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Urban Affairs Committee  
February 17, 2015

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[LB378 LB455 LB540]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, February 17, 2015, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB455, LB378, and LB540. Senators present: Sue Crawford, Chairperson; Colby Coash; Laura Ebke; Matt Hansen; Dan Hughes; and Bob Krist. Senators absent: John McCollister, Vice Chairperson.

SENATOR CRAWFORD: So good afternoon and welcome to Urban Affairs Committee. My name is Senator Sue Crawford and I represent the 45th Legislative District in Bellevue and eastern Sarpy County, and I serve as Chair of the Urban Affairs Committee. So we usually start with having members introduce themselves, but right now we are waiting. We have some members who are coming in from Exec Session. We had multiple members who are on the Executive Board and one of our other members presenting a bill before the Executive Board so they'll be trailing in. I'll do the rest of our introductory remarks, then we'll do self-introductions at the end. Also assisting the committee are committee pages and today we have Donnie Earl from Lincoln who is a political science major who is here, but not just right this minute (laugh). This afternoon...we have everybody leaving today. This afternoon we'll be hearing three bills, and we'll be taking them in the order listed outside of the room. On each of the tables in the back of the room you'll find green testifier sheets. If you're planning on testifying today, please fill out one and hand it to Courtney when you come up. This will help us keep an accurate record of the hearing. If you do not wish to testify but would like to record your position on a bill, please fill out the white sheets in the back of the room. We would ask if you have handouts that you bring at least ten copies and give them to Donnie. And if you need additional copies, the pages can help you make more. Testimony for each bill will begin with the introducer's opening statement. After the opening statement, we will hear from supporters of the bill, and then we will hear from those in opposition, followed by those speaking in a neutral capacity. The introducer will then be given the opportunity to make closing statements if they wish to do so. We ask that you begin your testimony by giving us your first and last name and please spell them for the record. Could I see how many people are planning to testify today on any of the bills so? Yeah, sorry. Okay. So we usually use the lights if we have 15 or more and we do not today, so we will not use the light system. But we would ask that you try to keep your testimony under five minutes and avoid repetitive testimony if possible in respect for those who are coming after you. I would remind everyone, including senators, to please turn off your cell phones or put them on vibrate. And with that, we will have our introductions so I'll allow the senators to introduce themselves.

SENATOR COASH: Senator Coash from here in Lincoln.

TREVOR FITZGERALD: Trevor Fitzgerald, committee legal counsel.

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SENATOR KRIST: Bob Krist, District 10, Omaha and Bennington.

SENATOR EBKE: Laura Ebke, District 32.

SENATOR CRAWFORD: So we should be joined by Senator Hansen. He had a bill that was up in front of the Exec Committee, and Senator Hughes is also on that committee so he should be coming in. Senator McCollister will not be with us today. So with that, we will begin our public hearing on LB455. Welcome, Senator Gloor.

SENATOR GLOOR: Thank you, Senator Crawford and committee members. Good afternoon. My name is Mike Gloor, G-l-o-o-r, presenting LB455 today. This bill falls into the category of cleanup language on a bill that was just recently passed by the Legislature. And to my experience with the Legislature anyway, fits into the category of the sort of things that seem to be a shoe-in for consent agenda. So hopefully you'll agree and help me get it there. LB455 clarifies the law pertaining to the appointment of a fire chief in the city of the first class and with a population over 37,500. The categorical definition, as I'm sure you well know, of a first-class city is city with a population of 5,000 to 100,000. But this law made the requirement of full-time fire chief only for those with more than 37,500 residents. There are only two cities in this population range in the state: Grand Island and Bellevue. Since 1943, all full-time firefighters and police officers of a municipality, including the chiefs, have been hired through the Civil Service Act. The Civil Service Act spells out the system for the hiring, firing, promoting, and disciplining of police officers and full-time firefighters, including police and fire chiefs. The purpose of the act is to base hiring and promotions on merit, efficiency, and fitness. Under the act, the Civil Service Commission evaluates candidates and makes recommendations to ultimately the hiring authority, which is usually your mayor and city council or the city manager. In 2008, the Legislature adopted LB1096 to require cities of the first class with a population above 37,500 to employ a full-time fire chief. That bill passed. Although the bill provides who will make the appointment, the hiring authority, that being the mayor, city council, city manager, it does not specify that the fire chief would be appointed through the Civil Service Act. Because 2008 law did not refer to the Civil Service Act, it raised the question of whether fire chiefs in these cities are to be appointed outside the act. It isn't thought so, but the law does not make that clear. So LB455 simply clarifies that the fire chiefs in these cities are to be appointed through the Civil Service Act. I appreciate your time. I'd be glad to answer questions, but there will be several testifiers behind me who could answer some specific questions also. [LB455]

SENATOR CRAWFORD: Thank you, Senator Gloor. Questions? We've just been joined by Senator Hansen. Questions? Thank you. [LB455]

SENATOR GLOOR: Thank you. [LB455]

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SENATOR CRAWFORD: Are you staying to close? [LB455]

SENATOR GLOOR: I'm going to stay to listen. I may not close, but I'll listen for a while. Thank you. [LB455]

SENATOR CRAWFORD: So now we'll now hear from proponents of LB455. Welcome. [LB455]

LYNN REX: Thank you. Senator Crawford, members of the committee, my name is Lynn Rex. L-y-n-n R-e-x, representing the League of Nebraska Municipalities. First, we'd like to thank Senator Gloor for introducing LB455. This is an important clarification. We do know that there will be other cities that will meet this population threshold of 37,500; and this makes it very clear that Chapter 19, Article 8 does apply and...pardon me, Chapter 19, Article 18 does apply for the Civil Service provisions. And we did know that when Grand Island was going through this process there was a question raised. We appreciated them bringing this forward so that no other city would have to go through that question as to whether or not it would be under the Civil Service Act, which is certainly intended. I'd be happy to respond to any questions that you might have. [LB455]

SENATOR CRAWFORD: Questions? Would you mind just telling us for our edification and for the record why this protection is important? [LB455]

LYNN REX: For the Civil Service protection? [LB455]

SENATOR CRAWFORD: Um-hum. [LB455]

LYNN REX: Because the purpose of Civil Service, both for police and fire, Chapter 19, Article 18, that whole statute relates to first-class cities on the police side and the fire side. It was put in place to make sure that there were protections so that there will be no political implications in terms of whether or not someone was being promoted, demoted, fired, terminated, whatever, or hired for that matter. And it is very important to make sure that that process is there. Because in fact, as you know, public safety is number one. And we wanted to make sure that in fact as we worked on these statutes for the last 30 years that those positions were protected. [LB455]

SENATOR CRAWFORD: Thank you, Ms. Rex. [LB455]

LYNN REX: You're welcome. [LB455]

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SENATOR CRAWFORD: Other questions? Thank you. [LB455]

LYNN REX: Thank you very much. [LB455]

SENATOR CRAWFORD: Other proponents. We're now joined by Senator Hughes. Welcome. [LB455]

SENATOR HUGHES: Sorry, Madam Chairman. [LB455]

SENATOR CRAWFORD: Welcome. [LB455]

MARLAN FERGUSON: Good afternoon, Senator Crawford and members of the Urban Affairs Committee. My name is Marlan Ferguson, M-a-r-l-a-n F-e-r-g-u-s-o-n. I am the city administrator of the city of Grand Island. Since 2009, first-class cities with population in excess of 37,000 inhabitants have been required to hire a full-time fire chief. Because it was not expressly stated that a fire chief could be hired under the Civil Service Act, questions have arose about the hiring process and the appointment. LB455 would clarify that the fire chief is appointed under the Civil Service Act. The act has in place a systematic approach to hiring and firing of public safety positions. The act has created an open and fair environment where public safety employees are able to concentrate on their job duties and not worry about the political ramifications associated with their actions. The act currently ensures fire department personnel have the appropriate training, credentials, and experience for whom firefighting or emergency medical first responders are needed. To employ a fire chief without the proper training, credentials, and experience is not doing justice to the citizens of our community nor to the fire or medical emergency personnel. Without the proper background, a fire chief could not only put their staff at risk but also the public. As a city administrator, I rely on the fire chief to give me advice at a highly professional level. It is imperative that the fire chiefs have the proper knowledge and experience in order to be effective at their jobs so I can do my job. And I'd also like to point out Mayor Jensen from Grand Island is here today and for him to do his job as well. So with LB455, we can assure that the right people are in place in the right key positions in our cities. Thank you. [LB455]

SENATOR CRAWFORD: Thank you, Mr. Ferguson. Questions? [LB455]

MARLAN FERGUSON: Any questions? [LB455]

SENATOR CRAWFORD: Thank you. [LB455]

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MARLAN FERGUSON: Thanks. [LB455]

SENATOR CRAWFORD: Welcome. [LB455]

CORY SCHMIDT: Welcome. Thanks. My name is Cory Schmidt, C-o-r-y S-c-h-m-i-d-t. And I'd like to thank the senators for allowing me the opportunity to speak on behalf of LB455 and like to thank Senator Gloor for bringing this forward. The fire chief position can be highly political in nature. As a current fire chief and longtime employee of Grand Island Fire Department, I have seen the need for clarification related to the hiring practices with the fire chief position. The Civil Service Act, as you are well aware, has in place a systematic approach to the hiring of various public safety employees. The Civil Service Act has created an open and fair environment where public safety employees are hired based on their qualifications and performance. This has eliminated much of the subjective nature related to hiring practices associated with other positions. My professional opinion is that the fire chief position should be subject to the same process outlined in the Civil Service Act. The Civil Service Act currently has language relating to fire chiefs that explain any city over the 37,500 inhabitants should employ a full-time fire chief. I can speak from experience that the job of fire chief is not only administrative but very technical in nature as well. To employ a fire chief without the proper training and credentials is not only a bad choice, but also has the potential to cost lives. On a regular basis, I'm required to make informed decisions based on my years of experience, education, and training. Without the proper background, a fire chief could not only put their staff at risk, but also the public as well. It is imperative that fire chiefs have the proper training and other credentialing in order to be effective. By clarifying the wording contained in the Civil Service Act with LB455, we can ensure that the right people are put in this key position. Thanks for your consideration. [LB455]

SENATOR CRAWFORD: Thank you, Chief Schmidt. Questions? We thank you for being here. We thank you for your work protecting the lives of our citizens so thank you. [LB455]

CORY SCHMIDT: Thank you. [LB455]

SENATOR CRAWFORD: Other proponents of LB455 who wish to testify. Is there anyone who wishes to testify in opposition to LB455? Anyone who wishes to testify in a neutral capacity on LB455? We have no letters to read into the record. Senator Gloor, would you like to close? Senator Gloor waives closing so that will close our public hearing on LB455. Thank you. We're ready when you are, Senator Groene. [LB455]

SENATOR GROENE: (Exhibits 1 and 2) Sorry. I guess I...Senator Mike Groene, M-i-k-e G-r-o-e-n-e. I guess I still think I'm a citizen coming to testify. (Laughter) Hope I never lose that attitude. But, anyway, LB378 under 16-697.02 state statutes at present the mayor and city

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council have the power to borrow money and pledge as security the property and credit of the city in order to buy and improve land for parks, recreational facilities, and public grounds as long as authority is first obtained by placing the proposal on the ballot at a general election and obtain the majority of the vote. But that's as far as it goes. I want to add some language to the bill to...on the election ballot itself, the bill would protect the citizens by adding the specific type of financing to the ballot language so that the voter can make an informed decision. It makes a difference regarding the decision the voter will make on the proposal if the project will be funded by revenue bonds which are paid for by the project's own revenue or general obligation bonds paid for by the city's general fund which is generated by property, sales, and miscellaneous taxes. This bill further mandates that any proposed refinancing from one type of bond to another form of financing be authorized by a new vote of the citizens so as to not change taxpayers' liability without their consent. Had some concerns with our bill, some of the bond attorneys, and we sought advice from an attorney from Baird Holm and from Ameritas, which are major...I called my city manager and he gave me some references to call. So we did pass out the amendment. And basically it clarifies, there was concerns that got back to me, well, what are you talking about. Will this affect if we want to refinance sewer bonds? What if we just want to go revenue to revenue but just refinance them and get a lower interest rate? The new language in the amendment that we offer basically clarifies it and puts it more in bond attorney language. So I wanted to make sure that...I told Lynn Rex earlier that if they had a concern that I did an amendment. And basically the amendment is as follows, which will just change the language of the original bill to more...it says the same thing but it's in lawyer language if that makes any sense. And you got the copy. And it says the mayor and city council shall...I'm reading this so that the folks behind me know what we did, the mayor and city council shall identify the specific type of security pledged, securing any financial or bond issue in the proposition to borrow money and pledge the property and credit of the city upon its negotiable bonds or otherwise for the purpose described in subsection (1) of this section. The proposition with language identifying the specific type of security pledged to be used shall be placed on the ballot to be voted on by the qualified electorate of the city. And, (3), if the mayor and city council decide to issue refunding bonds under Section 10-142 for bond issued pursuant to this section that change the specific type of security pledge authority thereof...therefor must first be obtained by the majority vote of the qualified electorates of the city voting on such refinancing proposition at any general city election of such city or at the election called for that purpose. We all know politics is local. And in North Platte, we had a huge issue, and banging on doors, it's the thing I heard. We...and back in '92, the city decided that they wanted to build a municipal golf course. But back at that time everybody knew we had destination golf courses which sold not as just a golf course for the middle-class people to go golf, it was going to be a destination golf course and, of course, there was going to be tourism and economic development. I passed out the brochure that was given to the folks why you should vote for it. And on the front page it says, yes, vote allows progress towards a no tax dollars golf course to continue. And then it says on and on. In one section it says, how has the committee found that this project could be accomplished without tax dollars on

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a national basis for many years. Financial firms have constructed various projects, including public golf courses with revenue from the projects. Not tax dollars. And it goes on and on telling the voter that it's not going to cost you anything. Well, what happened, I also have a copy of the original ballot. It's in here. Can't find it right now, but, and it doesn't mention, doesn't mention anything on the original ballot about how it was going to be financed. This bill will make the municipality say, we want to build a municipal golf course. We also built in North Platte a rec center. We're one of the few cities that have a city-owned rec center. Most of them are YMCA's our size with the same method. But it will put on the ballot to tell a citizen we're going to do general obligation bonds. It's going to be tax dollars. Or in this case, the golf course, they told the citizens that it was going to be revenue bonds. Well, guess what happened, folks? Three years into the project the revenue didn't show up. The city council decided in 1995 late at night with one reading of the change decided to change from revenue bonds to general obligation bonds. Fifteen years later, \$11 million later, the citizens of North Platte are paying for a golf course. All of our keno funds go to that golf course. And if you know anything about keno funds, they're supposed to be improvements for parks and playgrounds for the kids. All of our keno funds for that amount of time has gone to the bonds on that golf course, general obligation bonds. So this is a local issue but I've heard rumors from folks. You'll hear now people talking about building softball complexes by using this method. The people need to know if they voted on it and they were told how it was going to be funded that their word is going to be kept, the government's word is going to be kept. And what this legislation would do would put it on the ballot, people know what they're voting for, and if they wanted to change it, they have to go back to their electorate to change it. Now there was concern about the original language if you went from revenue bond to revenue bond, just changed interest rates if you have to vote on it. This new language clears all that up and it needs to be put into law. The people need to be...if they're told something, they need to have the opportunity to respect their elected officials that they didn't change the...and in smaller towns it's a bigger issue. You get a few, excuse my terminology, good old boys who buy the bonds and they have a lot of influence in the community and they're going to take a hit. Take Kearney for example. Kearney did the right thing on that Arch. Those are revenue bonds. In America, to gain profit you take a risk. And if you buy a revenue bond, you know exactly what you're doing. I've also checked into it that if a city defaulted on a revenue bond, it doesn't hurt their credit. Most bond companies will say, smart, smart business to make that a revenue bond because it doesn't affect the general obligation bonds because they know now their general obligation bonds are safe because revenue won't be stolen from the tax dollars to pay for this revenue bond payment. It's just it's good government. I can't sum it up any better than that to make these changes, so. Thank you, and I'll close later. [LB378]

SENATOR CRAWFORD: All right. Thank you, Senator Groene. Would you like to answer questions at closing then? [LB378]

SENATOR GROENE: What's that? Oh, I'm sorry. [LB378]

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SENATOR CRAWFORD: Would you like...okay. That's all right. That's okay. Questions for Senator Groene? We'll save them for closing. Thank you. Proponents of LB378. Welcome. [LB378]

DICK CLARK: (Exhibit 3) Chairman Crawford, members of the Urban Affairs Committee, my name is Dick Clark, D-i-c-k C-l-a-r-k. I'm here today representing the Platte Institute. Thank you for this opportunity to speak in support of LB378. Senator Groene's bill as introduced is very straightforward. It puts additional conditions on the borrowing authority vested in mayors and city councils in first-class cities. Specifically, it first requires city government to identify the type of financing or the type of bond to be used in any proposal to borrow money on the city's credit. And that information would be placed with the ballot that poses the bond question or borrowing question to voters. Second, the bill forbids changing the type of financing or bond used without approval by voters of the refinancing proposal. Now I haven't reviewed the amendment but I'm confident that Senator Groene's amendment improves the bill, but just to note I am speaking to the green copy. This bill essentially says that local elected officials should not be able to present one deal to voters, get their approval on that deal as required by Nebraska Revised Statute 16-697.02, and then materially alter the deal after the fact. Changing bonds from revenue bonds to general obligation bonds can have real consequences for taxpayers, and those local taxpayers are supposed to have a say in the process. This bill just eliminates one way that local officials can make an end-run around the existing statutory requirement. I believe that you've received a copy of an article that I wrote last August on one example from North Platte that illustrates why we need this law. You've heard a little bit about it already from Senator Groene. North Platte voters were asked in 1992 to approve an issue of revenue bonds to finance construction of a public 18-hole golf course called Iron Eagle. And despite public promises, some of which you've seen in front of you, to voters that Iron Eagle would never require a use of tax dollars, North Platte's mayor and city council refinanced the revenue bonds three years later, replacing them with general obligation bonds. As you also heard from the senator, it's never operated in the black. Won't go into those numbers, but suffice it to say that millions of dollars in keno funds, millions of dollars in general funds have been used to subsidize the course contrary to that original promise to voters. In 2013, I would add that city taxpayers saw their property tax bills rise by 8.5 percent as the result of a city debt payment property tax request. Current law provides that the people of Nebraska are supposed to have a say in the decision of a first-class city to borrow money in this way. LB378 would help ensure that when local voters cast ballots to approve a particular bond issue that they actually get the deal that they're sold. This bill is about government transparency. It's about government accountability to the people of Nebraska, and I would encourage this committee to promote those principles by advancing LB378 to General File. Thank you again for the opportunity to testify. I'd be happy to answer questions. [LB378]

SENATOR CRAWFORD: Thank you, Mr. Clark. Questions? Senator Krist. [LB378]



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SENATOR KRIST: Just very quickly, both the green copy and the amendment simply say if the mayor or city council decide to change their mind and do something else they have to go back for a vote. What, if anything, would be the legal consequence of a city administration or leadership changing it without the vote? How do you interpret the penalty for that action? [LB378]

DICK CLARK: I'm not sure about that but I bet a bond counselor who follows me maybe on the other side of this can answer that question better than I can, sir. [LB378]

SENATOR KRIST: Okay. I'll just say as asked before. (Laughter) Thank you. [LB378]

SENATOR CRAWFORD: All right. Other questions? Yes, Senator Hansen. [LB378]

SENATOR HANSEN: Thank you, Chair. Again, both the amendment and the green copy deal specifically with first-class cities. Is this situation problem so far only been limited to first-class cities? [LB378]

DICK CLARK: I can't totally speak to that. I'm aware of the one example from North Platte. I think the principle holds true no matter what size of city you're talking about. And I wouldn't oppose a bill that addressed itself more broadly to municipalities, not just cities of the first class, but certainly this bill is a good start. [LB378]

SENATOR HANSEN: Thank you, Mr. Clark. [LB378]

SENATOR CRAWFORD: Other questions for Mr. Clark? Thank you. [LB378]

DICK CLARK: Thank you. [LB378]

SENATOR CRAWFORD: Other proponents of LB378. Is there anyone here who would like to speak in opposition to LB378? Welcome. [LB378]

MICHAEL ROGERS: Good afternoon. My name is Michael Rogers. I'm a bond attorney at Gilmore and Bell. M-i-c-h-a-e-l R-o-g-e-r-s. I am here representing the League of Nebraska Municipalities speaking in opposition to LB378. I'll keep this relatively brief. I haven't had a chance to review the amendment. I did listen to it (inaudible) reading it. I think there...I'd like to point out that, first, there already are elections required for these types of bonds under the existing wording of 16-697.02. But the other thing I'd like to point out, and this is true if I heard

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the amended language correctly, if a city had issued general obligation bonds and had voted general obligation bonds and decided that they wanted to refund those general obligation bonds and refinance them by using revenue bonds, which do not impose any obligation onto taxpayers, the city would need to hold an election before they could issue revenue bonds and relieve taxpayers' burdens and taxpayer liability. And that seems troubling to say the least, one, because it's expensive to hold a bond election but also by the time you go through the process, the length of time that it would take to hold an election would...could mean that favorable interest rate markets could have gone away and the refunding opportunity might not be possible anymore. So with that, I will be happy to answer any questions. [LB378]

SENATOR CRAWFORD: Thank you, Mr. Rogers. Questions? Yes, Senator Coash. [LB378]

SENATOR COASH: Thank you, Mr. Rogers. I'd be interested in your formal testimony via written once you've had a chance to look at Senator Groene's amendment so that I can be clear where the League stands with regard to the amendment. [LB378]

MICHAEL ROGERS: Sure. Okay. [LB378]

SENATOR COASH: Thank you. [LB378]

SENATOR CRAWFORD: Other questions? Senator Krist. [LB378]

SENATOR KRIST: So the example you gave was in reverse of what I understand the bill actually covers. [LB378]

MICHAEL ROGERS: In reverse of what it's intended to...yeah, that's correct. [LB378]

SENATOR KRIST: You're saying right now that if they went from general to revenue they would have to hold an election. [LB378]

MICHAEL ROGERS: Under the language proposed, they would have...if the...the language is, if I understand it right, talks about changing of the security. Now I understand the example discussed earlier was going from revenue bonds to general obligation bonds. But if you flip it around and you're going from general obligation bonds to revenue bonds, which is a change in the security, it seems the proposed language would also require an election in that instance. [LB378]

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SENATOR KRIST: And why would that be bad? [LB378]

MICHAEL ROGERS: Well, one, typically when you are relieving taxpayers from a burden you wouldn't normally think that an election would be required to be held if the bonds are to be paid back solely from the revenues generated from the enterprise, in this case a golf course. The taxpayers wouldn't be on the hook for any bond payments if a revenue bond issue were used to refinance a general obligation bond issue. [LB378]

SENATOR KRIST: Okay. I understand, but what if that jeopardizes the project and continued funding? [LB378]

MICHAEL ROGERS: That's a good question. Yeah. [LB378]

SENATOR KRIST: So probably both ways it should require a vote of the people if you're changing the structure or changing the bond I would say, and I can think of a couple of examples, the Arch being one of them, go in either direction. I think the people should have been consulted, but. I would also be very interested in written testimony so we understand where the League is coming from because it's very important to us that we hear based upon the amendment that's in front of us, so thank you. Thanks for your testimony. [LB378]

MICHAEL ROGERS: Okay. Thank you. [LB378]

SENATOR CRAWFORD: Other questions for Mr. Rogers? I have a question. [LB378]

MICHAEL ROGERS: Yes. [LB378]

SENATOR CRAWFORD: So a city has a proposal. They issue the revenue bonds, and the project does not go as expected. Are there...what are the protections for taxpayers in that case from a bond in terms of our laws and the way bonds operate? [LB378]

MICHAEL ROGERS: Sure. For a revenue bond issue, bondholders' sole source of repayment is the revenues generated by whatever enterprise has been pledged for its repayment. So in the example, a golf course, the revenues generated and it depends also on the how the bond resolution or indenture is worded. Typically operating expenses are paid first and then bondholders are paid after that. And if there is not enough revenue to pay the bondholders, they would receive less than what they're owed. And the taxpayers are not obligated to levy taxes and the city is not obligated to come up with other sources of funds to make those payments. Now sometimes they do find other sources to make those payments. [LB378]

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SENATOR CRAWFORD: So they wouldn't be obligated to pay back the bondholders, but you said the operating expenses, you know, are paid first. So if something is losing money, is the city, in a case of a revenue bond, obligated for losses of that golf course? [LB378]

MICHAEL ROGERS: The enterprise, the golf course, would be obligated. And, again, if the revenues fall short, the city would not be obligated to levy taxes to make up the difference. [LB378]

SENATOR CRAWFORD: All right. Thank you. Other questions? Thank you. [LB378]

MICHAEL ROGERS: Thank you. [LB378]

SENATOR CRAWFORD: Any other opponents of LB378? Welcome. [LB378]

LYNN REX: Senator Crawford, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. And we respectfully oppose this measure because of the technical issues with it. Again, we've not had a chance to review the amendment. But if I understand what was read by Senator Groene, and I think I understand his intent, I could understand if you're going from basically a revenue to a GO, but I think there's a fundamental difference when you're going from a GO to a revenue because for the reason, Senator Krist, that Mike Rogers just indicated, you're basically taking the taxpayers off the hook when you do that. So if you can, in fact, have a cost savings and alleviate the taxpayer burden by going from a GO to a revenue, it would seem to me it doesn't make a lot of sense to do an election with that. It would just add to the cost. But I do understand what Senator Groene's point is. I did contact the city administrator of North Platte, and he indicated that this has gone so far back, over 20-some years. So he was not there at the time that this happened. But I can certainly understand the need for greater transparency when you're going from a revenue bond to a GO. With that, I'd be happy to respond to any questions you have. And we would like to reserve the right to submit to you after bond counsel has had a chance to review this more carefully because we've not really seen the amendment. But we appreciate Senator Groene reaching out to them and making a clarification. [LB378]

SENATOR CRAWFORD: Thank you, Lynn Rex. Senator Coash. [LB378]

SENATOR COASH: Thank you, Senator Crawford. Lynn, with regard to the narrow application of this, as Senator Hansen pointed out, just the first-class cities, and I'm sure Senator Groene will address this in his closing, I mean, that he's going after his own community here. But in addition to your analysis of the amendment, I guess I'm interested in the applicability of this to cities of

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different classes and how that might play because I'm trying to be more strategic about when we're picking a particular class of city to have a law apply to it why we're excluding others or why we're including just one. Senator Groene has his own reasons. I'll let him address those. But if you could include that in your review of the amendment, I would appreciate it so I understand... [LB378]

LYNN REX: Okay. We'd be happy to look at that. [LB378]

SENATOR COASH: ...any pros and cons as to why we're just going after this particular class. [LB378]

LYNN REX: And I can say, too, I mean, I've been with the League part time since 1975, full time since 1978, and I'm unaware of any other city that's gone from revenue to GO in this regard. So I don't know if this is just an isolated example. It certainly is in terms of what our experience has been. But that being said, we'll be happy to do that, Senator. [LB378]

SENATOR COASH: Thank you. [LB378]

SENATOR CRAWFORD: Senator Krist. [LB378]

SENATOR KRIST: Thanks. And just for the record, Lynn, and this is...I'm sorry, Ms. Rex, but the...I see a problem both ways in the fact that if I'm the leadership of a city, town, municipality, and we have decided to build the Taj Mahal and we've used revenue bonds to do that and the revenue bonds have fallen flat on their face, if we then would go to general, we'd need a vote of the people in order to do that. Vice versa I think is also a hypothetical that might be true. If we've done general and it's falling on its tail and we go revenue, we're still continuing to pump money into that and we're still I think obligated in some way to say this project is definitely not going to make it and we're going to pull our funding. So I guess as a safeguard for the taxpayers in some ways because no matter what kind of bond issue is out there, if you continue to try to build it and hopefully they will come you could end up with something that's going to fail in the community. That's my only point in terms of going either direction. So I would...you don't have to reply to it if you don't want to, but I think I'd like to hear the logic more clearly after you look at the amendment and why it's good one way but it's not good the other. [LB378]

LYNN REX: Okay. I guess the thing is I can't imagine a city going from GO to revenue unless they're sure that the revenue stream is going to pay for that because you've got to get a clean bond opinion. You're not going to get a clean bond opinion if you don't have a revenue stream to pay for it. But that's... [LB378]

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SENATOR KRIST: Okay. [LB378]

LYNN REX: And I guess what we're saying is if you can save the taxpayers money because of a refinancing and going one way or the other and you're actually going to take the taxpayers off the hook, if you will, it would seem to me that would be something that you would want to do and that the taxpayers wouldn't have a problem with because they're taken off the hook, to be blunt. [LB378]

SENATOR KRIST: Okay. That's fair. But could you include that in on your written, please? [LB378]

LYNN REX: Yes. [LB378]

SENATOR KRIST: Thank you. [LB378]

LYNN REX: We'll review this and get back to the committee. Thank you very much. [LB378]

SENATOR CRAWFORD: Any other questions for Ms. Rex? So we've talked quite a bit about part of the bill that was talking about if there's a change in financing, and that's what I think you have spoken to the most. So... [LB378]

LYNN REX: Yes, because the statute the senator...statute already requires a vote. It's already there. [LB378]

SENATOR CRAWFORD: A vote of the people, right, right. And so the part that just emphasizes the type of financing if you have that vote, feel that doesn't change sufficiently, that that's pretty much still status quo in your mind. [LB378]

LYNN REX: I mean, I think but, again, we'll review the specific language. [LB378]

SENATOR CRAWFORD: Okay. [LB378]

LYNN REX: But I think from what Senator Groene read as the amendment that when you're going from revenue to revenue on a refinancing that that's okay without a vote of the people, and he's nodding yes for the record. [LB378]

SENATOR CRAWFORD: Okay. [LB378]

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LYNN REX: But if you're going from one type of bond to another type of bond, then you'd have to have an election. And what we're suggesting is, with all due respect, you might not want to require an election if you're going from GO to revenue because in order to get...you know, you're going to have to have the revenue stream in order to pay for...in order to get a clean bond opinion in that first instance. So...and you're taking the taxpayers off the hook, so why have the additional cost of the election? Just a thought. [LB378]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you, Ms. Rex. [LB378]

LYNN REX: And we thank Senator Groene for also reaching out to bond counsel and look forward to seeing the amendment. Thank you. [LB378]

SENATOR CRAWFORD: Thank you. Anyone else wishing to speak in opposition to LB378? Is there anyone here wishing to speak in a neutral capacity to LB378? Senator Groene, you're welcome to close. [LB378]

SENATOR GROENE: Thank you, Chairman Crawford. First, on the first-class city, my legal aide or legislative aide got me the definition--all cities having more than 5,000 and not more than 100,000 inhabitants. I did not address that because that was existing law. I had no qualms with that. It's been in the statutes, I don't have the date, but it was there. And it starts out, the mayor and city council of any first-class city. I don't know why they did that and I'm assuming they didn't want Omaha and Lincoln doing it or doing it through their parks department. But, anyway, but that was in existing law and that's what a first-class city is, 5,000 to 100,000 residents. As far as the general obligations argument, that's nonsense. I mean, a general obligation bond gets a lower interest rate because the bond people know that you got the taxpayers. You've got a payer there. The city has the authority to confiscate the taxpayers' money through taxes, so the funds are there. So in almost all instances, revenue bonds are a percent or two higher than a general obligation bond. So the idea that you would go from a general obligation bond to a general...to a revenue bond is foolishness. I mean, you'd be paying more interest. Plus the other thing is if the revenue is coming in, in which the case in North Platte, the revenue from that golf course is going into the general fund if it's not already deemed to go somewhere else. So that is already paying the general obligation bonds because it's coming into the general fund. So to change it...but we all know why this is done. It's a sales pitch to tell the taxpayer it is not going to cost them anything. Now I've got to give my city fathers 20 years ago at least the honesty, they told the folks. They went out there and told them it was going to be revenue bonds. But I just read in the paper the other day, I won't name, it's one of the B towns around Omaha did a softball complex. And they were told that it was going to be revenue from that. I just read it in the paper. They didn't do the fancy...they didn't guarantee that, that enough revenue was going to come in and now they got a mess. Would it have been better before that softball complex was built that in

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the language on the ballot it said this is how we're going to pay for it, and the people would have knew? Now they got a mess. And it's not happening just there. So you say, well, was this the only one you heard about? This is the only one where it was put in writing maybe. But there might have been other ones. But, a wink and a nod, don't worry, we're going to build this. It's going to bring hundreds of people into town for tournaments and golf tournaments, softball tournaments, and you don't worry about it. It's not going to cost you anything. We're going to generate enough revenue and we'll be fine. Let's make sure if you're going to make that sort of promise it's in writing. That's what this does. But the general obligation to revenue bond makes no sense, that argument. But it's happening and it does happen because, you know, there's two things you can hide behind out there as a politician, and that's children and jobs. And some of these things are sold on economic development and jobs. Let's make sure the taxpayers are protected, that when they're told something, it's in writing. There's no harm done here. I mean, if it's not been anybody harmed it's like...and I think you've got your answer, Senator Crawford. On a revenue bond, it doesn't hurt the city's credit rating because they made a good decision. When you buy, and I said a revenue bond has higher interest, well, the buyer will not buy a revenue bond unless the risk is worth it. So it's a higher interest rate than a general obligation municipal bond. But the reason they buy it is because it's tax free because it is a municipal bond. So that worst-case scenarios or the exception to the rules, if any city manager gets to the point or city decides that a general obligation bond is better than a revenue bond, I hope he don't have a job very much longer because the taxpayers are off the hook on that, I mean on the general obligation bond because he's paying more interest...less interest, excuse me. I'm getting mixed up here, but less interest. And if the revenue is coming in, the revenue stream is coming in enough from the golf course or whatever into the general obligation fund, why not manage your money better? Just leave it in the general fund and pay at a less interest on a general obligation bond. So, anyway, like I said, all politics are local but the people need to know how that thing is going to get paid for. You know, in every town it goes around town, well, it's not going to cost us nothing. It's going to be great for economic development, great for tourism. Don't worry about it. We have the highest tax rate, property tax rate in the state of Nebraska of the top 25 cities, our mill levy at North Platte, and this is a big part of it. Eleven million dollars. Our sales tax are about \$6 (million); our property taxes are about \$3.5 (million). Out of the last 20 years, one year went to this golf course, our entire revenue. So it is an important issue. And I don't want another city to get caught. So thank you. [LB378]

SENATOR CRAWFORD: Thank you. Questions for Senator Groene? So is this what you gave us a copy of, this ballot? This was the original. [LB378]

SENATOR GROENE: That was the original ballot and then the flyer I gave you is how it was sold. There was no indication how that... [LB378]



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SENATOR CRAWFORD: How it was being funded in the original ballot measure? And that's part of your intent of the bill as well. [LB378]

SENATOR GROENE: Yeah, it will be. The language will be on it. This will be paid for by general obligation guaranteed by the taxpayers of River City. Or it's going to be revenue bonds. Or we're going to just pay for it in cash. We got enough cash laying around we're going to buy a golf course. But it needs to be told to the voter. [LB378]

SENATOR CRAWFORD: So has the mayor or city council lost reelection based on this issue? [LB378]

SENATOR GROENE: I don't think a couple of them are living there anymore. (Laugh) No, it's been 20 years and it's...there's some...what was really sad about it, there was some good citizens got together and they said let's do this, and they backed it and they had a committee. And then when things started going south, they said, well, we'll handle it. We'll manage it. We'll manage it and we'll make sure everything is...whatever we have to do. Well, the city government said, no. They kicked them off to the side and government can do better. Well, government didn't do better. Those folks wanted to stand behind there. And then there were some hard feelings over the whole issue. One thing, I'd like to apologize to Lynn Rex and the League of Municipalities, I'm learning the process. I should have got that amendment to them beforehand. [LB378]

SENATOR CRAWFORD: Okay. We will do that. [LB378]

SENATOR GROENE: I just completely overlooked it. Did you hear that, Charlie? (Laugh) Anyway, so anyway, I wasn't trying to keep anything from them. Thank you. [LB378]

SENATOR CRAWFORD: (Exhibits 4 and 5) All right. Thank you. Thank you, Senator Groene. Thank you. And we have letters of support from Ed Rieker and Dr. Gary Heinzle. Any other...and those are the letters of support we have for LB378. So this will close the hearing for LB378. And we will open the hearing on LB540, and I will turn the floor over to Senator Krist. [LB378]

SENATOR KRIST: Senator Crawford, when you're ready. [LB540]

SENATOR CRAWFORD: (Exhibits 1 and 2) Thank you. Good afternoon, Senator Krist and members of the Urban Affairs Committee. My name is Senator Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th Legislative District which includes Bellevue, Offutt, and eastern Sarpy County. In 1987, the Legislature passed LB227, adopting for the first time a statewide

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building code to govern the construction, reconstruction, alteration, and repair of buildings in Nebraska. The purpose of the state building code is to protect the life, health, property, and public welfare of Nebraskans by adopting minimum standards for building design and construction and to provide for the use of modern and innovative construction techniques. Since 2003, Nebraska has adopted a series of model codes published by the International Codes Council, or ICC, a national association that develops model building codes and standards. Nearly all state and local governments nationwide have adopted one or more of the ICC model codes. The state building code consists of three model codes: (1) the International Building Code, or the IBC, which covers all new construction except one- and two-family dwellings; the International Residential Code, or IRC, which covers new construction of one- and two-family dwellings; and (3) the International Existing Building Code, or IEBC, which covers repair, alteration, addition, and change of occupancy for existing buildings. New editions of these codes are published every three years and we currently have adopted by reference the 2009 versions of the code with the exception of one section of the IRC. LB540 would adopt the 2012 versions of the IBC, the IRC, and the IEBC with two exceptions. First, the bill will not adopt the energy efficient chapters of the 2012 IBC and IRC which correspond to the 2012 International Energy Conservation Code, or IECC. As the committee may recall from our briefing with the Nebraska Energy Office earlier this year, the current state energy code is the 2009 IECC. Prior to the 2012 code cycle, there was not a direct correlation between this energy code and these other two codes. And since no bill was introduced to update the energy code this year and since the energy code is...also is related to our energy office, we feel it's important to just focus on the building code with this bill and discuss the energy code with a separate bill. Secondly and most importantly, LB540 would not adopt Section R313 of the IRC which would require that new one- and two-family dwellings and townhouses include a fire sprinkler system. While I was not a member of the Legislature at the time, the residential fire sprinkler mandate faced significant opposition when the issue was debated in 2010 and 2011. At that time, the decision of the Legislature was to exclude the fire sprinkler mandate but to allow political subdivisions to opt in should they choose to do so. LB540 would maintain that status quo in regard to fire sprinklers. Although I suspect that several people behind me will address the issue in their testimony, I would note that to date only California, Maryland, and the District of Columbia have elected to adopt the IRC fire sprinkler mandate. And many other states have gone so far as to prohibit local governments from opting in to the fire sprinkler mandate. Under current law, political subdivisions which adopt a local building code must adopt the state building code but have the option to modify their local code as long as it conforms generally to the state building code. Among the allowable modifications is the option to adopt new editions of the code which make up the state building code. Both the city of Lincoln as well as cities in Omaha area are currently in the process of adopting the 2012 editions of several codes. So LB540 would bring the state in line with what's already happening at the local level in Omaha and Lincoln. As the committee will see from a series of maps that were included in their materials, states vary in the statewide adoption of the building codes. Historically, Nebraska tends to lag somewhat behind other states in adopting their building

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codes. While we are currently in the 2009 editions of codes, a large number of states have already adopted the 2012 editions and recently the state of Maryland became the first state to adopt the 2015 editions of the IBC and IRC. As other states begin to move forward in adopting the 2015 codes, I think it's important that the Legislature take a serious look at updating our state building codes from what is now a six-year-old set of codes. And I hope that LB540 helps to start that discussion. Also note again that these discussions about the 2012 code are already happening in the Omaha and Lincoln area. So that helps us understand what's really in those codes and what those implications would be for the builders. The committee should have received in their materials letters of support for LB540 from the homebuilders associations of Lincoln and metro Omaha, and the Metro Omaha Builders Association, as well as the American Institute of Architects, Nebraska Chapter. A representative from the International Code Council will be testifying behind me to talk about the code promulgation process, and several code officials from local governments are here as well. I will likely defer any technical code questions to them, but I'm happy to answer any other questions the committee may have at this time. [LB540]

SENATOR KRIST: Any questions for Senator Crawford? Thank you. [LB540]

SENATOR CRAWFORD: Thank you. [LB540]

SENATOR KRIST: And I know you'll be around for closing. [LB540]

SENATOR CRAWFORD: I will be around to close. [LB540]

SENATOR KRIST: First proponent for LB540. Welcome. [LB540]

RICHARD HAUFFE: (Exhibit 3) Thank you very much. Thank you very much, Senator. My name is--as you can tell from the cover of this publication being handed out to you--Rick Hauffe, and that's not the subject of this presentation. It's actually a series of slides that I had put together because I think it does a pretty good job just to give you an idea of the history of code development going back from Hammurabi's Code, which is the first page. But also how a series of disasters in the twentieth century and into the twenty-first century have shaped the direction and the reasons for the kinds of codes. And I'll flip through this if you don't mind, and if you want to flip with me that's great. But I'm just going to touch... [LB540]

SENATOR KRIST: Mr. Hauffe, could you just say for the record and spell your name for the transcribers? [LB540]

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RICHARD HAUFFE: I'm sorry. Yes, it's Rick, R-i-c-k, H-a-u-f-f-e. [LB540]

SENATOR KRIST: Thank you. [LB540]

RICHARD HAUFFE: By the way, Hammurabi's Code has rather strict provisions there. You'll see those in red. We don't do that anymore I'm pretty sure. (Laughter) But the...you know, death is a pretty good deterrent. [LB540]

SENATOR KRIST: For the enjoyment of the folks sitting here, the code says that a builder shall be put to death for doing it. (Laughter) The builder's son shall be put to death for it. [LB540]

RICHARD HAUFFE: That's right. [LB540]

SENATOR KRIST: I'm sure we can sell that to the builders. [LB540]

RICHARD HAUFFE: Details. [LB540]

SENATOR KRIST: Yeah, details. [LB540]

RICHARD HAUFFE: Details. But some of the disasters, great disasters of the twentieth century have shaped policy. I would ask that you just keep flipping through. There's one that's titled May 3, 1909, the Rhoads Opera House. Doors, exterior doors, you know, these days have to open out as you exit. And in these days they were built so that they opened in. And when they had a fire here which cost hundreds of lives, 170 people died, the exits were jammed because people rushed and panicked. But and of course, you know, there was a kerosene lamp next to a gas tank and that started the fire in this theater, and people were taken by surprise. There's the Triangle Shirtwaist Factory fire which is infamous. The Cleveland Clinic fire talks about chemicals being stored, light bulb igniting film and which hit into chemicals, and what cost so many lives wasn't the heat so much as it was the poisonous fumes that were generated, swept through the building, and a lack of exits. The New London, the March 18, 1937, New London Texas explosion, the school. Back in the height of the Depression, this school was a model for the nation because of the oil boom down in Texas. They built a great structure with concrete and steel. And below the surface there was a pocket of or open area and somebody got a bright idea that they should take some of the waste gas from the oil fields, pipe that in, and rig it up to the heating system. And since unregulated natural gas has no odor, no appearance, that pocket underneath the building turned the building into a giant bomb and blew it up. But, you know, we learned from these mistakes. There's great tragedies that get involved; 295 students perished. The Cocoonut Grove fire, which is November 28, 1942, if you notice from the center of the building there's an

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opening, that was where the revolving door was. You'll notice there are no exits on the sides of that revolving door. When the fire spread and it spread through very quickly, and this was a speakeasy from the thirties and forties in Boston, it flashed over very quickly. But people jammed that door. They had to take the door apart in order to get rescuers in, and they basically just extracted bodies. It was 492 people died. October 20, 1944, Cleveland East Ohio Gas explosion. There was a giant tank farm filled with tanks holding a liquefied natural gas. A seam on one of the tanks had deteriorated and it was emitting vapor. That vapor was caught up by winds off Lake Erie which put it down into the sewage system. It eventually ignited and blew things up using the sewage system. They contained the one tank explosion, but later on additional...another tank exploded and the whole tank farm went up. And, again, more of the gas seeped down into the sewage system and blew up more houses in a widespread area in the neighborhood. Let's see, the Beverly Hills Supper fire, this was a case of shoddy construction, wiring, and a lack of regulation. The regulators simply let them get by. And it was, there were insufficient exits. But, again, you know all these things get addressed over time in local codes and in, you know, in the model codes that we produce. There's the Station Nightclub fire featuring the wonderful rock band, big hair band, called Great White. They used pyrotechnics inside, they had flammable materials inside the building that rushed the fire forward. And exits, again, were blocked. There's another one, we don't have to tell people in Nebraska anything about tornadoes, but the great twister system that came through April 25 through 28, 2011, resulted in a lot more attention being paid to those kinds of structures you can put in homes or in shopping malls or in big box stores for people to find shelter. And of course, Hurricane Sandy has changed things and the drought out in the Southwest have changed focus. Get to some slides here that came from FEMA. FEMA is taking a much more active role in code development. The word resiliency gets used a lot more in discussion, and what that means is because you keep your codes up to date, you are creating new structures or retrofitted structures that are more capable of sustaining the new kinds of issues that can cause destruction. Whether they're man made, terrorism strikes, or railcar crashes, whether they're tornadoes, high winds, intense cold, intense heat, and drought, they've taken a real strong interest. FEMA and ICC and the design community are partnering a lot more for creating the kinds of communities and developments that are more resilient, that cost less to repair if you have a problem or prevent losses of life and losses of property. Insurance industry is very much involved in this discussion as are state and local jurisdictions, the code officials, and the entire what we call the build environment community. On this page we have a list of the 15 different code books that the ICC produces. Our newest codes are the International Green Construction Code, and then the International Swimming Pool and Spa Code. There's references made to those in the IRC and the IBC. But what the international codes are devised to do is address everything from fire safety and construction and put them all in one document. Even though we split them up into 15 books, these are 15 subjects. These are correlated. They refer to each other. You know, any qualified builder can use these to stay within...and building designer to stay within what is considered the acceptable minimal standard for that year that the model code was produced. And as you can see, there's quite a list

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of subjects. Next page is the ICC. Although we were chartered in 1995 and produced our first set of codes in the year 2000, we just didn't start then. We are the combination of the three major building code companies that had existed going back to the twenties and thirties and forties. And you'll see those listed right here on this page: BOCA, the Building Officials and Code Administrators International; International Conference of Building Officials, ICBO; and then of course the Southern Building Construction (sic--Code) Congress International and they tended to be more geographic. And there were a lot of overlap but they felt it's time to bring these organizations together. And... [LB540]

SENATOR KRIST: Mr. Hauffe, I'm going to interrupt you for just a second. [LB540]

RICHARD HAUFFE: Yes, sir. [LB540]

SENATOR KRIST: You're pressing on ten minutes, so I'm going to give you a minute or so to kind of wrap things up. [LB540]

RICHARD HAUFFE: To wrap it up. [LB540]

SENATOR KRIST: Yes, please. [LB540]

RICHARD HAUFFE: Okay. Right now, the International Code Council is...goes through a process of two separate hearings and there is a chart that...toward the back here, we have two sets of hearings with the emphasis being that we bring in industry, we bring in the experts, the designers, and everybody to go through the first round of hearings and proposals. And that hearing is coming up for the Group A codes and that's like almost half of the codes coming up in April. And we are right now creating the 2018 codes. So the technology that is going into those codes that are going to be published in 2018 is best practices of 2015. And we have Group B coming up next year. And then the final code hearings for Group A are at the end of this year or this fall. The International Code Council is made up of 57,000 members, largely code officials who bring to our codes the local perspective and desires. Anyway, Mr. Chairman, I stand ready to answer any questions but I also want you to, just encourage you to hang onto these booklets. It does walk you through the code development process and what it is and maybe help you decide what it isn't as well. [LB540]

SENATOR KRIST: Sure. Thank you. And this will be part of the record, so we will have it for reference. Any questions for Mr. Hauffe? Seeing none, thank you, sir, for your testimony. [LB540]

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RICHARD HAUFFE: Thank you. [LB540]

SENATOR KRIST: Any other proponents for LB540? Welcome. [LB540]

JAY DAVIS: Good afternoon, Senator. Thank you, Senator Krist and the rest of the members of the committee. My name is Jay Davis. I'm the assistant planning director and superintendent of the permits and inspection division for the city of Omaha. I'm not going to go into Mr. Hauffe's presentation, and Rick and I know each other very well. But I am also a member of the ICC. I'm also a member of the major jurisdictional committee, so I work across the country with counterparts in the adoption of code or talking about code problems we do or do not have is common. Currently, the city of Omaha along with the city of Bellevue, Papillion, La Vista, Ralston, Gretna, Sarpy County, Valley, Washington County sat down about a year ago and decided that we were going to adopt the same code with the same amendments across the board. So we worked through our groups. We went to the building groups and received their permission or kind of their blessing on what we needed to do for our local amendments. I, for one, am willing to move away from the amendment process a little bit. I think that we spend a lot of time in committees working on code and the adoption process and we kind of vet these things out pretty thoroughly before they get to us. As we move forward, we discover things within the process whether it be new construction techniques. The University of Nebraska is one that is great about getting new techniques out there for builders to use and the codes don't keep up. So as a building official the code moving forward for us really helps that process. It keeps us in line with the other communities. And, again, it is a minimum standard. We love it when you go above the minimum standard; but for the most part, we just have the minimum standard out there so that our job as building officials is to protect your life and your family's life from wherever you live, work, or play. In fact, that's actually hanging in my office. I believe that very firmly. Do codes make a difference? Yes. Do they make a difference in...do incidents or tragedies cause things to make codes change? Yes, they do, even in Omaha. Locally, I'm dealing with a new proposal to deal with a boarding house issue based on two fatalities. Last year as a building official, I had the worst year of my life to be very honest with you. I had four fatalities. I think the fire department and I have gotten closer than we ever intended to be based on that; and because of that, we're changing rules to make it a little bit safer. The state level adoption only gives me another tool to work with. We're going to move forward with the 2012, we were going to anyway. We don't want to move to 2015 just yet. We think there are some things to be looked at in the 2015. But I would venture to say in 2016 we're going to be back looking at that on a local basis whether the state needs to do that or not. We do need to kind of move forward out of the 2009 as there are some things in 2009 that just don't fit very well with today and the construction techniques that we're looking at. So here to answer any questions that you have. I don't want to belabor the point. But... [LB540]

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SENATOR KRIST: Any questions? I will save my narrative of my experience a few years ago with sprinklers for our Exec Session (laughter) because the rest of these folks have been through it before. But I want you to talk to me just for a second about opt out versus opt in. [LB540]

JAY DAVIS: Okay. [LB540]

SENATOR KRIST: If we...because we have some new members and they need to hear it. From a building perspective, you're using '12 even though...is that true? [LB540]

JAY DAVIS: We will be. We're moving it forward right now, yes. [LB540]

SENATOR KRIST: Okay. Even though the state has only approved and adopted '09... [LB540]

JAY DAVIS: Correct. [LB540]

SENATOR KRIST: ...with opt-out provisions for sprinklers and... [LB540]

JAY DAVIS: Sprinklers being the biggest one. [LB540]

SENATOR KRIST: The biggest one. [LB540]

JAY DAVIS: Yes. [LB540]

SENATOR KRIST: And you'd like us to continue to do that why? [LB540]

JAY DAVIS: I'm going to give you the city of Omaha version, then I'm going to give you my personal opinion a little bit too. [LB540]

SENATOR KRIST: Sure. [LB540]

JAY DAVIS: The opt-out provision, in fact, what we're doing right now in Omaha is we have the opt-out provision in place in the amendment but we did not remove the standard. And I did that for a reason. I'm not going to tell you how many square feet you have to put a sprinkler system in there, but I certainly think that people are becoming more and more savvy. The customers are becoming more and more savvy. And so if I took it out entirely, it takes away certain provisions of the code to allow them to put that in, for example, using their off meter side of their water



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service. If you hear people talk about fire sprinkler systems, they're going to come in here and say you need a two-inch line, a four-inch line, a six-inch line. That may be true in a commercial building, but not necessarily in a residential property. However, to make us do that right now on all properties I just don't think works. Statewide, this is the personal side of me, as much as I'd love to see a fire sprinkler in every property here the problem is when you get into western Nebraska where they don't have a municipal water system, I can almost tell you that if you're in a ranch in way western Nebraska in the Sandhills and you have to put a fire sprinkler system in, you're going to have put in a tank and a support system to carry the water. If I'm a rancher and it goes dry in Nebraska and I got 10,000 gallons sitting in a tank for my fire sprinkler system, I'm probably going to water my cattle. So then the system is ineffective. And so we have a long way to go for the technology to catch up. It's very easy for us to do it in Omaha, Lincoln, Bellevue, even Grand Island, Kearney, Hastings, Nebraska, or North Platte, but not necessarily so in the far reaches. So the opt-out provision I think gives you some chance. If you want to put it in, you certainly can. The standard in the code if we leave it in there as an option gives you what you need to do to put the sprinkler system in appropriately for the single-family residential property. [LB540]

SENATOR KRIST: And my concern has always been that we want to be equitable throughout the state... [LB540]

JAY DAVIS: Sure. [LB540]

SENATOR KRIST: ...in terms of both capabilities and lack of capability. My concern is that the next thing we'll eliminate from the 2012 or '15 code is radon or other things that can be opted out of. So I appreciate what the city of Omaha does. I do have some definite opinions on the matter, as you probably remember. (Laughter) [LB540]

JAY DAVIS: Well, I'm also very...if I may, I'm also very aware of your pending radon bill; and I have some theories on that, too, not necessarily that I want to bring in front of this one, but I may be at your hearing because one thing I will assure you is money is not an option in my book for not doing something. If it's a life-safety feature, if it's going to save lives, then let's talk about it. In fact, the code book sort of alludes to the fact that money is really not a reason to not do something. But as we move forward, the biggest thing is we have to kind of get on the same playing field. Now by opting out of the 2012...I need to add this as well, the 2009 had zero provisions for alternate methods if you didn't put a sprinkler system in. The reason I'm comfortable doing it this way in Omaha right now is that the 2012 came back with provisions similar to what we use in the commercial code for protecting the structure. And quite honestly that's what we're trying to do is protect the structure. Some of the materials were used today, there was a test done several years ago by the Chicago Fire Department that showed a material

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called an I-joist. I won't go into detail, but has an eight-minute burn time when exposed to fire. Well, an eight-minute burn time when you're supposed to and most people think you have 20 minutes in your home to safely get out. If your floor degrades and disappears underneath you in eight minutes, you're not going to get out. We had that situation actually occur in Cass County two years ago where a candle literally caught a floor on fire, it got underneath it, started burning it. The person was disabled in a wheelchair, couldn't get out. Her husband opened the door and it just literally exploded. That's sometimes what that material does. Those are not lessons we like to learn the hard way. So we're very cognizant of that. And had the drywall or the other alternatives worked, yes, they may have slowed it down to give another 20 minutes we need to protect the individuals and the property. So... [LB540]

SENATOR KRIST: Thank you, Mr. Davis. [LB540]

JAY DAVIS: You're welcome. [LB540]

SENATOR KRIST: Any other questions? Thank you very much. [LB540]

JAY DAVIS: You're welcome. [LB540]

SENATOR KRIST: Next proponent. Welcome. [LB540]

BOB PUSCHENDORF: Thank you. Good afternoon, Senator Krist and members of the committee. And thank you, too, Senator Crawford, for giving us this opportunity to speak on something I think is very important. My name is Bob Puschendorf, it's B-o-b P-u-s-c-h-e-n-d-o-r-f, and I am associate director and deputy state historic preservation officer for the Nebraska State Historical Society. My comments will only address the proposed update to the International Existing Building Code. In 2009 and 2010, the Nebraska State Historical Society, codes officials, local governments, architects, and owners of historic properties rallied to include the International Existing Building Code to Nebraska's state building code today that you are considering the updated version of this particular code and the reason. There's a common perception that rehabilitation of older and historic buildings can be more difficult by conflicting, more costly, and inflexible code requirements intended primarily for new construction. The scope of the International Existing Building Code covers repair, alteration, addition, and change of occupancy for existing buildings while achieving appropriate levels of safety. Sometimes inflexible standards are imposed by applying new construction techniques to older buildings. That's why LB540 will support activity in our rural towns and urban centers. If passed, it offers the following benefits to communities. It allows local government the authority to adopt the updated International Existing Building Code if the jurisdiction chooses. It allows alternatives to achieve life-safety standards but does not supersede fire codes. It maintains existing building

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stock. It preserves historic buildings. It contributes to the revitalization of older neighborhoods in commercial districts. And, if passed, it offers the following benefits to property owners: reduces the cost of rehabilitation, makes rehabilitation of existing buildings more feasible, and it avoids conflicting requirements for old and new construction. And you may wonder why the Nebraska State Historical Society supports this, and I'd like to conclude by giving you an example of the multitude of historic buildings that LB540 can assist. In the last legislative session, a state tax credit was granted, LB191, for the rehabilitation of historic buildings. The \$15 million authorized for the state tax credit will leverage a minimum of \$75 million in rehabilitation projects. The International Existing Building Code would simply add to the success of these projects and leverage even more investment. Thank you very much. And if you have any questions, I'd be happy to answer them. [LB540]

SENATOR KRIST: Any questions? Thank you, sir, for coming. Thanks for your great work. Next proponent. Welcome. [LB540]

JOE KOHOUT: Vice Chairman Krist and members of the Urban Affairs Committee, Joe Kohout, K-o-h-o-u-t, appearing today as a registered lobbyist on behalf of the Professional Engineers Coalition of Nebraska. I'd love to sit here and give you a long explanation but our board looked at the bill, took them five minutes and said, yes, we support that. Go express that support. So (laughter) with that, I will end my testimony and... [LB540]

SENATOR KRIST: You might be my favorite lobbyist today. (Laughter) Today! Thank you. Any questions for Mr. Kohout? Thank you, sir. [LB540]

JOE KOHOUT: Thank you. [LB540]

SENATOR KRIST: Next proponent. Welcome again. [LB540]

LYNN REX: Thank you. Senator Krist, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities and we'd just like to be on record in support of this important measure and thank you for the opportunity to appear today. Thank you, Senator Crawford. [LB540]

SENATOR KRIST: Second favorite lobbyist today. (Laughter) [LB540]

LYNN REX: Thank you. [LB540]

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SENATOR KRIST: Any questions for Ms. Rex? Thank you very much. Next proponent. Okay. Those in opposition. First opponent. How about neutral testimony? Welcome. [LB540]

JERRY STILMOCK: (Exhibit 4) Thank you, Senator. Good afternoon, Senators. My name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my clients, the Nebraska State Volunteer Firefighters Association and the Nebraska Fire Chiefs Association in a neutral capacity, neutral capacity in the sense that we, the membership, recognizes that the codes are ready to be updated. The 2009, particularly the residential code, those that the fire service becomes mostly involved with. But neutral because we are opposed in the sense of stripping out the section on R313 that has to do with the requirement of residential sprinklers for one- and two-family dwellings. Come in neutral position I have the opportunity to listen and I know you have as well. Senator Crawford, Mr. Davis of Omaha, they've submitted to you that what is presented in the International Residential Code are minimum standards. And those minimum standards as presented to you by Mr. Hauffe are brought to you by 57,000 members, if I heard correctly, of the International Code Council that comes together to formulate these minimum standards. And the minimum standards are stripped away when you take out something such as the residential sprinklers found in R313. I want to go buy a new car and I found a dealership in Omaha that lets me save money by not buying an air bag. But I can't find that dealership because air bags are required. Somewhere along the chain we came to realize in the country that air bags are required. What happens to a person's liberty interest, what happens to their freedom of choice to make those decisions when government steps in? And perhaps I just opened up a can of worms, but I think this comes into the area of what government should or should not be doing for the citizenry. I can tell you the membership of the volunteer firefighters throughout the state are 100 percent behind placing residential sprinklers in dwellings. I can tell you that I've been on the phone with membership of the...a representative of the insurance service organization that part of the information that I've given to you in my handout. We spoke briefly. I think there's a letter that will come in that he's asked Senator Crawford to submit if it's made it through the Internet in ISO's opposition. But he called back after we spoke. He said, Jerry, make sure you tell the senators that in the last 24 hours there have been 40 residential deaths in our country brought about by residential fires. He wasn't certain if there were any in Nebraska, and I don't think there have been any. I think we would have picked it up just through the media. So when this happened going back in 2009 code when it was first debated in 2010, there was a stalemate, if I can say stalemate, but there was no action taken by the Legislature. There was an interim study committee hearing in the fall, in 2011 legislation was brought out that is what we have today and it stripped out the residential sprinklers and allowed community by community to opt in. If the city of Syracuse where I live wanted to put that requirement in, they could opt in. So what has changed since 2011 when your colleagues and Senator Krist and Senator Coash were here already, we believe the price has gone down. Insurance services office has reported that in 2008 that cost was average, \$1.61 per square foot. Today, based upon 2013, it is \$1.35 per square foot. That's average so it's going to vary. It will vary. Insurance companies--if I put a sprinkler in my

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home, I believe that my insurance company would allow me a 10 percent savings on discount on my premium. So there's some incentive there. And the other major point, not to belabor, but we knew before and we're hearing time and time again that building materials themselves are changing and the components inside the home furniture, carpeting are changing--furniture, carpeting being built with synthetic materials. The fires are burning quicker and they're burning hotter. The last piece of information you have was...the last three pages are statistics that I've requested from the Fire Marshal's Office, most recently 2013. Please note the office from the State Fire Marshal reports that these are not 100 percent reporting entities, but the reporting entities that they do have reported 23 fire deaths in residential homes in 2013. If the minimum requirements have already been established on a nationwide code system that we've adopted, rhetorically why strip it out? And for those reasons I've explained, we were in a neutral position because we realized the codes needed to be updated. We couldn't support because it has stripped out. We couldn't oppose because I thought that...they thought, they make the position it was a little harsh. And so we're here in a neutral position. Senators, thank you. [LB540]

SENATOR KRIST: Thank you, Mr. Stilmock. Any questions? I would be remiss if I didn't mention at this point because I promised myself I would at every opportunity that during that debate I specifically requested from Governor Heineman that I talk to the Fire Marshal and he be available for us to consult with. And I was denied that accessibility to the Fire Marshal. I trust that Governor Ricketts will have a different viewpoint and allow the Fire Marshal to weigh in for these issues. But I've said it. It's on the record. Thank you. Thank you, Mr. Stilmock. [LB540]

JERRY STILMOCK: It didn't call for a comment but if I may. [LB540]

SENATOR KRIST: Sure. [LB540]

JERRY STILMOCK: As you spoke, it reminded me of something else that the state of Minnesota actually has adopted now. I thought of Minnesota because I saw a video of the state Fire Marshal in Minnesota engaged in conversation. So your comment tripped that in my mind. But they have a requirement that any home newly constructed at 4,500 square feet or more be fitted with residential sprinklers, Senators. Thank you. [LB540]

SENATOR KRIST: Any other questions? Thank you. Thanks for coming. [LB540]

JERRY STILMOCK: Thank you, Senators. [LB540]

SENATOR KRIST: Any other neutral testimony? Senator Crawford, would you like to close?  
[LB540]

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SENATOR CRAWFORD: Thank you, Senator Krist, and thank you, committee members. And thank you to everyone who came to testify. I think this has been a good discussion of how the codes work and why they're important in the state and how they are relevant both for new buildings and our historic buildings as well as really a discussion about the question of whether...what we should adopt. I'm very grateful that Mr. Davis was here because as you can tell from the green copy of the bill, what's in our bill is just one sentence: Adopt the 2012 codes. (Laugh) What that really means and you have to go through stacks and stacks of books to see the specifics of what that really means. And so I appreciate his willingness to be here as someone who has gone through book after book of what that actually means and the details and the fact that they have been doing that in the Omaha area with multiple cities and county and there have been those discussions means that they have gone through those stacks and stacks of volumes to see what's in there and see what the concerns might be. And the fact that we have the builders from those communities that have been involved in that discussion also confirming, we agree, we think this is a reasonable move, I think is important for us to hear. And I also was grateful to hear from Mr. Davis that the 2012 code has some other fire protection standards in it to try to make those homes safer in terms of those. Again, the only buildings that we are exempting from the sprinklers are the one- and two-resident buildings. So the commercial buildings, the apartment buildings, those are all required to have sprinklers. The exemption that we adopted was just the one- and two-family residences. And, again, we talk about minimal national standards, but I would again remind you that only California and Maryland are the only two other states that ended up adopting that full code. District of Columbia did as well. We do have two other states, Massachusetts and Minnesota, who adopted residential sprinklers for homes with the larger square footage. So that was something that got adopted in those states. So I would respectfully argue that while the code process developed that standard, that it has not really in effect been a minimum national standard because so few states have chosen to adopt that recommendation. And I'm very glad that the 2012 codes are trying to address the fire safety issues in other ways with the code and the building materials until we get to that point where even that ranch in western Nebraska is able to have an effective sprinkler system and is at a cost that we feel is appropriate. And it's not just about dollars. It's about trade-offs of values that we have. And affordable housing is important as well as making sure it's safe. Safe and affordable housing are very important. And that's part of our challenges here is to make sure we make those appropriate...make those trade-offs in appropriate ways. So with that, I will close my statement. I'll be happy to answer any questions if I can. [LB540]

SENATOR KRIST: Any questions for Senator Crawford? Seeing none... [LB540]

SENATOR CRAWFORD: Thank you. [LB540]

SENATOR KRIST: (Exhibit 6) Anything to read into the record? Reading a letter of support from the Home Builders Association of Lincoln and the Metro Omaha Home Builders

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Association. Support from the American Institute of Architects, Nebraska Chapter, and opposition from the National Fire Protection Association. With that, we are...completed our hearings for the day. You don't have to stay here, but you...or you don't have to go home... [LB540]