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Business and Labor Committee  
February 28, 2011

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[LB517 LB588 LB593 LB594]

The Committee on Business and Labor met at 1:30 p.m. on Monday, February 28, 2011, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB588, LB517, LB594, and LB593. Senators present: Tanya Cook, Vice Chairperson; Tom Carlson; Burke Harr; Jim Smith; and Norm Wallman. Senators absent: Steve Lathrop, Chairperson; and Brad Ashford.

SENATOR COOK: My name is Tanya Cook and I will be serving in the role as Chair for the meeting this afternoon. As Senator Lathrop and...is Senator Ashford is going to be here as well? Not certain? Oh, yes. Here they are. Hello, gentlemen. I was just introducing the idea that we're going to host a committee meeting this afternoon of the Business and Labor Committee. I'm Tanya Cook and I'm going to start at my right and permit each member today to introduce themselves very quickly.

SENATOR CARLSON: Over here, Tom Carlson, District 38, Holdrege--home of the Lady Dusters.

SENATOR HARR: Burke Harr, Omaha--home of the Benson Bunnies.

SENATOR COOK: (Laugh) I'm Tanya Cook--also Omaha.

SENATOR WALLMAN: Norm Wallman, Beatrice Orangemen and Norris Titans.

SENATOR SMITH: Jim Smith, Papillion, from District 14.

SENATOR COOK: Wonderful. Thank you. All right. Today we're going to...are we going to use the timers today, Madam Clerk? [LB588]

KATE WOLFE: Three minutes.

SENATOR COOK: And we're going to say three minutes because what a lovely sunny afternoon; we're going to use the timer. And we all worked very hard in school, so if you've got written testimony, you might utilize the opportunity to kind of summarize what you've written, because then we will have yours to review in our own time. So we'd appreciate that. And with that, I'll go ahead and ask Senator Nordquist to come on up and offer an introduction to LB588. Senator Nordquist. [LB588]

SENATOR NORDQUIST: Thank you, Senator Cook and members of the committee. My name is Jeremy Nordquist, N-o-r-d-q-u-i-s-t, and I represent District 7 in downtown and south Omaha. LB588 seeks to enhance the protections and safety regulations in the existing Conveyance Safety Act by expanding the act's jurisdiction statewide. Currently, the act only applies to Douglas, Lancaster, and Sarpy Counties--counties with

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populations of 100,000 or more. The Conveyance Safety Act requires that no person shall wire, alter, replace, move, or dismantle an existing conveyance unless such person is a licensed elevator mechanic or working under the general supervision of a licensed elevator mechanic. Elevators and escalators can be extremely complex devices and the consequences of incorrect installation or maintenance can be deadly. The three largest counties in the state have benefitted from the protections of the Conveyance Safety Act and I believe it's time to extend those protections to the rest of the state. The bill also adds additional powers and duties to the Conveyance Committee. It gives the committee, by design, which consists of experts in the elevator industry, and provides them power to adopt and promulgate rules and regs for safety standards and for qualifications for licensure. This is not to say that the Commissioner of Labor has not fulfilled these functions satisfactorily in the past. It only is to recognize the significant expertise of the Conveyance Committee and provide them with more power to regulate the industry of which they are a critical part. LB588 also alters the membership of the Conveyance Committee. Currently, the committee consists of, in addition to other members, consists of one member of the general public from Douglas, Lancaster, and Sarpy Counties. This bill would change it to a member representing an urban interest, suburban, and rural interests. LB588 also adds one representative of the work force of the labor of the elevator industry. There is already substantial nonlabor representation on the committee, and as labor members do 90 percent of the elevator work around the country, it makes sense that they should be represented on the committee. LB588 exempts all private residences from the regulations and protections of the Conveyance Safety Act. In a meeting a few weeks ago that my staff attended with Commissioner Lang raised valid questions about the state's role in regulating private use of conveyances. Although I believe safety is paramount and would be preferable if private use conveyances were upheld to the equally high standards as those used in public settings, this bill does attempt to draw the line between protecting what is private use and protecting and regulating those used in public settings. I appreciate your consideration and I'd be happy to answer any questions you may have. [LB588]

SENATOR COOK: Thank you, Senator. Are there questions from committee members at this time? Seeing none, thank you. [LB588]

SENATOR NORDQUIST: Thank you. [LB588]

SENATOR COOK: We'll take our first witness and offer a gentle reminder to complete the paperwork so that our clerk can record your support or whatever accurately in the record. First person. Please don't be shy. [LB588]

GREGG ROGERS: I didn't know if you were going to ask for proponent or opponent, so I was waiting for that. [LB588]

SENATOR COOK: Oh well, yeah. I apologize. First, we will take supporters or

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proponents of LB588. [LB588]

GREGG ROGERS: Thank you, Madam Chair. My name is Gregg Rogers. I'm a national coordinator for the Elevator Industry Work Preservation Fund, and we're a labor management organization representing the majority of the industry out here. And to keep it short, by expanding the elevator act to include the entire state only makes sense. With the current language, the elevator program that is administered by the state, they have to work under two sets of guidelines. One is for the counties having 100,000 residents or more and one for the remainder of the state. This is burdensome and unnecessary. The citizens of Nebraska who live in counties less than 100,000 should be entitled to the same safety protections as those who live in counties of more than 100,000. By restructuring the Conveyance Advisory Committee to include representations from urban, suburban, and rural interests, the citizens are assured of representation, no matter where they live in Nebraska. In addition, by giving the Conveyance Committee more authority, the state would be recognizing the expertise and knowledge this committee could bring to the table. This becomes important when there are variances or issues that need to be decided by people familiar with the elevator industry. By adding platform lifts and stairway chair lifts back into covered equipment will ensure those who use this type of equipment, whether it be installed and maintained in a school, church, or a nonprofit building, that they are using equipment that has been inspected by the state. When the law changed in 2008, this type of equipment was inadvertently left out of the covered equipment. The users who need this type of a conveyance for mobility purposes have no way of knowing the equipment is not inspected or maintained by qualified persons. The addition of new language would allow and clarify that the license is not required to change light bulbs inside of a car of an elevator or clean the glass and polish the stainless steel, etcetera. This is good legislation and would serve the citizens of Nebraska well. It will establish minimum standards for all who intend to work on conveyances; it will simplify what the Elevator Safety Division is required to do; and most importantly, it will protect the citizens from those who are willing to put profit ahead of safety. Remember: All forms of conveyances are powerful by nature and unforgiving when they malfunction. The voting citizens depend on the expertise of the Legislature to protect it and to establish the laws that provide these protections, and I urge your support for LB588. Thank you. [LB588]

SENATOR COOK: Thank you very much, Mr. Rogers. Are there questions from the committee for Mr. Rogers? Seeing none, thank you very much. Next proponent. Next person in support of LB588 this afternoon. [LB588]

STEVE SIMPSON: Good afternoon. My name is Steve Simpson. I'm the business manager for the International Union of Elevator Constructors Local 28. [LB588]

SENATOR COOK: Could I ask you to spell your last name, Mr. Simpson? [LB588]

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STEVE SIMPSON: Simpson, S-i-m-p-s-o-n. [LB588]

SENATOR COOK: Thank you. [LB588]

STEVE SIMPSON: And I'm the business manager with the Elevator Constructors Local 28. Currently, our...currently, I represent approximately 103 out of 110 licensed elevator mechanics in the state of Nebraska. This is going to expand the revenue for the state as far as this is concerned, slightly. It's not going to increase it tremendously. But it will not cost the state, as everything is in place. What we got is a number of people in the western part of the state who would qualify to have a license right now but they just haven't had a reason to get one. If they would get one, it would be as simple as turning in the proper paperwork and they already qualify according to the standard. I just wanted to point that out to everybody, that everybody...this...we're not expecting people to all of a sudden start hiring out of Omaha or Lincoln to go to the western part of the state. There are people already out there who are qualified to have a license that would be as simple as applying for one and they would get it, so--and plus, turning in the amount of money that has been designated for that license, so. Currently, there are approximately 20 elevator mechanics who work in the state of Nebraska who do not have a license. Every one of them are qualified to get one. Anybody who comes into the state of Nebraska to do extra work, should we get busy and not have the proper manpower and we have to reach out to other parts of the country to come in and work, they would be required to get a license as well to work in the state of Nebraska. And that's all I had. [LB588]

SENATOR COOK: Thank you, Mr. Simpson. Does the committee have any questions for Mr. Simpson? Senator Carlson. [LB588]

SENATOR CARLSON: Thank you, Senator Cook. Mr. Simpson, what's required to be able to get a license to inspect? [LB588]

STEVE SIMPSON: There's a number of requirements or different types of requirements. One of them is to show that you've gone through an apprenticeship program and are qualified to be a licensed elevator mechanic. And what you would get, the apprenticeship program is recognized by the Department of Labor, Bureau of Apprenticeship Training. And so it's a federal program. Once you've gone through that and passed the final exam for that, that's all you need for that, plus I believe it's \$100 to get the license. So you show your proof of that, plus fill out an application--you're done. The other ways are if you don't have that, you have to show that you've got three years' experience in the trade and then the state does require you to have a test that you can take. You pass that test, you qualify, \$100--you get a license and you move on. So there are continuing education requirements, but the continuing education requirements that are on there are provided through a number of resources. The resources are available to both people who represent union labor and nonunion labor. [LB588]

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SENATOR CARLSON: Okay. Thank you. [LB588]

SENATOR COOK: Any other questions from the committee for Mr. Simpson? Seeing none, thank you very much. [LB588]

STEVE SIMPSON: Thank you. [LB588]

SENATOR COOK: Next testifier in support of LB588? Okay. I see none. Are there testifiers in opposition to LB588? Okay. And Madam Commissioner. [LB588]

CATHERINE LANG: Thank you very much, Chairwoman Cook. Chairwoman Cook and members of the Business and Labor Committee, my name is Catherine Lang, C-a-t-h-e-r-i-n-e L-a-n-g, and I'm the Commissioner of Labor for the state of Nebraska. I appear before you today in opposition to LB588. LB588 proposes to modify the Conveyance Safety Act by slightly increasing the conveyances that are required to be inspected by the Nebraska Department of Labor, expanding the licensing of conveyer mechanics to all 93 counties, and significantly increasing the duties and powers of the Conveyance Advisory Committee. It is the changes to the committee that the department most opposes. Currently, the Conveyance Advisory Committee provides advice and counsel to the Commissioner of Labor regarding rules and regulations for conveyances, qualifications for licensure of mechanics, and exceptions and variances from state standards, as well as establishing the fee structure for the inspections. LB588 would remove the advisory nature of the committee. The committee would: promulgate the rules and regulations of the Conveyance Safety Act for purposes of the standards of safety and the qualifications for licensure of contractors and mechanics; grant exceptions or variances from the state standards; establish a schedule of fees for licenses, permits, and certificates; and recommend legislative changes to the act. The department opposes the establishment of an independent committee within the Department of Labor that is not under the authority of the Commissioner of Labor. If it is the desire of the Legislature to create a committee with such independence, I would respectfully request that the committee be established as an independent commission. Also I have provided an analysis of the maximum revenues that will be generated under LB588. This was used to help develop the fiscal note that the Legislative Fiscal Office provided on this bill. That concludes my testimony and I would be happy to answer any questions. [LB588]

SENATOR COOK: Thank you, Madam Commissioner. Are there questions from the membership? Senator Carlson. [LB588]

SENATOR CARLSON: Thank you, Senator Cook. So, Commissioner Lang, would you go into the fiscal note in a little more detail and explain how that is an additional revenue? [LB588]

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CATHERINE LANG: Yes, I would be happy to do that. For purposes of providing the fiscal note for all of the bills related to the elevator inspection process, we developed what we referred to as a maximum revenue analysis. If you were to look at historic trends of the revenues that have come from this program, you could see changes as a result of statutory or regulatory changes. You could also see changes regarding work load: Were all the inspections being done in any particular year? Because of those variances, we felt that the only clear way to describe the difference between any of the bills today was to do an analysis that showed the maximum revenue that could be generated under current law as it is currently written and then each and every one of the bills that are before you today, whether that's LB517, LB588, or LB594 regarding conveyances. And what we show for LB588, because it didn't do anything to statutorily set any of the fees, we used the current fee structure. It does expand by 291 the units that would be inspected. That's the vertical wheelchair lifts that were mentioned in the introduction. That would generate about an additional \$29,100, as well as there would be a slight increase in the first year and an even slighter increase in the second year of the new licensed...or I should say the mechanic licensing. And we believe that it could add as many as 25 new mechanic licenses. So in the first year that would be \$2,500, and then each subsequent year after that it would be approximately \$1,250. So, total, our revenue change was indicated to be an increase in revenue of \$31,000. [LB588]

SENATOR CARLSON: So you aren't opposed to a revenue increase. You're just...you're opposed to the makeup of the committee and how that would function. [LB588]

CATHERINE LANG: Our opposition is regarding the committee structure, in particular, and the independence that it would have underneath the authority of the Commissioner of Labor. However, we would not support an expansion of this program in any way. [LB588]

SENATOR CARLSON: Thank you. [LB588]

CATHERINE LANG: Yes. Thank you. [LB588]

SENATOR COOK: All right. Are there other questions for the Commissioner? Seeing none, thank you very much. Anyone else in opposition to LB588 this afternoon? [LB588]

BOB SACKETT: Hi. I'm Bob Sackett, S-a-c-k-e-t-t. I sit on the elevator safety committee and I also have a small company that specializes in accessibility products: wheelchair lifts, stairway lifts, home elevators. To give you an example, we do the stuff that they're talking about in churches. And I think those things definitely need inspection. What concerns me about LB588 is the education requirements to license people and the requirements. As a small businessman, I feel like I should be entitled to set up my own

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educational system for my employees. Right now, it's very difficult because everything is driven by the industry. And for me, I have to either join the union to become part of their program. There's not a lot of programs out there that I can join or get into, and I've been at several meetings and people have told me: Yes, Mr. Sackett, we'll get you the names of those people and those organizations. I have never gotten a fax or any e-mails about any organization. I've been to the national elevator show and talked to the people. And the only way I could be is to set up a program as an accessibility dealer, and they won't contemplate letting me have an elevator technician license because of, even though I've been in the trades for 25 years, I've been putting elevators in and whatnot, the time has past for any grandfathering there. So I like the educational process or the licensing reviewed. I would, if I had my way, companies would have to have a license, and how they deal with their employees and train their employees should be left up to them. And that's what I say. And one more thing about revenue. To give you an example, Iowa and Nebraska...Iowa charges \$350 to inspect a unit; we currently charge \$300...or \$100, excuse me. This is a fee that is directly to the user. I'm sorry. And it's not a tax on everybody else so that the department could be self-supporting. Thank you. [LB588]

SENATOR COOK: Okay. Thank you, Mr. Sackett. Are there questions... [LB588]

BOB SACKETT: I'm sorry. [LB588]

SENATOR COOK: ...before he leaves the hot seat? None. Thank you very much for completing the form. Is there anyone else in opposition to LB588? Any testimony in a neutral capacity? Come on down, sir. And just while the gentleman is coming up as a gentle reminder: the yellow light means one more minute to wrap up your comments. Thank you, sir. [LB588]

JIM CUNNINGHAM: Senator Cook and members of the committee, good afternoon. My name is Jim Cunningham, C-u-n-n-i-n-g-h-a-m. I'm the executive director of the Nebraska Catholic Conference representing the mutual interests and concerns of the Archdiocese of Omaha, the Dioceses of Lincoln and Grand Island. To whatever extent I have a comfort zone, I am outside of that comfort zone right now. But I have a very technical, specific issue I'd like to bring to your attention and ask for your consideration. On page 6 and continuing on page 7, this subsection (2) that you find there, I'd like to ask you to just do a little cleanup of the wording of that section. My affinity for elevator issues goes back a number of years when we had the controversial situation where the Department of Labor lowered the boom on small rural churches, which were in some instances using chair lifts because they couldn't afford regular elevators and some of you might remember that. But to the extent that that was resolved, this particular idea of the possibility of a variance or an exception was part of the compromise that was worked out on that. And I just find the wording there to be a little awkward. I would like to recommend that on line 23, after the word "ordinances," if you would consider inserting the words "in individual situations." That is consistent with what is in current

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law. And then if you would consider instead of saying "if such variances," which is a plural term, even though the first part of that sentence says "an exception or variance," if you would consider making that "if the exception or variance," or even "if such exception or variance will not jeopardize," to keep it within the realm of a specific situation. And then continuing up on the top of page 7, consistent with that approach, I believe that then it would say: after "an" application for an exception is received, rather than "the" application, just to make the wording a little easier to understand and a little more consistent. I would also note that under the current law there is authority for rules and regulations governing the process of applying for a variance. I don't see that carried over into this bill. Maybe it's not necessary as long as it's clear that an application can be filed. That would be the extent of my testimony. Thank you. [LB588]

SENATOR COOK: Thank you, Mr. Cunningham. Are there questions from the committee members for Mr. Cunningham? Senator Carlson. [LB588]

SENATOR CARLSON: Thank you, Senator Cook. Jim, I would imagine you're a little bit more concerned with overall safety and maybe cost... [LB588]

JIM CUNNINGHAM: Sure. [LB588]

SENATOR CARLSON: ...as to what one of these bills might bring. Would that be a fair statement? [LB588]

JIM CUNNINGHAM: It would be. Sure. Absolutely. [LB588]

SENATOR CARLSON: Okay. [LB588]

JIM CUNNINGHAM: I...and to that extent, I know very little about the scope and nature of these bills other than this particular section that I discovered when I read the bill. [LB588]

SENATOR CARLSON: Okay. Thank you. [LB588]

SENATOR COOK: Thank you. Senator Wallman. [LB588]

SENATOR WALLMAN: Thank you, Chairman Cook. Yeah, Jim, thanks for coming. And in all your years, have you ever heard of an accident in a porch lift or a chair lift, in a wheelchair lift in a church? [LB588]

JIM CUNNINGHAM: Have not. Never. [LB588]

SENATOR WALLMAN: Thank you. [LB588]

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SENATOR COOK: Thank you. [LB588]

JIM CUNNINGHAM: Thank you. [LB588]

SENATOR COOK: Thank you for your time. Any other testimony in a neutral capacity for LB588? Seeing none, that will close the hearing on...oh, I'm sorry. I apologize, Senator Nordquist. I'm not...I would never want to rush you or... [LB588]

SENATOR NORDQUIST: You have probably heard enough from me already, but... [LB588]

SENATOR COOK: ...have you miss your opportunity to close. Thank you. Senator Nordquist. [LB588]

SENATOR NORDQUIST: Yeah. Thank you again, members of the committee, for having this hearing today. I just want to comment on a couple of things as far as the changes to the committee. Certainly willing to work with you on that. I just want to...the purpose is really to maximize the utilization and the expertise of the members of that committee. They really are the frontline folks and they know what's going on with the system. The underlying purpose of the bill, originally, when it was applied to the three largest counties and now to expand it statewide, is to make sure that, you know, folks like me can't hold myself up to be an elevator mechanic and go out and alter and install elevators. We know that that could have devastating consequences. And just this last year in North Platte there was an incident, a very tragic incident when someone lost their life. This bill wouldn't have necessarily taken care of that. It was in a...it was illegally installed in a building that kind of blurred the line between private residence and business, but it certainly highlights the devastating consequences that can happen when these systems are not installed correctly. Thank you. [LB588]

SENATOR COOK: Thank you. Any questions for the senator before we close? [LB588]

SENATOR NORDQUIST: Thanks. [LB588]

SENATOR COOK: Seeing none, thank you very much, and that will close the hearing on LB588 this afternoon. And we welcome Senator Christensen to introduce LB517 this afternoon before the committee. Thank you. [LB588]

SENATOR CHRISTENSEN: Thank you, Madam Chairman, members of the board of Business and Labor Committee. I'm Senator Mark Christensen, C-h-r-i-s-t-e-n-s-e-n. I represent the 44th Legislative District. LB517 would repeal the Conveyance Safety Act and adopt the Elevator Inspection Act. LB517 would repeal the changes made in LB489 from 2005 when it passed in 2006. It would take us back to the elevator inspection regulations in place before LB489, in 2005, was enacted. This bill was brought to me by

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Jim Pappas representing the League of Human Dignity. My reason for introducing it was to understand...my understanding is another bill was going to be introduced to include rural Nebraska in the Conveyance Safety Act this session that you've just heard. I have a frustration with the continued efforts to try to strap rural Nebraskans with another disadvantage in regards to elevator inspections, specifically with additional costs and inconvenience under LB588 as I understand them. After I introduced LB517, the League of Human Dignity became aware of LB594 introduced by Senator Carlson. The League of Human Dignity can support LB594 so I will lend my support to LB594 unless the committee would decide otherwise to use LB517. I will defer to Jim Pappas, who is representing the League of Human Dignity, for specific questions that the committee may have regarding LB517, but I'd be glad to try and answer any of your questions, and thank you for your time and consideration. [LB517]

SENATOR COOK: Thank you, Senator Christensen. Are there questions from the committee for the senator? Senator Carlson. [LB517]

SENATOR CARLSON: Thank you, Senator Cook. Senator Christensen, I thought we were going to be opponents here, so thank you. (Laughter) [LB517]

SENATOR CHRISTENSEN: Oh, no. (Laugh) [LB517]

SENATOR COOK: All right, good. Okay, thank you very much. The first proponent for LB517, Mr. Pappas. [LB517]

JIM PAPPAS: (Exhibit 1) Chairman Cook, committee members, my name is Jim Pappas, P-a-p-p-a-s. I represent the League of Human Dignity, which is centrally officed in Lincoln here, with offices throughout the state of Nebraska. We've been involved in this elevator legislation for the last five or six years. This handout here, if I can get (inaudible), will answer a lot of questions you'll have over the original scope of the elevator bill that was introduced in 2005 that was eventually amended. It explains some of the hardships that would be brought on if it was expanded to western Nebraska throughout the state. It was requested in 2005 by Senator Kremer to Workforce Development. There was a different commissioner then but I'm quite sure the present commissioner would probably add to a long list of things that it would create hardships for western Nebraska if the original bill was enacted. Our problem was, is continuously the original bill in 2005 included stair lifts, which the League is very interested in. It was amended out when a compromise was reached to just have the three counties. Three years ago another bill was introduced that had us included again, which we objected to at the hearing, which eventually the bill came out of committee with us exempted out. Finally, our people I represent said: you know, enough is enough; you know, this is every other year they're going to try to throw us back in, so let's go for the repeal. Since our bill was introduced, as the senator alluded to, we found out that the Department of Workforce Development was coming out with their bill, LB594, and we decided we'd like

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to endorse that because we feel that it streamlines government. It is going to make it more efficient, more responsible, takes us out and possibly will do away with these elevator wars--wars, if you want to call it that--in the future. And because as I talked to many of you senators, elevators is not one thing you hear too much from your constituents about. I'll put a little footnote in on the incident at North Platte. It was a homemade elevator and I think that I could expound on it when I'm done. But there were three made by a local contractor. The one didn't have the proper safety designs in it to prevent something like this. But also there is nothing in past or present law that would have prevented this from happening again. [LB517]

SENATOR COOK: Thank you, Mr. Pappas. Questions for Mr. Pappas? Seeing... [LB517]

JIM PAPPAS: That's the way I like to see it. [LB517]

SENATOR COOK: (Laugh) Seeing none, thank you very much for your testimony. Next testifier in support of LB517 this afternoon. All right. Testimony in opposition to LB517. [LB517]

GREGG ROGERS: I have already handed in a sheet. My name is Gregg Rogers again. [LB517]

SENATOR COOK: All right. Yes. Could you spell it just for the record? [LB517]

GREGG ROGERS: G-r-e-g-g R-o-g-e-r-s. [LB517]

SENATOR COOK: Thank you. [LB517]

GREGG ROGERS: I flatly am opposed to LB517 in the fact that it just takes us back to where we started years ago. It would...you wouldn't know who is working on equipment today if this passes. It would eliminate any licensing. It would just be a step backwards. The codes have changed. The technology of the equipment has changed. And it's just a bad piece of legislation in my personal opinion. [LB517]

SENATOR COOK: Thank you very much, Mr. Rogers. Does the committee have any questions for Mr. Rogers? Seeing none, thank you very much for your testimony. Any additional testimony in opposition to LB517? Any testimony in a neutral capacity for LB517? Seeing none, Senator Christensen waives closing. And that will close the hearing on LB517 this afternoon. Thank you very much. And Senator Carlson is recognized to open on the aforementioned LB594. [LB517]

SENATOR CARLSON: Senator Cook and members of the Business and Labor Committee, I am Tom Carlson, State Senator, District 38. Carlson is C-a-r-l-s-o-n, here

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to introduce LB594. This bill is one of two I'm bringing for the Department of Labor which would shift responsibility for obtaining inspections of elevators and amusement rides to the owner of such conveyances and rides rather than the state of Nebraska. It may be interesting to know that what some of the states around us are doing. And on elevators, Colorado has no state inspection. Wyoming has no state inspection. South Dakota, no state inspection. Iowa has a current program much like Nebraska's. Missouri has private inspection required by the state. And Kansas has no state inspection. On amusement rides, Colorado has an inspection annually by the agency; daily by the operator. Wyoming has no requirements. South Dakota: notification of itinerary--and I'm not sure what that means. Iowa, by the agency prior to the first use. Missouri, by a qualified inspection prior to the first use. And Kansas has no requirements. And I think that the committee realizes these bills are coming as a result of a response to the process in LR542 and the budget position that we are in. And so it's a request to, in some cases, to make government smaller; in some cases, to save some expenditures. And I think that in these times we're forced to consider things that maybe other times we wouldn't. But there are fiscal concerns with the inspections the way they are now conducted. LB594 would bring some decrease in revenues in line with decrease in expenditures. The commissioner will explain the situation in more detail. Thank you for your attention. I would try to answer any questions you might have. [LB594]

SENATOR COOK: Thank you. Are there questions for the senator? Senator Smith. [LB594]

SENATOR SMITH: Thank you, Senator Cook. Senator Carlson, what is the cost to the private owner? What would that be, do you think, relative to the cost had it been through public? [LB594]

SENATOR CARLSON: That's a good question and it sounds like one that Commissioner Lang would answer a lot better than me. [LB594]

SENATOR SMITH: Okay. Thanks. [LB594]

SENATOR CARLSON: Okay. [LB594]

SENATOR COOK: Any other questions for Senator Carlson? Seeing none, thank you. [LB594]

SENATOR CARLSON: Thank you. [LB594]

SENATOR COOK: Madam Commissioner. I'm assuming you might be the first testifier in support, testifying in support of LB594. [LB594]

CATHERINE LANG: Yes, ma'am. Thank you. Chairperson Cook and members of the

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Business and Labor Committee, my name is Catherine Lang, C-a-t-h-e-r-i-n-e, Lang, L-a-n-g, and I'm the Commissioner of Labor for the state of Nebraska. I appear before you today in support of LB594. I want to thank Senator Carlson for introducing this bill on behalf of the Department of Labor. I'm going to read a statement that is applicable both to LB594 and LB593 and it will not need to be repeated when I testify on LB593. The purpose and intent behind LB593 and LB594 is similar. The Department of Labor has analyzed the scope of the inspection authority it has with respect to boilers, conveyances, and amusement rides. We have determined that there is a blurring of our duties and responsibilities as it relates to units if owned by the state and its governmental subdivision and units if privately owned and within the private ownership if the unit is used for a public or private purpose. Additionally, our efforts have also brought to light the allocation of the Program 194 cash fund appropriation among three distinct and segregated programs within the department and three distinct separate cash funds: the Mechanical Safety Fund, which is the conveyance and amusement ride fund; the Boiler Safety Fund, which is related only to boilers; and the Contractor Registration Fund, which is currently being used for enforcement of the Contractor Registration Act and the Employee Classification Act. Lastly, the department, in increasing its financial transparency, wants to assure that there is a clear delineation of duties and responsibilities with a cash flow appropriate to sustain the duties. LB594 proposes to modify the Conveyance Safety Act by slightly decreasing the conveyances that are required to be inspected by the department and repealing the requirement of state inspection of amusement rides. LB594 specifically allows the Commissioner of Labor to enter into a contract for the inspection of conveyances. These modifications will allow the department to focus inspection efforts on public conveyances; assure the safe operation of private amusement rides but not to do the initial set-up inspection; and lastly, to allow the department some flexibility in assuring that all conveyances are timely inspected each and every year as required by law. It is the position of the department that the decrease to the revenues of \$42,980 will be offset by a decrease in expenditures. Additionally, there will not be an increase to the total amount of revenue generated by the inspection process. However, I do want the committee to be on notice that there must be a balancing of inspection fees and certificate fees to assure that private ownership of conveyances does not bear an unfair burden of the cost of the inspection program. Again, we provided a maximum revenue analysis of LB594 as that is compared to the current law, and that's where these numbers come from. The department is recommending a sunset of this program on January 1, 2013, for the following two reasons. (1) The program is currently running at a deficit and there is a backlog of inspections. The department needs to fully understand the need to get all of its inspections done each year within the current staffing levels and within the current fee structure established by regulation; otherwise, we would need to hire more inspectors and increase the charges for inspections substantially--something you and the Governor are not willing to do. If the program cannot achieve its intended scope within the parameters of existing resources, then the preferred option by the department is that the program should be eliminated rather than to increase the fees. If the program

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cannot be fixed, then we would need to--if the program can be fixed, excuse me. If the program can be fixed, we will come to you next year with potential additional changes, including the removal of the expiration. And (2)... [LB594]

SENATOR COOK: And (2)...thank you. Two--I'm very curious to hear what (2) is. [LB594]

CATHERINE LANG: I'll go ahead. (2) If we truly are looking to shrink the size of government, termination is an option that needs to be considered, particularly when four of the six adjoining states do not run elevator inspection programs. I do want to offer one potential amendment. It would be on page 12, line 9. In the meeting that we had with the conveyance safety committee, it was brought to our attention that the word "private residence" might not be very clear. We would recommend the use of the word "single family" in that situation. That concludes my testimony and I'd be happy to answer any questions. [LB594]

SENATOR COOK: All right. Thank you, Madam Commissioner. Are there any questions from the committee members? Thank you, Senator Smith. [LB594]

SENATOR SMITH: Thank you, Senator Cook. Commissioner Lang, how much does it cost currently if the elevator inspection is provided by the state? [LB594]

CATHERINE LANG: On average, it is approximately \$100 per elevator. But that fee does increase if it is greater than five floors. [LB594]

SENATOR SMITH: Do you have a sense as to whether that is a fully allocated cost in terms of are you really recovering your cost of providing that person to do that service and all the training that they require, or do you think that that cost would be higher if it were provided by the owner, that the owner had to go out and find that person? [LB594]

CATHERINE LANG: It is our understanding in discussing the fee structure with entities that do perform private inspections of elevators that they have indicated that our fee structure is a reasonable amount to do an inspection, indicating to us that we do not have any information available to us indicating that a private inspection would be substantially greater. [LB594]

SENATOR SMITH: All right. Thank you. [LB594]

CATHERINE LANG: Thank you. [LB594]

SENATOR COOK: Any more questions for the commissioner? Seeing none, thank you very much. Next testifier in support of LB594 this afternoon. Anyone here to testify in opposition to LB594? Anyone in a neutral capacity? Oh, seeing several. All right, there's

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kind of a footrace to the microphone. [LB594]

RANDY JOHNSON: I was in opposition. [LB594]

SENATOR COOK: Oh, you're opposed. All right. Well, thank you very much. Please state your name and spell it for the committee. [LB594]

RANDY JOHNSON: My name is Randy Johnson, R-a-n-d-y J-o-h-n-s-o-n. I am here on personal time and my remarks do not necessarily represent an official position of the Nebraska Department of Labor where I am employed. I'm here to speak in opposition to LB594. The current program is self-funded by certificate fees and license fees, but it is regulated by a budget. So in January of 2009, the Legislature passed a bill that allowed surplus funds to be reallocated into the General Fund. At that time we had a surplus; after that time, we had no surplus. Also in January all budgets were cut. So the elevator budget was cut although revenue was still coming in from certificates and licenses. With a cut budget, we naturally went into the red and two positions were eliminated as inspectors in August, and one position for--well, actually at the end of September--and one position for a staff assistant. Inspectors are a revenue generating position. We do inspections, and of course, when we do the inspection, that's when they get their bill for their certificate fee. If you eliminate inspectors, there's no way you can get the inspections all done, and you're going to reduce your revenue coming in. And so that's basically why we're about 600 elevators or so behind now as of December of this year. So the cost of businesses and other organizations, if you adopt this bill, while some people say they don't know how much private inspections cost, as inspectors we know a lot of inspectors nationwide. The average cost for a small elevator, 2-3 landings, is \$600 for a private inspection. That will be an additional charge over what the state will charge for their certificate fees. So that's going to be a significant burden on the small businessmen, and a lot of small businessmen aren't going to be really happy when they find this out. So again we talked about, earlier we talked about that October 12 death in North Platte. The Department of Labor responded as to: what was our exposure on this? When they were informed it was homemade and illegal, the response was: good; there wasn't any liability. Currently, the program is managed by William Witt. He's been in the industry since 1958. He's got 30 years affiliated with ASME, the code committees, and he's the reason why this program in the state of Nebraska is considered one of the best in the country. This bill will eliminate that. The Department of Labor is not a safety agency. It is more concerned with revenue than safety. Thank you very much. [LB594]

SENATOR COOK: Thank you for your testimony, Mr. Johnson. Are there questions from committee members? Senator Smith. [LB594]

SENATOR SMITH: Thank you, Senator Cook. Mr. Johnson, what is roughly the average, off the top of your head, average amount of time to do an inspection? [LB594]

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RANDY JOHNSON: Travel time and everything, if the elevator is 2-3 floors, you're looking at about an hour. [LB594]

SENATOR SMITH: About an hour. [LB594]

RANDY JOHNSON: And if it's, you know, a high-rise building, it will take considerably longer because there's a lot more things to look at. [LB594]

SENATOR SMITH: And do you have any idea roughly how many inspections would the average inspector do in a day or a week or a month, whatever? [LB594]

RANDY JOHNSON: On average, between 6 and 8 per inspector. [LB594]

SENATOR SMITH: Per...is that a day? [LB594]

RANDY JOHNSON: Per day. [LB594]

SENATOR SMITH: Okay. All right. And you're fully packed with inspections. [LB594]

RANDY JOHNSON: I have plenty of work. [LB594]

SENATOR SMITH: All right. [LB594]

RANDY JOHNSON: I'm the only inspector for Omaha except for the program manager, so. [LB594]

SENATOR SMITH: Okay. Thank you very much. [LB594]

SENATOR COOK: Thank you, Senator Smith. Any other questions from committee members? Seeing none, appreciate it. [LB594]

RANDY JOHNSON: Thank you. [LB594]

SENATOR COOK: I saw two people pop up but I think that's after I said neutral. Are we testifying in a neutral capacity? Thank you. [LB594]

JIM CUNNINGHAM: Senator Cook and members of the committee, I'm Jim Cunningham, C-u-n-n-i-n-g-h-a-m, executive director of the Nebraska Catholic Conference. It is highly unusual for me to ever testify twice in one day in front of the Business and Labor Committee, but I'm pleased to be here. Again, my focus is very narrow on this bill and I may be sticking my finger into water that I'm not comfortable with, but I'm doing that because I read the bill. I'd like to have you look at page 17, lines 12-14. This is the part that changes the responsibility for elevator inspections from the

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state to the owners of the elevator. Now obviously in a narrow context I represent clients who have elevators in church facilities and schools primarily. But we would, of course, be implicated in this bill because we own buildings with conveyances. This says that "the owner of each"--and I interpret that to be "every"--the owner of every "conveyance required to be inspected...shall have such conveyance inspected not less than annually." And I ask myself: by whom? Do you first contact the Commissioner of Labor to schedule an inspection? Do you contact the state elevator inspector to get an inspection? And I say that because, if you flip back a page, it says on lines 10-15, on page 15, "In order to ensure that inspections are performed in a timely manner, the commissioner may contract with a qualified elevator inspector or company employing qualified elevator inspectors to perform any inspection authorized under the Conveyance Safety Act." So do you schedule that through the state, or do you contact a private elevator inspector to ensure that you get your inspection completed? And if I heard the previous witness correctly, a private elevator inspection may cost as much as \$600. Now that's something I didn't even contemplate, reading this bill, but obviously for small churches that would be a hefty fee. A couple of other points: This section is scheduled to go into effect on July 1 of this year. That's awfully quick notice, it seems to me, for this type of a change to shift that responsibility to the building owner, especially...and it's unclear. Does it mean that the inspection will be due within a year from July 1, or does it mean the first inspection will be due a year from the last inspection, which might have been July 2 or 3 or July 5? That's unclear. Also I want to make the point that this bill increases the penalty for any knowing violation of the act in its entirety from a Class V misdemeanor to a Class I misdemeanor. Now that's from the lowest level, I believe, of misdemeanor to the highest level of misdemeanor. I'm not sure I understand the public policy objective of making that drastic a change in the penalty provision of this, so. I just...I think there is some confusion about how this would relate to private building owners and their responsibilities as of July 1, upcoming in about four months. Thank you. [LB594]

SENATOR COOK: Thank you, Mr. Cunningham. Any questions? Thank you very much. Next testifier in a neutral capacity. I saw somebody pop up and then... [LB594]

GREGG ROGERS: I'm neutral so... [LB594]

SENATOR COOK: Oh, okay. Well...(laugh). Don't know how that happened, but don't be shy when we ask you to jump up here, because now we've moved to neutral and we'll have to go back to opposed after this. Come on up, Mr. Rogers. Thank you. (Laugh) I guess that's allowed. [LB594]

GREGG ROGERS: Again, Gregg Rogers. Do you need me to spell it again? [LB594]

SENATOR COOK: Sure. Just so it's equitable. [LB594]

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GREGG ROGERS: G-r-e-g-g R-o-g-e-r-s. [LB594]

SENATOR COOK: It's good practice. [LB594]

GREGG ROGERS: Yes, Madam Chair. I'm going to take a neutral stance on this bill only because there are some provisions within it that I'm not opposed to. And a third-party inspection, the organization I work with is one of the three organizations in the country that are authorized by the American Society of Mechanical Engineers to certify inspectors. We have a lot of third-party inspectors out there doing their jobs. There are requirements, minimum standards for anybody going to be an elevator inspector that are set by ASME and the organizations that certify them. I do have concerns with the bill. One is a sunset on it of one year, and it allows the department to figure out how much revenue, if it's going to be cost-neutral or however, before it sunsets. It don't think they can come up with those numbers in a year's time. We've heard disparities in the amount of fees that are charged and so on and so forth already today, so I have some concerns. But I also feel that there's some things that we could work with, within our bill LB588, that would...maybe we can compromise both of them and, you know, blend them together or something and come up with something, and I am certainly more than happy to work with the commissioner and the department on that. I introduce legislation all over the country. To clarify a couple things: Colorado does have state elevator inspectors, a state elevator inspection program. We passed a similar bill that passed in Nebraska, in Colorado. It does have statewide inspection. It's regulated under the Oil and Gas Division of Colorado. Missouri has inspection. Iowa has inspections. We're actually working a bill in South Dakota right now and hope to have statewide inspections in South Dakota and a similar program up there. So this is a national effort we're trying to do. We've passed our bill in 19 states and we're just trying to bring everything in line nationwide. And since I still have time to talk, I'll shut up. (Laugh) Thank you. [LB594]

SENATOR COOK: All right. Appreciate it. Are there any questions for Mr. Rogers? Thank you very much, sir. Okay, and I see a waving hand from Mr. Sackett. If you'd like, you can submit something in writing. Thank you. [LB594]

STEVEN SIMPSON: Is this still on neutral? [LB594]

SENATOR COOK: Neutral capacity. Please. [LB594]

STEVEN SIMPSON: Steven Simpson again. S-i-m-p-s-o-n. I'm standing up here in a neutral capacity on this bill because the bill that I support, LB588, already has provisions in it for private inspection. That's already in place by insurance companies, so that can be done. My issue right now with what has been said here today is there was talk about a deficit. I want to be clear: We as the industry, the conveyance safety board, had a special meeting on the fifteenth of this month. And when they sat down at

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that meeting, we discussed all three of these bills and just to be clear with people so they knew what we were coming into today. At that meeting the chairman of the committee explained that currently the program is in the red. The Commissioner of Labor adamantly said: no, no, we are in the black, we are in the black. That is...so when she sits up here and tells you that we're in deficit, I don't understand how we went from being in the black on February 15, to February 28 we're now in the red. Now they did just recently lose another elevator inspector due to retirement, so perhaps they haven't been able to get out and look at many elevators here recently and maybe that's why they haven't been able to pick up the revenue, but that might be the issue at hand. So that's all I've got. [LB594]

SENATOR COOK: Okay. Thank you, Mr. Simpson. Does anybody on the committee have a question for Mr. Simpson? Seeing none, thank you very much, sir. [LB594]

STEVEN SIMPSON: Thank you. [LB594]

SENATOR COOK: All right. Any other people wanting to testify in a neutral capacity? Opposition? Support? All right. Senator Carlson, would you like to close on LB594? [LB594]

SENATOR CARLSON: Thank you, Senator Cook and members of the committee. And I've jotted a couple of notes about some things that came up in testimony. Certainly it's my responsibility to get some additional information on cost of inspection, because we heard \$100, we heard \$350, we heard \$600. And if I could perform 6-8 of these inspections a day at \$600, that pays better than the Legislature. So we need to get some more accuracy on that, and I will attempt to do that. There's a question about what does an annual inspection mean? And I think the intent, but I'll clarify this, is meant that once this law would take effect, the annual part would coincide with what previous current practice is. So if the law takes effect in July or whenever, and they've had their inspections in March, it would be next March. So it's to keep on schedule of their current plan. But I will check those kinds of things out, and certainly would be willing to work on some of the things brought up by Mr. Cunningham as far as wording is concerned. But with that, thank you for listening, and this concludes my close. [LB594]

SENATOR COOK: Thank you very much, Senator. All right. Any questions for the senator before he opens up on his next? All right, we're going to close the testimony on...close the hearing on LB594 and move to LB593. Some folks are moving out of the room. Senator Carlson, you're welcome to begin. [LB594]

SENATOR CARLSON: Okay. Again, good afternoon, Senator Cook and members of the Business and Labor Committee. I am Tom Carlson, C-a-r-l-s-o-n, the senator from District 38 here to introduce LB593. And again this is one of two bills that I was asked to introduce by the Department of Labor. LB593 intends to continue the trend of private

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inspections of privately owned boilers in the state. Under this bill, approximately 1,000 boilers now inspected by the Department of Labor would be inspected by insurance companies, the city of Omaha, and other inspection agencies. It's my understanding that the inspectors for these groups would be fully qualified, as far as training and commissions, as those inspectors employed by the Department of Labor. The state would also continue to set the standards for boiler inspections. And some information that I looked at that I think could be interesting to the committee, if I didn't misplace it, but I think I might encourage you to ask Commissioner Lang on this when she comes up. But I think that there are some 10,000 or 11,000 inspections being done now in the state of Nebraska, and about 10,000 of those are already being done by private inspectors, so it doesn't look to me like this is a huge change. It's not a big percentage of those currently being inspected that would be changed but it would complete the transition. And so with that, I know that the commissioner will follow with more specific information. I would try to answer any questions you might have. Thank you. [LB593]

SENATOR COOK: Thank you, Senator. I don't see any questions. Thank you for your opening on LB593. The first testifier in support. Would that be Commissioner Lang? [LB593]

CATHERINE LANG: Thank you very much, Chairperson Cook. Chairperson Cook and members of the Business and Labor Committee, my name is Catherine Lang, C-a-t-h-e-r-i-n-e, Lang, L-a-n-g, and I'm the Commissioner of Labor for the state of Nebraska. I appear before you today in support of LB593, and I want to thank Senator Carlson for introducing this bill on our behalf. Provided to you in my testimony on LB594, the intent of the agency in providing this piece of legislation. LB593 proposes to modify the Boiler Safety Act by clearly specifying that all privately owned boilers shall not be inspected by the Department of Labor. Currently, there are approximately 11,247 boilers in the state of Nebraska. Of those, approximately 7,800 are privately owned, and just over 2,900 are owned by the state or its governmental subdivisions. Of the boilers inspected by the Department of Labor, there are 1,001 that are privately owned and 387 that are owned by the state or its governmental subdivisions. LB593 will require that the 1,001 privately owned boilers currently inspected by the department must now be inspected in the same manner as the 7,800 privately owned boilers. This will allow the department to establish inspection fees and certificate fees that reasonably fund the cost of an inspection, versus a certificate, so that our certificate fees do not underwrite the cost of inspecting the privately owned boilers. It is the position of the department that the decrease in revenues...again, we did a maximum revenue analysis for the boiler program as well. Approximately \$36,000 will be offset by a decrease of expenditures. We also believe that there will not be an increase in the total amount of revenue generated by the inspection process, but we believe there must be a rebalancing of the inspection fee versus the certificate fee, especially when we move all of the privately owned boilers to private inspections. Additionally, LB593 proposes to make changes to the inspection of antique boilers allowing for an association to contract with an AIA firm

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to inspect them all at a single location. This is very similar to the inspection method of antique boilers used in the state of Kansas. Additionally, we do increase the penalties for violating the act from a Class III to a Class I misdemeanor. We tried to make that similar for the elevator inspections as well. And that concludes my testimony and I'd be happy to answer any questions. [LB593]

SENATOR COOK: Thank you. Senator Harr. [LB593]

SENATOR HARR: Thank you, Senator Cook. I have a couple questions. And it was brought up on the last LB594 also, or...what is the reason for increasing the criminal penalties? [LB593]

CATHERINE LANG: Right now, the penalty that is currently imposed does not provide the kind of enforcement opportunities that we believe we need to keep them on current inspection. And so it's our intent that they should be increased to assure that all of them are inspected on an annual basis. [LB593]

SENATOR HARR: Well, and I guess my question is, last year, how many were...how many complaints were brought forward for criminal prosecution? [LB593]

CATHERINE LANG: In our agency? None. We work with the owners to assure that they do get their boilers inspected. [LB593]

SENATOR HARR: I guess I'm confused. If there were no criminal complaints brought forward, why...I still don't understand the reason to bring it up or to increase the (inaudible). [LB593]

CATHERINE LANG: Our intent is to just help with our enforcement to assure that they are inspected. I can understand why the committee might be concerned with the increase, but that is what we have proposed at this time. [LB593]

SENATOR HARR: Okay. And then my second question is: Have you talked to the city of Omaha about doing the inspections? [LB593]

CATHERINE LANG: In terms of the remaining...? [LB593]

SENATOR HARR: Well, it says...as I...and again it's not the wording of the bill itself. But Senator Carlson's summary stated, "Under this bill, approximately 1000 privately owned boilers presently inspected by the Department of Labor would be inspected by private inspectors employed by insurance companies, authorized inspection agencies, or the City of Omaha." [LB593]

CATHERINE LANG: Currently they are inspecting the boilers that are within their

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jurisdiction unless they have been privately inspected. And I'm going to in just a moment turn to assure that we have clarification on this. Because I...what I can't answer for you and I'm going to have to ask Chris Cantrell, our boiler inspector, to verify this, that if they are only government boilers that they're inspecting in the city of Omaha or if there are private ones that the city of Omaha is currently doing. Is that what your question was to? [LB593]

SENATOR HARR: Well, yeah, my concern is that we're pushing more work onto the...or financial restraint onto the city of Omaha. [LB593]

CATHERINE LANG: That would not be our intent in doing that, because the private boilers should be inspected privately in our opinion. [LB593]

SENATOR HARR: Okay. [LB593]

CATHERINE LANG: But what I don't know and what we can find out, the city of Omaha does inspect boilers. What we could find out for you is exactly how many of those are privately inspected versus... [LB593]

SENATOR HARR: Publicly. [LB593]

CATHERINE LANG: ...privately owned versus publicly owned. Let me get that information and we'll provide that to the committee. [LB593]

SENATOR HARR: Okay. That's fine. Okay, thank you. [LB593]

CATHERINE LANG: That would be great. Thanks. [LB593]

SENATOR COOK: Any other questions? Senator Smith. [LB593]

SENATOR SMITH: Thank you, Senator Cook. Commissioner Lang, on 1,000 boilers to be inspected, roughly, are going to go to the private sector. Is that about an hour...are those inspections about an hour, as well, or similar to what we heard before or...? What's the length of an inspection, do you know? [LB593]

CATHERINE LANG: You know, I don't know the answer to that, and we can provide that to you, because we do do different levels of inspection, so we could provide that information to you about the length of time for those. [LB593]

SENATOR SMITH: Okay. Well, I'm just curious. Is there an offset here at all with the reduced expenditures for labor? [LB593]

CATHERINE LANG: Yes, we would have a reduction in our expenditures offsetting the

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reduction in revenue. [LB593]

SENATOR SMITH: All right. Yeah, I don't see that in the fiscal note but I may be missing something. I'm just seeing a variance, less revenue and about \$8,000 in expenditures. [LB593]

CATHERINE LANG: And we would have a...I mean for every dollar of reduced revenue we would have an offset of a reduction in expenditures. So if that wasn't clear in the fiscal note that we provided, we would want to make sure that was clear. [LB593]

SENATOR SMITH: All right. Okay, thank you. [LB593]

SENATOR COOK: All right. Any further questions for Commissioner Lang? Thank you very much. [LB593]

CATHERINE LANG: Thank you. And we'll get that information as promised. [LB593]

SENATOR COOK: Appreciate it, if you could get it to the whole committee. Any other testifiers in support of LB593 this afternoon? [LB593]

TAD FRAIZER: (Exhibit 2) Good afternoon, Madam Chair, members of the committee. My name is Tad Fraizer; that's T-a-d F-r-a-i-z-e-r. I'm legal counsel for the American Insurance Association, a national trade organization of property and casualty firms. We inspect a large number of the privately held, privately insured boilers around the country, and I believe our figures are we inspect around 50 percent of the insured boilers here in the state of Nebraska. We are generally in support of the bill. We just had one area we wish to call to the committee's attention. There is some language in Section 10 of the proposed bill that we read as possibly requiring an insurance company that inspects...that insures boilers, to accept inspections by outside agencies which are referred to as authorized inspection agencies or AIAs that the insurer would not have a contractual relationship with. And obviously, when you're insuring a boiler, not to put too fine a point on it, it can blow up on you. And so if you're going to be taking on the risk of insuring a boiler or a pressure vessel that has that sort of possibility, you want to work with either your own staff inspectors which are authorized under current law, or with an outside authorized inspection agency that you have confidence in and that you have a contractual relationship with. Just as you don't pick the first lawyer or the first plumber out of the phone book, you work with someone that you have confidence and a relationship with. And I have some proposed language here. I've offered it to the Department of Labor and I've been advised that they've got some questions as to the precise wording, so we would hope to work further with the Department of Labor on precise wording that would be acceptable to them. But again, since insurance companies are taking on the risk and providing a whole range of services, loss prevention, and services in addition to the inspection per se, we'd just like a little more

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comfort with who we have inspecting the boilers on our behalf. And I'd be happy to try to answer any questions. [LB593]

SENATOR COOK: Thank you, Mr. Fraizer. Are there questions for Mr. Fraizer from the committee? Senator Wallman. [LB593]

SENATOR WALLMAN: Yeah, thank you, Chairman Cook. (Inaudible), thanks for coming down. As far as insurance companies, do you charge the homeowner if I have a boiler? [LB593]

TAD FRAIZER: Well, not homeowners. This would be I believe residential-type boilers are generally exempt. In checking with our members, most of them build the cost of the inspection into the premium that they charge for insuring the boiler and providing the loss control services and other things. And that is one thing I didn't bring up. Apparently there's some anecdotal experience in other states of outside inspection agencies coming in and soliciting inspections, and an owner of a boiler takes a boiler off line for inspection and interrupts things, and then finds out the insurance company would prefer to do its own inspection. So that causes some confusion. And we want to make clear we have absolutely no interest in inspecting boilers that we do not insure, and we have no problem with outside inspection agencies, AIAs, inspecting boilers that we do not insure either. It's just we'd like control over the boilers that we do insure. [LB593]

SENATOR WALLMAN: Thank you. [LB593]

SENATOR COOK: Thank you. Any other questions for Mr. Fraizer? Thank you, sir. Any other...anybody else testifying in support? Thank you. Come on down. [LB593]

MARK RUDEK: Good afternoon. My name is Mark Rudek, M-a-r-k R-u-d-e-k. I'm in support of LB593 as it was presented. I own the authorized inspection agency. I'm the first of its kind. When the national board changes rules for the accreditation of all inspection agencies, including the insurance companies, in 2003, I got the number one accreditation. The big boys got the number two, okay? We all are qualified under the same rules. We all have to have a written documented quality management system. We all go through an accreditation assessment. We have to have professional liability, with errors and omissions. Our inspectors are all commissioned the same way, okay? So I want to put that on the air. Now what do we charge? We do charge based upon...as a matter of fact, I had the pleasure for the last five and a half years of having a contract directly with the state of Nebraska. My inspectors, including myself, provided inspections as deputy inspectors under contract for the state and to help ensure that public safety is met. And there was a great trust by the state in order for us to do this. But, of course, we presented the professional liability insurance; we presented our accreditation. We did it at a huge cost savings to businesses, and we don't have an annual insurance premium that buries the inspection costs within it. You know, we're

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right straightforward. So again I am in support of LB593. Again historically, things have changed. There's a lot of requirements now for being accountable and responsible for our actions in this industry. It's one of the oldest industries in the U.S. As a matter of fact, 1866 is when it all started out. And initially we had the American Society of Mechanical Engineers that developed the construction rules on how to build these things, and the national board was in charge of commissioning and training of inspectors to make sure that we're all looking at it the same way. And, of course, the insurance companies were very much involved with the insurance of their products that they so chose to insure and inspect. We actually currently provide inspections for insurance companies and we provide inspections for private industries. Again, I just want to reiterate that. This bill, LB593, does nothing but ensure that more inspections are going to take place. I see I have one minute here--I learned that today; thank you very much. I do want to state that of the large number of boilers, the 11,000 or so that are inspected, again up until now the only ones that could inspect was the state and obviously the insurance companies. And there are probably somewhere in the neighborhood of a large number, this 7,900, that are done by the private insurance companies, and I think there's, of those, 1,200 to 1,400 that are past due right now. And I don't have any opposition to support the fact that if we are an accredited authorized inspection agency, that we be responsible to the private boiler owner just as much as the private owner should be responsible to ensure it gets a timely inspection, because this is about safety. All right. That's all I have. Thank you. [LB593]

SENATOR COOK: All right. Thank you very much, Mr. Rudek. Does anyone have any questions for Mr. Rudek? Seeing none... [LB593]

SENATOR SMITH: Senator Cook. [LB593]

SENATOR COOK: Oh, Senator Smith. [LB593]

SENATOR SMITH: Roughly how much would you expect the cost to be that a private owner would incur? [LB593]

MARK RUDEK: You know, again when you ask the question: How long does it take to inspect a boiler? Okay, what happens is boilers have all sorts of shapes and sizes and dimensions. Some are so small they can sit right here and you can steam tailor clothes with them, and then you have some that take us a week to crawl through. Obviously, the cost is pretty well the same. If you look at an hourly rate, I shouldn't...I'll divulge this much: Some of the insurance companies that we inspect for are paying up as much as \$85 an hour, portal to portal, plus administrative costs for us to do the inspections on their behalf. So those are the costs that are buried in the insurance premium. I'll say that much. [LB593]

SENATOR SMITH: Yeah. [LB593]

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MARK RUDEK: Okay, I can do it cheaper and I can do it cost-effectively and very accountable, because we have to be held accountable by the boards that accredit us. [LB593]

SENATOR SMITH: What you were charging to the state as a subcontractor, was that the same cost that you were charging with your private inspections? [LB593]

MARK RUDEK: Actually, it's all over the board. What we charged to the state was based upon state statute. I think it was like \$25 for a hot water heater. I mean I don't recall the exact numbers and you can get that from your staff. But what we did is we got reimbursed for the mileage, expenses, and so forth, and came in as assistants to the state of Nebraska to ensure the safety of the public, because they were falling behind. As a matter of fact, at one point I was--before Chris and after Mr. Burns had left, I was actually answering technical questions on behalf of the state, for you, just to abide by the...and ensure that the ASME code rules and national board rules were followed through. So again, the fees are going to be somewhat over...is there going to be an increased cost to the boiler owner? I would say not. There are 39 authorized inspection agencies that are accredited to do the work right...that would be accredited to do the work right here in Nebraska. [LB593]

SENATOR SMITH: All right. Thank you. [LB593]

SENATOR COOK: All right. Thank you. Any other questions for Mr. Rudek? Okay. [LB593]

MARK RUDEK: All right. Thank you for your time. [LB593]

SENATOR COOK: Thank you. Anyone else in testimony in support of LB593 this afternoon? Okay. Anyone here to testify in opposition to LB593? Seeing no heads or feet bobbing up and down, how about testimony in a neutral capacity on LB593? All right, thank you. Senator Carlson, would you care to close on your bill? [LB593]

SENATOR CARLSON: Senator Cook and members of the committee, thank you for your interest and questions concerning LB593, and perhaps there are some things that can be refined here, but appreciate your listening and your consideration, and I'll try and get any other information that might be important, and I know that Commissioner Lang will as well, so thank you. [LB593]

SENATOR COOK: Thank you very much. With that, I will close the hearing on LB593 and close the hearings for the day. Thank you all for coming. [LB593]