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Urban Affairs Committee
February 08, 2011

[LB121 LB417 LB437 LB546]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, February 8, 2011, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB417, LB121, LB437, and LB546. Senators present: Amanda McGill, Chairperson; Colby Coash, Vice Chairperson; Brad Ashford; Tanya Cook; Bob Krist; Paul Schumacher; and Jim Smith. Senators absent: None.

SENATOR MCGILL: Okay, I think we're going to get the party started today. I know that we have some hearings that could take a while down on the agenda so I want to start promptly here and we have enough senators. I am Amanda McGill. I represent northeast Lincoln. Welcome to the Urban Affairs Committee. To my left we have Senator Bob Krist from Omaha, Laurie Holman is our research analyst, here directly to my right. On my far left down there is Katie Chatters, she's the committee clerk and will be helping us keep time today. Next we have Senator Jim Smith from Papillion and Senator Tanya Cook from Omaha. We are going to use the light system today, five minutes is the time allotment. The lights in front of you will go yellow when it hits four minutes and please have your comments wrapped up by the time the red light hits because, especially later today, I will be cutting people off if they're talking over that red light; if you plan on testifying there are sign-in sheets that you need to fill out by the doors. Just bring that up here when you testify and the page will collect it. Please take this time now to turn your cell phones off or on silent or vibrate, that includes committee members. (Laugh) I've seen that happening a lot recently too amongst senators. So if you could please put your phones on vibrate, we'd really appreciate that. Then it will be less disruptive if you get a message. And with that, we will go ahead and start with our hearing. Senator Coash has just joined us here, from Lincoln, the Vice Chair of the committee. Senator Wallman has the first bill, it's LB417. Senator Wallman, welcome.

SENATOR WALLMAN: Glad to be here, Senator.

SENATOR MCGILL: Good to see you.

SENATOR WALLMAN: Good afternoon, Chairperson McGill and members of the Urban Affairs Committee. My name is Norm Wallman, W-a-l-l-m-a-n, and I represent Legislative District 30. I'm here to introduce LB417. This is a very straightforward bill. It simply extends the probationary period, under the Civil Service Act, of a paid firefighter from three to six months to six months and no more than a year. This change makes the firefighters probationary period the same as police officers. And there will be testifiers after me. [LB417]

SENATOR MCGILL: All right. Thank you, Norm. Any questions from the committee? I don't see any. Thank you, Senator. [LB417]

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SENATOR WALLMAN: Thank you. [LB417]

SENATOR MCGILL: Do we have any proponents here to testify on LB417? [LB417]

PAUL PEDERSEN: Senators, my name is Paul Pedersen, P-e-d-e-r-s-e-n. I'm the fire chief from North Platte, and I'm in favor of LB417. The simple fact of the matter is six months is not enough time to get all the training that we need. We're training people in their fire service jobs as well as emergency medical service and hazardous materials training. Some of these classes we can't even get them into them in their first six months. So we're spending the whole six months' time period training folks and we don't really even have the time to get all the training done, let alone evaluating how they're progressing. So with that, I thank you. [LB417]

SENATOR MCGILL: Questions from the committee? I don't see any. Thank you for coming and visiting us today. Next proponent. [LB417]

BILL BOWES: Senator McGill, members of the committee, thank you for giving us a chance to visit with you. My name is Bill Bowes, B-o-w-e-s. I'm the fire chief from Papillion and I represent the Municipal Fire Chiefs' Association which largely represents the paid departments throughout the city, that is departments that have paid firefighters. We thank Senator Wallman for bringing this bill on our behalf. And really the goal is to get it equal with...the probationary period equal with that of a police officer. I'll give you a little bit of history on civil service statutes. They were formed back in 1943. In 1967, they were updated pretty well; 1985 saw another revision and that's where, in 1985, prior to that police and firefighters were looked at the same, they had a three- to six-months probationary period. In 1985, in the law enforcement community they extended that probationary period from six months to a year. So they stretched it out a little bit because of changes in the law enforcement field. Well, a long time has gone by. At my age I remember the eighties like they were yesterday, but I understand that was a long time ago now. There have been a lot of changes in the firefighting community as well. We have greater training requirements. One of the good things about the civil service statute is it gives us that probationary period as a chance to get to know our employees. They can be dismissed without cause during the probationary period, rarely happens. But we like to have a period of time where we get to know this employee. In the fire service when we hire somebody, generally speaking, they're with us for 20, 25, 30, 35 years. We don't see a big turnover in the fire departments so we want to make sure we devote a lot of effort, lot of energy to the hiring of good people. And we need a period of time to make sure that they are good people. And three to six months goes by like that, it is just fast. We can't get to know them adequately, not to mention the training requirements that Chief Pedersen mentioned. So we're just asking to extend it out to be equal to that of a police officer, give us a better chance to get to know the firefighter, get the training that they need, make sure that they're capable of learning that knowledge and then applying it at the street level. So it's as simple as that. [LB417]

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SENATOR MCGILL: All right. Questions? Senator Coash. [LB417]

SENATOR COASH: Thank you. Thanks, Bill, for coming down. Is there a different contract that a...that you have with probationary firefighters than you do with firefighters off of probation or... [LB417]

BILL BOWES: I think I see where you're going. Generally, no. The union contract,... [LB417]

SENATOR COASH: That...yeah. [LB417]

BILL BOWES: ...just for a generic term, applies to all firefighters. Now Dave Engler will get up in a minute and explain the differences, which he's much better at explaining than I am. There is a period of time during that probationary period, whether it's three months, six months or a year, where that employee is largely unprotected by the union. And that is going back to the civil service statutes that if this...if this employee is not performing they can be dismissed just like that, without going through the whole processes of civil service, that type of thing. Another thing that I'll mention in relation to that is in our contract with the firefighters in Papillion; we have it in our contract that there's a yearlong probationary period, whereas state law says three to six months. There's always been that question out there, what happens if we decide to dismiss somebody at nine months, do they fall under the provisions of our contract or do they fall back under state law? It has always been one of those unasked, unanswered questions. But this would help to clarify that as well. [LB417]

SENATOR COASH: Okay. I'll ask Mr. Engler when he comes up. [LB417]

SENATOR MCGILL: Other questions? Thank you very much. [LB417]

BILL BOWES: Okay, thank you very much. [LB417]

SENATOR MCGILL: Are there any other proponents here? Anyone who supports the bill? [LB417]

LYNN REX: Senator McGill, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. First of all, we appreciate the senators that introduced this measure. We do think it's an important measure. And I think that the commonality would be important both for police and fire. I'd be happy to respond to any questions that you might have. [LB417]

SENATOR MCGILL: Questions for Lynn? Senator Cook. [LB417]

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SENATOR COOK: Thank you, Madam Chair. What benefits might the municipalities realize through a statutory change like this? Can you give me one example. We're doing fire now, but it mentioned police as well. [LB417]

LYNN REX: Sure. Well, for example, yes, if you look at police, you'll notice that looking on page 3 of the bill, line 15, it's not less than six months nor more than one year after certification by the Nebraska Law Enforcement Training Center for Police Officers. And I think that commonality would be very important for this as well. And I think one of the major benefits is that at that point you get a chance to really see, you know, whether or not this person is going to work out. I think it's good for the city, it's good for the officer because they also get a chance to know if this is really what they want to do. But it also, I think, is an important measure for citizens and it also supports the whole effort here to make sure that uniformed officers are being trained properly, have enough time to be trained. And sometimes you, I mean, they don't walk on the job with all the training. I mean, they start the job and then they get the training. So that's typically the way that this works. And also the training is much more extensive than it used to be, much more complicated than it used to be. So we really appreciate you folks for introducing this measure. Thanks to Senator Smith and thanks to Senator Wallman. [LB417]

SENATOR MCGILL: Thank you. [LB417]

LYNN REX: Thank you. [LB417]

SENATOR MCGILL: Any other proponents? Okay. We'll move on to opponents of the bill. [LB417]

DAVE ENGLER: Good afternoon. Dave Engler, E-n-g-l-e-r, president of the Nebraska Professional Firefighters. We're here in opposition to this today and I'll give you a couple reasons why. Probation periods can be negotiated and they have been in several cities or in a couple of cities as Chief Bowes has pointed out. The reason we would prefer that is because when...in many cities across Nebraska, and I've polled various ones, our employees don't receive any healthcare benefits while they're on probation. They don't have any sick leave benefits while they're on probation. They don't have any vacation benefits while they're on probation. So we had a probationary employee who moved his family here from California the other day. After he was laid off from his firefighting job he got sick with the flu and he had a choice--either he didn't get any pay or he went home. And that day he went home because there was no way he could work. But that's money that he doesn't have for his family. So these probationary employees they don't get a lot of these benefits that they should have. And a lot of them are moving from other cities with families and they need healthcare, they need sick leave and they need those benefits that they're not getting. Some cities, like Lincoln, has found creative ways of already extending the probationary period. So if we were to extend it to a year by state law then it's totally possible that it would be a year and three months using this creative

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method that they've used to already extend it. So that's also concerning because we may not be looking at a year, we may be looking beyond a year which some places already are. And probationary employees don't receive any union representation. So anything that the rest of the employees get in a labor agreement, they don't get any of that. So I certainly appreciate and understand the thought process behind wanting to extend the probationary period to get to know the employees. I certainly appreciate the League's view that we ought to have the same type of situation. But, you know, keep in mind the League had also worked on a pension plan specific to the police and didn't include the firefighters in on that. So there is clearly a difference between the two in the League's eyes. We would be willing to look at an amendment that would require from day one employees get benefits. And the only benefit that they wouldn't get under the contract, if they are probationary employees, would be due process rights. But until we're assured that they're going to get health insurance, that they're going to get sick leave and those types of things, we just certainly don't want to extend that beyond the six months that most people already are. I'll take any questions. [LB417]

SENATOR MCGILL: All right. Thanks, Dave. Any questions? Senator Coash. [LB417]

SENATOR COASH: Thanks, Chairman. Dave, you answered the one question I had. I have a couple more. Can you speak to the increased training requirements and how long it's taking to get those training requirements satisfied on average. And that was one of the reasons that we heard this is a good idea is that training requirements have increased and it's just taking longer to get those done. Can you speak to that. [LB417]

DAVE ENGLER: Right. Most departments have some sort of an academy, some don't. But it's pretty common nowadays that the requirements would be that a person is a firefighter I, certified individual, through the state, so they've already got basic firefighter skills and then to have a minimum of an emergency medical technician certification or paramedic certification. So, you know, the city of Lincoln, for instance, we've got about a three-month academy that people go through and that's...and usually they've already got their firefighter I certification as well as their EMT certification. I'm not sure how much more you'd need than that. [LB417]

SENATOR COASH: Okay. And my second question is I'm interested to hear more about what Lincoln is doing to extend this probationary period, Dave. You said they have creative methods, what are they doing? [LB417]

DAVE ENGLER: Well, what they...we used to have a probationary firefighter, the first day you started you were on probation and you had six months. What they did to extend that out is they unclassify the employees for the first three months. So we essentially have a nine-month probationary period. What does that do? Well, until you're actually hired on the department as a probationary firefighter the clock doesn't start ticking. So people that would be eligible for a promotion aren't eligible for promotions beyond those

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three months. So what happens is when they've got six years on the job, for instance, they can test for a captain's position. These individuals can't do it. And we've had this problem happen numerous times. Although they were paid and they were working for the city and they had to show up to work on time and they had to be in uniform, those three months didn't count towards their seniority. And therefore they were out promotional opportunities for an additional two years, aside from not getting the health insurance benefits, the sick leave benefits and all those. The other issues go on and on, I mean, you can talk about uniform allowance to purchase uniforms. I mean, like I said, the list goes on and on of these benefits that these employees don't get. And again, in the contract, if the concern is due process rights then we can address that. But to say, hey, the probationary period and people are not going to get benefits for a year is very concerning to me. [LB417]

SENATOR MCGILL: All right, Dave. Other questions? Senator Smith. [LB417]

SENATOR SMITH: Thank you, Senator McGill. You mentioned due process rights, what would you suggest to satisfy the concerns? [LB417]

DAVE ENGLER: Well, I can see some language that says that they're able to get in, of course, I don't make law or anything like that, but something to the effect of probationary employees would be eligible for all benefits under the labor agreements, except for the due process rights or something. And that's...that essentially says that an employee, for the first year, can be terminated without cause, basically, during their probationary period. And that's really, I think, what this is all about is fire chiefs want to be able to evaluate the employee for a longer period of time. That's why they do it in law enforcement. Of course, I think, law enforcement...I'm not sure what their training is but it goes a little bit beyond what the fire training does so. [LB417]

SENATOR SMITH: So, Mr. Engler, you agree that there is a need to be able to evaluate an employee for that period of time that's being requested? You're seeing the need for that? [LB417]

DAVE ENGLER: I'm not necessarily saying there's a need for it in my opinion. I think we do pretty well here in Lincoln with what we've got. However, I'm saying if there is an issue to where people are just passionate about this, then I can understand where they might want to extend it for a year. My preference would be to do it the way cities have done it and just negotiate it, put it in the contract. I don't see that as being a big deal. But if we were going to change the law and extend it out, I could live with that except for the fact that these employees are not receiving the benefits that I think they should be getting and it puts it off for a while. [LB417]

SENATOR SMITH: Okay, thank you. [LB417]

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DAVE ENGLER: You're welcome. [LB417]

SENATOR MCGILL: All right. Any other questions? Thank you, Dave. [LB417]

DAVE ENGLER: Okay, thank you. [LB417]

SENATOR MCGILL: Any other opponents here today? Anyone here neutral? Senator Wallman, would you like to close? [LB417]

SENATOR WALLMAN: Yes, I would, thank you. And I do appreciate Dave's comments. And I love firefighters too. But not all firefighters are unionized across the state. And we would be willing to work with them on an amendment, if they'd like to work with us. And any questions? [LB417]

SENATOR MCGILL: Any questions for Senator Wallman? No, thank you, Norm, Senator. [LB417]

SENATOR WALLMAN: Thank you. [LB417]

SENATOR MCGILL: All right, that closes the hearing on LB417. We'll move on now to LB121. Is Senator Avery in the house? No, oh. [LB417]

CHRISTY ABRAHAM: You are stuck with me.

SENATOR MCGILL: Okay. That's not being stuck with you.

CHRISTY ABRAHAM: Hi. For the record, my name is Christy Abraham, A-b-r-a-h-a-m. I am the legal counsel for the Government, Military and Veterans Affairs Committee. Senator Avery sends his apologies, he wasn't able to make it. He has a bill in Education right now. LB121 is the result of the LR542 process. The Government Committee had the State Fire Marshal under their jurisdiction and so they reviewed their programs and the Government Committee proposed an option to eliminate the State Fire Marshal's role in the Volunteer Emergency Responders Recruitment and Retention Act, an act I like to talk VERRRA. The committee estimated that approximately \$12,000 in General Fund dollars could be saved with the change. This option was proposed both by the Government Committee and the State Fire Marshal in their budget modification proposals which made the Government Committee feel pretty smart. Since it requires a statutory change, it couldn't be accomplished without legislative action and therefore we're bringing you LB121. Just as a little background, VERRRA was created to encourage and assist cities and fire departments in their efforts to retain trained and qualified volunteer emergency response personnel. The State Fire Marshal's role in VERRRA is to develop and maintain a recordkeeping and certification list database. Just to be clear, LB121 only removes the State Fire Marshal's duties under VERRRA, it

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does not eliminate the program. And we are assuming that the cities and fire departments that are involved in VERRRA will assume any of the duties that the State Fire Marshal was doing. And the State Fire Marshal is here and I'm sure happy to answer any technical questions you have about VERRRA, but I'm happy to answer any general questions about the Government Committee's process and how we arrived at this option. [LB121]

SENATOR MCGILL: Any questions from the committee? No. Thank you for coming. Proponents. [LB121]

JOHN FALGIONE: (Exhibit 1) Good afternoon, Senator McGill and members of the committee. For the record, my name is John Falgione, F-a-l-g-i-o-n-e, J-o-h-n. I am the State Fire Marshal and I'm here today to testify in support of LB121. LB121 would remove the State Fire Marshal's agency from reporting requirements currently included in the Volunteer Emergency Responders Recruitment and Retention Act, which is known as VERRRA. The act was passed in 1999 with the purpose of tracking the status of volunteer emergency responders in order for the state to match a portion of their retirement fund. The state funding has been removed from the legislation, but the reporting requirements have remained. While the agency continues to support the goals of the VERRRA act, it is felt that the reports generated are rarely utilized. As such, the removal of the reporting requirement will not have a detrimental effect; if the reporting requirements are removed approximately \$12,000 of General Fund appropriation can be eliminated. The Governor included this savings in his budget recommendations to the Legislature. I want to thank the committee for the time and opportunity to testify in support of LB121 and I want to thank Senator Avery for bringing it forward. I would be happy to answer any questions you may have. [LB121]

SENATOR MCGILL: Thank you. So is this \$12,000, this is just the labor time of putting the reports together or what specifically was that \$12,000 being spent on? [LB121]

JOHN FALGIONE: It was to support the database that we were maintaining, personnel, equipment, office space and such as that that we were utilizing the money for to...that we were gathering these reports, postage, general office stuff... [LB121]

SENATOR MCGILL: Okay. [LB121]

JOHN FALGIONE: ...that we were doing with it. [LB121]

SENATOR MCGILL: Any other questions from the committee? Senator Cook. [LB121]

SENATOR COOK: Thank you, Madam Chair. How will we know if the program is being successful? How will we be able to measure our outcomes? Will we get some qualitative reports from the fire departments or is this the only way we were able to

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measure the success of the program? [LB121]

JOHN FALGIONE: Well, Senator, there was no money being put into this program. I mean there was no benefit being paid by the state for the retirement fund or for volunteers or for their interaction. So there was no...there was nothing to measure. [LB121]

SENATOR COOK: So there's no program? [LB121]

JOHN FALGIONE: There really...it's a...right now it's just a stalled out program. [LB121]

SENATOR COOK: So there was a budget to measure a program that didn't exist or wasn't active? [LB121]

JOHN FALGIONE: Right, it doesn't exist right now. When it was put into effect... [LB121]

SENATOR COOK: Oh, I see. [LB121]

JOHN FALGIONE: ...there was hopes that the cities and the counties and the fire districts would generate some revenue and put it into funding for the volunteer firefighters to take care of a retirement or to... [LB121]

SENATOR COOK: Okay. [LB121]

JOHN FALGIONE: ...gainfully try to recruit new members and retain them. And we have other training programs that we use. It's just...it wasn't funded, there was just nothing there. But the reporting requirement still was left in it so we still were gathering that information, which we had to submit that every year to the Clerk of the Legislature and you all get those reports every year. And it basically tells you how many volunteer fire departments there are in the state, how many volunteers there are in the state. And, you know, whatever happens with that information, it does get utilized once in a while, somebody will call and ask for that information--how many volunteer firefighters are there in the state of Nebraska. Well, we can say 12,000-whatever it is or how many fire departments are there in the state of Nebraska? And we have that number. But other than that it doesn't do us any...you're paying us \$12,000 to do very little. [LB121]

SENATOR COOK: All right. [LB121]

SENATOR MCGILL: I'm assuming there's some associations out there that probably have that information as well,... [LB121]

JOHN FALGIONE: There probably is other... [LB121]

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SENATOR MCGILL: ...the Volunteer Firefighter Association I would imagine. [LB121]

JOHN FALGIONE: Yeah. The thing they will...in defense of them though, not every volunteer fire department belongs to the volunteer association. I think they run somewhere around 78,000 members. So you can see that obviously not everyone joins that organization. [LB121]

SENATOR MCGILL: Um-hum. Okay. [LB121]

JOHN FALGIONE: I would recommend they do, but they don't so. [LB121]

SENATOR MCGILL: Senator Schumacher. [LB121]

SENATOR SCHUMACHER: Thank you, Senator McGill. So basically, if we eliminate or pass this particular bill then the Fire Marshal's Office will get \$12,000 less in an appropriation? [LB121]

JOHN FALGIONE: No, sir, or yes, yes, we'll get \$12,000 less in General Funds, yes. [LB121]

SENATOR SCHUMACHER: Okay. And these additional duties, if I try to parse through the language in the bill, after it's amended, basically reads, each program shall include procedures to be followed in tallying and the auditing of points earned by volunteers and provisions which provide for the collection of such other information regarding participants as may be needed. Who then determines what the need is? [LB121]

JOHN FALGIONE: That will be up to, it's my understanding in reading the bill, it would be...it's going to be dictated by whatever program is developed by the entities that want to sustain this. [LB121]

SENATOR SCHUMACHER: The taxpayer feels he needs to know the information, does that mean as needed? I mean, it used to say, as requested by the Fire Marshal to facilitate. But now we're telling somebody that they're going to include procedures to do these things and we're not telling anybody who's going to determine it. [LB121]

JOHN FALGIONE: Okay. Well, the other part of that is...that I can tell you is on our Web site we have a listing of all the fire departments in the state of Nebraska. So if somebody had specific information they wanted, there's contact information on our Web site for all the fire department in the state. [LB121]

SENATOR SCHUMACHER: Why don't we just strike this whole paragraph if nobody...if we don't know who's going to determine what is going to be needed, if there's no particular need for, at least in the past, for this information, we don't know who's going

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to do it, why don't we just get rid of the whole paragraph. Do you see a problem with doing that? [LB121]

JOHN FALGIONE: Possibly there might be. Maybe the volunteer organization might decide to pick that up and go with it. As far as requiring a state agency to do it I don't believe we want to do that. [LB121]

SENATOR SCHUMACHER: Nothing jumps out at you. But rather than leave this thing hanging there with somebody to do something without any head to tell it what to do or what's needed, nothing jumps at you at least that says, hey, if you get rid of that whole paragraph no harm done? [LB121]

JOHN FALGIONE: I'm not a lawmaker, sir, and I'm not going to get into that. [LB121]

SENATOR SCHUMACHER: (Laugh) Okay. I was just trying to be one. (Laugh) [LB121]

JOHN FALGIONE: Yeah, and I appreciate that. [LB121]

SENATOR MCGILL: Maybe during the closing, maybe we can have the Government Committee counsel come up and close and maybe we can discuss that with her a little bit. Are there any other questions from the committee? No? Thank you very much. [LB121]

JOHN FALGIONE: Thank you. [LB121]

SENATOR MCGILL: Any other proponents? [LB121]

JERRY STILMOCK: Thank you, Madam Chair. My name is Jerry Stilmock, J-e-r-r-y Stilmock, S-t-i-l-m-o-c-k, testifying as the registered lobbyist for the Nebraska State Volunteer Firefighters in support of LB121. We in this instance looked strictly to Fire Marshal Falgione. And with the rationale of so much of what the volunteers rely on his office for and his employees is training volunteers, to go out to training that is provided by the Fire Marshal's Office throughout the state, matched up against the reporting mechanism that would be taken away in LB121. And so what we looked at is we know, we've listened, funds are tight, more than tight. And we looked upon his guidance and leadership to decide that if he felt he could do more with less rather than taking away some more from the training side of it and take away from the reporting side of it, we wanted to be there to support him. Quickly, the backdrop of it was, as Fire Marshal Falgione has stated, when VERRRA was being built it was built upon a state contribution of state dollars along with a local contribution of local city dollars. And together those funds would go together and there would be a qualification process so that if the city of North Platte was going to try to have a length of service award program, in laymen's terms a retirement program, North Platte would have to pony up

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funds in order to do that and the state of Nebraska was going to pony up and fund a part of that. So there were several checks and balances built into the system. What happened was on the day of the veto, a message was delivered to the introducing senator--I will veto the bill if the funding mechanism on the part of the state is not removed--so the funding mechanism on the part of the state was removed. The bill went forward with some minor adjustments, but the state...this...the reporting requirement. And it has been helpful because we felt at the time, in 1999, there was no accurate way to determine how many volunteer firefighters and volunteer rescue personnel there were in the state. And so it was decided to get a base. And this mechanism was established then to have a base not only to answer how many are out there or show us quantitatively how the numbers are dwindling, that was one reason. The second reason was to know appropriation wise much money was going to be needed from the state side in order to fund this dual program. Well, when the stateside funding was taken away, perhaps then the need for having this reporting was taken away as well. But since 1999, it has always been in place. So each year we know there is somewhere between 12,500 and 13,000 men and ladies that are volunteering. And that served as helpful information. Given our druthers, do you take away from training so you continue to have reporting or not, we're following the lead of the Fire Marshal on this one. Thank you. [LB121]

SENATOR MCGILL: Is there really anything going on within the VERRRA act then? [LB121]

JERRY STILMOCK: Yes, there are a handful of cities that have said for motivation purposes, for a lot of reasons that they have gone ahead and they have instigated a retirement program, so it's understandable, a retirement program for their volunteers. So they look at VERRRA as a guideline, which they have to follow, as well as the Internal Revenue Service. So there's the state and federal both looking in. McCook, North Platte, Gering, Bellevue, there may be a couple of others, have programs that reward...offer awards to their volunteers. [LB121]

SENATOR MCGILL: Okay. Senator Schumacher. [LB121]

SENATOR SCHUMACHER: Thank you, Senator McGill. So does...do these cities that are still doing something still need this act or can they just go on and do it under the normal city authority? [LB121]

JERRY STILMOCK: Senator, I think they would just go ahead and do it under their own city authority. [LB121]

SENATOR SCHUMACHER: So we can eliminate this whole act and not have to worry about questions of who shall do what and who's going to pay for it, particularly if the state doesn't want to? Vounteer... [LB121]

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JERRY STILMOCK: Yeah, I...Senator, I don't know if I'd go that far to remove the whole thing because it does provide a "guidestone" of what a length of service award program in Nebraska has to look like. And, you know, I have...I would not, it would be my recommendation not to do away with it. I haven't thought about the question you've posed other than what happens if you delete the paragraph to which you spoke of to an earlier testifier. But to do away with the entire act, number one, it takes away the authority of cities and fire districts to have a retention program in order to compensate their volunteers if they want to. So that would be one reason to keep it in place because of the authority authorized in the act, Senator. [LB121]

SENATOR SCHUMACHER: Then one follow-up question. Do you see any problem with just eliminating this number 3 which requires somebody to keep some kind of record that are needed but we don't know who's going to decide what's needed nor how much it's going to cost or who's going to keep them? Can we just get rid of that paragraph? [LB121]

JERRY STILMOCK: Or even the last phrase, Senator, as you've recognized, as may be needed, if the program is going to have procedures and the tallying and recordkeeping, those items in lines 19 through 23 are going to need to be in place so that there is a requirement that a score be kept. Was Jerry Stilmock here for training? How many times throughout the year? So that in a sense it's big brother, the state, telling, I better be careful, who's in the room? (Laughter) Big brother, the state, telling the city, I won't refer to any other...the city that thou shall keep this information and so that there is a score sheet kept for each volunteer. That, I think, would be helpful to at least retain that part, except striking the language after, in line 23, after "regarding the participants," period, rather than as may be, etcetera. [LB121]

SENATOR SCHUMACHER: Thank you, Mr. Stilmock. [LB121]

SENATOR MCGILL: Any other questions? No. Thank you very much. [LB121]

JERRY STILMOCK: Okay, thank you. [LB121]

SENATOR MCGILL: Anyone else here as a proponent? Anyone here as an opponent? Anyone here neutral? Any closing? Do you want to close? Oh, I don't know. Does the committee have questions? No. Okay, then we will go ahead and just waive that then. All right. Senator Coash, will you take over for a minute. [LB121]

SENATOR COASH: Yes. Okay. We are going to move forward to LB437, a bill introduced by the Urban Affairs Committee. And the Chair, Senator McGill, is going to open for us. How many are here to testify on LB437? Very good, thank you. You're recognized to open.

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SENATOR MCGILL: Thank you, Senator Coash and members of the committee. I'm Amanda McGill, M-c-G-i-l-l, and I represent District 26 in northeast Lincoln. Today I'm here to introduce LB437. This bill amends the state building code by adopting the 2006 edition of the International Building Code and the 2006 edition of the International Residential Code. Additionally, this bill addresses the problem identified last year by Senator Gloor's bill, LB949, which is how we adopt the state building code. The current language in statute provides for automatic adoption of the new building codes as they are published. And this has been determined to be an unlawful delegation of legislative authority both by the Nebraska State Supreme Court, in 1994, and by the Attorney General in an opinion issued in September of 2010. LB437 removes the language of automatic adoption of newly published codes from the state building code effectively eliminating this problem. This bill also adds language that allows state agencies and political subdivisions to amend the state building code by adopting temporary interim amendments that are issued by the National Fire Protection Association or any supplement or appendix of the International Building Code or International Residential Code. These are issued to deal with safety issues that come up between new editions of these codes which are published every three years and simply there are times of year we're not in session. And so we need to find a way for those to be adopted while we're not here so those safety issues can be dealt with. LB437 also includes language that helps to clarify the language in the statute making it more clear what political subdivisions may do to amend the state building code to address local concerns and conditions, reduce unnecessary costs of construction and to increase safety. I also have some amendments that we'll go over. And I'm sure a lot of the discussion we'll talk about whether we should just be going to the 2009 edition of the International Building Code or the 2009 edition of the International Residential Code. So we'll hear the debate. I think the committee will take some time to look at how to best craft this bill to make sure that we do clear up the problems of unlawful delegation as we move forward into the specific issue in the bill following this one. Any questions? [LB437]

SENATOR COASH: Any questions for Senator McGill? Seeing none, we will move on to testimony. We're going to start with supporters of the bill, if the supporters of the bill want to move forward to the front of the room, we got quite a few supporters, we'll keep this moving very quickly. Welcome. [LB437]

BRIAN DOYLE: Thank you. Good afternoon. My name is Brian Doyle, B-r-i-a-n D-o-y-l-e. I'm here on behalf of the Eastern Nebraska Development Council, it's a group of Omaha metropolitan area builders, developers, engineers, attorneys like myself. First off, I'd like to thank the Chair in particular for the lengthy hearings that we held this past summer to discuss this issue and the issue in the subsequent bill that you're going to hear about later. I'd like to thank the committee for sitting through those hearings and for once again being here today. We're here today in support of the committee's bill. That being said, we would like to see Senator Gloor's proposed amendment, if this is the bill

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that goes through, be adopted that takes out some of the temporary interim adoptions from the National Fire Protection Association. I haven't looked at this issue particularly close, but I still have some degree of concern that those...allowing an outside agency to write rules could be an unconstitutional delegation again. I do understand the distinction here with having a state agency or a local government adopt it. And I think that might overcome that concern. But that being said, I would like for you to consider Senator Gloor's amendment. I'll be brief here. We have a number of homebuilders here today. You're going to hear from the State Home Builders Association also. And I think you'll hear much more on the second bill today. But that being said, thank you for your time. [LB437]

SENATOR COASH: Thank you, Brian. Senator Krist. [LB437]

SENATOR KRIST: Thanks for coming, Brian. I'm going to ask this question a lot today. But you're familiar with the 2006 building code? [LB437]

BRIAN DOYLE: Yes. [LB437]

SENATOR KRIST: You're familiar with the 2009 building code? [LB437]

BRIAN DOYLE: Yes, I am. [LB437]

SENATOR KRIST: Why do we need any additional guidance if we only adopt 2006? Our debate throughout the entire interim period has been in the sprinkler systems; 2006 does not have the 2009 language. [LB437]

BRIAN DOYLE: That's correct. And is the question getting to the fire sprinkler issue in particular? Is that...I guess, I'm not quite sure what you're asking. [LB437]

SENATOR KRIST: Absolutely, that's... [LB437]

BRIAN DOYLE: Okay. First, if I or someone else from my group comes up, we'll come up in support of the subsequent bill also. The fire sprinklers, obviously, is a huge issue. We testified over the summer and last year against that. I'm probably not the guy to answer questions particular to the sprinklers. [LB437]

SENATOR KRIST: Okay. [LB437]

BRIAN DOYLE: We have a number of builders who have much more expertise in this area than myself. [LB437]

SENATOR KRIST: Okay, thank you. Thank you, Chair. [LB437]

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SENATOR COASH: Any other questions for Brian? Seeing none, thanks for coming. [LB437]

BRIAN DOYLE: Thank you. [LB437]

SENATOR COASH: We'll take the next testifier. [LB437]

ALLEN BARBER: (Exhibit 2) Senator McGill, senators, thank you for the opportunity to be here and present our testimony today. My name is Allen Barber, A-l-l-e-n B-a-r-b-e-r. I was past-president of the Home Builders Association of Lincoln in 2006 and am the current president of the Nebraska State Home Builders Association. What I have here is a map that I've made copies of each one for you. And this is the current map on the National Association of Home Builders Web site that was published on January 25 of 2011. And this shows the states where mandated requirements were defeated, the pending action, mandatory requirements, and no action as reported here. I think the map speaks for itself. The State Home Builders Association is united throughout the state in its membership, its leadership. We feel that it's critical at this point in time to support either one of the bills. We prefer that we go with LB546, if that's an option for us. The industry at this point in time is struggling like it never has struggled before. Between the housing crisis that is going on, the banking regulations, the regulators themselves, the appraisals, I don't think we've ever hit a lower point than we are at this point in time. The affordable housing, to try to go out and to get a loan is a feat in itself. We have people that are more than qualified that seem to have issues up until the last day of closing. I mean, regardless of whether it's one credit card too many, but I mean this could be devastating to us without any doubt. I also have several other homebuilders here that are with us at this point in time that each of us will break it down and try to isolate it on specific points so that we can answer any and all questions that you have. And if that individual can't, then we'd be happy to regroup and then answer any of your questions that you do have. At this point in time, to kind of give you an overview of where the housing market is, for every \$1,000 that we add to the cost of the home throughout the nation we eliminate 250,000 people being able to qualify for a mortgage. And those numbers were dated back from last year. So if you take the scenario that I've just quoted you as far as the banking industry, the appraisals and the regulators, I have to believe that that number has more than doubled. The crisis continues. It's just...I just feel that I don't...I'm not sure that we can sustain any more of these regulatory impositions upon the housing market. The affordable housing is going to be gone before we know it. Is there any questions that I can answer at this point in time? [LB437]

SENATOR MCGILL: Does the committee have any questions? I do want to remind the crowd that we're on LB437 and we haven't gotten to the specific sprinkler bill. So from this point on if we could withhold our comments on that, to that particular bill, it would be helpful in keeping the two issues more separated. But while you're here, questions from

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the committee? Senator Smith. [LB437]

SENATOR SMITH: Thank you, Senator McGill. Mr. Barber, first you are in support of LB437, right? [LB437]

ALLEN BARBER: Yes, sir. [LB437]

SENATOR SMITH: Okay. On this particular map, you show quite a number of states that have defeated the mandatory requirements, in a similar fashion as to what we're looking at here today or do you have an idea? [LB437]

ALLEN BARBER: I'm sorry, can you repeat... [LB437]

SENATOR SMITH: And I'm sorry, I'm kind of going over to... [LB437]

SENATOR MCGILL: That's okay. [LB437]

SENATOR SMITH: ...leading over to LB546, but by making those exemptions, that's the way that was addressed? [LB437]

ALLEN BARBER: Yes. [LB437]

SENATOR SMITH: Okay. And then that...once that...you (inaudible) every \$1,000 added to cost, 250,000 families or people are eliminated from qualification? [LB437]

ALLEN BARBER: Yes, that is correct. [LB437]

SENATOR SMITH: And that's a national statistic? [LB437]

ALLEN BARBER: Yes. [LB437]

SENATOR SMITH: Okay. Thank you. [LB437]

ALLEN BARBER: And that's an old statistic from last year and that's before, you know, everything started with the banking and the regulators and the appraisals... [LB437]

SENATOR SMITH: Okay. [LB437]

ALLEN BARBER: ...being an issue at this point in time. [LB437]

SENATOR SMITH: Thank you. [LB437]

ALLEN BARBER: I'm sorry, I don't have any current data available with that. [LB437]

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SENATOR SMITH: That's all right. [LB437]

SENATOR MCGILL: Okay. Senator Krist. [LB437]

SENATOR KRIST: What building code are we currently complying with? [LB437]

ALLEN BARBER: We are united on either bill. [LB437]

SENATOR KRIST: What building code, in terms of the past few years, are we currently complying with in the state--2000, 2003? [LB437]

ALLEN BARBER: Three. [LB437]

SENATOR KRIST: Okay. And this issue is to approve the 2006 building code. [LB437]

ALLEN BARBER: Correct. [LB437]

SENATOR KRIST: Do you have any issue with complying with the 2006 building codes? [LB437]

ALLEN BARBER: No, we do not. [LB437]

SENATOR KRIST: Okay, thank you. [LB437]

SENATOR MCGILL: Senator Cook. [LB437]

SENATOR COOK: Thank you, Madam Chair. Mr. Barber, you indicated that this map says it all. Would you please, for the clarity of the record and for the committee, say what you wanted this map to say to the committee about LB437. [LB437]

ALLEN BARBER: Well, it is color coordinated, okay? [LB437]

SENATOR COOK: Yes. [LB437]

ALLEN BARBER: And this... [LB437]

SENATOR MCGILL: In terms of the point you're trying to make. [LB437]

SENATOR COOK: The point you're trying to make. [LB437]

ALLEN BARBER: Okay. It is that there is more support not to have sprinklers than there is to have sprinklers. [LB437]

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SENATOR COOK: Oh, okay. All right. [LB437]

SENATOR MCGILL: That's clear. (Laugh) All right, any other questions? No? Thank you very much. [LB437]

ALLEN BARBER: Thank you. [LB437]

SENATOR MCGILL: We'll take more proponents on LB437, specifically dealing with the changing of policy on adopting building codes. [LB437]

MICK O'BRIEN: Chairman McGill, members of the committee, my name is Mick O'Brien, M-i-c-k O-'-B-r-i-e-n. I'm with HearthStone Homes in Omaha. I'm here in favor of LB437, particularly because it provides the ability for local jurisdictions to amend the code. I've been the chairman of the Omaha committee to amend and adopt the International Residential Code for the last two code cycles. We found some unexpected benefits by being able to take a code that's written on a national level and personalize it to the areas where we live and work. During the last code adoption cycle, for the first time in history, all the suburbs of Omaha adopted the same building code, the same way, at the same time. It was monumental. The inspectors would go to jobs and find jobs that were built to code, everybody knew what the rules were. They didn't spend their time arguing with a framer who had done it 25 years in one town and couldn't do it in another town. We found that having the ability to make minor adjustments, not to lessen it, anybody that's responsible in the building industry wants it to be safe, sound and built right. We didn't lessen the intent of the code. But there were things that, when I was in a room with every chief building official for every city that touched Omaha, none of us could agree what it said because we all had a different interpretation. So the changes we made were minor. Some of them were just wording, some of them were just clarification. But because we were given that ability, for the first time ever, every town has the same set of rules and we've got a consistent standard of quality that people can count on. So I support LB437. [LB437]

SENATOR MCGILL: Thank you, Mick. Questions? Senator Krist. [LB437]

SENATOR KRIST: You're either going to get tired of this...we are adopting 2006. [LB437]

MICK O'BRIEN: Yes. [LB437]

SENATOR KRIST: And you're in favor of adopting the code? [LB437]

MICK O'BRIEN: With the ability to amend, yes. [LB437]

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SENATOR KRIST: And amendability that you're talking to is then an option to change it, opt out? No? It is an... [LB437]

MICK O'BRIEN: To adopt that code with reasonable modifications to that code, 2006. [LB437]

SENATOR KRIST: So you are neither in favor of opting in or opting out, you are modifying the existing code for the local community? [LB437]

MICK O'BRIEN: Yes. [LB437]

SENATOR KRIST: Thank you, sir. [LB437]

SENATOR MCGILL: Are there any other questions? Okay, thank you very much. [LB437]

MICK O'BRIEN: Thank you. [LB437]

SENATOR MCGILL: Any other proponents? [LB437]

PAT OHMBERGER: Chair McGill, senators, my name is Pat Ohmberger, P-a-t O-h-m-b-e-r-g-e-r. I am the 2011 president for the Nebraska Realtors Association and we are in support of LB437. The codes, the way they talked, from the builders to the inspectors, are very true. When you go to sell that home or have an existing home that you resell it is very nice to know that it is structurally sound and ready to go and safe for the public. And it would be detrimental to us if we had to mandate anything to the public at this point both for their safety, you know, not for their safety, excuse me, for their cost and for our industry. [LB437]

SENATOR MCGILL: All right. Questions for Pat? No? Thank you very much. Any other proponents here today? Anyone here in opposition to LB437? [LB437]

CROSBY GRINDLE: Chairperson McGill, members of the committee, my name is Crosby Grindle, G-r-i-n-d-l-e. I'm with the National Fire Protection Association or NFPA. For over 100 years, we have worked to reduce the burden of fire to people everywhere through research, data collection, education, and the development of consensus codes and standards. I'll be really brief on this one because really the only reason I'm here opposing this is because we still don't get where we want to be, which is to see the national standard of care met with residential sprinkler requirements statewide and that's not included in this legislation. But I respect that you don't want to discuss that as much for this element. So I will come back for the next piece of legislation and really talk about the residential sprinkler part, unless you have more questions for me now. [LB437]

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SENATOR MCGILL: Thank you. We're trying to keep the two issues as different, as separated as possible right now so. [LB437]

CROSBY GRINDLE: Appreciate that, thank you. [LB437]

SENATOR MCGILL: Thank you. Any questions? Oh, Senator Smith, sorry. [LB437]

SENATOR SMITH: Thank you, Senator McGill. So being in opposition to this introduced bill, you would prefer to have the codes remain that are currently in force? [LB437]

CROSBY GRINDLE: Through the Chair, Senator Smith, as I understand it, the way the code process works here, without this legislation you would automatically be adopting the most updated standard, which would be 2009, which would include residential sprinklers absent any other action. So that's my motivation for having that position. [LB437]

SENATOR SMITH: So that's...the 2009 is an automatic... [LB437]

SENATOR MCGILL: Yeah or we could...or, theoretically, we could amend this bill to be 2009's code instead of 2006. [LB437]

CROSBY GRINDLE: And that's why, I respect you have a lot going on with that. I don't want to get in the middle. I just want you to know my position on what I'd like to see on that. [LB437]

SENATOR SMITH: All right, thank you. [LB437]

SENATOR MCGILL: All right. Senator Krist. [LB437]

SENATOR KRIST: For the record, that means that if we leave this legislation lay, and what our interim study taught us was we can't because the Attorney General said we can't, so we have to adopt a code. And the 2006 language that's in here is one option. And the 2009 language, which is on the street, is another option. And 2012 is right around the corner. So that's kind of the point. And so your objection is we need to leave it the way it was, which we've already been told by the Attorney General is unconstitutional. [LB437]

CROSBY GRINDLE: Or you can change it to be the '09... [LB437]

SENATOR KRIST: Got it. [LB437]

CROSBY GRINDLE: ...and then I'd be testifying in support. (Laugh) [LB437]

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SENATOR MCGILL: All right. Any other...no, it doesn't look like it. Thank you. [LB437]

CROSBY GRINDLE: Thank you. [LB437]

SENATOR MCGILL: Any other opponents? [LB437]

COLEEN NIELSEN: Good afternoon, Chairman McGill and members of the Urban Affairs Committee. I, too, have to reiterate what was just testified to through Crosby Grindle. That is State Farm's position, that they would prefer that the 2009 code be adopted. And I just want to make that clear. We have other testimony coming up following me on another bill. So I'd be happy to answer any questions? [LB437]

SENATOR MCGILL: All right. Any questions? No? Thank you. [LB437]

COLEEN NIELSEN: Thanks. [LB437]

SENATOR MCGILL: Oh, did you give your name in your testimony? [LB437]

COLEEN NIELSEN: Oh, I'm sorry, I didn't. My name is Coleen Nielsen, N-i-e-l-s-e-n. [LB437]

SENATOR MCGILL: I know, we're just making sure. Thank you. Other proponents...opponents? Oh, my goodness. Anyone here neutral? Couple of those. [LB437]

REBECCA KOLLER: Good afternoon, Senator McGill, members of the Urban Affairs Committee. My name is Rebecca Koller, R-e-b-e-c-c-a K-o-l-l-e-r. I am the director of Facilities Planning and Management for the University of Nebraska and I am here to speak in a neutral position on LB437. Construction of university facilities is done in accordance with the International Building Code, IBC, not the residential IRC and the Life Safety Code of the National Fire Prevention Association or the NFPA, codes and standards developed by national organizations and adopted by the state of Nebraska. Per existing statute, the university reviews and adopts the IBC when published, generally on a three-year cycle. The code adopted at the time we start designing a project is the code that we adhere to through the construction. This three-year cycle allows us to clearly define the requirements of the project. We currently design projects to comply with the 2009 IBC as opposed to the 2006 edition. A change back to the 2006 code could result in added costs to ongoing projects. The existing statute references the International Building Code but suggests insertion of language relating to temporary interim amendments issued by the National Fire Protection Association or NFPA. That poses several issues. First, it creates a blurring of administrative responsibilities. The IBC is administered by code officials who are employed by the University of Nebraska,

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while the Life Safety Code, NFPA 101, is administered by the State Fire Marshal per 81-502. Second, as temporary interim amendments are only applicable to the Life Safety Code, insertion into the IBC would require rewriting the amendment to conform to the building code and may not allow a deliberative process to review implications on the IBC. Finally, adoption of amendments off the current three-year cycle could result in significant increases in project costs. The university strongly supports streamlining and strengthening building codes and is willing to work with the Urban Affairs Committee in any way we can. Thank you. I'm happy to answer any questions. [LB437]

SENATOR MCGILL: Thank you as well for coming in early and talking to Laurie about this issue. I know the International Building Code is a separate issue from the one that most of us find controversial. So we do have an amendment drafted to take care of that, if the committee so chooses to make that change. [LB437]

REBECCA KOLLER: Good. [LB437]

SENATOR MCGILL: Any questions? No? Thank you very much. [LB437]

REBECCA KOLLER: Thank you. [LB437]

SENATOR MCGILL: Other neutral testimony. Hello. [LB437]

JIM HARPER: Senator McGill, Urban Affairs Committee, my name is Jim Harper. I'm plans examiner for the city of Omaha, Nebraska, and I'm testifying in a neutral position today. I was going to testify in opposition but, after hearing some of the testimony, I think I'm going to testify neutral and just supply facts at this point. I will be testifying in support of LB546. The city of Omaha is in the preliminary phases of moving ahead with adopting the 2012 International Codes, which the IRC is going to be one of. So I wanted to get that out on the table that we feel that we need to be able to move ahead. There's a lot more in the code than just fire sprinklers; if you look in this book, there's modifications that deal with sheer walls, better framing, energy, and the list just goes on and on. So we think it's probably important that we're already under the 2006. We've been under it now for the better part of three years. And we think that maybe that's a little bit dated at this point. So technology moves on and so do the codes. Can I speak to your concern, Senator Krist, with delegating the legislative authority to another party? I've thought of that for quite a long time since we had our meeting back in November. And to me this seems to pose a bigger problem to our state than it does to our cities. Our cities right now, we go through a transparent process, we have hearings, we have building departments, we go through the process. We have an option of adopting a code or not adopting a code. The state doesn't do that because we don't have a state building board to do those kind of things anyway. So our cities seem to me like maybe they're in a little bit different position than our state is on that issue. I've always looked at this law as maybe being kind of a modified home rule or coordinated home rule

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provision in our statutes. The law tries to keep us all together but doesn't go the distance where we have a building commission or something like that trying to regulate the entire state. Is it flawed? Sure it is. But it's probably, on the other hand, maybe as good as we can do. So that's my comments. Any questions? [LB437]

SENATOR MCGILL: So, Jim, you like the local control of it on the city level? [LB437]

JIM HARPER: Absolutely. And I do get concerned about just having a statewide prohibition, if you will, like on fire sprinklers because we use fire sprinklers for a lot of different reasons. We may modify a fire flow based on sprinklers in buildings. We may modify the length of a fire lane into a subdivision based on fire sprinklers being in the buildings. A lot of different scenarios come up. So I can see this as maybe being something like Mick was saying, Mick O'Brien, that we need to deal with this locally. [LB437]

SENATOR MCGILL: That fire lane thing is something I hadn't even thought about and the rest of the planning that goes into a community around that. [LB437]

JIM HARPER: Oh, there's probably hundreds of scenarios, yeah. [LB437]

SENATOR MCGILL: Interesting. Senator Coash. [LB437]

SENATOR COASH: Thank you, Senator McGill. Jim, earlier in your testimony you mentioned that Omaha is moving forward... [LB437]

JIM HARPER: Yes. [LB437]

SENATOR COASH: ...with, did you say 2012? [LB437]

JIM HARPER: 2012, right. [LB437]

SENATOR COASH: 2012. [LB437]

JIM HARPER: It will be available in May of 2011. [LB437]

SENATOR COASH: But you're already starting... [LB437]

JIM HARPER: Yes. [LB437]

SENATOR COASH: ...to adopt, because you're allowed to adopt locally more restrictive. [LB437]

JIM HARPER: Um-hum. [LB437]

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SENATOR COASH: Are you including fire sprinklers in that moving forward? [LB437]

JIM HARPER: That would be part of the debate that we'd have with Mr. O'Brien and our constituents. [LB437]

SENATOR COASH: But at this point... [LB437]

JIM HARPER: Do I see it happening? Probably not. I think we'd probably amend it out. [LB437]

SENATOR COASH: Okay. Tell me why. [LB437]

JIM HARPER: Just...I think that there's probably market issues at play there. Doesn't seem to be a lot of support, although, you know, people in the fire services certainly are interested in this and rightly so. I think it's probably not debatable. Can I talk about fire sprinklers? [LB437]

SENATOR MCGILL: Yeah, we start...yeah. [LB437]

JIM HARPER: Fire sprinklers save lives, I think that's pretty well established and beyond discussion at this point. But, you know, there's an economic side to this, as you've heard, I mean, that's real. And do I think it's coming eventually? Yes, I think we'll see fire sprinklers in our homes. Some of that gets off into the debate--well, who's going to install them? Can a plumber install a system or does it have to be a pipe fitter or a steam fitter? And it could affect the cost. But those things will work themselves out down the line, I think. [LB437]

SENATOR COASH: All right, thank you. [LB437]

SENATOR MCGILL: Senator Krist. [LB437]

SENATOR KRIST: You opened a can of worms. (Laughter) So what you've just described to me is that the city is moving forward with a still more restrictive than 2006, 2009. You're moving right into 2012. [LB437]

JIM HARPER: The way we see that is there's not much purpose in going to the 2009 code because we can stay under the 2012 code a lot longer. We can stay under that for like five years at least. And that's a big deal for us, putting together our code committees and studying that. So we're... [LB437]

SENATOR KRIST: I think you are absolutely correct and I applaud that. Now you're telling me that you're going to take a piece of that code and you're going to opt out of

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enforcing that piece of the code because as a municipality or as a city you deem it not to be locally acceptable at this time. That's what I just heard. [LB437]

JIM HARPER: Yeah. [LB437]

SENATOR KRIST: Thank you. [LB437]

SENATOR MCGILL: Any other questions on this side of the table? No? Seeing none, thank you very much, Jim. [LB437]

JIM HARPER: You bet. [LB437]

SENATOR MCGILL: Any other neutral testimony? Okay, seeing none, I will raise the...or waive any closing. So that ends the hearing on LB437. And we can go on to Senator Gloor and LB546, what everyone is really here to talk about. [LB437]

SENATOR GLOOR: Isn't this a relief not to have to talk about the 800 pound gorilla in the room. (Laughter)

SENATOR MCGILL: Whenever you're ready.

SENATOR GLOOR: Thank you, Chairperson McGill, fellow senators. My name is Mike Gloor, G-l-o-o-r, and there are several times I've lifted out of my seat saying, teacher, teacher, ask me, and realized I'd get a chance to answer some questions. When we first introduced this topic last session, in terms of one of my legislative bills, we thought it would be relatively, relatively simple. And imagine our surprise when we ended up with a lot of issues coming to the surface, not the least of which is unlawful delegation and the Attorney General's Office being involved. But all of it lent itself to, I think, a higher level of discussion. My appreciation to Senator McGill, to Laurie for their help during the interim, holding the hearings and fleshing this out a little more and taking on one of the less challenging aspects of it, but one of the more important aspects of it nonetheless. This bill, LB546, addresses what is clearly the most challenging of the issues, and that is the issue around mandating fire sprinklers in all residential homes. Fire sprinklers are important things certainly in nursing homes, my former hospital, a variety of facilities. They make a lot of sense and, not only make sense, need to be mandated. But a single-family dwelling, I think, falls into a different area. Part of my interest and passion for this bill and this topic, I'd remind senators who were here last year and for those senators who were not, my family was in the building industry for a number of years. My father owned several lumber yards. And I worked my way through college and high school and for awhile junior high, both helping in the construction of single-family homes as well as hauling supplies out to single-family homes and heard a lot of the discussion and debate that went into it. And it was always a cost-benefit analysis. How close do we make the joists in this home to support certain amounts of weight, knowing that the

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closer the floor joists were the more expensive it was going to be or how closely do you put the rafters knowing that was also going to have an effect on roof strength, but also come with an added cost, windows and the type of window sashes that you put in, knowing that there could be payback on it. It was a cost-benefit analysis. That, and I don't want to minimize life's safety issues here, but when it comes to building homes what homebuilders and homeowners are concerned about ends up being a cost-benefit analysis. Here's another cost-benefit analysis, \$12.99 for a smoke detector, \$54.99 for wireless interconnected smoke detectors. And smoke detectors have been proven to be wildly successful at a very minimal cost in saving lives and getting people out of burning buildings in a hurry. But here's the cost of fire sprinklers, this is where I got cranked up, \$4,000 for an average home in this state to install fire sprinklers, \$8,000 for rural homes that aren't hooked up to city water, \$8,000 for an average home in Lincoln for installation and impact fees. You may hear different numbers brought forward by different builders as they do their own calculation. This is the best we could come up with, a fair representation of some of the expense. There are on average about 7,000 new homes built in this state every year at, using the lower number, \$4,000, that's \$28 million in this state every year going into sprinklers at a time when our economic recovery, we are told, continues to drag along for a number of reasons, not the least of which is a lack of new homes being built and the challenges of people to get into the homes and buy homes. And especially in lower-income categories we've got people who are now looking at being pushed further back from being able to buy a home or move into a home, stop paying rent, because of the added cost. My local director of Habitat for Humanity in Grand Island pleaded with me last summer about this bill, and said, we're going to have to raise another quarter of a million aluminum cans to pay for just the sprinkler systems, just the sprinkler systems. So this isn't just an issue about wealthy people building homes and trying to hold down the cost. It's also an issue that spreads over a wide variety of people, and I think the wealthier people that this is impacted by can afford the added cost. It's the ones at the lower end of the buying market that have a challenge. I'll be candid with you to say if we were talking about a system that was proven and a system that was lower cost I could be one of the advocates. But the kind of cost we're talking about to systems that yet have to prove themselves in this kind of a residential setting I think is a challenge. After the hearing last year and after it was clear that the bill would continue to be held in committee, even after I prioritized it, I started getting phone calls--too late, but phone calls from people who said, gee, we thought for sure this would sail through. We own a motel and the motel sprinkler heads leak all the time; our insurance premiums have gone up because of water damage. And the insurers said, great, we're glad that you've got sprinklers that are updated, the sprinklers in your motel, but on the other side they were quick to raise the premium as soon as they had damage as a result of sprinklers being tripped or leaking, that's in a motel setting, not even in a home. Several people contacted our office who have second homes in other parts of the country that have sprinklers installed and said, constant problem, and their neighbors around came over and said, shut them down, just don't fool with it. (Laugh) And that's part of my frustration is I know

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it's going to happen with systems that end up being a problem for homeowners. It's going to be like the trash compactor that I have in my place that I don't want to pay anymore to keep updated or the home vac my parents have that they don't use anymore. There's no mandate that this continue to operate, so people will shut down their systems. So we'll have all of this money poured into the systems that won't even be functioning anymore as people decide to shut them down as they move forward. There will be some discussions and may have already been about issues around antifreeze. You know, again, it shows the newness of the system that originally the titrations they were talking about with antifreeze mixed to keep these lines from freezing on days like today has to be changed because somebody was unfortunately killed in a grease fire when it tripped. So we're still trying to figure out how to safely use these systems in this country. That's how new all of this is. Somebody has talked about other states. And I...you had a chart. I'm sure that will find its way back up here, so I'll skip through that. A lot of good things come out of building code updates, a lot of good things--fire retardants, fire suppressant, new materials. This is one of those areas where I think we need to provide for an opt out. And this goes back to Senator Krist's question about are we in, we out, what's going on here? We currently operate it legislatively under a mandate for the 2000 code. That's how far back we really are. Many communities have already adopted the 2006, so one of the reasons we're talking about the 2006 is I remember many years ago, on a hype, there was somebody lagging behind a group that was ahead, his T-shirt said, I must hurry and catch up with the others for I am their leader. So we are kind of hurrying to catch up with some of the cities and counties who are already using 2006. And, of course, the other issue is if the previous bill adopted 2009, it's done. Then the bill that I introduce is done because you've automatically adopted that there will be sprinklers then. This bill provides an opportunity to update to the 2009 but also pulls out that specific standard that would mandate in 2009. Still allows communities to opt in, still allows them to opt in. And so I'm glad Mr. Harper was up here. He set a nice stage for they want to develop 2012 as their minimum standard. I don't know that that's a problem. And if they should decide in their community they want sprinklers in that area, that's their opportunity to opt in. They are welcome to do that. In this case the issue is opting in, making those decisions locally about what you want to do as opposed to it being part of that mandate, given the expense, given the controversy around it. And maybe in closing, if necessary, depending on the questions, we can talk about how we might blend these two bills together, if that's necessary. With that, I would close. I'd answer questions if necessary, though certainly there will be some other testifiers. [LB546]

SENATOR MCGILL: Thank you, Senator Gloor. Senator Krist. [LB546]

SENATOR KRIST: We have spent an inordinate amount of time discussing opting in, opting out, building codes. So I want to have just a discussion so that we clear the air on where we are. When we were informed that...the Attorney General told us that the way prior legislators have been operating for years and years and years was basically

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unconstitutional. He told us that we need to formally adopt a code. And you correctly analyze and I think we made...I made a point of asking a builder what code we were working under now, and this is a President, and I don't mean to embarrass him at all, but it is the 2000 code in fact that we are working under right now. We've never formally adopted '03 or '06, even though the legislation says, the law says that we should always adopt the next one automatically into place. [LB546]

SENATOR GLOOR: Yeah. The only one that we have, for want of a better term, legislatively touched is 2000, the one that's in statute, it is 2000. [LB546]

SENATOR KRIST: Correct. So it's 2000. The current law says that every time we get a new building code we would acquiesce instead of formally adopting. And it would automatically come into place. [LB546]

SENATOR GLOOR: Or we would be stuck with what we're stuck with right now, and that is really 2000 is the building code law of the land, if you would, at this point in time. [LB546]

SENATOR KRIST: Now the easy thing for this legislator to do is to say, you know what? Let's adopt 2006 and leave it up to the municipalities to do whatever they want to do with it because 2006 does not include the fire sprinkler system part of it. [LB546]

SENATOR GLOOR: Correct. [LB546]

SENATOR KRIST: And that would mean kicking, as Senator Howard said today, the empty can down the road. So in this discussion we say, okay, it's time now to stand up to the plate and belly up to the bar or whatever you want to say and say, this is where we need to be. And I think the point that we're at again is that we would opt in, opt out, formally adopt, not formally adopt, we'll allow people to do what they're doing. What I'm hearing though is from people again it depends upon where you live. The city of Omaha is ready to go to the wall and say '12 is where we want to be, and oh, by the way, we're going to opt out. I'm not sure that the law allows them or the code allows them to do that because, as I understand it, it would be basically being less restrictive than the code that has been adopted in place. [LB546]

SENATOR GLOOR: No, that's not true, just the opposite. I think what Omaha is doing and what Mr. Harper pointed out, and others behind me may have to correct me on this, but what I heard him say is they're moving ahead, they're moving ahead with new codes that they think make sense. And they'll hold hearings on those. And those hearings will include also putting sprinklers in. That's absolutely in keeping with what I would like to see done, and that is people within individual municipalities with building departments are welcome to have debates and make them as stringent as they think are appropriate. If they think a firefighter needs to be stationed outside the front door of every home,

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they can make that decision because they are opting in. They are making a decision to make it even tighter, even more restrictive for a variety of reasons. And my concern about this legislation with the fire sprinklers is that you'd have to have a sit-down discussion and pull it out as opposed to want to plug it in. [LB546]

SENATOR KRIST: Well, I think the discussion that would happen at the local level with the experts would be appropriate because if you pull out the fact that you don't have a sprinkler system overhead, you also have to consider what the building code now includes in terms of the dimensions of the pipe, the proximity of the buildings, the material that is used. And all those things went into the building code with the presumption that you're going to have a sprinkler. So all of those particular parts of the code would have to be changed as well. And that is not something that I have ever felt that I am comfortable in this seat to do, while I think the local folks are capable of doing that or the folks that are there. Could you respond to that. [LB546]

SENATOR GLOOR: Well, again, and I hope we're speaking about the same thing. But all of that discussion would be held at the local level within that building department. Remember, that there are also large areas of the state that don't have the benefit of building departments, building inspectors. And so there is an issue here of be careful that what works for the largest communities don't work for some of the smaller communities that don't have the resources. It's one of the reasons that I like the opt in also. I would imagine that the size of the waterlines that run from the street to the house, the size of the plumbing that goes inside, all of that has to be tied into a discussion about do we think, as a municipality in the future or whatever area the building department covers, that at some future date we're going to require sprinklers to go in this home. And that would be again part of the debate held locally, not one that we would have to worry about here, not one that would require us to touch it or get involved in that level of detail. [LB546]

SENATOR KRIST: Thank you, Senator. Thank you, Chair. [LB546]

SENATOR MCGILL: Thank you. Any other questions? Thank you, Senator Gloor. And I know what we're really talking about at this point and for the benefit of people coming to testify is whether there should be an opt in or opt out at the local level. And so any testimony in terms of that element of the debate is very useful because there will be an element of local control here and it's whether they have to opt in or opt out, that's the key. [LB546]

SENATOR GLOOR: Thank you, perfect summary. [LB546]

SENATOR MCGILL: And so thank you, Senator Gloor. Senator Ashford has joined us from Omaha. Welcome. We will now start taking proponents. So somebody's got to get up and (laughter) almost gave me a little heart attack there. [LB546]

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ALLEN BARBER: Senator McGill, Senators, council, thank you. Allen Barber, A-l-l-e-n B-a-r-b-e-r. Senator Krist, I am sorry, (laugh) I just...you are correct. And it kind of bothered...the arena, I'm not in a comfortable position here. But you are correct and I apologize for that. But we as the State Home Builders are in support of LB546. Any questions? [LB546]

SENATOR MCGILL: Any questions? Senator Schumacher. [LB546]

SENATOR SCHUMACHER: Thank you, Senator McGill. In building homes is there any practical application of these rules from building within a city limit to building out in the country, outside in the county? [LB546]

ALLEN BARBER: Yes, sir, there's a great deal of difference. And a lot of the smaller municipalities and even out west there is no enforcement for us. I believe the only code that you have to have in some of these rural areas is electrical building inspection and that's it. As far as any structural or heating and air, water and sewer, they're just nonexistent at this point in time. [LB546]

SENATOR SCHUMACHER: It's not because the code is nonexistent, it's because the enforcement is nonexistent? [LB546]

ALLEN BARBER: That's correct. There is no enforcement, there's no entity there, there's no building inspectors, there's no...there's just no structure out there for these people at this point in time. And that's why basically the state has a minimum standard to follow. At such point time if they would ever move forward, then they're in a position to do so. [LB546]

SENATOR SCHUMACHER: Thank you. [LB546]

SENATOR MCGILL: Any questions? If not, thank you very much for coming back. [LB546]

ALLEN BARBER: Thank you. [LB546]

SENATOR MCGILL: Next proponent. [LB546]

MIKE REZAC: Hello, Senators. My name is Mike Rezac, R-e-z-a-c. I'm a Lincoln homebuilder, also immediate past-president of the Lincoln Home Builders Association. First off, I would like to thank you for allowing an old builder to come in from out of the cold today. (Laughter) I'm here today to speak about the safety of homes today as we build them. Today, smoke detectors are required in every bedroom, in every hallway leading to bedrooms and anytime that there's a ceiling change on every level. So on

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every single level at the highest ceiling level you have a smoke detector, all the hallways to the bedrooms and every bedroom, they're all interconnected and battery backup. So if one smoke detector goes off, they all go off. So homes today are very safe. Last year, in July, the new arc fault breaker requirement went into effect, affecting housing costs in the range of \$1,000 to \$1,500 per home and that in itself made the homes more safe. We're actually having issues with the alarm clocks, when the alarm gets ready to go off it's tripping the breaker, so they are that touchy. I requested some information from the Nebraska Safety Council on portable fire extinguishers; 94 percent of the time a portable fire extinguisher is used it puts out the fire, typically within the initial two minutes. When fires are extinguished in the early stages loss of life is minimal. Ninety-three percent of all fire-related deaths occur once the fire has progressed beyond the early stages. And direct property damage is minimal; 95 percent of all direct property damage occurs once the fire has progressed beyond the early stages. I've been building homes for 34 years in the Lincoln market as a custom homebuilder and in that 34 years I've had one request for fire sprinklers in the home. Today, anyone that wants fire sprinklers can have them. As a builder I'm more than happy to provide fire sprinklers and provide that option for them. So the option is there and it should not be mandated. Thank you. [LB546]

SENATOR MCGILL: Thank you very much. Any questions? Senator Coash. [LB546]

SENATOR COASH: Thank you. Can you put a sprinkler system in a home that's already built or do you have to do it during the building process? [LB546]

MIKE REZAC: I'm sure that you could put one in if it's already built. But obviously, the cost to put it in and the repairs and stuff, because you'd have to open up a lot more wall sections and everything to try to keep them on the interior walls. Obviously, there's a frost or a freeze protection issue that would go along with that. [LB546]

SENATOR COASH: Okay. Thank you. [LB546]

MIKE REZAC: It would be a lot more expensive. [LB546]

SENATOR MCGILL: Any other questions? Senator Krist. [LB546]

SENATOR KRIST: What area do you build in? [LB546]

MIKE REZAC: Lincoln and surrounding area, I mean, we actually get out quite a ways. [LB546]

SENATOR KRIST: Are you familiar with the Palmyra area, Palmyra? [LB546]

MIKE REZAC: No. [LB546]

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SENATOR KRIST: Okay. [LB546]

MIKE REZAC: I haven't built in that area. [LB546]

SENATOR KRIST: How would an SID be constructed around a golf course that would have no hydrant system, no possible source of water and have just the volunteer fire department respond to it? [LB546]

MIKE REZAC: Well, I think it would be very similar to a home that would be on an acreage-type system. They would have to look at the capacity of the well, if it's individual wells or if it's a rural water system, what is the capacity of that system; if the capacity isn't adequate, some of the costs that will be spoken to later will actually be increased because then there would be required some sort of a holding tank in the basement. And then you hope that you still have power to run the pump, to pump the water out of the tank. [LB546]

SENATOR KRIST: So if you were called in and asked to build this development, so to speak or a home in this development area and the person wanted to put a fire sprinkler system in there, you could do that for them? [LB546]

MIKE REZAC: Absolutely, I mean a system can be designed around any water. You know, it just depends on the water availability, the volume of water. The sprinkler heads are going to be based on that. So if the volume of water is not available, then you'd have to look at additional backup systems to provide that. [LB546]

SENATOR KRIST: Would you advise the homeowner that without a sprinkler system, based upon the current code or the 2009 code let's say, even though sprinkler systems were taken out, that the proximity in terms of the closeness of the building or the size of the pipe or any of those things would still be smaller than the 2006 or 2003 code? Are you familiar with that subject? [LB546]

MIKE REZAC: You mean as far as pipe sizing? [LB546]

SENATOR KRIST: I guess what I'm saying is if we go to '06 and we go to '09 and we go to '12, there's a difference and there's an understanding that it's built because there's a sprinkler system in there with the new code, the '12; if we opt out of the sprinkler system and we say it's not necessary, then are we going to address, in terms of the building code, in some of those communities like I just spoke of, that you can't have your buildings as close as the code will allow you to or you need to have additional pipe or... [LB546]

MIKE REZAC: Well, the city of Lincoln, and I'll speak more to the city of Lincoln, we

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have a couple new urbanism projects where actually setback requirements are five foot from the lot line. And those do not trigger any type of fire...additional fire protection systems. So I'm not sure if you're talking about housing that possibly would be closer than that or more of a multifamily that would actually then trigger the fire sprinkler? [LB546]

SENATOR KRIST: Well, I'm speaking to the 2012 code, which says that we can build closer together and we don't need this size pipe for a hydrant and because there's sprinklers in there. So there's a point at which we say this is the code and it's built because of all those things that are built into the sprinkler system. And if we deviate from not having a sprinkler system, will then the builders and the locals say, well, then we can't have them close together and we can't do this? [LB546]

MIKE REZAC: The closeness of housing together is dealt with on a local, by local basis, on a city by city basis. The city of Lincoln currently is reviewing the 2009 for adoption of the 2009. [LB546]

SENATOR KRIST: So you're opting out of the code as it would be established? [LB546]

MIKE REZAC: Yes, and the builders behind me will speak to that. But...so it's...that is determined on a local basis, the distance between housing and what that might trigger or not. [LB546]

SENATOR KRIST: Okay, thank you. [LB546]

SENATOR MCGILL: Thank you. Any other questions? I don't see any, thank you very much. [LB546]

MIKE REZAC: Thank you very much. [LB546]

SENATOR MCGILL: Next proponent. [LB546]

MIKE BENKER: Thank you, Senator McGill. My name is Mike Benker, B-e-n-k-e-r. I'm a Lincoln and surrounding county homebuilder and remodeler and past-president of Lincoln Home Builders Association. I've heard numbers, when you talk about the cost of sprinkler systems, anywhere from \$1.50 a square foot to nearly \$6 a square foot. I've found articles that say the national average is about \$1.61 and our State Home Builders Association, through obtaining quotes for a ranch style and a two-story type house, came up with \$1.75 to \$2 a square foot, which seems affordable on the scale of what we're looking at as possible cost. You've heard quoted before that on average...I took a 2,500 square foot home, that would be square footage of the home to be sprinkled, at \$1.75 a square foot is about \$4,000 for the cost of the sprinkler system to be installed. The thing that this doesn't take into consideration is the upgrades in pipe getting to the

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house, any additional charges, whether there are impact fees or MUD services, pressure-reducing valves, the labor and materials for the upgraded service. And so when we look at those things you can look at additional costs, in Omaha, of about \$4,700; if impact fees are required in Lincoln, you'd be looking at about \$7,000 additional cost. And then we take it down to the actual homeowner, what their cost is out of pocket. And so what I did was take a \$156,000 home and with a 5.08 percent APR, 3.5 percent down, which I'm not sure you could get today, over 30 years, you're looking at an additional down payment of \$305, an increased monthly mortgage of \$47.42, and a total interest and principal of \$17,071 if you make those payments over the life of the loan. And so this is something serious to consider what the effects are. And a cost-benefit analysis is appropriate, you know; if we determine that for that cost the benefits of the sprinkler system are necessary, that's the sales pitch as a builder that I will have to make. But in my mind and from having worked with my customers, I don't feel that that's the decision that most of them would make. I would remind you that a sprinkler system is currently an option. And I hope that it continues to be an option in the future and not a requirement. There have been quite a few comments as far as the different codes. One of the meetings that I have missed today in order to be here was a task force meeting for the city of Lincoln reviewing the 2009 IRC. And so if you have any questions as far as that, I'd be happy to answer those as well. [LB546]

SENATOR MCGILL: Any questions? Senator Schumacher. [LB546]

SENATOR SCHUMACHER: Thank you, Senator McGill. You said that these sprinkler systems are an option. Are they a very popular option? [LB546]

MIKE BENKER: I have only...I've had one homeowner in the last 12 years inquire about them. And after presenting them with the information and what they would need to do, they weren't interested. But it is an option, it is available. We do have those services available to us as builders and as homeowners. [LB546]

SENATOR SCHUMACHER: To your knowledge does insurance companies give breaks or if they would go ahead and use that option? [LB546]

MIKE BENKER: Testimony that I have received and read, annual discounted savings of roughly 5 to 10 percent of the annual insurance premium, which for that average house that I spoke about would be about \$22 per year. You know, the unforeseen things that I haven't talked about would come down to things such as, you know, you'll hear about acreages, but annual inspections, alarm monitoring systems to alert us of leaks if we're away, drafting charges and blueprint changes to upgrade and spec these systems out for permit application purposes. You know, there are other hidden costs that, although are minor in comparison to the cost of the sprinkler system, people will have to incur as well. [LB546]

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SENATOR SCHUMACHER: Are these the kind of things that if your heat would go out and it's cold outside, would freeze and pop the pipes? [LB546]

MILE BENKER: I would say that they are probably similar to the rest of the water that's in your house for your plumbing system. I mean, we... [LB546]

SENATOR SCHUMACHER: So there's always water under pressure in these things? It's not like when the fire starts some valve opens up? [LB546]

MIKE BENKER: There are various systems. The systems that I've looked at for cost are systems that would be installed on interior walls, they would have water. There's typically a vacuum breaker or release valve at the head. There are dry systems and other things available. I'm not knowledgeable enough to make comparisons with those. [LB546]

SENATOR SCHUMACHER: Thank you. I don't have any other questions. [LB546]

SENATOR MCGILL: Senator Cook. [LB546]

SENATOR COOK: Thank you, Madam Chair. If you were to be offered a project to make this hearing room ten degrees warmer, (laughter) where might you start, the lowest cost to the 2000 code, 2006, 2009? Where might you start? [LB546]

MIKE BENKER: I don't know where I would start. As a Nebraska certified green builder would have to do with the airtight construction of the room. (Laughter) [LB546]

SENATOR COOK: Oh? [LB546]

SENATOR MCGILL: We've both got blankets and shawls and... [LB546]

SENATOR COOK: I don't think it's airtight. Thank you, Mr. Benker. [LB546]

SENATOR MCGILL: Thank you very much. No other questions? Thank you. [LB546]

MIKE BENKER: All right, thank you. [LB546]

SENATOR KRIST: It's warmer over here. [LB546]

SENATOR MCGILL: We need to come shift and sit over there. Next proponent. [LB546]

DAVE HUMLICEK: Thank you, Senator McGill and committee. Appreciate your time, especially some of the time that you let me before this meeting. I'm from Columbus, Nebraska. My name is Dave Humlicek, H-u-m-l-i-c-e-k. I'm first VP of Nebraska State

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Home Builders and also was president back in 2000, so I'm familiar across the state--North Platte and all those other associations. Can I ask one question from Mr. Harper? Would you allow me that? [LB546]

SENATOR MCGILL: Is it a nodding sort of answer? [LB546]

DAVE HUMLICEK: Pardon? [LB546]

SENATOR MCGILL: Is this something he can nod an answer to? [LB546]

DAVE HUMLICEK: I would...no. [LB546]

SENATOR MCGILL: Okay. What is the question? [LB546]

DAVE HUMLICEK: I would like to know in his committee, since he's on the building review and codes and things like that, how many people and how much time has that taken to put--to opt in or opt out of a code? That would be one of my comments. And maybe he'll come up later to say that. We mostly are in the niche of higher end homes up in the area. I haven't built a home within a building code district for about four years. Everything is outside the, you know, what some of my people refer to as God's country. We don't have inspections, not that I cut any corners or anything like that. But, you know, we got water issues, high iron, you know, we do a lot of geothermal pumps, pump and dumps. You know, within four or five years sometimes those pumps have to be replaced. You know, Mr. Rezac said that a reservoir tank in the basement might have to be put. Well, right now we're building a house that's slab on grade, so that would increase the size of the square footage of the home. They chose to do that because they're getting up in age and wanted handicapped accessible. You know, so that \$8,000 might not even touch that when you start looking at issues like that. One of the senators before said that, you know, well let's make it so it's opt out, that would be the best way to do it. I look at it, a lot of us we don't have the human resources or the financial resources out in greater Nebraska in the rural areas to do that. So, I guess, that's my comments. Any questions? [LB546]

SENATOR MCGILL: Any questions? Senator Schumacher. [LB546]

SENATOR SCHUMACHER: Thank you, Senator McGill. In the rural areas where people have their own wells, if they ever have a sprinkler system attached to those wells, is it your experience that most of those wells are wired on the same box as the house is? [LB546]

DAVE HUMLICEK: My experience, we never had to deal with it. I've never had a customer ask for a sprinkler system. So, you know, that would be a totally new area for a lot of us builders out in rural Nebraska. And there again, I would assume, which is bad

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for this business, but I would assume that going through troubling times, to have somebody local to inspect these systems, you know, if there's not an abundance of work those people are going to go by the wayside. So I almost see people coming out of Lincoln, Omaha, Grand Island area to do the inspections, which would also add costs. [LB546]

SENATOR SCHUMACHER: If a local...if the house's well service, water service was on the same electrical distribution box as the house, and the house caught on fire and tripped the breaker, then there would be no water pressure for the sprinklers. [LB546]

DAVE HUMLICEK: Um-hum. There would be no water pressure or a lightning strike. [LB546]

SENATOR SCHUMACHER: Am I...okay, thank you. [LB546]

DAVE HUMLICEK: I mean there's a lot of scenarios that could make the system fail. [LB546]

SENATOR SCHUMACHER: Thank you. I have no further questions. [LB546]

SENATOR MCGILL: Other questions? No? Thank you very much. [LB546]

DAVE HUMLICEK: Thank you. [LB546]

SENATOR MCGILL: Next proponent. How many proponents do we have here on this bill? Okay. And how many opponents? Okay. Seems like it's about equal overall so that's good. [LB546]

NEIL SMITH: Chairperson McGill and members of the Urban Affairs Committee, my name is Neil Smith, N-e-i-l S-m-i-t-h, and I'm with HearthStone Homes out of Omaha, Nebraska, and also I'm a board member of the Metropolitan Omaha Home Builder Association. You've heard a number of the people come and talk about some of the key issues around safety and cost and certainly Mr. Humlicek talking about the specific issues in the rural environment. HearthStone Homes has been focused on providing affordable housing, affordable new construction in the Omaha area for a number of years. And we've built houses for that first-time homebuyer, whether it's a teacher, firefighter, police officer, retail and construction workers and so on. And you've heard some of the conversation about the cost. And that's one of the things that I want to share in addition to what you heard, because you heard a national statistic. And I think if you break that down to maybe something you can get your hands around is every \$1,000 you increase the cost of the house you essentially take out 1 percent of the market from buying that particular home. And so from the cost perspective of putting fire sprinkler systems in, whether it's \$4,000, \$8,000, \$20,000, do the math of what that's

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going to take out of buying that particular home. So if they can no longer buy new construction, now they're going to move into a less safe existing house because there's a direct correlation between what has happened with the codes over the years and how they've improved the safety of the home. The home that's built today is much safer than the home that was built 20 years ago. And then indirectly, you would end up leading to inflation in the existing housing market and ultimately force the people into a rental environment and exclude the option of homeownership for a number of families. And I think that dream of owning a home is a powerful attraction for most of the people in the United States today. We've talked a little bit about the economic climate. And to give some perspective, at HearthStone Homes, versus two years ago, we're roughly down 60 percent. So taking these additional buyers out of the market just continues to put a homebuilder in a struggling situation as we're trying to find ways to survive in the current economic conditions. And construction has always been a significant part of the economy. For a number of years they were the fuel for a vibrant economy. And I think we need to get construction back on track in order to return the vibrancy to the economy. And this would just be another impairment to that, the cost increasing. So we could argue all day about what the number is. But in any situation, it's not going to support homeownership, whether it's new construction or existing homes, because it will eventually drive the price up of those as well. So I thank you for your time and for the opportunity to speak in support of LB546. And for Senator Gloor, thank you for bringing this bill forward. Questions? [LB546]

SENATOR MCGILL: Any questions? No? Thank you very much. [LB546]

NEIL SMITH: Thank you. [LB546]

SENATOR MCGILL: Next proponent. [LB546]

MICHELE WILLIAMSON: Good afternoon, Senator McGill and all other senators on the board. For the record, my name is Michele Williamson, M-i-c-h-e-l-e W-i-l-l-i-a-m-s-o-n, and I'm representing the 16 affiliates of Habitat for Humanity in Nebraska and want to speak in favor of LB546. Thanks for allowing me to testify today. In the state of Nebraska, Habitat for Humanity builds 35 to 40 quality homes at affordable prices, helping more than 100 men, women and children out of substandard, unsafe rental property each year. Stories of families in Nebraska that Habitat affiliates serve are all similar and typical given the families low-income status, which is 30 to 50 percent of the median income range. One such story of a Lincoln family whose apartment was in such poor condition that continued water damage from the apartment above eventually caused the ceiling of their apartment to crumble and collapse, ruining clothing and furniture. Another family whose rental house had a leak in the roof that the landlord would not or could not fix had prompted them to place a children's blowup swimming pool on the floor of their living room to catch the water when it rained. These stories and many more like them illustrate everyday living for so many families in substandard

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poverty housing. The need is there and it's great. Across the board in Nebraska the costs associated with installing a residential sprinkler system in all new homes built by all 16 Nebraska affiliates simply adds to the cost of a home for those who struggle to own a home. A Habitat homeowner's typical mortgage payment is about \$450 to \$500 a month, with only about \$200 of that going toward the principal payment. The rest goes towards taxes and insurance which causes a 30 to 35 year mortgage for this family. With associated costs for residential fire sprinkler systems, as we have heard from previous homebuilders, that would increase to 32 to 33 years for a mortgage to be paid off and on and on and on. Ten years ago, interior costs for these affordable houses were approximately \$55,000. Today, these costs have increased to between \$75,000 and \$80,000. With an average of six to seven homes per year that Lincoln builds, alone that equates to two less houses for these families to move into. These families are desperate to leave substandard living conditions. Habitat for Humanity's mandate is clear. We are to seek poverty housing solutions for as many people as possible. We need to be able to continue to preserve the purchasing power of the Fund for Humanity which we use to build homes and from which we draw our ability to serve low-income families in the future. Thank you. Any questions? [LB546]

SENATOR MCGILL: Questions? No? Thank you very much. Proponents? Now we're down to just a couple. Welcome back, Jim. What, you don't have the book with you? (Laugh) [LB546]

JIM HARPER: I can go get the book. (Laugh) Jim Harper, city of Omaha plans examiner and I'm testifying in support of LB546 on behalf of the city of Omaha and also the Nebraska Code Officials Association of Nebraska. We feel that probably the way this is written it hits the mark. It allows cities to have control of their codes and if they want to opt in to having fire sprinklers in homes they can for whatever reasons they deem necessary, as Senator Gloor pointed out. There have been some things mentioned about fire sprinklers and maybe I'd like to comment about. The water supply for a fire sprinkler system is not demanding. It takes very little water to operate a fire sprinkler system. So the normal water mains that we have out in the street, you won't see those change because the design of the fire sprinkler system is really minimal, it's like two heads operating. So maybe the water service into the house, maybe it has to be a one inch service or inch and a quarter rather than a three-quarter inch. Don't hold me to those numbers, but those kind of things I don't think you'll see a lot of change over. Talking about freezing, it always struck me that plumbing in your house, if the heat goes off, it's going to freeze too. So that...whether they're fire sprinkler pipes with water, looks like everybody gets that. Seems like it's all kind of the same. As far as fire sprinklers in the city of Omaha, I think that we'll probably come up with some creative solutions. One of them that occurred to me is we allow like schools, if they have a direct exit to the outside of the classroom you don't need to have fire sprinklers in the classroom, that's the substitution. And I could see us maybe making some of those kind of amendments; if you had an egress window directly to the outside, maybe in certain situations that

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might be an alternative to a fire sprinkler. I don't know but those are the kind of discussions you'll have at the local level. Maybe the type of construction, maybe you only want it in two or three story homes, maybe a noncombustible house doesn't need a fire sprinkler. Whatever the local code development committees decide through their consensus process, which they use, that's how it will come out. And I think maybe we'll see some creative things happen. [LB546]

SENATOR MCGILL: I've got a question for you then because I'm still trying to figure out opt in, opt out, what do I think is the best way to go? The last bill we heard also allows the cities to either add or subtract things out of the code. So why is it that...can you just share with me your train of thinking in terms of why you think it should be no sprinklers, cities should opt in as opposed to us saying, here's the whole code, go ahead and opt out of the pieces you want to opt out of. [LB546]

JIM HARPER: I'm not sure I understand your question. And it all seems kind of the same difference at the end of the day. [LB546]

SENATOR MCGILL: Well, yeah, it does to me. And that's what I'm struggling with the most is if we should just go ahead and pass along the whole code and leave it to the experts to take pieces out or if we say yeah, it sounds like everybody doesn't want the sprinklers, so we should set that itself, because both of them are local control in the end. [LB546]

JIM HARPER: It kind of goes back to...it is. And, you know, we got along without the State Building Construction Act for years until 1985. And cities had codes and built and things like that. [LB546]

SENATOR MCGILL: Yeah. [LB546]

JIM HARPER: And this kind of goes back to the origins of why, I forget the senator, why it was done in the first place. It's that coordinating home rule that I was trying to get at in my earlier testimony. The state is trying to define its role, it's not trying to interject itself into local activities more than it needs to, but it sees a need to at least have us all operating somewhat the same way. And that's probably the value in the Building Construction Act in my opinion. Could we live without it? Yeah. [LB546]

SENATOR MCGILL: Right now you guys are already looking at 2012, which that national code has sprinklers in it. But you've been moving forward with everything except for the sprinklers in terms of preparing for the 2012 code? [LB546]

JIM HARPER: Well, we're just getting our code committees together, talking about that sort of thing. And, you know, we've pretty much decided the '09 is probably not the way to go. I realize the city of Lincoln is working on it very hard right now. [LB546]

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SENATOR MCGILL: So you are just going to bypass '09... [LB546]

JIM HARPER: Yeah. [LB546]

SENATOR MCGILL: ...and just go right to '12. [LB546]

JIM HARPER: Yeah because we can stay on it for a longer period of time. The 2012 I codes fit in well with our sustainability plan in the city of Omaha and Environment Omaha because there's some energy conservation provisions built into the codes that we're interested in. And the 2012 code seemed to get us there. As far as the amount of time it takes, I think that was the question from the gentleman from Columbus. [LB546]

SENATOR MCGILL: Yeah, it was a question. [LB546]

JIM HARPER: How long it takes us to adopt those codes, upwards of 18 months. [LB546]

SENATOR MCGILL: But you guys are the ones that really go through it with a fine-tooth comb, unlike us here who are...yeah. [LB546]

JIM HARPER: Yeah, we'll do about...well, I did the mechanical and energy codes. And we probably met...had 20 meetings on that. And I think the building, the IBC and the IRC, were about the same. [LB546]

SENATOR MCGILL: Well, everything you do goes much deeper than just a sprinkler issue, it's looking over everything so. [LB546]

JIM HARPER: Oh yeah, yeah. We're talking about just building better buildings in the first place that can withstand snow loads and wind loads and how it's all connected together so sprinklers is just that much. [LB546]

SENATOR MCGILL: (Laugh) Well, thank you for your expertise. Any other questions? Senator Schumacher. [LB546]

SENATOR SCHUMACHER: Thank you, Senator McGill. The more I read this the "confuser" I get. (Laughter) But I've got two questions, and maybe you're not the person to answer, but it seems you're the only one in the chair. The first question, if a city, village, county thing out there does not adopt a building code, is there any requirement that they adopt one? [LB546]

JIM HARPER: No. [LB546]

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SENATOR SCHUMACHER: And this thing only applies to state buildings and the university and state things? Right, okay? And then we say in this thing, any political subdivision may enact, administer and enforce a local building code. I think that would be Omaha, may enact... [LB546]

JIM HARPER: Yes. [LB546]

SENATOR SCHUMACHER: ...a local building code if or as long as the political subdivision adopts the state building code. Well, I think we heard that the state building code is now the year 2000 version. How does Omaha then adopt whatever you're operating under now, the 2006 version and thinking about the 2012, if you got to stick with whatever we say? [LB546]

JIM HARPER: Well, we have taken the statute at its word. And when we have to be under the most current edition that's in print and that's defined as within two years of publication. And that's in the statute right now. [LB546]

SENATOR SCHUMACHER: Is that then some of the...I mean, the fact that some international outfit sits in a basement somewhere and types up the latest version, that, we were told by the Attorney General we can't go by because we're the boss, not them. [LB546]

JIM HARPER: Yeah, that's Senator Krist's point is there's a fundamental flaw... [LB546]

SENATOR SCHUMACHER: Right. So there's some...we maybe need to address more than just these itty bitty sections if we're...in this section. And what would be your recommendations then with regard to that? [LB546]

JIM HARPER: Well, again, I don't think it's the problem for our cities that it is for our state because we're already doing this. Any city that adopts a code is doing it knowingly, there's hearings, it's transparent and we go through a process. So unlike the state, where we don't have a building commission to hold the hearings and do it in the proper way, so we probably have to amend our statutes to maybe, I don't know, for the state anyway so they can adopt. [LB546]

SENATOR MCGILL: And that's what we were trying to do with the previous bill. [LB546]

SENATOR SCHUMACHER: This isn't... [LB546]

SENATOR MCGILL: Yes, this is what we were trying...and some of us have been here and heard two of these hearings already so. You know, so perhaps a larger discussion, it's more clear to us but... [LB546]

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JIM HARPER: But you're at the crux of the problem. [LB546]

SENATOR SCHUMACHER: Okay, all right. [LB546]

SENATOR MCGILL: Yeah. We were trying to get at that with the previous bill. [LB546]

SENATOR SCHUMACHER: Gotcha. [LB546]

SENATOR MCGILL: Yeah. [LB546]

SENATOR MCGILL: Senator Smith, did you have a question? [LB546]

SENATOR SMITH: I don't think I need my question now. [LB546]

SENATOR MCGILL: Okay. Other questions? No? Thank you for your expertise. And I think this was the last proponent, if I'm correct, coming up. [LB546]

PAT OHMBERGER: Senator McGill and rest of the senators, my name again is Pat Ohmberger, P-a-t O-h-m-b-e-r-g-e-r. As the state president for the Realtors Association, we are definitely in support of LB546. One of the things that, I guess, I wanted to say is that the real estate industry makes up one-fifth of the economy in the United States. So we are a big proponent to our economy and how strong it's going to be. And one of the things, I've been in the business 19 years next Monday and I have never been asked by any of my clients to add a sprinkler system to any new construction. And so I'm thinking wow. When impact fees were implemented in Lincoln we lost about two-thirds of our building process here. And we're just starting now to implement some good building practices again and we've got, by the testimony you can see we've got some very good builders that have held on in some very economic down times. And so I feel like by being able to opt out or, excuse me, opt in instead of opt out, I'm going to get that right, (laugh) that we would be much better spent on this bill. So I really thank Senator Gloor for introducing it and for all the testimony and all the, you know, dollar figures and everything that were stated because they are very true. We also have a number right now of vacant properties that would probably have a mess to clean up if we had, you know, problems with sprinklers also. So I guess that's all I need to say. [LB546]

SENATOR MCGILL: Any questions for Pat? [LB546]

SENATOR ASHFORD: If I might, how's it going out there? [LB546]

PAT OHMBERGER: Actually, you know, I was in D.C. last week talking about our mortgage interest deduction on the Hill. And, you know, Senators and Congressmen there were very much for keeping that out of the tax reform bill. And right here in Lincoln we ended up, the end of 2010, not as much as 2009 but still a very strong year. And

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we've had a real good start to this year. I came back Thursday night at midnight and by Saturday afternoon I was out showing and sold one on Sunday and three other people want to list. So it's starting to come back very strong. [LB546]

SENATOR ASHFORD: Thanks for sticking in there. I mean it... [LB546]

PAT OHMBERGER: (Laugh) I can't see myself doing anything else. Okay? [LB546]

SENATOR ASHFORD: I understand, but that takes a lot of stamina to get through what we've been through. And so you should be congratulated and all your colleagues in the state to do what you've been doing. [LB546]

PAT OHMBERGER: We have a really good group of people that firmly believe in the American dream. And, you know, home ownership really does matter. [LB546]

SENATOR ASHFORD: You make a lot of people happy, don't you. [LB546]

PAT OHMBERGER: Well, and, you know, when they tell us at our public forum that the average renter's net worth is \$4,000, the average homeowners net worth is \$247,000, you know, it makes sense. We want homeowners so. [LB546]

SENATOR MCGILL: Okay, thank you very much, Pat. All right, with that, we're wrapped up with the proponent section. Let's move on to the opponents. Who would like to come first? You can come up and sit in the...up here in the waiting area, the green room, I guess, for the (laugh) next in line. [LB546]

CROSBY GRINDLE: On-deck. Chairperson McGill, members of the committee, again my name is Crosby Grindle, G-r-i-n-d-l-e. I'm again with the National Fire Protection Association or NFPA. And first, let me say I really appreciate the fact, from all parties involved with this discussion, that we're no longer really talking about prohibition against residential sprinklers. Instead we're having a really, I think, effective discussion about the code process and opting in versus opting out. And I really appreciate that because that's a whole lot closer to what we'd like to see. With that being said, I'm going to take just a couple minutes to explain why our position is very much in favor of residential sprinklers as equal protection for all Nebraskans. I can tell you that through our data and research I can tell you what the fire service here knows. The fire problems in the home, that's where 86 percent of all fire deaths and 77 percent of all fire injuries occur. And we've talked a lot about death, we forget about the injury part. The problem is new homes are, I'm sure, very much safer when they're not on fire. We have a lot of research and data that is unfortunately showing that new homes tend to burn a lot hotter and faster. And this is due to a few different reasons. One is the typical furnishings and wall coverings, floor coverings are made with more synthetic material. The furniture is more synthetic, the design is more open, the construction techniques used are

lightweight engineer truss-style construction. And this causes escape times to dramatically decrease, some studies show from 17 minutes to about 2 to 3 minutes. And the type and toxicity of the smoke produced is a lot more significant as well which impacts your escape time. So I think that's an important point to make. I'm not at all saying that homebuilders are not making great new homes for us but we can't escape the fact that there's still an issue with new homes and how they burn. We feel residential sprinklers are the cost-effective solution to that. They work, they've been around for about 60 years. The first residential sprinkler ordinances were 40 years ago. They're in place locally and all over the country, including places like Minnesota and in the Chicago area. They work in all climates. And as you know too now some states are starting to meet the standard of care and adopt them statewide. They use less water. Ninety percent of the time the fire is contained with the operation of one sprinkler head. And this residential sprinkler standard, it's important to understand, is very different than those found and used in commercial settings. So the entire system is very different from what most people are familiar with, even some people in the construction industry and the fire service, when the standard was developed it was designed to be more cost-effective so more people could afford to have it. So that means things like what to sprinkler, it's only living space, you know, we're talking about living rooms and bedrooms and kitchens. When you talk about cost you're only talking sprinklered square foot. When you're talking about water supply it's much less restrictive and less intensive than commercial systems. A point to cost, we hear a lot about cost, we've done some national studies on cost. And the reason I think that national average cost estimates are important is, I just misspoke, they're not estimates. The problem with what we hear a lot of local cost estimates are they're estimates. And any of us can go out and find an estimate that's more expensive than what we'd like to pay or what we should pay. The national study on our cost has found what a Nebraskan should be expected to pay in the event that everybody had residential sprinklers. This is the economics of supply and demand, this is where the price point kind of settles to. And in fact, we have other studies that show the price goes below that in areas where residential sprinkler ordinances are required. And the other important point is those studies do include all costs. I often hear that misquoted; if you read our research on that it includes all costs including water, design, all of those things. So that's nothing...you can't tack that onto that. So, I guess, the important point is, and you know this from my...from not only your education in codes but there's two main code organizations. Maybe this would help. I represent NFPA, National Fire Protection Association, and the other one is the International Code Council or ICC. Those are the two main code organizations that develop codes and standards through a consensus process that are used across the country. And both types of codes are used in Nebraska. The National Fire Protection Association, our codes have included residential sprinklers since 2006. The ICC codes, as you know, now required them in 2009. The 2012 code has already...it's already been decided they're going to stay in there. So it's a national standard of care. It's here to stay. The decision really to not adopt this national standard of care now means it's basically a decision to allow more Nebraskans to lose their life in a fire or be horribly

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injured in a fire. We hear a lot about smoke detectors and smoke alarms and the effectiveness of them. I'm glad that the building industry is supportive of them now, they used to not be years ago. The problem with smoke alarms are they do a really good job notifying you of a fire but they don't necessarily help those at greatest risk, which are those children under 5, adults over 65 and persons with disabilities to get out of a fire. So, you know, unfortunately the effects of residential fires are very measurable. The prevention benefits of residential sprinklers are very quantifiable. This means, unfortunately, in the years going forward we'll be able to specifically identify those families that would have been 80 percent less likely to suffer a tragic loss if they had had residential sprinklers. So I guess I would just urge you to not stand in the way of progress, if you will, of adopting this national standard of care and that you allow Nebraska to move forward with equal protection for all residents in Nebraska with residential sprinklers. I'd be happy to answer any questions about our codes. [LB546]

SENATOR MCGILL: Thank you, Crosby. I'd just like you to maybe talk, I'm sure you've been flying around the country having this discussion in all 50 states, because it has been a controversial issue everywhere. And we were given a map. The blue ones, I'm sure you can't see the key from here, where they say mandatory requirements were defeated. And I know in some of those states maybe they just put it off for two years, I believe, might have been the case. But can you tell me a little bit about what's been happening in other states from your perspective as well as straightforward as you can. [LB546]

CROSBY GRINDLE: Sure, Chairperson McGill. I'm not familiar with every state because I have a region I'm responsible for, although I'm somewhat aware of what's going on nationally because this is an important issue for us. But in general, not sure if I'll answer your question, but in general, yes, there's a lot of different activity. Some states are deciding to enact legislation to prohibit even the consideration of residential sprinklers. Some states have adopted residential sprinklers as a statewide requirement, basically adopting the new standard. Some are allowing opt in, some are allowing opt out. Some states don't have a statewide residential code, so it's not even an issue, it's more an issue at a local level. In fact, there are numerous states like that as well. So, I guess, my answer is it's awfully hard to give you a summary of what's happening because it is all over the board. I just have to reiterate that I believe again, much like smoke alarms are now but weren't a number of years ago when we were having these discussions, that this is here to stay. It's not a matter of, and you've even heard that from some of the other side of this issue, it's a matter of when and how and what's appropriate. And so, you know, we hear a lot about choice. And the problem is residential sprinklers are really only a choice when you're the first-time homebuyer of a custom home. And that doesn't happen very often. You know, we don't talk about choice with arc fault protectors and thickness of drywall and seismic protection in new residential construction. These are all expensive things that have been added to the code. Those aren't choices. We don't ask the consumer if they want those things in their home, just

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like we don't ask if they want airbags and seat belts anymore. So that's just our position on this. [LB546]

SENATOR MCGILL: Any questions from the committee? No? Thank you very much. [LB546]

CROSBY GRINDLE: Thank you for your time. [LB546]

SENATOR MCGILL: Um-hum. Next opponent. [LB546]

JOHN WIECZOREK: Thank you. My name is John Wieczorek, J-o-h-n W-i-e-c-z-o-r-e-k. I represent the Fire Sprinkler Contractors Association of Nebraska. I wanted to...I have a few comments and then wanted to answer any questions anybody has related to...specific to our industry for installation or maintenance concern issues. The freezing was talked about quite a bit. I think, personally, if the building envelope, this proper, it's installed to recognize NFPA standards, you really...that's really not that big of an issue. And rural water supplies, there isn't a 100 percent increase in cost if you live outside the city limits and you have well issues. Personally, my home...my water tower is ten miles away. My shower head is annoyingly low pressure, but I have enough water pressure for my sprinkler system. The pipes run in the attic and they're full of water. So as long as they're installed correctly, you follow building envelope standards and tenting of insulation, you don't have that freezing issue. I think Crosby kind of covered the other issues I had. So if you guys have any questions, I'd be happy to... [LB546]

SENATOR MCGILL: Well, thank you for editing out the stuff that's repetitive. We appreciate that. Do we have any questions about how the sprinklers function? No? All right, thank you very much. [LB546]

JOHN WIECZOREK: Okay, thank you. [LB546]

SENATOR MCGILL: Next proponent (sic). [LB546]

GREG REYNOLDS: (Exhibits 3 and 4) Thank you Chairwoman McGill and members of the Urban Affairs Committee. My name is Greg Reynolds, R-e-y-n-o-l-d-s, and I'm here today representing State Farm Insurance as a member of our management team here in Lincoln, Nebraska. State Farm appreciates the opportunity to participate in this discussion about residential fire sprinkler provisions contained in the 2009 International Residential Code. As background for this discussion, State Farm insures approximately 33 percent of the Nebraska homeowners market. We are here today to support the adoption of the most recent IRC with no modifications to the residential fire sprinkler provisions. Removing the current sprinkler provisions as a requirement of the code weakens a part of the code that has been proven to reduce the chances of dying in a fire and reduces the average property loss by more than 71 percent per fire. Our

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company supports the installation of fire sprinklers in homes because the implications of residential fires are enormous. According to the NFPA, which Crosby already discussed, there were over 37,000 home fires just in 2009 alone. Each year approximately 3,000 people die in home fires. And when residential sprinklers are installed the chances of death are reduced by 80 percent. Many places within our community already incorporate fire sprinklers, such as our places of employment, schools and civic buildings. So we believe that the place where families are most vulnerable--their home--should be protected by fire sprinklers as well. In addition, property damage due to a fire is significantly reduced in homes that are protected by fire sprinklers. Our data shows that the average loss in unsprinklered homes is over \$17,000. The average loss in a sprinklered home is less than \$2,000. In 2008, the Fire Protection Research Foundation found the costs for installing home fire sprinklers averaged \$1.61 per square foot for new construction. To put that in perspective, many people pay similar amounts to upgrade their carpet. It is undisputed that a properly designed, installed and maintained home fire sprinkler system provides an opportunity for residents to escape their home and protect their property in the event of a fire. Last fall, State Farm partnered with the National Home Fire Sprinkler Coalition to produce a side by side video demonstration of a fire in a home protected by a sprinkler system and a home not protected. I brought a copy for each committee member to view so you can see the true value of installing these systems. I've provided them to the clerk already. Our company offers a premium discount of up to 10 percent on homeowners insurance if the home has fire sprinklers installed to nationally recognized standards, as well as a 5 percent discount for partial fire sprinkler systems. The discount is applied because of the risk of a loss, excuse me, the discount is applied because the risk of a loss caused by fire is reduced. The discount is not designed to recoup the cost of installing the sprinkler system. In closing, I would like to say that the benefits of installing a sprinkler system in a home far outweigh any possible downside. On behalf of our policyholders, we must take all responsible steps to reduce the 3,000 national yearly deaths and prevent \$5.7 billion in direct property loss caused by residential fires. Home sprinklers are a proven way to protect lives, protect property and reduce the risks to firefighters and first responders. Again, State Farm appreciates the opportunity to be here today. Thank you for your time. And be happy to answer any questions you have. [LB546]

SENATOR MCGILL: Thank you, Greg. Any questions? Senator Coash. [LB546]

SENATOR COASH: Thank you, Chairwoman McGill. Greg, if I'm a homeowner that's covered by State Farm and I have a sprinkler system in my home and it leaks, is that any kind of cost of the repair...I mean, is that a covered event under your policy? [LB546]

GREG REYNOLDS: Our policy covers accidental direct physical loss. What is causing that leak? A burst pipe, it would be covered. The scenario that's talked about today, if a pipe freezes and bursts there's coverage. Seepage or leakage of a pipe is not covered.

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[LB546]

SENATOR COASH: I'm sorry? [LB546]

GREG REYNOLDS: Seepage or just leakage, like dripping from a pipe would not be covered. There has to be an accident or direct physical loss. [LB546]

SENATOR COASH: Actual direct physical...so... [LB546]

GREG REYNOLDS: Accident or direct physical loss, so if the pipe burst because it's frozen, if, you know, you're cutting in your wall and you cut your pipe and it bursts, there's coverage for that. [LB546]

SENATOR COASH: Okay. But if I have the sprinkler in my home and it just...maybe it's installed incorrectly or there are problems with the operation of the sprinkler and it...maybe part of the pipe where it's leaking is behind, underneath or above my ceiling so I don't, you know, it's not something I see until it has dripped enough that it has soaked the ceiling and then the ceiling falls through, is that kind of event covered? [LB546]

GREG REYNOLDS: If it's...if it goes off in the course of protecting the home from fire there's coverage. And I can get back with the committee on exactly our policy wording on how that responds... [LB546]

SENATOR COASH: I'm just curious because we've heard a lot about, you know, especially in the interim hearing we heard about the evolving technology of sprinkler systems and, you know, where they started, where they are. As all things go, I'm sure they will continue to improve the technology. Do you have a sprinkler system in your home? [LB546]

GREG REYNOLDS: I do not. [LB546]

SENATOR COASH: Okay. Thanks. [LB546]

SENATOR MCGILL: Other questions? Senator Schumacher. [LB546]

SENATOR SCHUMACHER: One of the fun things about insurance is you get to play with some numbers. (Laughter) [LB546]

SENATOR MCGILL: You have a weird sense of entertainment. [LB546]

SENATOR SCHUMACHER: Yeah. (Laughter) What does the average homeowner pay for homeowners insurance? [LB546]

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GREG REYNOLDS: In the state of Nebraska, it's around, for State Farm, it's around \$600 or \$700 for a single-family dwelling. I can get the committee the exact number. [LB546]

SENATOR SCHUMACHER: And how much of that \$600 or \$700 is for the fire portion rather than the slip and fall or whatever else? [LB546]

GREG REYNOLDS: I would be making an assumption, but for the most part our losses caused by fire are typically around 30 to 35 percent of our losses. So it's safe to say a portion of that premium would be comparable to that. [LB546]

SENATOR SCHUMACHER: About \$200 then. [LB546]

GREG REYNOLDS: Potentially. [LB546]

SENATOR SCHUMACHER: Okay. So...and you give up to 10 percent off. [LB546]

GREG REYNOLDS: Correct. [LB546]

SENATOR SCHUMACHER: Which is, in this particular case would be up to the \$600? [LB546]

GREG REYNOLDS: No, it...well, the way our policies... [LB546]

SENATOR SCHUMACHER: Up to 10 percent of \$600 or 10 percent of \$200? [LB546]

GREG REYNOLDS: The way our policies are rated, we call it sequential rating. So in a simple example, let's say you have a \$100 premium and you have a 10 percent credit for a sprinkler or a 10 percent credit because of the age the home besides your deductible. It sequentially rates it off that. So it's not all off that base premium. So, for example, you just couldn't say it's 10 percent off the \$600, but it's pretty close. [LB546]

SENATOR SCHUMACHER: Okay. But if I'm the average \$600 guy, how much am I going to save if I come to you and say, yep, got sprinklers? [LB546]

GREG REYNOLDS: I would say pretty close to \$60 a year. [LB546]

SENATOR SCHUMACHER: Sixty dollars a year, so roughly 10 percent. [LB546]

GREG REYNOLDS: It's roughly 10 percent but it's not exact. You said you like to play with numbers so I want to make sure I'm not playing with the number. [LB546]

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SENATOR SCHUMACHER: Okay, well, now we'll play a little more. Now my house burns down or I have a fire, not burned down completely, but I have a fire. And having sprinklers it only cost this somebody \$1,900. [LB546]

GREG REYNOLDS: Our average loss in homes with a sprinkler was only \$1,900. [LB546]

SENATOR SCHUMACHER: If I didn't have the sprinklers, it would cost somebody \$17,000. [LB546]

GREG REYNOLDS: Correct. [LB546]

SENATOR SCHUMACHER: Okay. How come I don't get like 90 percent off on insurance? (Laughter) [LB546]

GREG REYNOLDS: Well, because as I said earlier, Senator, our losses that we pay for also wind damage, water damage, vandalism, crime, there's other perils that our policy covers. So on average, like I said, there's... [LB546]

SENATOR SCHUMACHER: But we already backed those off in our first set of numbers. (Laughter) [LB546]

GREG REYNOLDS: Well, but if 30 percent of our losses are attributed to fire, and you said that was approximately \$200 or 10 percent of that is only \$20, the discount is higher than that. [LB546]

SENATOR SCHUMACHER: Your profits will go up quite a bit if this was implemented without a premium increase. [LB546]

GREG REYNOLDS: Not necessarily. We base our rates on what we project our losses to be. So if we project losses to decrease as a result of any regulation, that would be felt in our premiums. Our intent is not to... [LB546]

SENATOR SCHUMACHER: I have no further questions. [LB546]

SENATOR MCGILL: What good fun that was. (Laugh) Any other questions from the committee? Thank you very much, Greg,... [LB546]

GREG REYNOLDS: Thank you. [LB546]

SENATOR MCGILL: ...for bringing your expertise here. Next opponent. [LB546]

ESTHER RATHJEN: Senators, members of the committee, my name is Esther

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E-s-t-h-e-r, last name Rathjen, R-a-t-h-j-e-n. I come here as a concerned citizen to express my concern against LB546, specific to removing the provision for mandating interior fire sprinkler systems in new home construction. I am a registered nurse. I specialize in the care of burn and wound victims, fire, whatever might happen. I have seen firsthand the devastation, physically and emotionally, that a residential home fire has on my patients and their families. I have shed tears with these families whose children will never bring them joy again. I have watched them walk out of my unit's doors to a life that they have to rebuild without their families. I believe that the removal of the provision to mandate new construction residential fire sprinklers will do nothing for prevention in the state of Nebraska. Construction materials today have advanced in technology, just as everything else has in the twenty-first century. Materials burn hotter, they can smolder longer, and as they do so they emit toxic chemicals that damage the body internally in ways that we don't fully understand and unfortunately cannot fix. Home fires are like tornados, they erupt without warning and seconds count when escape and safety are needed most. The ABA, American Burn Association, 2011 fact sheet states that over 3,500 deaths occur a year with fires and 3,000 of those are residential fires. I have cared for many of those families who have lost mothers and fathers and sisters and brothers and children because they were not able to get them out through the smoke and the flames. As Crosby stated, children under the age of five are most vulnerable in addition to adults over 65 and those who are handicapped. In many cases, if those residential sprinklers had been present precious seconds and even minutes could be potentially gained translating in injuries prevented and lives saved. Much of this discussion has revolved around the cost of what it is to install sprinklers and maintain sprinklers. But nobody has thought, so far that I have heard, about the healthcare costs in this country. They are rising and there is nothing much that we see that we can do about it. Burn injuries are among the most costly to care for. The National Burn Repository, which is a fact sheet and a composite record put together by the American Burn Association, states that for about a 30 to 40 percent total body surface area burned, that's 40 percent of your body that is covered in burns, it costs over \$241,000 to get that person back on their feet, provided they survive, if they don't, that cost increases to over \$300,000. While each of you consider this bill, please consider that with this requirement all new residential construction be fitted with interior fire sprinkler systems, you could be saving lives. By striking this mandate from the building requirement for the state of Nebraska you are assuming that local governments will make a conscious decision to opt in to requiring their constituents to install residential fire sprinkler systems in new construction. These smaller governments already have large agendas and pressing topics and I don't believe that this provision will be addressed on a widespread basis. My wish as a burn trauma nurse is that I don't have to see this devastation on an everyday basis; it's not to have a unit full of patients and produce revenue for our hospital, it is to save lives and to save the devastating injuries that these people have. Thank you very much. Do you have any questions?
[LB546]

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SENATOR MCGILL: Thank you, Esther. Any questions? No. Thank you for bringing your unique perspective to this. Thank you very much. [LB546]

ESTHER RATHJEN: Thank you. [LB546]

SENATOR MCGILL: Next opponent. [LB546]

JERRY STILMOCK: (Exhibit 5) Madam Chair, members of the committee, my name is Jerry Stilmock, J-e-r-r-y Stilmock, S-t-i-m-o-c-k, testifying on behalf of the Nebraska State Volunteer Firefighters Association in opposition to the measure before you. I'd ask the page, please, to distribute to each of you a packet of issues that were posed in the interim study resolution. This was done twofold. One, for the three new members of the committee to have a fingertip reference as to the three involved in the issue. And number two, for the senators that were a part of the committee in 2010 for the same purpose, to have a fingertip reference. Coming in, in opposition, I had a chance to listen to everybody. And it would...it's not going to serve any purpose to nitpick each issue on the proponents and try to have a counter for the opponents. It's just not practical to do in this type of setting and with Senator Gloor's bill. I would ask you to consider at the end of the appendix there is a disk. It's three short video productions, one of which discusses the issue that you heard a little bit about this afternoon, and that is the effectiveness of smoke detectors. That's a whole other ball game but I was intrigued. Just in a nutshell, TV station completed a study, not here in Nebraska and you can tell by the video, I mean, it's not any local, at least in the eastern part of Nebraska that you recognize, and they did the study. And the study looked at sounding smoke detectors while children six and under sleep. And what they showed in this little consumer piece of the new segment was the children didn't wake up and the parents were devastated. So if...just for that little nugget of smoke detectors and their benefit and use, the piece that the news station was carrying was a digitalized voice is actually broadcast as a smoke alarm, saying, mom or dad's voice, John, wake up, this is a fire drill; John, wake up, this is a fire drill. The children reacted to that but to the pulsating beep they did not. For what it's worth, it's one of three segments on the disk. The other presents a short, little 5 minute side by side burn. They take you through a burn with an unsprinkled, nonsprinkled and a home that is sprinkled. Amazing, amazing video. There was a testifier that, if I understood the comment, that there was no enforcement of the codes out west. I don't have any factual basis to back that up that I can controvert the testifier's statement. But for those areas that do have codes, even the community of Syracuse, another testifier said that any city that adopts the code has review hearings and public hearings and look at it. The city of Syracuse we take what the state passes down and it's adopted. We don't have the resources, communities of 1,800, 1,500, 2,100, 2,000 people they don't have the resources to undertake what I assume Omaha has done by the gentleman testifying, Omaha, Lincoln, Grand Island, some of the larger communities. We take what is passed down. The last point please that I'd ask you to consider, I think there's three areas of community enforcement. One type of community

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has a building inspector, even in a Class II city. And that building inspector looks at and reviews the building plans for a new home. There are some communities that have gotten out of that and they no longer hire, they no longer have a person reviewing the building plans for a new home because they purposefully have stepped away from it. And then there's, I think, a third category that simply can't afford it and they don't have anybody to be the building inspector in a particular village. So they probably look to the county and probably hire the county to oversee any construction in that area. So it's not...and I think it's important for the gentleman from the Omaha community because he described very well the steps they go through. That's not what the small communities do. I think they certainly do look to the state. And they're going to look for your guidance as to how to proceed. Thank you, senators. [LB546]

SENATOR MCGILL: Any questions? Senator Schumacher. [LB546]

SENATOR SCHUMACHER: Thank you, Senator McGill. Mr. Stilmock, do you have...your organization have any correlation between the age of a home and the incidence of fire? The older homes have more fires? [LB546]

JERRY STILMOCK: No, I don't have, Senator Schumacher, I don't have any of that data available. And the resource would be for me to check with the State Fire Marshal's Office and see if they could provide myself and then you, the committee members, I don't. [LB546]

SENATOR SCHUMACHER: Okay. I have no further questions. [LB546]

SENATOR MCGILL: All right. Seeing no other questions, thank you very much for your testimony. [LB546]

JERRY STILMOCK: Thank you. [LB546]

SENATOR MCGILL: Next opponent. Anyone else here in opposition? I know there are a few more of you. How many more are there in opposition? Oh goodness, okay. [LB546]

PAUL PEDERSEN: Thank you, Senator McGill. Again, Paul Pedersen, P-e-d-e-r-s-e-n. I'm fire chief in North Platte. I'm also a member of the Nebraska Municipal Fire Chiefs'. We represent the cities that have career and combination fire departments in the state. I'm the only one testifying today. For whatever reason, all of my other colleagues have not been allowed to testify, so. I don't know anything about...I don't know very much about building homes or financing homes or selling homes or any of that sort of thing. All I know is what I've seen. I started with the North Platte Fire Department in 1972. So I've been responding to fires for 39 years. And the fires that stick out to me are the ones that we weren't very successful on, those are the ones I remember the most because people suffered devastating damages to their homes or they burnt to the ground or,

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even worse, they lost a couple little kids. And then thinking back over those years, would residential sprinklers have made the difference? Well, you can't really look back and answer that question fairly. We really didn't have the technology then. Technology has advanced to the point now and refined residential sprinklers so going forward we can make a difference. And residential sprinklers will save property and lives I know that. [LB546]

SENATOR MCGILL: Thank you, Chief. Any questions? Senator Schumacher. [LB546]

SENATOR SCHUMACHER: Thank you, Senator McGill. If I recall back in the days when I was coroner, I remember...I don't remember carrying any bodies out of a house, but I do remember carrying bodies out of several trailer houses or mobile homes, whatever you want to call them. In your experience, first of all, are they required to have sprinkler systems? [LB546]

PAUL PEDERSEN: I think this is in new residential construction, I don't know that it addresses mobile homes. [LB546]

SENATOR SCHUMACHER: Has your experience been that when we do have deaths involved that mobile homes have a high instance of those? [LB546]

PAUL PEDERSEN: I know that fires in mobile homes tend to progress more rapidly. And they're harder to save and harder to get out in a timely manner. We are definitely, no matter whether it's a home, stick-built structure fire or a mobile home, we're under the gun to get there between 6 and 11 minutes before a flashover occurs or it's too late for anybody that's in that structure. [LB546]

SENATOR SCHUMACHER: Thank you. I have no further questions? [LB546]

SENATOR MCGILL: Other questions? Thank you, Chief. One last call for opponents. No one else in opposition? Anyone here neutral? Senator Gloor, would you like to close? [LB546]

SENATOR GLOOR: Thank you, Senator McGill. I'll be brief. Appreciate your patience. And I should add a disclaimer, and that is I don't have any family members anymore in the construction industry and hasn't been that way for about 20 years. So I should make clear that I don't have a dog in this fight when it comes to the construction industry. Senator Schumacher made the point that I was going to make and that is we don't seem to have a problem with new homes burning in this state and yet we're talking about spending \$28 million a year to address a problem that doesn't exist. We do have a problem with older homes burning and yet what we know will happen from testimony and common sense tells us that we're going to make a new home just that more out of reach for people who currently do live in the types of homes that burn and the types of

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homes that do have fatal fires. That's part of the challenge with this. I think the day will come, I said it earlier, I'll say it again, I think the day will come where the cost, the efficacy, a variety of issues will put us in a position where it makes sense that all new homes have sprinklers. But to me it's not a tossup--put in, put out, let it be decided at a local level. For me it's an issue of we're not there yet. This should be an opt in. Let's take this out of the code, approve the 2009 code with that out. And if individual communities, for issues of the mixture of homes that are there, the closeness of homes, for a variety of reasons, want to do it, let them do it. But let's pass this new provision for 2009 and leave fire sprinklers out. Thank you, thank you for two years' worth of discussing this. [LB546]

SENATOR MCGILL: And we thank you for it, Senator Gloor. That closes our hearings for the day. We're going to go into Exec Session. So if you guys could all filter out, that would be great. [LB546]