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Urban Affairs Committee
January 20, 2015

[LB150 LB151 LB152]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, January 20, 2015, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB150, LB151, and LB152. Senators present: Sue Crawford, Chairperson; John McCollister, Vice Chairperson; Laura Ebke; Matt Hansen; and Dan Hughes. Senators absent: Colby Coash and Bob Krist.

SENATOR CRAWFORD: Well, good afternoon, and welcome to Urban Affairs Committee. My name is Senator Sue Crawford and I represent the 45th Legislative District in Bellevue and eastern Sarpy County and I serve as Chair of the Urban Affairs Committee. We will start off having members do self-introductions, starting on my right with Senator Hughes.

SENATOR HUGHES: Dan Hughes, District 44.

SENATOR McCOLLISTER: John McCollister, District 20, central Omaha.

SENATOR HANSEN: Matt Hansen, District 26, northeast Lincoln.

SENATOR EBKE: Laura Ebke, District 32, Jefferson, Saline, Thayer, and Fillmore Counties.

SENATOR CRAWFORD: And Senator Krist is actually testifying on another bill, so he'll be joining us in a few minutes. So, also assisting us, we have the committee pages, Donnie Earl from Lincoln, who is a political science major at UNL and Colin Loberg from Wayne, who is an economics major from UNL. We also have committee counsel--introduce yourself.

TREVOR FITZGERALD: Trevor Fitzgerald, committee legal counsel.

SENATOR CRAWFORD: And committee clerk.

COURTNEY BREITKREUTZ: And I'm Courtney Breitreutz, committee clerk.

SENATOR CRAWFORD: Thank you. This afternoon we will be hearing three bills and we will be taking them in the order listed outside the room. On each of the tables in the back of the room, you will find yellow testifier sheets. If you're planning on testifying today, please fill one out and hand it to Courtney when you come up. This will help us keep an accurate record of the hearing. If you do not wish to testify but would like to record your position on a bill, please fill out the white sheets in the back of the room. We would ask if you have any handouts that you please bring at least ten copies and give them to one of the pages. If you need additional copies, the pages can help you with

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that. So please let them know if you need extra help with copies. Testimony for each bill will begin with the introducer's opening statement. After the opening statement, we will hear from supporters of the bill, and then from those in opposition, followed by those speaking in a neutral capacity. The introducer will then be given the opportunity to make closing statements if they wish to do so. We ask that you begin your testimony by giving us your first and last name and please spell them for the record. We typically have not used the light system in Urban Affairs Committee unless we have a large number of testifiers. And we have decided that's about fifteen, so. (Laugh) When the room is more crowded, we will ask how many people will testify and if we have fifteen people that are expected to testify that day, we will use the light system. If it's less than that, we will not. So in that case, we do ask you to try to keep your testimony to about five minutes, please, to respect the other people who are coming and testifying that day. I would remind everyone, including senators, to please turn off your cell phones or put them on vibrate. And with that, we will begin today's hearing with LB150. Welcome, Trevor Fitzgerald, Mr. Fitzgerald.

TREVOR FITZGERALD: Good afternoon, Chairwoman Crawford and members of the Urban Affairs Committee. For the record, my name is Trevor Fitzgerald, T-r-e-v-o-r F-i-t-z-g-e-r-a-l-d, and I'm introducing LB150 on behalf of the committee. The Local Option Municipal Economic Development Act, commonly referred to as LB840, authorizes municipalities to collect and appropriate local tax dollars for economic development purposes if approved by local voters. Enacted in 1991, the act requires that a municipality develop a local economic development plan which forms the basis of the municipality's LB840 program. As of this past November, 65 municipalities have voted to create an LB840 program, the most recent of which was the city of Bellevue. The purpose of LB150 is to clarify that loans and grants made under an LB840 program are intended specifically to go to qualifying businesses and that such loans and grants may not be made to any political subdivision, state agency, or other governmental entity. Similar legislation was introduced last session by Senator McGill, but failed to advance from committee due to some technical issues and simply running out of time at the end of last session. According to testimony heard by the committee last year, there have been a couple of cases where cities have given out LB840 grants to community colleges or other governmental entities which was not the original intention of the LB840 programs. One change included in LB150 from last year's bill is language that retains the ability of cities of the first class, cities of the second class, and villages, to use LB840 funds for rural natural gas infrastructure development. In 2012, the Legislature passed legislation which allowed municipalities to utilize LB840 funds to assist in the planning, financing, development, acquisition, construction, operation, and maintenance of natural gas pipelines or facilities to supply unserved or underserved areas of the state. While no municipalities have taken advantage of this tool to date, the new language ensures that a municipality could make grants or loans under its LB840 plan to a neighboring municipal utility in order to assist with the development of rural natural gas infrastructure. Representatives with the League of Nebraska Municipalities are here

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to testify behind me, but I would be happy to answer any questions the committee may have at this time. [LB150]

SENATOR CRAWFORD: Thank you. Anyone have any questions you would like to ask? [LB150]

SENATOR McCOLLISTER: I do, Senator. [LB150]

SENATOR CRAWFORD: Senator McCollister. [LB150]

SENATOR McCOLLISTER: Thank you very much, Madam Chair. So, you know, the problem that exists with Norfolk with inadequate gas transmission capability, so with that...would that under this bill, under this statute, would that allow the city of Norfolk to contract for with someone to provide or to build a pipeline? [LB150]

TREVOR FITZGERALD: That is under existing law. Nothing related to that changes with LB150, so. [LB150]

SENATOR McCOLLISTER: Okay. [LB150]

TREVOR FITZGERALD: And the existing statutes that are referenced in the bill were passed as part of LB1115, which was Senator Flood's bill back in 2012, so. [LB150]

SENATOR McCOLLISTER: I see. Thank you. [LB150]

TREVOR FITZGERALD: This language in LB150 simply makes sure that if, for example, multiple municipalities were partnering to fund some type of...whether it's a new pipeline or other natural gas infrastructure, that they'd still be able to do so easily for instance. [LB150]

SENATOR McCOLLISTER: Can they hire a lobbyist to serve the promotion of a particular project? [LB150]

TREVOR FITZGERALD: I'd have to check the statutes. I don't think lobbying is under the list of things that they can do for rural natural gas infrastructure development. [LB150]

SENATOR McCOLLISTER: Okay. Thank you. [LB150]

SENATOR CRAWFORD: Thank you. Other questions? Thank you. We have testifiers in support of LB150? Welcome. [LB150]

GARY KRUMLAND: Thank you. Senator Crawford, members of the committee, my

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name is Gary Krumland. It's G-a-r-y, last name is K-r-u-m-l-a-n-d. I'm here representing the League of Nebraska Municipalities in support of LB150. Just to give you a little background, and Trevor did a good job of that, but just to go a little bit farther back, the Nebraska Constitution and the Nebraska Supreme Court in 1976 said that cities could not give money for economic development to any individual or corporation. So the cities were very limited in what they could do. They could basically just do municipal publicity and advertise the city, but they couldn't make direct loans or grants or incentives. In 1990, there was a constitutional amendment proposed that the voters approved that allowed cities to give grants and loans for economic development purposes if they followed the procedure. And as Trevor mentioned, in 1991 the Legislature adopted the Local Option Municipal Economic Development Act to implement that. And what it requires is that the city council develop a plan, they submit it through public hearings to everybody that develops what kind of projects we can fund, what sources of revenue will be used, and then it's submitted to the voters. And if the voters approve it, then it can be implemented. And so this was all kind of the background. Because it's called the Local Option Municipal Economic Development Act, everybody just refers it as LB840, which is the name of the bill that it was adopted. It's a lot simpler than repeating that long name all the time. And...but because it's giving money to private concerns for economic development, the cities and the standards are very tight. So there's been some questions about some things that happened and LB150 addresses those. The procedure under the act is basically it defines qualifying businesses--in other words, who is eligible to apply for the incentives--and then it has a list of what activities can be used: grants, loans, those sorts of things. And there is confusion about some things, so what LB150 does, first of all, it clarifies the provisions of what is meant by qualifying business. It just makes it very clear. The definition of qualifying business does not include political subdivisions, and so there's been a question of what can a city through this program give grants to a political subdivision for this. And as Trevor mentioned, that was not the intended purpose so it also clarifies that. It does make an exception to make sure that it doesn't...as Senator McCollister was mentioning, it doesn't counteract the bill that was passed a few years ago to allow the development of natural gas infrastructure and makes it clear that that is still the current law. But, generally, it says that local government...other governments are not eligible for these funds. Now under the law, for example, a city can put infrastructure, streets, sewer and stuff, to a new business as part of this, but as just for a grant or loan, they can't do that. On the other hand, if a city wants to work with the county, the school, whatever, you generally through the Interlocal Cooperation Act, can do a lot of that and you don't need to use this mechanism. This is more or less designed for economic development. So with that, we do support the clarification. It will help the cities when they administer the program in the future. Be happy to answer any questions. [LB150]

SENATOR CRAWFORD: Thank you, Mr. Krumland. Are there questions, members? So if you don't mind my asking, so you emphasize the importance of clarifying the intent and what the intent was when the tool was developed. Is there any other reason why it's

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important to municipalities to make sure that this activity is excluded? [LB150]

GARY KRUMLAND: No, I think it...part of it is, there's been questions raised and I think, like I mentioned, when you're dealing with public money for private things, it should be strictly construed. And so this clarifies it. It tells everybody what the standards are and so anybody looking at it now, from now on, will know, yes, this is what the rules are. [LB150]

SENATOR CRAWFORD: All right. Thank you. Other questions? Thank you, Mr. Krumland. Any other people wishing to testify in support of LB150? Anyone wishing to testify in opposition to LB150? Anyone wishing to testify in a neutral capacity for LB150? That officially closes our hearing on LB150. And we did not have any letters to read into the record for LB150, and now, I will officially close the hearing for LB150. So we will now open our hearing for LB151. Welcome, and thank you, Mr. Fitzgerald. [LB150]

TREVOR FITZGERALD: Good afternoon again, Chairwoman Crawford and members of the Urban Affairs Committee. For the record, my name is Trevor Fitzgerald, T-r-e-v-o-r F-i-t-z-g-e-r-a-l-d. I'm introducing LB151 on behalf of the committee. LB151 would create a notification process for code violations on foreclosed properties enabling municipalities to work with banks when a home is foreclosed upon that requires attention for maintenance issues like mowing, tree removal, and other basic cleanups. Under the bill when a foreclosed property is in need of maintenance due to code violations, a city or village can request the name and address of a designated contact person by the bank or trustee to accept notices of ordinance violations; and the bank, trustee, or trustee's attorney must provide that information within five business days. In many cases, banks or trustees are unaware that a foreclosed property may have fallen into disrepair. And while simply foreclosing on a property does not create a duty for the bank or trustee to maintain the property, some banks will do minor maintenance in order to protect their investment in the properties. In cases where the owner of a property cannot be found, providing municipalities with a contact person at the bank or trustee can help prevent further deterioration of the foreclosed property. The concept of providing a designated contact person for foreclosed properties was first brought to the attention of the Urban Affairs Committee in 2011 as part of the committee's interim study on vacant properties. While 2012 legislation aimed at addressing the issue was referenced to the Judiciary Committee, last year this committee heard a bill similar to LB151 that was introduced by Senator Crawford. That bill, LB915, was advanced with a committee amendment on a 5-0 vote with two members absent, but failed to advance from General File due to time constraints. The provisions of the committee amendment from last year are incorporated into LB151. The committee should also have received a copy of AM19, a technical amendment which harmonizes the language applying to mortgage foreclosures and the language applying to trust deed defaults so that the language for both is consistent. Representatives with the League of Nebraska Municipalities, as well as representatives from several cities, are here to testify behind

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me, but I'd be happy to answer any questions the committee may have at this time.
[LB151]

SENATOR CRAWFORD: Thank you, Mr. Fitzgerald. Any questions? Senator McCollister. [LB151]

SENATOR McCOLLISTER: Thank you, Senator Crawford. Are there any disclosure or privacy issues related to this? Who is going to have access to the information, just the city or will outside people requesting information have...be able to get the information?
[LB151]

TREVOR FITZGERALD: My understanding is it will be just the city, but that might be a better question for the League and city representatives behind me, so. [LB151]

SENATOR McCOLLISTER: Fair enough. [LB151]

TREVOR FITZGERALD: I know that the Nebraska Bankers Association worked pretty closely with Senator Crawford's office last year to address any concerns they had with the bill that was introduced last year so, with their privacy concerns from the bankers that they have been addressed at this point. [LB151]

SENATOR McCOLLISTER: Thank you. [LB151]

SENATOR CRAWFORD: Any other members have a question? All right. Thank you. So we will now hear testimony in support of LB151. Welcome. [LB151]

GARY KRUMLAND: Senator Crawford, members of the committee, my name is Gary Krumland, G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities. And for the new senators, there are other people who do testify before the committee, (laughter) although some days it may not seem that way. We do support this bill. It addresses one of the major problems cities face across the state, not just the larger cities, but...and that is vacant properties that have been abandoned and left to deteriorate, weeds grow, causes hazards, nuisances, neighbor complaints, and this is an attempt to at least address one small part of that problem, but it's an important part. This addresses a situation where a house is under foreclosure. Very often the occupier, the person who is being foreclosed upon has left, the house is vacant, and it's very hard for then the city to find out who to work with to try to address some of the problems. A city could give notice in the newspaper and go in and try and correct it. That is very expensive if the property owner isn't involved. And very often if it's under foreclosure, a financial institution, a bank, would have an interest in the property, but very often, as you know, mortgages are sold to other companies and there may not be a local branch. It may be somewhere even outside the state. So what LB151 is intended to do is to give the city an opportunity to talk to the financial institution, get a contact person, so there is

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somebody they can work with to address the problem. The city and the financial institution both have an interest in preserving the property, not letting it deteriorate. And even though, as Trevor mentioned, there may not be a legal obligation, they probably do want to protect their interest and will be willing to work with them. So this would be another tool in the box for a city to deal with a vacant property that is starting to deteriorate and work with the financial institution who does have a mortgage on the property, and generally, once the situation is explained, are willing to work with the city to take care of the problem. So we do support LB151 and it is part of a whole string of bills that have been introduced over the last year to take care of this problem. We think this is an important issue to address. [LB151]

SENATOR CRAWFORD: Thank you, Mr. Krumland. Questions for Mr. Krumland? [LB151]

SENATOR McCOLLISTER: McCollister again. Sorry, Senator. [LB151]

SENATOR CRAWFORD: Senator McCollister. [LB151]

SENATOR McCOLLISTER: Explain to me the mechanics of how you get the information. [LB151]

GARY KRUMLAND: Basically the city will go on and find out which company has a mortgage on record and they will notify the company saying, we would like the name and contact information of somebody we can discuss...talk to about the property and potential violations of the ordinances. [LB151]

SENATOR McCOLLISTER: So that information is readily available who holds the mortgage, correct? [LB151]

GARY KRUMLAND: Yeah. Very often, though, the cities have found you might...the information tool to mortgages are available, but actually finding somebody that can sit down and work with is somewhat of a problem. [LB151]

SENATOR McCOLLISTER: So who has the duty of the financial institution to provide the information? [LB151]

GARY KRUMLAND: It's just the...it's put on the financial institution itself that... [LB151]

SENATOR McCOLLISTER: So every financial institution that has some kind of mortgaged property would be bound and obligated to provide you a contact name? [LB151]

GARY KRUMLAND: If the city asks for it on a particular property. [LB151]

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SENATOR McCOLLISTER: Okay. And who maintains those records? Is that...the city does that or is there...? [LB151]

GARY KRUMLAND: Well, I think the record...or, I mean, by records of who has the mortgage would be with the county register of deeds. [LB151]

SENATOR McCOLLISTER: And he already has that duty. [LB151]

GARY KRUMLAND: Yeah. I mean, if the company has filed a mortgage or deed of trust it would be registered generally with the register of deeds. [LB151]

SENATOR McCOLLISTER: What happens if there's no mortgage on the property and somebody simply owns it? How do you obtain that name on that...? [LB151]

GARY KRUMLAND: You generally go...I mean, you can go to the register of deeds and see who is registered as the property owner there and that's usually how they find the owner if somebody is in violation. [LB151]

SENATOR McCOLLISTER: I see. Thank you, Senator. [LB151]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you, Mr. Krumland. [LB151]

BEN GRAY: Chairwoman Crawford and members of the Urban Affairs Committee, my name is Ben Gray. It's spelled B-e-n, and the last name is G-r-a-y. I live in Omaha, Nebraska, at 5425 Fort Street in Omaha, Nebraska. I am the city council member for the second city council district in the city of Omaha. I'm here today to testify in support of LB151, and I think I can probably better answer some of the questions I think that may be of concern to some of the senators here. Let me start by saying, however, that in my district alone there are over 4,000 empty lots. There are literally over 350, nearly 400 properties that are abandoned and in need of significant repair. In my district it is acute, but it happens all across the state which is why I think this legislation is important. I want to give you an example of how...I want to answer Senator McCollister, one of your questions because I think it may help you understand better what our concerns are because the city spends...the city taxpayers lose nearly tens of thousands of dollars every year as a result of not being able to collect when we go out and do weed and litter abatement. And so we lose considerable amounts of money. Taxpayers lose considerable amounts of money every year and this is an effort, I think, to attempt to get some of those dollars back. I want to give you an example of what occurred just this last year. We had a property near an organization that was newly built. It's called NorthStar. It's a boys' club in the city of Omaha, and near that property were some properties that had been overgrown literally to the extent where there were couches and

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chairs and literally weeds that were taller than I am and that existed. And so we called at the time the person that was listed on the register of deeds, we called that individual, I mean, and then we sent that person a letter. They responded to us that they hadn't owned the property in five years. And so we had to search and find out who it was and then that person finally came back to us and said it was purchased by a lending institution. We had no idea who to call, how to call. The lending institution while it has branches in Omaha, it's not based in Omaha. And so what we're concerned about is trying to collect some of those dollars back that taxpayers lose every year. And so we're...we're supportive of this legislation because we think it will help us save taxpayer dollars first of all, but secondly in conjunction with a number of other things that we have done locally with our nuisance ordinances to tighten those up a little bit, and in addition to that, we got support from this Legislature for land bank legislation that we have introduced and we have passed as an ordinance that has created a land bank. So with that, and this legislation and a couple of other companion pieces that we do locally, we think that we can save taxpayers significant amounts of money. We can put some of these abandoned properties and empty lots back on the rolls with the land bank. And I know we're not talking about that at this point, but what it does as a tool that assists us with the rest of this is allows us to assemble properties for development and enticing developers. So this is another tool as was described by the gentleman from the League of Municipalities, this is another tool in the toolbox that we think will save significant dollars for taxpayers in the long run, but more importantly, get some of these...find out who some of these properties are owned by and eventually, hopefully, get them back on the tax roll. So again, the city council...and I passed out...we hopefully got a resolution that the city council unanimously passed that if some legislation was introduced, we would be supportive of it. We want to see...we want to have the ability to make sure that we're saving as much taxpayer dollars as possible, but just as important that we're putting some of these abandoned properties back on the rolls for taxpayers. You're not going to tax your way out of problems. We're going to build our way out of problems and this is an effort to do that. So with that, I'll answer any questions you all have and thank you for your time and attention. [LB151]

SENATOR CRAWFORD: Thank you, Councilman Gray. Any questions? Senator McCollister. [LB151]

SENATOR McCOLLISTER: Thank you for appearing, Councilman Gray. [LB151]

BEN GRAY: Thank you, Senator. [LB151]

SENATOR McCOLLISTER: Using the example that you used, you used the verb "purchased." [LB151]

BEN GRAY: Yes. [LB151]

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SENATOR McCOLLISTER: Yeah. Was it actually purchased or was it foreclosed on? [LB151]

BEN GRAY: Foreclosed on. [LB151]

SENATOR McCOLLISTER: Okay. [LB151]

BEN GRAY: Foreclosed on. That would be the term. It was foreclosed on. [LB151]

SENATOR McCOLLISTER: So under the statute, the proposed statute, whoever that institution was at the time of transfer, at the time of foreclosure, they would have a duty to inform the city that they are now the title holder. [LB151]

BEN GRAY: That would be our hope, yes. [LB151]

SENATOR McCOLLISTER: Okay. Can you address privacy concerns that...are we going to have people requesting from the city a record of all the landholders or the title holders of properties in certain areas? What's going to prevent that from occurring? [LB151]

BEN GRAY: You know, people have attempted to do that already, Senator, and because if you are following the procedures, you do register with the register of deeds office so that's a public record and so you will have access to that already anyway. And so, anyone can go in and if you have registered your property as you should do, then that record is available already and it's already a public record. So I don't see any privacy issues that should come about as it relates to this legislation specifically. [LB151]

SENATOR McCOLLISTER: But if...it's a rather difficult task to go through the records, the county records and find out every individual title holder. But if you had it all conveniently distributed with a nice Excel spreadsheet, that information would be more readily usable. Do I need to concern myself with that fear? [LB151]

BEN GRAY: I don't think you need to concern yourself with that because I think as long as the register of deeds has the appropriate person that is responsible for that property, that is a public document. And so that public document is available, but I don't think they...I don't think there's any kind of spreadsheet nor do I think that we would have the financial ability to create one that would do all of that. So I don't see that as an issue. [LB151]

SENATOR McCOLLISTER: Okay. Thank you. [LB151]

SENATOR CRAWFORD: Are there other questions? Yes, Senator Hansen. [LB151]

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SENATOR HANSEN: Thank you. My question would be, do you have any numbers of how many vacant properties you're dealing with in the city or...as well as, if you could break that down how many of them are in the state of foreclosure just to give us some idea what the overall impact that this bill would have, at least in the city of Omaha? [LB151]

BEN GRAY: You know, I don't have accurate numbers for that, but I can tell you that specifically in my district the foreclosure rate was extremely high. A lot of people lost property but it wasn't all due to, let's say, people walking away from property or the recession or some of those other catastrophes that could have occurred. Some people are just elderly citizens who pass on, leave their property to children who sometimes don't even live in the city and trying to, you know, get them to administer to the property appropriately is rather difficult to do. As I mentioned earlier, we have over 4,000 empty lots in north Omaha alone. We've got about 7,000 empty lots within the city. We've got easily 350 properties that are in distress or have been abandoned or foreclosed upon, which is a significant barrier for the city because our...our efforts at keeping weeds and litter down is complaint driven. So if there's a complaint, we have an obligation to act on that complaint whether we know who owns the property or not, therein causes our problem as it relates to taxpayer dollars. So, there's significant distress in my district; there's a little less distress but still some in some of the other districts in the city of Omaha. I couldn't give you a specific total on those but I could tell you that it was, especially in my district, significant. [LB151]

SENATOR HANSEN: Thank you, Councilman. [LB151]

BEN GRAY: Sure. [LB151]

SENATOR CRAWFORD: This is Senator Crawford, for the transcriber's sake. (Laugh) I'd like to just clarify for the record on the issue of who would be...what information would be requested. So the bill states that the duty exists if there's a complaint that's put forward. [LB151]

BEN GRAY: Yes. [LB151]

SENATOR CRAWFORD: So is that...and so, would it be your understanding that we would really only be asking for that information in a few instances? This would not be a regular request you would expect the city to make on any foreclosed property. [LB151]

BEN GRAY: I wouldn't expect that it would be...I wouldn't expect that there would be a lot, but, you know, because of what we're talking about here are financial foreclosures. There are foreclosures that happen in other instances and there are other things that occur and we're able to capture who the property owner is. In this particular instance

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where we're talking about foreclosure, there is no duty to really register with the register of deeds letting them know that you own the property. So what we're asking is that they...that the lending institutions provide a name and a phone number so that we can coordinate efforts to address problem properties. Doesn't necessarily mean that...it does mean that we're going to go out and do the work because it's complaint driven and we have to pay...we have to go out and get that done and that's going to cost the city dollars, but in the end I think we're talking about a...we're talking about a fraction of the entire piece. There's some where we know who the landlords are. There's some landlords that probably ought not be landlords quite frankly, but at least we know where most of them are. This is just to require lending institutions to provide a contact so that we can work through the process. [LB151]

SENATOR CRAWFORD: Thank you. I have one other question for you. So you've talked about the tax savings in terms of being able to recoup when the city goes out and does the weed abatement. [LB151]

BEN GRAY: Yes. Yes. [LB151]

SENATOR CRAWFORD: So have you talked to people...the staff at the city who are spending time on phone calls trying to find this information? So do you have a sense there would be savings there as well in terms of staff time that's now spent tracking down, making repeated phone calls trying to find out who to even have that discussion with? [LB151]

BEN GRAY: Well, you know the crews themselves are just...they get a work order sheet and they go out and do what they have to do. So it's not really incumbent upon them to do it, but it is incumbent upon the permits and inspection department to try and find out who owns the property and that's often a difficult task if it is foreclosed upon and the legal owner right now is a lending institution. [LB151]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you, Councilman. Oh, Senator McCollister. [LB151]

SENATOR MCCOLLISTER: One more. I'm sorry. John McCollister. Okay, so at the time of a transfer, foreclosure, let's say, that...they'll have a page in the transfer that goes off to the city. Is that correct, or are...you say it's complaint driven. [LB151]

BEN GRAY: I'm not sure that it does because...Senator, I'm not sure that it does because a lot...like I said before, when we went to the register of deeds office, the register of deeds told us that this particular property that I used as an example was a certain individual. We sent a rather strongly worded letter to that individual because there was a lot of debris. There were weeds real...you know, and found out from that individual that they had not owned the property for five years, that they had been

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foreclosed on and that property was now in the hands of a lending institution and that lending institution did not file with the register of deeds office. [LB151]

SENATOR McCOLLISTER: So if a complaint occurs, if you receive a complaint... [LB151]

BEN GRAY: Yes. [LB151]

SENATOR McCOLLISTER: ...how are you going to know since the sponsoring...since the institution that now owns the property didn't file some kind of notice with you, how are you helped in this bill? [LB151]

BEN GRAY: Well, we're helped in the bill because if we have...if we can...if, like for example, like this individual sent a letter, told us who now owns the property, so we know who the lending institution was. All we're asking now is that that lending institution provide us with a person that we can talk to to work through some issues that may exist on that property. [LB151]

SENATOR McCOLLISTER: Okay. So, just to make sure I understand. [LB151]

BEN GRAY: Yes. [LB151]

SENATOR McCOLLISTER: Okay. You receive a complaint on a particular property. [LB151]

BEN GRAY: Yes. [LB151]

SENATOR McCOLLISTER: So it's owned by XYZ bank. [LB151]

BEN GRAY: Yes. [LB151]

SENATOR McCOLLISTER: So you have a designated person at that bank when you see that they're the owner of that property. [LB151]

BEN GRAY: Yes. [LB151]

SENATOR McCOLLISTER: I understand now. Thank you very much. [LB151]

BEN GRAY: Yes. [LB151]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you, Councilman. [LB151]

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BEN GRAY: Thank you, committee members. Appreciate the time. [LB151]

SENATOR CRAWFORD: Welcome. [LB151]

LYNN REX: Senator Crawford, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities, and just up here for a point of clarification. The bank has no duty under this unless the city makes a request for that information. The bank, obviously, would be making sure with the register of deeds that they filed the fact that they have the appropriate interest, and so once the city finds that out, then they're the ones that activate it by contacting the bank. Otherwise, I mean, the bank doesn't have any duty to contact the city. It's just in the event that the city says, okay, here are problem properties, please tell us the person with whom you'd like us to work. So just as a point of clarification. I'd be happy to respond to any other questions you might have. [LB151]

SENATOR CRAWFORD: Thank you, Ms. Rex. Any other questions? Thank you. [LB151]

LYNN REX: Thank you very much. [LB151]

SENATOR CRAWFORD: (Exhibits 1 and 2) Any other testifiers in support of LB151? Is there anyone here wishing to testify in opposition to LB151? Is there anyone wishing to testify in a neutral capacity on LB151? We do have two letters to read into the record. We have a letter of support from Omaha City Councilman, Garry Gernandt, and we have a neutral letter from the Nebraska Bankers Association. And this ends our hearing on LB151. We will now hold our hearing on LB152. Welcome, Mr. Fitzgerald. [LB151]

TREVOR FITZGERALD: Good afternoon, Chairwoman Crawford. Third time's a charm. (Laugh) Chairwoman Crawford, members of the Urban Affairs Committee, for the record my name is Trevor Fitzgerald, T-r-e-v-o-r F-i-t-z-g-e-r-a-l-d, introducing LB152 on behalf of the committee. LB152 would provide express authorization in statute for municipalities to borrow money from state-chartered or federally chartered banks, savings banks, building and loan associations, and savings and loan associations. While current state statutes allow cities and villages to borrow money by issuing bonds, issuing tax anticipation notes, or by entering into lease purchase agreements, there is no specific authority in law allowing municipalities to borrow directly from banks. Some city attorneys currently believe that cities already have the authority to do so and LB152 would clarify that authority in statute. In recent years, there's been an increase nationwide in direct loans from banks to municipalities and other political subdivisions and public agencies. In many cases, banks will initiate contact with municipalities as the lower interest rates the past few years have made direct loans a less costly alternative to traditional financing. Similar legislation that would have permitted cities of the first class, cities of the second class, and villages to borrow from banks and other financial

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institutions was introduced last session. That bill, LB791, was advanced by the committee on a 6-0 vote with one member absent, but failed to advance from General File due to time constraints. While cities of the metropolitan class and cities of the primary class likely already have the authority to borrow from banks and other financial institutions as part of their home rule charters, LB152 includes both of those classes as well to ensure that all classes of municipality have express authority in statute. One issue that I would bring to the committee's attention is the fact that credit unions are not...I repeat, are not included in the types of financial institutions that municipalities would have the authority to borrow from under LB152. Both state and federal credit union statutes require that in order to obtain a loan from a credit union, you must be a member owning at least one share of credit union stock. Because of the requirement that the borrower own stock, municipalities are constitutionally prohibited from borrowing from credit unions. Article XI, Section 1, of the Nebraska Constitution prohibits local governments from obtaining stock in private corporations or associations. Based off a 1983 Nebraska Supreme Court decision, municipalities also cannot borrow from what are called mutual savings and loan associations, but can borrow from what are known as stock savings and loan associations. Depositors in a stock savings and loan association do not own stock of the association, so municipalities could borrow from that type of savings and loan without running afoul of Article XI, Section 1. However, since most savings and loans went bankrupt during the 1980s and 1990s, I would assume that municipalities taking advantage of the direct borrowing authority would borrow from banks. Representatives with the League of Nebraska Municipalities are here to testify behind me, but I'd be happy to answer any questions the committee may have at this time. [LB152]

SENATOR CRAWFORD: Thank you, Mr. Fitzgerald. Any questions at this time?
Senator McCollister. [LB152]

SENATOR McCOLLISTER: Is there any qualification, the fitness of a particular institution to lend money to a city or municipality? Is that in the sole discretion or authority of the city itself to determine whether they...that institution is capable of handling that loan? [LB152]

TREVOR FITZGERALD: I suppose it would be. I think in a lot of cases, and the League will follow up on this behind me, I think in a lot of cases it's, you know, a local bank within the community, particularly a smaller community, where, you know, the local bank kind of works with everybody in the community so that is kind of why the city would be looking to do that. [LB152]

SENATOR McCOLLISTER: Thank you. [LB152]

SENATOR CRAWFORD: Other questions? Thank you, Mr. Fitzgerald. We will now hear from supporters of LB152. [LB152]

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LYNN REX: Senator Crawford and members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. Today, I'm also authorized to testify in support of this measure by the city of Lincoln, by Bob Hallstrom representing the Nebraska Bankers Association, and by Kurt Yost representing the Independent Bankers Association. Those two gentlemen are across the hall with the bankers, Banking Committee, and so they're unable to be here today but authorized me to indicate that they are in support. I know you do have a letter of support from the Nebraska Bankers Association also, but just so for the record that those individuals are there. Trevor did an outstanding job as always of outlining the purpose of this bill. And I just note for you that you'll note that all of these provisions are the same based on class of cities. And as you may already know, there are five classes of municipalities, five different forms of government. So what we have here are the five classes of cities, classifications of cities are based on population. Section 1 is for metropolitan class, that's only Omaha. Section 2 is for the primary class, that's only Lincoln. Section 3 is for municipalities of the first class, that's population 5,000 and up. And then Section 4, for second-class cities and villages. Second-class cities go typically from 800 to 5,000, and then villages from 100 to 800. There is some leeway in between because the statutes do allow them to retain a certain status in terms of form of government, and so forth, based on population if they go a little bit up and a little bit down. That's why you may note that Fairbury, for example, went from a first-class city down to a city of second class many years ago. We have other municipalities that go elsewhere. So, in any event, we really appreciate the committee advancing this bill, if you'd be kind enough to do so. It is strongly supported by municipalities across the state. The original request came to us from the Mayor of Scottsbluff, Nebraska. And as Trevor already noted, many city attorneys already think municipalities have the express authority to do...or have the authority to do this, an implied authority, but unfortunately we have other attorneys that think we need to have express authority. And Nebraska is a grants of power state, meaning that the Nebraska Supreme Court has interpreted that we, municipalities in this state are only allowed those powers which are expressed, implied, or necessary to effectuate their corporate powers. Translation: We need to have express authority so that everybody clearly understands that they have the authority to do this. And again, Trevor has outlined the rationale for this. It certainly is an issue dealing with cash flow, it's an issue of cost savings, and it's an issue of timing. And those three elements come to play when a municipality may want to look at this. I'd be happy to respond to any questions that you might have. [LB152]

SENATOR CRAWFORD: Thank you, Ms. Rex. Questions? Yes, Senator Ebke. [LB152]

SENATOR EBKE: Thank you. I had a couple of people raise some questions about this with respect to the difference between bonding and traditional borrowing and how those impact each other. The concern was really about who is responsible for reporting to the public, and the kind of accountability that localities might have with the public if they're

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borrowing money. [LB152]

LYNN REX: Senator, that's a great question and what I can tell you is that when a municipality is taking out a loan, when they are borrowing money, all of that is transparent. It is all with a local vote of the governing body. So it's a matter of the minutes, it's a matter of depending upon how it's done within their budget, that is all accountable through their budget that they file with the state. [LB152]

SENATOR EBKE: Would there be limits on what they could use the borrowed funds for, the operating budget, or...? [LB152]

LYNN REX: Yes, if you look for, if you look, for example, and I'm just going to look at the metropolitan class language, it's the same for everything. Matter of fact since you represent Crete, you may want to look at Section 3. So if you look at Section 3 of the bill starting on page 2, line 16, they note that the mayor and council of the city of first class, that would include Crete, indicates the four types of entities from which they can make that loan. And then if you look on line 19, please, it says "for purchase of real or personal property for any purpose for which the city is authorized by law to purchase property or construct improvements." And so, essentially there are a whole set of statutes that fall into place in terms of what municipalities can and cannot do. Obviously, you're talking about for a public purpose. Municipalities can't go out and purchase land for speculative purposes. For example, they're not allowed to do that, so it has to be for a public purpose as defined by statute or by the constitution. [LB152]

SENATOR EBKE: So if Crete, for instance, wanted to build a new library, they could go out and borrow the money from the local bank? [LB152]

LYNN REX: If they're going to build a library, I would be surprised if they didn't go for a bond issue. I would think they would have to do a bond issue. That's a pretty significant expenditure. [LB152]

SENATOR EBKE: Okay. [LB152]

SENATOR CRAWFORD: Ms. Rex, could you lay out what you think would be that line between when a municipality would be borrowing versus when they would go through that formal bond process? [LB152]

LYNN REX: Two things come into play and again there's several things, but certainly the two most important ones in that kind of scenario would be the timing issue, and also how much money you're going to save. Because one of the reasons why people do the short-term loans, and have been doing those, is because it's a cost savings to them as opposed to the expense that you have with the bond. When you issue bonds, you've got bond opinions, you've got all the other expenses that come into play with that. In

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addition, I mean they're going to be using their financial advisors to work with them on those kinds of issues. You'll note in a letter from the city of Lincoln, they talked about a significant expenditure that they used this for with the JPA which is what helped finance the Pinnacle Bank Arena and for them it was a timing issue. So, in the end, it comes down to those issues, but it's all transparent. This is not done...I mean, this is done with public meetings and certainly with the public being aware with published agendas, and so forth. [LB152]

SENATOR CRAWFORD: Thank you. [LB152]

LYNN REX: You're welcome. [LB152]

SENATOR CRAWFORD: Other questions? Yes, Senator Hughes. [LB152]

SENATOR HUGHES: I have a question. Generally when banks loan money they require collateral. Are the cities or villages...I mean, what are they putting up or is this just a good faith effort on the bank's part, or... [LB152]

LYNN REX: Oh, there are very...I'm not an expert in what financial institutions require to do with respect to loans, Senator, but I do know just from talking to those that are, that there are very strict requirements in terms of how and when a bank can loan money. So, certainly, there will be collateral. It will be backed up by GO typically, typically. [LB152]

SENATOR CRAWFORD: Thank you. Other questions? Thank you, Ms. Rex. [LB152]

LYNN REX: Thank you, and again as Trevor noted, this bill was advanced out of committee unanimously with the exception of Senator Lautenbaugh who was not present, so he was absent and not voting, but we certainly appreciate the committee being willing to advance this bill. We hope that you'd be willing to do that sooner than later simply because this is one of those bills that is very important, but would not rise to the caliber of asking someone to prioritize it as a personal priority bill. Inasmuch as you only get one and the committee only gets two, we'd like to see this as a bill that would get through pretty quickly. So we really appreciate all of your assistance. Thank you. Thanks for your time. [LB152]

SENATOR CRAWFORD: Thank you. Is there other testimony in support of LB152? Welcome. [LB152]

JACK CHELOHA: Good afternoon, Senator Crawford and members of the Urban Affairs Committee. My name is Jack Cheloha, first name is spelled J-a-c-k, the last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha. I wanted to testify in support of LB152 today. When the bill was introduced, I sent it to our finance

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department of the city of Omaha. I asked them to take a look at it. Under Omaha...Omaha is a home rule charter and under our charter, I didn't bring a copy today, but it gives general authority to the city to, you know, purchase agreement...or purchase real and personal property, to take on debt. There's restrictions on how much debt we can take on within our charter. Because we're a municipal corporation, all duties and limitations and benefits that come therewith are already included. Nevertheless, in order to be consistent with what we thought we could do anyway under our home rule charter, we thought LB152 was a good idea. It would make it consistent with what authority we thought we had anyway. In terms of whether we would actually utilize this authority, it seemed to our finance department it would be very limited. Omaha, if you will, has the good fortune of having a good cash flow just because of the sheer volume of dollars that come in relating to revenues, and then expenditures that go out. And, therefore, typically, isn't necessary for us to, you know, borrow on a short-term basis. Most of our borrowing is done through the bond market where it's a major, major purchase, whether it's bonding out for parks and recreation or street improvements or sewers, if you will. We have a major undertaking right now with our combined sewer overflow project where we're issuing a number of bonds in Omaha. That's typically how we would borrow our finances, but once again, nevertheless, we thought to be consistent this would be a good law and we'd like to have it on the books. Thank you very much. [LB152]

SENATOR CRAWFORD: Thank you. Questions? Thank you. [LB152]

JACK CHELOHA: Thank you. [LB152]

SENATOR CRAWFORD: Is anyone else wishing to testify in support of LB152? Is there anyone wishing to testify in opposition to LB152? Welcome. [LB152]

MARY JANE TRUEMPER: And I apologize for bringing my laptop with me. Mary Jane Truemper, 5306 Iazard Street in Omaha. And I'm in opposition mainly because of the speed which this is going through committee. I am very active in looking at the city of Omaha politics, the county, and the first I saw of this was when it appeared on the hearing schedule. And I like to think I'm pretty informed. I have some concerns. This seems to bypass the voters. The things about bonds, the bonds are able to go before the voters, voters know what they're on the hook for. When you are borrowing money, you don't know so much. If we say we're not going to go into speculation, I would say that any kind of property purchase is speculative. I would also say the term "public purpose" is a little loosey-goosey for the most part and seems to be getting more so. And so I would like to have that spelled out a little bit clearer. And the backstop for all of this will be the taxpayers, and I don't feel like this bill has seen the light of day long enough in order to get sufficient taxpayer review and discussion. I know I have a lot of questions about what is the limits to the borrowing. I'd like to know what besides, we were talking about, the governing body being able to do a local vote other than electing

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local officials and not electing them the second time around, what other course do we have when they go to borrow money. We have seen lots of cities. I mean, Detroit is the poster child for what not to do. They borrowed plenty of money. And so I just have a lot of concerns. And if it's as Mr. Cheloha said, if there's limited use anyway, so why are we rushing? And I would just urge you to take a little bit of time, let the voters take a look at this a little closer, and see if this is something that the taxpayers really want to be on the hook for. Thank you. [LB152]

SENATOR CRAWFORD: (Exhibits 1 and 2) Thank you. Are there any questions? Is anyone else wishing to testify in opposition of LB152? Is anyone wishing to testify in a neutral capacity of LB152? We do have two letters to read into the record--a letter of support from the City of Lincoln and a letter of support from the Nebraska Bankers Association. So this concludes the hearing on LB152. I thank all of you for being here today. We will close our public hearings. [LB152]