issue, and we supported that. However, that being said, I think that most election administrators, from the people that I have talked to on that issue, I mean, generally what they do is they open the ballot, and they throw it in the pile, and nobody really looks at who you vote for. So I think it's kind of an honor system, but I think it's a legitimate concern. [LB1094]

SENATOR JANSSEN: Then with the signature thing, it says this is...I'm going off your handout here. [LB1094]

ADAM MORFELD: Absolutely. [LB1094]

SENATOR JANSSEN: It says the ballot is not opened until the voter has been contacted and submits a new signature--that's if the signature doesn't match up. [LB1094]

ADAM MORFELD: Um-hum. [LB1094]

SENATOR JANSSEN: Is it...does it...? [LB1094]

ADAM MORFELD: That's actually how it's done in Washington and Oregon. [LB1094]

SENATOR JANSSEN: So it... [LB1094]

ADAM MORFELD: So that could be promulgated in the rules and the regulations that the Secretary of State would provide for...or there...I guess there's an amendment out there, so maybe that would addresses some of those issues in the actual... [LB1094]

SENATOR JANSSEN: And it might; I don't know. [LB1094]

ADAM MORFELD: Yeah, and I don't know either; I haven't had a chance to read the amendment. [LB1094]

SENATOR JANSSEN: Because I'm curious if they would have to...so they would have to...the way I'm reading this...in Oregon then...and what we're using basically as the guideline for this bill then is that somebody would have to come back and prove that that's their signature. [LB1094]

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ADAM MORFELD: Or what would happen, depending on the time frame, is they could be sent another confirmation card--is how they do it in Oregon or Washington--where it's like, sign here, send it back, or they would have to come back. I think there's two or three different ways that they can do it. [LB1094]

SENATOR JANSSEN: I mean, there could be a case where...I don't know, I'm...been 25/30 years since I've signed it. I signed my name differently when I registered to vote, and it doesn't match up. That could be a huge, huge concern that, you know, people...and now I have to go through the extra...I have to go back in, I have to sign a card, get a ride... [LB1094]

ADAM MORFELD: It's actually...in Oregon and Washington, Senator, that was actually very rare. It does not happen very often that they have to have somebody come back in. [LB1094]

SENATOR JANSSEN: Do you know how often it happened? [LB1094]

ADAM MORFELD: I can find out for you, Senator, and get back to you. [LB1094]

SENATOR JANSSEN: I'd be interested. Is there another page to this handout? [LB1094]

ADAM MORFELD: I don't believe so. [LB1094]

SENATOR JANSSEN: I was reading your "Strengthened Ballot Security," and your end note was...16 was your footnote... [LB1094]

ADAM MORFELD: Yes. [LB1094]

SENATOR JANSSEN: ...and I didn't...and your endnote stops at 15. [LB1094]

ADAM MORFELD: Is it not on there? I'll get you that. I think that that was a...that cited an election official that we had talked to. [LB1094]

SENATOR JANSSEN: Yeah, I'd be curious to see who that was. [LB1094]

ADAM MORFELD: Yeah, and I can get you that election official's contact information too. [LB1094]

SENATOR JANSSEN: Yeah, that's all. Thank you, Mr. Morfeld. I appreciate it. [LB1094]

ADAM MORFELD: Yeah, sorry we're missing the end note. [LB1094]

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SENATOR JANSSEN: It was the only one I was concerned with. [LB1094]

ADAM MORFELD: I know; I know it would be. [LB1094]

SENATOR AVERY: You have plenty of room there; you have plenty of white space above the end note, so you could just move it up a couple lines and get it all on one page. [LB1094]

ADAM MORFELD: Okay, I'll be more careful with my formatting next time. [LB1094]

SENATOR AVERY: Any other questions? I don't see any. Thank you for your testimony. [LB1094]

ADAM MORFELD: Thank you, Senator. [LB1094]

SENATOR AVERY: Any other proponent testimony? All right, we'll move to opponent testimony. Any opponent testimony? All right, neutral testimony. Welcome, Mr. Secretary. [LB1094]

JOHN GALE: Thank you, Chairperson Avery. Chairperson Avery, members of the committee, I'm John Gale, Secretary of State; J-o-h-n G-a-l-e, and I'm here to testify in a neutral capacity regarding LB1094. And I have to tell you I'm totally stunned by the testimony I've heard so far. I really came originally to testify in favor of Senator Harms' bill. I thought it was a good-faith effort to help small counties, give them one more arrow in their quiver to handle efficiencies and economies that all of our small counties are struggling with and which we've tried to address in previous bills, which have allowed county election officials to designate special elections by mail-in ballot for reasons of cost or voter turnout or both. We also allow county election officials to designate--particularly rural precincts that have small numbers of voters--to become all-mail precincts for reasons of efficiency and costs as well, and I thought that LB1094 was a step in that same direction. And instead I feel like I'm here for a debate on whether or not Nebraska should go to all mail-in ballots statewide like Oregon and Washington. I am totally, absolutely, invariably opposed to that concept. If we're here to debate that, then I would like more time to come back and address those issues. I don't agree with a lot of the information that's been shared, particularly by Mr. Morfeld, who I understand does represent an organization that is in favor of Nebraska being an all mail-in ballot state. So I'm very confused by the concept contained in LB1094, by Senator Harms. And the amendments that we suggested after we saw the green sheet, which we were very opposed to, it had a number of significant election administration issues that we absolutely couldn't live with, nor could our election county administrators live with. But with the amendments that Senator Harms referred to, I think it makes the bill workable and acceptable in Nebraska. But let me say this: Over the past 15 years, we have been moving in the direction of getting voters more options, more arrows in the

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quiver, more opportunities to vote besides one size fit all. And so we've gone from for-cause mail-in balloting to no-cause absentee balloting; we've gone to in-person balloting, if people want to go in and vote in person early; we allow people to, obviously, vote in their precincts. And we think those are all excellent options to give busy people more opportunities to vote, but it's an orderly process. It's step-by-step, taking our time, doing things right, making sure they work before we go to any further steps. There are a lot of other options out there. Like telephone voting, we haven't talked about that; that's another option that's out there. Eventually, Internet voting will become another option, so the idea is to give the citizens many opportunities. But we have spent \$22 million putting into place a statewide election administration system that is one of the most efficient. It's been rated A on the national level; it's statewide, and it's worked well--2006, 2008, 2010, we haven't had any problems with it--and I don't think there's any reason to cast out all of the expensive equipment and the training that's been done just in order to go to this step that Oregon and Washington, whose example I don't usually follow in any part of my administration, to use them as an example of where we should go with elections. Now in terms of counties, I think allowing the 10,000-population west counties to have the option to elect--by their county board or by vote of the people by an issue petition--to go to all-mail balloting makes some sense. Why? Because it's cost efficient, of benefit to the smaller counties. We have many, many reasons why small counties are under a lot of difficulties, particularly their county election officials, in finding ways to save money. But in terms of 50 percent cost savings? We don't see that in the special elections that are held by our county election officials now that are all mail-in election. It's a modest savings; it's not 30-50 percent savings to go to all-mail elections, it's a modest savings. Voter turnout is higher, but, in this bill, voter turnout is not the issue. These smaller counties vote by the highest percentage in the state anyway. The issue is cost inefficiencies for the counties, so I think that's where we need to be focusing on this bill and taking it in good faith and not as an attempt to be a first-step effort to push Nebraska into an all-mail voting state. So many people do like to go to their local community and vote in person; it's a social matter. Many communities like to have their voters come into the community and vote. In Valentine--big county--they've gone to all-mail balloting for everything except Valentine, and they like it. Except, in Valentine, they like to have those people voting in their community and not by mail. So this is not the tsunami across the nation moving toward all-mail balloting, but for small counties it is an option, and so we support that with the amendment. [LB1094]

SENATOR AVERY: So let me see if I get this correct. With the amendment, you support LB1094? [LB1094]

JOHN GALE: Yes, I do. [LB1094]

SENATOR AVERY: Okay, but your objection was to Mr. Morfeld's testimony. [LB1094]

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JOHN GALE: Absolutely. [LB1094]

SENATOR AVERY: Not to the bill itself? [LB1094]

JOHN GALE: Absolutely. [LB1094]

SENATOR AVERY: Okay. All right. [LB1094]

JOHN GALE: And I would say this. The testimony was as if every one of those 66 counties is going to immediately do that. Very few counties have even accepted the option of going to designation of small precincts of...that have low voter population and have nothing but gravel roads and difficulty getting to the polls. We only have about 28 precincts that have been designated in the last eight years, out of 1,450 precincts, so the counties aren't rushing to adopt all mail-in voting precincts. There's no urgency in their mind; it comes down to a cost issue. So I think what you're going to have, you're going to have some counties that are going to see the value of doing this, but yeah, I think it's going to be a modest number is just what we've seen in these other steps that have been taken. Some counties will like it as an idea and some won't, and so it will be a modest step forward for some counties. It's not going to happen in all 66 counties. [LB1094]

SENATOR AVERY: Well, would you be willing to address the issue of the closing of postal offices and whether or not that might be an insurmountable obstacle to such proposals as this? [LB1094]

JOHN GALE: Well, I really am not prepared to address that; I have not talked with postal officials myself other than what I've seen in the news. Mr. Erickson has had more conversations than I have with it. I don't think we've seen enough closings or enough proposals by the postal service to be hugely alarmed yet. But obviously if there's suddenly an effort by the U.S. Postal Commission to significantly close rural post offices, that could become a problem. Now remember, when you go to all-mail balloting, you have to have drop boxes, too, because some people don't want to put the postage on, or they're going to go to the area where the drop-off box anyway, and they'll drop it off. It's just they don't have to do it at the county seat, at the county courthouse, the drop-off boxes, like they have in Sarpy County, can be distributed various places, and that's why the Secretary of State rules and reg authority is so important in this bill, is to give us the opportunity to address things like ballot distribution, collection security. We want to be sure that drop boxes are very, very secure. We want to be sure they're in very, very secure places. We want to be sure they can't be tampered with, and we want them the same, county to county to county. So we have opportunity with that discretion to address those issues so it's uniform across the state and also as secure and as safe as it possibly can be made. But in terms of the post offices, obviously we're concerned about that not only for this bill, but we're concerned about it for the special elections that

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communities are now holding by all mail. We're concerned about the rural precincts so that...at this point it's not a red flag of alarm, but we're certainly holding the yellow flag, waiting to see what the Postal Commission does next. [LB1094]

SENATOR AVERY: Thank you. Senator Sullivan? [LB1094]

SENATOR SULLIVAN: Thank you, Senator Avery. So I'm just trying to get a sense of what this procedure would involve. They can petition or it can be a vote of...or a resolution by the county board to enter into...? [LB1094]

JOHN GALE: That's correct, Senator Sullivan, and it would go to a vote of the people then, by either procedure, at the next general election. That was one amendment that we thought was very, very important because that's when you're going to have the highest turnout of the people in an election, and you want the broadest turnout of people voting on that issue. And then it allows the county election officials a year-and-a-half to get ready before they use it at the next general election. [LB1094]

SENATOR SULLIVAN: And then, should this pass, it gives your office time to promulgate rules and regs so that if a county decides to do this, they just have to abide by those rules, they don't have to make application to you, is that right? [LB1094]

JOHN GALE: Exactly, Senator. The green copy provided that even after there's a vote of the people, they still have to come to my office and get further permission--and that's certainly not necessary--but having rules and regs that make sure that any counties that do adopt this all mail-in ballot for all elections follow the same rules and regs so we don't have disparity and constitutional issues with equal protection from county to county. One of the interesting things is the counties that do adopt this, it means that all recall races will now be by mail-in ballot. Right now, it's not allowed by statute. So that's one change that you'll be facing, is the counties that do adopt that, recall races will be by mail-in ballot just like special elections are now, so that is one of those unique changes that those counties will be adopting when they adopt this process. [LB1094]

SENATOR SULLIVAN: And speaking of recall then, looking at the last bullet on...for the amendment. If I could, there is a procedure then, in case the county wants to go back and change its mind, is that right? [LB1094]

JOHN GALE: Correct, Senator Sullivan. That was another thing that we had trouble with, with the green copy, was that it made it permanent. [LB1094]

SENATOR SULLIVAN: Okay. [LB1094]

JOHN GALE: There is no going back, and we think people should have the option. It may be that you have a county that's rapidly growing, initially they think that all mail-in

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balloting is efficient and cost-saving, but maybe with county growth they have several communities that become very large, booming communities, and they find it more efficient to go back to precinct voting, so we... [LB1094]

SENATOR SULLIVAN: Um-hum. So then do they back out the same way they came in? [LB1094]

JOHN GALE: Back out the same way they came in. [LB1094]

SENATOR SULLIVAN: Oh, so a year-and-a-half before they change, is that right? I mean, they have to take it to a vote of the people again? [LB1094]

JOHN GALE: Correct. [LB1094]

SENATOR SULLIVAN: Okay. [LB1094]

JOHN GALE: You had to...have to take it to a vote of the people, yeah. [LB1094]

SENATOR SULLIVAN: Okay. All right, thank you. [LB1094]

SENATOR AVERY: Senator Pahls, a question? [LB1094]

JOHN GALE: Yes. [LB1094]

SENATOR PAHLS: Yeah. Secretary of State, just by your tone of voice, it sounds like there was a minor reprimand because the question was asked about whether this was going to be rural counties or statewide. The reason why those questions are asked is trying to find out where...what are the parameters that the senator was looking at. So I do, you know, almost feel like there's been a minor reprimand from me sitting on this side, and I am entitled to ask questions. I was trying to figure out what this senator...where he was going with this. It was just a stepping stone, and he told us it was not. And also, we had a proponent come up, probably going against what many of us think up here, but that happens on every...almost on every hearing we have proponents and opponents that we have to separate that knowledge. [LB1094]

JOHN GALE: It wasn't a reprimand to the senator...Senator Harms or to yourselves. [LB1094]

SENATOR PAHLS: No? [LB1094]

JOHN GALE: What I'm addressing is I didn't think a lot of the comments of Mr. Morfeld were germane to the issue. Senator Harms did address his statute and introduced his bill and offered the amendments, which we appreciate. We think that cleans up the bill

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and makes it a much better bill for you to consider or for the counties to consider. For example, if a county were to adopt...under the green sheet, if they were to have that bill passed and they adopted countywide all-mail elections, it would...that bill would have eliminated the current system for rural precinct all-mail voting. [LB1094]

SENATOR PAHLS: And I do think that the senator did point out that, you know, by suggesting that we had all this equipment and all this, that we shouldn't be doing that. And I just think sometimes we prod, and we ask questions that cause us to think, to reaffirm. So, I mean, I don't, you know, I... [LB1094]

JOHN GALE: I was much more concerned about Mr. Morfeld's testimony. [LB1094]

SENATOR PAHLS: Yeah. Right, and I don't want to bring that up anymore. Here's the question what I thought...felt quite interesting. I happen to come from the Millard area, and we just had an election not too long ago about a bond issue. Now the Millard school district is a relatively large district--third largest in the state. Now...and I know why they wanted to do this, but I think the Board of Education wanted it to be a regular mail...or regular voting. But the election commissioner says, no, he wanted to do it by mail and it was very successful. I mean, you...see, so it is done, I mean, and that's a large area. [LB1094]

JOHN GALE: But, Senator Pahls, there's a huge difference between special elections and general elections, yeah. [LB1094]

SENATOR PAHLS: And I do realize it, but I'm still saying a lot of people were involved in that, and I'm fine with what you said. Thank you. [LB1094]

JOHN GALE: Yeah, thank you, Senator. [LB1094]

SENATOR AVERY: Senator Janssen? [LB1094]

SENATOR JANSSEN: Thank you, Chairman Avery. Thank you, Mr. Secretary. [LB1094]

JOHN GALE: Senator Janssen. [LB1094]

SENATOR JANSSEN: I kind of concurred with you. And I know Senator Harms will probably close, and he'll be able to clarify some things. But he did say, in answering Senator Pahls's question, that this was a pilot program, and a pilot program, to me, means you're looking to expand it; if it works, you're going to expand it. So I did take it that way, but he'll get a chance to clarify that. And I feel this, in my opinion, that the Nebraskans for Civic Reform would like all of that. I don't know if that's their official stance, but I think that's what...something they're going to. I've maybe been on their

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Web site, and I'm not certain of all of their goals, but I think that's one of them, so I think you're dead on with what the goal is. I don't know if that's Senator Harms' primary reason for doing this; I take him at his word as I always do. I'm concerned...we've pretty much established, even with Senator Schumacher's bill, that we're really on a constitutional, I don't know, in-between here, gray area, I guess, with is it constitutional or not with a secret ballot, because is this truly a secret ballot without the envelopes? And that's one thing. But there has been Supreme Court rulings that says if you do a mail in--not a mail in the way we're talking--absentee ballot or whatever, the price of postage would not constitute a poll tax or a poll fee because the privilege of doing that is something you chose to do. I might be mincing words here, but in the case of this, even in the counties of 10,000, if it passes, it may not be the choice of somebody to do this; it might just be forced upon them that they have to do this now. And we're talking about postal services closing, so now I get...mail this ballot. I'm not certain if I have to pay the postage on it, but I may not have transportation, so I've got to find transportation to this. One could say that that's a poll tax that I didn't choose for my convenience in that case, so that's, I guess, something that I found that could be a gray area of why not to do this. Maybe you can give me a reason that I'm wrong, and I'm sure somebody might, but... [LB1094]

JOHN GALE: Well, you're addressing an interesting point because it only takes a majority of the citizens to adopt this or a majority of the board to put it on the ballot, and not everyone's going to vote for it. There is people who are going to have their own reasons to think that they want to keep the system we have, and that's why the drop boxes are such a significant part of it. But it really neutralizes the benefit of mail-in ballot if you have to drive 15 miles in order to deposit it into a drop box. So with the loss of rural post offices, it becomes a question of, well, then how many drop boxes do you have to have, and do you have enough secure locations to place those drop boxes so that people have the same convenience that they have today with poll workers in precinct locations that are ADA-compliant? It just costs the county more to have those precincts manned by five people with the equipment in an ADA location than it would be to have a drop box is my understanding. But your point is well-taken; there are, I believe, there are...like in, I think, in some of the elections--maybe the special elections--the postage is paid, but it's not a constitutional requirement that it be paid. [LB1094]

SENATOR JANSSEN: All right. And then in this case, if you had to drive 15 miles--I mean, one could assimilate that I have to take a cab or whatever--we could be going down the...a path of a poll tax here. I'm just...something I've heard before, so. And it could be expensive to...you know, I didn't pay attention or whatever, I didn't vote to go to an all-mail ballot and...but I want to vote in the general election. Now I don't know about it. So there would be a price to educate people that, you know, we're going all-mail ballot now--I'm thinking TV, radio, newspaper--that you'd almost have to...we'd have a duty to inform the public that now we have this mail-in ballot, and this is what you're

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going to get because a lot of people won't be aware of this. And so we could be disenfranchising voters that wouldn't be expecting this all mail-in ballot, and then all of a sudden something shows up. Maybe it's junk mail; we get a lot of that now, throw it away. They wonder, why didn't I get to vote? [LB1094]

JOHN GALE: Well, you wouldn't have to look at it too hard to know that it contains something official with regard to elections, but you're right. If a person isn't inclined...if they're a registered voter and they're not inclined to vote or be interested and you get a mail-in ballot, indeed, they may not return it; it's their option. Obviously, they...it's their choice as a citizen. If they don't want to vote in precinct or vote early or vote absentee, they have all of those choices to say no. But if they say yes and don't get the right amount of postage, for example--that's been raised by a number of people, what if they don't get the right amount of postage, what happens to the ballot--well, the post office is required to deliver the ballot. The ballot gets delivered and it gets counted. Basically, the insufficient funds becomes--or insufficient postage--becomes a debt for the county or for the election official. And whether they pay it or not, I don't know whether U.S. attorneys go after them or not for the collection. Most counties have a little reserve that they use for that insufficient fund, but...so I suppose if a person put minimum postage on a ballot because that's all they could afford and they only had three \$0.01 stamps and put it on, you know, the ballot would get delivered, and the county would pick up the rest of the cost. [LB1094]

SENATOR JANSSEN: Thank you, Mr. Secretary. And I'm not so sure about that I would know for sure if I got that ballot. I guess I'll self-report on myself. I recently refiled for election, and you sent me something. And I just opened it today, and I think that came a week ago. So I wasn't aware of it and been down here quite a bit, so...and everything...yes, sir. [LB1094]

JOHN GALE: You're busier than the average citizen, but you're right. [LB1094]

SENATOR JANSSEN: Okay. And everything comes, though now they try to trick you into opening junk mail--important, you know, "Important Documents Inside: Open Immediately" and whatnot. [LB1094]

JOHN GALE: It's true. [LB1094]

SENATOR JANSSEN: You see a lot of that right now, so there's a lot of misleading mail, and people throw stuff away. I know I have. I shouldn't have, so... [LB1094]

JOHN GALE: Well, you would hope that those issues would all be well considered when the county goes to vote on that question. You would hope it would be well discussed in the media and well discussed by the local political parties. And the questions of the convenience and possible voter fraud, issues of redelivery of the ballot, those are all

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things, besides whatever the county clerk thinks, which maybe they think it's more efficient, cost wise, and more efficient for the voters. And maybe they think it will get a better voter turnout, but that would be the county election official's attitude. I think you'd hope that there would be a good discussion of the issues. [LB1094]

SENATOR JANSSEN: I would hope. I heard your testimony, and I was vaguely aware of this. I didn't have any facts to back it up. You said the counties that we're talking about, 10,000 or under, actually have some of the highest voter turnout right now, is that correct? [LB1094]

JOHN GALE: It's true; it's correct. [LB1094]

SENATOR JANSSEN: So to me, it would make more sense to start...I wouldn't want to do this, but wouldn't you start your pilot program, if it's truly to get voter turnout, which I've heard is one of the primary reasons, to start it in the counties that don't have high voter turnout? [LB1094]

JOHN GALE: Well, I guess that's not one of the primary reasons why we're supporting Senator Harms' bill with the amendment. Our primary consideration is just in terms of the difficulty in finding poll workers in many of those counties. They're very elderly people; when that generation is gone, you may not find new people that you can find to serve as poll workers. Countywide, in addition, there's a cost because they all get paid, they're there long hours, the equipment has to be transported and set up and tested, so there is a quite a bit of fixed overhead that counties incur. And so just like the ability to designate rural precincts to be all mail-in for reasons of economy, that's why we think Senator Harms has a good idea for the 66 smaller counties, if they want to go that way, but I don't think it's going to be a rush in that direction. [LB1094]

SENATOR JANSSEN: Thank you, Mr. Secretary. And Senator Harms did lay out multiple reasons for doing it. That wasn't his only reason; it was just one that I touched on. Thank you very much. [LB1094]

JOHN GALE: Correct. Thank you, Senator. [LB1094]

SENATOR AVERY: Thank you. Any other questions? I don't see any. Thank you, Mr. Secretary. [LB1094]

JOHN GALE: Okay, thank you, Mr. Chairman. [LB1094]

SENATOR AVERY: All right, any...I think we have one more neutral? [LB1094]

PATTI LINDGREN: Yes, I think. I'm...I came for another bill that was similar to this. [LB1094]

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SENATOR AVERY: Well, you're welcome to testify on this one. [LB1094]

PATTI LINDGREN: I'm Patti Lindgren, Saunders County Clerk and Election Commissioner. Patti with an i, P-a-t-t-i; Lindgren, L-i-n-d-g-r-e-n. I could answer a lot of your questions from experience firsthand that might help you. I support the senator's bill for basically what he says, and it's a good start, to start. Secretary of State has already presented, somehow along the way, that we, slowly but surely, have been able to do elections by all mail. I have utilized that extensively in the last couple years for my own elections--special elections. As county clerk/election commissioner, I have Raymond Central School District, which is a Lancaster school district in my county--Lancaster County School District--but I have more registered voters than Lancaster, so I get to conduct all of their elections. I get to do all their candidate election and certifying to them. Neal has told me that I need to get out there and, you know, maybe encourage somebody to move over back into Lancaster County so Lancaster County can actually do their own work, okay? Raymond Central sits in also Butler County and Seward County. It is a voter population of about 34,000, growing just a little bit more than that. As far as cost to the elections? And, mind you, my...what I'm going to tell...it's pros and cons. There's good parts to it and there's bad parts to it, but I've done it and I've experienced it, okay? I've done four all-mail elections by...for special elections. I tease Neal when they were teasing about...talking about, a couple years ago, that Saunders County would be a pilot to do all mail if we wanted to switch all that way. I would probably have to take that pilot statement back, from some of the things that we've experienced, because it does take a lot of work, a lot of laying out to get it just right, and I...and as far as the cost, it breaks even. It's a break-even cost, and it's not a significant savings. If you were...and I did a break-even cost because I fold up my ballots. Now there are election clerks out there that have experienced folded ballots that will never do it again; they have nightmare stories to tell you, and I visited with those clerks prior to doing it by fold-up ballot. You have to lay the ballot out--wording out--just right so that when you fold it in half and fold it again that the crease does not land in an oval because that could affect the way the vote outcome comes. So you place that question in the middle column, and you make the wording spread out so that the ovals land just right; and you even have to dicker with the folding so that it ends just right to land in the middle. You cannot put a stack of ballots through your ballot counting machine. And I run a 650 and my county is 20,000, a population of 20,000, where the registered voters are 14,000. You cannot put a stack in the 650 like this to shoot them ballots through within a short period--a few minutes. You can only do a stack about this much. You fold/bend, fold/bend, every which way to get them to go through. You have to have backup ballots in case the ballot just absolutely refuses to go through or gets caught or torn so that you can do the process of duplicating. Duplicating is you mark your original as Original 1; you take the duplication ballot as Duplicate 1; you have a canvassing board that this person reads it, this person marks it, and the person watches it to make sure that it's marked correctly. As far as you're concerned for "my vote isn't private

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anymore," that same concern is there currently with the current system we have for early voter or absentee. In my office, the way the process is, is you have to do...you do have to check the signatures to the voter registration system that's already out there. And you're very good about the part, well, I registered 30 years ago, my signature is changed, and yes, it has. So what you do is you go back to the last election that they voted in, and you see if that person voted. There you have a new signature. And you take that and you scan it into the system, and you have a verification. If you cannot do that because somebody had not done that, then you can...there is an issue to address of notifying that person and in a short period of time, coming in and re-signing something so you get a good signature. But by the time that we do all this election stuff, we don't care. All we want to do is get it done; we want to get it voted. And the way we do it is once we're checked in and they're putting an out ballot...by their...done by number of ballots. You have ballot number one that comes in, your ballot 59 that goes out, then we get them all in order and all checked in. They get tore open, they go upside down--there is multiple individuals in my office--that stack is moved. That person, when it's upside down, pulls that ballot out, puts it in a stack. It's not...the name is not seen. And, like I said, again we don't care; that is your right. And it is our responsibility, in a small office, to keep that a secret ballot, and nobody knows that. So experience, I think, is a good start for the counties that size. I think it's a good start to learning the process, to get that stuff done as to work out any quirks and things that go wrong. But I've enjoyed being able to do the all mail for special elections, and it has worked for me. I don't know if I'd want to do it for the primary or general or anything like that because there's a lot of things involved, and there's a lot of steps to get to that election point to do it. [LB1094]

SENATOR AVERY: Thank you. You have a red light. [LB1094]

PATTI LINDGREN: I'm sorry, I'm sorry. [LB1094]

SENATOR AVERY: No, wait, wait, wait, wait. We might have some questions. [LB1094]

PATTI LINDGREN: Oh, jeez. Okay. [LB1094]

SENATOR AVERY: That was very helpful. [LB1094]

SENATOR SULLIVAN: It was. [LB1094]

SENATOR PAHLS: Yes, it was. [LB1094]

SENATOR AVERY: Experience is good. Questions? Yes, we do have one. Senator Sullivan. [LB1094]

SENATOR SULLIVAN: Thank you, Senator Avery. Thank you, this was very helpful

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testimony. You said you've conducted four special elections by mail. [LB1094]

PATTI LINDGREN: Um-hum. [LB1094]

SENATOR SULLIVAN: Now, under the current arrangement, did you come up with your plan and submit it to the Secretary of State? [LB1094]

PATTI LINDGREN: Um-hum, um-hum, and there were a couple of occasions that I might have left something out that the Secretary of State has contacted me back and suggested that or stated that I needed to add this to my step to do. [LB1094]

SENATOR SULLIVAN: Now if we were to go forward with this legislation, you wouldn't have to apply, but Neal or their shop would put together rules and regulations. [LB1094]

PATTI LINDGREN: Um-hum, um-hum. [LB1094]

SENATOR SULLIVAN: I would...would you venture to guess that maybe some of you election commissioners would want to weigh in, in the formation of those rules, to give some suggestions? [LB1094]

PATTI LINDGREN: The election division of the Secretary of State's office is very good about asking for input, and they usually have a committee to help sit with them for input as pros and cons of doing different things. The other thing that has not been mentioned here, during this conversation, is we're trying our best to get these people to the polls, everything we can do. There is so much apathy out there, you could only do so much, okay? They're given, through this process, through the bill--and I haven't read it and I don't know what the amendment is, so I'm just going off of what I just heard here now...is that I would hope that the board would be visiting with the election commissioner or county clerk of that office to say, do you want us to do this first, before we do it? Gives us some pros and cons that you think could possibly happen out there, okay? And then once you do that, yes, there has to be some advertising. You want to get the education out there. There are notices along the way. But you can plaster it just like wallpaper, and somebody still is not going to see it; they're still going to miss it. I can also tell you that yes, the turnout to the election is better than a regular election; I have about a 65 percent turnout to the all-mail. And people...school districts that do bonding, they don't want you to do the all-mail because they want to capture just that little window that will vote for it-type situation. I've done Raymond Central twice; the first time it failed. The second time, they did more leg work, they did...they revamped their...what their proposal was, and it passed the second time. They have a remodeled school district. But...I was going to tell you one other thing, but I've lost my train of thought. But, you know, it has to...and postage. I pay for postage. If they don't put postage on, I pay for it. That's the only time I will pay for postage in my county. [LB1094]

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SENATOR SULLIVAN: Thank you. [LB1094]

PATTI LINDGREN: Okay. [LB1094]

SENATOR AVERY: One more. Senator Price? [LB1094]

SENATOR PRICE: Thank you, Chairman Avery. Just a real quick one. You've touched on a good thing. You say your response rate is high, but is your valid ballot number changed? Like you get so many Daffy Duck and Donald Duck and Pluto voting in any election where they write in with the write in. Okay, is your...? [LB1094]

PATTI LINDGREN: Remembering now we're voting for a bond issue, so there's just the yes and the no; so there is not a write-in line for the goofiness to be put in there. [LB1094]

SENATOR PRICE: So there...they didn't...for there, they didn't do all this as well. All good, okay. Good, go on. [LB1094]

PATTI LINDGREN: No, it's just a yes or a no for that, so there's no write-in line for any kind of comments like that. But my concern is, too, is there is...you're supposed to put it on an envelope, which is also a concern, I think, that you had addressed earlier, is getting that ballot to them. Currently, when you do these special elections, you have to have wording on that outside envelope. It has a symbol that has been approved; statewide, we use it. This is an official election ballot or information or whatever. There's a symbol that's on that outside envelope, to get that ballot to that person, okay? And it tells, right on the outside envelope, this is an official ballot, please open and read it immediately, okay, typed wording that's there. And then there's also wording from the post office that you're supposed to put on there that it is not supposed to forward the envelope on to the voter if they have moved from Nebraska to Texas, but that doesn't work because the post office doesn't follow true to it. That is an issue that I have. My other concern is what happens to...okay, I said 65 percent? Where's my other 35 percent ballots? Where are they? And I think a lot of them, either they go into the twilight zone, they don't realize that they got it, or they...it got lost and, you know, I don't know where it went type situation. We have had a few that if the voter is thinking just right, they could...oh, I'm in Texas now, but I remember my old address, and they put that down. Then you have that issue too. It's very small and you don't know about it because if we're still showing this and it's not showing up that they had tried to transfer the registered voter there...so you...there's a lot of little quirks along the way. But it's not a bad system; it's a good system. I've used it. Like I said, I've not had a problem with it; I like doing it. I would not, at this particular time, as big as my county is, want to do a regular primary or general election right now until some bugs get worked out. And if some smaller counties, if that will address some issues that they have and will help them, then yes. The ballots, the way that they come back is postage, hand-delivered

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right to my office, right to my counter so they know they got there, and I have a drop-off box right outside my courthouse door. So if you're driving through Wahoo--you live in Ashland and you're driving through Wahoo--you stop at the courthouse, at the one and only stoplight in Wahoo, and you walk up and you put that ballot in that ballot box, and it's secure and it comes down and it's counted. Does that help? [LB1094]

SENATOR AVERY: Senator Janssen has a question. [LB1094]

SENATOR JANSSEN: Yeah, thank you, and thank you for your testimony. It's very, very helpful. And I drive through Wahoo almost every day and I stop at the courthouse at 5th Street, and I wish you guys would get rid of that light at 5th Street because it's always red when I go through town, so I'd appreciate that. [LB1094]

PATTI LINDGREN: The arrow is gone, though, it can't (inaudible). (Laughter) [LB1094]

SENATOR JANSSEN: Appreciate that. Just real quick--and if you don't have an answer, that's fine--but do you know what your cost is on paying for the postage of people that may not, or... [LB1094]

PATTI LINDGREN: When I... [LB1094]

SENATOR JANSSEN: And also for the advertising of...that this is going to be a mail ballot? [LB1094]

PATTI LINDGREN: The total cost for the Raymond Central, if I remember right off, costs, in my head, that included the postage and the mailing out...now mind you that if somebody mailed it out in the large-size envelope, which is a requirement for the primary and the general election, it's \$1.22 to mail out, so long as you only have one to two ballots in there. If you go to more ballots than that, then you're going to cross the line, which I think the cost is going to be higher now because postage went up, because you don't just deal with the weight of it. You deal with the size of it, and then that's where your cost goes up, okay? So in order for me to break even...what can...I didn't feel I could justify it--the cost--unless I could find either a savings or a break-even point, just because I wanted to deal with, you know, no poll workers or anything like that. Dealing with poll workers in four different counties? I've done that. I've done elections for Raymond Central like that before and it's a real nightmare, so this was very nice to do it this way. And the other county clerks liked it, too, so we didn't have to worry about that. But folding it and folding it down, I got the envelope cost to come down to just a little over...I think it came to about \$0.56 for the inside secure envelope and the ballot. So that, that you think the small amount--the poll worker is, what is it, \$6.75 for minimum wage or something like that? I can't remember what minimum wage is--to when I put everything together, it was just a little bit break even or just a little bit underneath that cost to do that. [LB1094]

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SENATOR JANSSEN: And then you had your...I would assume you had additional staff time that you wouldn't have had because you had to unfold and match up. [LB1094]

PATTI LINDGREN: Right, right. The first one I did was with Raymond Central. And I actually used some youth to help me do the process, which I had to be in the room when they did it so I could make sure that they paid attention to what they were supposed to be doing, to do it properly. And then we had to make sure that only one ballot went into the envelope, and that ballot was the last thing that went into the envelope. And there's keying it. In order to be able to check the ballot easily when it comes back from that voter is you have one label that goes out through a postage-type system, so it...you can save money by doing zip code because I had four counties I was involved in there. And you save more money that way if you can do it because you can get that cost down even farther, but...and you may have to have a certain bulk or rate to do it too. And then you have to do the inside envelope. Well, my discovery for the first election is, is you can't read everybody's signature on there, so you need to have a code number to match up to that, so we put...and you have a dual label that goes on that second envelope, so when it comes back, we can say...tag on it, they pull it up, we check their signature, it verifies, it goes into the ballot box until it's time to start opening them, and then go through another process of checking them off. There's like a double layer of checking, almost three to four layers of checking. [LB1094]

SENATOR JANSSEN: So they used just to help you stuff the envelopes. [LB1094]

PATTI LINDGREN: Just stuff, that's it. They... [LB1094]

SENATOR JANSSEN: Gotcha. All right, thank you; hey, it's been very enlightening. Thank you. [LB1094]

PATTI LINDGREN: Okay, and if you have any more questions, I'll be more than happy to answer those along the way. [LB1094]

SENATOR AVERY: Nothing like experience. [LB1094]

PATTI LINDGREN: I've done...and I figured it out. I've been doing this since '92. I experienced many elections, and in the last 10 years, I've experienced lots of elections. [LB1094]

SENATOR AVERY: Thank you. [LB1094]

PATTI LINDGREN: Uh-huh. [LB1094]

SENATOR AVERY: All right now, any more neutral? Oh, we have another one, Senator.

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We're determined to keep you here. Welcome. [LB1094]

BETH BAZYN FERRELL: Thank you. Good afternoon, Chairman Avery and members of the committee. For the record, my name is Beth Bazyn, B-a-z-y-n; Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials. Our board looked at the pros and cons of this bill, and they were very similar to what you have heard this afternoon. We decided to take a neutral position. Conceptually, if the issue appears on the ballot and the voters have spoken, that's what we would implement, so I would be happy to try to answer questions. [LB1094]

SENATOR AVERY: Okay. I don't think you could top that last one. [LB1094]

BETH BAZYN FERRELL: No. [LB1094]

SENATOR JANSSEN: We see you a lot. [LB1094]

SENATOR AVERY: All right, thank you. Any more neutral testimony? Okay, now, Senator Harms. [LB1094]

SENATOR HARMS: Are you sure? [LB1094]

SENATOR AVERY: Yeah, I think so. (Laughter) [LB1094]

SENATOR PRICE: It's good exercise. [LB1094]

SENATOR JANSSEN: It's good for your legs. [LB1094]

SENATOR PRICE: So you won't be on your knee. [LB1094]

SENATOR HARMS: Senator Avery, I love the democratic process. This was fun today. You hear all kinds of different questions, different views, different thoughts--that's what it's about--and from it, you hope you can make the right decisions. I wanted to clarify a couple of things. First of all, I have no intent of making this a statewide...I used those just as an example. You know, I gave you a number of other examples of 17 states doing whatever they're doing, and then plus 2 states that...like Oregon and Washington. I have no intent of going beyond just where we are today. My entire interest lies in rural Nebraska; that's what it's about. And I've become more aware of...since I've had the opportunity to chair the long-range Planning Committee, I have become more aware of what the issues are in rural Nebraska, and it's really about loss of population--and it's coming--and so trying to get ahead of this process and think beyond where we are today. Well, what can we do to make it more convenient, and what can we do to help people be able to vote? It's a very important part of this process, and that's what I'm...this is what this is about for me. I think there are...and I gave you five reasons that

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they just have a declining number of people. We have more people now that are disabled/handicapped, and then that's going to continue. And as people move more to urban Nebraska, is this going to be more difficult? And then, according to Senator Janssen's comments, I wanted to clarify a thing. I was simply answering the question that Senator Pahls asked me about, you know, why not do it all larger, all across the state? Or asked, now you've got to start smaller, as a pilot? Well, I used the term as..."pilot" as this, to me, is a pilot. Is it going to work, or is it not going to work? And I have no intent of going on anything beyond that. And your choice could be...you could say, well, we like this piece of legislation, but we're going to drop it down to, you know, 5,000 or less. I mean, what I'm really after is to find a way that makes this better for us. I think 40 percent of people who chose to vote is horrible. I think we ought to be embarrassed by that. But that's my intent; there's nothing else hidden behind this. I just think that it is...it's important for us, so I would appreciate if you'd bring it to the floor. I appreciate Mr. Gale's comments in regard to...or actually their input. They made the bill a lot better. We started a discussion with his office, I think, sometime this summer. I wanted to start exploring that because I knew that's kind of where I wanted to go. And I think a couple of opportunities to visit about this piece of legislation and maybe they'd give us some really good, valuable information, which you've got, makes it a much better bill because you just about can't draft it without their help. And so I support what he has drafted, and I appreciate his concerns. And so I thank you very much, and I would encourage you to bring it out and see if we have any fun on the floor because I think we will. [LB1094]

SENATOR AVERY: Thank you, Senator. Senator Pahls has another question. [LB1094]

SENATOR HARMS: Yes, Senator Pahls. [LB1094]

SENATOR PAHLS: You know, to be honest with you, that's the reason why I was asking those questions, to find out how far you wanted to push this. And I picked up early on because I kept hearing the word rural, small,... [LB1094]

SENATOR HARMS: Yeah, that's where I'm at. [LB1094]

SENATOR PAHLS: ...you know, small numbers, so that's a...I just want to ask you another question. [LB1094]

SENATOR HARMS: Sure. [LB1094]

SENATOR PAHLS: You were before this committee a couple days ago. Which is tougher, this bill or the one with merging the departments? [LB1094]

SENATOR HARMS: I'll tell you what, they're both interesting. [LB1094]

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SENATOR PAHLS: Okay, thank you. Thank you, thank you. [LB1094]

SENATOR HARMS: They're both interesting. I love...I just love the challenge. Give me the opportunity, we'll see what happens, so thank you very much for your kindness. [LB1094]

SENATOR AVERY: Thank you, Senator. [LB1094]

SENATOR HARMS: Yeah, thank you. [LB1094]

SENATOR AVERY: All right, that ends the hearing on LB1094. We'll now move to LB936, and I will turn the chair over to Senator Price. [LB1094]

SENATOR PRICE: Senator Avery, welcome. [LB936]

SENATOR AVERY: Thank you, Senator Price and the committee. My name is Bill Avery, B-i-l-l A-v-e-r-y, representing District 28 here in Lincoln. I am appearing here on behalf of Senator Karpisek, who of course could not be here today because of the death of his father. I am going to do my best to introduce his bill, LB936. It deals with townships, particularly in those counties where it has become increasingly difficult to find people to run for township boards. When there are not enough candidates on the ballot and no one is willing to be appointed, the county essentially assumes the functions of the townships, and that often means maintaining roads and things of that sort. The problem is the county board has no access to the township funds to help offset the costs. So in 2010, we enacted legislation to create a process for county boards to formally terminate inactive townships. If the township board has become inactive, under that legislation the board holds a public hearing on the issue of terminating the township board. If no appointment to the township board has been made within 30 days after the hearing, the county board adopts a resolution to terminate the board. Current law provides the terminations will occur on the following June 30, or, if the resolution is adopted, on or after June 1. But before June 30, the township board terminates on the following July 31. Here is the essence of the bill: it eliminates the references to specific dates and instead allows the county board to designate the effective date of the termination in the resolution. This gives the county board more flexibility to determine when a termination becomes effective. They could choose to have the termination take place immediately if it became necessary, say, to access township funds for a large road project, or they could wait until the next fiscal year and accommodate it within the new county budget. But they do need that flexibility, and this bill would give it to them. Just one example of where this would have been helpful, in Saunders County, they're now going through the process of terminating some of its township boards. The county would like to be able to set the date of termination instead of having to wait until June 30. This is...I don't want to minimize the bill. It is not a big bill; it is a modest bill, but it is a bill that can improve the process for these county boards faced with the issue of

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terminating townships. Thank you; I'd be happy to take questions. [LB936]

SENATOR PRICE: Thank you very much, Senator. Are there any questions? Yes, Senator Wallman. [LB936]

SENATOR WALLMAN: Thank you, Senator Price. Yeah, I don't know if you probably know a lot about counties, do you? [LB936]

SENATOR AVERY: Not much. [LB936]

SENATOR WALLMAN: If townships dissolve or if they can't find any members, you know, can...I think they can merge with a different township, can't they, instead of turning it over to the board? [LB936]

SENATOR AVERY: I'm not sure about that, but I'm...I suspect that there are people sitting behind me here who may be interested in this who can answer it. [LB936]

SENATOR WALLMAN: Okay. Okay, I didn't want to put you on the spot. [LB936]

SENATOR AVERY: Yeah. We do have language in the law that allows for various kinds of mergers and we're...Exec on it...it's a really important merger later today. [LB936]

SENATOR WALLMAN: And then we would have to go to a form...if all of them dissolve, it'd have to go to commission form, I think. Thanks. [LB936]

SENATOR AVERY: I suspect you know more about county government than I do; you've been involved in it. [LB936]

SENATOR WALLMAN: (Laugh) Yeah. [LB936]

SENATOR PRICE: Thank you, Senator Wallman. Yes, Senator Sullivan. [LB936]

SENATOR SULLIVAN: Thank you. It begs the question why we had dates in there at all,... [LB936]

SENATOR WALLMAN: Yeah. [LB936]

SENATOR SULLIVAN: ...but it probably had something to do with the dispersal of funds and where they were going to go at the particular time. Do you know? [LB936]

SENATOR AVERY: You know, that bill came before this committee; it's been two years now, and I'm not sure what the answer to that is. [LB936]

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SENATOR SULLIVAN: Um-hum. Yeah, right. Okay. [LB936]

SENATOR AVERY: Sometimes, what we do in this Legislature is imperfect, and while we may be...while we may have good intentions and are not trying to put obstacles in the way of various subdivisions, sometimes we do, inadvertently, and this is probably one of them. [LB936]

SENATOR SULLIVAN: Hmm. Okay. [LB936]

SENATOR PRICE: Thank you, Senator Sullivan. Are there any other questions? Seeing none. Thank you, Senator Avery, and we will now move on to proponents for the bill. Welcome. [LB936]

BETH BAZYN FERRELL: Thank you. Senator Price, members of the committee, for the record my name is Beth Bazyn, B-a-z-y-n; Ferrell, F-e-r-r-e-l-l. We'd like to thank Senator Avery for helping us with this bill today in the absence of Senator Karpisek. I think I'll just skip my testimony and try and answer some of the questions that you had asked. Senator Wallman, you had asked if there is an ability to merge townships. Under existing law, there are opportunities for them to cooperate, to work together through interlocals, that sort of thing. I believe that some...in some cases, there are agreements with the county to perform the functions of the township, so there are already some options in place. The law that was enacted two years ago set out a process to deal with those townships specifically--just the individual townships, not changing the overall structure of the county from a township form to a commissioner form. What it did was it set out a process that said if a county or a township board isn't able to be filled because there aren't enough people who are on the ballot and the county board is not able to appoint folks to serve on the board, if they're not able to do that for six months, then the county board can have a public hearing on the issue of whether or not to terminate that individual township. And after that, there's a 30-day window, so if anyone that lives in the township volunteers to serve on the board, they can apply to the county board in writing. Then the county board can make the decision whether or not to terminate that individual township. If the county goes through that process for more than 50 percent of the individual townships, then it would appear on the ballot, whether or not to switch from a township form to a commissioner form, so this would take out those dates that are specific to when the transition would occur. [LB936]

SENATOR WALLMAN: May I ask another question? [LB936]

SENATOR PRICE: Is that the end? Is that...you're at the end of your opening? [LB936]

BETH BAZYN FERRELL: Yes. I was going to address Senator Sullivan's questions, too, but I'll go back. [LB936]

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SENATOR PRICE: Okay, thank you very much. Thank you, Senator Wallman. [LB936]

SENATOR WALLMAN: Thank you, Senator Price. So at...if I think it's a good idea they go to a commissioner form of government, I can go to petition and to get how many signatures in the county--certain percent of the signatures? [LB936]

BETH BAZYN FERRELL: I believe there's a process right now where it can appear on the ballot, either by a petition or by the county board placing it on the ballot. And there are four counties that have had it on the ballot fairly recently; it did pass in one of those counties. [LB936]

SENATOR WALLMAN: Thank you. [LB936]

BETH BAZYN FERRELL: Um-hum. [LB936]

SENATOR PRICE: Thank you, Senator Wallman. Are there any other questions? Senator Sullivan. [LB936]

SENATOR SULLIVAN: Thank you. Just wondering if you can respond to the question that I had earlier. [LB936]

BETH BAZYN FERRELL: Okay, and... [LB936]

SENATOR SULLIVAN: It had to do with the...well, why we had dates in there to begin with, and did that have something to do with the dispersal of funds that were designated for those respective townships? [LB936]

BETH BAZYN FERRELL: It did. We had thought initially that it would be helpful for everybody to be on the same page and know exactly when things are going to happen. From practical experience, it turns out that it would be more helpful for the board to be able to say, we need this now, we could work with this later--whatever the case might be--and to set that date in their resolution. [LB936]

SENATOR SULLIVAN: Okay, thank you. [LB936]

SENATOR PRICE: Thank you, Senator Sullivan. Are there any other questions? Seeing none. Thank you very much. Do we have any other proponents for LB936? Go on down. Welcome back. [LB936]

PATTI LINDGREN: The bad penny has returned. Patti Lindgren; for the record, P-a-t-t-i, Lindgren, L-i-n-d-g-r-e-n. I'm the county clerk/election commissioner for Saunders County. Saunders County is experiencing why they need to have this bill amended. I was very glad to see this bill being proposed a couple years ago, and I visited with Larry

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Dix about it. I had concerns about the dates in there at that time, and I gave Mr. Dix the example of exactly what we're going through right now of could happen, if it did happen, and it has happened. I have two townships that are currently inoperable because we don't have boards in place. The requirements for a township board to be a functioning board is two members. You can work with two members, no problem. My understanding is, is you can't...townships, yes, can merge, but if you don't have boards in place, they can't merge. They can't do interlocal agreements if you don't have a township board in place; you can't adopt a budget and set a levy if you don't have township boards in place. So we have experienced this; we've had boards that have not had budgets in place before and went a couple years--at least one year--without a levy, and then the next year they had to do the special election in order to catch up. I have two townships right now: Chester Township, which is the Prague area, if anybody knows Saunders County; and then Rock Creek, which has no village in it. And what has happened is we've gone through the process, and in order for my board to understand that, I took the statutes and color coded it, and we went step by step on how to do that. When it comes to election time, I actually had more candidates file this election than I have in previous elections and had less write-ins to have to look for, which really amazed me because usually it's about half and half, and we have 24 townships and there's three board members to each one. In this particular case, Rock Creek had one candidate file. He was an incumbent and he was reelected back in. And generally, what would happen is it takes one vote--one write-in vote--to get the rest of the board on board. But if they fail to take the oath when they're...in their scheduled time, then you have no board in place, and that's what's happened with my case. I had Chester Township, all of them failed to take...everybody was notified that they were written in and they were nominated and elected that way--two other candidates in Rock Creek--but they all failed to take the oath, so we started the process, and the scenario I gave Mr. Dix panned out. So now, we are going a whole year-and-a-half without being able to terminate these township boards. But in the process...and my board halted the process. They...on August 2, they did go through the public hearing. They did adopt resolutions for each township to...if there was no people came forward to terminate them, which then full termination is another resolution to terminate them. But through the process of trying to determine well, how can we get dollars to help pay for this, there is also another issue which I had visited with NACO about this. And I'm hoping that senator that has submitted this LB936 can help, maybe, if you would be so kind to get this to General Floor (sic) and whatever the process is to make an amendment to this, to address this issue, because what it states right now is, is we cannot grab any of the dollars that are currently being held by the county treasurer's office until the full termination happens to the township boards. So we have approximately...one township, I have \$48,000 just sitting there we can't do anything with until they formally terminate it, so the county is picking up, which means all the taxpayers of the whole county are picking up, taking care of that little portion of the roads. So the taxpayers of that little precinct are not paying, or they're paying the county part but they're not paying the township levy, to help take care of the roads. And then another township, it's \$35,000 that's in the treasurer's office. They have bank

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accounts. One bank account has got \$39,000 sitting in it, and another one has got \$18,000 sitting in it. Another one has a motor grader shed and a motor grader that is sitting there. And we can't do anything with it because until you formally terminate all away, you can't grab any of the dollars, you can't sell the property, you can't sell the equipment to take those monies and help offset the costs that the county has incurred over this period of time. So then once you get done terminating it, the statute does give you provisions to allow for--and there I am, I'm a long talker--does give you provisions to set a levy to take their debt, but after that, no. So I'll shut up and you can ask me questions. [LB936]

SENATOR PRICE: Well, thank you very much for your testimony, ma'am, and I'll ask you...the question is if there was something, some particular nugget in the end of your testimony that you would like to share with us. [LB936]

PATTI LINDGREN: At the end, you mean? [LB936]

SENATOR PRICE: Yeah. Did you miss something that you'd like to share briefly? [LB936]

PATTI LINDGREN: I would very much like you to... [LB936]

SENATOR PRICE: Sure. [LB936]

PATTI LINDGREN: (Exhibit 1) ...to move this on to the General File so it can be voted on, so we can at least get the June and July wording out of there. That will help immensely to get that out of there, and I hope that maybe we can work on an amendment to add for...to help out with the taxation part. And I will not bother you with that, but I can work with NACO on that--or the senator that has presented LB936--to work out the details to maybe present later on that part. And then one last thing. My board did take formal action yesterday in support of LB936 and would like to submit that as on record on behalf of my board. [LB936]

SENATOR PRICE: Thank you, and Senator Wallman does have a question. [LB936]

SENATOR WALLMAN: Yes, thank you, Senator Price. Yeah, thanks again for coming. Now those townships sure do leverage some monies for fixing their roads and culverts and bridges. [LB936]

PATTI LINDGREN: Yes, that's correct. And the levy is being collected and being held in the treasurer's office. [LB936]

SENATOR WALLMAN: Okay. [LB936]

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PATTI LINDGREN: But for 2011 taxing year, there is no levy, there is no budget. [LB936]

SENATOR WALLMAN: Zero? [LB936]

PATTI LINDGREN: Right, because without a township board in place, there can't be a budget adopted, and you can't set a levy. [LB936]

SENATOR WALLMAN: Wow. [LB936]

PATTI LINDGREN: And that's the problem we have right now, is right now, the way this is, is you can't...the board has no authority to levy on them after that. And in '98, Saunders County did put it to the vote of the people to disallow it, and it didn't pass,... [LB936]

SENATOR WALLMAN: This... [LB936]

PATTI LINDGREN: ...so it was very overwhelmingly lost. [LB936]

SENATOR WALLMAN: And this needs the E clause then, right? [LB936]

PATTI LINDGREN: (Laugh) Yes. [LB936]

SENATOR PRICE: Thank you, Senator Wallman. Are there any other questions? Seeing none. Thank you for your testimony, ma'am. Are there any other proponents to LB936? Any opponents? Would anybody like to testify in the neutral? Seeing none. Senator Avery waives closing, and that will close the hearing today on LB936 and close our business today. Thank you for participating in your government. [LB936]