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Urban Affairs Committee
January 23, 2007

[LB51 LB206 LB207 LR5CA]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, January 23, 2007, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB51, LB206, LB207, and LR5CA. Senators present: Mike Friend, Chairperson; Amanda McGill, Vice Chairperson; Abbie Cornett; Ray Janssen; Steve Lathrop; Kent Rogert; and Tom White. Senators absent: None. []

SENATOR FRIEND: I'm Mike Friend from northwest Omaha, District 10, and this is the Urban Affairs Committee. If you're looking for Education or something fun like that, you're in the wrong spot. I wanted to introduce quickly the committee members. Committee members come and go, as you know, and don't be offended if somebody gets up, has to go somewhere. Probably introducing a bill in another committee or whatever. It's a mobile environment. To my right or actually quickly to my left, Beth Dinneen is the committee clerk and to my right, Bill Stadtwald is the legal counsel for the committee. Over to the left Senator Kent Rogert from Tekamah; Steve Lathrop, Senator Steve Lathrop from Omaha. Over to my right, the Vice Chair of the committee, Senator Amanda McGill. And like I said, other folks will be milling in as time goes on. Quickly, we can take care of the housekeeping really fast. I just wanted to point out if we can turn off all cell phones and pagers. Everything is being transcribed and it would help those transcribers immensely if they don't hear obviously the cell phones going off. The committee is joined by Senator Cornett from Bellevue. Welcome. Those wishing to testify, obviously, we want you to fill out a green sheet before you sit down to testify. Green sheets are located on entrances. If you could put it in the box up on the desk, we'd appreciate it. And if you do not wish to testify but you'd like your name entered in the official record as being present at the hearing, enter your name and information on one of the white sheets found on the...I believe there's a table over there by the door. That list will be part of the official record for the hearing. If you want to be listed on the committee statement as a testifier at the hearing, you must complete a green form and you must put it in that box. And let me see. When you begin your testimony, please, and they're becoming sticklers with this item, tell us your name, spell the name for us, please, for the transcribers. If you don't, I will stop you before you start and I'll have you spell it. If there are large numbers of people to testify, I'll put time limits on these type of things. We only have four bills today. I don't think we're going to be excruciatingly long. But if you have testimony and you sit here and read and it's going to take you 15 minutes, probably not necessary. We like to look at about a five-minute time frame if we can. So try not to repeat anything anybody else says and we'll be in good shape. If you...by the way, if you do not choose to testify, you want to submit comments in writing, have them read into the official record, give them to Matt. Matt Pederson is our page. I think he will be for the rest of the session, and he's from North Platte. His grandfather, by the way, is Senator Don Pederson. I thought that...so Matt's on the fast track. And obviously, no vocal display of support or opposition to any of the bills. We would appreciate that. With that, Senator Hudkins, thanks for joining us. We will kick the

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hearing off with LB51. Committee has been joined by Senator Tom White of Omaha and Senator Ray Janssen, Hupper (phonetic). []

SENATOR JANSSEN: Nickerson. []

SENATOR FRIEND: Ray, I drove to Hupper (phonetic) and I couldn't find you and then I drove over to Nickerson. I should have known that. []

SENATOR JANSSEN: You'll never find Hupper (phonetic); you'll find Hooper but you won't find Hupper (phonetic). []

SENATOR FRIEND: I've been corrected, okay. With that, we'll discuss this later. I apologize. With that, Senator Hudkins, LB51. Welcome. []

SENATOR HUDKINS: Good afternoon, Senator Friend and members of the Urban Affairs Committee. I'm Senator Carol Hudkins, that's spelled C-a-r-o-l H-u-d-k-i-n-s, and I represent the 21st Legislative District. I'm here today to introduce to you LB51. And if you have your statement of intent in front of you, it might be a little confusing. So if instead of what it says in the statement of intent turn a couple of those phrases around and it tells exactly what this bill is trying to do. Currently the Nebraska Industrial Development Corporation Act is only available for areas within a county or within a metropolitan area, i.e., Omaha. But it is not allowed within the boundaries of a city or a village and that's what we're trying to change. Toward the end of last session it came to my attention that the city of Friend, with a population of approximately 1,200, Friend, Nebraska, was wanting to use the Industrial Development Corporation Act in order to attract more businesses to the area. To their surprise, they couldn't use the act because it is limited to counties and cities of the metropolitan class. They couldn't use the county authority because the county can only use the act outside the jurisdiction of any cities. The history of this legislation is unclear as to why the benefits of this legislation were given only to counties and to Omaha. And because I can't find any good reason to deny this economic development tool to the other cities within our state, I've introduced this bill to allow the other cities and villages of Nebraska to use this act as well. Following me will be Mr. Jim Ryan from Friend, and he is here to explain from Friend's point of view why this change would be helpful. But I would attempt to answer any questions that you may have. [LB51]

SENATOR FRIEND: Thank you, Senator Hudkins. Are there any questions from committee members? Senator Lathrop. [LB51]

SENATOR LATHROP: I'm new to this subject matter and so I'm going to take this opportunity to have you tell me a little bit about the Nebraska Industrial Development Corporation Act. What does that do and can you give me an example of it in action? [LB51]

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SENATOR HUDKINS: Okay. Well, it's a finance tool to take care of bonding, rehabbing, reselling. That's all I can really tell you so hopefully Mr. Ryan will be able to explain the rest of it. [LB51]

SENATOR LATHROP: Okay. [LB51]

SENATOR FRIEND: Any more questions from committee members? Seeing none, thank you, Senator Hudkins. [LB51]

SENATOR HUDKINS: Okay, thank you. [LB51]

SENATOR FRIEND: Will you be waiting to close or are you... [LB51]

SENATOR HUDKINS: I'll see. [LB51]

SENATOR FRIEND: Okay. First proponent, we'll start with proponent testimony. Welcome. [LB51]

JIM RYAN: My name is Jim Ryan, J-i-m R-y-a-n. I'm from Friend, Nebraska. We've had an industrial development group in Friend, Nebraska, for 16, 17 years of which I've been the chairman of that group. It's a local volunteer organization. We work with the city council and we would be the contact person for anyone within our community that is trying to do either an expansion of their business, new entrepreneur, or if we were working with someone from outside of our community to attract them to come there. During that period of time, we have ran across occasions where our "industrial development group" is not properly organized or qualified to work with certain other organizations and funds that might be available to a community. So we were trying to reorganize ourselves in a way that might be more suitable to pursue these venues as we deal with the business and industrial development that we have in our community. And when we started on that, there are a number of different things that can happen with us as mostly volunteer. We didn't feel like we had, number one, the expertise to pursue them all and find out what particular things we should or shouldn't do. And it's my understanding that this bill would clean up our ability to, number one, access the resources that we need to play on a level field with some other communities; and, number two, to organize our authority in working with our city council. We work with the city council as the screening committee or the group that would meet initially with businesses that were interested in locating or expanding there and then give recommendations to the city council in regard to the CDBG reuse funds. And we've done that on somewhat of a volunteer group, but we've never quite felt comfortable that we had the correct legal standing to fulfill that function. [LB51]

SENATOR FRIEND: Thank you, Mr. Ryan. Are there questions from the committee for

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Mr. Ryan? And, Senator White, yes. [LB51]

SENATOR WHITE: Thank you, Mr. Chairman. Mr. Ryan, there is a provision that would allow a city or a village to create such a project as much as 25 miles from the corporate limits of the city. Why that number? And that seems a long way away. [LB51]

JIM RYAN: I'm sorry (inaudible). I'm sorry. [LB51]

SENATOR FRIEND: Were you going to testify, sir, or... [LB51]

_____ : I was just letting Jim know. [LB51]

SENATOR FRIEND: Okay. Maybe Carol, maybe if she was going to close, maybe Senator Hudkins can... [LB51]

JIM RYAN: Okay. I'm not aware of what that is. [LB51]

SENATOR WHITE: Okay. So it says partially within and without the city or village subject to certain conditions. We'll get to it later. Thank you. [LB51]

SENATOR FRIEND: Are there...thank you, Senator White. Are there any other questions from committee members? Mr. Ryan, you are from Friend, correct? [LB51]

JIM RYAN: That is correct. [LB51]

SENATOR FRIEND: Yeah. I think my wife and I are going to retire there. (Laughter) [LB51]

JIM RYAN: Oh, that's good. We'd be happy to have you there. [LB51]

SENATOR FRIEND: No, actually... [LB51]

JIM RYAN: And the spelling is correct also (laugh). [LB51]

SENATOR FRIEND: Actually, I wanted to run something by you. I think we had some interesting discussion on the floor this morning, at least I thought it was. I haven't really checked with anybody else. But one of the goals, I think, one of the goals and objectives that...when we're dealing with annexation law, you know, TIF legislation, the statutory authority as it relates to maybe some consistency between cities and villages, metropolitan class cities seem to be treated, you know, obviously differently, primary class cities. We do that with our statutes. But what I do know in four years here is we're trying to come up with some consistency when we can find it. The problem is, I think, we've got a bunch of those statutes with the authority and there's nothing else that we

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can do but break them out into distinct sectors. I mean we say, well, unfortunately this village...they're just not going to be able to have the same statutory authority that Omaha is going to have. We can't make that happen. Under these circumstances you think it could--and you brought up organization and expertise--you think that a bill like this is going to obviously add organization. But you think it is going to...in what way do you think it's going to actually open up opportunities for entrepreneurs to come in and do some things? Am I understanding that correctly? [LB51]

JIM RYAN: Well, in this period of time we've had a number of occasions to visit with people outside of our community to...we had a long ongoing conversation with Asgrow in regard to locating a seed plant there. But we've had others where you meet with USDA and you meet with people within the DED and there are situations that come up that our organization as an industrial development group just doesn't give us the tools we need to access the total spectrum of things that are available. Now, I understand that Omaha maybe needs things that we don't, but I also would like to say that there are things that we need that I feel that I've had occasion where we've ran up against it, and they say, well, it's too bad you can't do this. And I would like to feel like we have, number one, the right to those tools; and, number two, the organizational ability to access them without going through a lot of legal exploration to find out what tools...to develop the right tool. [LB51]

SENATOR FRIEND: Okay, well, thanks. Any other questions from committee members for Mr. Ryan? Seeing none, thanks for coming down to testify. Are there any...next proponent. Are there any...I need proponents of LB51? No more proponents? Are there any...is there any opposition? Are there any opponents? Anyone wishing to testify in a neutral capacity? [LB51]

LYNN REX: Senator Friend, members of the committee, my name is Lynn Rex representing the League of Nebraska Municipalities. We're here in a neutral capacity because our... [LB51]

SENATOR FRIEND: Lynn, the spelling on your name, please. [LB51]

LYNN REX: I'm sorry. Rex, thank you, R-e-x. [LB51]

SENATOR FRIEND: You bet. [LB51]

LYNN REX: Sorry. [LB51]

SENATOR FRIEND: Thank you. [LB51]

LYNN REX: We've not yet had an opportunity to have our entire legislative committee review this. But I can assure you that we think this is a good idea. I think that you've

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raised a very important issue, which is that you might want to consider modifying this to address the different classes of municipalities. The reason why it was drafted with 25 miles from Omaha was because this dealt with basically some IDA bonds and other things that Douglas County and Omaha were working on at that time and it was later expanded. So there are ways to deal with this and deal with it structurally in terms of classification of cities. We've got five classes of cities, five forms of government in the state with municipalities, and there's a way to structure this so it's workable for everybody. But I think this is an element that could also be helpful for even the small villages with CDBG grants and other requirements. I'd be happy to respond to any questions that you might have. [LB51]

SENATOR FRIEND: Thank you, Ms. Rex. Are there any questions from committee members? Senator White. [LB51]

SENATOR WHITE: Do you have any information on why we have the 25-mile limit from any village? [LB51]

LYNN REX: I'm sorry. [LB51]

SENATOR WHITE: The law would provide a village to create a corporation that could be as far as 24 miles away from it... [LB51]

LYNN REX: Right. [LB51]

SENATOR WHITE: ...right next to it perhaps a city of a larger size. Why is that in there? [LB51]

LYNN REX: Well, this is not our bill. But what I would suggest to you and I've talked to Senator Hudkins just within minutes to let her know as well that I would suggest, respectfully, that the committee look at limiting the ability of classifications of cities, with the exception of Omaha, to within their extraterritorial zoning jurisdiction. In other words, for second-class cities and villages, and if they have right now a one-mile extraterritorial zoning jurisdiction and we're asking in another bill to address that, to expand that a little bit. But first-class cities right now, cities with a population of 5,000 and up have two miles. So I would suggest to you that, respectfully, that you consider not putting...the 25 miles is what the law already is. In other words, the law for Omaha, this was drafted for Omaha in its inception so that's why the 25 miles are there. And quite frankly, I don't think any city or village ought to be just locating these projects that far away because it's an infrastructure issue. You've got to provide the infrastructure. You've got to get it out there. That's expensive. And it makes a great deal of sense, however, to do it within basically the extraterritorial zoning jurisdiction. So, when you look at page 4 and if you want, we'd be happy to work with committee counsel and others to address this, but...and Senator Hudkins' staff as well, there are words that you can place in here

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dealing with the ETZ that would accommodate that. But I would agree with you there really is no reason to have that authority beyond basically their ETZ. The Legislature several years ago did authorize, for purposes of tax increment financing, what's called skip annexation. So second-class cities and villages do have the authority to what's called skip annexation. That's a policy that you can choose to embrace or not, but that was done at Senator Dierks' suggestion years ago when he was here the first time to try to attract a potato plant up by O'Neill, Nebraska. So that's why it was done. It was a Select File amendment and so municipalities do have that authority for a second-class city or village. First-class cities do not have that authority. Omaha has that authority; Lincoln does not have that authority. So there really is a mishmash in terms of who has what authority and how that applies. This is a real opportunity, I think, for the committee to look at this, Senator, and make it comply, and it does, with the constitution but also make it comport with the extraterritorial zoning jurisdiction of municipalities. I would respectfully suggest that you do that. [LB51]

SENATOR FRIEND: Thank you, Ms. Rex. Any other questions from committee members at this time? Seeing none, thanks for the testimony. [LB51]

LYNN REX: Thank you. Thanks for your question, too, Senator. [LB51]

SENATOR FRIEND: Are there any other testifiers in neutral capacity? Senator Hudkins to close. [LB51]

SENATOR HUDKINS: Thank you, Senator Friend. And to answer Senator White's question, if you would look at page 4, line 12 through 13 or 14, and if you notice that the 25 miles originally talked about the cities of the metropolitan class, and we have taken out the metropolitan class and want to open it up to all villages. And Lynn Rex was perfectly correct that there would be no reason for these smaller towns to want to have or indeed should have the 25-mile authority. So I would echo what she said--if a community has a one-mile jurisdiction, then that's what it should be. If it's a three-mile, then that's what it should be. This particular bill is for economic development. We are trying to find ways to bring more people, bring more businesses to our more rural parts of the state. And this is one way to do that is to give them similar authority to what the bigger cities have, but maybe not with the 25 miles, no. Omaha's would be, what, ten? And so that's what we would ask you to do is change that or work with my staff. We can give you an amendment, but I'm sure that your legal counsel knows what I'm talking about. So if there are no other questions, then I would ask that you make the appropriate changes and then advance the bill. [LB51]

SENATOR FRIEND: Thank you, Senator Hudkins. Any questions from committee members for Senator Hudkins? Seeing none, thank you. [LB51]

SENATOR HUDKINS: Thank you. [LB51]

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SENATOR FRIEND: And that will close the hearing on LB51. With that, we will move to a plethora of awesome bills. LB206. Senator McGill will take the com if you will. Is that what it's called? [LB51]

SENATOR MCGILL: I suppose. We'll begin the hearing on LB206 with Senator Friend. [LB206]

SENATOR FRIEND: Thank you, Senator McGill and members of the Urban Affairs Committee. My name is Mike Friend, F-r-i-e-n-d. I represent northwest Omaha, District 10 in the Nebraska Legislature. Real quickly, LB206, a bill that amends several sections of the statutes governing metropolitan class cities, which deal with the city treasurer. Under current law, the county treasurer serves as the ex officio treasurer of a metropolitan class city. And this bill would remove the county treasurer from that position and replace him or her with a member of the city finance department that would serve in that function, different sections of the law being changed in order to produce this result. The bottom line is I was approached without going ad nauseum I guess, was approached by the city of Omaha. And it's my understanding in their communications with Douglas County, I believe at least one of those entities will be testifying following my opening, that this is just stuff that's not being used. I mean it's as simple as that. The county treasurer is not more or less, and they'll have to correct me if I'm wrong, more or less not performing in that function for the city. We are cleaning up some statutes here what could be considered archaic statutory language. With that, what I would say is the repeal of Section 14 more or less amends Sections 14-553, 14-554, and 14-1821 and then repeals some other original statutes and repeals four statutes outright: Section 14-551, 14-552, 14-561 and 14-555. For further questions in regard to why some of this stuff is happening and the archaic nature of this law, I would almost like to defer to some of the ensuing testifiers. So with that, I would close my opening and be happy to field any questions that you think I could possibly answer. [LB206]

SENATOR ROBERT: I just have one, Senator Friend. It's my understanding that this is supported by both Douglas County and the city. [LB206]

SENATOR FRIEND: My understanding as well. [LB206]

SENATOR ROBERT: The Douglas County Treasurer is just not doing it, doesn't need to do it, doesn't want to do it. [LB206]

SENATOR FRIEND: Yeah. And the communications that I've had is that what we're talking about is the duplication of function, simple as that. [LB206]

SENATOR ROBERT: Yeah. It was in the paper I believe here a few months ago so thank you. [LB206]

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SENATOR FRIEND: You're welcome. [LB206]

SENATOR MCGILL: Any other questions? Thank you, Senator Friend. [LB206]

SENATOR FRIEND: Thank you. [LB206]

SENATOR MCGILL: Proponents here to speak in favor of the bill? [LB206]

CAROL EBDON: (Exhibits 1, 2) Thank you. Good afternoon. My name is Carol Ebdon, C-a-r-o-l E-b-d-o-n. I'm the finance director for the city of Omaha, speaking in support of this bill. As Senator Friend nicely testified, this essentially cleans up some language that applies solely to the city of Omaha, does not apply to other cities. Other cities in the state deal with their own treasury activities. They're solely responsible for their monetary functions. These provisions are archaic I think is the word Senator Friend used. I think this legislation was adopted in 1921. I have no idea why. There probably was a very good reason at that time. We don't think that that applies any longer. There are a couple of other entities in Douglas County that were subject to this at one time, including the Omaha Public School District and Metropolitan Utilities District, and they both, in previous years, have gotten that language changed so that it no longer applies to them. As far as I know, this only applies to the city of Omaha across the whole state. There is...I think the reason that we're asking for this now, yes, it's to clean up language. And there has been a little bit of confusion in the past about just what exactly does the ex officio city treasurer mean. What duties does the county treasurer have versus the city in terms of making decisions about banking contracts and services? Who does what? We do have some duplication of effort that we would both like to get rid of frankly. In this day and age we can't afford to be duplicating effort that each other are doing. The city does have a professional financial management staff. We do and will continue to make sure that we ensure the safety of the city's funds. We follow established laws and best practices, and we are continually maintaining our internal controls to make sure that we're doing an adequate job with the taxpayers' dollars. I have given you a copy of the resolution that was adopted by the Omaha City Council and signed by the mayor. This is a unanimous request from the mayor and city council. And, yes, the Douglas County Treasurer does support this, and I believe he is going to write a letter of support as well. So we're unanimous in asking for this. I wanted to be brief. I thank Senator Friend for introducing this bill. I appreciate it. And we would ask for the support of the committee. I'd be happy to answer any questions. [LB206]

SENATOR MCGILL: Any questions from the committee? All right, thank you. [LB206]

CAROL EBDON: Thank you. [LB206]

SENATOR MCGILL: Any other proponents here to speak on the bill? Any opponents?

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Whoops, sorry, didn't see you. [LB206]

LYNN REX: Senators, again, my name is Lynn Rex, R-e-x, representing the League of Nebraska Municipalities. This is a technical cleanup bill, and we strongly support it and would hope that you'd advance it. I'd be happy to respond to any questions that you might have. [LB206]

SENATOR MCGILL: Questions? Seeing none, thank you. [LB206]

LYNN REX: Thank you very much. [LB206]

SENATOR MCGILL: Any opponents? Anyone speaking in a neutral capacity? Senator Friend, would you like to close? No? That ends the hearing on LB206. Next we have LB207. Senator Friend. [LB206 LB207]

SENATOR FRIEND: Thank you, Madam Chairwoman, Madam Vice Chairwoman, I don't know how to. Members of the Urban Affairs Committee, my name is Mike Friend, again, F-r-i-e-n-d, representing northwest Omaha. This is a bill we've heard, at least I've heard, on a couple of different occasions. We like to call it one of the MUD bills that we've seen over the years, but real simple. The bill attempts to achieve the same goal as a bill from two years ago, LB372. Last year, excuse me, I think the bill...yeah, I think that was the most recent legislation put in place. This bill attempts to achieve the goals of that LB372 instead of deleting the title general manager for Metropolitan Utilities District. There is some significance to this, by the way. I'll get to that in a second. The statute is amended to...we amended it I guess two years ago in committee to refer to the individual with the title of general manager or another title designated by Metropolitan Utilities District. History behind this is real simple and the reason for it is real simple. Metropolitan Utilities District has come to us in the past, said, look, the person running the show here, more or less, is titled general manager. You send...in a lot of ways you send that information off which is a legal title, off to certain areas of the country, for example, in business dealings. It looks different and it is different than a lot of things people are doing nationwide in regard to titles and everything else. Now obviously folks like us aren't caught up in titles. Right? But some folks around the nation are, and I think that that's what we are dealing with. Maybe I'm oversimplifying it. I know that there's some folks behind me that at least a couple that maybe wish to testify on this. With that, I'd be happy to answer any questions in regard to this. I believe Senator Bourne carried this two years ago. More or less we ran out of time or ran out of gumption, ran out of attitude, I'm not really sure. But this bill just sat in General File and eventually died. So I would be happy to answer any questions. [LB207]

SENATOR MCGILL: Any questions from the committee? Seeing none, thank you, Senator Friend. Any proponents? [LB207]

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DOUG CLARK: (Exhibit 3) Good afternoon, Chairman McGill and the Urban Affairs Committee. My name is Doug Clark, C-l-a-r-k. I'm vice president of government affairs in marketing for the Metropolitan Utilities District. What's being handed out is a resolution that was approved by our board to utilize the title of president in conjunction with general manager and secretary. It's a convoluted way of attempting to communicate with other professionals of similar levels around the country. It is...if there's anything more archaic than LB206 that you just heard, it's the fact that since 1913 the term general manager has been deemed the only legal title for the head of our company. And so what we're simply asking to do is for the Legislature to allow our elected board to name the head of the company what would be deemed an appropriate business term. It doesn't make a lot of sense to have vice presidents reporting to a general manager. In the scheme of the business world today, a general manager would be deemed a mid-level manager at any given utility throughout the country. We just let over \$200 million in bonds for our new water plant. The bond companies in New York do not understand a 1913 law that names the head of our company general manager. So this allows us to more freely and easily communicate with those individuals and organizations that we do business with. And I'd be happy to answer any communication questions you have. [LB207]

SENATOR MCGILL: Any questions? None. Thank you, Mr. Clark. [LB207]

DOUG CLARK: Thank you very much. [LB207]

SENATOR MCGILL: Any other proponents? [LB207]

LYNN REX: Senators, my name is Lynn Rex, R-e-x, representing the League of Nebraska Municipalities. I would strongly encourage you to advance this bill out of committee for two reasons. One, because it's technical. And by the grace of God and Senator Friend, not in that order actually, there are no natural gas wars this year. I think one of the reasons why this bill has not been advanced in previous years and has not been addressed is because of natural gas wars and a total lack of trust by both sides. And as a result of that, these kinds of bills that need to happen corporately don't get done. And since we do not have natural gas bills, if there ever was a year to advance this, get it done, this is the year to do that. I would be happy to answer any questions you have. And Doug Clark has already outlined the reasons why nationally and even on a statewide basis it's important to make this change. [LB207]

SENATOR MCGILL: Questions? Thank you for your testimony. [LB207]

LYNN REX: Thank you. We also thank Senator Friend for putting us in this position so we don't have those kind of conflicts this year. Thank you. [LB207]

SENATOR MCGILL: Any other proponents? Any opponents? Neutral? Seeing none,

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Senator Friend, would you be interested in closing? Nope. That ends the hearing on LB207. We can move on to LR5CA. []

SENATOR FRIEND: Thank you, Madam Chairwoman. And I think the breakneck pace that we're on is about to come to a screeching halt. I'll explain that in a second. My name is Mike Friend, F-r-i-e-n-d again. I'm representing northwest Omaha, District 10 in the Legislature. Members of the Urban Affairs Committee, this is a constitutional amendment resolution proposing to amend the current language in Article XIII, Section 2 of the Nebraska Constitution to expand the authority for the issuance of revenue bonds on behalf of nonprofit corporations. Now if that sounds familiar, it probably should. This is the fourth appearance of this legislation before the Legislature, okay, the third time before the Urban Affairs Committee. It is identical in form and substance to Amendment 1 as it appeared on the ballot in November of 2006 with a single exception: on line 3, or excuse me, page 3, in lines 1 and 2 a new phrase is added referring to the bonds issue pursuant to the act and the governmental subdivision issuing the bonds: "and such governmental subdivision shall have no authority to impose taxes for the payment of such bonds." This proposed constitutional amendment attempts to mirror current language in Article XIII, Section 2 dealing with the economic development authority to permit the Legislature to authorize any county, city or village to acquire, own, develop, and lease real and personal property suitable for the use by nonprofit enterprises as determined by law and to issue revenue bonds for the purpose of defraying the costs of such acquisition, financing, and development. Real simply, as simply as I can put it, I think here is where we're at. A lot of folks might talk about, you know, bites of the apple, how many you're going to get. We know we put these things out on the ballot. People say no. How many ways can they say no? There's an art to this. There's an art to taking what some would consider convoluted or complicated subject matter and making it understandable for me or for Bill, Beth, anybody when we go into a ballot box. And frankly, there has been information that's been relayed to me and I even thought so last session that leads me to believe that this has been a convoluted issue over the years. Senator Landis did a noble job of moving what we think is a noble proposition to the people to vote for. I would sum up by saying this, and I'd be happy to answer any questions or if you wanted to dig into what I know about this from a practical standpoint and what we've dealt with. But I'd say this. I don't know that I feel, and I'm not sure how the rest of the senators of the committee feels about this, but what does it matter how many bites of the apple? If I wanted to run for office nine different times, you couldn't keep me off of the ballot if I drop my name in there and paid the fee to get on the ballot. Of course unless I won twice in a row and then I got termed out. But the point is sometimes taking bites of the apple is not necessarily a bad thing. And I think what you might hear from...taking more than one bite of the apple is not necessarily a bad thing. And I think what you're going to hear from some of the testimony behind me is exactly that. That it is an art. There's a strategy associated with trying to communicate this a little better to the public, to the citizens of Nebraska. And I was convinced. I felt like maybe quite possibly a third time could potentially be the charm. However, I will let

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them explain their motivation and ideas and we can go from there. But with that I would close and offer up, I guess, myself to answer any questions and concerns you might have. Thank you. [LR5CA]

SENATOR MCGILL: Any questions? Senator Cornett. [LR5CA]

SENATOR CORNETT: Senator Friend, I noticed that in the bill summary the activities of the political subdivision exercised under this subsection would be deemed for public purpose, but the subdivision could not acquire the property by condemnation. Do you need to include eminent domain in that also? [LR5CA]

SENATOR FRIEND: Well, I think...I don't know. And I see Bill's hand waving furiously in one way or another. [LR5CA]

SENATOR CORNETT: I know they're very...it's kind of splitting hairs on the definition, but... [LR5CA]

SENATOR FRIEND: Well, and, Senator Cornett, that's a good question, but I think that might be where the art comes into it. That might be where, you know, sometimes things leave the Executive Board and end up on the ballot that was not necessarily intended. So the answer to your question is maybe that does need to be addressed. [LR5CA]

SENATOR CORNETT: Just because, and Bill can probably answer this in Exec, but I know that they sound similar but they are not exactly the same thing. [LR5CA]

SENATOR FRIEND: Correct. [LR5CA]

SENATOR CORNETT: So is that...just throw it out there is that something we need to address? [LR5CA]

SENATOR FRIEND: Possibly. Thank you. [LR5CA]

SENATOR MCGILL: Senator Lathrop. [LR5CA]

SENATOR LATHROP: I'm perfectly willing to show how little I know with the questions I'm going to ask. But if the bill were going to give authority for a political subdivision to effectively issue bonds to assist a nonprofit in some development, is that the substance of it? [LR5CA]

SENATOR FRIEND: As in good examples or analogies could be a Goodwill, you know, American Red Cross. [LR5CA]

SENATOR LATHROP: Okay. These people aren't paying any taxes? Those entities

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wouldn't be paying taxes. [LR5CA]

SENATOR FRIEND: Well, do you mean does their tax status change or in regard to what... [LR5CA]

SENATOR LATHROP: They don't have to pay property taxes, do they, the Goodwill? [LR5CA]

SENATOR FRIEND: I don't know. No. [LR5CA]

SENATOR LATHROP: Okay, so how do they pay...if you acquire the land and you build the building for these people and you issue the bonds, how do they get paid back? What is it about that nonprofit that's going to get the bonds that were let with this authority paid back? [LR5CA]

SENATOR FRIEND: Well, according to the constitutional amendment, I don't know if that's addressed. I mean that's a good question. I don't know the answer to it, Senator Lathrop. In the language of the constitutional amendment, and I could be corrected and I hope I am, I don't think it addresses your specific question or answers your specific question. I don't know. [LR5CA]

SENATOR LATHROP: But we're creating the authority for a political subdivision to issue bonds for the benefit of a nonprofit to develop land, building, whatever it might be. [LR5CA]

SENATOR FRIEND: Indeed. [LR5CA]

SENATOR LATHROP: What's in it for the political subdivisions or the state or the people in Nebraska? If the Goodwill wants to build a Goodwill, shouldn't they go out and get donations from... [LR5CA]

SENATOR FRIEND: My guess would be for the political subdivision in the long run, and I know somebody will correct me on this if I'm wrong, but I'm thinking a better bond rating to a certain degree if they're wise about it. You see where I'm going with that? [LR5CA]

SENATOR LATHROP: No. [LR5CA]

SENATOR FRIEND: Well, why couldn't it be? I guess it's a rhetorical question. I mean if you...and the simple fact, I mean add to that the simple fact that you're helping what could be considered private entities that have enough trouble, you know, on their own I guess. [LR5CA]

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SENATOR LATHROP: Did I see something in here that it can't be a church? [LR5CA]

BILL STADTWALD: Yes. [LR5CA]

SENATOR FRIEND: We addressed that in a session, if I'm not mistaken, it was two years ago, that was addressed on the floor. And there were concerns by I believe several senators that said, yeah, we've got to hone this language. [LR5CA]

SENATOR LATHROP: So it would be a nonprofit other than a church. [LR5CA]

SENATOR FRIEND: That's my understanding. [LR5CA]

SENATOR LATHROP: And your example is a Goodwill. [LR5CA]

SENATOR FRIEND: The best example I could think of and maybe others...I think we actually got a letter from Red Cross in response to the constitutional amendment (Exhibit 6). And a better bond rating, you know, maybe I'm off the beam on that and maybe possibly some of the folks can speak to that, but I guess that was an assumption I probably shouldn't have made. [LR5CA]

SENATOR LATHROP: Okay. And somebody I think behind you can tell us the why do we need it part of it? [LR5CA]

SENATOR FRIEND: I believe so. [LR5CA]

SENATOR LATHROP: Okay. [LR5CA]

SENATOR MCGILL: Senator Janssen. [LR5CA]

SENATOR JANSSEN: Senator Friend, these bonds are going to have to be retired some way. Now you're telling me, if I'm following you correctly, that we've used Goodwill as someone who could take ahold of this. But so then the profits from that organization would go to repay the bonds. Is that correct? [LR5CA]

SENATOR FRIEND: Yes. [LR5CA]

SENATOR JANSSEN: Who is liable if they...I've been in business a long time and sometimes you don't make any money. But who would be obligated to pay because it says that they cannot be repaid by the entity within the jurisdiction of where that's at? Somebody has to be... [LR5CA]

SENATOR FRIEND: I'm not sure I follow. [LR5CA]

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SENATOR JANSSEN: Somebody has to be liable for this in the bottom line, you know. And it seems to me that if the Goodwill didn't make any money, by George, whoever is holding those bonds is going to want to get paid. So I think it would eventually end up within that city or county or whoever it would be, you know. Maybe someone can answer that. [LR5CA]

SENATOR FRIEND: Well, that's how I would have assumed it. I mean your view... [LR5CA]

SENATOR JANSSEN: Especially if they get into the grocery business. You know, nobody makes any money in that. (Laughter) [LR5CA]

SENATOR FRIEND: It seems like these questions came up before too. And I would defer to possibly Mr. Hallstrom or some others to speak specifically to... [LR5CA]

SENATOR JANSSEN: Sure [LR5CA]

SENATOR FRIEND: ...some of those items, Senator Janssen. [LR5CA]

SENATOR JANSSEN: Good. [LR5CA]

SENATOR MCGILL: Are there any further questions? If not, thank you, Senator Friend. [LR5CA]

SENATOR FRIEND: You're welcome. [LR5CA]

SENATOR MCGILL: Our first proponent. [LR5CA]

JAMES NISSEN: (Exhibit 4) Senator McGill and members of the Urban Affairs Committee, my name is James Nissen, J-a-m-e-s N-i-s-s-e-n. I'm with Wells Fargo Bank here in Lincoln, appearing as a proponent. Do you want these passed? [LR5CA]

_____: Yes. [LR5CA]

JAMES NISSEN: I have a letter here from Steve Navin who is market president for Wells Fargo in Lincoln, along with some other factual information. Currently not-for-profit organizations, 501(c)(3), if they are health related or education related, can currently issue bonds just like we're talking about. So that part is there. Actually the example of Goodwill was brought up. Goodwill cannot issue bonds under the current statute because they are not health related or they are not educationally related. However, our bank did issue, had a bond issued for Goodwill because they were...the warehouse that they constructed was in a blighted area and that's an exclusion in the present law. And what this constitutional amendment does, attempts to do is bring Nebraska law

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consistent with laws in most other states and consistent with federal statute. So it just broadens to those 501(c)(3) charitable organizations who are not health related or educationally related, gives them the same opportunity that the other entities have. So it is nothing new. To answer your question, Senator Lathrop, how do the bonds get paid? The bonds get paid through the revenue developed by the respective issuer of the bonds, not the conduit, not the municipality. But whether it's Goodwill or whether it's Creighton University or whatever entity it is, they pay for it. And how do they pay for it, Senator Janssen? They're not-for-profit organizations so they don't make a profit. But they are...they do have cash flow and it's through their cash flow that they generate from the program, their charitable gifts in support of them, or whatever source of revenues the respective agency organization has, that's how the bonds are paid. Who is at risk if the bonds don't get paid? It's the bondholder. It's not the municipality, not the county, not the city, whatever it might be. The conduit that issued the bonds, they are not at risk at all. There's no tax ramifications to that entity or the taxpayers that support that entity. And I think an example might be, and I don't know for sure, the corporate structure but of the archway at Kearney. I think we're all familiar with that and that it has had financial difficulty and cash flow difficulties. And what has happened is you go back to the bondholders and renegotiate your deal with them or you don't pay the interest or you ask forgiveness of interest or whatever it might be. But it's the bondholders that are at risk. And so I think that...and another question I think it was Senator Lathrop that asked, what's in it for the political subdivision? To me, what's in it for the political subdivision is the fact that it enhances the quality of life in that community. It provides services that are not tax supported or not in any way such as CenterPointe. These are some issues that our bank has done in Lincoln, CenterPointe which is a substance and rehab center, we issued bonds for that. Child Guidance Center, which Senator McGill would be familiar with these if none of the others of you are; Cornhusker Detox Center; Clark Jeary Home, which is building a new facility; Madonna, we have issued bonds for those. So it's a variety of kinds of organizations, but they're all health related. Now why I have gotten interested in this is several years ago I was invited to join the board of the Lancaster County Chapter of the American Red Cross. When I joined the board, I learned that the chapter was burdened with a million and a quarter dollars worth of debt on a new facility that was short term and relatively little way to pay it except over a period of time. We tried to get financing under this provision. Obviously, the Red Cross, because they were not health related or educationally related or in a blighted area, was not eligible. So they had to pay regular market rates for interest, and the differential that you might expect on projects, tax-free versus taxable income, is probably 2.5 to 3 percent. So on a million dollars 3 percent is how much? But anyhow, the savings that is derived by the not-for-profit organization by the use of tax-free financing goes to their program and to their mission. And they can carry...helps them do that as opposed to paying market rates. I could go on more. We have done other projects in Lincoln. Another one that we were not able to do that I've been personally involved with recently is the Lancaster County Chapter of the Humane Society. Bob Downey came to me and they may have to move their facility from where it is and may be in need of financing. It's

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not available to them under this provision. This law, this constitutional amendment would make it available to them. Senator Friend commented on the fact that we're coming back again and again. But last time, if I recall correctly, we made significant progress with the voters. But also on the ballot this last, as you're all well aware, there were probably eight or nine fairly divisive issues, most of whom received pretty negative comments. And when you're voting, as was mentioned, and you have a negative attitude, why, and you don't understand it, you vote no. I think that will conclude my comments except if you have any questions. [LB5CA]

SENATOR MCGILL: Are there any questions from the committee? None. All right, thank you for your testimony. [LR5CA]

JAMES NISSEN: You're welcome. Thank you. [LR5CA]

SENATOR MCGILL: Next proponent. [LR5CA]

ROBERT HALLSTROM: (Exhibit 5) Senator McGill, members of the committee, my name is Robert J. Hallstrom. I appear before you today as a registered lobbyist for the Nebraska Bankers Association in support of LR5CA. I missed out on Senator Friend's remarks so I will try not to repeat anything. The Nebraska Bankers Association has taken the lead on this issue as a result of some of the requests of some of the nonprofits that have been involved in transactions that they would like to benefit from tax-exempt financing alternatives. As Mr. Nissen pointed out, we were originally approached with the Red Cross situation in trying to place their headquarters here in Lincoln. And once we did the research and found out that this was not subject to a simple statutory fix, we brought forward the constitutional amendment. We've been very successful in the Legislature not having any dissents in the two times that we've brought this before the body. But obviously we have to make our case anew and that's what we're here for today. We have worked diligently with the nonprofit community. My testimony I will not go through all of the list of entities, but my testimony contains a complete list of the nonprofit organizations that have worked with us when the measure was on the general election ballot. We think that the benefits that can be derived from passing this constitutional amendment will accrue throughout the state--plenty of rural economic development types of benefits from the projects that would qualify from the 501(c)(3)s that would be eligible to benefit. I know Goodwill Industries, for example, has provided information in the past reflecting that on a 20-year project of the size that they would normally entertain in the state of Nebraska that they estimate savings of \$15,000 to \$19,000 per year or a total of almost \$400,000 over a 20-year life of a project through the repayment of the bonds. Again, I don't want to go over it too much, but I think in terms of looking at the issue and getting passage before the voters the one message in the educational issue that would clearly have to get out are that these are not general obligation bonds. They are revenue bonds. The issuing entity is only involved because that's what the Internal Revenue Code requires us to do to have the political subdivision

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as the conduit, if you will, for the issuance of the bonds. So as a result, they're not at risk in terms of the issuing county or city. The taxpayers are not at risk because there is absolutely no imposition or levy of taxes that can result from this. As Mr. Nissen indicated, it's strictly up to the project itself to bring about the proceeds, if you will, or the financing to pay off those bonds. And that if for some reason, there have been very few that I'm aware of that have had to default, but if some reason there was a default in the payment of the bonds, it would be the investors in those bonds only who would be at risk. With that, I'd be happy to address any questions that the committee may have. [LR5CA]

SENATOR MCGILL: Senator Lathrop. [LR5CA]

SENATOR LATHROP: I'm going to ask some questions again maybe just to learn more about the subject matter. But this would not benefit a church, true? [LR5CA]

ROBERT HALLSTROM: The provisions specifically and the IRS regulations, Senator, limit the applicability to sectarian or religious types of activities. When bond counsel goes through and gives an opinion, one of the issues that I understand that they are obligated to opine on is that there are not impermissible religious utilization of the bonds. We have had in the past specifically I guess recollection is at the request of Senator Chambers to say that more clearly in the constitutional amendment, and that is one of the reasons why that's in there. But as a practical matter, that would be the sum and total effect of what the IRS requires us to do or doesn't allow you to do within this type of program anyway. [LR5CA]

SENATOR LATHROP: Okay. So right now we can already do these things if it's a blighted area? [LR5CA]

ROBERT HALLSTROM: Correct. [LR5CA]

SENATOR LATHROP: So if we want to put a Goodwill in a blighted area, we don't need to amend the constitution. [LR5CA]

ROBERT HALLSTROM: That would be correct. [LR5CA]

SENATOR LATHROP: And if we wanted to build a new cathedral downtown, we couldn't use this to build the cathedral because it's a restricted use. [LR5CA]

ROBERT HALLSTROM: Both in terms of restricted on the face of the constitutional amendment and in what the IRS regulations do not allow to happen anyway. [LR5CA]

SENATOR LATHROP: I can appreciate not trying to help out a particular religious group, but here's my question. What's the difference between somebody trying to build

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a church and somebody trying to build a Goodwill? I mean we're helping to finance and the church is finding a way to finance itself. Can't the Goodwill do that without the benefit of the political subdivision? [LR5CA]

ROBERT HALLSTROM: Well, I think they probably can. I think they probably can, Senator. But I think the overriding policy issue from our perspective would be what are the cost savings or the benefits that accrue? And again perhaps they ought to accrue equally to the church as well as Goodwill Industries, but there are issues from the Internal Revenue Code that would limit us separately from the language that we have on the face of this document from helping that church out anyway. So I think our perspective would be it leaves us in the position of saying if we can't, for a whole host of reasons, use this type of beneficial financing alternative for a religious opportunity and, by the way, I would note that one of the entities, Catholic Charities from Omaha, is supportive of this. Because even though the church could not be benefiting from this, there are other things that they do that are clearly within the confines of this. So I think there are some fringe or peripheral issues that do apply that would be supported by Catholic Charities, for one, in this instance. But again, I think the policy-driving issue is if we can provide this benefit to these other nonreligious-based nonprofit entities and bring about savings for them so that they can use more of their generous contributions and so forth for direct charitable services that we at the end of the day have provided a beneficial service not only to the nonprofit but to the constituency that they serve. [LR5CA]

SENATOR LATHROP: Okay. Does this require that the political subdivision own the property and then lease it back to the Goodwill in our example? [LR5CA]

ROBERT HALLSTROM: I think they can own it or it can be purchased by the nonprofit is my understanding. [LR5CA]

SENATOR LATHROP: But it then becomes...if the political subdivision owns the property, leases it back to the Goodwill, and then issues these bonds, then the property that's owned by the city is then pledged as security for the bonds. Is that right? I mean going back to Senator Janssen's question, who pays for it if the Goodwill goes under? [LR5CA]

ROBERT HALLSTROM: Well, if there's a default, in which case some portion of it does not get paid, the issue is (a) it does not get paid and the only people that are at risk are those that have invested in the bonds. [LR5CA]

SENATOR LATHROP: But aren't those bondholders going to be able to go back against the property that's actually owned by a political subdivision, purchased by the political subdivision, and then pledged to secure the financing? [LR5CA]

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ROBERT HALLSTROM: I believe they could, Senator, but keep in mind the original purchase was not encountered out of any funds from the city. It was funded by the bond proceeds. So while the city may own it in name only, there's been no up-front capital outlay. And I may have to double-check on that technical type of question, but I think that's the issue is there are no funds of the city that are put into the project up front or at any point. [LR5CA]

SENATOR LATHROP: Do you see that in there somewhere or that's just the way it's done? [LR5CA]

ROBERT HALLSTROM: Well, the city doesn't have any outlay. I guess I don't know whether I can point to anything specifically on the face of the proposed constitutional amendment. [LR5CA]

SENATOR LATHROP: So you're saying if they... [LR5CA]

ROBERT HALLSTROM: It indicates, Senator, on page 2 "and to issue revenue bonds for the purpose of defraying the cost of acquiring and developing or financing such property." So I would trust and assume that that language is providing them the only mechanism in terms of providing the funding for the acquisition of that property. They may very well keep it in their name for particular legal purposes and otherwise, but the funding up front has to come from the issuance of the bonds for which the county or city would not be responsible. [LR5CA]

SENATOR LATHROP: Okay. And what you're saying is even if the property were pledged and was used to satisfy it, the money originally came from the charitable institution to start with. [LR5CA]

ROBERT HALLSTROM: Yeah, did not come in any respect from the community is my understanding, Senator. [LR5CA]

SENATOR LATHROP: Okay. [LR5CA]

SENATOR CORNETT: Mr. Hallstrom, just one quick question. When you said that Catholic Charities was in support of this and that it would not serve most of their purposes because they are a religious-based organization, and I'm just using them as an example, are there still projects that they can utilize these for? [LR5CA]

ROBERT HALLSTROM: That is my understanding why they are supportive is that... [LR5CA]

SENATOR CORNETT: Like Campus Hope is an example or... [LR5CA]

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ROBERT HALLSTROM: A church, Campus Hope, some type of school activity are things that I think would qualify within the realm of what... [LR5CA]

SENATOR CORNETT: And the Salvation Army, even though it's a religious organization, would be able to utilize this. Correct? [LR5CA]

ROBERT HALLSTROM: Yes, that's correct. [LR5CA]

SENATOR CORNETT: All right. [LR5CA]

SENATOR LATHROP: I do have another question that I just thought of... [LR5CA]

ROBERT HALLSTROM: Yes, Senator. [LR5CA]

SENATOR LATHROP: ...if it's all right with you. What's it cost the government to put this on the ballot again? [LR5CA]

ROBERT HALLSTROM: I don't know what the cost of it is, Senator. I can find out from the Secretary of State's office, but I do not know that right off the top of my head. [LR5CA]

SENATOR LATHROP: I mean it's a little bit more than just the printing costs or adding a couple inches to the ballot, right? [LR5CA]

ROBERT HALLSTROM: I would assume it may be, yes. [LR5CA]

SENATOR CORNETT: It was about a million five for all the initiatives last time. [LR5CA]

SENATOR LATHROP: Can you get us that information from the Secretary of State... [LR5CA]

ROBERT HALLSTROM: Yes, I'll check with the Secretary of State, yes. [LR5CA]

SENATOR LATHROP: ...and maybe submit it to the clerk so we can take a look at that. [LR5CA]

ROBERT HALLSTROM: Certainly will. [LR5CA]

SENATOR MCGILL: Any other questions? All right, thank you for your testimony. [LR5CA]

ROBERT HALLSTROM: Okay. Thank you, Senator. [LR5CA]

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SENATOR MCGILL: Any other proponents? Any opponents here to speak against the bill, the amendment? Anyone here to speak in a neutral capacity? Senator Friend, would you like to close? No. That concludes the hearing...that need to be submitted into the record. We have one from the American Red Cross (Exhibit 6) and one from the Nebraska Chamber of Commerce (Exhibit 7). [LB5CA]

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Disposition of Bills:

LB51 - Held in committee.
LB206 - Advanced to General File.
LB207 - Advanced to General File.
LR5CA - Advanced to General File.

Chairperson

Committee Clerk