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Government, Military and Veterans Affairs Committee  
December 12, 2016

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[LR596 LR597]

The Committee on Government, Military and Veterans Affairs met at 10:00 a.m. on Friday, December 12, 2016, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR597 and LR596. Senators present: John Murante, Chairperson; Dave Bloomfield; Joni Craighead; Mike Groene; Matt Hansen; and Tyson Larson. Senators absent: Tommy Garrett, Vice Chairperson, and Beau McCoy.

SENATOR MURANTE: (Recorder malfunction)...Committee. My name is John Murante. I am the state senator for District 49 which includes Gretna and northwest Sarpy County and I am the Chairman of this committee. We are here today for the purposes of conducting two interim studies. We'll be taking these studies up in the order in which they appear on the agenda, which is outside of this room. If you wish to testify on any of the matters before us, we ask that you fill out one of these green sheets. These sheets are located on either side of the room. When you begin your testimony, we ask that you begin by stating and spelling your name for the record, which is very important for our Transcribers Office. If you have a statement, an exhibit or anything you wish distributed to the committee, we ask that you give eight copies to the page who will distribute it. If you don't have eight copies, that's fine. Just give it to the page and she will make copies for you. So I will do some brief introductions. We'll start from my far right, Senator Mike Groene from North Platte, Nebraska. Senator Tyson Larson from O'Neill, I don't know that we've gotten final confirmation from him yet...

SHERRY SHAFFER: He said he'd be here.

SENATOR MURANTE: ...but we'll expect Senator Larson to come and go as he pleases. Senator Bloomfield from Hoskins, Nebraska; Andrew La Grone is the Government Committee legal counsel; Senator Matt Hansen to my left, state senator from Lincoln; and Senator Joni Craighead from Omaha. So we will not do things as we sometimes do them on bills. What I will do is introduce the interim studies that we have from here and then allow anyone to testify. So we'll begin the public hearing on LR597. This was an interim study that was brought to us originally by a bill from Senator Ebke dealing with what have come to be known as COP bonds. There has been some concern brought to us and the need for more study was requested, and that is why we

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are here today to open this discussion up to the people of Nebraska, any concerns that they may have. So that's the opening and we would welcome any testimony on this subject matter. Welcome. [LR597]

TIM HRUZA: Good morning. [LR597]

SENATOR MURANTE: And our clerk did remind me to say that we do use the light system here in the Government Committee. Each testifier will be allotted five minutes. When the green light comes on, your five minutes begins. When the yellow light illuminates, you have one minute remaining. We ask that you begin to wrap up your remarks. When the red light comes on, we ask that you conclude your remarks and we will open the committee up for any questions that they may have. So with that, thank you very much for your patience and welcome to the Government Committee. [LR597]

TIM HRUZA: (Exhibits 1, 2) Good morning, Chairman Murante and members of the Government, Military and Veterans Affairs Committee. My name is Tim Hruza, that's T-i-m, last name H-r-u-z-a. I serve as legal counsel for the Lincoln Independent Business Association here in Lincoln. We're a membership organization with a little over 1,350 members in the Lincoln area. I am here today on behalf of those members to ask this committee to look at ways to limit the ability municipalities and other government bodies currently have to incur bonded indebtedness without a vote of the public. LIBA appeared before this committee last spring in support of LB992, which would have established a \$25 million limit for the amount of debt a municipality has for installment contracts and specifically certificates of participation contracts and accompanying bonds. We refer to those as C-O-P COP bonds. At that time, our primary interest in LB992 was what the city of Lincoln has done in continuing to rely on COP bonds to issue debt, public debt, without a direct vote of the people. For example, this growing trend has seen that in 2001 the city's total outstanding obligations under installment contracts and corresponding COP bonds was \$1.4 million. Today, that debt has grown to more than \$40 million. To provide context for just what that means, in 2016, the city of Lincoln taxpayers paid \$879,762 in interest alone on those COP bonds, again, bonded indebtedness that was not approved by voters. It is worth noting that LIBA has not been alone in its criticism of the city of Lincoln's use of these COP bonds to skirt the voters and acquire public debt. Indeed, the Lincoln

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Journal Star editorial board has now written on three occasions about this issue. I have distributed copies of those just for reference. I think it's important to note that we're not necessarily the only ones banging the drum on this. During the hearing on LB992 last spring, the committee heard testimony from a number of other public bodies, including the city of Lincoln, Metropolitan Community College, and the city of Omaha; also received letters I think from the League of Nebraska Municipalities and Lancaster County opposing a limit on this type of municipal bonding. In each case, testifiers suggested that these limitations were not necessary for one reason or another or argued that removing the flexibility provided by these financing mechanisms was unnecessary. LIBA disagrees. Good public policy demands that the taxpayers who are obligated to make future debt payments have as direct of a say in the issuance of that debt as is reasonably possible. Nebraska has had a longstanding practice of acknowledging this public policy position by requiring general obligation bonds to be issued by municipalities upon the affirmative vote of taxpayers. To be clear, LIBA does not seek to completely eliminate the use of these types of financing mechanisms as they do provide some flexibility in the way that we're able to accomplish public projects. But Lincoln's COP bond debt, for example, has increased by almost 3,000 percent in the past 15 years. We believe it reasonable to place some sort of limit or restriction on this trend that seems to be getting out of hand. Public credit cards without limits should not exist. Now beyond our interest in COP bonds, the scope of this particular study includes all methods of public bonding without a vote of the people. With that in mind, we also have one other concern that we'd like to bring to the committee's attention. We have seen...we appear to be seeing more public entities that are actively pursuing expanding their authority to use bonding without requiring general obligation bonds to be backed by a vote of the people. One example is that we've recently seen the Lancaster County Board of Commissioners identify as one of its major legislative priorities this year a bill that would allow the county to issue bonds and incur public debt without voter approval to repair county bridges. They want to add that to their 5.2 cent levy that falls outside of their regular cap and their ability to bond for public buildings and that sort of thing. While LIBA understands the critical situation counties may face with regard to infrastructure deficits, this move to look for borrowed money to make repairs without first coming to a community consensus that it's an appropriate means seems wrong. We simply believe that if we're going to pursue public debt that ties up future tax dollars to make payments for public amenities or for public improvements that we ask for community consensus from our taxpayers that have to make those payments in the future. Important projects

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like this, whether it be bridges or other public projects, deserve complete transparency and buy-in from the general community in how they're to be paid for. And bonding should not be an easy and expedient solution that our elected public officials look to. There is value in Nebraska's general public policy that public debt should not be acquired without support from the taxpayers who must repay that debt. Whether in the case of Lincoln's continued and unchecked use of COP bonds or in moves to expand authority to bond without a vote of the people, we ask this committee to be mindful that limitations on public debt are important to protect taxpayer interests. With that, I'd take any questions the committee might have. [LR597]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions?  
Senator Groene. [LR597]

SENATOR GROENE: What's the average length of these COPs? [LR597]

TIM HRUZA: It's varied so I don't know if there's a good average that I can give you. But looking to the sheet, it looks like some of them have options that run to 13, 14, 15 years. I believe the city of Lincoln is here. They'd have probably a better answer to that, but it varies based on what the financing is for and then how they end up paying for it but. [LR597]

SENATOR GROENE: So they're buying equipment with this like a county is buying a maintainer and doing a common business lease? [LR597]

TIM HRUZA: Sometimes it's equipment. I think the most recent bond issue in terms of the COP bonds included things like, you know, ambulance equipment. They want to buy a new ambulance or something like that or a fire truck. I think fire apparatus is probably the better term for that. Other times it does include real property purchases. So in Lincoln our example is the municipal services center, we refer to it as the Experian building, which is out near north of the interstate there. It's a very large purchase. That initial purchase was about \$7 million. After the improvements and renovations that we've put into it, I think we're over \$15 million total in that building. [LR597]

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SENATOR GROENE: So are you combining both the COPs, also lease purchases, two different... [LR597]

TIM HRUZA: Well... [LR597]

SENATOR GROENE: Lease purchase is a common practice. [LR597]

TIM HRUZA: Sure. It's...I think... [LR597]

SENATOR GROENE: Low interest rates (inaudible). [LR597]

TIM HRUZA: I think that the lease purchase model is how COP bonds seem to work. I mean, I'm still getting my head around it. We've been looking at this for over a year now, but...and, you know, the city of Lincoln would be better in terms of explaining just how this works. But my understanding is that it's really done through a bond that is...and the interest that the bond purchaser has is in the future payments on the installment contract. So we enter into an installment contract to purchase it. They purchase an interest in our future payments. [LR597]

SENATOR GROENE: They purchase the bond. [LR597]

TIM HRUZA: Yeah. [LR597]

SENATOR GROENE: Something like TIF. [LR597]

TIM HRUZA: And so I don't know who the true owner of the building is if we're really buying it to purchase it or if Lincoln owns it or how the legal stuff is on the back end. But the interest is in a lease payment backed bond. They're relying on the city's future payments to finance that bond. Don would be a much better...he might be behind me signaling yes or no. [LR597]

SENATOR GROENE: But then why would you do that? I mean, in business a lease is part of your operating budget, the payment. Do municipalities, are they restricted to participate in leases, lease purchases, just with a regular payment in your budget? [LR597]

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TIM HRUZA: The city of Lincoln...I'm not sure about that. The city of Lincoln has express statutory authority in its...that applies to cities of the primary class that gives them the ability to enter into installment contract agreements for the purchase of real or personal property. That statute, from my research, seems to be unique to Lincoln. [LR597]

SENATOR GROENE: Thank you. [LR597]

SENATOR MURANTE: Any other questions? Seeing none, thank you for your testimony. [LR597]

TIM HRUZA: Thank you. [LR597]

SENATOR MURANTE: Are there additional testifiers on this resolution? Welcome back to the Government Committee. [LR597]

LYNN REX: Thank you very much. Senator, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We do just want to caution the committee today about restrictions, further restrictions on the use of municipalities and how they finance important projects. I think there are two major things I'd like to bring to your attention today, both of which I'm sure you're quite aware--first and foremost, representative government. We believe that when voters go to the polls and elect their councilmembers, their mayors, their village board chairs, school board members, members of Metro Community College, whatever that public entity may be, they understand that they are asking them to utilize their best judgment. When it comes to certificates of participation, known as COPs, that's not done in isolation. It's not done just by a mayor. It's not done just by a village chair. That's done following a public hearing, a vote of the council, transparency, everything, as you know, under Chapter 84, Article 14 under the Open Meetings Act requires all of that. And so we just would underscore for you that when folks vote to put in their representatives, just like when they vote to have you do that representing them on the state level, all of this does not go to a vote of the people in terms of everything that you do that does have an impact on the state budget, whether it's income tax, sales tax, and certainly those elements that you have indirectly on property taxation. So I think that's really fundamental. The second issue is to underscore the fact the state

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of Nebraska itself authorize COPs and use that for very targeted purposes, just like municipalities do. It's not a standard practice. It is for targeted, specific purposes. The state did that years ago to finance computer purchasing so that you wouldn't have accumulated cash reserves there that you did over time doing it in a very financially responsible way. So I think it's really important to understand that as the state looks at putting any possible limitations on municipalities, the state itself is involved in COPs and has been in the past for very legitimate reasons. We think that these are among the many important financing tools that municipalities have, and we don't have many. But this really assists municipalities in keeping great interest rates. Don Herz will be testifying following me to discuss some of the important things that Lincoln has done. Other cities use them as well. And again, I just want to underscore the fact that not only does this involve the type of transparency that you require under the Open Meetings Act and the public records law and the many other provisions that municipalities are required to follow, but it also underscores the need for municipalities to keep the bond ratings as high as possible to make it the most cost effective as possible for municipalities to do these projects on behalf of taxpayers. So with that, I'd be happy to respond to any questions that you might have. [LR597]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? Senator Groene. [LR597]

SENATOR GROENE: You tied elected government to bonding. [LR597]

LYNN REX: Yes, sir. [LR597]

SENATOR GROENE: But elected government you're four years, six years, two years terms. Now let me finish. [LR597]

LYNN REX: Okay. [LR597]

SENATOR GROENE: The reason commonsense reality is why we have votes on bonds is because 20, 30, 15 years outlives the life of that person who is elected. In four years, you can vote somebody out; but that legacy of that debt is continued. So there's a reason we vote for

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bonds in this state for long term, is it not, because that debt belongs to the people, not the elected officials? So why would you tie elected government to bonding? [LR597]

LYNN REX: Well, I think it's directly related, Senator, in this way. [LR597]

SENATOR GROENE: Not on a school bond. [LR597]

LYNN REX: I'm not...I can't address school bond issues, sir. [LR597]

SENATOR GROENE: Well, we're talking long-term here. [LR597]

LYNN REX: But with respect to municipality, with respect to municipalities. When you're dealing with bonds, many of them obviously do require votes of the people. Most of them do. But that being said, when you're dealing with COPs and these other instruments, I think it's directly related to representative government in this way. First and foremost, unlike state senators, local elected officials are subject to recall. So if you don't like, as a citizen, what a particular city may be doing or some of your other local governments, they are subjected to recall. And we have municipal officials on not a regular basis but periodically that are subject to recall. And once in a while they are successful if, in fact, it's a legitimate issue. Secondly, those issues themselves in terms of actions by the government, by the city council, by the village board are subject to initiative referendum. If somebody doesn't like them, unlike your actions...and by the way, I am not advocating in any way, shape, or form, just to make this clear, that state senators ought to be subject to recall, not advocating that, but I just want to underscore that local officials are. Secondly, your actions are subject to initiative referendum on a statewide basis, but there are restrictions on that as well. So in any event, I do think that there is a direct relationship. And I understand your point, too, Senator, about the fact that bonds do outlive, in fact, the term of office of many of those that may put them in place in the first instance. But again, those are not done in isolation. Those are done after a series of public hearings. And in many cases, there are seven or eight different public hearings depending upon the type of project that's involved. [LR597]



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SENATOR GROENE: But what's worrisome is that the normal practice of a yearly annual budget payments of buying...replacing fire trucks and maintainers at the county was done in that budget of that elected official. Now it looks to me like they're trying to push it off to expand their budget authority by pushing this debt out from normal practice of replacing equipment into bonding for long term. That is worrisome. [LR597]

LYNN REX: Well, I think that there's some legitimate financial reasons why that's being done. [LR597]

SENATOR GROENE: It's called expand your budget and spend more money, yes, I understand that. [LR597]

LYNN REX: I guess we would see it differently. [LR597]

SENATOR GROENE: I understand that. [LR597]

LYNN REX: I respect your opinion, but we see it differently. [LR597]

SENATOR MURANTE: Okay, Ms. Rex, so I have two questions for you. [LR597]

LYNN REX: Sure. [LR597]

SENATOR MURANTE: One question, really, two-part question. So the question that's before us is should COP bonds exist? And if so, should there be any limits at all? I don't...I haven't really heard anyone advocating the abolition of COP bonds. But I also don't think if you came to me and said that in the future Gretna would have \$10 billion worth of COP bonds, I would say, that can't be allowed to happen. We just can't go...they probably couldn't get that many bonds anyway, but they can't have that much debt for the budget that they have. So should there be any limits at all, I mean, even reasonable limits? Is there any amount too much that you think? [LR597]

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LYNN REX: Well, I think there is a system of checks and balances. And I can assure you I have never met that municipal official in Gretna or anyplace else that decides to run for public office and let's see how we can run up the budget; let's see how we can increase property taxes; let's see how we can tax, tax, tax and spend. I've never met that person. And when you...just like when you have state senators elected into public office, I think each and every one of you come into public office and your decision is to do the best you can for the people that you represent. And I respect that--same way on the local level. They're not going there seeing how they can figure out how to expand their budgets exponentially. I will also tell you, though, there are certain things that occur in terms of state government where you've had to use COP bonds. And I think that that's an important consideration. I also want to underscore for you that the state of Nebraska has relied on the city of Lincoln at least twice of which I'm aware to do a lease purchase for your state buildings, for our state buildings... [LR597]

SENATOR MURANTE: Right. [LR597]

LYNN REX: ...because the state itself didn't do it. The state relied on the city of Lincoln to do that. So there are options and there are reasons why certain financial tools exist. And I would just caution you to be very careful about putting any restrictions on those. I think it's a system of checks and balances, Senator. I think what's reasonable I think that depends on a city-by-city basis. What may be reasonable in Pilger, Nebraska, after they were wiped off the map with a tornado is fundamentally different than whether or not Gretna, Nebraska, wants to expand their mall. [LR597]

SENATOR MURANTE: To me what you just described, the last part of your statement was the fundamental problem that I had with the bill that was before us, which was there was one statewide cap and Springfield, Nebraska, and Omaha Public Schools had the exact same credit limit, if you want to call it that, which didn't make any sense to me. But there are plenty of examples where the state gives financing options or revenue-generating tools to municipalities but says there's only so far you can go with that. That's what a levy lid is; local option sales tax. Sure, you can levy to a certain amount but you can't go past that. [LR597]

LYNN REX: Correct. [LR597]

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SENATOR MURANTE: We say there is a certain point to which the revenue tool should be available to you but after that it's irresponsible to go beyond that and you shouldn't be allowed to do it. So why is it good public policy for us to do that in those instances but not good to set some sort of a limit in this instance? [LR597]

LYNN REX: I think the reason is because there is so much diversity in the state. We have 530 municipalities. And of those, we've got five forms of government, five different classes of cities all under different restrictions, rules, and regulations. I can't speak to schools, counties, and others. But with respect to municipalities, just let me underscore that the needs are fundamentally different. I could see a situation that would occur in a smaller municipality where COPs might be something for their consideration because of their one and only fire truck being involved in an accident and other things happening. That being said, there was a public hearing. Their village board, their city council votes on that. It is not done in isolation. I guess that's my salient point today which is this is not done in isolation. This is not the mayor of Gretna or the mayor of Scottsbluff saying we're just going to issue COPs. Let's see if we can go around the city council. We're just going to issue COPs. No, it's a vote of the city council, vote of the village board following public hearings and following a process in place. That vote is then subject to a referendum process if someone wants to do it. If someone thinks that someone is abusing their office and that they need to be taken out, you've allowed for that under the recall statutes. So there is a system of checks and balances. And I do believe, notwithstanding which side you are on the presidential election that we just had, that there's a system of checks and balances and that that system should be honored and the voters need to be...their opinion needs to be trusted. And that opinion is the opinion when they put people into office in the same way that when you were elected, Senator Craighead, you were elected to use your and exercise your best judgment, not to go back and do town hall meetings each and every day to say, okay, we're just going to do polling to find out how I ought to be voting for my district. If that's the case, then you can take Paul Schumacher's suggestion and Senator Schumacher has said for a longstanding time we can do on-line voting. We ought to be able to do all this electronically and no point even having a legislature or city council. You don't need them. You just simply go out to the polls and decide each and every time what everyone wants to do. And I would suggest to you that's the reason why our Founding Fathers, and mothers behind the scenes, were putting forth representative government. [LR597]

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SENATOR MURANTE: Thank you. Any final questions? Seeing none, thank you very much for your testimony. [LR597]

LYNN REX: Thanks very much for your time. [LR597]

SENATOR MURANTE: Thank you. Welcome. [LR597]

DON HERZ: Thank you. Good morning, Chairman Murante and members of the Government, Military and Veterans Affairs Committee. My name is Don Herz and that's spelled D-o-n H-e-r-z, and I'm the interim finance director for the city of Lincoln. I'm providing testimony on LR597, which is studying financing mechanisms for various political subdivisions of the state of Nebraska. I thank you for this opportunity to testify. I want to begin by noting that here in Lincoln we are fortunate to enjoy a AAA bond rating, the highest rating possible. That is due to a number of factors, including the overall level of the city's debt burden. Because of that AAA rating, the bonds we issue produce the lowest available interest rates. The city utilizes lease purchase agreements and certificates of participation, which is a form of a lease purchase agreement, to finance essential real and personal property. Unlike with general obligation bonds, owners of certificates of participation hold a legal interest in the property purchased until the bond is paid off. Bondholders purchase Lincoln COPs not because they want to exercise their property interests, but because of Lincoln's excellent credit rating. As of the date of our last audit, this type of debt financing, COP financing, represented...and lease purchase financing represented about 8 percent of all of the city's outstanding governmental debt and less than 1 percent of the debt held by our business-type activities. And business-type activities are water, wastewater enterprises, and a few others. During the past several years, the city has lease purchase golf carts for a municipal golf enterprise as well as heavy equipment for our landfill activity. For the most part, the city has utilized COPs to finance the remainder of its lease purchase activities. Again, the benefit of using COPs is the ability to finance the cost of the property at the lowest possible interest rate versus a straight-out lease purchase where you may be paying a taxable rate. The city is able to leverage its AAA bond rating and obtain financing that is not available in any other financing method. I would also note that lease purchase type funding allows municipalities to ensure that the cost of an asset is fairly apportioned to those taxpayers benefiting from the asset over time. I think it's important. This matching concept is in

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my mind an important consideration in municipal debt financing. The city of Lincoln has used COPs for a variety of projects, including the financing of streetlights, fire trucks, automated defibrillators, and sidewalks. Generally, the use of COPs financing is in amounts that are relatively small, amounts for which general obligation debt financing or bond election would simply not be cost effective. I also want to note that to utilize COP financing the city council must first pass a bond ordinance which requires a full public hearing. These ordinances have historically passed with very little opposition from the public despite the considerable attention of this financing tool in recent years. In her testimony, Lynn Rex noted the state also utilizes lease purchase financing in various circumstances. Interestingly, I was at the state when this program was developed to allow the state to finance computer equipment over a period of years without having to accumulate the large cash balances in advance of the equipment purchase. And again, that gets back to this matching concept I previously mentioned. The state's COPs program had a strategic need similar to the financing needs of the city. I would respectfully urge the committee to use caution when considering limitations on the flexibility of local units of government in the methods used to finance their activities. Just as the state of Nebraska has utilized COPs financing for over two decades in a very targeted manner, I am confident that the city of Lincoln will continue to do the same. Political subdivisions that fail to utilize this tool judiciously jeopardize their bond ratings, bond ratings that are often relied on to finance the bulk of an entity's capital improvements. I assure you that in my experience no local elected official or appointed employee wants that to happen on his or her watch. And with that, I want to thank the committee again for this opportunity. And I'm happy to try and answer any questions you may have. [LR597]

SENATOR MURANTE: Thank you very much for coming down again. Are there any questions?  
Senator Groene. [LR597]

SENATOR GROENE: Go ahead, Dave. [LR597]

SENATOR MURANTE: Senator Bloomfield. [LR597]

SENATOR BLOOMFIELD: Just going to follow up a little bit on the question that the Chairman asked Ms. Rex. You said Lincoln is at about 8 percent financing this method now? [LR597]

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DON HERZ: That's correct. [LR597]

SENATOR BLOOMFIELD: Should there be any limit, maybe 10, 15 percent that they can't go above, do you think? [LR597]

DON HERZ: Well, I think, you know, I think Lynn tried to address that. I think what may be reasonable now may be...and you put that in legislation, that may be a limitation, that may be a problem in the future. I think the best... [LR597]

SENATOR BLOOMFIELD: Well, we've seen a 3,000 percent increase in 15 years. [LR597]

DON HERZ: That's for that particular type of financing. There may have been another more costly method prior to that. So it may be, you know, this program that was started back then started slowly. Now I think it has pretty well stabled out. [LR597]

SENATOR BLOOMFIELD: You're of a mind, too, there should be no limit whatsoever. [LR597]

DON HERZ: Generally, yes. I would generally agree with that. [LR597]

SENATOR BLOOMFIELD: Thank you. [LR597]

SENATOR MURANTE: Senator Groene. [LR597]

SENATOR GROENE: That state computer purchase, what was the length of that, the COPs? [LR597]

DON HERZ: I think it was probably in the five to seven years because computer equipment... [LR597]

SENATOR GROENE: What about the golf carts? [LR597]

DON HERZ: Those were relatively short. I believe they were at five years. [LR597]

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SENATOR GROENE: So Pilger probably needed some golf carts too. But anyway, so wouldn't you think--in my business leases run three to seven years--that we limit COPs to a time limit so they do reflect the elected officials' term so we don't get into public infrastructure like sidewalks which should be done through your assessments and other things? Wouldn't that be wise to put a limit on it, the length of the COPs? [LR597]

DON HERZ: No. [LR597]

SENATOR GROENE: Because if you're buying movable... [LR597]

DON HERZ: I think that the limit will depend on the asset that you're buying. I mean typically we have issued certificates that have a life for term less than the life of the asset. So for golf carts, that may be five years; for computer equipment it may be three years. [LR597]

SENATOR GROENE: What's the longest one you've had? [LR597]

DON HERZ: I think we did for some real property 15 years. The bulk of ours are probably ten years for streetlights. But again, I think it's prudent to not...to, if you're thinking of your balance sheet and you put an asset on your books and you put a liability on your books, which are the COPs, you want that liability to disappear or be amortized faster than you're depreciating your asset. And that's typically (inaudible). [LR597]

SENATOR GROENE: So are all the COPs tied to leases? [LR597]

DON HERZ: Pardon? [LR597]

SENATOR GROENE: Are all your COPs tied to leases? [LR597]

DON HERZ: Yes. A COP is a certificate of participation... [LR597]

SENATOR GROENE: Yeah. [LR597]

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DON HERZ: ...which is basically a lease purchase, that is parsed into \$5,000 pieces so that it appears to be (inaudible). [LR597]

SENATOR GROENE: So why do you need to bond it? In the free enterprise world, you sign a contract and you make a lease payment in your annual budget. Is it because the company who makes streetlights probably don't want to repossess them? [LR597]

DON HERZ: No, they don't want to finance them. [LR597]

SENATOR GROENE: But you lease them. [LR597]

DON HERZ: So we're trying to find a way to finance and install that. And in some cases like heavy equipment, maybe Caterpillar will be willing to finance that. But typically those interest rates are higher. [LR597]

SENATOR GROENE: The problem here historically city budgets and good managers did it in their budget. They had a plan that they used it in their yearly budget to upgrade infrastructure with the mill levy authority we give a city. What we're seeing here is that you're trying to go above that and do normal practices within your budget by borrowing money. [LR597]

DON HERZ: I would say that the city of Lincoln's levy is at 33 cents and it's been in that range for many years. And so I don't think that the lease purchasing has impacted that budget at all in the sense that if you wait to purchase an asset, it's going to...it will be more costly. So by following this matching concept that I've indicated, providing the taxpayers the benefit of that while at the same time (inaudible). [LR597]

SENATOR GROENE: According to this Lincoln Journal, you benefited the taxpayers with \$920,000 interest by doing your COPs, but their taxes are paying for now. [LR597]

DON HERZ: And if we waited until we accumulated the cash to buy that asset, that asset would be much more expensive and we'd probably be paying equivalent higher cost for that asset. [LR597]



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SENATOR GROENE: Thank you. [LR597]

SENATOR MURANTE: Thank you, Senator Groene. Senator Larson. [LR597]

SENATOR LARSON: When did you buy those assets that created \$920,000 in interest? [LR597]

DON HERZ: I think that's been over the course of the last 15 years approximately. [LR597]

SENATOR LARSON: Okay. I guess you're making a very broad statement when you say "would have been." Have you done a cost analysis of what those assets were and what they cost at those times and what it would be if you had waited to accumulate that cash? Like, can you definitively say that or are you just guessing at this point? [LR597]

DON HERZ: I think we have done some of that type of analysis. [LR597]

SENATOR LARSON: Do you have that? [LR597]

DON HERZ: I can't say that we do that for every one, but, I mean, a good example are streetlights. If we had not, as a street... [LR597]

SENATOR LARSON: I guess my question was fairly direct. Have you done that? Like, do you have that information? Like, can you definitively say that? Do you have that to offer us? Because, I mean, we can look at the interest and definitively say x. Otherwise it feels like you're just making assumptions because you don't definitively have that. You're just saying, well, we think so. [LR597]

DON HERZ: The analysis that we did was to compare our costs of borrowing with the CPI rate and that's the general. And generally... [LR597]

SENATOR LARSON: So it's an assumption. [LR597]

DON HERZ: It's an assumption (inaudible). [LR597]

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SENATOR LARSON: Thank you. That's all. Thank you. [LR597]

SENATOR MURANTE: Any final questions? Seeing none, thank you very much for your testimony, much appreciated. Additional testimony on LR597. Welcome. [LR597]

KERRY EAGAN: (Exhibit 3) Thank you. Good morning, Senator Murante, members of the Government, Military and Veterans Affairs Committee. Thank you for the opportunity to testify this morning on LR597. My name is Kerry Eagan, spelled K-e-r-r-y E-a-g-a-n. I'm testifying today on behalf of the Lancaster County Board of Commissioners regarding the use of installment contracts to finance the purchase and remodel of real property. I have distributed a copy of our letter which Mr. Hruza referenced. It was in opposition to LB992. As the letter indicates, Lancaster County is responsible for a wide array of public safety functions. We provide housing for the sheriff, county attorney, public defender, a number of state offices as well, the court system, adult and juvenile probation. And we're responsible for maintaining a jail which is filling very rapidly. We just built it a few years ago. We thought it would last 30 years and it is filling at a very rapid rate. To meet these responsibilities, we work cooperatively with the city of Lincoln and the Lincoln-Lancaster County Public Building Commission to develop a master plan for what our building needs are going to be. We're presently operating under a master plan that extends for 25 years. And with regard to financing that, the public building commission has a 1.7 cent levy that they can use for bonded indebtedness. That doesn't nearly cover the cost of what it's going to take to cover this master plan. So we also work with the building commission to do leases and lease-back arrangements which are essentially installment contracts to help pay for the building needs and to meet that master plan. When LB992 was introduced, it proposed a limit of \$25 million on these installment contracts. With our remodeling of the jail, which is primarily going to house expansion of the court system, again, state offices, that would have put us over that. So I guess my only purpose in testifying really is to see that there are unintended consequences with putting limits on this type of financing. And we would certainly urge caution in this regard. I'm not prepared to say that one limit is better than another or there should be no limits, just saying that there can be unintended consequences that could affect a county's ability to meet the public safety needs and to fulfill our mandated responsibilities. These aren't things that we have a choice about. They are mandated by state statute. So be happy to entertain any questions. [LR597]

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SENATOR MURANTE: All right. Thank you for your testimony. Are there any questions?  
[LR597]

SENATOR GROENE: I'll ask one. [LR597]

SENATOR MURANTE: Senator Groene. [LR597]

SENATOR GROENE: Twenty years ago were COPs around? [LR597]

KERRY EAGAN: We've never used COPs as you're talking of the certificates... [LR597]

SENATOR GROENE: But they were legal, right? [LR597]

KERRY EAGAN: Pardon me? [LR597]

SENATOR GROENE: They were legal 20 years ago, right? [LR597]

KERRY EAGAN: That's very possible (inaudible). [LR597]

SENATOR GROENE: So the new generation of administrators are starting to look at this as financing. [LR597]

KERRY EAGAN: That is very possible. The county has not used them and we have no plans to start using them in the future. [LR597]

SENATOR GROENE: And the jail that you're talking about, was that voted on by the public?  
[LR597]

KERRY EAGAN: That was submitted to a vote of the people. It was narrowly defeated. We had to find...that would have been the most advantageous way to finance. It would have been the lowest interest rate. We then worked again with the city of Lincoln Public Building Commission to come up with a system where we could amortize out the cost based on the usage and the users

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of the jail. We scaled back the project and were able to complete it. We were basically looking at additional federal litigation because the jail we had was overcrowded (inaudible). [LR597]

SENATOR GROENE: But then how did you finance it or build it without the vote of the people? [LR597]

KERRY EAGAN: With existing legal authority to with...probably installment contracts would have been used on that too. But instead of issuing... [LR597]

SENATOR GROENE: Was there bonds? [LR597]

KERRY EAGAN: There were no bonds issued on that, no. No. It was a...the amortization was paid for by the usage fees, the city has certain prisoners in the jail which corresponded. And also we levied ahead of time. We called it the jail savings levy so for about a five-year period the county did levy (inaudible). [LR597]

SENATOR GROENE: So there was no bonded indebtedness associated with it at all. [LR597]

KERRY EAGAN: Not on the jail, no. [LR597]

SENATOR GROENE: Thank you. [LR597]

SENATOR MURANTE: Thank you, Senator Groene. Any final questions? Seeing none, thank you very much for your testimony. [LR597]

KERRY EAGAN: Thank you, Senator. [LR597]

SENATOR MURANTE: Any additional testimony on LR597? Jack, welcome back to the Government Committee. [LR597]

JACK CHELOHA: (Exhibit 4) Thank you. Good morning, Chairman Murante and members of the committee. My name is Jack Cheloha, that's spelled J-a-c-k, last name is spelled C-h-e-l-o-h-

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a. I'm the registered lobbyist for the city of Omaha. And I want to thank you for allowing me to testify this morning on LR597. So as not to be repetitive, the city of Omaha is obviously interested in this topic. The city leaders have asked me to testify today. What I'm asking the pages to hand out basically is a section of our city charter. Starting at Section 5.26, it talks about the city's ability to incur indebtedness. The city charter is essentially the city of Omaha's constitution which was rewritten and revised and approved by the voters, the members of the community back in the '50s, 1950s that is. And with that, it's looked at every so often. There's constitutional conventions held and it can be amended once again with a vote of the people down the road. So I just wanted to let you know that. Some other facts to let you know up-front, Omaha has a AA+ bond rating right now, which is helpful in terms of keeping costs down for citizens as we take on indebtedness. The specifics that we're talking about, I wanted to hand this out to you because in our constitution, our city charter it explicitly talks about general obligation bonds, but it also mentions revenue bonds. So not only is it authorized statutorily, but the voters of Omaha approved it and allow for these type of financing structures. Let's see, typically the way Omaha would use revenue bonds, as you've heard from other testifiers, would be those obligations where you have a source of revenue that you could pledge to pay back then. Some examples would be parking garages. A lot of times as Omaha does public/private partnerships with companies that either want to build or locate within Omaha or expand, a lot of times they need parking, specifically if it's downtown, for their employees. And a lot of times as we work together, they look to the city to provide forms of parking. And so with that, we're able to use these lease purchase type bonds on garages because you have a revenue stream back, the monthly parking fee or whatever, to pay for them. So we found those to be helpful there. Likewise, we've utilized them on some equipment purchases for our police and fire departments. Typically, you know, new pumpers or ladders are expensive and so we'll carry those out over a number of years; and we can put within our budget the financing each year to pay back on those. Likewise, Omaha went a number of years where our police cruisers were really run down and beat up. Previous administrations may have, you know, tried to push that expense back a little bit. And so we've done some things where we're able to upgrade our fleet. A lot of those cruisers had 100,000, 200,000-plus miles and they had been repaired numerous times. And so with this type of financing we were able to act and facilitate and get new equipment to our police department a little faster. I think the good points of this is sometimes you have the ability to move a project along a little faster when you use this type of financing as opposed to general

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obligation. If you do do a general obligation bond, which Omaha does utilize, you have to put that out to a vote of the people. And Douglas County Election Commissioner has to pay for the cost of the ballots. Typically when Omaha has an election, you know, it costs us anywhere between \$400,000 and \$500,000 for election. If we would have to go out for a ballot motion on various financings, that would really add to the cost and you would have to factor that in where now the rates are very competitive anyway. All of these projects are approved multiple layers: planning departments, planning boards, the elected officials, the mayor, etcetera. I've talked about the election costs. We've talked generally about giving elected officials the ability to govern and be a representative democracy. And for those reasons, we don't...we think these are valid tools and they're valuable tools; and we'd appreciate you allowing us to continue to (inaudible) that under the best wishes of our citizens. Thank you. [LR597]

SENATOR MURANTE: Thank you. Senator Larson. [LR597]

SENATOR LARSON: When were the cruisers updated? [LR597]

JACK CHELOHA: We've added a number of them in the past four to five years, and now we're kind of on a lease purchase plan where we get so many new ones each year and then we retire the old ones. So it's really been upgraded in the last four to five years. [LR597]

SENATOR LARSON: The last four. Mayor Stothert has done a good job of making sure that those have been upgraded compared to previous administrations. [LR597]

JACK CHELOHA: Absolutely. She's worked on that and with the governing board their approval as well so. [LR597]

SENATOR LARSON: Thank you. [LR597]

JACK CHELOHA: You bet. [LR597]

SENATOR MURANTE: Thank you, Senator Larson. Senator Groene. [LR597]

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SENATOR GROENE: Sir, how many millions or how much do you have in debt with COPs or leases? [LR597]

JACK CHELOHA: I apologize. I don't know that number. I'll have to get that to you. I know on terms of general obligation we're roughly at about \$500 million and... [LR597]

SENATOR GROENE: How much of that was voted on by the people? [LR597]

JACK CHELOHA: Well, out of that amount, that was all voted on by the people. And the levy that's paid accordingly is 19.4 percent or 19.4 cents. [LR597]

SENATOR GROENE: But you don't know how many... [LR597]

JACK CHELOHA: I don't know on the revenue bonds or COP. I'll have to get back to you on that. [LR597]

SENATOR GROENE: On a rotating lease plan, how do you COP that if it just keeps rolling? [LR597]

JACK CHELOHA: Right. [LR597]

SENATOR GROENE: Or is that just a budget item? [LR597]

JACK CHELOHA: But they do come to a finite term and then we either renew it or start again, Senator. So there is a, you know, a... [LR597]

SENATOR GROENE: Well, you said you're replacing...so you do it... [LR597]

JACK CHELOHA: Yeah. A number of times we do it over a period of years, say, like a three-year contract for lease purchase and add 40 new cruisers a year, something like that. [LR597]

SENATOR GROENE: So every year you do another COP as you do 40 new cruisers. [LR597]

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JACK CHELOHA: Well... [LR597]

SENATOR GROENE: Your asset that guarantees the bond... [LR597]

JACK CHELOHA: Right. [LR597]

SENATOR GROENE: ...has to stay static. [LR597]

JACK CHELOHA: Right, right. [LR597]

SENATOR GROENE: So if you're adding more assets, you got to have another bond, right?  
[LR597]

JACK CHELOHA: Not necessarily. I mean, that's a three-year deal and you have the initial bond  
and you're just making your payment in your general fund budget. [LR597]

SENATOR GROENE: So the bond just keeps rolling, too, forever and ever? [LR597]

JACK CHELOHA: No, that's not true. It would have to be approved by both the party selling and  
then the governing body to either renew it or start again. But they do have finite periods, yeah.  
[LR597]

SENATOR GROENE: Thank you. [LR597]

JACK CHELOHA: Um-hum. [LR597]

SENATOR MURANTE: Thank you, Senator. Any final questions? Seeing none, thank you very  
much for coming down today, much appreciated. [LR597]

JACK CHELOHA: Thank you. [LR597]



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SENATOR MURANTE: Any additional testimony on LR597? Seeing none, that will close the hearing on LR597 and we'll proceed to my favorite legislative resolution, the point where we open up the Government Committee to the people of Nebraska for any matters that you'd like to discuss with us. We're all ears on whatever you'd like to discuss. Are there any testifiers who wish to testify on matters pending before the Government, Military and Veterans Affairs Committee? Seeing none, that closes the hearing. And before we close the hearing on the day, this will be the final time that this Government, Military and Veterans Affairs Committee meets as it is currently composed. I especially want to thank Senator Bloomfield, Senator McCoy, who is not with us today, and Senator Garrett. They will not be returning to the Legislature, and we enjoyed working with you and wish you well on your future endeavors. I'm sure we'll see you down here when the helmet law gets debated. [LR597 LR596]

SENATOR BLOOMFIELD: I'm sure you will, and a couple others. [LR596]

SENATOR MURANTE: And a couple others. And thank you, everyone, for working with us over the last two years. It's been a pleasure so thank you, everyone. [LR596]