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Government, Military and Veterans Affairs Committee
January 27, 2016

[LB784 LB807 LB827 LB997]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, January 27, 2016, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB784, LB827, LB997, and LB807. Senators present: John Murante, Chairperson; Tommy Garrett, Vice Chairperson; Dave Bloomfield; Joni Craighead; Mike Groene; and Beau McCoy. Senators absent: Matt Hansen and Tyson Larson.

SENATOR MURANTE: (Recorder malfunction)...Military and Veterans Affairs Committee. My name is John Murante. I'm the state senator for District 49 which is Gretna and northwest Sarpy County and the Chairman of this committee. We are here today for the purposes of conducting public hearings on four bills which will be taken up in the order on which they appear on the agenda, which is located outside of this room. If you are here today and want to testify on any of the bills, we ask that you fill out one of these green sheets which are located on either side of the room and submit them to our committee clerk for the record. If you are here and wish to state your support or opposition to any of the bills before us, but do not wish to testify, we have a sign-in sheet also located on the same table where you can indicate your support or opposition for any of the bills before us. If you testify, we ask that you state and spell your name for the record, which is very important for our transcribers' office. Our order of proceedings will be that the introducer will make an opening statement and initial remarks. We'll then proceed to proponent testimony, followed by opponent testimony, neutral testimony, and then the introducer will have an opportunity to close. We ask that you listen very carefully and try not to be repetitive. (Laughter) You can be competitive if you like. We do use the light system here in the Government Committee. Each testifier is permitted four minutes to speak, which will be indicated by the green light. When the yellow light comes on, you have one minute remaining, and we ask that you begin closing your remarks. When the red light comes on, we ask that you stop and we will then open up the committee to any questions that they may have. We ask at this point for you to turn off your cell phones and all electronic devices, anything that makes any noises...any noise. We also note that this is a committee that is equipped for technology so you may see members using laptops or other electronic devices which are used for taking notes during your testimony. So now we'll proceed to the introduction of members. To the far left is Sherry Shaffer, who is our committee clerk; to her left, state Senator Joni Craighead of Omaha, Nebraska; followed by state Senator Beau McCoy, also from Omaha; Senator Hansen to my immediate left, state Senator from Lincoln. He has a couple of bills in the Judiciary Committee so let's all pray for him in his time of need, and (laughter) but he should be here at some point today. To my immediate right, Andrew La Grone is our committee's research analyst; state Senator Tommy Garrett from Bellevue, Nebraska. Senator Garrett is the Vice Chairman of this committee. Senator Dave Bloomfield from Hoskins, Nebraska; state Senator Tyson Larson, who may or may not be with us today; and state Senator Mike Groene of North Platte, Nebraska. So

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with our formalities having been dispensed with, we welcome Senator Curt Friesen to your committee on Government, Military and Veterans Affairs.

SENATOR FRIESEN: Thank you, Chairman Murante and members of the Government Committee. This will be a first, really...they said you guys were really nice, so. (Laughter) My name is Curt Friesen, C-u-r-t F-r-i-e-s-e-n, and I'm here to introduce bill, LB784. LB784 would harmonize language between two sections of two budget acts that affect counties, the County Budget Act and the Nebraska Budget Act. The pertinent parts of the act were identical for years, but in 1993 an exception was added to the Nebraska Budget Act. Counties would like both acts to be the same again. The one-liner is somewhat misleading. LB784 would not allow for deficit expenditures by counties. Rather, LB784 would allow counties to use the tax dollars that are currently being budgeted for and generated at the appropriate time. LB784 would make it clear that counties can use the resources available for roads during the late summer prime time build and maintain roads, rather than being limited to a proportion of their road budget during this time. The expenditures can only be made with approval by the county board at a public hearing and would be charged to the individual fund in the budget. Currently, the county budget is narrowly written to apply only to counties. Other political subdivisions don't have their own budget acts applying only to them. Instead, they're subject to a more general Nebraska Budget Act. The County Budget Act limits county expenditures from budgeted funds during the time period between the start of the new fiscal year on July 1 and the time the budget is adopted in September, the deadline, which is deadline for counties to adopt budgets is September 20. But most counties adopt their budgets within a few days prior to that deadline. Counties can only spend an amount equal to the proportion of the total amount expended under the last budget for which...for such fund in the equivalent period of the prior budget year to the total amount budgeted for that fund. This restriction is in Section 23-914. The broader Nebraska Budget Act applies to many Nebraska entities, including counties, cities, and natural resources districts, school districts, and townships and others. It addresses some of the same concepts as the County Budget Act including language that is nearly identical to the proportionate restriction on expenditures for counties in Section 23-914. However, the Nebraska Budget Act also contains language that allows the governing body to exceed the proportionate expenditure restriction at a public meeting. This is the concept that LB784 would add to the County Budget Act to harmonize the two acts. LB784 would clearly allow county expenditures that are necessary to enable a political subdivision to meet its statutory duties and responsibilities with the approval of the county board at a public meeting. For years, the two acts were nearly identical, then in '93, LB1257, the Nebraska Budget Act was amended to add the authority for governing bodies to exceed the proportional share of the budget. This is the concept that LB784 would like to add to the County Budget Act. Thank you and I would be glad to answer any questions. [LB784]

SENATOR MURANTE: Thank you, Senator Friesen. Are there any questions? Senator Bloomfield. [LB784]

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SENATOR BLOOMFIELD: Thank you, Chairman. Senator Friesen, it sounds like this adds no additional money the county can spend and it just let's them spend it sooner. Is that the gist of it? [LB784]

SENATOR FRIESEN: That would be correct. Currently, what the problem was is since they could only use a proportionate share of the last year's budget which would be divided out in equal months, summer is prime time for road construction and road maintenance. And so here you're limiting their budget...their ability to maintain roads during that prime construction season or maintenance season because they can't exceed that proportional portion. [LB784]

SENATOR BLOOMFIELD: I assume the idea of putting those proportional regulations in there was to keep the counties from running out of money in the wintertime when they were removing snow. Do you see any danger in them overspend in the summer and not having anything if we get a nasty winter? [LB784]

SENATOR FRIESEN: I don't...I mean that could happen with any budget. I mean, when I was on the city's, we would...basically what's weird about the way we do things is each entity operates without a budget basically for almost three months. And so you're always operating on the assumption you're going to get a budget passed. And so, I mean, counties (inaudible) in the past if they run into, you know, a tough winter, but that's just something they'll make up usually and that's where...that's an issue with the budget. This really, at any time, any number of things could happen, I'm sure, that would mess up a county's budget, but I don't think this changes anything other than to allow them to do their maintenance that they want to do during that prime season, which would be like July and August time frame. [LB784]

SENATOR BLOOMFIELD: Okay. Thank you. [LB784]

SENATOR MURANTE: Thank you, Senator Bloomfield. Senator Groene. [LB784]

SENATOR GROENE: Thank you, Chairman. Are you mingling two year budgets here? Are you saying because it's August, July, and your new budget isn't until September and you can bring money out of that new budget and start spending it in August and July? [LB784]

SENATOR FRIESEN: No, you're not bringing money out of the back budget, you're just using those totals. That's the amount you're allowed to use during those months you don't have a budget. [LB784]

SENATOR GROENE: But that's from the previous September's budget. [LB784]

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SENATOR FRIESEN: But those are just numbers. [LB784]

SENATOR GROENE: That's from the previous September's budget. [LB784]

SENATOR FRIESEN: Yes. Previous year's budget. It's proportional. Whatever the previous year's total was for roads maintenance, and you divide that by 12, and so in your new budget before you adopt a budget, you're allowed to use a proportional amount in each of those months of that budget. So it's one-twelfth, I'm assuming is one-twelfth of the budget that you budgeted for roads in the previous year, you could spend in July; and one-twelfth you could spend in August; one-twelfth you could spend in September. And then when your new budget gets done, you can do whatever you want to. What this does is just allow them to spend more than the proportional amount. It doesn't let them exceed the total. [LB784]

SENATOR GROENE: You're telling me now, you got to spend one-twelfth of it every month or else you lose the budgeting authority? [LB784]

SENATOR FRIESEN: No. No, you don't lose the budgeting authority. You don't lose your ability to spend it, but you cannot exceed it. I think some people... [LB784]

SENATOR GROENE: All right. Maybe I'm playing dumb here, but so if you got \$120 and you get \$10 every month, you got to spend it every month, don't they naturally just save that money and then spend it in July and August? If there's \$80 of it needs to be spent in July and August, don't they spend that? [LB784]

SENATOR FRIESEN: No, if you're...just because you're allowed a budget authority on that month doesn't mean it has to be spent in that month. You can carry it on with the rest of your budget year. But what they're asking for is if you have a...your prime construction period, you want to be able to spend some of that money in your roads budget sooner than you probably could have if we don't pass this. [LB784]

SENATOR GROENE: But you're talking the end of this budget year. [LB784]

SENATOR FRIESEN: No, we're already past the budget... [LB784]

SENATOR GROENE: July and August. [LB784]

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SENATOR FRIESEN: Yes. We're already in the new budget year, but you do not have a new budget adopted until September 20. [LB784]

SENATOR GROENE: And the new budget starts when? July... [LB784]

SENATOR FRIESEN: September 20...well, the year-end ends June 30, and the new budget gets adopted September 20. [LB784]

SENATOR GROENE: So you want to bring forward. [LB784]

SENATOR FRIESEN: Just allows you to... [LB784]

SENATOR GROENE: Or back. [LB784]

SENATOR FRIESEN: Allows you to expend... [LB784]

SENATOR GROENE: The money before the budget is approved. [LB784]

SENATOR FRIESEN: ...before the budget is approved. [LB784]

SENATOR GROENE: All right. Now I understand. [LB784]

SENATOR MURANTE: I'm glad we're on the same page. And Senator Craighead. [LB784]

SENATOR CRAIGHEAD: Thank you, Chairman. Senator Friesen, why can the two budgets not be harmonized so you don't have this two and a half month lag? [LB784]

SENATOR FRIESEN: Well, there will always be that lag because if I remember correctly, when you get to the end of your fiscal year, and I'm more familiar with cities so I'll just use that example, but when you get to the end of your fiscal year, June 30, in order to build a new budget, you need to know what your carryover funds are. So you can't really build your budget ahead of time. You may work on your budget, but until you know what your expenditures are, that's your carryover, your carry forward in the new budget, and so that's what you use to start building your budget by which builds your levy. And then, as you get towards September is when the county assessors will send in their valuations. And so until they certify the valuations of property, you can't set your levy, so the whole process takes this long in order to build that budget. [LB784]

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SENATOR CRAIGHEAD: Okay. Thank you. [LB784]

SENATOR MURANTE: Thank you, Senator Craighead. Any additional questions? Seeing none, thank you for your introduction, Senator Friesen. [LB784]

SENATOR FRIESEN: Thank you. [LB784]

SENATOR MURANTE: And we will proceed to proponent testimony on LB784. Welcome. [LB784]

STEVE RIEHLE: (Exhibit 1) Thank you. Thank you, Senators. My name is Steve Riehle, common spelling for Steve, last name R-i-e-h-l-e. I'm the county engineer for Hall County, Nebraska. I've got a letter that's...with copies that are being circulated around that was approved by our county board yesterday unanimously and I'd like to read just a couple sentences from that letter, and then I'll present some of my own understandings of the issue and how LB784 in harmonizing the language between the County Budget Act that applies to counties and the Nebraska Budget Act that applies to municipalities. If we harmonize those, how it can make things function better at the county government level. Yesterday, Tuesday, January 26th, the Hall County Board of Supervisors voted unanimously to support LB784 as introduced by Senator Friesen and Senator Gloor. The bill harmonizes language in the County Budget Act with the Nebraska Budget Act. County budgets begin on July 1st of each year, but the budgets are not approved until September after the valuations are certified by the county assessors in late August. For those few months, the county board...budget act limits the expenditures in each fund to the same amount spent the prior year and it mentions the same time period. Some people believe that same time period is whatever you spent last year in July, you can spend, and others look at that and interpret that as whatever you spent last fiscal year in a budget, or whatever you had to prove last fiscal year in the budget is divided by twelve. Either amount can penalize us during the best times of the year for construction. For us they increase the cost for doing work in the Hall County Public Works Department because July and August are the best good-weather months for us to have projects built. We also build projects in the spring, in April, May and June, but July and August and even into September are our best months for doing that work. With the cost of the projects, the current regulations under the County Budget Act make it tough for us to make sure we have the budget authority to pay contractors and still comply with the current regulations. So we end up having to split our projects up and do an asphalt late in the year, which is not a good time to do asphalt. We prefer to do it in May, June, July and August. That's the best months of the year to do that. The Nebraska Budget Act provides a mechanism to exceed those expenditures, but the County Budget Act does not. What we would like to do is we'd recommend the committee advance this. We thank you for your time, and we are open to questions of how it might impact the counties and why we support this act. [LB784]

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SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for your testimony today. Much appreciate it. Additional proponent testimony? Mr. Dix, welcome back to the Government Committee. [LB784]

LARRY DIX: Good afternoon, Senator Murante and members of the Government, Military and Veterans Affairs Committee. My name is Larry Dix, spelled L-a-r-r-y D-i-x. I'm executive director of Nebraska Association of County Officials appearing today in support of LB784. And I think the questions were excellent. I think they were right on. Certainly, this does not give any county any additional budget authority. This did happen in 1993. We went back and when you go back that far, there isn't a tremendous amount of history that we were able to find on that as to why these two happened. But it's from our notes that we had back in those days, it was based on an NRD in Banner County that made a request and that's when this got changed in the Nebraska Budget Act. And so, it really dates back to that point in time. The situation that we were running into was, is some county boards were looking at this saying, well, we've got to strictly adhere to the County Budget Act and some county boards were saying, no, we need to strictly adhere to the Nebraska Budget Act, and so that's why we're here today to try to harmonize those. And nothing more than that, but I think it will clear up some confusion that is out there. And with that, I'd be happy to answer any questions. [LB784]

SENATOR MURANTE: Thank you very much. Are there any questions? Seeing none, thank you for coming down today. Much appreciate it. Additional proponent testimony to LB784. Is there any opposition testimony to LB784? Any neutral testimony? Senator Friesen, you are recognized to close. Senator Friesen waives closing. That ends the public hearing on LB784. Senator Friesen will be taking your perceptions, very favorable perceptions of this Government Committee and forwarding it to Senator Morfeld for comments. Thank you. Next item on the agenda is LB827. Senator Harr, welcome back to your committee on Government, Military and Veterans Affairs. [LB784]

SENATOR HARR: (Exhibit 1) Thank you, Chairman Murante and members of the Government, Military and Veterans. It's an honor to be back here. I apologize for being a couple minutes late. My name is Burke Harr, H-a-r-r, and I am the state Senator for Legislative District 8, although I represent the whole great state of Nebraska. I am here on LB827, which allows county treasurers to receive fees for services rendered to sanitary and improvement districts, also known as SIDs. The area of the statute we're looking at is 33-114 and what we're trying to do is county treasurers shall receive a 2 percent commission for the services they provide in collecting revenue such as property taxes and special assessments. For other political subdivisions except that the commission is 1 percent...except is 1 percent for natural resources districts, cities, villages, and schools. For decades county treasurers and auditors of the public accounts have interpreted the law to mean that SIDs should pay the 2 percent commission because they are not a municipality. Well, recently, January...about a year ago, January, 2015, the Nebraska Supreme Court in SID

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No. 1 v. Adamy, A-d-a-m-y, reversed that interpretation and ruled that SIDs should pay a lower 1 percent commission. What this bill does is it restores the previous interpretation of 33-114 and assists county with recent losses in revenues. Representatives from Douglas and Sarpy County will be testifying after me to answer specific questions, but I want to state, they have worked hard on this bill and there was some issue with the fear that developers...or issues that developers had, and I believe we address that issue, if I could hand this. LB...I have an amendment, AM1912 to LB827 which addresses those issues. This is a way of providing support. SIDs keep help...our efficient way of development and help keep the cost of development in Douglas and Sarpy County down. They're a very valuable and effective source that we use and we need to make sure that we retain these SIDs, but we also need to make sure that our counties are fairly represented and reimbursed for their costs. And I believe that's what this bill and the amendment do. I would ask for your support. And with that, I would entertain any questions with, again, the caveat that people coming after me, and probably you, know more than I do. (Laughter) [LB827]

SENATOR MURANTE: I think we can all agree with that. (Laughter) [LB827]

SENATOR HARR: There you go. [LB827]

SENATOR MURANTE: Does anyone have any questions for Senator Harr? Senator Bloomfield. [LB827]

SENATOR BLOOMFIELD: Thank you, Chair. How many counties, if any other than those two, have...actually have SIDs? [LB827]

SENATOR HARR: Have SIDs? [LB827]

SENATOR BLOOMFIELD: Yeah. [LB827]

SENATOR HARR: Not many. It's a tool that's used a lot in Sarpy and Douglas County, but outside of there it's not used much. And this bill is really...the focus is for...I'll be honest, where the financial and fiscal cost is, is for Douglas and Sarpy Counties. [LB827]

SENATOR BLOOMFIELD: And can you explain to me a little bit ad valorem taxes in your amendment? [LB827]

SENATOR HARR: I could...yes, I can, but I would actually say it's probably better for those after me to explain because I can explain what it is, but how this affects the concerns of the developers, that I can't answer specifically, so. [LB827]

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SENATOR BLOOMFIELD: I just...I guess I've never seen the word before. [LB827]

SENATOR HARR: Okay. All right. Thank you. [LB827]

SENATOR BLOOMFIELD: Thank you. [LB827]

SENATOR MURANTE: Any additional questions for Senator Harr? Seeing none, thank you, Senator Harr, for your opening. [LB827]

SENATOR HARR: Thank you. [LB827]

SENATOR MURANTE: And we'll proceed to proponent testimony to LB827. Mr. Uhe, welcome back to the Government Committee. [LB827]

FRED UHE: Chairman Murante, members of the Government Committee, I apologize for being a couple seconds late getting up here. I thought I was going second, but, the...my name is Fred, F-r-e-d, Uhe, U-h-e. I'm the director of Community and Government Relations for Sarpy County and I appear today on behalf of the Sarpy County Board of Commissioners, and Rich James, the Sarpy County Treasurer, so. We, I guess, disagree with the court case of...traditionally, sanitary improvement districts are very unique. I won't go into the history of them. Would be willing to provide additional information if so desired, but as Senator Harr mentioned, and I would like to thank Senator Harr for introducing this, the...now it's a tremendous tool for development. The last time I had checked with the Auditor's Office on the number of budgets filed, I think the third county was maybe Scotts Bluff at the time with ten. I think Madison has got a couple. Lancaster thinks they have one, they're not sure if it's active. But it is a tool that has contributed greatly to the metro area. Sanitary improvement districts are created differently than any other government agency that we deal with and they are not allowed to have a checking account, so, henceforth, the county treasurers are actually their ex officio treasurer, fiscal agent. You know, sanitary improvement district boards will issue warrants that are presented to the county treasurer for payment and the...you know, sometimes they don't have the resources. Again, thinking of the budget issues more than they will register warrants. We also run into issues of lost warrants and have to reissue and etcetera. So, unlike the other subdivisions, where most of the transactions through the treasurer's office are relatively easy, the SIDs do provide and require a fair amount of work and labor by the treasurer's staff. I did check as far as the number of SIDs that we currently have and as far as levying taxes, there were 123 SIDs currently in Sarpy County. That number does come and go with the development of...new developments and the annexations of the city, so probably the levies that we requested is as good a snapshot in time of how many different SIDs we are dealing with, so. You know, the court ruled that the functions of the SIDs were municipal in nature. We at the county level could probably argue the same thing, that does not

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make us a city because we do provide police protection, repair roads, plow snow, etcetera, and do a lot of municipal functions as well. But again, we aren't claiming to be a city, but I think the difference with sanitary improvement districts is that, you know, it does require a lot more work and we're just asking to get paid for the work. Senator Bloomfield ad valorem basically is property taxes and so...and we are agreeable with the amendment to clarify what sums that the treasurer may be handling on behalf of the SIDs. That would be any ad valorem taxes and special assessments, so without giving a whole history of the SIDs, I guess I would be...would urge your support of this legislation. The fiscal hit on Sarpy County is approximately \$400,000 which has to be made up by our property taxpayers, so it is a property tax issue, so. With that I will close and be willing to answer any questions. [LB827]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? Seeing none, thank you very much for coming down today, much appreciate it. Mr. Kelley, welcome back to the Government Committee. [LB827]

SEAN KELLEY: Thank you. Good afternoon, Chairman Murante and members of the Government, Military and Veterans Affairs Committee. My name is Sean Kelley, S-e-a-n K-e-l-l-e-y, appearing today in support of LB827 on behalf of the Douglas County Board of Commissioners. We would concur with the statements that both Senator Harr and Fred Uhe made regarding the duties for county treasurers in collecting the sum of this fee. The county treasurers essentially act as a bank since the SIDs can't have a checking account. So they have to go through and do all the duties that normally would be...that they would generally do on their own, but because of the work, we feel 2 percent is reasonable. In Douglas County this is approximately \$650,000 on an annual basis and there are currently about 154 sanitary improvement districts in Douglas County. So with that, I'd be happy to answer any questions. [LB827]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you for coming down today, much appreciate it. [LB827]

SEAN KELLEY: Thank you. [LB827]

SENATOR MURANTE: Is there any additional proponent testimony to LB827? Welcome back. [LB827]

LARRY DIX: Glad to be back. Senator Murante, members of the committee, my name is Larry Dix, L-a-r-r-y D-i-x. I'm the executive director of Nebraska Association of County Officials appearing today in support of LB827. I think everything has been covered. I did want to touch on Senator Bloomfield's question. This isn't something that we survey every year, but I think the last

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time we checked, it was somewhere between 15 and 20 counties that would have SIDs. And I would tell you then from there it ranges from many of those counties will just have one or two all the way up to the numbers that you heard from Sarpy and Douglas. But the last time that we did, and it was a number of years ago, that we really surveyed our counties on those. So it typically will run around that number. So with that, I'd be happy to answer any questions anybody would have. [LB827]

SENATOR MURANTE: Thank you very much. Senator Groene. [LB827]

SENATOR GROENE: Thank you, Chairman. It says here in existing law, agencies, when fees for services rendered by him or her and not otherwise specifically provided, the following fees on all sums of money collected by him or her for each fiscal year, 2 percent. Who do you collect 2 percent from if it isn't SIDs? [LB827]

LARRY DIX: Who else do we collect that from? [LB827]

SENATOR GROENE: Yeah. The municipalities at 1 percent. [LB827]

LARRY DIX: Sure. There's a collection fee that counties collect when a tax dollar comes in. So, say a tax dollar came in and that collection fee then applies to schools...school districts, to ESUs, NRDs. [LB827]

SENATOR GROENE: Two percent. [LB827]

LARRY DIX: And I don't know...there's a varying percent of what we collect. Some of them are 1 percent, some of them are 2 percent. [LB827]

SENATOR GROENE: It says natural resources district is 1 percent, drainage and irrigation districts 1 percent, so schools, the ag societies, all of those are 2 percent. [LB827]

LARRY DIX: I believe that to be true, yeah. It is laid out in statute which one...(inaudible). [LB827]

SENATOR GROENE: But if it isn't specifically mentioned for 1 percent, everybody else is 2 percent. [LB827]

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LARRY DIX: I think that is the way, or there may be another section of statute that actually addresses each one of those specifically. [LB827]

SENATOR GROENE: I can't believe you got 2 percent of schools. [LB827]

LARRY DIX: I would have to check, Senator Groene, to make sure it was 2 percent. I can't sit here and say that off the top of my head what that percentage is, but I'll find out for you for sure. [LB827]

SENATOR GROENE: And children, I'm sure, don't get anything. Anyway, that's just another comment. [LB827]

SENATOR MURANTE: Thank you, Senator Groene. Are there additional questions? Seeing none, thank you very much for your testimony. [LB827]

LARRY DIX: Thank you. [LB827]

SENATOR MURANTE: Is there additional proponent testimony to LB827? Seeing none, is there opposition testimony? Any neutral testimony? Senator Harr, you're recognized to close. [LB827]

SENATOR HARR: (Exhibit 2) Thank you, and I'll be brief. First of all, I want to thank Sarpy and Douglas for coming to testify on this. I want to thank Trevor Fitzgerald, in the Urban Affairs, was listening to this hearing and presented me with...and I'll make copies afterwards that shows how many SIDs there are and where they are. Twenty-two counties have SIDs. As of 2014, there are...80 percent of those were in Douglas and Sarpy Counties. So that's where the majority of them are. It's on this map that I'll make a copy and send it to you. You know, the number one issue this session is property tax relief and we have to figure out how we can pay for our local governments. And, you know, we can decide whether we think the SIDs who incur the cost to the counties should pay for this, or do we want to spread it across the county in a higher countywide property tax relief. It's not a lot of money, but there is no magic bullet as far as property tax relief, but this is another tool in the tool box that, hopefully, will help lower some of those costs. So with that, I would ask for your approval of this LB827, and hopefully we can get this on consent calendar. So I will have copies made and pass that around afterwards. Thank you. [LB827]

SENATOR MURANTE: Thank you. Any final questions? Seeing none, thank you very much, Senator Harr. [LB827]

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SENATOR HARR: Thank you. [LB827]

SENATOR MURANTE: And that closes the hearing on LB827. Proceed to the next item on the agenda, LB997. Senator Krist is on his way so let's sit at ease. [LB827]

EASE

SENATOR MURANTE: Senator Krist, welcome back to the Government Committee.

SENATOR KRIST: Senator Murante, thank you. And good afternoon, Senator Murante and members of the Military and Veteran Affairs Committee. For the record, my name is Bob Krist, B-o-b K-r-i-s-t, and I represent the 10th Legislative District in northwest Omaha along with north-central portions of Douglas County, which includes the city of Bennington. I appear before you today in introduction of LB997. LB997 contains several housekeeping provisions. And before I start, I just want to say, currently, the only way that these provisions can be put into force is with legal change to the statute. First, the bill deletes requirements that certain agencies have offices in the Capitol. The affected agencies are the Department of Aeronautics, Nebraska Motor Vehicle Industry Licensing Board, and the Department of Veterans Affairs. It requires the Department of Administrative Services to provide appropriate office space outside the Capitol. And I will let those that follow me explain how these things are...how the agencies would be affected. Secondly, it restricts Capitol Commission review of proposals by DAS to name sites or facilities of the exercise of eminent domain to those affecting sites or facilities within the Environs District. Thirdly, it provides a process for placing or removing monuments or memorials in the Capitol or on its grounds. The Office of Capitol Administrator reviews each proposal. Approval of the Capitol Commission and consent by the Legislature are required to remove or replace. Recognition in the Hall of Fame is excluded from the process. Finally, it provides a process of naming spaces of or rooms in the Capitol. The office of the Capitol Commission reviews each proposal and makes a recommendation to the Capitol Commission. Capitol Commission approves or rejects the proposal. Consent of the Legislature is not required. Rooms named by the Legislature prior to the enactment are not affected. Among those rooms are the Legislative Chamber, the current Senators' Lounge, the old Senators' Lounge, old Senators' Chamber, Judiciary, Transportation hearing room, Revenue and Appropriations hearing room, and the Education and Natural Resources. Notice I didn't name the names, so you're challenged this afternoon to go around and figure out they're named on there. The Capitol Commission has the authority to issue rules and regulations to guide applicants with proposals to place or remove the monuments or to name rooms or spaces. In closing, any reference to the fiscal note, there is absolutely no, no--let me underline the word no--intent that DAS be required to provide agencies with free--and emphasizing the word free--office space. If you find the fiscal note a bit confusing, you're not alone. The language in LB997 requiring the Department of Administrative

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Services to provide office space is nearly identical to language already in statute, Nebraska statute, Section 77-7006. So there's a redundancy, and require the department to provide space to the Tax Equalization and Review Commission, for example. The department has not provided free space to TERC. It is an obligation of DAS to provide office space to all agencies outside the Capitol and that is specified in another Nebraska statute, 81-1108.22. LB997 is not intended to require the Department of Administrative Services to provide free office space anywhere to any agency. There's some irony in the position expressed in the fiscal note. If the agency as described in the bill had offices in the Capitol as required by law, they would not be charged rent. If, however, the committee believes an amendment is necessary to clarify that position, it's all yours. I think...you will recall, there was a bill introduced last year. This is actually the revised edition of that bill and it was brought to me by our former senators who have been around long enough to see this process work, particularly with the Capitol Commission. And I believe it is a reasonable expectation of the things that should be changed. Should the committee decide to include this on an omnibus or a Christmas tree, I'd be happy that that would happen. I think these four things are reasonable and reasonable expectation for us to move forward. And I stand for any questions. [LB997]

SENATOR MURANTE: All right. Thank you, Senator Krist. Are there any questions? Senator Bloomfield. [LB997]

SENATOR BLOOMFIELD: Thank you. Senator Krist, on page 7, get down to line 26 through 29, we're talking about eminent domain. What are the limits within that? We can't just go down to any building in town and say we're taking that one, can we? [LB997]

SENATOR KRIST: Well, I think, in addition to any other rights and powers conferred upon the Commission it shall monitor and advise the state building administrator in exercising the law. The power of eminent domain on behalf of the state for the purpose of acquiring sites or buildings for the state use, and then it adds the words, and authority defines it, "within the Nebraska State Capitol Environs District", meaning the Environs, not downtown like in, not local control in your district. Okay. It does restrict the Environs right. [LB997]

SENATOR BLOOMFIELD: Okay. Thank you. [LB997]

SENATOR MURANTE: Thank you, Senator Bloomfield. Additional questions? Seeing none, thank you for your opening. [LB997]

SENATOR KRIST: I need to go back to Judiciary so I'll waive my closing. If you'll let me know how things turn out, it would be great. [LB997]

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SENATOR MURANTE: Will do. [LB997]

SENATOR KRIST: Thank you, Senator. Thank you all. [LB997]

SENATOR MURANTE: And we will proceed to proponent testimony, those in favor of LB997. Welcome back to the Government Committee. [LB997]

BOB WICKERSHAM: Thank you, Senator. Senator Murante, and members of the Government Committee, my name is Bob Wickersham, B-o-b W-i-c-k-e-r-s-h-a-m, and I'm here appearing on behalf of the Nebraska Association of Former State Legislators. Wish to express our thanks to Senator Krist for introducing LB997 on our behalf. I believe Senator Krist's opening...I hope, adequately covered the aspects of the bill that you might be interested in. I...to follow up on Senator Krist's invitation to explain the effect on agencies of changing the statutory requirement that they have an office in the Capitol, as opposed to having DAS provide offices elsewhere, is simply that. The three agencies named do not have offices in the Capitol Building even though there is a statutory requirement that they do. They have offices...the Department of Veterans Affairs have an office in the State Office Building. I think Aeronautics is out at the airport, they're not in the Capitol Building. They are holdovers from legislation that was passed in the '40s and early '50s. For some reason, they've been overlooked. So, we hope that seems reasonable. And I think Senator Krist has adequately expressed the notion that...or I hope addressed the notion that somehow the agencies would get free space outside of the Capitol Building. That is...that was never discussed by our organization. We believe that the agencies, once they were outside the building, outside the Capitol Building, would pay rent just like everybody else. The other provisions in the bill actually restrict some authorities of the Capitol Commission, restrict the need to have a review, a request for use of eminent domain, and restricts the Capitol Commission's advice on naming state office building's or sites outside the Environs District. There's no need to have the Capitol Commission consulted, for example, on the naming of a building in Scottsbluff or someplace else. But that's what should technically be done under current law. So, Senator, if there are other...if there are questions, I'd be happy to try to respond. [LB997]

SENATOR MURANTE: Thank you very much for your testimony. Are there questions? Senator Bloomfield. [LB997]

SENATOR BLOOMFIELD: Thank you. You've not explored in those other committees that are already outside of the Capitol that the law says has to be in here? Are they paying rent now? [LB997]

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BOB WICKERSHAM: Two of them do. One of them does not. They have a commercial lease. [LB997]

SENATOR BLOOMFIELD: Okay. [LB997]

BOB WICKERSHAM: The Department of Aeronautics has a commercial lease so they don't lease from DAS. The other two agencies, in effect, lease office space from DAS. [LB997]

SENATOR BLOOMFIELD: Okay. Thank you. [LB997]

SENATOR MURANTE: Senator Groene. [LB997]

SENATOR GROENE: Did they move out because they just got too big for the Capitol? [LB997]

BOB WICKERSHAM: Senator, I have no idea, but that would be my suspicion. [LB997]

SENATOR GROENE: Have they been gone for lots of years? [LB997]

BOB WICKERSHAM: I don't know when they moved out. It's hard to say. I mean, agencies moved out over time. I mean, there used to be...well, at one time, actively all state agencies were housed in the Capitol Building, or at least a branch of them. [LB997]

SENATOR GROENE: Generally, could you describe what the area around the Capitol that eminent domain is in? Is that a block, two blocks, or just... [LB997]

BOB WICKERSHAM: Oh, no, sir, perhaps I should have brought a map. In the...this happened...there is an Environs District. It was established by statute. It basically forms a cross with the Capitol in the center of it. There is a radial that goes to the south. It goes along Goodhue Boulevard to South Street and there is the north radial that goes from the Capitol steps to the university. That's the Centennial Mall. The other radial is the boulevard that goes to the state county building, Lincoln Building, and then there should have been another radial, but it's been truncated, that goes to the east of the building and you can see just a little stub of that at J Street. It looks a little bit funny there, but it was actually designed, laid out initially to be a boulevard. The Environs District follows those boulevards and it varies in width a little bit, particularly on the J Street side, but otherwise it's a couple of blocks on either side of those radials. And within that area there is cooperation between the state and the city for development of those areas.

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There are height restrictions, for example, on buildings, I believe. I can't remember...and height restriction varies as you get closer to the Capitol, for example. [LB997]

SENATOR GROENE: And eminent domain like the HVAC they were putting in on the parking lot. Was eminent domain used to...? [LB997]

BOB WICKERSHAM: I think the specific block that the HVAC project is going to be on is not in the Environs District. Remember, it's restricted to follow those radials and I think that particular block is outside of the Environs District. But is an example of the kind of a project that under the current law DAS should have, perhaps, consulted with the Capitol Commission if they were going to exercise eminent domain there, but it just doesn't make any sense. It doesn't have anything to do with the Capitol, which is the primary focus of the Capitol Commission, while things within the Environs District do relate to the Capitol, at least being able to see it, being able to keep it in an appropriate architectural setting. [LB997]

SENATOR GROENE: Okay. [LB997]

SENATOR MURANTE: Thank you, Senator Groene. Senator Bloomfield. [LB997]

SENATOR BLOOMFIELD: Thank you, again. This eminent domain thing still bothers me a little bit within the district. If we go down the street to the west here a half a block, can the state simply say, we want that building and...? [LB997]

BOB WICKERSHAM: What...the state...I... [LB997]

SENATOR BLOOMFIELD: The Capitol Commission. [LB997]

BOB WICKERSHAM: No, the Capitol Commission has no powers of eminent domain. No, Senator, that's a misconception, I think. The Capitol Commission has no powers of eminent domain. [LB997]

SENATOR BLOOMFIELD: Who are we regulating with these powers of eminent domain we're talking about then? [LB997]

BOB WICKERSHAM: Okay. There is an existing section of law that says that if the Department of Administrative Services is going to exercise its power of eminent domain, or power of

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eminent domain on behalf of the state would be more appropriate way to place it, that the Capitol Commission is to be consulted, but the Capitol Commission is only... [LB997]

SENATOR BLOOMFIELD: Has no... [LB997]

BOB WICKERSHAM: But there's no reason to consult them, except within the area of the Environs District. [LB997]

SENATOR BLOOMFIELD: Okay. [LB997]

BOB WICKERSHAM: At least that's our view. I mean consulting about some action in Sioux County is just not...it is...we believe it's appropriate to consult within the Environs District because that was intended to protect the architectural setting of the Capitol and the sight lines and the views so you can actually see the Capitol. [LB997]

SENATOR BLOOMFIELD: Okay. Thank you. [LB997]

BOB WICKERSHAM: Amongst other things. [LB997]

SENATOR MURANTE: Senator Groene. [LB997]

SENATOR GROENE: And it protects that. [LB997]

BOB WICKERSHAM: Excuse me? [LB997]

SENATOR GROENE: It changes to protect the Capitol Commission's on that area around the Capitol. [LB997]

BOB WICKERSHAM: It makes clear that the Capitol Commission's focus is only on that area, and does not pertain to other areas to any other area in the state. [LB997]

SENATOR GROENE: So if the state did on their own demand decided to build a parking lot, which there have been talk about, or in that area, or another office building, they would consult you about how does it affect the Capitol's environment. [LB997]

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BOB WICKERSHAM: Okay. I don't want to be overtly technical, Senator, but if the state proposed to build a parking garage in the Environs District, that would be...that issue would be brought before the Environs Commission, which that joint state, city commission, and they would have some...they would have jurisdiction over that question. The Capitol Commission would not because the Capitol Commission's primary responsibility is the Capitol Building and the four blocks that it sits on. But, obviously, it has...I think its input or its advice is appropriate for the areas around the Capitol Building because those can affect the...again, the architectural setting for the Capitol or people's ability to view the Capitol. So the Capitol Commission does have a role within the context of the Environs District to make sure that that's maintained. [LB997]

SENATOR GROENE: It's the aesthetics of the area also. [LB997]

BOB WICKERSHAM: Yes, yes. Yes, sir, but the primary responsibility of the Capitol Commission is just this building and the four blocks that it sets on. In fact, that doesn't even extend beyond the curb. If you get out here to the curb, that's the city of Lincoln. [LB997]

SENATOR GROENE: Thank you. [LB997]

BOB WICKERSHAM: It's a little confusing, frankly. They have very similar names. They both have focus of the Capitol, but different responsibilities within that focus. [LB997]

SENATOR MURANTE: Thank you, Senator Groene. Seeing no other questions, thank you very much for your testimony. [LB997]

BOB WICKERSHAM: All right. Thank you. [LB997]

SENATOR MURANTE: Much appreciat it. Is there additional proponent testimony to LB997? Seeing none, is there any opposition testimony to LB997? Any neutral testimony? Seeing none, Senator Krist has waived closing and that ends the public hearing on LB997. We'll proceed to the last item on the agenda, LB807. Senator Williams, welcome to your Committee on Government, Military and Veterans Affairs. [LB997]

SENATOR WILLIAMS: Thank you, Chairman Murante and members of the committee. My name is Matt Williams, M-a-t-t W-i-l-l-i-a-m-s, and I represent Legislative District 36, and I'm here today to introduce LB807, which will make some small changes in the reporting requirements for county attorneys through their county boards. Under current law, the county attorney in each county is required to file a quarterly report which shows the disposition of

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criminal cases, the criminal cases pending, and the criminal cases on appeal. The statute also gives the county boards the ability to waive the report in all counties except those with a population of 200,000 or more. LB807 would allow all 93 county boards to waive this report if they so choose. We went back and did a little research and it looks like the requirement that a county attorney file this report was first generated in 1957. A few years later in 1961, the Legislature added the language allowing county boards to waive the report except in counties with a population of 200,000 or greater. At the time the only county that had a population of this size was Douglas County. Around 1990, Lancaster County crossed this threshold, but their county board may have waived the report. Since the report is filed with the county board, I don't know how many counties still require...how many counties require the report to be filed or how many waive. None of us know that. However, I do think it's appropriate that we give Douglas County the ability to waive this report if they so choose. There is a representative from the Douglas County Attorney's office to give you additional information about how they handle this report. Thank you for your attention and I will stay around. [LB807]

SENATOR MURANTE: That's great. Thank you for your opening. Are there any questions? Seeing none, thank you very much and we'll proceed to proponent testimony to LB807. Welcome. [LB807]

SHAKIL MALIK: (Exhibit 1) Good afternoon, Senators. My name is Shakil Malik, S-h-a-k-i-l, last name Malik, M-a-l-i-k. I'm a deputy county attorney. I'm appearing on behalf of the Nebraska County Attorneys Association in support of this bill. First, I want to thank Senator Williams for offering this. Essentially what we're trying to do here is allow, as he said, all counties to be able to waive this report, if the county board so choose. Senator Williams is right, it is difficult to determine what counties are doing and what. I've done some research on it. I'll admit readily it's incomplete, but to give some ideas, I looked at...I found that right now with...found that Sarpy County is currently waiving it; Burke County is currently waiving it; Lancaster, at least under Joe Kelly's administration, has been providing it, but they're only providing aggregate numbers, not a listing of the cases which the statute could potentially be read that way to provide it. With Douglas County, we were providing the report. We've recently...last few years not been able to provide, and that is for similar reason to why Sarpy got a waiver, this past year, is a lot of the counties have been moving to a new prosecutor case management system in cooperation with the Supreme Court and the Crime Commission. Those changes have made it somewhat more difficult to isolate that point-in-time data. It's more...gives you staff's reports of for where you are. It's harder to look at. Historical is on it. I will tell you the report, I've not seen or heard from any of the county attorneys I've talked to or any county board members or anyone else that's really...I'm not sure that's really ever read or looked at or much is done with it. Obviously, if the county board wants to keep it, they certainly could, but this idea has not raised anyone's alerts that I've been able to see so far. And it's really something that was passed, you know, over 50 years ago. It's now encompassed...Lancaster has been pulled into it.

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Sarpy is getting close, you know, within the next decade they'll get pulled into it as well too. So we're just asking the option be there to allow county to waive this burden. And with that I'd certainly be happy to answer any questions from the committee. [LB807]

SENATOR MURANTE: Thank you very much for your testimony. Are there questions? Senator Groene. [LB807]

SENATOR GROENE: Are you the only one doing it now? [LB807]

SHAKIL MALIK: Offering the report? [LB807]

SENATOR GROENE: Mandated? [LB807]

SHAKIL MALIK: Right now, what I can find, I believe only Lancaster, that I could find right now, is providing some data on it. They're not providing the whole listing of cases, they're just providing some numbers. Essentially, I didn't want to murder trees so you could have it. [LB807]

SENATOR GROENE: That's fine, but my question is this. If everybody waives it, why don't we just strike the law? [LB807]

SHAKIL MALIK: That is certainly an option this committee or Legislature can take. We had initially proposed just allowing the waiver to occur in case there's some county out there that, with 93, that we didn't know that for some reason wanted to keep it, but. [LB807]

SENATOR GROENE: Who, as a taxpayer citizen, how do I find out what you've done? The county attorney that I voted for, how many cases he's had pending, how many he's disposed of, if you guys don't even...can't keep track of it yourself. [LB807]

SHAKIL MALIK: So a lot of that data, just not quite corresponding to these definitions as kept by the Nebraska Supreme Court now that they've moved that justice system, they publish all the stats. They're also required to keep a lot more of that data, especially in criminal cases now as a result of the passage of LB605. We also report some data and a lot of law enforcement agencies use the Crime Commission for dispositions. It's just the way the report is structured. If I may give you an example, it talks about providing cases on appeal. Well, for an individual county attorney, that's actually fairly hard to do because its appeals are normally handled by the Nebraska Attorney General's Office. You know, once it's past trial level, you know, we don't really see it or deal with it again unless something comes down the road, a postconviction. Similarly, if we're looking at a case that, where's that final disposition? Well, it's not there when

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it's on appeal. It's on disposition when they're still on probation, especially with this postrelease supervision now. Could it come back? So, with the terminology and everything that was used 50-plus years ago, it just doesn't correspond. But I will tell you, there's a ton of data tracking going on. It's just not tailored to this report and certainly anyone who has ever asked our office, most of the county attorneys will provide whatever data we can. We have public records requests all the time, media records requests, we'll give it. It's just this is a requirement that's become a, I think, a bit of antiquated compared to where everything else is at right now. [LB807]

SENATOR GROENE: Are you sure? Because I just went through with your office on the Senator Ebke's LB289 trying to find out the number of murders last year and the previous year and it took you guys three days to figure that out. [LB807]

SHAKIL MALIK: And I was not involved in that request. I could certainly look into it. I mean, sometimes there can always be delays depending on who is in the office, whatnot, but normally we can fairly, readily pull data. And I will tell you this too, in Douglas County we have a shared I.T. Department between the city and the county, so sometimes just that having something pulled, it goes to that department it can take a couple of days. [LB807]

SENATOR GROENE: Was trying to figure out that there was 33 last year and 50 this year. I just wanted it verified. The World-Herald figured it out, but anyway, just kind of a coincidence that you're sitting here and... [LB807]

SHAKIL MALIK: And I do apologize for any delay that did occur, but we normally try our best to get that data as quickly as we can. [LB807]

SENATOR GROENE: Thank you. [LB807]

SENATOR MURANTE: Senator Bloomfield. [LB807]

SENATOR BLOOMFIELD: Thank you. The time spent doing this report, what's that cost to the taxpayer? [LB807]

SHAKIL MALIK: Well, what had happened with us is, we went to the new case management system and we did in conjunction with the Douglas County's move to Justice back in 2011 in the spring and fall. And that was about the time we started realizing now going to a new systems, it would be harder to get some of this data. And at that point, and going back a few years, we estimated to do the manual parsing that we, at that time, thought would be needed. We're going to have to have at least two secretaries working through a weekend to get it done. You know, and

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so you're talking...just guesstimate, 15 or 16 hours labor and that's each quarter then to do that. Plus, obviously if we do the full version with all the names, you're looking at several hundred pages of paper because at any given time Douglas County...you know, we file about 3,500 felony criminal cases a year plus, you talk about, and then we handle misdemeanor domestic violence and whatnots. It's quite a paper burden at that point. [LB807]

SENATOR GROENE: One more question, Chairman. Oh, go ahead. [LB807]

SENATOR BLOOMFIELD: Thank you. [LB807]

SENATOR GROENE: One more question, Chairman. The thing that keeps coming back to me is the county attorney is an elected office. So how, as a voter, do I know if you're dismissing a whole bunch of drunk driving cases, or you're not following up, you're not getting good convictions, how do I track that? [LB807]

SHAKIL MALIK: You know, the...I guess the benefits in a larger county like Lancaster or Sarpy, Douglas, is we do have a fairly robust media plus advocacy. I mean, when we dismiss things we hear about it pretty quick. Somebody talks, somebody needs to inquire something, and you mentioned drunk driving, that's been brought up before. People aren't happy with dismissals. It's, I mean, we get people from London calling us once, literally, when things are dismissed. I've worked on a number of high-profile juvenile cases, you hear about it. And that's what I mentioned in my written remarks is I think the oversight and accountability has changed quite a bit since the '50s when this was first passed. It's just there's more data, more people out there, more places out there. [LB807]

SENATOR GROENE: Thank you. [LB807]

SENATOR MURANTE: Okay. Seeing no other questions, thank you very much for your testimony, very much appreciated. [LB807]

SHAKIL MALIK: Thank you. Appreciate your consideration on this. [LB807]

SENATOR MURANTE: Is there additional proponent testimony to LB807? Is there any opposition testimony to LB807? Any neutral testimony? Senator Williams. [LB807]

SENATOR WILLIAMS: I just wanted to make one point clear following the questions from Senator Bloomfield and Senator Groene. This bill does not remove the reporting requirement. It simply gives the county board the decision making of whether they would waive whether they

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received it. So, a county could still have to do this. If the county board wanted this information, if they thought taxpayers wanted this information, they could require it. Thank you. [LB807]

SENATOR MURANTE: (Exhibit 2) Thank you. And before we close the hearing, I have one letter of support from Larry Dix from the Nebraska Association of County Officials. And with that, we close the hearing on LB807. [LB807]