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Urban Affairs Committee
February 02, 2010

[LB799 LB949 LB977 LR295CA]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, February 2, 2010, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB977, LB799, LB949, and LR295CA. Senators present: Amanda McGill, Chairperson; Colby Coash, Vice Chairperson; Tanya Cook; Bob Krist; Steve Lathrop; Kent Rogert; and Tom White. Senators absent: None.

SENATOR MCGILL: (Exhibit 1) Well, while we're waiting on our first introducer, I'm Chairman of the Urban Affairs Committee, Amanda McGill. I represent the northeast part of Lincoln. Thank you for coming today. It looks like it will be a busy and a little longer hearing for us today in Urban Affairs than normal. With me today...well, Senator Tom White is...as he told me, he's off getting his teeth drilled, so he won't be here to drill you (laughter). That is a quote (laugh). Senator Bob Krist from Omaha; Senator Colby Coash from Lincoln. Our research analyst, Laurie Holman. And to my left, we have Senator Tanya Cook from Omaha; Senator Steve Lathrop from Omaha; and Senator Kent Rogert from Tekamah. As a reminder for those of you who aren't here very often, we need you to sign in on the sheets that are by either set of doors. When you come up here, if you could please say and spell your names for us; that's for the record to make sure we're keeping track of who you are. Try to limit your comments to about five minutes. I think there will be a good number of questions today, so if I think you're going a little too long...I'm not going to use the light system, but I will ask you to wrap up eventually if it is taking awhile. Please put your cell phones on vibrate or silent, and with that, we can open the hearing on LB799 or no, that's not what we're starting with. We're starting with Senator Mello's bill, LB977.

SENATOR MELLO: Good afternoon, Chairman McGill and members of the Urban Affairs Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District. LB977 is a bill that would require certain new and renovated state buildings to improve their performance across the following metrics: energy savings and associated energy cost savings, water efficiency, CO2 omissions reductions, improved indoor environmental quality, and the stewardship of resources and sensitivity to their impacts. LB977 requires two types of state buildings to receive certification at the silver level through the United States Green Building Council Leadership and Energy and Environmental Design or LEED. The first, new state buildings greater than 5,000 gross square feet and, second, renovations of state buildings greater than 5,000 gross square feet for which the cost of the renovation exceeds 50 percent of the value of the building. LEED is nationally accepted benchmark system that is comprehensive in scope. In order to achieve a LEED Silver certification, a building project must be independently verified by a third party. Obtaining LEED Silver certification entails meeting certain requirements and achieving a minimum number of points in different areas such as site planning, water management, indoor environmental quality, energy, and material use. There will be proponents testifying after me that can better address the process for

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achieving LEED certification levels and the costs and benefits thereof. After discussion with interested parties, I am more than open to including other third-party certifications in LB977 such as Green Globes and Energy Star. If state government is going to emerge from a permanent fiscal crisis successfully, solutions will need to be innovative and look to the long term. Using resources efficiently is a powerful cost savings tool; it must be part of any solution as we move forward. Energy costs for state agencies during the fiscal years 2008-2009 were over \$70 million. This includes the use of natural gas, water, and electric utilities. Representatives from the utilities will present and will testify regarding the respective benefits of using fewer utilities. Of the state of Nebraska \$70 million energy bill, almost \$45 million is attributable to the University of Nebraska, the largest consumer of utilities amongst all state agencies. Please see this letter, if there's a page here... [LB977]

SENATOR MCGILL: We'll get that in a moment. [LB977]

SENATOR MELLO: Okay. Please see a letter that I will be distributing here from Carlos Castillo, Director of Administrative Services, for a per agency breakdown of costs. The University of Nebraska, to its credit, has begun taking steps in the right direction. All university buildings are required to be constructed using LEED standards, but are only certified if the private donor who helps fund the building agrees to the stipulation. That said, the University of Nebraska remains the largest consumer of utilities among all state agencies and have approached the legislative body on more than one occasion due to the overuse of utilities. During the 2006 legislative session, the university overspent their utilities budget by 26 percent and projected a sizable deficit; \$12.9 million was requested from the Appropriations Committee to be expended over fiscal year 2005-2006 and 2006-2007 budget cycles. In the end, the Appropriations Committee recommended a decreased expenditure of \$11.8 million, and the Governor approved a decreased payment of \$4 million. I am very concerned that if the state does not begin to address energy efficiency, the legislative body will continue to pay for the overuse of utilities, thus losing out on potential cost savings. You may have noticed that the legislative fiscal office, the University of Nebraska, the state college system, and the Department of Roads all presented markedly different fiscal notes. I believe this is symptomatic of a misunderstanding of the LEED program and the high performance building designs. The state college system presented a fiscal note with an estimated 7 percent increase in cost and no expenditures since the impact of LEED certification will have on the cost of buildings yet to be designed or constructed is understandably largely unknown. Conversely, the university system presented a fiscal note with an estimated 1 percent increase in cost or \$1.5 million. This figure was arrived upon through the using of an estimated average construction cost over the last five years. Equally different, the Department of Roads estimated a range with an increase of 1 to 5 percent or \$50,000 to \$250,000. I would challenge the fiscal notes of the university and the Department of Roads, as it is difficult to quantify how future buildings would be impacted, and would also point out that these buildings are yet to be designed or

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constructed. And, therefore, the cost of LEED certification can be built into these projected budgets. I believe the three different fiscal notes also indicate a problem in general with our fiscal note process, but that's another conversation for another day (laughter). If the Urban Affairs Committee advances this bill, I look forward to working with the University of Nebraska, the state college system, and the Department of Roads to craft a bill that accurately displays a no-cost fiscal note. I am more than open to extending the effective date of the bill, so that any buildings currently undergoing the design process would not be required to backtrack and meet this new standard. And so the agency is constructing buildings that have yet started the design process, will also have the opportunity to work the costs of LEED certification into the project budget. Members of the Urban Affairs Committee, the Legislature needs to be in the business of thinking long term, and this bill does exactly that. Seventy million dollars is no small sum, and LB977 presents an opportunity to reduce what we spend on utilities over time as we build and renovate state buildings. LB977 promotes responsible building practices with respect to resource conservation, environmental health, and energy efficiency. These forward thinking principles should guide the allocation of funds in the state's capital construction plan. Otherwise, we will continue to see \$70 million energy bills, and state agencies will continue to request deficit appropriations. It is not an impossible feat to ask that we construct LEED-certified buildings because in many instances we already are doing so. Nebraska currently has 13 LEED certified buildings, six of which were built using public funds. Higher education is, in some cases, leading the way. Metropolitan Community College has a LEED-certified building standard, and one of the University of Nebraska's own...the University of Nebraska at Omaha, College of Business Administration, has a policy to construct LEED Silver certified buildings. With that, I would like to close with the following quote I read on the UNO College of Business Administration Web site where the dean of the college, Dr. Louis Pol, imparted these thoughts. "I am for one looking forward to teaching in a building that displays respect for the planet and commitment to the community thanks to the foresight and generosity of this city's business leadership. It proves that we can make good business decisions, lower costs, and be good neighbors all at the same time. Our young people need role models of this kind of behavior to understand that merely holding a belief in environmentalism and talking about it isn't enough. It's putting your values to work that counts." I wholeheartedly agree with Dr. Pol, and would add that holding a belief and finding long-term budget solutions also isn't enough. As the Urban Affairs Committee, it's your duty to look out for the health and wealth of Nebraska's cities. What better way to support your constituents than to support a bill that saves hard-earned tax dollars and reduces the state's use of utilities, reducing harmful emissions and improving the air quality for generations to come. With that, I would take any questions. [LB977]

SENATOR MCGILL: Well, thank you, Senator Mello. Can you first, for the record, talk a little bit about the difference between LEED and then some of the other ones that you mentioned? [LB977]

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SENATOR MELLO: The three that I mentioned in testimony, LEED through the United States Green Building Council, there is someone who will be testifying from the USGBC after me who can explain more the process of LEED. It's my understanding that Green Globes is another certification standard that in conversations is primarily used in the northwestern part of the United States. As far as we could see, that is nothing that is generally used in Nebraska in regards to high performance building standards. And Energy Star is a certification that has been created essentially or designated through the EPA which, once again, Energy Star only rates the energy efficiency of a building, not other components that I had mentioned, such as water quality, resource conservation, site selection, things of that nature. So by all means, LEED certification is a more comprehensive sustainability certification while Green Globes while very similar, isn't used in the area. Energy Star is more focused on just energy efficiency. [LB977]

SENATOR MCGILL: All right. Thank you. Senator Rogert. [LB977]

SENATOR ROBERT: Senator Mello, do you think or that we're missing out on any grant funding, federal funding, matching dollars because we're not using these types of qualifications, and would there be some available if we moved to this type of standard? [LB977]

SENATOR MELLO: You know, I...it's my understanding, at least in talking with various engineers and architects, as I've researched this bill is that, you know, because Nebraska has no high-performance building standard, particularly with the American Recovery and Reinvestment Act, that there was money available for states to try to apply for grants, particularly for Green retrofitting or high-performance building. I think by enacting a standard and, once again, I'm more than willing to work with the committee to develop our own standard that works for Nebraska. But it's been proven in other states that it opens up, you know, other funding opportunities for them through federal grants and federal dollars. [LB977]

SENATOR ROBERT: Do you think...as a member of the Appropriations Committee, what would you like to see as a savings for utility dollars that flow through this building? What do you expect to see? [LB977]

SENATOR MELLO: Well, you know, I think the more that the state can lead by example in the sense of our building design and ensuring that our building design standards are to the highest performance, I think not only from an Appropriations Committee standpoint. I think the example I used, and no intention do I want to solely single out the university because this letter shows that there are other agencies that use an awful lot of energy, that we can save tax dollars in the process. I mean, I think that's a general understanding of high-performance building is that it saves resources, and the fewer resources used the fewer amount of agencies' budgets that need to go to that. So I think that number is staggering, Senator Rogert, in the sense that, you know, if we could save

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anywhere between \$5 million a year in utility costs, I think that's well worth the passage of LB977 even with the fiscal notes that I think that are up for debate from the university and the Department of Roads. So I think it's more than willing...something that we can do. It's just a matter of whether or not we want to take that action. [LB977]

SENATOR ROBERT: Thanks. [LB977]

SENATOR MCGILL: Thank you. Any other questions? Thank you, Senator Mello. Will you be staying? [LB977]

SENATOR MELLO: Also I...the letter I did not mention, there is a letter from Environment Omaha which is a project of Omaha By Design, a letter of support for LB977 as well as information on their Green Building Council that is a project that deals with high-performance buildings as well. [LB977]

SENATOR MCGILL: Wonderful. Are you going to stay to close? [LB977]

SENATOR MELLO: Yes. [LB977]

SENATOR MCGILL: Okay. All right, we'll open the floor for proponents. Anyone here in support of the bill? Here we go. [LB977]

CHAD JOHANSEN: (Exhibits 2, 3, and 4) Good afternoon, committee. Thank you so much for your time. My name is Chad Johansen, C-h-a-d J-o-h-a-n-s-e-n, and I'm here as a volunteer advocate for the United States Green Building Council, Nebraska Flatwater Chapter. We are the local team representing the national organization. And I'm going to read a letter I have for you guys that we have put together in support of this proposed LB977, and it states: The Nebraska Flatwater Chapter of the United States Green Building Council is in support of proposed LB977. Our mission is to serve as a catalyst for change in the state of Nebraska by serving as a local resource for green building practices, technologies, policies, and standards through the partnerships with other organizations. We represent local businesses and individual members from the Omaha, Lincoln metropolitan areas and across the state of Nebraska. As a group, we are concerned with the economic future of the University of Nebraska, the Nebraska state college system, the Department of Roads, and all other state agencies. In order to continue to thrive into the future, we must address the up-front cost of building LEED facilities versus their total life-cycle costs of operation. Currently, the state of Nebraska is only one of a small group of states that does not promote energy-efficient building practices through some form of legislation. As a National USGBC member since 2004, the University of Nebraska would receive the discounts for LEED registration, certification, and the LEED AP exam. The state entities would receive these benefits from national members involved in the LEED process, per the project. For example, the University of Nebraska has recently achieved LEED certification on two of their new

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facilities with one of those facilities reaching the LEED Silver level. The University of Nebraska has incorporated sustainable designs into their master plan for the Innovation Campus by establishing the following set of sustainable master plan principles, and those are: They want to adopt environmentally sensitive land use practices, plan for innovative, sustainable buildings and landscapes, ensure a range of transportation options, and move towards a net-zero energy and carbon-neutral campus. It is very important to our members that the Urban Affairs Committee thoroughly considers the proposed LB977 that will help our state prepare for the future. Practicing energy conservation, sustainable building practices, and using measurable tools such as LEED, would save money as well as provide a healthy work and school environment. We encourage you to support LB977 and improve the proposed legislation, so that it will preserve our state's resources for future generations, protect our environment, and provide economic savings right here in Nebraska. And with that, I thank you and will take any questions if you have them. [LB977]

SENATOR MCGILL: Thank you. Are there any questions? I don't see any. Thank you, though. [LB977]

CHAD JOHANSEN: Thank you. [LB977]

SENATOR MCGILL: Anyone else here in support? [LB977]

KENNETH WINSTON: (Exhibit 5) Good afternoon, Chairman McGill. [LB977]

SENATOR MCGILL: Good afternoon. [LB977]

KENNETH WINSTON: My name is Ken Winston, and I'm appearing on behalf of the Nebraska Sierra Club. And I was talking with someone this afternoon, and I think this is the first time I've ever appeared in front of this committee, so. [LB977]

SENATOR MCGILL: (Laugh) Well, welcome. [LB977]

KENNETH WINSTON: So thank you. Thank you. The Nebraska Sierra Club supports efforts to use sustainable design principles in public buildings, and there's a number of benefits that are...that result from that. Excuse me, I'm sorry. LEED-certified structure, in particular, provides a number of benefits. First, it reduces the amount of energy needed to heat and cool the structure, and that reduces energy expenditures. It also generally makes the space more comfortable and healthy...healthier for its occupants. It reduces LEED...one of the other principles of LEED is reducing landfill waste which reduces expenditures on publicly funded landfill space. It also reduces runoff and runoff is a major issue, particularly in Omaha. I don't think I need to lecture anyone about that, so. So anything that can be done in that regard is important. One of the other aspects of sustainable design is that it results in efficiency investments which can create jobs in the

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community. These jobs are often high-paying jobs in construction, renovation, lighting, heating and air conditioning systems, energy measurement, and evaluation and operation and management through controls, architecture, and engineering. These jobs are jobs that are local jobs and cannot be outsourced. Finally, LB977 would send a message to the public that state government wants to be more efficient and encourages businesses and other members of the public to follow that example. We respectfully ask that the committee advance that bill. [LB977]

SENATOR MCGILL: All right. Any questions? No, thank you, Ken. [LB977]

KENNETH WINSTON: Thank you. [LB977]

SENATOR MCGILL: Any other supporters? [LB977]

APRIL MILLER: (Exhibit 6) Hello. [LB977]

SENATOR MCGILL: Hello. [LB977]

APRIL MILLER: Big chair (laugh). [LB977]

SENATOR MCGILL: I know. Those chairs aren't made for everyone (laugh). [LB977]

APRIL MILLER: They're not made for short people. Okay, my name is April Miller, A-p-r-i-l M-i-l-l-e-r, and I am a LEED-accredited professional. I am here representing the design community with an extensive experience with LEED and LEED documentation. I also happen to be the past chair of the USGBC. I serve as the advocacy liaison and the regional representative for the state. I am here in support of LB977 and would like to provide the Urban Affairs Committee information and support of the bill. First, I would like to give some brief background on why sustainability in LEED are important. Second, I will address a few of the concerns that have been expressed and lastly, I'll be available to answer questions. Sustainability is defined as development that meets the needs of the present without compromising the ability of future generations to meet their own needs. As we work to think about sustainability, we look at the environmental responsibility of creating new buildings. We also take into account the triple bottom line which addresses people, planet, and profit. It is important to note that LEED certification adds that final stamp of approval that you own a green building. LEED now requires proof of energy and water savings which are measurable tools that are used to analyze the cost of operating your facility. LEED provides an extra level of a holistic, inclusive, integrated design addressing not only measurable energy and water efficiency, but also the nondirect cost savings of employees' and students' health, reduce absenteeism, and overall satisfaction. Lately, there's been a lot of talk of LEED certification versus certifiable. This would be like going to college for four years and declining your diploma. You are saying that you are building a LEED building, and you are doing everything

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you're supposed to be doing, but no one can prove that unless there is a third-party certification. This not only ensures that you are getting maximum designed facility, but also is a measuring tool for years to come and also provides a tool for the state and also a marketing aspect to the buildings that do agree. Like said to us before, Nebraska is one of only a handful of states that has not adopted any formal regulation for some sort of level of certification. There are various reports...I have some reports here that do show some numbers, and there are also some payback numbers. And we talk about payback for energy cost which can occur in as early as five years, possibly. We know that all of these buildings impacted are buildings that are owned for 30-plus years, so we should be looking at the life-cycle cost, not necessarily just the initial cost. These reports here show that no or minimal initial construction cost to achieve LEED providing a payback in energy reduction and occupant health and performance during the entire life of the building. We continue to hear that LEED building costs more than non-LEED building. The direct measurable additional cost associated, largely are related to the registration process, submitting documentation, and the design professionals use for these services. These costs can be offset by a variety of methods such as utilizing an inhouse commissioning team, having on-staff or student energy modelers, and allowing students to complete the documentation aspect for school credit. There are also a variety of grants to offset these costs. A revolving energy loan program could be established for the state agencies, state colleges, and universities to borrow money to pay for energy-reducing technologies and then payback would occur at an extremely low rate with savings from those energy efficiency improvements. Nebraska is behind most states in requiring LEED or other measurable factors for state buildings. I have worked to give some background on sustainability and LEED and I've tried to discuss some of the cost issues, and if you have any further questions... [LB977]

SENATOR MCGILL: Can those be handed out? [LB977]

APRIL MILLER: Yes. [LB977]

SENATOR MCGILL: Oh, oh she's run away (laugh). We'll leave them up there, and I'll make sure she passes those out when she comes back. [LB977]

APRIL MILLER: Okay. So does anyone have any questions? [LB977]

SENATOR MCGILL: Are there any questions? Senator Coash. [LB977]

SENATOR COASH: Thank you, Senator McGill. Thanks for being here today, April. Since you sound like in your opening you've worked with lots of different states and...is that correct...you? [LB977]

APRIL MILLER: I have worked on multiple LEED projects here in the state of Nebraska. [LB977]

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SENATOR COASH: Okay. [LB977]

APRIL MILLER: And I also am on the U.S. Green Building Council, and so I work with other states, mainly, right now in our direct region which is our heartland region. [LB977]

SENATOR COASH: Okay, all right. Do you know...are there state...pieces of state government like the universities or municipalities or anything like that...or...in Nebraska or in other states...are they doing any of these...getting LEED certifications voluntarily? Do you find that entities find it valuable to do that or are typically laws like this put on the books which then force them to be LEED-certified? I'm just...I'm trying to get a feel for if any...if entities ever do these kinds of things voluntarily versus... [LB977]

APRIL MILLER: Right. [LB977]

SENATOR COASH: ...being forced through legislation. [LB977]

APRIL MILLER: Well, currently, we have a quite high number of states that have adopted--202 localities, 138 cities, 36 counties, etcetera--so they have made some effort to make some sort of mandate. To me, a lot of people are doing it because it's the right thing to do and because they are...in the last eight years there have been multitude of reports that are proving that there are energy savings, and that there are reduction of costs. And so a lot of people are just doing it just because they know it makes sense, and they know that they will see a reduction in operating cost. There are still those individuals and companies and etcetera, that will not do it unless there is a mandate for it. You know, they see...they may not understand the full scope of what needs to be done, but there are definitely ways to, you know, take advantage of the programs and follow through. [LB977]

SENATOR COASH: But did you find prior to all those communities mandating it that people were... [LB977]

APRIL MILLER: Mandating... [LB977]

SENATOR COASH: ...taking advantage of becoming LEED-certified? [LB977]

APRIL MILLER: I think a lot of people were taking advantage of it in the marketing sense because I know I worked on the first LEED EB project in Houston, and we wanted to be the first LEED EB project in Houston. We wanted to have that title, and so a lot of people want to say, I want to be the first Gold. I want to be the first in Omaha. I want to be the first in Nebraska. And so, I think a lot of it took shape with a marketing sense and wanting to get their company or organization out there as being the first and achieving this. A lot of people are doing it for social responsibility aspect, but of course

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the requiring helps. But I know plenty of people that aren't involved in this that do it just because. [LB977]

SENATOR COASH: Those that did it voluntarily...because I know a lot of companies, you know, when they plan growth they do that as a socially responsible thing to do. [LB977]

APRIL MILLER: Right. [LB977]

SENATOR COASH: Any of those that you can think of that did it voluntarily, were any of those state-government-types of places or were they just...were they private industries that were doing that voluntarily? [LB977]

APRIL MILLER: Trying to think of...I think the perfect example of a company, of a large company is Interface Carpet which is a commercial carpet company that did take this without having any mandates and ran with it and has significantly reduced their...not only their manufacturing and operating process, but has completely redefined the way carpet is made and have taken it, in a sense, beyond their product to their facility and to their manufacturing process. So, I mean, it's a fine example of a company and an individual CEO that took it and ran with it without being told they had to do it. [LB977]

SENATOR COASH: Okay, but that wasn't a state government. [LB977]

APRIL MILLER: And then... [LB977]

SENATOR COASH: So, what I'm trying to get at, April, is, are state governments going to do this voluntarily or do we have to force them to do it? What's your feeling on that based on your experience with...? [LB977]

APRIL MILLER: I would...personally, I would say you would have to make some form of mandate whether it's the current bill that was introduced or it's a variation. It's much like the American Disability Act, and it's much like the energy code. No one is going to do it unless they are told to do it. I...you know, as an architect, people...why do I have to make this building handicap-accessible? No handicapped people are going to come. Not until it was made a law did people actually do it, so. [LB977]

SENATOR COASH: Okay. Thank you very much. [LB977]

SENATOR MCGILL: Thank you. Senator Krist. [LB977]

SENATOR KRIST: Thank you, Chair. Are you familiar with any federal reservations--Offutt Air Force Base or anything in the state of Nebraska where there's been LEED-certified buildings? [LB977]

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APRIL MILLER: Yes. There is a fine list of federal initiatives and the Department of Energy, the Department of Interior, General Services Administration, U.S. Air Force, U.S. Army. I work with the Army National Guard and they require a minimum of LEED Silver. Offutt Air Force Base does have LEED-certified projects on their base right now. [LB977]

SENATOR KRIST: And let me recommend to anybody that hasn't seen it that has access to the base...the LEED-certified buildings that have just gone up, the weather headquarters... [LB977]

APRIL MILLER Um-hum. [LB977]

SENATOR KRIST: ...as well as the 97th Reconnaissance Squadron, are outstanding. But no one is going to...I totally agree with you that no one is going to do that unless they're mandated to. There isn't a Malecon dollar that's going to go out on a major construction project on a federal level without some kind of compliance to LEED or... [LB977]

APRIL MILLER: Or some other. [LB977]

SENATOR KRIST: ...some other standard. And would you...could you agree with that or could you...? [LB977]

APRIL MILLER: Absolutely. You know, it's been a sigh of relief, you know, in the last ten years to see people take the initiative and make a mandate. I know that the U.S. Army, you know, here in Nebraska, I'm personally working on a project that...just some fine examples of going above and beyond technologies and strategies for energy conservation. It has been amazing to work with people like that who want to go beyond their mandated LEED Silver, so. [LB977]

SENATOR KRIST: Thanks, April. Thank you, Chair. [LB977]

SENATOR MCGILL: Other questions? Real quick, I know Senator Mello talked about maybe adding some of those other certifications or standards in. [LB977]

APRIL MILLER: Um-hum. [LB977]

SENATOR MCGILL: Is that a problem at all overlapping? [LB977]

APRIL MILLER: Well, he did mention LEED certification is more of a United States widely-known rating system now. Green Globes is mainly in the northern western region, and so...and then Energy Star only deals with the energy efficiency. If you want

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all of these agencies to look at beyond energy efficiency, LEED looks at it in a comprehensive holistic manner, looking at the sites, looking at how you're addressing water, storm, irrigation, water. You know, it's looking at everything included in the building. The indoor air quality, there have been some amazing reports about schools and the indoor air quality and the increased performance test scores. And, I mean, some amazing, amazing things. In fact, we do have a LEED for schools right now in the process in Omaha, so very exciting things going on in the state. The private sector is moving forward and, I think just to top it all off, would have the government leading by example and showing that it can be done and how it can be done, and then having those measurable results so that when people say, I want to see those numbers, then we're able to show them the numbers. [LB977]

SENATOR MCGILL: Great. Well, thank you very much. [LB977]

APRIL MILLER: Okay. Thank you. [LB977]

SENATOR MCGILL: Any other supporters? [LB977]

W. CECIL STEWARD: Good afternoon. [LB977]

SENATOR MCGILL: Good afternoon. [LB977]

W. CECIL STEWARD: Madam Chairman, members of the committee, my name is W., initial W. Cecil, C-e-c-i-l Steward, S-t-e-w-a-r-d. I am dean emeritus of the College of Architecture at UNL. I also am former president of the American Institute of Architects on a national level, and I created in 1996 the Joslyn Institute for Sustainable Communities with offices both in Lincoln and Omaha. And we have been working as hard as we know how over these 16 years to help communities understand why it's important to become sustainable. Very often buildings are at the forefront of that discussion. If you think about the building stock of this country, and Nebraska is typical, 85 to 90 percent of all of the buildings that exist today will still exist in 50 years from now. And 70 to 80 percent of those buildings that do exist are the most energy inefficient consumers of energy resources that we have. We just deconstructed a residence in the Knolls. You know, not much deconstruction goes on in the Knolls, but this particular property owner wanted the building removed to be able to put up a new residence. There's not one ounce of insulation in the building that we took down, not in the attic, not in the walls, and it was a brick veneer ranch-style, nice-looking, contemporary home. This is part of the unseen problem that we have. I think Senator Mello's introduction, the key words were thinking long-term. LEED standards will lead to long-term performance. LEED standards are more effective and more efficient for new buildings. We need to pay as much attention to retrofits, remodels, and deferred maintenance operations on existing buildings as we do with new buildings if we're going to have an impact on energy reductions. There's another unstated reason why energy

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efficiency is so important in this state, and it's because we have public utilities. If we do not slow our growth of energy consumption in this state, it's not just going to be the energy that we save on a building-by-building basis, it's going to be the fact that we still will have to build new power plants, and that is public money. And we need to be saving twice up-front, if you will, on operations as well as the future investment that we can conserve by being conservation oriented. So I think this is a very important bill. The matter of the LEED standards is it the only standard? No. There's another standard in Canada that sometimes is referred to; it's called Breeze. These can all be measures, but the fact is that U.S. Green Building Council has established this as the extant operative, best-use standard in this country. And everyone is beginning to recognize LEED, so let's use it. I would mention for your future consideration, it's related to this, that we need baseline assessments of our building performances, the existing buildings. We need the 309 deferred maintenance division to be thinking as effectively and efficiently about energy consumption and energy efficiencies as possible, and we need somehow new standards for deconstruction of buildings versus demolition. The net embodied energy in materials is a huge waste. Forty to sixty percent of what goes into the landfill comes from buildings, and yet the state has a standard that if you take materials down, and someone assumes that it has reusable life, that it can't be taken by any other source other than thrown away or the state itself sells it. There is more and more operation that pits deconstruction--saving the materials, reselling the materials and maybe the state picks up new money from this kind of operation. But it's all connected to energy efficiency, and I would encourage this as a first step. [LB977]

SENATOR MCGILL: Well, thank you. Do we have any questions? Senator Krist. [LB977]

W. CECIL STEWARD: Yes. [LB977]

SENATOR KRIST: I didn't understand specifically, so I just want you to clarify for us. You're saying that if you deconstruct a building, that currently we're not allowed to take any profit from selling the material? [LB977]

W. CECIL STEWARD: Well, you can take a profit, but you have to sell it. For instance, I started an operation called Ecostore here in Lincoln, and anyone can donate materials rather than it go to the landfill. I had a situation in Omaha of being facility managers of a particular property--took some material out of the property, and it had to go back to the state, and the state didn't really have any value for it. I couldn't take it to the store... [LB977]

SENATOR KRIST: I see. [LB977]

W. CECIL STEWARD: ...and resell it. So there's no donation condition. It's either use it or lose it, and it's very wasteful to lose it, so. [LB977]

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SENATOR KRIST: Interesting. Thank you, sir. [LB977]

SENATOR MCGILL: Yeah, that was very informative. Thank you for your expertise. [LB977]

W. CECIL STEWARD: Thank you. [LB977]

SENATOR MCGILL: Is there anyone else here in support? [LB977]

DAVE JOHNSON: Good afternoon. I'm Dave Johnson, D-a-v-e J-o-h-n-s-o-n. I'm a licensed architect here in the state of Nebraska as well as four or five others, past president of AIA of Lincoln, and I'm currently on the Government Affairs Committee of AIA. As a architect here in Lincoln and in the state of Nebraska, I echo April's sentiments and Cecil's sentiments in support of the bill, although today I am here representing the AIA Nebraska Chapter. AIA supports the development and use of rating systems and standards that promote the design and construction of communities that contribute to sustainability. As architects, we utilize many resources in the implementation of sustainable practices. I came prepared with all sorts of statistics and information for you but since we've already been down that road, I'll be brief. AIA Nebraska is in support of the intent of LB977 except for the language pertaining to the specific use of LEED, and that is in compliance with AIA National's policy to not specifically mandate the use of any one measuring device. [LB977]

SENATOR MCGILL: All right, any questions? Senator Krist. [LB977]

SENATOR KRIST: Yet the United States government is using LEED as a measuring tool for the federal. Could you address that? What is the...I understand you don't want to be...I understand your organization does not want to endorse one. [LB977]

DAVE JOHNSON: Um-hum. [LB977]

SENATOR KRIST: However, I'm trying to come to grips with why we shouldn't do...not that the federal government has always done things right, but why not use that standard? What is your...what's the issue with that standard? [LB977]

DAVE JOHNSON: AIA's standard? AIA's position? [LB977]

SENATOR KRIST: Uh-huh. [LB977]

DAVE JOHNSON: AIA's position, to the best of my knowledge, is that they are steering away from specifically mandating the use of any one specific organization for the measurement of sustainability. [LB977]

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SENATOR KRIST: Okay. So a following question would be, how many standards are out there that you know of? [LB977]

DAVE JOHNSON: The only ones I know of, and I learned about one of them here today, is LEED and Green Globes, and then Cecil brought up Breeze. I think there's another one referred to as Green Build Initiative or Green Building Initiative. I don't know if they specifically have a rating system and a certification system or not. [LB977]

SENATOR KRIST: Okay. Thank you, sir. Thank you, Chair. [LB977]

SENATOR MCGILL: Thank you. I don't see any other questions. [LB977]

DAVE JOHNSON: Thank you. [LB977]

SENATOR MCGILL: Thank you very much. Next proponent? A whole line of you (laughter). [LB977]

DOUGLAS CLARK: Good afternoon, Chairman McGill and Urban Affairs Committee. My name is Douglas Clark. I'm vice president of marketing and government affairs for the Metropolitan Utilities District. My last name is spelled C-I-a-r-k. I'm here today in support of the bill. From a perspective of conservation of resources, we've been in the water business in Omaha now for about a hundred years, and the last plant we built as far as water goes was in 1968. And through conservation efforts and education of the public, we were able to delay the new construction of our third water treatment facility for almost 25 years. That's an expenditure of \$325 million that took place about 20 years after we anticipated we were going to have to build that plant. So there's strong evidence that conservation and efforts like this will pay off for the public in the long run. On the flip side, on the gas business, we have roughly 200,000 customers. Since 1977, natural gas consumption by our customers in the metro area has been reduced by 42 percent. We're selling roughly 42 percent less natural gas to a home than we did in 1977. Once again, it's an attribute to conservation, thoughtful construction, high-efficiency appliances, and we feel a little bit like a dentist. We're always trying to put ourselves out of business. Now, the money savings that can occur in this is not always as evident as you might think because as you reduce consumption, our overheads stay the same. So your consumption level might go down which is good for the environment and in general, but it doesn't necessarily mean your bill will go down because as you become more efficient, we still have to have the...in most cases, you have to have the same number of employees to service those 400,000 customers that you had prior. So the cost savings gets a little dicier, at times, and so I would caution that we can't always say we'll save money. It will save resources; it can postpone large construction projects which we've discussed, new power plants, new water treatment facilities which is a plus, but because of the overheads associated with the utility business, your bill may not go down if your efficiencies are so great that your overheads

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can't go down with them. So we support this type of legislation because as we move forward as a country and as a state, we need to be more conscientious about how we're utilizing our resources. And with that, I'd be happy to answer any questions. [LB977]

SENATOR MCGILL: Yeah, thank you for that clarification. Questions? No? Thank you, Doug. [LB977]

DOUGLAS CLARK: Thank you very much. [LB977]

SENATOR MCGILL: Any other proponents? Any supporters? Okay. Any opponents? Anyone here opposed? Okay, anyone here in a neutral capacity? [LB977]

SHELLEY SAHLING-ZART: Good afternoon, Chairman McGill, members of the Urban Affairs Committee. For the record, my name is Shelley, S-h-e-l-l-e-y Sahling-Zart, S-a-h-l-i-n-g-Z-a-r-t. I'm vice president and assistant counsel for Lincoln Electric System, the municipal electric utility here in Lincoln. It's my pleasure to talk to your committee about energy efficiency. We spent a lot of time with Senator Cook in the Natural Resources Committee talking about energy efficiency, so it's a pleasure to talk to some new faces about the issue. With regard to the bill, we're not...I'm not really here one way or the other with regard to LEED certification, but wanted to be on record as supporting energy efficiency. It is one of the most important power supply resources we have, and I reference that as a power supply resource. It's really a matter of megawatts which is a negative megawatt of electricity or the one you never have to produce. It is the most efficient megawatt that we can generate. We have supported a number of energy efficiency measures. We certainly think the aim of Senator Mello's bill is certainly in the right direction, trying to promote greater energy efficiency. While it may not be true on the water side, on the electric bill, it will lower your electric bill, and it certainly will lower our costs. From an electric utility standpoint at LES, power costs are three-quarters of our costs of doing business. So to the extent that we can push off that next power plant, it saves carbon, it saves money for our ratepayers, and it certainly helps the environment. So to the extent that you can support anything that furthers energy efficiency, we would encourage you to do that. [LB977]

SENATOR MCGILL: Thank you, Shelley. Any questions? No? Thank you. Anyone else here to testify neutral? You can all kind of move to the front, if you'd like. [LB977]

REBECCA KOLLER: Senator McGill, members of the Urban Affairs Committee, my name is Rebecca Koller, R-e-b-e-c-c-a K-o-l-l-e-r. I am director of facilities, planning, and management for the University of Nebraska, and I'm here today to testify in a neutral position. The university strongly applauds the intent of energy efficiency and accountability LB977 purports, but has concerns with the manner of achieving those goals. The university has had in place since 2008 a sustainable design policy requiring all new and major renovation projects to meet LEED-certified level. The policy benefits

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the university, building occupants, communities, and the global environment by optimizing energy performance, improving indoor environmental quality and health, supporting our local and regional communities by reducing infrastructure and promoting economic development, and impacting our global environment through use of less resources and creation of less waste. Our policy can be found on our Web site at www.Nebraska.edu/docs/policies/sustainabledesignpolicy.pdf. As the cost of certification is approximately 1 percent of project costs, the university's policy does not require certification, but instead requires the project to achieve a minimum of 40 to 49 LEED credits from six categories. The categories are: sustainable sites, water efficiency, energy and atmosphere, materials and resources, indoor environmental quality, innovation in design, and regional priority. LB977, as written, not only would require the university to certify our projects at a cost of 1 percent, but also to obtain an additional one to ten LEED points. Those additional points could potentially do nothing to enhance energy efficiency as they could be gained in one of the other five categories and apply to anything from community connectivity to recycled materials. In addition, the legislation as written, requires the university to submit projects to the State Building Division and the coordinating commission for compliance with LEED Silver certification. Neither entity reviews our projects once the building program statement has been approved by the coordinating commission. The commission's constitutional authority ensures projects built with state tax funds are consistent with the comprehensive statewide plan and do not result in unnecessary capital duplication. Given the fact that we cannot know what certification level a project will receive until it is approved by the U.S. Green Building Council, and that over the last five years general funds were used to construct or renovate only 12 of 78 buildings at the university. The additional level of review would not achieve the intent of the legislation. While the university has in place both policy and review to meet the goal of this legislation, we would like to commend Senator Mello for raising the important issue. Sustainably designed buildings are critical. They are a critical part of being good stewards of the environment. In addition, we would support legislation requiring design to LEED-certified level if the requirements for the coordinating commission and state building division review were removed. Are there any questions? [LB977]

SENATOR MCGILL: Thank you. Are there any questions from the committee? I don't see any. Thank you, Rebecca. Next neutral. [LB977]

STAN CARPENTER: Good afternoon, Chairman McGill, members of the committee. My name is Stan Carpenter, S-t-a-n C-a-r-p-e-n-t-e-r, and I'm Chancellor of the Nebraska State College System, and like Mr. Winston, this is my maiden voyage before this committee, so (laughter) be gentle. The state college system very strongly supports the principles contained in this bill, and we commend and thank Senator Mello for bringing this bill forward and for his leadership on it. As a matter of practice, the State College System designed our buildings and mostly renovations, basically, to LEED standards and implements those to the greatest extent that we possibly can, but it does not come

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without costs, and we are not a deep-pockets organization, as most of you know. And so the first additional cost is one that we put forth in our fiscal note which is about a 7 percent cost to the addition for the professional services that are used to design our buildings and our renovations to the LEED Silver standard. The second cost, of course, is a minor cost, but still a cost nonetheless, and that is the application for the certification at the end of the project. More importantly for me, however, is a couple of circumstances that I think could be difficult for us to deal with as we go through this if we are required to build and have certified a building to the LEED standard. If, for example, part of the design project said that we needed to use, let's say, recycled material for flooring, and we all agree we're going to do that. We get to the point where we've got to buy that flooring, or it could be windows, or it could be lighting, any of those kind of things, there could be and in talking with the Vice Chancellor for Facilities, oftentimes you find those costs can escalate if there's a great demand because people are using that kind and the same and similar product. Or it could be that the products are not available at that point and won't be available for some period of time to come. Both of those then have a direct impact on the cost of the project as we go through the process. So that's one serious cost issue that we would be concerned about. Another serious cost issue that we would be concerned about would be one that I'm sure that we've never faced in our renovation processes, and that is to run up against an unforeseen circumstance where you talk a wall down or you take a ceiling down, and you find a tremendous amount of, let's say, asbestos or some other issues that require cost that we hadn't planned on. And so, at that point then, since we have a finite pie with which to do these renovations, we have to move into something that's known as value engineering. And I'm sure you all are familiar with that where you have to decide which portion of this project are we going to change, and which portion of this project are we going to keep, and how are we going to pay for those sets of circumstances? And so without additional funding, that's a problem for us, and it could be that we would decide that the recycled flooring materials might not be worth the additional cost or the additional time, but that the energy savings from everything else would be good. But we could not attain then the LEED Silver kind of certification. So as we testify here in that capacity, we would be satisfied if we could change the bill to...that we were required to design to that, and work to that, and try to implement that, if possible. But there may be times when it simply would be impossible for us to achieve that given the kind of circumstances that we find ourselves in, and as you all know, we haven't built a new building in quite a long time. Mostly our work is in renovation, and that can be somewhat troublesome as you go through those new...find those new set of circumstances that you're not prepared for. So those are our concerns. They're fairly simple, but they're cost-driven for us, and I'd be happy to answer any questions you might have. [LB977]

SENATOR MCGILL: All right. Senator Coash. [LB977]

SENATOR COASH: Thank you, Senator McGill. Now, Mr. Carpenter, I don't mean to pick on you for this, but neutral, really? (Laughter) I mean, you know, you can't...

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[LB977]

STAN CARPENTER: As neutral as I can be (laugh). No, seriously, Senator,... [LB977]

SENATOR COASH: You know, and to be fair and the previous testifier I would have asked her the same question. But it sounds like a cost issue, and those...that's a legitimate issue. [LB977]

STAN CARPENTER: They are. [LB977]

SENATOR COASH: It's a legitimate thing for you to come and say. This will increase the costs, and we're all tight as it is. But, you know, I appreciate your suggestions but, you know, coming in neutral and then saying, well, this is going to cost us a lot of money... [LB977]

STAN CARPENTER: Well, Senator, I think we certainly debated the position we would take on this (laughter) and we do support the concept, and we do all that we can in our renovations and in our building projects to be as energy efficient as we possibly can be. It's why we use the design, the LEED design to do that. So it's not that we're opposed to the concept at all, and we're trying to save energy costs and utility costs like everybody else. So if I was a negative-neutral, I apologize for that. [LB977]

SENATOR COASH: Okay. No, I wasn't looking for an apology. I just...it's... [LB977]

STAN CARPENTER: But that's... [LB977]

SENATOR COASH: You got a legitimate issue with the bill and... [LB977]

STAN CARPENTER: There's a legitimate issue for us in terms of costs, that's right. [LB977]

SENATOR COASH: Fair enough. [LB977]

STAN CARPENTER: But conceptually we agree with the principles. [LB977]

SENATOR COASH: Is there a...and maybe I'll ask Senator Mello when he closes. Maybe...is there a Bronze standard that you could say, yeah, we can meet that one or, I mean, I'm not sure how the LEED works,... [LB977]

STAN CARPENTER: Yeah. [LB977]

SENATOR COASH: ...so I'll find out from Senator Mello. You don't have to answer. [LB977]

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STAN CARPENTER: Okay. Thank you, Senator. [LB977]

SENATOR COASH: Thanks (laugh). [LB977]

SENATOR MCGILL: All right. Any other questions? No? Thank you. [LB977]

STAN CARPENTER: Thank you very much. [LB977]

SENATOR MCGILL: Anyone else neutral? After him, is there anybody else in the room that was set to testify on this bill? All right. [LB977]

MARC NICHOLS: Chairperson McGill and other members of the Urban Affairs Committee, my name is Marc Nichols, M-a-r-c N-i-c-h-o-l-s. I'm division manager of environmental stewardship for the Omaha Public Power District. OPPD has no specific comments related to the issue of requiring any particular state agency to comply with any specific standards relating to sustainability. However, I am here to testify that any measures taken that will improve the energy efficiency of buildings, assuming that it's economical, is something OPPD believes strongly in. OPPD is currently encouraging all of our customers to be far more energy efficient than they ever have been in the past, and we have either put into place or are putting into place programs to encourage our customers to be more energy efficient. So programs like proposed here would certainly go a long ways to help state agencies become more energy efficient. The value of energy efficiency programs helps our customers through lowering their energy bills not only today but in the future. Energy efficiency programs allow utilities, as was referred to earlier, to defer what we call base-load generation, building new big power plants which can save our customers literally millions of dollars a year. In order to be assured that energy efficiency is actually saved, we highly recommend that any programs developed must have a measurement and validation component to them in order to make sure that the savings have been achieved. Thank you. [LB977]

SENATOR MCGILL: All right. Thank you, Marc. Questions? No? Thank you very much. And Senator Mello, would you like to close? [LB977]

SENATOR MELLO: Chairwoman McGill, members of the committee, I'll be brief. I think in hearing the testimony, this is a longer term issue, and I think there's many ways to look at it, and I think the cost component that we might have heard from some of the testifiers doesn't fully, I think, explain or take into account the long-term cost savings. When you make an investment up front on something that will save you money in the long run, you're making an investment with the assumption that you're going to make that money back in the long term. And I think Dr. Steward was able to express that in the length of buildings that will be around for our state government for years to come well beyond our terms in office. So I think in that sense, this is an issue that deals with

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the long-term cost savings of, once again, a number of roughly \$70 million that's spent on utilities--water, natural gas, and electricity, let alone the other components that are involved with sustainable building. I'll try to answer real quick...Senator Coash who's going to lead in that question which is other standards...the university, as stated in their testimony, they currently bill to LEED the initial LEED standard. There's a LEED-certified Silver, Gold, and Platinum. So the university already builds to that LEED-certified standard, and if I heard them correctly, they would support amending the bill to move it from a LEED Silver to LEED-certified. And if I'm mistaken, I've encouraged them to correct that, but I believe that's what I heard that was their statement. That is obviously,...that is a step below where currently the bill takes us in regards to cost savings, long-term cost savings. But I think that's...that some of that...I would be more than willing to sit down with the committee as well as with the university and have that dialogue again to build that LEED-certified standard. But I think we heard from one of the testifiers, though, the certification standard...building something to a certifiable standard compared to certified is different. Once again, if you...I...her example was better than the one I could come up with which is, you wouldn't go to college for four years not to get your diploma. And that's essentially what building to a certifiable standard is, not knowing that there is someone who will check that building design actually meets with what the intended purpose was, and that those cost savings are actually realized because I believe, in conversations I've had with many of you, from an Appropriations Committee standpoint, benchmarks in performance need to drive our state government. And it should be no different in regards to driving the building construction of our state government buildings, so we can let taxpayers know that here is the performance of what your tax dollars are doing, and here is the value that you are receiving. So I think that's...that is a big component, I think, of what LB977 does. And I'm more than willing, like I say, to some of the other...there's a letter I know that was sent on behalf, I think the American Chemistry Council who raised some of the similar concerns in regards to opening up that third-party certification standard beyond LEED which as I will reiterate, I'm more than willing to meet with the committee and discuss that more in length to find a compromise. But Senator Krist asked a question or raised an issue in regards to the leadership that's being shown already and has been for years through the federal government. And currently, right now, United States Air Force is the leading entity, leading agency, federal agency in regards to energy efficiency in the United States and has the most ambitious energy efficiency goals through LEED building and LEED certification of any agency in the United States of America. I think if it's good enough for the United States Air Force, it should be good enough for the state of Nebraska. It will take leadership to do that. It will take leadership from this committee and leadership from the Legislature and the Governor to lead by example. But I think this bill is not going to break the bank. I think it's only a small number of buildings that actually are new buildings that are built to this 5,000-square-foot size or renovated to the 50 percent value. And I think it's going to be something that we can explain to taxpayers that we're making a smart investment in energy efficiency and resource conservation to save the taxpayers money 10, 20, 30 years from now. So with that, I

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look forward to working with the committee on LB977 and would love to answer any questions you may have. [LB977]

SENATOR MCGILL: Any last questions? Nope. [LB977]

SENATOR MELLO: Thank you. [LB977]

SENATOR MCGILL: Thank you, Senator Mello. All right, we can move on to our second bill of the day. Senator Krist with LB799. I'm going to give people just one more moment to filter out. All right. Whenever you're ready. [LB977]

SENATOR KRIST: Thank you. Good afternoon, Chairperson Senator McGill and fellow members of the Urban Affairs Committee. First time for me testifying on this side in front of you. For the record, my name is Bob Krist, that's B-o-b K-r-i-s-t, and I represent the 10th Legislative District in northwest Omaha. I appear before you today in introduction and support of LB799, a bill I introduced on behalf of the Nebraska State Historical Society Foundation. LB799 would do two things: First, it repeals the obsolete and defunct uniform code of building conservation which is no longer recognized as a building code by any municipality in the state of Nebraska. Second, it adopts the International Existing Building Code. It is on the second point that I became interested in bringing this bill for your consideration. However, property owners...I'm sorry, where am I at here? The International Existing Building Code is one of the family of building codes promulgated by the International Code Council, a membership association dedicated to building safety and fire prevention that develops the codes used to construct residential and commercial buildings, including homes and schools. Most US cities, counties, and states that adopt codes choose the international codes developed by the International Code Council. The International Building Code recognizes broad-based principles that are intended primarily for new construction. It was adopted in 2003 as Nebraska's state building code, Nebraska Revised Statute 71-6403. However, property owners and code officials recognized 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 International Existing Building Code, that is the IEBC, however, continues requirements intended to encourage the use and reuse of existing buildings, including historic buildings. The scope of the IEBC covers repair, alteration, addition, and change of the occupancy for the existing buildings while achieving appropriate levels of safety by offering options to new construction requirements in the building code. The passage of LB799 would provide benefits to both cities and states and would allow local governments the authority to adopt the IEBC if the jurisdiction chooses. It allows alternatives to the current state building code which is now aimed at new construction. It does not sacrifice life safety. It does not supersede fire codes. Codes officials in Papillion, Hastings, Ashland, North Platte, and Valley are currently using the IEBC as a guideline and with the passage of LB799 would now have the ability to formally adopt the IEBC. The bill also would provide benefits to property owners,

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including: reducing the cost of rehabilitation; it makes rehabilitation of the existing buildings more feasible; it preserves and maintains existing building stock; and contributes to the revitalization of older neighborhoods and commercial districts. In addition, it is my understanding that there are special tax incentive financing programs available to those performing these kinds of rehabilitations. These are aimed at historic preservation, housing, and community development activities. As previously stated, I introduced this bill at the request of the Nebraska Historical Society who I know has been working closely with codes officials across the state. I do have an amendment that I have provided to the committee counsel. It strikes the language that was inadvertently left in the bill when the final three part was presented and requested with regards to the Fire Marshal. Concerns have been raised by some of the codes officials that this language would somehow confuse the fire code and building codes. As such, I offer it for your consideration. There are experts who will testify subsequently who can explain the benefits of the legislation as well better than I can. I encourage you to direct any specific questions to those folks who follow me. I'd be happy to answer any questions about LB799 at this time, and I will be here for closing, Madam Chair. [LB799]

SENATOR MCGILL: All right. Thank you, Senator Krist. [LB799]

SENATOR KRIST: Thank you. [LB799]

SENATOR MCGILL: Questions? No. Okay, we'll start with proponents. [LB799]

BOB PUSCHENDORF: (Exhibit 7) Senator McGill and members of the Urban Affairs Committee, my name is Bob Puschendorf, and that's spelled P-u-s-c-h-e-n-d-o-r-f. I'm associate director and Deputy State Historic Preservation Officer with the Nebraska State Historical Society, and I'm extending our agency's support for LB799. In our agency's work across the state, we've noted that there are common perceptions that the rehabilitation of older and historic buildings can be more difficult by applying codes used primarily for new construction. The subject of LB799 is to authorize the International Existing Building Code as part of state building code. The scope of this code covers repair, alteration, addition, and change of occupancy for existing buildings while achieving appropriate levels of safety. If passed, LB799 offers the following benefits to cities and the state: It allows local governments the authority to adopt the International Existing Building Code if they so desire; it allows alternatives to achieve life safety standards but does not supersede fire codes; it preserves and maintains the existing building stock and historic buildings; and it contributes to the revitalization of commercial districts and older neighborhoods. And I am joined today by several code officials and local government officials who will address the use of the International Existing Building Code in these areas. And, finally, LB799 offers the following benefits to property owners: It reduces the cost of rehabilitation; it makes rehabilitation of existing buildings more feasible. And I am joined by several testifiers who represent what the International Existing Building Code could provide to property owners that choose to rehabilitate an

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older property. And I would certainly be pleased to answer any questions you have.
[LB799]

SENATOR MCGILL: Thank you, Bob. Are there any questions? I don't see any. Thank you very much. Next person here in support of the bill. [LB799]

DAVID HAHN: My name is Dave Hahn, H-a-h-n. I'm here representing the city of North Platte. We actually, probably in the last eight or ten years have utilized this code on a couple of buildings that come into mind. We actually adopted it for one building which was probably a forties or fifties apartment complex that was just...it was worn out. And to try to make that building come up to a current code, it would have been very cost prohibitive, and we actually adopted this code during the renovation of that building and we utilized it. It was a tiered approach. They didn't really change a lot. I mean, they just updated the building, the doors, the windows, heating, electric systems, plumbing systems, those type of things. And this actually helped them in the long run save quite a bit of money where they didn't have to strip walls or re-drywall, those type of things, just because of the codes that it had to. In another property, we actually used this. It was an occupancy change but it was an occupancy change and they didn't really change any of the layout of the structure, so the existing building code, again, worked pretty well there. So I think it's a good code. [LB799]

SENATOR MCGILL: All right. Thank you. Any questions? No. Thank you very much.
[LB799]

DAVID HAHN: Thank you. [LB799]

SENATOR MCGILL: You come in all the way from North Platte. Next person here in support. [LB799]

J.L. SCHMIDT: (Exhibits 8, 9, and 10) Good afternoon, Senator McGill, members of the committee. My name is J.L. Schmidt, it's J.L. S-c-h-m-i-d-t. I'm the executive director of Heritage Nebraska, which is a statewide preservation education organization. I'm here today to speak in support of LB799. Our 19-member board voted unanimously on January 14 to support this measure because we believe it's an essential tool in the revitalization of Nebraska's main streets and historic building stock in both commercial and residential neighborhoods. In addition to a copy of my testimony, I have also given you copies of the letter from our board; from Jim Byrk in Plattsmouth who has restored four buildings in downtown Plattsmouth; Randy Chick in Hastings who has done a building of his own; and as well as one from the executive director of AIA Nebraska, Sara Kay who could not be here today. Many of our downtowns have historic buildings. The reuse of these buildings is economically advantageous because such rehabilitation often creates more jobs than new construction and results in more money spent locally for goods and services. Existing building codes favor new construction and the owners

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and would-be developers of old buildings are often faced with expensive options to meet these new construction standards. Hastings, Nebraska, has recognized the IEBC since 2005. And in his letter, which I handed out to you, he will...Randy Chick will point out that he and his wife were able to purchase and rehabilitate a downtown building where they now live on the second floor. Mr. Chick said without the IEBC allowed alternatives to the infrastructure, he would not have been able to afford the project. We hear this same call for alternatives from building owners across the state. In December, I worked with two couples in Alliance who want to breathe new life into a vacant, three-story building on a prominent corner in the downtown of that Panhandle community. So this is an issue with statewide impact. The International Existing Building Code contains requirements intended to encourage the use and reuse of existing buildings such as the ones I've mentioned in Hastings and Alliance. It provides the tools needed for all important downtown revitalization in these challenging economic times. Property owners benefit from reduced rehabilitation costs and increased feasibility, which leads to the preservation and maintenance of more existing building stock, which in turn contributes to the revitalization of older neighborhoods and commercial districts. Heritage Nebraska is pleased to join Senator Krist and others in supporting this bill. Thank you for your time and favorable consideration for advancing LB799. Any questions? [LB799]

SENATOR MCGILL: Thank you, J.L. I don't see any. Thank you. [LB799]

J.L. SCHMIDT: Okay. Thanks. [LB799]

ERVIN PORTIS: (Exhibit 11) I'm going to give you more than a letter. (Laughter) I'll explain why I'm giving you what I am. Good afternoon, Chairman, Madam Chairman. I'm Ervin Portis. I'm the city administrator, Plattsmouth. I'm here representing the city of Plattsmouth and the Plattsmouth City Council. [LB799]

SENATOR MCGILL: Could you say and spell your name real quick? [LB799]

ERVIN PORTIS: I'm sorry. [LB799]

SENATOR MCGILL: That's okay. [LB799]

ERVIN PORTIS: Ervin, E-r-v-i-n, Portis, P-o-r-t-i-s. What I've given to you is a facade survey for all the buildings in the Plattsmouth Historic District. I've given that to you because I want you to, in time, take a look at it, look at those buildings, look at the magnificent potential, the current value, and the magnificent potential of those buildings. Downtown Plattsmouth was placed on the National Register of Historic Places as a historic district in 1985. The historic district is the heartbeat of our community, without question it's the heartbeat. Most of that district's existing building stock was built between 1870 and 1900. It's primarily two-story, masonry, commercial buildings, and

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most remain in fairly good condition but several are in peril. Most were built in the Italian style with more neoclassical revival influence than those built after 1900. Most share side walls. Plattsmouth is working very, very hard to preserve its architectural history. Two years ago with funding systems from...by the State Historical Society, we completed the detailed facade survey that you have in your hands. We also drafted historic district guidelines. We know the condition of the facade of each of the...each building within that district and what would be necessary to improve the facade of those buildings consistent with the historic district guidelines, but we want to go farther. We're on the verge of codifying the guidelines as an ordinance. With the historic district guidelines in ordinance and a \$5 million-plus investment in the public infrastructure that we're about to make, you know, we hope to encourage rehabilitation and even restoration of the buildings within the district. The International Existing Building Code would be a very, very important tool in our toolbox. It will provide the flexibility that the building owners may need. Restoration of those historic buildings with shared side walls in some cases shared public utilities is very expensive. Without the IEBC remodeling and restoration, it may be cost-prohibitive. It's for those reasons the Plattsmouth City Council has voted unanimously to support this bill. Let me share with you an IEBC success story, and this comes from another community in another state in which I worked. In the previous endeavor, I worked as the community development director in a Michigan community. Developers sought to redevelop 100-year-old American Lady Corset factory. The building had sat vacant for 15 years. It was an Albert Kahn designed building, but it was...the wrecking ball was imminent. We worked with the developers and the architects and they wanted to remodel this into a downtown, luxury condominium complex and it was critical towards the revitalization of the downtown of that community. Our buildings inspectors, even though the state had adopted the IEBC, weren't familiar with it and attempted to hold the developers to the IBC. And it nearly derailed the project. The building had sat empty for 15 years, wrecking ball was imminent. When we learned of the IEBC and properly applied it, the result was a beautiful exterior restoration with an interior of 25 luxury, downtown condominiums of a historically significant building. Clearly a success story from another community in another state, certainly possible in Plattsmouth, Nebraska, so. Any questions? Thank you, Madam Chair. [LB799]

SENATOR MCGILL: Thank you. I don't see any questions. Oh, okay. [LB799]

SENATOR LATHROP: Can I ask... [LB799]

SENATOR MCGILL: Oh, Senator Lathrop. [LB799]

SENATOR LATHROP: Just a practical question. This is neat. I've always enjoyed going down to Plattsmouth for various things. [LB799]

ERVIN PORTIS: Come down some more. (Laughter) [LB799]

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SENATOR LATHROP: Yeah. Well, it's really neat to see these buildings. But if you have this code and I can see what you want to do and where you want to go... [LB799]

ERVIN PORTIS: Um-hum. [LB799]

SENATOR LATHROP: ...how do you make the owners do this? [LB799]

ERVIN PORTIS: Well, we're going to try to do that through incentives. Now, we're...in our downtown revitalization plan, one of our strategies will be the facade loan/grant program with public assistance. [LB799]

SENATOR LATHROP: Okay. [LB799]

ERVIN PORTIS: Through an incentive base rather than a mandatory program. [LB799]

SENATOR LATHROP: Yeah, this would really be neat if the whole downtown got, you know, the makeover that you're looking at. [LB799]

ERVIN PORTIS: Just watch us over the next few years. [LB799]

SENATOR LATHROP: All right. I'll be down there from time to time to check up on you. [LB799]

SENATOR MCGILL: Wonderful. We can...our committee will go on a field trip. It would be a before and after. (Laugh) [LB799]

ERVIN PORTIS: We'd love to host you. [LB799]

SENATOR LATHROP: Yeah, that's very cool. [LB799]

SENATOR MCGILL: Thank you. [LB799]

ERVIN PORTIS: Thank you. [LB799]

SENATOR MCGILL: And just to clarify with the old code in place, you were still able to adopt in the town this standard in order to do some buildings already or how is that working? [LB799]

ERVIN PORTIS: No. [LB799]

SENATOR MCGILL: Okay. [LB799]

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ERVIN PORTIS: The buildings in the jail referred to that have been remodeled and rehabilitated have been done under the IEBC. [LB799]

SENATOR MCGILL: Okay. [LB799]

ERVIN PORTIS: Or the IBC, International Building Code. [LB799]

ERVIN PORTIS: The IEBC will provide greater flexibility, you know, without jeopardizing life safety and make it, you know, it's going to make it more affordable. [LB799]

SENATOR MCGILL: Okay. [LB799]

ERVIN PORTIS: It's still going to be expensive. [LB799]

SENATOR MCGILL: All right. All the initials, getting all confused here. [LB799]

ERVIN PORTIS: Um-hum. [LB799]

SENATOR MCGILL: All right. Sounds good. [LB799]

ERVIN PORTIS: Thank you. [LB799]

SENATOR MCGILL: Thanks. [LB799]

JON CAMP: Good afternoon, Chair McGill... [LB799]

SENATOR MCGILL: Hello. [LB799]

JON CAMP: ...and members of the committee. I don't get to sit on this side of a dais that often. I appear before you with a couple of hats on my head. My first I was referring to there, I am a member of the Lincoln City Council and have been in that position for 11 years, but probably first and foremost before that for the last 27 years, I've had the privilege of being a developer here in Lincoln's Historic Haymarket District. In fact, I'm proud to claim stake that I was the first developer who came down here and I had lost my sanity in doing so. Senator Lathrop, your question a moment ago of Mr. Portis is right on target. In fact, about... [LB799]

SENATOR MCGILL: Can you say and spell your name real quick? [LB799]

JON CAMP: Oh, I'm sorry, Senator. [LB799]

SENATOR MCGILL: I know, I know who you are. (Laugh) [LB799]

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JON CAMP: Yes, I apologize. Yes, again, I'm Jon Camp, that's J-o-n, no h in there, and Camp, C-a-m-p. I apologize. Thank you, Senator. [LB799]

SENATOR MCGILL: No problem. [LB799]

JON CAMP: Yes. As I was starting to say, too, with what Senator Lathrop asked about, one of the most challenging elements that we have in approaching an old historic building or older property is the cost factor. And while there can be incentives and so forth, the public can want such elements as condominiums and so forth, but it is a daunting task. And what I found over the years is as several architects with whom I've worked is that we've really observed that we're trying to combat a conflicting group of standards, whether they be fire and safety, you get historic guidelines, we have the Americans with Disabilities Act, so it is a very daunting task. And I think the measure before you that Senator Krist has introduced, which would implement the International Existing Building Code, gives some latitude so that when I come forward or another developer comes forward to work with the local officials in the building and safety department, that we're able to more easily come up with solutions, still preserving fire safety and the necessary standards, but do it in a way whereas with a new property where you're able to take a virgin piece of land, throw a concrete block or concrete foundation on it and build it accordingly, we're taking existing footprints and sometimes and, in fact, more often than not it's very, very challenging to take that existing footprint and conform to the standards to the exact specification on certain footage and so forth. So that's what the IEBC will do. It will allow the localities to adopt this as well as at the state level. And from a developer's standpoint what it will do is serve a very good environmental purpose. You know, you have the legislation that you heard about a moment ago on energy efficiency and so forth. There is so much to be gained by the renovation and the restoration of our existing properties. Just think of the energy savings that we'll have by not having to rebuild a structure. It's just really a wonderful effort on behalf of a green society that we're all working toward. So from a personal standpoint, my 27 years of experience, I can tell you it would have made my job significantly easier. And I think what also I might say is, I came into a lot of my development with a purpose in mind. I've been privileged to be a native Lincolnite and I wanted to give back to the community and was able to do so. Unfortunately...and it meant a lot of sacrifices, and I'm also a lawyer by background, so that has helped me in some cost savings and I've had to probably use every tool of my own personal book or toolbox along with associates to make it work. Unfortunately, it's almost too daunting for others. And I'd like to see the entry door much more accessible to other parties who would like to develop these structures. So as you peruse the materials on Plattsmouth or others, you know, it's very doable and not only just in Lincoln and Omaha which several of you represent, but in the smaller communities that you're hearing from. Those main streets are vital and we hate to lose that existing stock and have urban decay. So first, I'm appearing with you on...before you on practical experience. Secondly, I'm not here representing the Lincoln City Council. I'm here on my own behalf as a member for

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11 years, but I want you to know that much like yourselves as you're reviewing legislation and so forth, it's helpful to have a standard like this because we do look to the national standards a lot when we adopt building codes, and this will help make our function at the city level here in Lincoln much more easy with your approval of this. And then finally, I want to just say this is one of those pieces of legislation and being a legislator at the local level, I would just tell you it just makes common sense. It really does. To my knowledge, I don't know if anyone is going to appear in opposition of this, but from all of the elements of encouraging restoration and saving of our existing stock, revitalizing communities, saving energy, helping do it in a way that is more cost-effective, I very much encourage you to continue this bill to its fruition and passage. And with that, I'd be glad to answer any questions you may have. [LB799]

SENATOR MCGILL: Any questions? No. Thank you, Councilman, for coming in, sharing some time with us today. [LB799]

JON CAMP: Thank you for your time. [LB799]

SENATOR MCGILL: Next supporter. [LB799]

JAMES HARPER: Good afternoon. My name is James Harper, J-a-m-e-s H-a-r-p-e-r. I'm plans engineer for the Omaha Planning Department and in charge of reviewing plans for commercial and residential buildings. The Nebraska Code Officials Association supports LB799. Also, the city of Omaha supports LB799. The Nebraska Code Officials Association has been in contact with the State Historical Society for several years regarding inclusion of the International Existing Building Code 2009 edition into the State Building Construction Act and retiring the Uniform Code for Building Conservation from the act. The bill also corrects what was an oversight when the original Building Construction Act was drafted. The present language in the statute makes all three codes that are referenced mandatory by municipalities to adopt if they want to have a local building code. The bill allows a city to select which of those codes they wish to adopt by ordinance. A community may not see the need for the International Building Code and elect to use the International Residential Code just to regulate dwellings and townhomes. A community may want to adopt the International Existing Building Code instead of or to complement chapter 34 of the IBC. That option would be available and, in reality, that is how it is currently being done by cities. The International Existing Building Code regulates existing buildings whether they are historic or not. The IEBC regulates repairs, alterations, and change of occupancy in a consistent way to achieve a safe building while not imposing all the requirements that of the International Building Code for new buildings. A city can use the IEBC along with the IBC because they are compatible by design. The International Code Council develops and publishes these codes. The ICC further has a code coordinating committee to check that all I (sic) codes complement each other. There are 13 codes presently. The IEBC has a systematic approach for change of occupancy that could be useful in older and historic buildings.

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This code would have applications to all areas of Omaha but most notably in areas like South 24th Street, Old Market, Railway and Commerce, Nicholas Street, Park Avenue Apartment Historic Districts, and specific buildings like the Livestock Exchange Building, and many buildings that have been surveyed as historically significant like those listed in the reconnaissance survey of portions of south Omaha. The reuse and preservation of our existing building stock is important in reducing waste in landfills, making our communities greener, and preserving our heritage. LB799 does this. Thank you. Are there any questions? [LB799]

SENATOR MCGILL: Thank you. Any questions? No. Thank you, James. [LB799]

JAMES HARPER: Sure. [LB799]

SENATOR MCGILL: Any other supporters? Is there anyone else after Ken Winston? Okay. [LB799]

KENNETH WINSTON: (Exhibit 12) Good afternoon. [LB799]

SENATOR MCGILL: Hello again. [LB799]

KENNETH WINSTON: I'm back again, already. (Laughter) Good afternoon, Senator McGill, members of the Urban Affairs Committee. My name is Ken Winston. I realized I didn't spell my name last time and it's, K-e-n W-i-n-s-t-o-n, appearing on behalf of the Nebraska Chapter of the Sierra Club in support of LB799. Just have two things to say. We support conservation of resources, and maintaining and reusing existing buildings is one way that resources can be conserved. [LB799]

SENATOR MCGILL: All right. Short and sweet, we like that. Any questions? [LB799]

KEN WINSTON: Thank you. [LB799]

SENATOR MCGILL: No. Thanks. Any other supporters? Okay. Anyone here in opposition? Anyone here neutral? It doesn't look like it. Senator Krist, would you like to close? [LB799]

SENATOR KRIST: I've been known in my short time here in the Legislature to ask people if they've done their homework and prepared their bill before they brought it to committee. I hope that you will acknowledge the fact that we've done a great job of making sure that the support is there, it's well-thought-out, and the bill has the right words to make sure that this legislation can move forward. And I will take any questions that I can. [LB799]

SENATOR MCGILL: It doesn't look like it. Thank you. [LB799]

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SENATOR KRIST: Thank you. [LB799]

SENATOR MCGILL: That closes the hearing on LB799. And I know Senator Gloor has been waiting very patiently over there. Let's start the hearing on LB949. All right, whenever you are ready to begin. [LB799]

SENATOR GLOOR: (Exhibits 13-15) Thank you, Chairman McGill, and fellow Senators. This has been your code day, obviously. [LB949]

SENATOR MCGILL: Yes. [LB949]

SENATOR GLOOR: And I'm glad that I could bring your day to a close with a simple, mundane little bill that I'm sure you'll want to whisk along to the floor. (Laughter) Building codes. You've heard reference to the International Building Codes. This is the code book for residential dwellings, one- and two-family dwellings. And thumbing through it, even though I come from a family of builders, and I know what they're talking about when they talk about screws for underlayment and vapor barriers and headers. I would tell you that for the most part it's Greek to us but it means a lot to the architects and the engineers and especially the builders who use this and are required to use this as a guide. And they do so to make sure our homes are strong and safe, meet a certain minimum level of expectations. The first part of the bill that I want to talk to you about is the fact that this book is put together every three years by an industry group that meets and develops what they think are appropriate upgrades. We made a decision legislatively that we would automatically defer to those upgrades. And so we've run into a big of a conflict and part of what LB949 attempts to do, and I'm going to read here to make sure I get the right terminology is that instead of automatically adopting language for future code revisions, Nebraska Supreme Court says it's an unlawful delegation of legislative authority. So in addition to adopting all but one provision, which I will talk about in a little bit, LB949 takes out the questionable language of future adoption automatically. Each one of these every three years will have to come back to the Legislature for adoption, formally. So that's part of what LB949 does. And as I said, there's one component that would be the exception to the rule and this is the provision that speaks to, that mandates installation of sprinkler systems in all new, not existing at this point in time, but new residential dwellings. I mentioned that I came from a construction family. My father owned lumberyards and quite a bit of my youth was spent hauling materials out to new homesites. And so I had a firsthand experience watching families, retirees, build homes, build new homes, their first home. It was a nice experience to see but there was one common theme I could tell from home to home. I took out different types of material and that's because each individual person had to do their own cost-benefit analysis. You know, what level of spacing would they have for rafters, what sort of energy efficiency would they have for windows. We all understand the cost-benefit analysis and, obviously, when you go into the process of building a new

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home, you have to sit down and decide how much money you have and what you can afford to do--cost-benefit analysis. Here's another cost-benefit analysis that homeowners now consider. Go to a local hardware store, \$2.99 for a simple smoke detector. And by the way, these codes several years ago spoke to putting in hard-wired smoke detectors in all new residential homes. I think a wise decision from a cost-benefit standpoint. It's \$54.99 for a wireless interconnected detector. And we know from experience now that these have been in for about 20 years, that we save a considerable number of lives. In fact, the number of deaths from fires has dropped by half as a result of...during the period of time where smoke detectors have been by code placed in new homes. But here the cost of fire sprinklers. Based upon some industry numbers, some of these come from states that have already installed sprinkler systems. Four thousand dollar average home on municipal water. It's about \$2 a square foot. Eight thousand dollars for rural homes on wells. That works out to almost \$4 a square foot. Eight thousand dollars for an average home in Lincoln for installation and impact fees. And the impact fees in Lincoln have a significant impact on the cost because you're also paying for infrastructure. And the opportunity to use more water through sprinkler systems means you're underwriting more of the infrastructure, the water pipes that feed your area. Seven thousand homes times an average of \$4,000. Seven thousand homes would be the number of homes built annually in Nebraska over about the last three years. That's \$28 million a year and monies that would go into home sprinkler systems. My concern is that this expense, dollars taken away from people who are building a home, and the not yet proven efficacy of sprinkler systems in terms of how they function, the ongoing maintenance is a problem and does not justify the installation of these in all new homes across the state. What kind of problems come from sprinklers? As you know I ran a hospital. We had and needed to have very sophisticated sprinkler systems and we always had problems with those sprinkler systems. It was just a given. This was sprinklers that are far more high-tech, this with a maintenance staff able to go around and do routine maintenance on them. This, when we were required to, and the provisions in this do not require regular inspections, in that even with regular inspections in my institution, we had chronic problems. I talked to a woman who I have known from the past who owns motels about their sprinklers. We require sprinklers to be installed in institutions or facilities like motels. Broken sprinkler heads common, water damage from sprinklers being set off without a fire was also common. Her insurance premiums are higher because of the water damage claims she's had and I know there will be testifiers from the insurance industry who for obvious reasons like the concept of having sprinklers. It would reduce, I'm sure, claims or the level of claims when you have sprinklers installed in homes. The challenge again for the consumer and the home builder is, that has to come, it certainly does in some states, with a rider so that if you're going to get reimbursement for the water damage, you're going to have to pay more for that water damage. That's part of the added cost, I believe, sprinklers will cause to the homeowner. You have a letter of support from her in the material in front of you and, of course, when it was 20 below a couple of weeks ago there was an eatery, Panera's, just down the street from here that had a broken sprinkler line that did considerable damage

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to that institution. Imagine, if you would, hundreds, eventually thousands, of homes across the state of Nebraska with sprinkler lines for sprinklers when it gets to be 20 below outside, problematic. I know the argument will be that maintenance will be simple for these. But we've had a hard time in this country convincing people to change the batteries in smoke detectors so we eventually moved to hard-wiring them. How many of us have trash compactors that have since broken and serve as very expensive trash receptacles? We don't, in our society, get it when it comes to more complicated. The upkeep of our homes is difficult enough is my point. This makes it even more complicated. Is there a government agency that will check the systems? There isn't. So how long before we're expected by way of enforcement to authorize more monies for inspections of these sprinklers? In states that have adopted the 2009 code with the sprinkler mandate, there have been agencies to enforce it. We don't have that. And there is no state building code enforcement agency in the state of Nebraska. And numerous states have adopted the code without a mandate for sprinklers. They did, in fact, leave it out. Enforcement will fall to local building code law enforcement agencies. Will that be an additional cost to cities? I believe it certainly will. The cost of a home on a well system is over double that of a house on a municipal water system. Above ground storage tanks is an example. Pressure tanks have to be there to be able to handle the sudden surge that may be necessary for fire. Those usually reside outside. We'll be talking about antifreeze and bubblers that will need to be placed in there so that they do not freeze and are available. So now you've got antifreeze in the system. If you have a leaky sprinkler head, you have antifreeze dripping into your home on a regular basis. Plumbers installing these will not be the same people who do your tub and toilet. From a standpoint of liability, there will be life safety concerns. You'll end up with plumbers who have a degree of certification on these systems. Where will they come from? What will your options be if you and your cousins are building a home in Mullen, Nebraska, and it's now time to put in the sprinkler system? You make a phone call to the installers in Lincoln and everything gets put on hold until they show up to do this. This hasn't been explained to my satisfaction and I do think it puts, once again, an unacceptable burden on outstate Nebraska. Lower income families...and there will be a number of testifiers here I believe may find the \$3,000 to \$4,000, \$5,000 taking away the monies they had set aside for a down payment and now those same dollars now have to go into a sprinkler system. I believe we're disadvantaging not only rural and outstate Nebraska, but also disadvantaging the lower income people who want to get into the housing market for the first time, problematic. The bill, to be clear, does not say that you can't have fire sprinklers. It says that you cannot be mandated to have sprinklers. It does take away, and I've talked to I think all of you individually, it does take the fire sprinkler mandate out of the state building code and prohibits cities and counties from mandating sprinklers in residential dwellings. It will allow those same cities and counties to mandate that a builder must provide an estimate to the builder so that they know what it would cost if they choose to do it. Again, I know the argument will be that we're taking away local control, but I believe it moves local control to the best level, and that is the individual home builder, the person who is going to be paying for this. That to

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me is the ultimate local control. The amendment that you have in front of you speaks to the discussion on the Supreme Court decision. At the request of Nebraska building officials, I have an amendment to update the International Building Codes, the IBC. It regulates commercial buildings to the 2009 code. The request came as a result of proposed rule of the automatic adoption of future unwritten law. LB949 makes no changes. It makes no exemptions in the IBC. Thank you, and I'd be glad to answer questions. [LB949]

SENATOR MCGILL: All right. Any questions? Don't see any right now. [LB949]

SENATOR LATHROP: Maybe I do have one. [LB949]

SENATOR MCGILL: Oh, Senator Lathrop. [LB949]

SENATOR LATHROP: Senator Gloor, is there a movement across the country for local communities to adopt these ordinances or these zoning requirements calling for sprinklers? What are you trying to get ahead of with this? [LB949]

SENATOR GLOOR: I believe, Senator Lathrop, there will be some additional testimony about this. The 2009 codes, when adopted, went through a process of committees that discussed whether it was wise to, at this point in time, build into your requirement for sprinklers in new residential homes. There were a number of committee meetings and those committee meetings and the committees that were assigned this responsibility came back and said no. For a variety of the reasons we talked about it was no. But when it came time to make the final vote, the process was manipulated. And that manipulation ended up including, contrary to the recommendations of the committee, that process ended up being sort of end run and we ended up with there being incorporated. I am concerned, and the reason that I proposed this legislation is, I am concerned it will be even easier for the process to be manipulated. [LB949]

SENATOR LATHROP: And that process would be for a local community to consider whether or not to drop an ordinance that would require that these sprinkler systems be put in new homes. [LB949]

SENATOR GLOOR: Yes, right now a city or a county would have to opt out of the sprinklers rather than opt into the sprinklers. [LB949]

SENATOR LATHROP: Okay. And so let me go back to the question, you brought this to us, is there a problem across the country? I mean, you're worried that it's going to land in Nebraska now and so we need to get ahead of these people that are going to manipulate the local governing bodies? [LB949]

SENATOR GLOOR: I believe...yeah, I believe, I mean every state will be going through

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somewhat of the same discussion we've been having as they update to the 2009. If they don't update to 2009, and want to put this on hold, there's an inevitability sooner or later everyone will adopt the 2009. I can't tell you what period of time that might take. There might be other testifiers who can. But sooner or later when you adopt these, you will be adopting the mandate that there are sprinklers in residential homes. [LB949]

SENATOR LATHROP: But doesn't...does that book currently, if it's adopted right now in a municipality, they can take out the requirement that there be sprinklers in homes. [LB949]

SENATOR GLOOR: They could opt out. That's my point on opt out. [LB949]

SENATOR LATHROP: After being around here for three years, it seems unusual to see somebody put a bill in that says, you know what, we're going to protect the municipalities from themselves. Rather than let them make this decision, we're going to make the decision that this will not be part of anybody's code. Why don't we just leave it up to them? [LB949]

SENATOR GLOOR: Well, I'll give you two specific answers. One would be that in the Omaha metropolitan area, and again there will be other testifiers that can speak to this with a greater degree of specificity, I believe you've developed between most of the communities there a commonality in code. It does a number of things. It reduces the cost because if the codes are the same for La Vista, Papillion, as you move around then enforcement of it becomes easier. It becomes easier for builders as they move from one community to the other to know it's going to be the same code. But if one of those communities falls out, then the whole thing as a domino begins to not work. And this has that potential, I believe, as controversial as it is to begin the fragmentation of some of the agreements that have been out there. The other problem we have is in rural Nebraska, and I don't think I did a very good job explaining it. But in many areas of rural Nebraska you don't have an enforcing agency when it comes to codes. And so you end up with homes being built here, there, and everywhere across the rural Nebraska who may not be up to code when they build these homes based upon what's out there in 2000, or 2003, or 2006, let alone 2009. I figure sooner or later somebody will say, if you built this home after this was adopted, how come you didn't put a sprinkler system in? And so how long before we find ourselves being asked to, as a Legislature, enforce something that was in statute that is, put in sprinkler systems. I prefer to have this out for those large, maybe not from a population standpoint, maybe not from the number of homes built out there, but large geographical area of the state that probably would find it hard to believe that they were supposed to put a sprinkler system in out in the wilds of the Sandhills someplace. [LB949]

SENATOR LATHROP: Okay. [LB949]

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SENATOR MCGILL: All right. Thank you, Senator Gloor. [LB949]

SENATOR GLOOR: Thank you. [LB949]

SENATOR MCGILL: We'll start taking proponents. [LB949]

SENATOR GLOOR: By the way, did I not introduce myself and spell my name? Senator Mike Gloor, G-l-o-o-r. I apologize. [LB949]

MICK O'BRIEN: (Exhibit 16) Good afternoon, Chairman McGill and members of the committee. My name is Mick O'Brien, M-i-c-k O'B-r-i-e-n. I'm with Hearthstone Homes. I'm here on behalf of the Nebraska State Home Builders Association. LB949 addresses only one- and two-family dwellings. These are the kind of places where when people are in them they're generally familiar with their surroundings. It's not as if they're usually unfamiliar or there's a large number of people, so it's home that we're talking about. The place they're most familiar with. We build beginner and start-up homes. In 2008, we were the 30th largest home builder in the entire United States. I don't know how we did last year, the numbers aren't in yet. But last year we built 1,038 single- and two-family dwellings in the Omaha metro area. We base the things that we offer to our buyers on their request. We get feedback from the people when they're buying the homes, when they're building the home, and after they close. We survey all the buyers. In the last five years, we do not have a single documented request for a fire sprinkler system in a new home. What we found is that people prefer to spend their available money on a fire extinguisher if they need it, swimming lessons to protect the life and safety of their children, a safer car, better health insurance, the comforts that take care of the immediate needs of their family. We find that the things that are immeasurable, you can measure statistics on fires and loss, but if two homes burn down every day, that leaves nearly 120 million that don't. And that's based on fire safe construction, good codes, quality workmanship. For the last nine years I've been chairman of the committee to adopt and amend the codes for the city of Omaha. What we found during the last code adoption was that for the first time in history, all of the municipalities that border Omaha adopted the same building code at the same time, the same way. We have consistency throughout the metropolitan area. Now when somebody builds a house in any part of the metro area, they can go to the rest of the metro area and the rules are the same. The inspectors find consistency. The home owners find the same quality in their homes. They know what the rules are. We increased the efficiency of the inspections team by nearly 30 percent because they aren't having to go back because there's mistakes. What we found with that consistency is that it evened the playing field. There are still subtle differences that are as small as permit fees that affect the pricing of homes. If one area adopted the provision of the code that mandated sprinklers, those homes immediately would be higher priced than the other homes in the surrounding areas. That would put that municipality at a disadvantage, that builder at a disadvantage, the developer of the area at a disadvantage, and anybody who doesn't have that would

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have the advantage. We feel that if it's offered to every buyer as an option so they can make that choice, that puts things back into perspective for the average buyer. Our market analysis shows that for every thousand dollars you raise the sales price of a house, you have the potential to eliminate 6,000 buyers. You raise the price of a house by \$4,000. That's as many as 24,000 people who won't be buying their first house. And it's one of those things that people have felt they've grown to be entitled to, but with the economy the way it is, it's harder and harder for people to come up with that money. So we as builders support the option for buyers to install sprinkler systems, but we don't want it to be mandatory at the state level. And with that kind of consistency with each jurisdiction not having to make that decision, I think it keeps the playing field a lot more level. Any questions? [LB949]

SENATOR MCGILL: All right. Thank you. Senator Lathrop. [LB949]

SENATOR LATHROP: The bill doesn't make it mandatory or it wouldn't become mandatory at the state level. What it would do would be to open the door so that local communities could decide, one community at a time that they could...they may or may not want to mandate these sprinklers. I think you misspoke and I want to make sure that the record doesn't reflect if we do not pass this, it doesn't automatically become a state mandate that people put sprinklers in their homes. What it does is, we defer to the local communities to decide one at a time whether they're going to mandate it or not. [LB949]

MICK O'BRIEN: You're correct. I did, yes. [LB949]

SENATOR LATHROP: And the argument that you make that if a community chooses to adopt mandatory sprinklers in new construction, that those people will be at a competitive disadvantage is an argument that can be made to the local city councils before they make this decision. You, among others, would be there to say, don't do this or we're not going to build in La Vista or Ralston or whatever community we're talking about, isn't that true? [LB949]

MICK O'BRIEN: You're absolutely right. [LB949]

SENATOR LATHROP: Okay. Okay. I just didn't want to misunderstand the bill. [LB949]

MICK O'BRIEN: Thank you. [LB949]

SENATOR MCGILL: Other questions? Senator Coash. [LB949]

SENATOR COASH: Thank you, Senator McGill. Mr. O'Brien, I have a question. Right now we're on the 2000. You operate off the 2000 code book, is that correct? [LB949]

MICK O'BRIEN: We're on the 2006 in Omaha. [LB949]

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SENATOR COASH: Okay, in Omaha, you're on the 2006 with the state. Okay. I'm concerned about other provisions of that code book, you know, if this bill doesn't...you know, the sprinkler issue aside, if we don't move this forward what are we...can you think of off the top of your head of what we might be missing out from '06 to '09 that might be important for safety, sprinklers aside? [LB949]

MICK O'BRIEN: A lot of the notable changes as I try to remember what they are, life safety especially that have come into play have to do with electrical items, arc fault receptacles, those kinds of things, those have gone through, they promote greater degree of life safety and protection. Over these last two code revisions from the 2000 to the '03, to the '06, some of the things that came in as far as life safety that helped really to supplement safer construction were the requirement to have an egress window in every single basement, anything over 200 square feet. If it's used for anything other than only your mechanical, your furnace and your water heater, has to have a way to get out. You have to protect your stairways from burning down. Is there another possible way out? Any part of your house that holds up a living area. If you've got part of a bedroom over a garage, you now have to have those walls protected to keep from burning out. So it's been a lot of those kinds of life safety things that have come in through the generations of code as they've been adopted. And I think it's those things that have provided a safer dwelling that really give the people a greater return than the money that they would invest in a sprinkler system. [LB949]

SENATOR COASH: Thank you. [LB949]

SENATOR MCGILL: All right. Any other questions? Nope. Thank you very much. [LB949]

MICK O'BRIEN: Thank you. [LB949]

SENATOR MCGILL: Next supporter. [LB949]

ROB KOPECKY: Senator McGill and Urban Affairs Committee, my name is Rob Kopecky, R-o-b K-o-p-e-c-k-y. I'm first vice president of the Nebraska State Home Builders Association. And with the residential sprinkler system they're expensive. According to a 2008 fire protection research foundation review of 30 different floor plans in ten cities in the United States, mandated fire sprinklers, the average cost of residential fire sprinklers installation was \$1.61 per square foot. By contrast on an annual insurance premium savings, it was around \$22 or 3.42 percent of the homeowners annual insurance premium. Current quotes in Nebraska to install home fire sprinklers range from \$1.75 to \$2 a square foot. At \$1.75 on a 1,500 square foot house would be \$2,668. On a 2,200 square foot it would be \$3,850. And that's with a walkout basement. However, the cost does not address the increase in water service lines,

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meter requirements result of fire sprinklers. In Lincoln, the cost of such upgrades will raise the water impact fees from \$1,885 for a three-quarter-inch line up to \$6,281 for a one-and-a-half-inch line. The total cost of a fire sprinkler is well over \$8,000. In Omaha on a three-quarter-inch water line, you're at \$1,535. To go up to a one-inch line, you'd add about \$1,000 to that and then add to an inch-and-a-half line, you're going to add another \$3,000 on top of that. The cost of this sprinkler system is like Mick was saying, you just start adding \$1,000 to a house and it eliminates so many people from the affordable housing, you know, and that's the American dream, isn't it? And you add \$8,000 to the cost of a house, you know, now you're talking where it's almost prohibited for an entry-level buyer. And with the statistics that are coming up behind me, it will show you that the cost for what you're getting is not worth the value. Thank you. Any questions? [LB949]

SENATOR MCGILL: Any questions for Rob? Nope. Thank you very much. Next proponent. [LB949]

KEVIN WOODWARD: How about supporter? [LB949]

SENATOR MCGILL: Oh, yes. Supporter, proponent, it's all good. [LB949]

KEVIN WOODWARD: My name is Kevin Woodward, K-e-v-i-n W-o-o-d-w-a-r-d. Thank you for allowing us to speak today, Senator McGill and colleagues. I am also the president of the Nebraska State Home Builders Association as well as an executive board member of the National Association of Home Builders. I bring over 23 years of experience to the building industry with 13 of those years on the other side of the coin as an investigator for an insurance company. So I have played both sides of this fence. I can see the data as it works on both sides and can see how each side can use that data. Senator Gloor made reference to the IRC code in reference on how this got into the IRC code and I'd like to give the committee a little bit of background on that. The International Residents Code, or the IRC, governs how single-family houses, duplexes, and townhouses in the state of Nebraska are built. In 2009, a version of that code that mandates residential fire sprinklers came to the governance committee of the International Builders. As this came about, the governance of the International Codes Council allows anyone who is employed by a city to join as a voting member. Unfortunately, this allows special interest groups to take place and, if you will, pack the ballot box. The building code is updated ever three years and the years in between are to consider changes in that code, which are used as Senator Gloor said, in code hearings for the upcoming changes or upgrades to the code. As people behind me have spoken, we have switched primarily in the state of Nebraska to the IRC code as a general rule. There was the IBC code, the International Builders Code, and there were a couple others. But based on the IRC code with what it provides and in some of it's Dade County standards that being from Dade County, Florida, with the hurricane and tying things together, we've adopted to use the IRC code as our basis. It provides the best

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safety for our homes that we build. It provides the best building envelope that we build, and it provides the best for our homeowners, ultimately our clients, and your constituents. At the International Builders Codes Council in Minneapolis in September of 2008 at the final action for adoption of the 2009 IRC, an amendment was passed by a vote of 1,283 to 470 to mandate residential fire sprinklers, even though such a requirement had been rejected at the various code hearings leading up to the final adoption of the 2009 IRC. At this meeting, about 1,200 firefighters showed up and joined the International Codes Council so they could vote on this one specific issue. About 1,200 voting devices were turned in immediately upon the voting of such issue. Therefore, you can see firefighters came to vote for one issue, left a three-day conference and all the other issues that were set before them, and failed to vote on any of those issues. The only one that they wanted to vote on was the residential sprinkler systems. This is also seen again in November of 2009 at the hearings, the code hearings in Baltimore, Maryland, where approximately 1,700 firefighters arrived and, again, the same action took place. After the vote, 1,700 voting devices were turned in leaving only about 453 board members on the floor to vote for the rest of the residential codes. The Nebraska State Home Builders contends that smoke alarms are effective in saving lives and preventing injuries. The risks are low from fire if these are all properly applied, properly installed, and effectively working in the home. Sprinkler systems are expensive, as Mr. Kopecky has said. The choice should be left to the home buyer and not mandated by the IRC, the state, or anyone else. Furthermore, it is also desirable that the Nebraska Unicameral address this issue concerning the state building code to avoid a city-by-city battle over residential fire sprinklers and a probable legal test over the state statute, 71-6406(2) which pertains to the ability of a city to adopt local amendments to the state building code. In the U.S., home structure fires fell 45 percent from 5,200 in 1980 to 2,865 in 2007. Almost two-thirds of the deaths resulted from fires in homes did not have working smoke alarms. This was prepared by Marty Ahrens of the Fire Analysis and Research Division of the National Fire Protection Association, better known as NFPA. If you have a working system in your home, hard-wired battery backup in all the proper locations, you have a 99.45 chance of escaping that fire. By adding sprinkler systems, your rate goes up to 99.8, .35 of a percentage point is the difference for the cost of adding sprinkler systems. Again you can see where it may not pay for itself. Also that was also presented by Marty Ahrens of the NFPA. Over five...in Nebraska over the past five years, 2004-2008, there were 67 civilian fatalities as a result of fires. Eighty-three percent of those homes that those civilians were killed did not have working smoke alarms. Over the five years, the same period, 2004-2008, there were 2,007 civilian injuries as a result of fires. Seventy percent of those homes did not have working fire alarms. In the U.S., 399,000 homes reported in 2007 are 46 percent lower than the 734,000 reported in 1980. So based on our building practices, the products we're using, and the rate of change that we have come through in our industry, it's showing that our building practices are reducing fires as well. We're using greater products with a higher Class A fire rating. Every day more products are being rated with a Class A fire rating. The products that we use are actually stopping the potential fire

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because of the product that they have developed over the years through multiple and extensive programming. LB949 allows cities to mandate the new home builder present to the prospective new home buyer. It's an option, not a mandate to purchase a home sprinkler system. I'll leave you with one last fact. This was presented by John Hall of the National Fire Protection Association. Residential fire extinguishers actually deploy less than 40 percent of the time in home fires severely limiting the effectiveness in saving lives and preventing injuries and property damage. Any questions? I'd be glad to answer. [LB949]

SENATOR MCGILL: Any questions? Seeing none, thank you. Next supporter. How many people do we have here who are interested in testifying on this bill, for or against? Okay, we're going to have to be...yeah, we may have to start going to the light system. Katie, are you prepared to time and use the light system? [LB949]

SENATOR LATHROP: Now, that Senator Schimek's here. [LB949]

SENATOR MCGILL: Okay. (Laughter) Okay. We are not prepared to do that but I'm going to start keeping an eye on the clock and I ask you not to be repetitive. I have the sense that we're going to hear a lot of repetition on both sides. So please try to just make arguments that are fresh to the debate and bring new examples and otherwise we can move forward so we are out of here before it gets too late. Senator Schimek. [LB949]

DIANNA SCHIMEK: (Exhibit 17) Thank you, Madam Chair and members of the committee. It is a pleasure to be back. I spent about 12 years of my life in this room and so it's very familiar to me. I still love looking at the mural on the wall. But I have not been here since this committee was established in 2009. I'm here, I am a board member of Habitat for Humanity. In fact, I'm the first vice president and I was asked by the Executive Director to read a statement into the read not only for our board but for 18 Habitat for Humanity boards across the state. And they go all the way from Alliance to Omaha to McCook to Beatrice to Norfolk. They're all over the state. So as a Habitat for Humanity affiliate, we have built over 100 homes in Lancaster County. These are quality homes built at a price point that families in the 30 to 50 percent of the median income bracket can afford. Expenses associated with the introduction of yet another mandate, fire sprinklers in new construction, will affect the number of families we can get out of indecent housing into safe and decent homes of their own. I'm going to digress a minute from the letter and just tell you that these kinds of situations that our families are living in are often in unsafe neighborhoods, no place for their children to play. They often have leaks in their roofs so that rainwater comes in and it creates another problem, not only in the upstairs but sometimes the basements, too, have mold. There are snakes that are often in these homes, mice. They're very...they're living in very substandard housing sometimes and they are paying sometimes exorbitant amounts. Each of the modest homes we build is equipped with hard-wired, battery backup, smoke detectors and

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ample means of escape. Most of our homes do not have an attached garage, which is a fuel source. We build simple floor plans with eight-foot ceilings with no great rooms with open spaces. Each of our homes is submitted to nine or more inspections before occupancy. Cost estimates for our standard 1,100-square-foot home is expected to be \$2,500, or roughly \$2.50 per square foot. This would be even higher for homes without...that are not on water systems. And, again, I want to digress and say that through some of the discussions that we've had today, we understand that the cost would be greater by the time you take into affect or into consideration the infrastructure, the maintenance, the inspections, the fees that you pay, so overall it would be probably greater than this \$2,500. Most of the dollars we need to fund our buildings are donations within our community. We already struggle to get the funding required to fund as many homes as are needed. And incidentally, again off script, the homes are averaging about \$75,000 which includes, of course, the price of the lot and everything. The ever-growing number of new requirements is pricing already burdened lower income families out of safe homes. We would appreciate any help you can give us to help continue to serve families in need by eliminating the mandatory fire sprinkler requirement. Sincerely, Nancy Muehling, Executive Director. [LB949]

SENATOR MCGILL: Thank you. [LB949]

DiANNA SCHIMEK: Yes. [LB949]

SENATOR MCGILL: Any questions for DiAnna? Seeing none... [LB949]

DiANNA SCHIMEK: Thank you. [LB949]

SENATOR MCGILL: Thank you. It's good to see you. [LB949]

DiANNA SCHIMEK: You too. [LB949]

SENATOR MCGILL: Next proponent. [LB949]

BRUCE KEVIL: I'm Bruce Kevil, B-r-u-c-e K-e-v-i-l. I'm the executive director of the Nebraska State Home Builders Association. And I want to sum up and I think there's two things that are...actually a couple of things, we'll keep this short, that you as committee members need to be aware of. Today you've been talking all these abbreviations about codes. You talk about the International Existing Building. You're talking about the International Building Code. You're talking about the International Residents Code. Talking about the Life Safety Code. For your edification, the International Building Code requires sprinklers, has for a long period of time, and deals with residential units like apartments and stuff like that. Traditionally, you can imagine this like stacked where units are stacked on top of each other. The International Residential Code deals with single-family duplexes, townhouses, and what have you.

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And they traditionally have had a fire-rated wall that separates all those particular entities. And that's what Mick was talking about. It's got extra gypsum board so it reduces down the flow of fire should a fire occur and the transfer of heat and stuff like that. So we're just talking about the International Residential Code. The other thing...we've been through a stack of literature about this high, and you heard people quote the NFPA. Be happy to bring that forward but time is important. The thing that is really striking is that in Omaha, for example, there's 197,000 homes, that according to U.S. census that's the existing occupied homes. The Omaha Fire Department and the metropolitan fire departments all around Omaha, La Vista, stuff like that, they report an annual average over the last five years of 220 home fires; 197,000 and on the average 220 of those homes burn a year. Okay. Kevin said, you know, we got to face the fact that sprinklers don't work all the time and somewhere between the 40 percent number with the NFPA's analysis that 60 percent of the home fires never get big enough to set off the sprinkler systems. They also...Marty also points out that it is typically fires that are so big they move into the other room, and that represents about 23 percent of residential fires. So somewhere between probably maybe 50 fires in the Omaha metropolitan area to maybe 80 on the upside, that's really what we're talking about in truth for the effectiveness. So I wanted to leave that with you. [LB949]

SENATOR MCGILL: All right. Any questions? [LB949]

SENATOR LATHROP: Can I just clarify one thing? [LB949]

SENATOR MCGILL: Yeah. [LB949]

BRUCE KEVIL: Sure. [LB949]

SENATOR LATHROP: And you're as good a person to ask as anybody. [LB949]

BRUCE KEVIL: Sure. [LB949]

SENATOR LATHROP: Are we being asked to adopt this as the state standard for building residential homes? [LB949]

BRUCE KEVIL: Yes, this is... [LB949]

SENATOR LATHROP: Minus the spire sprinklers? [LB949]

BRUCE KEVIL: Mandatory. No. The mandatory requirement. It's minus the mandatory requirement. If you go to the code book, you'll find under building planning the mandatory requirement for sprinkler system. That's section 313. Then I forgot what the other section is, but there's another section in plumbing and that has all the requirements for constructing a home sprinkler system. That is not being removed

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under this statute. [LB949]

SENATOR LATHROP: If you're going to put one in, that's the code. [LB949]

BRUCE KEVIL: Please, yeah, so that's the point. You need to have prescriptions for how it's done because there's a lot of different products, a lot of different things. And so we take the "mandatoriness" out, we continue to allow this new section of the code... [LB949]

SENATOR LATHROP: But it does something a little bit...it goes a little bit further than that doesn't it, and says, and no municipalities shall require, or may require this as part of the code in their political subdivision? [LB949]

BRUCE KEVIL: Oh, yes. Partly because there's another issue in the statutes that we didn't...that's not our issue, so to speak. But where (inaudible) allowing communities to say, okay, if you want to require builders, this is an option that was negotiated within the state of Missouri. If you have an option, you can mandate by ordinance that in your jurisdiction, builders will provide a purchasers option to that new home buyer. And so that new home buyer knows the cost, the cost impact, and then they have to make the decision. Now... [LB949]

SENATOR LATHROP: But right now, if we pass it as is, for example, if the Bellevue City Council wanted to put mandate in their... [LB949]

BRUCE KEVIL: For sprinklers. [LB949]

SENATOR LATHROP: ...jurisdiction that sprinkler systems are going into new homes, they couldn't... [LB949]

BRUCE KEVIL: They couldn't. That is correct. [LB949]

SENATOR LATHROP: ...because this is a prohibition. [LB949]

BRUCE KEVIL: That is correct. That is very accurate. Okay. [LB949]

SENATOR LATHROP: Okay. And then I think I understand the bill. Thanks for your testimony. [LB949]

SENATOR MCGILL: Thank you. Next proponent. Next supporter. [LB949]

DANIELLE HILL: (Exhibit 18) Hi, my name is Danielle Hill, that's spelled D-a-n-i-e-l-l-e, last name, Hill, H-i-l-l, the easy part. I'm just here just real briefly. I'm the director of the Nebraska Housing Developers Association and when we became aware of this

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legislation I communicated with all of our members, which are more than 60 from a variety of backgrounds throughout Nebraska and I placed the feedback that I got in the written testimony that you're being provided with now. As to the local control and who decides what code goes where and what gets adopted, we didn't consider that issue so much. However, I believe that if I'm hearing the way that this got put into the code in the first place was allegedly shaky, that then the state just adopts the code in its entirety as it's passed on, I believe the decision should be with the homemaker, the home buyer, the homeowner, because ultimately they're the one that are going to bear the cost of this. And so that's for other people to decide, I guess. But the biggest theme throughout all of ours is, we and our members develop housing that's affordable to people that otherwise wouldn't be able to afford to live in safe, decent housing. And every time there's a cost added into the development of housing, that's either borne by public funds like our Nebraska Affordable Housing Trust Fund, or other federal programs, or it's borne by that family that is already strapped to be able to live in a safe, decent, and sanitary housing. So I'd just really highly encourage you to strongly consider not putting another mandate on the cost of developing housing, especially as it relates to affordable housing. [LB949]

SENATOR MCGILL: All right. Thank you. Any questions? No. Thank you very much. Next supporter. If there are any other supporters, if you want to kind of come and sit and wait in holding up here. [LB949]

ROGER MASSEY: Madam Chair, Senators, my name is Roger Massey, R-o-g-e-r M-a-s-s-e-y. I'm executive director of the Nebraska Housing Resource nonprofit corporation. Actually started here in Lincoln, Nebraska, with a great amount of help from the Honorable Don Wesely who's in the office, and we work in partnership with the city's urban development department. We have developed over 200 lots in four subdivisions for affordable first-time home buyers that are at the low and moderate income levels. I wasn't going to come up here but Senator Lathrop asked about mandatory and why are we doing this. Why not let the local political subdivisions decide? Why I got involved was I met with local building officials here and asked them several months ago when I saw the International Code require or put this mandatory provision in there. They told me that what we ought to do is concentrate our efforts at this level to...because the code generally is adopted by all political subdivisions automatically as the basic code, as opposed to putting pressure on the city of Lincoln to then come back and change the code and take it out. But let me just...I had much more to say, but cost. Here's the issue. I told you that 135 of the 186 homes we've built have been for people at 80 percent of the medium income and below. I pull out two case files of persons in our...that were approved for loans this last year. And I gave the floor plans for the two homes they built to two plumbers, one of which consulted the certified commercial fire sprinkler person to give me some estimates. And I came...and I got that information. After I got that, I equated to what this meant to those two home buyers and the fact is in one case for every...at the interest rate that person got their first mortgage at, every \$1,000 the

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monthly principal interest payment was going to go up \$5.60. And at that point on that particular structure, house, it was recommended by two of these people that we would be paying \$5,000, and I won't go into the details for that but I'd gladly share that with you. That meant the monthly house payment went up \$28.60. And when I went back to see that that was an FHA insured loan with very strict income ratios and payment ratios, that person would have to have gotten an exception to even get the first mortgage. So there is an impact, disproportionately on low and moderate income people. And that's why I'm here. Thank you, Madam Chair. [LB949]

SENATOR MCGILL: All right, thank you. Any questions? Oh, Senator White has a question, Roger. [LB949]

ROGER MASSEY: Pardon? [LB949]

SENATOR MCGILL: Could you sit back down again? (Laughter) Senator White has just joined us. [LB949]

ROGER MASSEY: Hi, Senator. [LB949]

SENATOR WHITE: Hello, how are you? Well, I have a number of questions. First of all, where do we stop? All housing codes disproportionately hit poor people and yet we have minimum standards regularly in the communities to ensure a minimum safeties in housing. Should we roll back wiring requirements? [LB949]

ROGER MASSEY: No. [LB949]

SENATOR WHITE: Should we roll back the fact that you have to have certain quality of plumbing? [LB949]

ROGER MASSEY: No. [LB949]

SENATOR WHITE: I mean where will you start? What you're saying is this one doesn't make sense... [LB949]

ROGER MASSEY: Okay. [LB949]

SENATOR WHITE: ...but 20 years ago or 40 or 50 or 60 years ago, indoor plumbing would have been considered an absolutely outrageous waste of money and you're hurting poor people. I mean... [LB949]

ROGER MASSEY: Well, Senator, I tried to abbreviate my comments. I'll go back to the fact that I think the statistics clearly show that sprinklers are not the first line of defense for saving lives in homes. Now, in checking the fire statistics for the city of Lincoln, the

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only fatality in...that the State Fire Marshall has is in 2004 was a house that was built in 1910 at 3014 T Street and, you know, I don't know if it had a smoke alarm or not, but to me if you're talking about saving lives, the hard-wiring of smoke detectors was a great step forward. That was a code change. And it, you know, increased the cost, and increased the cost...a second code thing you bring up are the plugs you plug in with the arc fault in many computer, a computer in there that senses irregular flows. That was mandated here recently in a couple years. That in itself added \$360-some to the average house that we build for first-time home buyers. Yes, there are those. Where do we start? I can go back two other mandates that... [LB949]

SENATOR WHITE: Well, let's talk realistically. What we've always done traditionally is allow each community to set its standards based on its needs. Now, you're asking because you don't like the odds in those fights in those districts for us to intervene and start acting as a super code authority. [LB949]

ROGER MASSEY: No. [LB949]

SENATOR WHITE: We don't have the expertise and we've always traditionally trusted the cities to do that. So I have two problems. One is, if you want us to do it, how far do I roll them back, just on things you don't like or do I roll them all back and say, all codes will be passed here now? [LB949]

ROGER MASSEY: You know, there are some people that have more information than I do about the codes but I do remember the day when building codes were adopted by the local political subdivision and there was not a statewide building code. This is a statewide building code that automatically is adopted and to cover the state. [LB949]

SENATOR WHITE: Whoa, the local communities still have the authority to adopt it or not, do they not? [LB949]

ROGER MASSEY: I believe they do. You mean the full code? [LB949]

SENATOR WHITE: Or any portion. [LB949]

ROGER MASSEY: I think there's a time period on the building code, but I can't answer that. You know, you have some people here from the League of Municipalities, or...I can't tell you. I don't know that. All I know I'm here is because my local building official said, this is the best way to handle this issue and I'm not an expert. [LB949]

SENATOR WHITE: And are we the best people to handle it? [LB949]

ROGER MASSEY: You are my...well, Senator...I don't know (laughter). Sure. [LB949]

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SENATOR WHITE: Okay. [LB949]

ROGER MASSEY: I'm asking for your support of this bill. [LB949]

SENATOR WHITE: Okay. But if you tell me I'm the best person to make decisions, what if I start making a whole lot of decisions you don't like? For example, Ogallala has problems with grass fires. How about we start changing landscaping rulings in Ogallala? [LB949]

ROGER MASSEY: Well, I think that's a rhetorical question, but I've become very active then in political campaigns and try and get the right people elected, but that's... [LB949]

SENATOR WHITE: That's good. We could use that. (Laughter) [LB949]

SENATOR MCGILL: All right, thank you. [LB949]

ROGER MASSEY: Yes. [LB949]

SENATOR MCGILL: Are there any other supporters? Are there any supporters after this one? We hit the end of that. All right. Great. [LB949]

KRISTEN ANDERSON: Hello, Chairperson McGill and members of the Urban Affairs Committee. My name is Kristen Anderson, K-r-i-s-t-e-n, Anderson with an "o-n". I'm a registered lobbyist and a governmental affairs director for the Nebraska Realtors Association. This is actually my first time in front of you guys and I'm happy to be here. [LB949]

SENATOR MCGILL: Welcome. [LB949]

KRISTEN ANDERSON: I'm sorry for my cold. I'll keep my sniffles to a minimum. But the Nebraska Realtors Association supports LB949. We believe that the home buyer should have the choice to have sprinklers installed or not. There is an abundance of inventory waiting for buyers. With all the new federal regulations coming down this year, not only from this code, but to RESPA Reform, Home Valuation Code of Conduct, bank reform, energy code mandates, this would just further add to the burden of the home buyers. And keeping it short, in closing, we support this legislation. [LB949]

SENATOR MCGILL: Oh, thank you. [LB949]

KRISTEN ANDERSON: Any questions? [LB949]

SENATOR LATHROP: Very well done for your first appearance. (Laughter) [LB949]

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KRISTEN ANDERSON: On cold medicine too. (Laughter) [LB949]

SENATOR MCGILL: Any other questions? No. Thank you very much. Okay, with that we'll move on to the opposition. Feel free, some of you, to come up and fill in the front rows. That will help me keep track of how many people are here to testify as well. And we try our best to not be too repetitive. We appreciate that, so we've got one more bill after this one left to be heard. [LB949]

KYLE IENN: (Exhibit 19) Good afternoon. I've Kyle Ienn, K-y-l-e, last name is I-e-n-n. I've been a member of the Ralston Fire Department for 21 years and have served as fire chief for the past 10. I also currently serve as president of the Nebraska Fire Chief Association and although I'm not officially here representing them, I also serve on the Nebraska Line of Duty Death Response Team which we respond to firefighter serious injury and fatalities when they're killed in the line of duty. The officials following me are going to give you a lot of statistics and the book that I handed out was on their behalf, so I'm not going to go into a lot of statistics. I'll let them do that, but the Nebraska Fire Chief Association has deemed this bill as a priority because (1) it takes away local authority to implement safety codes that protect the community and especially the local firefighters. If a community in the state has an issue or wants to implement safety standards to safe...make more safe restrictions or regulations for their community, their citizens, or the firefighters, why, I'm here representing those communities should be able to do that. So in making it short, like I said, in speaking on behalf of the Nebraska Fire Chief Association we would ask that this bill do not go forward and you leave it up to the local authorities who we represent and can deal with locally. Thank you. [LB949]

SENATOR MCGILL: Thank you, Chief. Any questions? [LB949]

SENATOR WHITE: I have just one comment. [LB949]

KYLE IENN: Yes. [LB949]

SENATOR MCGILL: Senator White. [LB949]

SENATOR WHITE: Chief, I appreciate you coming here. You guys remind me of the dentists fighting for fluoridation, you know. I mean, if we do it right,... [LB949]

KYLE IENN: (Laugh) I've never been called a dentist before. [LB949]

SENATOR WHITE: ...there will be fewer calls, fewer trucks, fewer people. So thank you. [LB949]

KYLE IENN: Thank you. [LB949]

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SENATOR MCGILL: Thank you very much. Next supporter. Or I'm sorry, opponent. (Laughter) Just realized that. [LB949]

BILL FORTUNE: (Exhibit 20) Senators, my name is Bill Fortune, F-o-r-t-u-n-e. I am the current president of the Nebraska State Volunteer Firefighters Association. I'm a fire chief from rural Nebraska and, lastly, I'm a father of five. I am going to testify today in opposition of LB949. There's been a lot of figures out. I'm going to give you some figures that I took from the FEMA U.S. Fire Administration. In 2009, the life safety statistics identified 403,000 fires in the country last year. That includes 3,000 men, women, and children that lost their lives and almost 14,000 that were injured in this country last year. The total...with the total adoption of the 2009 International Code which includes the fire sprinkler system, the statistics show that we could have positively impacted 80 percent of those incidences. This is saying nothing about what the enormous benefit to the men and women of the fire service including those like mine that rely on a volunteer service. It is the NSVFA's position, which is shared by most of the fire services in this room, that includes the U.S. Fire Administration, that all Americans should be protected against fire...excuse me, it should be protected against death, injury, and property loss resulting from fires in their homes. All homes should be equipped with fire alarms and fire sprinkler systems, and our families should prepare and practice emergency escape plans. Studies by FEMA indicate that the installation of fire sprinklers could have saved thousands of lives this last year, preventing a large portion of the injuries, and hundreds of millions of dollars in property loss. We've talked a little bit about the impact, the governmental impact, so I'll make it brief. Basically, it's my position that, and that of my Association that by excluding, omitting the safety standards and making it illegal to, for local government to require these life safety issues, is something we strongly need to fight against. I strongly urge you to vote no and allow the local communities to choose their own safety standards. Safety should be left to the experts and the local communities. Thank you. [LB949]

SENATOR MCGILL: Thank you very much, Chief. Questions? Senator Krist. [LB949]

SENATOR KRIST: We heard testimony on the proponent side that said that rural Nebraska was going to have a problem installing fire systems should they decide. Should the...as it stands right now, should the municipality decide that that's going to be a code that they enforce, which is the way it would be, that your...you said you were from rural Nebraska. [LB949]

BOB FORTUNE: I'm from Ogallala, yep. [LB949]

SENATOR KRIST: Okay. All those small towns, are you going to have a problem installing if your municipality wants to install? [LB949]

BOB FORTUNE: You know, I think that one of the things that's going to be brought

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forward if it's allowed to by allowing the sprinkler systems, that you're going to see an awful lot of growth in that industry. And I think that may take, you know, a small period of time but I think that it will get to western Nebraska. I think it will get to the rural populations, and speaking as a fire chief from those areas, I mean, it's very crucial when we're talking about response times in my community might be 7 minutes, but you get to certain areas in my district it's 20. If people had fire sprinkler systems in their homes, it's going to make an enormous life safety difference. [LB949]

SENATOR KRIST: Thank you. [LB949]

SENATOR MCGILL: All right, any other questions? Senator Coash. [LB949]

SENATOR COASH: Thank you, Senator McGill. Bill, thanks for coming down today. One of the proponents that preceded you talked about when they adopted these codes originally, the fire sprinklers were out of it. Then a bunch of firefighters flew down, his words, padded the ballot there. Were you one of those firefighters? [LB949]

BOB FORTUNE: Pardon me? [LB949]

SENATOR COASH: Were you one of those firefighters? [LB949]

BOB FORTUNE: No. [LB949]

SENATOR COASH: Can you...I want to ask you, if you don't have knowledge of it, can you speak to that or will somebody speak to that? I mean, I'd like to hear the other side of that. [LB949]

BOB FORTUNE: Could you repeat the question? [LB949]

SENATOR COASH: One of the proponents said that when they were adopting statewide... [LB949]

BOB FORTUNE: Um-hum. [LB949]

SENATOR COASH: ...or United States wide these codes, that there's a provision allowing municipality police to come in and vote and his numbers were 1,200 and 1,700 last year in Baltimore. Firefighters came down and padded the ballots, so to speak, getting this provision put into the code book. And I'm just interested in hearing the other side of that and... [LB949]

BOB FORTUNE: I certainly was not one of those. [LB949]

SENATOR COASH: Okay. [LB949]

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BOB FORTUNE: You know, I think that, you know, firefighters when they see a wrong tend to become very passionate about it. And my guess would be that they felt very passionate about it and came forward to give their, you know, input on something they felt very strongly about. [LB949]

SENATOR COASH: All right. Thank you. [LB949]

SENATOR MCGILL: Senator White. [LB949]

SENATOR WHITE: Chief, thank you for coming. One of the things that this committee struggled with for a long time has been the declining number of volunteer firefighters in the rural areas, the increasing time to response because of fewer members being available. What I heard you say is that it may become increasingly important in the rural areas facing that lower level of available manpower to have systems like sprinklers in place because you just don't have the population necessarily to fill the trucks as quickly as you want. [LB949]

BOB FORTUNE: Absolutely. That is a correct statement. [LB949]

SENATOR WHITE: Do you think it's best to let each individual community decide what situation it is in with regard to that then? [LB949]

BOB FORTUNE: I do. I do. You know I think that we...there are other things that we need to think about as far as adopting and making it mandated that everybody in Nebraska have one as far as adopting this bill in every community. They have to with enforcement, they have to do with inspection, they have to do with those types of things, and those are problems I'm not sure we're ready to handle right now. But I definitely think this is...that opposing this bill is a step in the right direction. [LB949]

SENATOR WHITE: Thank you much, Chief. [LB949]

SENATOR MCGILL: All right, thank you, Chief. Next opponent. [LB949]

DAVE ENGLER: Good afternoon, Committee Chair and members of the Urban Affairs Committee. I'm Dave Engler on the...president of the Nebraska Professional Firefighters Association. I'm here opposing LB949 and I understand both sides of the argument. And no, I was not one of the firefighters nor am I aware of any Nebraska firefighters who packed the hall to sway the vote. But I can say this, across the United States fire department budgets are shrinking. Cities are growing and response times are getting longer and longer, and there is clearly documented evidence that says that in order to be effective, you've got to get the scene in a certain amount of time with the right number of people to mitigate the emergency. And so there are areas where that is not

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occurring and there are areas right here in Lincoln, Nebraska, the state's Capitol, where that's not occurring. And so I think governing bodies who are looking to create a safe environment for their citizens need to have a variety of options available. Certainly, I would love for them to say: You know what? We don't want to put these sprinkler systems in these houses because they're expensive so we're going to put more firefighters out on the street. But that's not always the case. And so I think to take away the ability for a local jurisdiction to determine what the best method of preventing harm to their citizens is, is probably not a good thing for that locality. You know, you go out and buy a car. Boy, wouldn't it be nice not to have to pay for that air bag, not to have to pay for the seat belt that the state of Nebraska mandates that I wear. But the fact is, it's about safety and it's about keeping people safe. And the furniture, the carpet, and those things that we're putting in houses nowadays, creates a rapid burning environment that is very dangerous. That's why when we talk about building standards changing and everything, there have been many improvements to building construction, although some of them are lightweight construction which actually cause firefighter deaths and civilian deaths, which you will hear about. But the fact is, is this may be one method that local governments need to keep their people safe and to take that away, I just don't think is probably a good option. So we are, obviously, opposed to it and we think that it's probably best left up to the locale to determine what level of protection they need in their community and what the cost-benefit analysis is in their own community. So I'll answer any questions, if you have any. [LB949]

SENATOR MCGILL: I have one and really it's a request for information. Is data kept in terms of fires in the age of the homes? [LB949]

DAVE ENGLER: I don't know if it is in the age of homes. I can tell you this... [LB949]

SENATOR MCGILL: That just seems so, like when I think of the ones in Lincoln that's all homes that are over 40 years old... [LB949]

DAVE ENGLER: Right. [LB949]

SENATOR MCGILL: ...where this would make a difference and I'd just be really interested to see that with all the other improvements in home safety, if there are really that many issues with more modern homes. [LB949]

DAVE ENGLER: What we're finding with statistical data, not only in the state but in the city is, is there's a lot of inaccuracies. We've had in the city of Lincoln and I'm a captain on the fire department here in Lincoln, we've had more than a fire death since 2004. I can assure you of that. And I can also assure you that, you know, many of the...there are houses where people have had fire deaths where they've had smoke alarms. And smoke alarms are great because they warn people, but unfortunately not everyone can get out of their house. You know, you have children, you have people in wheelchairs,

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you have those people, so the smoke alarm it's a great advancement, but it doesn't mean that people are going to be safe and it doesn't mean that people can escape a fire. And suppression systems, they're not designed to put the fire out. They're not designed to prevent the fire. They're designed to keep the fire in check so fire departments can respond, finish up the extinguishment, and it gives firefighters time to do search and rescue and those types of things. But I... [LB949]

SENATOR MCGILL: Okay. Well, I'd appreciate it if you could search around and see if there is anything on the age of the home... [LB949]

DAVE ENGLER: Sure. [LB949]

SENATOR MCGILL: ...because I think it's...if not at our level, whichever municipality is making these decisions, I think that would be really a critical piece of information for them to know. [LB949]

DAVE ENGLER: Certainly. [LB949]

SENATOR MCGILL: Senator Coash. [LB949]

SENATOR COASH: Thank you. Dave, I thought I heard you say something, I just wanted to get it clear from you. As this bill is, if the provision that gave local municipalities, counties, the ability to make this decision for themselves, if that part was changed, would you be okay with it? [LB949]

DAVE ENGLER: I think...I'm saying it ought to be up to the local jurisdiction, whoever is responsible for it. [LB949]

SENATOR COASH: Okay. So if it was up to the local jurisdiction, your testimony would change to a proponent. You'd still be okay with not mandating the sprinklers, you just would want the local jurisdiction to make that decision? [LB949]

DAVE ENGLER: Right. I believe that this prohibits the local jurisdiction. [LB949]

SENATOR COASH: That's correct, it does say that. But if that were changed, you'd be okay with it. [LB949]

DAVE ENGLER: Sure. [LB949]

SENATOR COASH: You wouldn't come in and say, no, what we need is to make sure no matter what anybody says, there always needs to be a sprinkler system. [LB949]

DAVE ENGLER: Given the information I have today I would not change my position on

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that. I would say if it's left up to the local jurisdiction, I'm fine with that. [LB949]

SENATOR COASH: Okay. Thank you. [LB949]

SENATOR MCGILL: Any other questions? Thank you, Dave. [LB949]

DAVE ENGLER: Um-hum. [LB949]

SHANE WEIDNER: Good afternoon, Senators. Shane Weidner, representing the Nebraska Municipal Fire Chiefs' Association and testifying in opposition to LB949. At least in my community, and I think most of the folks in the fire service across the state of Nebraska have no doubt that we have quality home builders, quality contractors, plumbers, and all the trades represented in our fine state that do a fantastic job of building our residential structures, one- and two-family and commercial structures. I know I work with some of the best in my community. They use all the new products, try to build solid, safe structures to take care of their citizens and the folks that they're building those structures for. The problem is, to be frank with you, is they introduce us, people, into the structure and people bring along their stuff. They bring along couches, and chairs, and carpets, and furnishings, and all those furnishings this day and age are synthetic, or the vast majority of them are synthetic in nature, and that is kind of the qualities cause fires to rapidly progress. Flashovers of phenomenon in fire service that firefighters talk about often. Flashover in buildings now has been reduced three to four minutes. And that's, obviously, we can't...firefighters can't get there in three to four minutes typically. So flashover kills people. As soon as flashover, whenever everything is spontaneously combusts inside of a structure, there's no life left in that structure. That's a fact of life. So sprinklers put themselves in harms way in those type of situations. Sprinklers, as Dave said, would let the firefighters respond, mop up the situation, and the homeowners can get back to business in a relatively quick amount of time. And that's really where we need to be as a state. And I also think there's excellent opportunity for us to get together with the stakeholders. And maybe the committee would consider an interim study over the course of the next year so we can get the stakeholders together and discuss the issues and try to gain understanding from each other so we can bring back future legislation that might be a win-win for everyone where we get the sprinklers in our state. And maybe we have tax credits or things like that that would be a win for the home builders and for our citizens, you know, where we can defray some of the cost of the sprinklers. I heard some of the proponents talk about the cost of the systems and if we can eliminate some of that through some creative tax credits--we have tax credits for everything else, it seems like, I know--maybe we can consider that and move us in the right direction and all folks can have a good safe home. Whether they're poor, rich, or in-between, they can all live in a safe home. And I'd be happy to answer any questions you might have. [LB949]

SENATOR MCGILL: All right. Senator White. [LB949]

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SENATOR WHITE: I do want to talk to you about that concept. Unfortunately, the tax credits cupboard is probably bare. You know the state's in tough shape just as the cities are. But are there documented insurance savings? I know for example that if I were nearer to a fire hydrant rather than further, they adjust my insurance rates on my home. Do you know whether or not the insurance industry will rate these homes safer and less likely to suffer, you know, either substantial property damage or total destruction, and thereby providing savings? And we've heard about the cost, but we haven't heard about the potential savings even if there is no fire. [LB949]

SHANE WEIDNER: There may be insurance experts in the room. And it's my understanding there's a 5 to 15 percent cost savings in the premiums if they have a sprinkler system. That's anecdotal from insurance representatives in my community telling me that. I can't sit here and tell you that that is the absolute truth on every single policy. [LB949]

SENATOR WHITE: One of the things that's important...(RECORDER MALFUNCTION--TESTIMONY LOST)...that sounds like it. [LB949]

SENATOR LATHROP: I think we've gone too long. (Laughter) [LB949]

SENATOR MCGILL: Okay, we got it. Thank you. [LB949]

SENATOR WHITE: So I want those understood and appreciated. But I'm very troubled about the idea that we're supposed to now act as a super building code body setting standards for different communities on things that could vary widely. Have you run into that where this body has been asked to start overruling individual codes or code provisions before? [LB949]

SHANE WEIDNER: I have not. I've been in the fire service for 20 years and I have not, Senator. I agree with you on that point. It would be unusual for this body to take that stance. And I think this goes without saying, and I would gladly hang up my helmet if I could eliminate fires, auto accidents, hazmat incidents, shootings, all the things that firefighters go to, I'd gladly hang up my helmet. And wouldn't it be a wonderful world if we could do that? Sprinklers, you know, it's time for them. Just frankly, it's time for them in this country. So they help the firefighters, obviously, and they help the homeowners tremendously. [LB949]

SENATOR WHITE: Thank you. [LB949]

SHANE WEIDNER: Thank you. [LB949]

SENATOR MCGILL: Well, thank you. Next supporter or I'm sorry, opponent. I can't get

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that through my head (laughter). How many more opponents do we have to testify?
Okay, let's all keep it short. Like I said, one more bill after this one. [LB949]

MELISSA WACH: Good afternoon. My name is Melissa Wach, last name W-a-c-h, and I'm here today as a surviving family member of a fallen firefighter. In 2007, my husband Jeremy (phonetic) was killed while fighting a house fire in Wymore and that's a reality my children and I live with every day. It is a fact that home sprinkler systems can save not only property but lives as well, lives of those living in the homes and lives of the firefighters that are going to respond to the fire call. Every house that has a sprinkler system installed is a structure that firefighters can go into generally without losing their life, such as Jeremy (phonetic) did. There's been a lot of talk today about the cost of installing a sprinkler system, and that cost will never compare to the cost of someone losing their life. So we're here today to ask you to help us keep the jobs of firefighters a little bit safer every day, to help us ensure that they return home safely from every call, and to do what we can so that other spouses, children, and family members don't have to pay the price that my children and I do every day. Thank you. [LB949]

SENATOR MCGILL: Thank you for coming and sharing your personal story. Are there any questions? Thank you very much. [LB949]

MELISSA WACH: Thank you. [LB949]

SENATOR MCGILL: Next opponent. [LB949]

JOHN WIECZOREK: Good afternoon. My name is John Wieczorek. I represent the Fire Sprinkler Contractors Association of Nebraska, last name is W-i-e-c-z-o-r-e-k. I will try to keep it short and just address a few things. As far as the cost for sprinklers go, there is no magic number. The \$1.61 a square foot that was referenced earlier is based on fact and does include things such as our tap fees and the additional impact fees by a municipality. It is an average that can cost anywhere from 80 cents a square foot to \$3 a square foot, and it varies on a lot of factors. But the 1.5-inch water line impact fees that were discussed are not needed. Every home sprinkler system that we've done, we've done on a one-inch line or less. It can be done, especially in a municipality like Omaha or like Lincoln that has great water supplies. As far as the rural communities go, a recent installation far outside of the city, the owner's comment was it was a simple change in the selection of his well pump and that solved his water demand problem. And then cost per square foot was relative to a great municipality. So I think there's some factors in there that aren't taken into account and the costs aren't as large as, you know, we're making them out to be today. As far as maintenance on these systems, these systems are not nearly as complex as the commercial systems that we see. The maintenance is simple. By not hiring, you know, a licensed contractor to do the maintenance is not increasing the likelihood that you're going to have damage to the system. If you were to hire a licensed contractor to do it to the commercial codes today,

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you're talking \$200 a year to maintain the system. But that's, you know, it's not going to be a requirement. Antifreeze, we talked about antifreeze leaking, you know, through the pipes into your home. A very small percentage of any system would probably be installed with antifreeze. My father's home has piping run in the attic properly installed to the codes that are written today with water-filled pipes, and to date after 14 years, not one problem. So antifreeze is really an issue that applies to a very small percentage of any installations. I think that's about all I wanted to address. [LB949]

SENATOR MCGILL: All right. Well, thank you for sharing. [LB949]

JOHN WIECZOREK: Do you guys have any questions? [LB949]

SENATOR MCGILL: Senator White. [LB949]

SENATOR WHITE: Insurance savings. Do you have any information with regard to savings for people who do put these in? Because if we are adding in expenses, there's savings on the other side. [LB949]

JOHN WIECZOREK: There is savings. That first packet that was handed out to you guys, there's some information in there on that. I believe it talks about an average of 7 percent. I personally save 20 percent on my homeowner's insurance. [LB949]

SENATOR WHITE: Because of the sprinkler. [LB949]

JOHN WIECZOREK: Yeah. One of my colleagues saves 25 percent. [LB949]

SENATOR WHITE: What kind of money is that annually for you? [LB949]

JOHN WIECZOREK: Oh, \$250, \$300 a year. Over...and there's data in there that talks about over the life of say a typical 30-year mortgage, these systems far beyond pay for themselves, not only the benefit to the municipalities from insurance rating savings and the local fire districts from their response time. Light-weight construction today causes these fires to burn hotter faster, putting lives at risk in a much faster fashion than they did in the past and putting firefighters' lives at risk. [LB949]

SENATOR WHITE: The only objection that I've heard long term is that this will cost too much for new homes for people of modest means. [LB949]

JOHN WIECZOREK: Um-hum. [LB949]

SENATOR WHITE: But your experience is such and they've talked about the amount of \$5 per \$1,000, \$5 a month per \$1,000, your experience is that that could be as offset or, if I did my numbers in my head right, washed by the insurance savings. [LB949]

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JOHN WIECZOREK: Absolutely, yeah. [LB949]

SENATOR WHITE: Thank you. [LB949]

JOHN WIECZOREK: Um-hum. [LB949]

SENATOR MCGILL: All right. Any other questions? Senator Krist. [LB949]

SENATOR KRIST: Two quick technical questions. [LB949]

JOHN WIECZOREK: Sure. [LB949]

SENATOR KRIST: Am I envisioning a sprinkler system in my home to be every seven feet or is there a standard that has to be applied? It actually has to be in the kitchen. Do I have an option where I can put them, where I don't put them? [LB949]

JOHN WIECZOREK: Well, the codes are specific as to where we're required to install them or we're not, so. [LB949]

SENATOR KRIST: So it's not really a question of when we're doing it right with a professional there's no question about cutting down cost. It's either this or not meeting code. [LB949]

JOHN WIECZOREK: There is technology. Each manufacturer has different technology available that allows them an edge to their competitor. You have your standard basics and then you have the ability if a manufacturer does fire tests and pass the standards, you know, they can list a particular device to do what it's intended to do. Talking about sprinklers, sprinkler heads every 7 feet, you know, you can go up to 20 feet apart. And in most cases, you're talking one head a room or maybe two. Most fires are controlled by one single operating sprinkler. [LB949]

SENATOR KRIST: Okay, thank you. [LB949]

JOHN WIECZOREK: And in most cases they are extinguished. You know, they're not designed to do it, but that's...that does happen. [LB949]

SENATOR KRIST: Thanks. [LB949]

JOHN WIECZOREK: Forty...I think earlier it was stated that sprinklers don't operate, you know, 40 percent of the time, but their reliability is much more in the 99 percent range. I'm not sure where those numbers came from. [LB949]

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SENATOR MCGILL: All right, thank you. Next opponent. Somebody come (laugh). Let's keep it rolling. [LB949]

MARIA FIGUEROA: (Exhibits 22, 23, and 24) Okay. I guess it's me. Good afternoon, ladies and gentlemen. Thank you for the opportunity to address you. And I come to you from sunny Miami where it's 70 degrees today because I'm really passionate about this issue. My name is Maria Figueroa, Maria, M-a-r-i-a, last name is spelled F-i-g-u-e-r-o-a. I work for the National Fire Protection Association as a regional manager of fire prevention. Before that, I worked for 25 years as a firefighter and retired with the rank of captain after 25 honorable years of service. We've had some people talk about our statistics today, and I will try not to be repetitive because I really want to just address those issues that have been talked about here and talk to you about the home fire problem. And the fact is that home fire sprinklers have been around for over a hundred years. They've been protecting commercial structures over a hundred years. And that's why we don't have the fire problem in the commercial structures that we have in the home. Last year, 84 percent of those who died, died in the home where you most feel safe is where you are most vulnerable. And those that are at risk, under 5 years old, over 65 years old, that over 65-year-old population, the baby boomer population is going to explode in the next few decades. And those are the people that we're trying to protect by putting sprinklers now in the minimum codes, all codes now require sprinklers. And this is the reason why--because we want to protect those most at risk. NFPA 13D, the standard for home fire sprinkler systems, gives an additional ten-minute escape time to those people that cannot escape on their own or it provides a survivable atmosphere so that those firefighters that come in are able to effect a rescue. The national consensus is in favor of fire sprinklers. Now, they talk about smoke alarms. Smoke alarms have done a good job protecting people in homes, but they are still not enough. If you have a fire in your home, your chances of dying decrease by 50 percent. However, if you have home fire sprinklers, those chances decrease by 80 percent. The fact is that over the years about 37 percent of people who die in fires do so in homes that are protected with smoke alarms, both hard wired and battery operated. So we know and the entire life safety community knows by consensus has come out and has put in all model codes fire sprinkler systems. Now, fire sprinklers opponents have been using...and I'm going to read this verbatim because I don't want to forget anything, have been using a statistic of 99.45 percent to illustrate the effectiveness of smoke alarms in reducing home fire deaths. That's an NFPA statistic. And that estimates the likelihood of surviving a home fire when a working smoke alarm is present. It's a quality control issue. Taken completely out of context, a number like 99.45 percent sounds very high, but consider this. The total fire death toll is approximately 3,000 people a year. Compared to 400,000 fires, then that's, regardless of whether you have a smoke alarm or any kind of protection in your home, it's over 99 percent survivability because that, when you compare it to that, then that's what it gives you. But 3,000 people a year die. Most people would not think that is acceptable. The same way that there are approximately 42,000... [LB949]

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SENATOR MCGILL: I'm going to have to ask you to wrap up pretty quick if you can, sorry. [LB949]

MARIA FIGUEROA: Yes...42,000 deaths in automobile crashes, that's a 99 percent over 6 million crashes, that's still over a 99 percent but there's still a lot of people that die. Sprinklers do more than save lives. You talked about that. People in homes with sprinklers are protected against a significant property loss because sprinklers reduce the average property loss by 71 percent per home. And there's going to be an insurance person up here that's going to talk about that. I don't know where they got that figure 40 percent reliability, but it's important to recognize that home fire sprinklers are designed to activate to a heat of a fire that gets hot enough at the ceiling between 135 and 160 degrees. You don't want them to operate when you burn your toast or when you have a small grease fire. And that's where that 40 percent comes from. When sprinklers operate in a fire where they're supposed to, they are 90 percent efficient. And so this is...oh, the cost of home fire sprinklers, I'm not going to go over that. [LB949]

SENATOR MCGILL: Are you just about at the end? [LB949]

MARIA FIGUEROA: Housing cost and supply impact--I urge you to please look at that because when we did an analysis of communities having home fire sprinkler requirements and we compared it to the communities that don't have home fire sprinkler requirements, we found in one community that the opposite was true: There was an increase in supply and demand of homes in the community with sprinkler systems. So I urge you to vote no against this provision. [LB949]

SENATOR MCGILL: Thank you, Maria, for coming all the way from Miami (laugh). [LB949]

MARIA FIGUEROA: Thank you for your time. [LB949]

SENATOR MCGILL: Um-hum. [LB949]

COLEEN NIELSEN: (Exhibit 25) Madam Chair, members of the Urban Affairs Committee, my name is Coleen Nielsen, C-o-l-e-e-n N-i-e-l-s-e-n, and I am representing and the lobbyist for State Farm Insurance Companies. And I looked around and I think I am the insurance person (laugh). I do have some bullet points, and I think that you've already been given the information about how important we feel that fire sprinklers are in the homes, and we do oppose LB949. I will say to you, Senator White, that State Farm Insurance Companies offers a premium discount of 10 percent for fire sprinklers. I imagine that every property/casualty insurance company offers some kind of discount and that the average homeowner premium is around \$850 a year for State Farm Insurance. [LB949]

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SENATOR WHITE: So you would see about... [LB949]

SENATOR MCGILL: Oh, yeah. [LB949]

SENATOR WHITE: ...\$85 in a year savings. Thank you. [LB949]

COLEEN NIELSEN: Right. And I'd be happy to answer any other questions. [LB949]

SENATOR MCGILL: All right. Any other questions? No. Thank you. [LB949]

COLLEEN NIELSEN: Um-hum. [LB949]

SENATOR MCGILL: Any other opposition here following? Oh, just one more, okay. [LB949]

PATRICK COUGHLIN: Senator McGill and members of the committee, my name is Patrick Coughlin, P-a-t-r-i-c-k and the last name is C-o-u-g-h-l-i-n. I'm a regional manager for state and local government for the International Code Council. I've been taking a lot of notes even on the previous bills as well. I just want to point out what...why sprinklers are in the 2009 IRC. The International Residential Code, I'm going to read two short sentences here. The purpose of this code, which is the IRC, is to establish minimum requirements to safeguard the public safety, health, and welfare and includes safety to life and property from fire and other hazards attributed to the built environment and to provide safety to firefighters and emergency responders during emergencies. Well, how did this happen to get into the 2009 edition? I'm a retired fire chief and a retired building code administrator, and I've been working for the ICC for several years to help state and local governments when they're dealing with these issues. I'm an old hand. I've been around back in the seventies when the time to flash over averaged about 17 minutes. And as someone else earlier mentioned, the National Institute of Standards and Technology, their analysis shows it's down to about three minutes today. Well, there's a reason. One is that over the years the synthetics in our homes has increased immensely. Think about your home. Everything you sit on, everything you walk on, everything you rest on is made of synthetics, and they're petroleum based. And when they ignite, they burn twice as hot, they burn twice as fast, and they create about ten times the magnitude of thick smoke. The other thing is that we are now dealing with lightweight trusses for our floor joists instead of the thick solid sawn joist. They fail immediately without warning to firefighters. When I was a firefighter, you could sort of feel, if the floor was getting a little soft you knew those joists were burning. You can't do that now, so it's a critical fire safety issue for firefighters. They collapse immediately. That's why it's in here. Now why now? Why not a few years ago? Well, the fire service has been requesting that sprinklers be required in the IRC for years. And there are allegations that the committee was dominated by homebuilder interests and that's why

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the homebuilders would not approve it. What you saw in the past two code change cycles was firefighters saying, look, we've had enough. We've got to get this done. We cannot save lives in fires. It's increased risk to our firefighters. The only way to do is build the fire protection in. Now, one thing that, you know, I want to just mention here that I'm a big proponent of local decision making, so let's just talk local for a second. When you put in a new subdivision, okay, we're not talking about scattered housing in Lincoln. We're talking about small communities that are getting new subdivisions. That increases the demand on the fire department, that increases the demand on the water distribution. So why wouldn't cities have the option then to consider...let's take a town that's... [LB949]

SENATOR MCGILL: We need you to try to wrap up, though, pretty quick. [LB949]

PATRICK COUGHLIN: Okay. Take a town that's volunteer firefighters. They want to get a new subdivision. That's great, but they don't have enough volunteers. Why can't they have the option to say, look, if we put in all sprinklers, we're going to have smaller water mains; we're going to have as much water storage; and our volunteers can stay volunteer. What if they had to make the decision to put in a full-time fire...just one truck, you know, one company? It's a million dollars a year in salaries for every year. Okay? So you can see that the decision to require sprinklers or not can have a big impact on local communities. And I believe they should have the right. I think I kind of spoke to the fact that there's an implication that the fire service sort of derailed the code change process. And the ICC is on record as saying that it was transparent and it was fair and the board of directors has done...I had some other things to read, but I think if anyone has any questions. [LB949]

SENATOR MCGILL: Any questions? I think Senator Coash shared... [LB949]

PATRICK COUGHLIN: Yeah. [LB949]

SENATOR MCGILL: ...the rebuttal to what happened at that convention. Any other questions? Seeing none, thank you very much. [LB949]

PATRICK COUGHLIN: Okay, you're welcome. [LB949]

SENATOR MCGILL: And our final opponent. Is there anyone here to testify neutral? Oh, we got one, two. (Laugh) Okay. [LB949]

MIKE DURST: (Exhibit 27) Being next to the oldest person here, I get to speak last. Mike Durst, D-u-r-s-t. I speak at 23 years in the fire service as a firefighter, a fire investigator, and your State Fire Marshal for 8 years. I heard a lot today about smoke detectors. And I'll tell you what. You would think the HBA took ownership of this group, but I was here in '72 when they fought it the same...they were here fighting it the same

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way in 1972 that no one would be able to afford a house if you put a smoke detector in them. So that's kind of gone by the wayside. And when you look at sprinkler systems overall and one statistic they never brought up and is true, there's never been a multiple fire death in a completely sprinkler building. Never is a long time. So what's that tell you? I mean it all boils down to a couple of different things here, and you've got two different sides of this room. You've got the life safety side and you've got the money side. On this side we're talking about saving lives, protecting people. This side of the room saying saving money and putting people into low-income housing. And as much as we kind of look at the housing, low-income housing, they have as many fires as anybody. They should be protected more. And I handed out some information from ISO, that's the Insurance Services Office. If you take a look at that, right away it tells you in there--it's actually a letter to the Fire Marshal in Altamonte Springs, Florida, who requested it--what would happen to us if we omit the sprinkler requirements from the International Code? He was answered by the ISO. ISO actually figures insurance rates for everybody in this room: your homeowner's insurance, your commercial insurance. Lincoln is a number 3. I think Omaha is a number 2. I think Papillion is a number 4. And when you look at it, first of all, if, in fact, you want to put a subdivision in, right there the bold letters there, you can drop your water flow down to 500 gallons a minute. Most of the time it's going to tell you it's going to be around 1,500 gallons. That means you can put in smaller water lines, you can put in less hydrants, and it's going to help the infrastructure. If you're building a subdivision, that's one thing you want to look at. But builders do not care. Their big thing is get houses in. It's up to the cities to figure out what the infrastructure is going to be. They're the ones that have to figure out how to provide sewer, water, lights, and everything for the new construction. This is going to save a lot of money. You don't want to tell a city you can't do this because here's a city trying to save money. If you go to the second page on here, you'll see in there it will tell you that, I think it's the second or third paragraph down, that in fact you opt out of this code and take the sprinkler requirements out of homes, you will drop one point on your ISO rating. That's going to affect everybody in this room because that's how your insurance is figured. So it's something we want to think about here and there's a lot of things. And being in the fire service for many years I've been to a lot of fires, some with sprinklers, some without. If it was a sprinkler building, we went in with a squeegee. If it was an unsprinklered building, we went in with a lot of water and a lot of hose and spend a lot of time at it. They do save lives. They're really good for the community. They're a green product in the fact that when you do have a fire, you're not going to have the CO2 emissions. You're not going to use a lot of water. You're not going to have to deal with water waste coming away from there, and you're not going to fill up the landfill. An average house when they have a fire is around, if they have a sprinkler system like they've had in Scottsdale, Arizona, for 20 years, you're going to have the average loss on a sprinklered house at \$2,000. In a nonsprinklered house in Scottsdale, Arizona, it's \$40,000. So what's that tell you? About 87 percent difference. And it's a hard fact. I hope our friends in the back of the room don't look at this and say, hey, that's \$40,000 we're going to miss out on in the rebuild market. Because when you look

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at a house that burns, you have to have somebody come in, tear out walls. You got construction companies doing work. If it's got a sprinkler system in it, you've got ServiceMASTER that comes in and sweeps it up. [LB949]

SENATOR MCGILL: I'm going to have to ask you to try to wrap up here. [LB949]

MIKE DURST: So that's about all I have and I'm open to any questions. [LB949]

SENATOR MCGILL: Well, thank you for your service. Any questions? No, thank you. [LB949]

MIKE DURST: Hey, that was quick. [LB949]

SENATOR MCGILL: Move on to neutral now. [LB949]

GARY KRUMLAND: Senator McGill,... [LB949]

SENATOR MCGILL: Yes. [LB949]

GARY KRUMLAND: ...members of the committee, my name is Gary Krumland, K-r-u-m-l-a-n-d, with the League of Nebraska Municipalities. I'm appearing neutral because we've had city officials on both sides of this issue. And because of that, I would like to repeat the suggestion made by Chief Weidner that possibly this go to an interim study or that we get the groups together to work out the differences. We understand possible cost to affordable housing, but we do think that this is a decision for local control. And so we would like to have an opportunity to get the sides together to maybe resolve some of these issues. And just very briefly, I'd also like to just address one other quick issue. Senator Gloor mentioned the unlawful delegation of authority issue, and that's kind of just a side issue in here, and we had some concerns the way that was drafted. I do appreciate the amendment that he offered that took care of our concerns on that issue. [LB949]

SENATOR MCGILL: All right, thank you. Questions? Senator White. [LB949]

SENATOR WHITE: Gary, have you ever seen a situation where this committee has been asked to specifically overrule zoning rules before? [LB949]

GARY KRUMLAND: No. The only thing I could think of is a situation where there was...I mean we've had a situation and I'm trying to remember when it was where the cities wanted some uniformity and really the only way you can get that is through some sort of state legislation. But it hasn't specifically come to the zoning or building codes issues. I think it... [LB949]

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SENATOR WHITE: Where we're taking away the power to zone or... [LB949]

GARY KRUMLAND: Yeah, no it was on another issue. [LB949]

SENATOR WHITE: ...put building codes as they see fit. [LB949]

GARY KRUMLAND: Yeah. And that's why we... [LB949]

SENATOR WHITE: We put minimum standards in, I think, at times, but we've never taken away the power to my knowledge. [LB949]

GARY KRUMLAND: Yeah, and we generally would oppose taking away the local control or local decision making, so. [LB949]

SENATOR WHITE: Okay. I just want that clear if we represent that on the floor if this comes out of committee that this will be the first time in certainly my knowledge and yours as well... [LB949]

GARY KRUMLAND: Um-hum. [LB949]

SENATOR WHITE: ...where the State Legislature has taken away from a city or a township the ability to pass tougher building codes. [LB949]

GARY KRUMLAND: Yeah. I think it's probably. [LB949]

SENATOR WHITE: Thank you. [LB949]

SENATOR MCGILL: All right. Any other questions? No. Thank you. [LB949]

GARY KRUMLAND: Um-hum. [LB949]

SENATOR MCGILL: Last neutral, I believe. [LB949]

TODD AERNI: Hello. My name is Todd Aerni, it's T-o-d-d A-e-r-n-i. I'm the secretary of the Nebraska Code Officials Association. We keep hearing about local government. Well, here we are so hopefully we can all work together. Nebraska Code Officials Association represents building, safety, and inspection departments in cities and counties across the entire state of Nebraska. We currently have over 160 members. We are the men and women this bill will affect more on a daily basis than anyone else. I'm here today to voice our position on this bill and offer some insight and comments about this bill. Our association is taking a neutral position on this bill as proposed. Our final voting totals by numbers were 43 support, 27 against, and 52 neutral. If we break that down by jurisdiction, it's 15 supported, 7 against, and 3 neutral. I can supply these upon

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request if they're wanted. First, I'd like to take a look at some of the negative impacts that this bill would have on local jurisdiction. We have proven data that fire sprinklers save lives in commercial applications, so one would assume that it would also be the same for residential. This bill as written has removed the authority of the local jurisdiction to decide if fire sprinklers are needed in their community. Some jurisdictions' emergency response time might be slower than others so there may be a need for sprinklers to save lives. Western Nebraska would be an example where the sprinklers may benefit them. The bill as written has some flaws with regards to future code updates. I think we've talked about that a little bit. But there's one part in there that needs to be amended also because it still requires the local jurisdiction to update the code within two years of the publication date. So that would be something I would recommend that we address. Now, I'll take a look at some of the reasons why our association I guess would not vote to...or would...yeah, was not able to vote in opposition of the bill. A vote against this bill ultimately would require fire sprinklers in all new residential homes. I know, Senator Lathrop, you asked some questions about that. It is our understanding as building officials in the state that we cannot go less restrictive than the state code. So if this bill...if this code gets adopted as written by the ICC, we would be required to have fire sprinklers in every new home built across the state of Nebraska. We would not be able to opt it out because it would be less restrictive. And actually the way the current law is written, is this is the current code today. The 2009 RESPA Code is the state building code. And in there it says that January 1, 2011, is when everybody is required to go into that. So as the law sits today, that's how it's written. We don't have enough data to prove or to show that fire sprinklers have saved lives in residential application. Within the past 15 years, construction codes, practices, and materials have improved, reducing the number of fires in homes. Many local jurisdictions do not have qualified staff to review and inspect these applications. If fire sprinklers are required, this could be an unfunded state mandate each local jurisdiction would have to face or this responsibility may fall back on the State Fire Marshal's Office. Neither of the responsibilities are defined in the bill, and that would be something I would recommend that we take a look at. But our association does believe that with a few simple proposed amendments, the bill would receive unanimous support through the Nebraska Code Officials Association. The first one I have, we already talked about updating the 2009 edition. I think there was an amendment made on that. (2) remove the requirement that local jurisdictions adopt new code within two years of the publication date of the International Code Council. Remove the first paragraph of Section 3 which removes the local jurisdiction's option of requiring fire sprinklers. (4) unstrike Section 5(2)(c) which allows a local jurisdiction to adopt supplements and revisions to this code. And the last one is more of just something to think about: If a homeowner...the way the bill is written, it still gives the homeowner the option to have these installed in their home. What the bill does not address is if the homeowner chooses that option to install it, who is responsible for the inspections and the enforcement of that code? I know I've given you a lot of information to chew on, but the Nebraska Code Officials Association believes we need to have a voice in this

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discussion since we are the men and women that this bill will affect on a daily basis. In closing, I'd like to thank you for listening to our association's thoughts and would like you to keep in mind that you're not just voting on a six-page bill; you're actually rather voting on a 900-page document that we're tasked to enforce daily. Thank you again. Do you have any questions? [LB949]

SENATOR MCGILL: Thank you very much. [LB949]

SENATOR COASH: Thanks for that clarity. [LB949]

SENATOR MCGILL: Yeah, exactly. Great visual aid. Well, thank you very much. It doesn't look like there are any questions. Senator Gloor, would you like to close? [LB949]

SENATOR GLOOR: Thank you, Chairman McGill. I've just kind of scrapped my closing comments and would like to philosophically and as briefly as I can...first of all, thank you for your patience on this issue. I think it will be time well spent. I had to do, when I was first approached with this bill, the sort of introspection on what I consider to be the sniff test of this. And at first I wasn't interested in it in large part because of the very issue of taking away the local control component of it. And Senator Lathrop and Senator White have been very clear in their concerns about that and the precedent setting that may go on here with that. In the final analysis, and I talked to some friends not from the construction industry about the concept of putting sprinklers in. And I did some reading and studying on systems and is this the time to metaphorically bring toilets indoors? Is the technology there to really do this? And I got convinced that we should be talking about this because I have a strong concern that if we don't pass this bill and if, as I suspect, individual cities, counties go ahead and adopt the 2009 codes, we'll have some surprised homebuilders. And I'm not talking about the contractors, I'm talking about the families that go into homes, and we should have a reference to go back and look at. I hope that doesn't happen and, in fact, I hope that if this doesn't go forward we're able to sit back and say this was as good an idea as hard wiring smoke detectors in homes, but I don't believe it is. That's the reason I carried the bill forward. We'll have a good debate. We've had a good debate. We have things we can reference back that will help us take a look at this, depending upon how things go. I certainly understand and would point out that those folks who were opposed to this didn't talk about the local control issue. They talked about the importance of sprinkler systems and they should. They are professionals involved in fighting fires, protecting us, community servants. That's what we would expect them to do, to advocate for that. I wish there was a way to take the millions of dollars that may eventually go into sprinklers and a small portion of that being set aside to address old homes and trailers (laugh) and kitchens where 40 percent of fires in homes...I wish there was a way to take that enthusiasm and commitment to indoor sprinklers and direct a little of that enthusiasm and money into where most of us know, when we pick up the paper and read, we have problems with fires. But there's no

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way to do it. We're faced with an issue. This is legislation I proposed. I appreciate your straightforward questions and the fact that we had a very long discussion and debate about it. I enjoy this, by the way. But then you know what my past job was, so I have a warped perception of life. (Laughter) Thank you. [LB949]

SENATOR MCGILL: Any questions? Seeing none, thank you for that hearing. That closes the hearing on LB949, and we just have one more that will hopefully be quite a bit shorter. [LB949]

SENATOR COASH: Okay. We're going to open up the hearing on LR295. Senator McGill. [LR295CA]

SENATOR MCGILL: This bill will, well, first of all, I'm Senator Amanda McGill, M-c-G-i-l-l, and I represent the 26th District, which is in northeast Lincoln. This constitutional amendment I'm bringing today is a blast from the past. We've actually addressed this in this committee since I've been here on the committee in 2008. It's a constitutional amendment that was on the ballot both in 2002 and 2006. It did not pass those two years. And then in 2008, we decided to go ahead and put it back on the ballot, but instead of going with an election in '08 we decided to bump that time back to 2010, which is this year. Well, right now there's a lot of debate going on about whether what we did in '08 involving the salary increase and putting it on the ballot in 2010 is actually within our ability to do as a Legislature. So there is some concern about if there's a challenge to that, that there could be a challenge to this constitutional amendment that we also put on the ballot for 2010. So I'm introducing this again to show that the Legislature does have the intent and the will to want to put this on the ballot this year. To refresh people's memories, this is to authorize the use of revenue bonds to develop property for use by nonprofit enterprises. LR295CA would authorize any county, city, or village to acquire, own, develop, and lease real and personal property for use by charitable, nonprofit enterprises and to issue revenue bonds for the purpose of defraying the cost of acquiring and developing or financing such property for construction, purchase, or otherwise. The revenue bonds authorized under this measure would not be obligations of the issuing county, city, or village. The bonds would not be repaid from any property of the county, city, or village, but would be satisfied from the property itself and the revenues received therefrom and no taxes may be levied to pay for the bonds. And it's my hope that we can advance this out of committee and get it back to the floor so that we can just reinforce what we already did a couple of years ago. Any questions? All right. [LR295CA]

SENATOR COASH: Seeing none, first proponent. [LR295CA]

JERRY STILMOCK: (Exhibits 28 and 29) Thank you. I'm going to give you this right away as well to keep things moving. Thank you kindly. Good evening. My name is Jerry Stilmock, J-e-r-r-y Stilmock, S-t-i-l-m-o-c-k, registered lobbyist on behalf of the

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Nebraska Bankers Association, testifying in support of LR295CA. We do have plan A. Plan A is to move forward with the 2008 constitutional amendment. Senator McGill introduced that part that we're dealing with right now waiting for an opinion as to whether or not because there was a time-out. The 2008 legislation passed or the constitutional amendment passed, should there have been a required vote taken...election taken in 2008. That we're pretty much walking hand in hand with the state senators' pay raise. So as the pay raise does or does not move onto the ballot in May, so goes LR5CA from 2008. That is plan A to move forward and hopefully that happen. Plan B is the fallback position of LR295CA to which brings us here today. A few years ago, a nonprofit wanted to go ahead and use this bonding mechanism in conjunction with a new project. The nonprofit and its lender looked a little closer and found that Nebraska state law did not authorize that to occur. It was brought to the Nebraska Bankers Association. We've been on this warpath since '02. And the focus, of course, is to make sure that we have an opportunity yet in the primary in 2010 to place this before the electorate in Nebraska. The biggest part of this, of course, is the tax-exempt borrowings by the nonprofit, and it has to be a nonprofit as set forth in the proposal. Those tax-exempt borrowings for the nonprofit come to be at a lower interest rate than comparable borrowings that would occur otherwise. So in order to make sure that those obligations to be tax exempt, we have to have the state law to back it up, ergo LR295CA. The whole deal is cost savings. If nonprofits can save money in what they're doing, they can do more for the people that they aid, and they'll be able to do that through their cost savings through a lower interest rate. The page has kindly handed out not only my testimony but the testimony in summary form of Mr. Andy Bradley, the executive vice president of Goodwill Industries in Omaha, who we have worked closely with along with several other nonprofits. And he gives a terrific example on the flip side of his letter and he identifies Iowa. Iowa has this type of financing available to state law. They're able to go in and fund a project for 20 years at an interest cost of about \$800,000. In Nebraska it would be, without this constitutional amendment being approved, it would be about \$1.8 million over a 20-year period. And with those cost savings, he outlines in his handout that you have a copy of now that his example for Omaha, they served about 2,000 unemployed people at a cost of about \$2,000 per individual. If there's a savings of a million dollars, the math tells us that they could go out and serve an additional 500 people that they're not now helping. Not to belabor the point, I'd simply ask you to allow us to have a plan B in place should plan A in the constitutional amendment, LR5CA, not be able to move forward on the ballot because of that time-out taken in the election year of 2008. I'd encourage the committee to advance this to General File. Thank you. [LR295CA]

SENATOR COASH: Thank you, Jerry. Any questions for Mr. Stilmock? Seeing none, thank you. [LR295CA]

JERRY STILMOCK: All right. Thanks for hanging in there with us, appreciate it. [LR295CA]

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SENATOR COASH: Any other proponents? Seeing none, any opponents? Neutral?
Senator McGill waives closing. [LR295CA]

SENATOR MCGILL: I told you that (inaudible). [LR295CA]

SENATOR COASH: That will close the hearing on LR295. [LR295CA]