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Urban Affairs Committee
October 23, 2015

[LR174 LR278]

The Committee on Urban Affairs met at 1:30 p.m. on Friday, October 23, 2015, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR174 and LR278. Senators present: Sue Crawford, Chairperson; John McCollister, Vice Chairperson; Colby Coash; Laura Ebke; Matt Hansen; and Dan Hughes. Senators absent: Sara Howard.

SENATOR CRAWFORD: Good afternoon and welcome to the Urban Affairs Committee. My name is Senator Sue Crawford, and I represent the 45th Legislative District in Bellevue and eastern Sarpy County, and I serve as the Chair of the Urban Affairs Committee. We have two great interim studies today, so we're glad to have a good crowd here. We'll start off having members of the committee and committee staff do self-introductions, starting on my right with Senator Hughes.

SENATOR HUGHES: Thank you, Chairman Crawford. Dan Hughes, senator of District 44, 10 counties in southwest Nebraska.

SENATOR COASH: Colby Coash, District 27, right here in Lincoln.

TREVOR FITZGERALD: Trevor Fitzgerald, committee legal counsel.

SENATOR EBKE: Laura Ebke, District 32, four counties just southwest of here.

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

SENATOR CRAWFORD: And we...I think we have other senators who have said they will be here, so they just would be coming in as we're rolling here. Also assisting the committee is our committee page, Alexander, from Sioux City, who is a political science and history major from UNL, and Ryan, from Orange County, who is a political science major at UNL. Thank you. This afternoon we will be hearing two interim study resolutions, and we'll be taking them in the order listed outside the room. On each of the tables in the back of the rooms you will find blue testifier sheets. If you're planning on testifying today, please fill one out and hand it to Courtney when

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you come up to testify. This will help us keep an accurate record of the hearing. If you do not wish to testify but would like to record your presence here today, please fill out the white sheets in the back of the room. We would ask that if you have any handouts, that you bring at least ten copies and give them to one of the pages. If you need additional copies, the pages can help you make more. Testimony for each interim study will begin with the introducer's opening statement. After the opening statement, we will take testimony. Since these are interim study hearings, there will be no proponent or opponent testimony, since the goal of the hearing is to gather information. We often have some initial testifiers who give invited briefings, and then have some invited testimony for these interim hearings today. So we will ask the invited testifiers to go first and then invite anyone else who wishes to testify. We ask that you begin your testimony by giving us your first and last name and to spell them for the record. We will be using the light system today, with ten minutes given for our invited briefings and five minutes for our testifiers. When you begin your testimony, the light on the table will turn green, the yellow light is your one-minute warning, and when the red light comes on we ask that you wrap up your final thoughts. I would remind everyone, including senators, to please turn off your cell phones or put them on vibrate. And with that, we'll begin with LR278. Welcome, Senator Pansing Brooks. [LR278]

SENATOR PANSING BROOKS: Thank you. Good afternoon, Senator Crawford and members of the Urban Affairs Committee. My name is Patty Pansing Brooks; that's P-a-t-t-y P-a-n-s-i-n-g B-r-o-o-k-s, and I represent Legislative District 28, right here where we get to be sitting today. This is the first time I'm in front of your committee, so it's fun to get to see you all. [LR278]

SENATOR CRAWFORD: Welcome. [LR278]

SENATOR PANSING BROOKS: Thank you. I'm here today to introduce LR278. I introduced this resolution in hopes of gathering information for ways to address the issue of neighborhoods that are in decline here in Lincoln and across the state. As some of you know, I have a very diverse range of neighborhoods in my legislative district, from lower income neighborhoods just south of the Capitol to the historic Country Club area to multiple business developments. All three Lincoln hospitals are in my district, as are many restaurants, grocers, and the main library and, of course, the most beautiful building in the state: our Capitol. While legislators create

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policy that works to improve and strengthen the entire state, the area that I had in mind when creating this resolution is in my district. It is a neighborhood that is south and west of the Capitol. It is an area with beautiful older homes, several locally owned businesses, and a culturally and socioeconomically diverse population. Unfortunately, the area also struggles with some high vacancy rates and some housing that is in decline. As we discuss the revitalization of neighborhoods, we need to make sure that low-income housing continues to be available in all the areas of which we're speaking. Also avoiding any kind of gentrification--the moving of people out to make room for possibly a higher socioeconomic neighborhood--is something I also want to help avoid. It must be part of the discussion as we seek opportunities for any kind of neighborhood reinvestment. We are seeking today tools that might be used to improve and strengthen low-income neighborhoods without displacing the residents who are vital to the lifeblood of their community. It is my hope that we can find ways to increase owner-occupied residency, while at the same time work to rehabilitate the historic homes in the area. By bringing businesses to such areas, we can provide employment opportunities while helping ease transportation issues. We also need to address the issue of safety, not only by seeking ways to lower crime rates, but also by improving neighborhood walkability and other areas. We must make sure that any major streets provide safe paths for kids to get to school to learn, and to their parks to be able to play. While many of these issues can and should be addressed by local governments and private interests, I do also think that we should seek for ways for the state to play an active role in these matters. After introducing the resolution, I was delighted to be approached by a professor at the University of Nebraska-Lincoln, who was interested in having one of his master's classes participate in this study. This group--this really great group of bright students--have done extensive research on a variety of programs that have been proven successful in other states. So they have provided, and we'll provide to you, copies of their research. And I think we can all look forward to hearing the information that they have for us. There are several others here also, whom I hope will share what they see is happening in their communities and neighborhoods, as well as some ideas on how we can address neighborhood revitalization needs here and across the state. Of course we all know about the issues of cities--they're having difficulties maintaining population, difficulties with their housing in their communities, and the investment in those properties. And that's really what I'm seeking to address. It works here for Lincoln, but it definitely works across the state too. There was no intention in my mind of, oh, gosh, this is what we need to do. I really did hope to have a meeting

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to determine if people have great ideas about how we can just give a boost to the neighborhoods across our state that are vital to the success of our communities. So...and I just want to add that after this hearing, I have another hearing at 3:00, so I might have to sneak out. [LR278]

SENATOR CRAWFORD: Sure. [LR278]

SENATOR PANSING BROOKS: But my LA will be here to be able to take notes. [LR278]

SENATOR CRAWFORD: Excellent. [LR278]

SENATOR PANSING BROOKS: And if anybody needs to talk to her afterwards, that would be great. Anyway, I'll answer any other questions you have. [LR278]

SENATOR CRAWFORD: Thank you. And thank you for providing this interim study for us to be able to hear ideas about neighborhood revitalization. [LR278]

SENATOR PANSING BROOKS: Thank you. [LR278]

SENATOR CRAWFORD: So I appreciate doing that. Any questions anyone has at this point? [LR278]

SENATOR PANSING BROOKS: Yes, Senator...oh, I'm sorry. [LR278]

SENATOR CRAWFORD: Senator McCollister. [LR278]

SENATOR McCOLLISTER: Thank you, Madam Chair. Do you see a difference, Senator Pansing Brooks, between an urban and a rural approach to this issue? [LR278]

SENATOR PANSING BROOKS: I presume that there are differences. Certainly, there have already been differences of what's happening sometimes in Omaha, even versus Lincoln. But when I started this, really the goal...I know that lots of other states do things to help their small communities, as well as their larger areas. I think that anytime you have historic housing, no

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matter where they are, those can be dealt with in one manner. And I don't know if you know the area in Lincoln near...there's Leon's food mart and I think of...when we think of development of communities, we often think about anchor stores: when you have a place like SouthPointe or Westroads or something like that. We all know about the idea of bringing in anchor stores that really will give strength to that mall or that shopping center to make sure it's strong. I envision in a way smaller anchors in communities. And I think Leon's food mart is an excellent example on it. It's been here since...I know since before I was born, so that's in the '50s, and so TMI (laughter). But anyway, so that store has been there through thick and thin and really has been an anchor to that entire community. And it's a diverse community. If you go seven blocks out in a radial...in some sort of radius, you would see all different types of housing. But it has been an anchor that has kept some vibrancy there. So I keep thinking that in each community we all have little small anchors, whether it's a coffee shop or a library or something that really brings people and attracts people, or there might be a specific event. So I didn't come to it with an urban versus rural thing...you know, decision. I really wanted to just see maybe we'll come out with three ideas, that something's really good that we're missing in the rural areas, and something's really good in the urban, I don't know. This is just a way to inquire what's going on out in the rest of the nation that we could bring into Nebraska. [LR278]

SENATOR McCOLLISTER: Thank you. [LR278]

SENATOR PANSING BROOKS: Thank you. [LR278]

SENATOR McCOLLISTER: Thank you. [LR278]

SENATOR CRAWFORD: Any other questions? Great. [LR278]

SENATOR PANSING BROOKS: Okay, so the students are coming up next and they're going... [LR278]

SENATOR CRAWFORD: Yeah, right, so. [LR278]

SENATOR PANSING BROOKS: I'm going to bring chairs up to help them. [LR278]

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SENATOR CRAWFORD: Okay. [LR278]

SENATOR PANSING BROOKS: And I'm just so proud of them and their work, it's really...they've worked hard. [LR278]

SENATOR CRAWFORD: Right, excellent. So we have invited testifiers next who are coming to share their research. So we're going to proceed with their testimony--five minutes' testimony each--and then we'll save our questions to the end. Three...oh, and while they're getting settled, we have two new senators to introduce themselves. [LR278]

SENATOR McCOLLISTER: John McCollister, District 20, which is central Omaha. [LR278]

SENATOR HANSEN: Matt Hansen, District 26: northeast Lincoln and, because of this topic, the neighborhoods of University Place, Bethany, Meadowlane, Havelock, and probably others that I am forgetting. [LR278]

SENATOR CRAWFORD: Okay, excellent. So I don't know if you heard as we were moving around. So what we're going to do is have each of you give your testimony, and Courtney will be doing the five-minute lights for you as you each give your initial statement. And then when we open up for questions, we'll allow people to ask questions. And anyone can answer, but when you answer the question, you just need to say your name before you answer, so the transcriber will know who is speaking, because we make a written transcript of this hearing, okay? So go ahead and you can begin. Please state and spell your name first, thank you. [LR278]

VICTORIA NELSON: (Exhibit 1) Okay. Victoria Nelson, V-i-c-t-o-r-i-a N-e-l-s-o-n. Good afternoon. We appreciate the opportunity to appear at this hearing today. We are graduate students working toward our master's degree in community and regional planning program at the University of Nebraska-Lincoln. The community and regional planning program at the University of Nebraska encourages students to view the process and responsibility of planning holistically, taking into account the principles of land use, housing, renewal, the limitations of the natural and built environment, data analysis and development in urban and rural areas, while within the context of local, state, and national regulations. During the current semester, we are

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enrolled in a community and regional planning course that focuses on real world planning-related issues in communities. This semester we are focusing on neighborhood and community revitalization issues and programs that are designed to encourage revitalization. Much of our work during the first part of this semester has related to LR278, which was introduced by Senator Pansing Brooks in this last session of the Legislature. We have been using the ideas and issues outlined in the resolution as the basis for initial examination of existing revitalization programs and resources. So far during this semester, we have been monitoring the planning activity for the areas south of downtown Lincoln, along with researching many other urban and rural revitalization programs enabled by the state government here in Nebraska. In addition, we have been researching revitalization programs that exist in several states surrounding and similar to Nebraska: Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, North and South Dakota, and Wisconsin; and copies of these drafts that we have created are also available at the back of the room. Today, we would like to report on some of the initial work that we have done, but more importantly, we would like to hear your comments and recommendations about particular aspects of the resolution on which you would prefer to see us focus our efforts during the remaining time in current semester, which ends in December. First, we feel it is crucial to define some key terms to help clarify any confusion that may be present into what we are researching, and those key terms are gentrification and revitalization. Gentrification is the buying and renovation of houses and stores in deteriorated urban neighborhoods by upper or small/middle-income families or individuals, thus improving property values, but often displacing low-income families and small businesses. This word "gentrification" is something nobody wants to hear and is something that we strongly want to avoid. Therefore, we are focusing our research on revitalization. Revitalization is defined as the idea of enhancing neighborhood resources, economic development, public services, and the quality of life. Urban renewal, redevelopment, and revitalization projects are crucial to the success of the city because it stimulates the economy, enhances property values, instills a sense of civic pride, reduces crime, and helps current businesses and attract new ones. In this analysis of case studies and other general research, we have found common threads of successful revitalization programs that each of us would like to share with you here today. For example, I found one that came out of Iowa. It's the Hart Family Fund for Small Towns, and they assist small town preservation and revitalization initiatives around the country with a focus on towns with populations of 5,000 or less. This fund provides non-profit organizations and public

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agencies matching grants from \$5,000 to \$10,000 for preservation planning and education efforts. Funds may be used to obtain professional expertise in areas such as architecture, archeology, engineering, preservation planning, land-use planning, fund-raising, organizational development and law, as well as preservation education activities to educate the public. As mentioned earlier, our main goal here is to get some input from you on what direction you would like to see us take from here on out. Thank you. [LR278]

MATAN GILL: My name is Matan Gill, M-a-t-a-n G-i-l-l. So we've reviewed a lot of programs in peer states, okay? And we've noticed about four common elements that contributed to a successful revitalization program. Some of these might be common sense, but we've also seen them left out before, and which led to unsuccessful programs. But the first is really to have authentic and genuine engagement with the residents in the neighborhood. It's also important to find some points where the neighborhood itself wants to see change. It's important to understand the residents' view on the neighborhood, what they think the needs are, and what the assets are. This is an underlying contributor of success. Since local and state government can better understand the way that residents want the neighborhood to change, they can also then instill a bit of a sense of ownership in the planning process and subsequent execution. Another point is to develop strategic and accountable partnerships to create deep and lasting change in the community. High-quality interventions must be linked to the addressable and interrelated problems. Efforts to establish some deep-rooted partnerships for change result in unified goals, as well as shared accountability for the intended outcomes. Local funders, community members, local government, social services agencies, schools, congregations, healthcare providers are all common partners in lasting neighborhood change that we've noticed. Another common thread in the successful revitalization effort was the focus on specific measurements and objectives and goals in setting some targets. The Targeted Investment Program in...it's called TIN, in Milwaukee, Wisconsin, is a program we've explored. This initiative is designed to sustain owner occupancy, provide high quality of affordable rental housing, strengthen property values, as well as improve physical appearance and the quality of life in the neighborhood. They outlined a lot of metrics that they focus on to measure their success. Some of them were quantitative, like existing home values, occupancy rates, the existing levels of private investment, but they also did a lot of surveying to understand how did the residents of the community in the neighborhood feel about the neighborhood. Investing in organizational capacity and building and strengthening the

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program was another important and core element to a successful program. Building data systems, recruiting and maintaining staff, developing resources are all forms of investment in an organizational capacity that we've seen, such as in the TIN Program in Milwaukee. They really focused on hiring skilled...and they really focused a lot of time on training these rehab specialists that engaged with homeowners who were undergoing the investment in the rehab process. They would help them write a scope of work, solicit contractors to fix up the properties, and then would check in throughout the process and make sure that the work is being done correctly. There's a great White House neighborhood revitalization guide that cited that this investment in the program itself and strengthening the program, although it's tough to spend money on that, it usually was one of the most important contributors to the success of the program, the loss of...you know, prevented the loss of staff and really created a high-quality and successful program. Thank you. [LR278]

JORDAN RASMUSSEN: Jordan Rasmussen, J-o-r-d-a-n R-a-s-m-u-s-s-e-n. So taking it further from what Matan shared, further explaining our methodology and information we sought, we scanned programs of others states and for partners and their resources. So how do we fund this? So we took a look to see what other activities were out there. We found varied resources from grants, like our local community foundations or the Sherwood Foundation in Omaha, but also going further into the community development block grants that come through Department of Economic Development. And those, each state has those, but the way they divide the money up is different, and so there's different ways that they've leveraged that. So those are all pieces to take into consideration. Also, within the monetary realm, we found that communities were making use of bond assistance and loan assistance programs. So as we talked with Senator Pansing Brooks, she noted that money is not always the most feasible thing to come about through some of the legislation pieces. And so acknowledging those constraints and both at the state level and the local level, we did continue to find that tax incentives were the primary mechanism for prompting revitalization. And again, these tax incentives range from individuals, from pairing tax credits between historical credits, both at the state and the local level or the federal level, and then also like what we have here in the state of Nebraska with our evaluation incentive program. One other tax incentive that we found of particular interest was the Kansas Neighborhood Revitalization Act, not to be mistaken with any other NRA. But we found this act, which is about 20 years old now already, started in Kansas, actually in their state capitol, kind of

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with a similar conversation to what we're having now: that there was an area that was in need of revitalization within the community. And so it started at that level and then grew into a statewide program. The beauty of this program that we really found was that it impacts both rural and urban communities, because it is delegated out to the county or the unified government within Kansas, and so that they can design the program so that it fits what they're looking for best. I talked with one of the people at the Kansas City, Kansas, office, and he was spoke very highly of the program in that they as a development and planning office, economic development office, they're able to go in and say, okay, this is the neighborhood that is in need of most revitalization, let's spend the tax rebate program here, and then...so you can see in the pamphlet there's a kind of outline of the mechanism and how those pieces come together. But going back to the more rural areas, we looked at Marion County, Kansas, as well. And their entire county is considered a revitalization area and, therefore, anybody within the county is eligible for the tax rebate program, so. And again, going back to the acknowledgment that taxes are not a piece that you always...that there's flexibility in, the person that I spoke with in Kansas City spoke about, yes, there is a short-term loss, but the long-term gain is far greater than what is lost in those years where there's a tax decline. So we also...the other piece, and Matan touched upon this as well, was the acknowledgment of the context and that collaboration and conglomeration of programs. You can't just do this independently. It has to work in conjunction with another program. And so going back to the White House piece, that was...you know, there was even talk about HUD and some of those other programs that are already existing and so, again, not starting from the base up. And again, as we come back to the state of Nebraska, too, we found a number of programs that are already in place here in the state, you know. There's the NIFA--Nebraska Investment Financing Authority--that exists, and just there's resources out there. Figuring out how to pair them together is kind of where we concluded. And I guess, in conclusion to our presentation, we're...again, this is a preliminary study. We're open to your recommendations, your questions, and we hope to develop this further. Thank you. [LR278]

SENATOR CRAWFORD: Excellent, thank you. So I believe what I'll do is I'll recognize senators who have questions. And then again, we'll just allow whoever feels most comfortable answering it to answer it. And just identify yourself before you answer the question. Thank you. Senator McCollister. [LR278]

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SENATOR McCOLLISTER: Thank you, Madam Chair. And thank you for your testimony and hard work. Well done. I think you talked about tax incentives. Can you be more specific what those tax incentives are? Are they related to property taxes primarily? [LR278]

JORDAN RASMUSSEN: Yes. Yes. So the one that I looked at in...excuse me, Jordan. The one that we looked at in Kansas was a tax rebate program, and so for a property tax program where the property owner is responsible for paying the original assessed value, the tax there. And then once they make the investment, then there is a period where they don't have to pay that increase. But the tax is paid fully up front and then it's issued as a rebate, so making sure the taxes are paid fully and that there's no lapse in payment of taxes. [LR278]

SENATOR McCOLLISTER: And that generally involves existing properties rather than tear-downs? [LR278]

JORDAN RASMUSSEN: It was a variety of projects, so it was both. There was new construction or rehab, both commercial and residential. In the Kansas City, Kansas, piece, they looked at a lot of residential communities, and it was an incentive where if the neighbor was getting a tax rebate, then the next neighbor...and so that's how they found the greatest benefit of it. [LR278]

SENATOR McCOLLISTER: I think in the Aksarben area in Omaha, where I think that would certainly qualify for revitalization, they simply are going to tear down all the properties and then create some low-income housing. That would also be applicable? [LR278]

JORDAN RASMUSSEN: Um-hum. [LR278]

SENATOR McCOLLISTER: I understand. Thank you very much. [LR278]

JORDAN RASMUSSEN: Thanks. [LR278]

SENATOR McCOLLISTER: Thank you. [LR278]

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SENATOR CRAWFORD: Thank you. Other questions? So I'll ask a question then. I don't know if you talked about tax increment financing in your course, if you can explain how this is similar or different from tax increment financing that we currently have in the state. Or if not, that could be a follow-up question that you work on and get back to us. [LR278]

MATAN GILL: I'm not...not right now. Okay. Maybe we'll talk about that later. [LR278]

JORDAN RASMUSSEN: Yes. [LR278]

SENATOR CRAWFORD: Okay, okay. That's fair enough. Just add that to your list there. So I have another question then. The second question, as you noted, when we have several tools, and I'm sure that's the case in many states, so you had mentioned the importance of partnerships. I wondered if you saw any models or lessons to learn in terms of how to help neighborhood groups know what tools are out there and how to apply for them, which ones to use, if you saw any examples of really how states might help neighborhoods use existing tools. [LR278]

MATAN GILL: That's a good question. I haven't noticed in particularly something like that, that works really well, you know. But what we a lot of times have seen is any kind of organic growth and desire for change within the neighborhood there would be a leader that would, you know, come up. And then they would go out and do the work and spend a majority of their time in focusing on finding these partnerships and so on. And so I think that if there could be, you know, in any legislation that comes about, just the flexibility to support those leaders in the neighborhoods and to avoid too much stepping on each others' toes, and really kind of joining, a lot of programs want to do what their mission is, but...you know, I'm losing my train of thought here. [LR278]

SENATOR CRAWFORD: Okay. [LR278]

MATAN GILL: But I haven't really seen a lot of good ways to share that information. [LR278]

SENATOR CRAWFORD: Jordan. [LR278]

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JORDAN RASMUSSEN: Jordan. We did find from the state of Pennsylvania, their Department of Economic Development, they did have...I mean, it's very simplistic, where it's a matrix of what programs are available, but it's...in comparison to our Department of Economic Development Web site, you can't necessarily navigate through it as easily. And so I think that's...even simplification, making it more accessible or understandable to a layperson, or just even your village clerk, so that they could make use of some of those resources, that was something that we found of interest. Or even, you know, here in the state of Nebraska, we have our economic development district offices. If there was, you know, an enhanced staffing or enhanced effort there where there was more outreach and education, I think, again, it's there. We have to talk about and provide...or share that those resources are available, and so that it doesn't go unspent. [LR278]

SENATOR CRAWFORD: Okay. So I would just add that to the list if you're continuing to do work on what ways states can best provide that technical assistance or if there's great models for our regional offices to see in terms of how they, or perhaps local subdivisions, have some models. But at this level we're looking at really what is the state role in helping the regional offices or helping the local subdivisions provide that information to neighborhoods. Thank you. Other questions? Thank you so much for your work, and we look forward to... [LR278]

JORDAN RASMUSSEN: Thank you for your help. [LR278]

SENATOR COASH: We'll let you get out of here before Professor Crawford gives you some more assignments (laughter). [LR278]

SENATOR CRAWFORD: Thank you. We will now open testimony to others who would wish to testify on LR278. Welcome. [LR278]

BEN GRAY: (Exhibit 2) Good afternoon, Madam Chair, members of the committee. My name is Ben Gray. I live at 4942 Nebraska Avenue in Omaha, Nebraska, 68104. I'm currently the president of the Omaha City Council. I'm here...first of all, I would like to thank Senator Pansing Brooks for introducing this resolution, and for you all taking the time to listen to potential solutions for problems that we face all across this state and certainly in Omaha and certainly in

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my district. First of all, let me say that we have a number of problem properties in Omaha, in general, and specifically in my district. We have somewhere in the neighborhood of about 600 properties that are on the condemnation list, with that number growing almost daily; almost as we speak, those numbers continue to go up. Those problem properties exist for a number of reasons. Among the most notorious are slumlords who refuse to take care of the properties and get the rents that they think that they can get off of them without having to do much other than slap a few coats of paint on and put up a two-by-four or two. Those are serious issues, and we're looking at ways to address that in a different fashion. But there are a number of properties where individuals have lost their property as a result of bank foreclosures and other sorts of things that have happened to individuals, not necessarily because they did anything wrong, but they got caught in a system where it did not benefit them and they lost their properties. And in many instances, some of these folks just walked away from the property. Now what occurs in this particular instance is you have individuals--speculators and individuals--who purchase tax certificates on a number of these properties. And the current maturation period for these tax certificates is three years. The problem with that is that it's not really three years. By the time you claim title and do other things, you're actually three and a half and, in some instances, four years in the process before you actually can take over the property. Many times when it gets to that point, that property is not worth the time it takes to renovate it. And so, you know, what those tax certificate holders do is just, you know, settle and make their profits and move on to other things but leave those properties in the condition that's almost untenable and needs to be removed at some point. You know, to renovate those properties sometimes begins to get a little bit more difficult. So one of the things that I think that I'm approaching you all to talk about, or at least consider, is moving that maturation period down a year. By state law, you currently...within state law, you have the ability for a two-year maturation period for these tax certificates. Right now the process is a three-year one, and I would like for this body and the Legislature to consider moving that maturation period to two years. It would be beneficial on a number of fronts I think. It would be mostly beneficial for the land bank that we currently have put in place in Omaha. The process that they are probably going to use is by way of the tax certificate as well. But, you know, moving it down a little bit gives us a little bit of authority. Now I have to read...say that I would prefer a one-year maturation period, but at least the two-year that is provided by state law I think is what would be most appropriate in the sense that it would give those tax certificate holders and others the opportunity to get onto the property a little

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bit sooner and maybe forestall some of the renovation problems that may occur if a property continues to sit vacant. Again, I think this would help the land bank. I think it would help those who are tax certificate holders, who at least can get on the property a little bit sooner, especially some of our financial institutions who would like nothing better than to get on the property. I mean, it's their investment, so they would want to get on the property sooner to try and save that property and sell it. So I would encourage this Legislature and this committee to consider moving the maturation period down from three years to two years. I do want to mention one other thing that Senator Pansing Brooks talked about, and I do think it's important for us to have a discussion. I don't know that we could do it all here today, but there is the issue of gentrification that is on the minds of a number of people. And it's not lost on me, especially in a district that I represent heavily of African-American and other minority groups in District 2. And so we want to do this in an effort to try and make these homes so that they can renovate them quickly. And in a lot of those instances, those properties can go back to individuals who are building their credit, building their ability to own property. The other thing that we have to do is make sure that people are retrained or trained, so there has to be a marriage of a number of things to take place if we're going to forestall any issues of gentrification. And it is a real issue that we need to address at some point, or at least talk about or keep on our minds, as we're going through this process. But it is, to me, extremely important that we do everything possible to get some of these properties back on the tax rolls. With the land bank that this Legislature gave us the authority to do, it gives us the opportunity to assemble properties so that we can entice developers to move into these areas. Now that comes with a cost in some instances, and that's the gentrification that I talked about earlier. But we've got to do a number of things to make sure that we minimize the effects of gentrification and that we maximize the opportunities to put these properties back on the tax rolls. There's no better way to gain tax dollars than through property tax. There's no better way to get property tax other than to get somebody's properties back on the rolls. With that, thank you all, and I'll answer any questions that you all might have. [LR278]

SENATOR CRAWFORD: Thank you, Councilman Gray. What I'd like to do at this point is the legal counsel has told me there's a constitutional provision here. Would you mind just putting that on the record? [LR278]

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TREVOR FITZGERALD: Yeah, just for the record, there's a...what Councilman Gray is discussing, there's a constitutional provision that states that property owners have a two-year right of redemption on property that is seized for nonpayment of taxes, which is why he's mentioning two years as far as state law would allow. [LR278]

SENATOR CRAWFORD: So making it less than that would require a constitutional amendment? [LR278]

BEN GRAY: Yes. Making it less than that would require a constitutional...but right now the maturation period is around three years, and if we just reduced it to what state law requires, I think it would benefit a number of our tax certificate holders and some of our financial institutions in the long run. [LR278]

SENATOR CRAWFORD: Excellent, thank you. Questions? [LR278]

SENATOR COASH: Senator Crawford. [LR278]

SENATOR CRAWFORD: Senator Coash. [LR278]

SENATOR COASH: Thank you, Senator Crawford. Thank you, Councilman. I do want to talk about this tax certificate issue, and you mentioned that moving it back would benefit the certificate holders, financial institutions. But I think one of the reasons that it's where it is, is to benefit the property owner. And if it were moved back to one year, that means the widower (sic) who inherited...you know, got the property when her husband passed away and doesn't have an income, gets behind, that she's got more time to figure out a way to pay her taxes. So I just...I think there's another side to that tax certificate issue, which is allowing enough time for the property owner to get current in order to keep their home. [LR278]

BEN GRAY: Yeah, I agree with you, Senator. I understand that being the case, and I understand there are those kinds of circumstances. But I think overall what we're talking about are abandoned and neglected properties only, and I neglected to say that. But I'm talking about abandoned properties or neglected properties only. [LR278]

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SENATOR COASH: Right, but the investors that go out there and buy these tax certificates,...
[LR278]

BEN GRAY: Yes. [LR278]

SENATOR COASH: ...they buy them for abandoned and neglected, but they also buy them from people who are behind that are just trying to catch up. [LR278]

BEN GRAY: Yes, yes. [LR278]

SENATOR COASH: And the law would apply to all of them, whether or... [LR278]

BEN GRAY: Not necessarily, because when I just spoke now, I'm talking about abandoned and neglected properties only. So I'm not talking about properties where you have individuals that fall in the category that you just talked about, Senator. [LR278]

SENATOR COASH: Right. [LR278]

BEN GRAY: I'm talking about those that have abandoned or neglected properties. [LR278]

SENATOR COASH: And I know that would be your target. [LR278]

BEN GRAY: Yes. [LR278]

SENATOR COASH: But if I'm a tax certificate investor and I go to the sheriff's sale to buy some certificates,... [LR278]

BEN GRAY: Yes. [LR278]

SENATOR COASH: ...I may not know if I'm buying a certificate on a property that's been abandoned or if I'm buying a certificate on a property where somebody's fallen on hard times and may be losing their home. [LR278]

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BEN GRAY: Yes. [LR278]

SENATOR COASH: And in state law, it's also like 7 percent or maybe higher, I think. [LR278]

BEN GRAY: No, it's not the 7 percent. [LR278]

SENATOR COASH: Fourteen, yeah, it's... [LR278]

BEN GRAY: Fourteen percent, yes. [LR278]

SENATOR COASH: It's 14 percent, so there's quite a bit of...I mean, that's a pretty high bar, and I think there's a reason for that. [LR278]

BEN GRAY: Yes, yes. [LR278]

SENATOR COASH: But I just think when we talk about moving that, we have to remember that some of those time lines are there to protect the homeowner, to make sure that they have adequate time to get current before they may lose their home. [LR278]

BEN GRAY: Yes, and I'm not trying to push people out of their homes. What I'm trying to do is make sure that, because we've got an issue here that you talked about that is significant in some instances, but the other side of that is we have some absentee landlords that are not taking care of their properties. We have some lending institutions and tax certificate holders who would love to be on the property as soon as possible to save their investment and can't do it because of that maturation period. [LR278]

SENATOR COASH: Yep. [LR278]

BEN GRAY: So I think there has to be some fine...I think we have to look at it from both sides and find...and I think we're reasonable people who can take a look at this. I think we can find ways to solve the problem for those abandoned and neglected properties where institutions have foreclosed, where we have landlords who are just not taking care of the property in a number of

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instances. And I did leave with you all a proposed piece of legislation that we hope to pass on November 17. It's our abandoned and neglected property ordinance that I think is going to benefit us in those areas as well. It doesn't address the tax certificate issue, but it does provide some teeth for those who are not taking care of their properties. And among the things it does is make sure that they register their property so that we know who to call when we find properties that are in significant disrepair. We've spent nearly \$1.5 million as a city addressing abandoned properties, cleaning them up, getting rid of the litter and so forth. We have collected, to date, about \$65,000 of that nearly \$1.5 million. We have about another \$250,000 that we hope that we can get in liens on the property, but that's still going to leave the taxpayer with a significant bill of over \$1 million for properties that other people ought to be taking care of. So we're trying to solve a couple of things here. And I know it's not a magic bullet, and I know that there are those issues, Senator Coash, as you brought them up. But I think on the other side of that coin is we have to get a handle on some of these abandoned and neglected properties, because the problem is that the neighbors that live around them, their property values go down, the neighborhood goes down, those abandoned properties become a public safety issue. And we've got to address that in some fashion. [LR278]

SENATOR CRAWFORD: Excellent, thank you. And thank you for your questions, Senator. Senator McCollister. [LR278]

SENATOR McCOLLISTER: Thank you, Madam Chair. Thank you, Councilman, for your testimony. Who makes the determination on abandoned and neglected? [LR278]

BEN GRAY: We have in the ordinance, we have the definitions in there who makes that determination. But it is done primarily by our permits and inspection department within the planning department of city government. [LR278]

SENATOR McCOLLISTER: I see, done by the city. [LR278]

BEN GRAY: Yes. [LR278]

SENATOR McCOLLISTER: And I assume that occurs after the three years has passed? [LR278]

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BEN GRAY: Sometimes it does, sometimes it doesn't, Senator, because sometimes properties get into disrepair as a result of fire or those kinds of things. So it may happen sooner than that maturation period, but most of the time I think you're accurate. [LR278]

SENATOR McCOLLISTER: So you have the ability to go past that maturation period, simply based on the condition of the property? [LR278]

BEN GRAY: Yeah, but you can't do anything. I mean, the property is still going to be owned by whoever the certificate of record holder is. All we can do is tear it down at taxpayer expense. [LR278]

SENATOR McCOLLISTER: After you've done a tear down, who is the property owner? [LR278]

BEN GRAY: Whoever's name is on that property, that's the property owner. And all we can do is put a lien on that property... [LR278]

SENATOR McCOLLISTER: But you end up with...after you... [LR278]

BEN GRAY: ...after we've torn it down. And sometimes after you've torn it down, the property is worth only like about \$500 to \$1,000. So in a lot of instances, it's not worth the effort to even file a lien, because you're not going to get any return on your investment. [LR278]

SENATOR McCOLLISTER: I understand. Thank you, Councilman. [LR278]

SENATOR CRAWFORD: Any other questions? Thank you for your testimony. [LR278]

BEN GRAY: Sure. [LR278]

SENATOR CRAWFORD: We did pass a bill last year on properties that requires that banks provide information. [LR278]

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BEN GRAY: Yes. [LR278]

SENATOR CRAWFORD: So hopefully, that will facilitate your effort to register and get information on those properties. [LR278]

BEN GRAY: I'm hoping your efforts and ours will be successful as well. We're going to be working at it with our abandoned building ordinance. [LR278]

SENATOR CRAWFORD: Thank you. [LR278]

BEN GRAY: Thank you all. Thank you, senators, for listening. [LR278]

SENATOR CRAWFORD: Welcome. You can begin as soon as you're ready. [LR278]

CASSIE PABEN: Good afternoon, Chairwoman Crawford and members of the Urban Affairs Committee. My name is Cassie, C-a-s-s-i-e, Paben, P-a-b-e-n, and I'm the deputy chief of staff for the city of Omaha, focusing on economic development. The city of Omaha thanks Senator Pansing Brooks for introducing LR278, and for the committee for taking the time to have this important discussion. Communities use a combination of development tools to build a sustainable community and to be competitive in a continually changing economy. In every dimension, community development and neighborhood revitalization has become more complex and challenging, regardless of the setting. With these challenges come new, exciting opportunities. However, in order to take advantage of these new opportunities, community leadership needs to be able to utilize the tools that are currently available to them to their fullest potential, as well as have the necessary tools in their toolkit to ensure optimal success. I have previously provided you, during the hearing for LR155, a comprehensive summary of the development tools available in the city of Omaha. Some of these tools are locally funded, some are made available by the state, and others through the federal government. And while the summary appears to be very robust, the reality is there are still only a few of these that are effective and most beneficial. Many of the tools on the list have the potential to be effective, but due to limitations such as eligible activities and allocation requirements, we often find ourselves limited on how we can assist a project or help a neighborhood, which would ultimately

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strengthen and better our community. It should be no surprise to any of you, as I have been before you many times talking about the importance of TIF, TIF is not only the most effective redevelopment tool that the city of Omaha has, but it's its only true redevelopment tool. The utilization of TIF is not only an investment in a current project, but an investment in our future. We are able to utilize TIF for public improvements in these areas, reenergizing them. We are able to then use other funds for other improvements in other areas where TIF is not eligible. Without this, we would not see the projects that revitalize our community happen, nor would we see the positive ripple effect that they have. The city of Omaha would oppose any legislative changes that would restrict tax increment financing, such as we did last session with LB238, LB445, and LB596. The city of Omaha has one division within our planning department--the housing and community development division--whose mission is neighborhood revitalization. Activities that are integral to accomplish this mission are demolition of unsafe structures, acquisition of properties, construction of new home ownership possibilities and rental housing possibilities, rehabilitation of existing owner-occupied structures and rental housing structures, improvement of infrastructure, removal of lead-based paint hazards, barrier removal for special needs population, emergency and handyman repairs, development and rehabilitation of public facilities, streetscape improvements, construction of commercial and/or industrial properties, housing education and counseling, rental assistance for homeless and near homeless households, and operation support for homeless emergency shelters. The housing and community development division, within the planning department, addresses this mission almost exclusively by means of federal and state grant dollars. I point this out because the city of Omaha is an entitlement community for the housing and urban development program through HUD, and is eligible to receive annual allocations of community development block grant, home funds and emergency solutions grant funding. And it's estimated that the city's next allocation of these resources will be about \$5.5 million. This is a separate allocation than the one that the state of Nebraska receives at the Department of Economic Development, then administers. The city leverages these funds with other resources, such as HUD's Lead-Based Paint Hazard Control and Healthy Homes Grant and the state of Nebraska's Affordable Housing Trust Fund. The city recognizes that it cannot undertake these activities alone and, in partnership with area nonprofit and philanthropic groups and, on occasion, for-profit organizations, carries out these activities. Through these partnerships, we have learned many valuable lessons and that, to have an impact in an area, the projects have to become multiphased and multiyear. A prime example of this

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would be Prospect Village in north Omaha, which happens to be Councilman Gray's district. Prospect Village is bounded by Lake Street on the north, 30th Street on the east, Hamilton on the south, and 36th Street on the west. There are a variety of activities taking place. We have over 30 organizations currently participating. Each organization takes a look at the area from a different angle, but then they communicate together. We're starting to see a lot of impact in there. Most notably and most recently, we broke ground on the Highlander project, which is approximately a \$76 million mixed-income, mixed-use project on a former Housing Authority site, which will bring a huge impact and hopefully spur future development within that area. One of the issues that we do have though is when we do concentrated impacts, because of funding limitations and some of the strings that are attached with some of the various sources, we are only able to impact about 10 percent of the homes within that area each year. So it really starts to make it almost seem like there's no end in sight. There's a couple other things I would mention. The Legislature created the enterprise zones, which the Department of Economic Development had put out an application. The city of Omaha did make an application for that and there is an announcement pending. This is great; however, there is no funding tied to these. So essentially, we were asked to make an application to help community improvements but yet no funds to do anything with them. However, we were also asked to make sure that there was community matching dollars and show what we're currently doing in there and we can show what we are doing. And then last but not least, and I briefly touched on it when I mentioned the Highlander project about mixed-income and mixed-use concepts, affordable housing has a lot of different meanings to a lot of different people. A lot of the funding that we have ties that to the income that the household might receive, and there's a lot of jobs currently within the city of Omaha that would put people above that threshold. But when you start adding in other cost-of-living expenses, you start to see that, and I would guess to venture you see that across the state as well. So if there's some way to address mixed-income housing, that would also be of benefit. And I would be happy to answer any questions you have. [LR278]

SENATOR CRAWFORD: Thank you. Questions? So I would ask one question: if you could just speak to any example of how the land bank has worked in any neighborhood in Omaha. [LR278]

CASSIE PABEN: So I'll give you an update on the land bank. The land bank ordinance, as Councilman Gray mentioned, was actually enacted last year within the city of Omaha. The board

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was appointed in October of last year, so they've really spent about a year now really working through their policies and procedures that they're required to have. They did hire an executive director, who started in mid-September. They're heading through a strategic planning process. I think there's some nuts and bolts as they get up and going. I know it's their goal to kind of hit that first tax sale, I believe in March of next year, to start acquiring properties. They've been fund-raising to make themselves operational and sustainable, so there might be some things in the future that as it relates to the functionality of it. I would tell you from the administrative side of having to appoint the board--there's some things there and there's some instances--it's important to have everybody represented, council districts as well as industries. However, how state law is written--which our ordinance basically matches state law--it becomes a puzzle. And as someone who assisted the mayor in trying to find candidates to fill that board--and it's a time-intensive board--to fill that board it took a solid two months of vetting candidates, finding candidates, once people would take a look at it, maybe backing down, and then putting the jigsaw together of you have someone from District 4 that represents the banking industry and someone from another district that represents, you know, one of the other industries, such as the Chamber of Commerce. The issue we have run into is if you have a member of the board that then resigns, in this case we did, you're stuck. So you have to find someone that matches that same characteristic from that council district, which can be a little bit of a limitation. One of the suggestions that I have, and some notes on going through that process, would be to...while having all the industries represented, there's also a clause within state statute, as well as the city of Omaha's ordinance, that talks about the general knowledge categories that they have to have: financing, community development, economic development, real estate transactions, etcetera. Rather than maybe saying one person has to be from this district representing the banking industry, this district representing property owners, this district representing something else, maybe making it a little bit more broad based, to ensure that all entities are represented and a knowledge base is "represented"...represented. My mother would be mad at that English. She was an English teacher. But you know, making sure everybody was represented without putting the city in a spot where we've now searched for probably six months for someone that met the characteristics and have reached out to over a dozen people that, when they started looking at it and knowing the time commitment, particularly on a board as it just now starts getting going is huge, they've turned us down. And so trying some help there would be beneficial. But again, up until the point where they're really running, I don't know what if any kinks we might find. I know

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there's other communities within the state that have looked at that. We see it as a huge benefit. I know our philanthropic community sees it as a huge benefit, given the amount of money that they've been willing to support over the next four years for that group. [LR278]

SENATOR CRAWFORD: Good, thank you. Other questions? Senator McCollister. [LR278]

SENATOR McCOLLISTER: Yeah, thank you, Madam Chair. Is the city administration on board with changing the time period from three to two? [LR278]

CASSIE PABEN: We've had no discussions about the three to two, and that's something we'd certainly be willing to discuss with the councilmen or any senators that were interested in that. I would tell you the other ordinance that the councilman brought up before you that's going for vote on November 17, that's something we do have an interest in. We do have an issue with blighted properties, but we want to make sure that the language is right for everybody. And I think we've reached some compromise from some of the opposition that we had from that. [LR278]

SENATOR McCOLLISTER: Okay, thank you. [LR278]

SENATOR CRAWFORD: Thank you. Other questions? Thank you for your testimony. Welcome. [LR278]

CHRIS CONNOLLY: (Exhibit 3) Welcome. Thank you, Madam Chair, members of the committee. My name is Chris Connolly, C-h-r-i-s C-o-n-n-o-l-l-y, and I'm an assistant city attorney for the city of Lincoln. I want to thank you today for your time, and I also want to thank Senator Pansing Brooks for bringing this important issue in front of the committee. Today I would like to express the city's support for the measures aimed at revitalizing historic neighborhoods and neighborhoods in decline. Neighborhoods in cities across the country were hard hit by the Great Recession and caused, in many cases, monumental problems with urban decay and blight. In Detroit there are approximately 80,000 buildings that need to be demolished, yet there is only enough money to demolish approximately 50 per week. Even if they reach their goal of 200 demolitions per week, it will still take many, many years to clear

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away all the decay. Cleveland has demolished over 3,500 building since 2009 and has renovated over 1,100 more. Even in smaller cities like Syracuse, New York, with a population of 145,000, they are trying to get to a goal of 25 demolitions and 20 renovations per year. These numbers do not begin to convey the toll this has taken on the quality of life in those cities. Nebraska in general, and Lincoln in particular, has been blessed with a substantially better economic environment, that has avoided the dramatic problems in these other cities. Still, we know that we may be only one or two bad downturns away from situations that, while not as overwhelming as Detroit or Cleveland, would nevertheless be very impactful on the fabric of our community. Although Lincoln does not have the heartbreaking statistics that other cities must confront, we do have neighborhoods that have challenges, and we're always searching for new tools to address those challenges. Law enforcement, neglected building registration, code enforcement, and a community development law that includes tax increment financing are useful and produce good results, but we still have some struggles with blight. The SoDo area of Lincoln is a good example of a neighborhood that could benefit from new tools. It is not a war zone by any stretch, but it does need help and the available tools will only have a limited impact. Discussions have begun on how to revitalize the SoDo area in Lincoln, and we encourage this committee to examine all reasonable means to develop these new ideas. I would also tell you that I look forward to reading both the preliminary and the final report that the students have discussed today, and I'm certainly going to turn that over to our urban development department to see if they can get some things out of that. So with that, I want to thank you again for the opportunity to testify this afternoon and I would be happy to answer any questions you might have. [LR278]

SENATOR CRAWFORD: Thank you, Mr. Connolly. Questions? Seeing none, thank you. Thank you for your testimony. Welcome. [LR278]

PAT ANDERSON-SIFUENTEZ: (Exhibit 4) Hello. I feel a little short. My name is Pat Anderson-Sifuentez, Anderson, s-o-n, Sifuentez, S-i-f-u-e-n-t-e-z. I work for NeighborWorks Lincoln, and if you're not familiar, we revitalize neighborhoods. And probably our most recognized project has been the Antelope Valley, so the new townhomes that are between P and Q, and 23rd and 22nd Street--I'm sorry, not 22nd yet, 23rd and 24th. The new townhomes are what NeighborWorks built, but what people don't realize, unless you're walking through the neighborhood, is that we also did 90 to 100 other properties where we helped both existing

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homeowners and new homeowners with rehab. And in some cases, we tore down dilapidated, vacant properties and built new. We did all of this as a part of the Antelope Valley Project, but prior to that we had a long established history with working with the neighborhood. So we didn't just go in there and bulldoze. We worked with the neighborhood to find out what their assets are and what their needs were. And we continued to work with them long after that. And I would invite you to...if you don't ever get out of your car when you're going down P and Q, I would invite you to get out and walk around, because it's...Antelope Valley, with the bike trail and the park through there, has added a great asset to that inner city neighborhood. But also, this was an area that...I did a home tour in that area years ago, after we built the townhomes in. And several people, including current landlords, had a lot of UNL, old students that, oh, I used to live there, and of course, you know, the stories that come with that--I used to live there when I was in college--and you know the rest. Then they would remember the neighborhood, not as necessarily very safe, and certainly not very well kept and buildings in disrepair. And they were amazed. I walked with a current landlord, and she said, oh, I guess I need to get down here more often, I had no idea you guys had fixed up so many buildings. And it's not just that we fix up the buildings, but it was also working with the public and our home buyer education classes, where we educate home buyers and they purchase knowing what they're getting into and become good homeowners. That also effects the overall fabric. I also live on 11th Street, just south of downtown. And NeighborWorks...and I've worked in this area for quite some time, too, with NeighborWorks. And it is an area that has a lot of needs. There's a lot of...you don't get 100-year-old housing. I don't know how many of you own an old house, but they're the money pits. And you don't acquire 100-year-old housing that has been rented, especially for 80 years or more, without it needing a lot of work. And sometimes you just don't have deep enough pockets to do the work that it needs. And what happens in neighborhoods like that is you don't have the investment, and then you have to lower your standards for the type of rental property you're going to have. And that affects not just your building, but all the buildings around it and on the block. So we'd need more tools. I'm going to run through a very quick list here. The city council person from Omaha has already said loudly we need some help demolishing vacant and abandoned properties. We need more money for that. Aging infrastructure needs to be addressed, 100-year-old waterlines--Omaha, I know, knows that well. Weatherization goes a long way in preserving housing stock, and so that needs to be addressed often. Energy programs are really built for newer housing, not for 100-year-old housing, the standards I'm talking about. Historic

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tax credits and other tax credits, that can also be used in freezing credits in a...if you have a focused area, if you freeze the property taxes for awhile, that could also address the gentrification down the line. More attention to walkability. One of the biggest benefits in living in a small town, or in areas close to downtown, is that you can walk. But so you have to pay attention to the walkability--the sidewalks and especially the lighting, because the lighting is key to keeping safety. [LR278]

SENATOR CRAWFORD: Thank you. [LR278]

PAT ANDERSON-SIFUENTEZ: And financing stools for different kinds...financing tools--stools maybe, too--for different kinds of purchasing options like, for example, south of here there is a lot of grand, old homes that are probably too large...and apartment buildings that are too large for one person, but if young people would like to purchase an apartment, we can sell \$500,000 condos downtown, but we need that kind of tool to work on a smaller scale in areas like this. [LR278]

SENATOR CRAWFORD: Thank you. Questions? Senator Hansen. [LR278]

SENATOR HANSEN: Thank you, Senator Crawford. I'm going to ask you this, because it's come up a couple times already, but the kind of focus on demolishing neglected and abandoned buildings, is the incentive there with the demolished building, you have a vacant lot, the vacant lot can be redeveloped easier than a dilapidated building... [LR278]

PAT ANDERSON-SIFUENTEZ: Much. [LR278]

SENATOR HANSEN: ...or simply that a vacant lot is preferable to, say, something that's a safety hazard? [LR278]

PAT ANDERSON-SIFUENTEZ: Both actually. NeighborWorks is also doing work along north 27th Street, and I was doing a door-to-door survey in the Clinton neighborhood a few years ago. And NeighborWorks had just purchased I think four properties, five maybe, that had been vacant and dilapidated for many, many years. And we tore those down, hadn't done anything with the

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lots, they were just vacant lots, but just tearing down the buildings gave people hope. There were a lot of people that lived even within six blocks of that area. And one of my questions on my survey was, do you think the area is improving and will it continue to improve? And most people said, yes, it's improving, because I saw those dilapidated properties torn down and, yes, I believe it will continue to improve, again because I saw those properties torn down, and I think something will be done with them now, so. [LR278]

SENATOR HANSEN: Okay, thank you, I appreciated it. I was just wondering from the context of...actually I'm glad you addressed how the neighbors perceived it, because the perception of all of a sudden you see houses torn down in your neighborhood it's...whether that was perceived by the neighbors as a good or a bad sign. [LR278]

PAT ANDERSON-SIFUENTEZ: If it's a vacant property, and you know, sooner or later it's going to catch on fire, especially if you're close to downtown. That's just what happens. And so, yes, neighbors would much rather have a vacant lot than...you can always mow the vacant lot or put a community garden in. But it's much more difficult dealing with that vacant property that you don't know what's going to happen to it or when the fire's going to start and how far it's going to spread and...okay. [LR278]

SENATOR CRAWFORD: Thank you. [LR278]

SENATOR HANSEN: All right, thank you. [LR278]

SENATOR CRAWFORD: Senator McCollister. [LR278]

SENATOR McCOLLISTER: Yeah, thank you, Madam Chair. You talked about the infrastructure of neighborhoods. I presume what you meant was the infrastructure portion of the facility that's under the homeowner's responsibility, not the part that the city maintains. [LR278]

PAT ANDERSON-SIFUENTEZ: Well, actually, both. Go down 11th Street right now, there's...it's been closed off for over a month as they repaired a sewer line. I mean, that happens, but we have 100-year-old...I mean a lot of small towns also have that 100-year-old infrastructure,

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and we need to be thinking about replacing them, you know. And in older neighborhoods, it's just a given that your water pressure is lower, because your pipes are smaller. So, yeah, we need to pay attention now. [LR278]

SENATOR McCOLLISTER: I think the neighbors have a legitimate claim against the city, or at least a need to request some improvement in those facilities. And it's...having come from a utility, I know that we at MUD would get those kinds of complaints all the time and acted on them, so. [LR278]

PAT ANDERSON-SIFUENTEZ: I'll tell all the landlords in the area since it's...since that particular area is 94 percent rental. I'll tell the landlords that. [LR278]

SENATOR McCOLLISTER: You know, the piping from the house to the connection in the street generally is the responsibility of the homeowner. [LR278]

PAT ANDERSON-SIFUENTEZ: Right. [LR278]

SENATOR McCOLLISTER: So, you know, sometimes that can be an issue. [LR278]

PAT ANDERSON-SIFUENTEZ: Which is also difficult if you're talking about affordable housing, because the most affordable housing is usually the older housing stock. And if you're looking at a threat of...depending on how far you have to go replacing that water line, you know, \$8,000, that's pretty insurmountable for a new homeowner... [LR278]

SENATOR McCOLLISTER: That's true. Thank you. [LR278]

PAT ANDERSON-SIFUENTEZ: ...even within the first five years. [LR278]

SENATOR CRAWFORD: Thank you. Other questions? I wondered if you would just tell me, you said Antelope Valley Project was a combined effort. What was the public piece? What did that look like? Or what were their... [LR278]

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PAT ANDERSON-SIFUENTEZ: There were public meetings at the forefront to get input on the design. [LR278]

SENATOR CRAWFORD: Okay. So that's what you mean by being a public? I just didn't know if there were any state policies or other tools that were used in that project. [LR278]

PAT ANDERSON-SIFUENTEZ: Probably. You know, it was a long time ago, its inception was. [LR278]

SENATOR CRAWFORD: Sure. Okay, you can send us an e-mail afterwards. Thank you. Thank you for your testimony. [LR278]

PAT ANDERSON-SIFUENTEZ: Okay. Thank you. [LR278]

SENATOR CRAWFORD: Anyone else wishing to testify on LR278? Welcome. [LR278]

DIANA FAILLA: Thank you. Good afternoon, Senator Crawford and Urban Development (sic) Committee. My name is Diana Failla, and it's spelled D-i-a-n-a, Failla, F-a-i-l-l-a, and I am the president of Midtown Neighborhood Alliance in Omaha, Nebraska. Midtown Neighborhood Alliance consists of 17 historically rich and very diverse neighborhoods in midtown Omaha. I am also a former landmark commissioner--a preservation historical landmark commissioner, and I'm a journalist and marketing expert. And I'm very happy to be here today, and happy that this resolution is being presented and that some study will be done on how to help our neighborhoods, because we really do feel that we need tools and resources and need to be heard as well. I believe that neighborhoods hold a reputation and an image, just like anything else--just like a product would, in fact--and that it evolves and it waxes and wanes through time. And in a perfect world, we could maintain that fabric of a neighborhood, it could remain always vibrant. But with age, buildings age, people age, people come and go in neighborhoods and they often evolve into different areas. I think that as you as a committee examine maximizing neighborhood revitalization, that incentives and, of course, tax credits need to be offered simultaneously, not just to the large developers, but also to the smaller developers, who are sometimes left behind. They're just as great, just as wonderful with their ideas and projects, but those projects are left

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incomplete sometimes, due to the lack of funding and the clarity as to the process of the development. And it's not unheard of that neighborhoods and associations buy and develop old houses in vacant lots; we just need to make the process more easily understood and financially feasible. Many neighborhood residents buy properties in their own neighborhoods to prevent it from deteriorating, in an effort to uplift the neighborhood. These people, really we commend them, and we should commend them, because oftentimes they operate in a vacuum. And we want to make those vacant lots and property for green space readily available to our neighborhoods for preservation of green spaces, places to gather, not just community gardens, but places to gather, even mom-and-pop coffee shops. And not everything needs to be high-tech apartments. What happened to nature in the city? We need to empower our neighborhoods. Neighborhood residents often feel that their voice is not heard and their desires are not met. And this leaves them walking away with a feeling of, why even try anymore at all? So it's very disempowering. There's currently a disconnect, we believe, on a neighborhood level and an alliance level, between the business sector, big and small developers, city governance, and neighborhood leaders and associations. And the desire is that the neighborhoods be engaged in the process of revitalization early on, so that they may have input in the neighborhoods that they live in, and not just be told what's going to be taking place, but also be part of that process. When all come to the table early, that buy-in, I believe, increases in all levels for a particular project, including those that may not initially be as popular as we think. And this doesn't often happen either. I'm not sure that it's really anybody's fault, I just don't think that developers know how to reach out to surrounding neighborhoods. And I don't think neighborhood residents often feel comfortable either. The two or three or four entities really speak a different language at the table, and have different guidelines to adhere to--each of them, including the neighborhoods and the neighborhood leaders. If we could share in this educational process, it would be best. So maybe resource booklets and clear guidelines would help in this area. We need to learn and know what each other knows, and must comply to as well. So I think that revitalization comes in many forms. It can be as simple as a new streetlight, a street repair, better trash pickup, all the way to a newly designed business district that will include residents...restaurants and apartments and shopping centers. In the process though, I think it's important to note that what's really being lifted is neighborhood pride and ownership of that particular area. We want to keep our youth in the historic neighborhoods--they're moving out. And we want to bring new people into the neighborhoods. We want our historic neighborhoods to be livable and lovable and we ask

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consideration be given to the libraries and the schools that make up the neighborhoods as well. So private and public entities must look out for each other, as we work together. There's a cycle of investment in urban areas, and we want the cycle to become better. PR and marketing campaigns--no one ever talks about this much at all. I think again, we operate in a vacuum. So the PR and marketing campaigns, I think, are important to consider as we work to raise awareness of what our neighborhoods even have to offer. Neighborhoods can be looked at as a product, a product that we want to sell and brand for image and reputation of where we live. Marketing our historic neighborhoods and sharing the vision of growth says that there's a certainty of where a neighborhood is going, a plan of some sort. It's not just out there going we want better this or that, we have a plan. In turn, reluctant investors are more likely to invest in a neighborhood that has a plan. And so helping neighborhoods devise a strategic plan may be one area that the state and local municipalities can assist with, without being too bureaucratic, I guess would be what I would say. We need funding for organizations that preserve our landmark, historic buildings, so that the demolition is not only the only answer. Omaha has such an organization, which is known as Restoration Exchange. But perhaps the demolition controls are more time for mobilization, and resources to be pooled can be another consideration. We can't keep demolishing our old historic structures to build parking lots for big development. [LR278]

SENATOR CRAWFORD: Thank you. I'm going to just interrupt you there. I know you probably have other excellent ideas. [LR278]

DIANA FAILLA: Just a little bit, just a little bit. [LR278]

SENATOR CRAWFORD: And we would welcome you to send those to us, so we get the full list. But I just want to make sure we're respecting the time... [LR278]

DIANA FAILLA: Sure, sure. [LR278]

SENATOR CRAWFORD: ...of the other people that are waiting for both of the hearings. So thank you so much for sharing those ideas. [LR278]

DIANA FAILLA: Thank you. [LR278]

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SENATOR CRAWFORD: Anybody have other questions? Thank you so much. [LR278]

DIANA FAILLA: Thank you. [LR278]

COURTNEY LAWTON: Senator Crawford and the committee. [LR278]

SENATOR CRAWFORD: Welcome. [LR278]

COURTNEY LAWTON: Thank you. My name is Courtney Lawton, C-o-u-r-t-n-e-y L-a-w-t-o-n, and I'm here on behalf of my neighborhood--a neighborhood facing pressures from gentrification and poverty. I live in the south Capitol neighborhood on F and 14th Street. I want to emphasize that I live here because it's safe, affordable and walkable. All of those things that we're looking at in urban communities, we have in our neighborhood already. The Lincoln Community Foundation has recently commissioned H3, a St. Louis-based planning and design firm, to conceive of a marketing plan called SoDo, a branding and redevelopment effort that is actually a thinly veiled gentrification plan for the South Capitol, Near South, and Everett neighborhoods. The core group of four board members is made up of two real estate investors, Tom Smith of Smith Hayes Financial Services and David Schmidt of Concorde Management, Barb Bartle of the Lincoln Community Foundation and, finally, Jon Carlson of the city of Lincoln, as well as NIFA. These members are not residents or leaders in our community; instead, they are primarily concerned with the real estate as an investment, rather than the inherent dignity of the residents of the community. The type of housing proposed by H3 is condos and rehab single-family homes that already exist in housing stock as apartments for poor and low-income people. Left out of the plan is decent housing for poor and working-class families who already live in the neighborhood. SoDo appears to be a value investor land grab, where investors buy cheaply, aided by generous tax handouts, while the poor and working-class residents are pushed out without addressing their real housing needs. I personally welcome efforts to improve our neighborhood and stabilize and revitalize our neighborhood. But we need to focus on mixed-income and work force housing, and not demolition and displacement. I propose a community development organization. I served for four years as the vice president of the Greater Albuquerque Housing Partnership, and I feel that there are creative and viable alternatives to gentrification, where public/private partnerships can improve and stabilize South Capitol, Near South, and Everett neighborhoods. These housing

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developments that I worked on in Albuquerque include the Placido Martinez Court, which was developed in a largely industrial part of Martineztown in Albuquerque. It both provided rental income...I mean rental properties for poor people and ownership opportunities for people of modest and moderate income. We also had Plaza Feliz, which was built in a neighborhood that desperately needed stabilization, because of its downward slide, near Louisiana and Central. And finally, we built a really wonderful organization called Plaza Ciudadana, which actually built and stabilized a neighborhood that was really, really degrading very quickly and, instead of moving out residents, provided really great income and housing for that neighborhood, including medical facilities, childcare facilities, job counseling, that kind of thing. So H3's plan that I've seen so far...and they were very obscure about their planning process until about June, when all of us got involved in this in the neighborhood. But none of their plans include the kinds of things that would be public/private partnerships and work force and stabilization. Instead, it's a gentrification land grab, and I think we all need to face it for what it is, especially since, you know, I live here in the neighborhood. Senator Brooks, you know, is my senator in this neighborhood, and so is Senator Coash, who's right across the street from me, so. [LR278]

SENATOR CRAWFORD: Thank you for your testimony. [LR278]

COURTNEY LAWTON: Sure, sure. [LR278]

SENATOR CRAWFORD: Thank you for your testimony and for talking about some things you've seen in other states. [LR278]

COURTNEY LAWTON: Yeah. [LR278]

SENATOR CRAWFORD: I just want to clarify. The hearing is to talk about state tools that local governments can use, just to clarify. [LR278]

COURTNEY LAWTON: Right. And I live here. Yeah, yeah, I moved here. [LR278]

SENATOR CRAWFORD: So as opposed to any particular way that neighborhood or a city uses the tool,... [LR278]

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COURTNEY LAWTON: Right, right. [LR278]

SENATOR CRAWFORD: ...we're here talking about like what the state base should be, so just to clarify that. [LR278]

COURTNEY LAWTON: Absolutely. Yeah, and those things can be made available at the state. We availed ourselves of state grant monies, community redevelopment grants, block grants, federal block grants, stuff like that, including the New Mexico Mortgage Finance Authority, so those things exist. [LR278]

SENATOR CRAWFORD: Right. Excellent. [LR278]

COURTNEY LAWTON: Thank you. [LR278]

SENATOR CRAWFORD: Any questions? Thank you for your testimony. [LR278]

COURTNEY LAWTON: Thank you. [LR278]

SENATOR CRAWFORD: Welcome. [LR278]

HANNAH FISCHER: Good afternoon, Chairwoman Crawford and members of the Urban Affairs Committee. My name is Hannah Fischer, H-a-n-n-a-h F-i-s-c-h-e-r. I'm with the Baird Holm law firm. I appear before you today to offer our perspective on the existing resources and programs, and some additional tools that may be useful in building on the successes and the effectiveness of these programs. I'd like to thank Senator Pansing Brooks for introducing LR278. We're always competing with other states for jobs and investment opportunities, and it's crucial that we continue to do so. At Baird Holm, we maintain a substantial real estate practice, relating both to new real estate and the revitalization of many of our urban and rural communities. Specifically, recently we led the effort to create the historical tax credit in Nebraska. I'm going to talk about three different programs today. I'll try to streamline it as much as I can. First, the New Markets tax credit. The New Markets Job Growth Investment Act, which started in 2012, encourages investments in the low-income community businesses throughout the state; it

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parallels the federal New Markets Program. To date, Nebraska New Markets program has led to over \$142 million in investments in low-income community businesses throughout the state. That's \$19 million in Omaha, \$22 million in Lincoln, and over \$100 million in greater Nebraska. Despite its successes, there's still a few roadblocks that I think we could improve. First, the state cannot accept any new applications for the New Markets program to 2018. Absent an additional appropriation, we'll miss out on incentivizing additional economic development. Second, community development entities without a federal allocation of tax credits are not eligible for the state program. This has the unintended consequence of preventing Nebraska entities from participating in the program. Finally, the act also limits the pool of low-income community businesses that qualify by requiring the businesses to occupy the premises in which the business operates. This requirement does not exist in federal legislation. The second program is the Nebraska Job Creation and Mainstreet Revitalization Act, and this is the historic tax credit at the state level. This act provides \$15 million in Nebraska historic tax credits for eligible expenditures incurred for improvements to qualifying historically significant real property. While the program is only in its first year, it's been instrumental in revitalizing a number of communities throughout Nebraska, including in Red Cloud, Norfolk, Columbus, and several neighborhoods in Omaha. Still, there could be a few changes that would make this even more available to our communities. First, the program was fully allocated in less than 60 days after the Historical Society began accepting applications. An additional appropriation would help revitalize the number of communities that were shut out during this first allocation period. The second improvement is there is a per-project cap of \$1 million on investment. And thirdly, single-family residential properties are not eligible for the program. The third program is the Low-Income Housing Tax Credit. Now, we don't have one of these at the state level, just at the federal level. I guess one of our possible solutions is creating a state LIHTC Program. This would not only complement the federal program but expand on the successes of the federal program, facilitate the development of affordable housing throughout many of our rural communities. I'd be happy to answer any questions that you have. [LR278]

SENATOR CRAWFORD: Thank you. Senator McCollister. [LR278]

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SENATOR McCOLLISTER: Thank you, Madam Chair. You indicated three approaches that can be employed to boost neighborhoods. In the first program that you mentioned, what is the state allocation or appropriation? How much? [LR278]

HANNAH FISCHER: I don't know that off the top of my head. I'd be happy to e-mail to you or submit to you any additional research on that. [LR278]

SENATOR McCOLLISTER: And the second program was \$15 million? [LR278]

HANNAH FISCHER: Yes. [LR278]

SENATOR McCOLLISTER: And that's a state credit? [LR278]

HANNAH FISCHER: Yep, that's a state credit. [LR278]

SENATOR McCOLLISTER: And it goes against income tax? [LR278]

HANNAH FISCHER: Yes, I do believe that's correct. [LR278]

SENATOR McCOLLISTER: Okay, thank you. [LR278]

HANNAH FISCHER: You're welcome. [LR278]

SENATOR CRAWFORD: Thank you. Other questions? Thank you, I appreciate that. [LR278]

HANNAH FISCHER: Thank you. [LR278]

SENATOR CRAWFORD: Welcome. [LR278]

KARLA COOPER: Thank you. My name is Karla Cooper, K-a-r-l-a C-o-o-p-e-r. I am the pastor of Quinn Chapel African Methodist Episcopal Church, here in Lincoln. A couple of things that I want to thank Senator Pansing Brooks for this legislation. Any time that we can revive or

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resurrect is quite important, but I also want to add a word of caution as we advance this, either way, to be leery of organizations that see this as an opportunity, as a business venture, without taking in consideration of those residents who live in the areas that are part of the revitalization. So I offer this as a clergy person. There was a vision of a prophet named Ezekiel, who saw a valley of dry bones. And the question was asked, can these bones live? None of these dry bones would ever displace, because no one could see the opportunities or possibilities that life could be breathed into these bones. And so what I'm offering is a word of caution that we don't displace those who have historically lived in these areas. For example, the Antelope Valley Project, that dissected the entire neighborhood that was historically a black community. Where that Antelope Valley intersect and where the Malone Park is now, Trago McWilliams Park now, is where people used to live. And so it's a painful reality that...whose lives actually matter in the city? Those neighborhoods were safe for generations and now, all of a sudden, become unsafe. And I offer a word of caution that most of the neighborhoods that seem to be blighted have a higher concentration of people of color. And in terms of...and that's a word of guarded caution, and we want to just make sure that we are not displacing people who have historical roots in communities for the sake of development and building new houses where houses once existed. It's a painful reality. I'm speaking on behalf of members of my congregation whose lives were disrupted. And the church where I serve is actually in the district of the SoDo downtown. So I just want to make sure that we are not doing things in an effort to make our communities look like Pleasantville, dismissing everyone else who lives there. So thank you. [LR278]

SENATOR CRAWFORD: Thank you, thank you. Questions? I appreciate that, thank you. Anyone else who wishes to testify on LR278? Welcome. [LR278]

SHARON OLSON: Hello. My name is Sharon, S-h-a-r-o-n, Olson, O-l-s-o-n. I'm different than everyone else who's testified here. First, I'm old. Secondly, I have nothing, nothing behind my name. I'm a resident. I live...Ben is my city councilman. Yes, I live in Minne Lusa, which is 100 years old this year. Yes, it does have bad housing. I brought my pictures, but somebody told me don't take those pictures up, to show you that we do have those houses that have been sitting vacant for 25 years, and we need to do something with them. I'm not advocating tearing them down, I'm just telling you we need to do something with them. I want to...this is in a celebration of Minne Lusa. Minne Lusa is coming back. Minne Lusa was kind of dying there, but the people

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have got together, not the government. The people have got together and organized Minne Lusa. They've made...they've got people coming in and buying homes from different areas in Omaha. If you're familiar with Omaha, you know 168th and Center is no east of 72nd. People came from there to live in Minne Lusa. You know why? Because people talked to them, they knew their names. We have people from downtown, young people coming in, taking these older homes and doing something with them. It's a celebration. And you've been listening to not so good stuff. We are good. We have a house that we dedicate...that we bought and we dedicate to people coming in every Saturday and talking, because nobody would talk to one another. We have people from all over, people from out of town that come and visit and talk and tell you all their experiences when they did live in Minne Lusa. These are things that, if we can keep the houses together and we can get people back in, pride will be there. But we are coming back, so. [LR278]

SENATOR CRAWFORD: Excellent. Thank you for sharing that story. Questions? Thank you. Could I see hands of who else would like to testify on LR278? Any more? Okay, thank you. Welcome. [LR278]

CHRIS FOSTER: (Exhibit 5) Hi. My name is Chris Foster. I live at 3413 California Street and live in the Gifford Park neighborhood, which is just west of Creighton, near downtown. And you really ought to see Sharon's pictures. Sharon and I drove down. And the Minne Lusa House is an incredible story of neighbors doing things themselves, so if you get a chance, you ought to look at them. I on the other hand did bring a few pictures though of my neighborhood and one of them that I was going to show as they come around. Restore Omaha and Restoration Exchange Omaha was mentioned by Diana, and it's an incredible program. And it teaches people how to fix up older properties, teaches the benefits. It helps to develop craftsmen and tradesmen, which we desperately need to fix up older properties. It's been going on about 10 years, it's totally volunteer based, except that one executive director gets paid out of grant money. I think that would be great to support that program. And I personally was inspired. One of the photos that will be coming around is a building in the 33rd and California business district, which had...back in 2006, we desperately tried to get people to buy it. Nobody would, so my family and another family bought it, fixed it up. We've got seven apartments and retail space in the bottom. But back in the 1980s, 1990s, up to the time we bought it, there was the worst imaginable things that could happen--children were murdered there, drug dealing. Our watch group used to stand in front of

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the building, just to disrupt the open-air drug dealing. And difficult, quite honestly, to get police to help out, so we really did it kind of on our own. And again, the Restore Omaha conference and Restoration Exchange really gets people like me excited and, in turn, younger people who have said they love older, historic neighborhoods. I mean, they want to move back into those neighborhoods. You can see the renaissance in midtown with that. So I think that's an important existing program that would be great to continue to support. One of the documents is just our neighborhood newsletter which, as Sharon said, is really kind of a celebration of the good things that are going on, so I won't go into detail. But our neighborhood runs, you know, a community garden, youth garden program, a thing called "adventure playground" where kids can learn how to build things and be creative, a tennis program, a soccer program, a neighborhood market, a community bike shop where younger boys and teenagers can work with their hands to help each other and fix up bikes and earn a bike and learn community service. So one of the documents, too, is about our community garden. And I'll just kind of show you, this is an aerial shot. And my point there is that I had testified earlier this spring on I think the community garden and seed-saving resolution that they're basically good to do. We're not looking for any special funding necessarily from the state, but just more support that they do good. And I guess I made it more difficult to get these out, I apologize. One of the sheets that you can look at is a spreadsheet of the fees. We pay \$22 a month for infrastructure fee; we pay the \$11 or \$12 for the water fee; there's some other fees. It was a total of \$578 last year just to pay for water, and the actual water usage was \$42. So again, I'm not saying we should get from MUD a subsidy, because everybody may say, hey, I've got a community garden and can you give me a break, but just something to look at as this study goes on. One other sheet, we're kind of on...right now we're on an initiative to save the historic Yates building. It's a community center now, was our school. We don't want to see the same thing happen to this that happened to Clarinda-Paige, that Mutual of Omaha tore down basically. It was landmarked, and that got decommissioned, so I think that doesn't show a very good example, I think, of our city, our community, of not recognizing those buildings. So we don't want to see the same fate happen to our building. And one more...I kind of hate to do this, but I'm going to take a shot at the Liquor Control Commission. Probably our number-one problem has been too many poorly managed alcohol outlets. And when the Liquor Control Commission rubber stamps these, it's very unfair. We've had very compelling testimony of saving our neighborhood and that being the most important thing. And I cannot express how many...not just our neighborhood, but many neighborhoods, especially in midtown, in

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Councilman Gray's neighborhood or jurisdiction. What that does, it just takes the lifeblood out of the neighborhood so... [LR278]

SENATOR CRAWFORD: Thank you. Glad you got that in before the red light came on. [LR278]

CHRIS FOSTER: Yeah, yeah. [LR278]

SENATOR CRAWFORD: So I am going to stop you there, again, just because I want to make sure we get everybody who came to testify for both resolutions in today. Thank you so much for all those great examples and what it looks like in your neighborhood, and for pointing out it also includes, you know, other policies of the state as well. Any questions? Thank you for your testimony. Welcome. Go ahead, sorry. [LR278]

CARINA McCORMICK: My name is Carina McCormick, C-a-r-i-n-a M-c-C-o-r-m-i-c-k. I live exactly two blocks south of here. It was a nice little walk. The thing I'm going to talk about today is not necessarily my main concern, but it was the thing I thought no one else would talk about. I actually echo a lot of Courtney's concerns. She's also my neighbor. She offered me some chard the other day. I really appreciated it. This is the kind of neighborhood we have here. It's a good place, it's not a war zone. The concerns I have though actually kind of follow off of a comment that Senator McCollister actually accidentally made, when he was referring to, oh, the homeowners should call about those services. And Mrs. Anderson pointed out, no, those are usually renters. It's really hard for the renters to access those services, so that's what I want to talk about: making a tool through the state to provide simple, lower cost solutions to directly improve the neighborhood through focused and expanded use of existing government services, using targeted grants or allocations of state funds to local municipalities for this purpose. They don't require a 20-year plan, like a lot of the investment financings. In all these municipalities, committed civil servants are already providing these services, but these municipalities do not have sufficient resources to give extra services to these targeted areas that have fallen far behind in the important use of these services. I'm talking about things like specifically setting aside funding for additional sidewalk repair, trimming of low-hanging branches from the easements that block sidewalks, installing pedestrian crosswalks, providing ways to clean broken glass in

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sidewalks or streets, adding stop signs, or even adding speed limit signs in areas where high traffic makes crossing streets dangerous. Each of those individual solutions are much cheaper than a large, large investment grant, and they would have a direct impact. It's really important, especially in these neighborhoods, because it's natural for many homeowners in other neighborhoods to utilize these services, but these neighborhoods still need those services. But oftentimes, the homeowner has little incentive to request those services, when they only benefit the renters or the neighbors. And thus, these services are underutilized, and we're way behind in the waiting list. I want to give an example. I called a couple weeks ago. There is sidewalk by my house that is probably four inches raised; it's so dangerous. And I called the sidewalk repair number, which I found through Pat Anderson's links on NeighborWorks, which was great. They told me that they would be happy to repair it in seven years, that many people in the neighborhood who own homes put their names on the waiting list seven years ago. And that was really disheartening for me, because I became...I got excited, oh, I'm going to fix this neighborhood, and they said it would take seven years. I also got excited that there was this really dangerous block, and I wanted to get an extra streetlight installed. So LPS (sic) was really great. They set up the form for me and they handed me a petition and they said, here, just have every person who owns property on this neighborhood sign it. If that was in a regular neighborhood, that would be fine. I would go around at evening, say hi to my neighbors, say, can you sign this? If I wanted to do this, it's going to take a whole day of driving around town to ten different rental agencies or random people who just happen to own a house there and then rent it to other people. The services are really set up for homeowners, but we need them even more. And let me give you some examples of why we need these services even more. These areas often have higher pedestrian traffic or bicycle traffic than other neighborhoods, because many residents can't afford to own vehicles. And so walkability in these neighborhoods is even more essential in general. In addition, there's many individuals who rely on disability payments or whose disabilities restrict the types of jobs that they can have, so often they can only afford lower priced rent, suggesting they'd be more likely to live in these types of neighborhoods as well. These neighborhoods also contain many multigenerational families, for example, with grandparents or even great-grandparents caring for young children and having to transport them across the neighborhood. On top of that, we have many children who walk alone to or from school everyday, yet these residents must risk unprotected crosswalks, speeding cars, extremely uneven sidewalks, branches hanging over sidewalks, walking through broken glass and, worst of

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all, these slick patches of ice that stay there all winter. We don't even know who the party is responsible who's supposed to clear that ice--they might live off in a better neighborhood. And we still deserve these services, but they're very hard for us to access. So I am requesting that in this plan, that additional tools be set for state funds to be allocated to local municipalities, to increase targeted use of existing services for neighborhoods in need of revitalization. [LR278]

SENATOR CRAWFORD: Thank you. Got it in, the red light didn't even come on. Good for you. And thank you for that perspective. We talked about urban versus rural, but the perspective of a high rent, you know, high proportion of renters is important for us to bear in mind and those were great examples. I appreciate that testimony. Any questions? Thank you. [LR278]

AMANDA HUCKINS: That's a pretty good segue. I will live next month right down the street from Carina, so...and Courtney. My name is Amanda Huckins. Oh, yeah, sorry. [LR278]

SENATOR CRAWFORD: Welcome. [LR278]

AMANDA HUCKINS: That is A-m-a-n-d-a H-u-c-k-i-n-s, and I am...I guess I'm kind of here representing a group, called We Are Vital, that it's just a group of residents who have decided that when we start talking about revitalization in our community, we want to make sure we're at the table. And we haven't been included in a lot of things. Courtney mentioned that there was eight months where no one in our neighborhood knew that there was some kind of plan to revitalize it. So...and it's still ongoing. We have a hard time getting ahold of the people who are making decisions, so. But I'm actually going to speak just to the needs of my generation, kind of a demographic that I represent as far as housing goes, in relation to number (3), the issue (3) in the resolution, which is, "The prospect for additional incentives to encourage home ownership of rehabilitated older buildings." And so, kind of piggybacking off of the talk about rentership, I think we need to figure out ways to make sure that more people can own, and that might not mean single-family dwellings. So I'll just read what I've prepared here. At the outset of this study, I would like to encourage the Urban Affairs Committee to think broadly about what home ownership might mean, and to get into contact with Lincolniters of my generation, which is a group that is postponing or completely forgoing ownership for a number of reasons. In my case and a lot of my peers' case, student loan debt has some effect on that. According to the Institute

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for College Access and Success, in 2013, 62 percent of Nebraska's college graduates were in debt and the average size of that debt was \$26,490--which is pretty sizable, especially if you're trying to buy a house and you're already in the hole that far. Another possible factor in the decision to delay home ownership is a significant blow, struck by the subprime mortgage crisis, to our confidence that purchasing a home is actually a smart investment. During our late high school, college, and our first years as graduates, we heard story after story of older Americans across the country having to sell their so-called stable investment at a loss, of families losing their homes to foreclosure and the bank turning around and selling the home for less than the family owed. And I know this is a problem that's not as immediate in Lincoln so far, but we just want to make sure we're thinking about those things. And that lack of confidence in what home ownership means currently does affect us. So the paradigm of home ownership might need to be changing. It is already changing in our minds. And the supports for financing, Pat Anderson-Sifuentez mentioned new models for financing unit by unit or collaborative ownership, things like that, because we just don't feel like taking on the risk of buying a single-family home is something that we're willing to do. And even if we are willing, sometimes we're not able to, because a lot of us are underemployed and some of us are even unemployed, despite our higher education. Still, we do recognize the importance of ownership, specifically owner occupancy, in the health of neighborhoods. And Carina mentioned how high the rentership rate is. And while we think it's really great that renters want to live in the area--anybody can live in the area--we have a problem with people not taking care of their properties, property managers, property owners not taking care of their buildings. So let's see here. I also had a friend of mine ask me the question the other day, what exists as far as affordable housing that is available for poor people to own? And I don't think we have an answer to that question yet. And we really need to build one, because when we talk about the contributions of residents in a neighborhood and a lot of times people say homeowners, and there are renters who would love to be homeowners if there was something under \$30,000 that you could buy to live in, that doesn't exist, or even smaller amounts of money. So let's see here. Yeah, so I just don't want us to forget that there are large, multiunit historic buildings that could be revitalized by state funds, and something could be set up to make them more available to cooperative ownership amongst the tenants. So I mean condos, but not condos in the way a lot of people think of condos. Also, this is one of the most dense urban areas in Nebraska. I was surprised to find out that the census tracts that are kind of the line the SoDo initiative lines are drawn around are two and three on the list of densest census

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tracts in Nebraska. That's behind only one in Omaha, which I was surprised that Lincoln was more dense than lots of places in Omaha. So let's see here. It's also one of the six census tracts that's in extreme poverty in Lincoln. So I just spoke about my experience as a millennial college graduate. But in addition to residents like me, I would like to encourage this committee to seek the opinions of a broad spectrum of residents by seeking ways to go to them, rather than inviting them to come to you always. And this is something I think you have to collaborate; at the state level, you have to collaborate with the smaller municipalities to get that done, and also groups like NeighborWorks, who already do that work. It's necessary work, even though it's difficult. And I can assure you that there are residents in this urban neighborhood that would love to be ambassadors to anyone who wants to find out what the situation on the ground is really like. And I wholeheartedly endorse putting into practice the first trait of successful revitalization efforts, as defined by the planning students earlier, namely, that there needs to be authentic engagement with residents to identify what the neighborhood itself sees as its assets and what it wants to see changed. So thank you for your time. [LR278]

SENATOR CRAWFORD: Excellent, thank you. Questions? Senator McCollister has a question if you... [LR278]

SENATOR McCOLLISTER: Thank you, Madam Chair. I'm just curious, do you own a home? [LR278]

AMANDA HUCKINS: I do not. I'm a renter for like 10 years. So, yeah. [LR278]

SENATOR McCOLLISTER: Okay, thank you. [LR278]

SENATOR CRAWFORD: Thank you. I think we may be down to our last testifier. [LR278]

LYNN REX: Senator Crawford, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. First and foremost, thank you all for hosting this important interim study hearing. I'd like to just emphasize that these are not issues that are unique to Omaha or Lincoln, these are issues that span across the entire state of Nebraska. And revitalization of neighborhoods is critically important. And you've heard today a

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number of ideas, from increasing the amount of the income...the tax credit, historic tax credit. As was noted, it was I think less than 60 days by which those municipalities had already accessed the entire \$15 million, because the need is so great. And just to underscore one of the important things, because some of you--well, all of you--do not serve on the Revenue Committee, none of you serve on the Revenue Committee, and so just to underscore that, because they hear our concerns consistently in the issue of lids and levy limits. Of the 530 municipalities across the state, at last count over 240 of them were at the maximum levy limit. Of those, well over half of them cannot even levy what the Legislature does allow them to levy, which is 2.5 percent over the prior year's restricted funds with an additional 1 percent with a supermajority vote. What that means is that there are well over hundreds of municipalities in this state that cannot even raise the revenue that you allow them to raise, because of their maximum levy limits. And that comes down, first and foremost, to what occurred in 1996, when your predecessors, Senator Warner being the lead on that, said, look, there's some places in the state of Nebraska where they're not paying enough property taxes--imagine that--other places where they're paying way too much. And so as a consequence, the levy limits were put in, in 1996, a 45 cents per \$100 of valuation plus 5 cents for interlocal agreements. The small cities that were already at \$1.05 per \$100 evaluation had to go from \$1.05 to 45 cents in two years. LB1114 passed in 1996; it took effect in 1998. So a huge effort was done across the state and, of course, a lot of people want to call that consolidation what occurred...and that's when most of the police departments in our smaller cities disappeared. It wasn't consolidation, it was we can no longer afford them, and now we're in a position where many, many of those smaller cities can't even afford to pay for the county sheriff for law enforcement. What does this mean? Money: They don't have the money and the resources in cities all across this state, including, as you heard today, the larger municipalities, to do what needs to be done to address these critical issues of affordable housing and revitalization of neighborhoods. And I wish Senator Coash was still here, because what I would share with him is I do think that there are some things that can be done to address what Councilmember Gray brought forward, that obviously, as your committee counsel indicated, in Article VIII, Section 3, that's the constitutional right of redemption period. But in addition to that, 77-1824 is the statute that could be modified, and in a very limited way, to make it clear that these would be homes or houses, buildings that are dilapidated, nonresident owners, nobody's been there, let's say, 25 years, pick a number. But there are ways to make it extremely limiting, because I do understand what Senator Coash said. When you have people trying to make ends meet, that's not

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the time to go in and yank their home from them either. So that being said, there are a number of things that need to occur. Tax increment financing is, first and foremost, the most valuable tool and, in fact, sadly, basically one of the few tools that municipalities have to try to effectively address affordable housing, which is critically important when you're looking at revitalization of neighborhoods. Those municipalities that have voter-approved LB840 plans also have tried to be of assistance in this area. This is one of those issues that we'll be discussing at one of our legislative committee meetings coming up, and we will be looking forward to coming back to you as a committee to discussing some of these issues, because we do think that it's...if you don't address some of these issues sooner, we're going to end up in a situation where we're going to continue to have what amounts to the abandonment of urban areas, the core areas, because obviously a whole lot cheaper to build in areas where you don't have to tear down buildings, a lot cheaper to build in areas where you don't have to worry about any of that. So meanwhile, I think many of the concerns that have been brought forward to you today are so legitimate to make sure that there's affordable housing, not just for folks that are pulling in a quarter of a million, but affordable housing for folks that are pulling in \$30,000 to \$50,000. So with that, I'd be happy to respond to any questions that you might have. [LR278]

SENATOR CRAWFORD: Thank you, Ms. Rex. Questions? Senator McCollister. [LR278]

SENATOR MCCOLLISTER: Thank you, Madam Chair. And thank you for the testimony, Lynn. In my experience, I don't think TIF is used very often for residential housing. Am I mistaken in that assumption? [LR278]

LYNN REX: Well, in your experience, the reason why that was true is because Omaha is not allowed to use TIF for affordable housing. Second-class cities and villages are allowed to do that; second-class cities in particular are the ones that access that. So there are limitations on which classes of cities in the state of Nebraska can, in fact, use TIF for affordable housing. And there are ways in which Omaha does it that are legitimate and appropriate and legal. But in terms of other parts of the state, you will find that that's been one of the major issues that the Urban Affairs Committee has looked at over the years is there are some senators, a handful or less, that believe that you should never use TIF for affordable housing. Affordable housing is critically important for the viability of municipalities, not to mention neighborhoods. [LR278]

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SENATOR McCOLLISTER: But for smaller urban areas, we have such a shortage of good, affordable housing in some of the smaller Nebraska towns. [LR278]

LYNN REX: That's true. [LR278]

SENATOR McCOLLISTER: But TIF is rarely used for that purpose? [LR278]

LYNN REX: Oh, it is used. I mean, for example, Central City is one of the cities that recently did a major TIF project. And there are other small cities that are doing that, too, because it's basically the only tool they have to try to come in and try to revitalize that part of their community. [LR278]

SENATOR McCOLLISTER: Can TIF be used for revitalization? [LR278]

LYNN REX: Yes, in that context. It's got to be very limited, I mean, it's got to fit all the bells and whistles of the Community Development Law. First and foremost, what's blighted and substandard? So it's got to be an area that's blighted and substandard. It just can't be an area where you want to come in and do certain sorts of things and it does not meet that test. So first and foremost, it has to meet the but for test of being blighted and substandard. [LR278]

SENATOR McCOLLISTER: Thank you. [LR278]

LYNN REX: You're welcome. Thank you very much. [LR278]

SENATOR CRAWFORD: Further questions? Thank you very much. [LR278]

LYNN REX: And thank you, again, for this very important hearing. It's critically important, so thank you. [LR278]

SENATOR CRAWFORD: Thank you. Do we have any other testifiers for LR278? We do have one letter for the record from Garry Gerandt from the Omaha City Council. And with that, we will close the hearing on LR278 and we will open the hearing on LR174. So if you're leaving,

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just please try to leave quietly. Good afternoon, Vice Chairman McCollister and members of the Urban Affairs Committee. My name is Senator Sue Crawford, C-r-a-w-f-o-r-d, and I represent the 45th Legislative District, which includes Bellevue, Offutt and eastern Sarpy County. The purpose of LR174 is to examine Nebraska's energy code statutes, with a focus on reviewing one, the current Nebraska energy code--the 2009 international energy conservation code; two, new additions of the international energy conservation code, which have been published since Nebraska adopted the 2009 version; three, the interaction between the Nebraska energy code and the state building code; and four, the role of both the Nebraska Energy Office and political subdivisions in enforcing energy codes. The core questions that I think need to be addressed through this study are what our energy standards for buildings should be in the state going forward and how they should be enforced. As you will hear in the testimony today, there are many factors to consider. I hope that the hearing will provide an opportunity to discuss these considerations and start a productive dialogue on how and when to update our energy codes. While building codes cover the full breadth of residential and commercial construction, energy codes generally cover those portions of construction that impact energy use and energy efficiency: insulation, doors and windows, heating, ventilation and air conditioning or HVAC systems, lighting, water heaters, etcetera. Nebraska has had some form of statewide building energy standard since 1980, although our energy code statutes have generally not been updated as frequently as other building code statutes. In 2004 when the state adopted the 2003 International Energy Conservation Code, the state energy code had actually gone for more than 20 years without being updated. Code officials were unable to even locate copies of the relevant codebooks. Our current energy code, the 2009 International Energy Conservation Code, was adopted in 2011. One of the driving factors behind this most recent code update was the passage of the American Recovery and Reinvestment Act of 2009. Under the act, states wishing to receive stimulus funding for weatherization were required to give assurances that they would update their energy codes to at least the 2009 IECC and demonstrate compliance with the 2009 IECC in 90 percent of new and renovated buildings by 2017. Over the past few years, the Nebraska Energy Office has undertaken multiple compliance studies to measure the state's compliance levels. In addition to compliance studies, in 2013 the Energy Office established the Nebraska Energy Code Compliance Collaborative, a group of interested parties and stakeholders to assist the office with compliance efforts, including education and training opportunities for builders, engineers, architects, and other professionals who deal with energy codes. The former

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legal counsel for the Urban Affairs Committee was an initial member of the collaborative when it was established, and Trevor has been attending the collaborative meetings on behalf of the committee since last fall. Committee members should have received a map showing statewide adoptions of the IECC around the country. The 2012 IECC has been adopted by 20 states, including our neighboring states of Colorado, Iowa, and Missouri. The 2015 IECC has already gone into effect in three states: Maryland, New Jersey and Vermont; and other states have already adopted the 2015 code to go into effect at a later date, including Illinois in January 2016 and Texas in September 2016. Also included in committee materials are two studies that were commissioned by the Energy Office to compare residential energy consumption under the 2012 and 2015 International Energy Conservation Code to our current energy code. These studies have found that if the state adopted either the 2012 or 2015 IECC, homeowners would save an average of between \$283 and \$311 annually on their energy bills. The difference between the two codes is actually fairly minimal. The advantage of adopting the 2012 code is that we bring all of our codes in line with 2012 editions, since we just updated our building code to the 2012 in the last session. One advantage of the 2015 code is the inclusion of a more flexible compliance path called an Energy Rating Index. This gives builders the option of complying with code requirements by meeting a target energy score by selecting their choice of energy efficiency measures, rather than installing a series of prescriptive measures as laid out in the code. As I noted when the committee debated LB540, our update to the state building code this past session, prior to the 2012 code cycle, the International Energy Conservation Code and two of the codes which make up our state building code: the International Building Code and the International Residential Code--a lot of codes here--were separate codes. They remain separate sections of our statute currently. Beginning with the 2012 codes, the energy efficiency chapters of the International Building Code and International Residential Code incorporate the International Energy Conservation Code by reference. Should the Legislature decide to update the energy code to the 2012 or 2015 IECC, we also need to consider whether to keep the state building code and energy code as separate in our statutes or to integrate them. One issue to consider as we approach questions about updating energy code and whether to keep it separate from the building code is the fact that unlike the state building code, the Nebraska Energy Code is now truly a statewide code. Our building code statutes do not currently require the adoption of an energy code by local jurisdictions. A number of political subdivisions that have adopted a local building code and have an active code enforcement division do not adopt or enforce the

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energy code. In areas where the local subdivision has not adopted an energy code though, engineers, architects, and builders are still legally required to ensure that new construction, renovation and additions to existing buildings meet the Nebraska Energy Code. The Nebraska Energy Office provides enforcement, although only on a complaint basis. If we choose to integrate our energy code into the state building code, this would place energy code enforcement at the local level in those political subdivisions that adopt a local building code. Another implication to be considered is the difference between the statutory language allowing political subdivisions to amend their local building code and the statutory language allowing political subdivisions to amend their local energy code. Under the Building Construction Act, political subdivisions that adopt a local building code must adopt the state building code, but have the option to modify that code as long as it conforms generally to the state building code. In contrast, political subdivisions that adopt a local energy code must meet or exceed the Nebraska Energy Code. However, the energy code statutes allow political subdivision to waive a specific requirement of the Nebraska Energy Code when it can demonstrate to the Energy Office that meeting the requirement is "not economically justified." In practice, however, the statutory process for making that demonstration allows political subdivisions to effectively waive a requirement, even if they are unable to demonstrate that the requirement is not economically justified. Key questions for the committee to consider moving forward are what the local amendment process should look like and what the appropriate role for local code enforcement should be. While not a key focus of this interim study, the committee should also be aware of the potential role that energy codes could play in meeting the requirements of the federal regulations under Section 111(d) of the Clean Air Act, commonly referred to as the Clean Power Plan. In August, the U.S. Environmental Protection Agency announced its final regulations, and one option given to states to meet the requirements of the Clean Power Plan is the adoption of stricter building energy codes. I would stress that this interim study is not a hearing on the Clean Power Plan, but committee members should know the potential benefit of updates to our energy code statutes in the near future. One final issue I will mention, and one that goes to the heart of why we have energy codes in the first place, is remedies for homeowners who discover that their new home was not built in compliance with the energy code. While Section 81-1625 gives the Energy Office and local code officials the authority to order a contractor to bring a building that does not meet code into compliance, blatant code violators have little incentive to comply. Violating the energy code statutes is a Class IV misdemeanor, which carries a maximum penalty of a \$500 fine

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and no jail time. In contrast, the cost to correct code violations could easily run several thousand dollars. In some cases, local code officials can refuse to grant new permits to builders until they correct violations, but typically, homeowners have no choice but to file suit against their builder if they find their builder has not built to the energy code. One of the testifiers we invited today is a homeowner who has experienced these issues firsthand, and I appreciate her willingness to come and share her experiences. There are a number of testifiers behind me to talk about various issues related to the Nebraska Energy Code. First, we have invited presentations from the director of the Nebraska Energy Office and a representative from the Midwest Energy Efficiency Alliance. Following that, we have a number of invited testifiers, including code officials, builders, homeowners, and other members of the Nebraska Energy Code Compliance Collaborative. Since the purpose of our interim hearing is to get all of these perspectives heard and on the record, I would like to proceed to the briefings and answer any questions at the end, if the committee is okay with that. Vice Chair. [LR278 LR174]

SENATOR McCOLLISTER: Thank you, Senator Crawford. Our numbers are somewhat depleted, but any questions from committee members...senators? Thank you. [LR174]

SENATOR CRAWFORD: Welcome. [LR174]

DAVID BRACHT: (Exhibit 1) Thank you. Good afternoon, Chairman Crawford and members of the Urban Affairs Committee. My name is David Bracht, that's spelled D-a-v-i-d B-r-a-c-h-t. I'm the director of the Nebraska Energy Office. I'm here today to provide information related to LR174, the interim study to examine issues surrounding the Nebraska Energy Code. The agency's primary focus, with respect to energy codes, is on compliance with the current Nebraska Energy Code. What are energy codes and what do they apply to? Energy codes are minimum requirements for energy-efficient design of newly constructed and renovated buildings. These codes apply to the building envelope: the walls, floors, ceilings, doors, and windows. Energy codes basically specify the minimum insulation levels and air leakage standards with the intent to ensure reduced heat loss, air infiltration, and moisture mitigation. And for those of you that don't...moisture mitigation is the ability for moisture to leave the building or to leave...and avoid causing mold and issues like that. The primary goal of energy codes is to conserve energy. Commercial buildings and residential households in the U.S. consume about 50 percent of the

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nation's primary energy and account for 70 percent of the electricity used in the country. Energy codes also can save building owners money on their utility bills. The Nebraska Energy Code is a statewide code that applies to all newly constructed buildings, major renovations, and all state-funded buildings. As Chairman Crawford just noted, the Legislature adopted the 2009 International Energy Conservation Code or IECC as the Nebraska Energy Code in 2011. Updated IECC Codes were issued in both 2012 and 2015. Under the Energy Office's role of evaluating state energy policies, the agency commissioned a Nebraska-specific cost residential study of the 2012 IECC code and more recently the 2015 IECC code. I believe copies of both studies were provided to you by my office and I believe by the committee staff. In the interest of time, I'm going to summarize a little bit of what we have here, because I think Senator Crawford did a great job of kind of summarizing and covering some of the details on how the code works and in particular, on how the Nebraska Energy Office...I will therefore focus on how the Nebraska Energy Office works with local jurisdictions. Because as Senator Crawford indicated, the state code applies to all buildings. Local jurisdictions have the options of either adopting those codes...that energy code, or as Chairman Crawford indicated, adopting a code that's at least as good as. Or they can choose not to have...adopt an energy code in their local code jurisdiction at all...their building codes. Or of course, they might be in a jurisdiction where there is no building code. However, in all of those cases, the Nebraska Energy Code still applies. Now if you're in a jurisdiction where you have a Code Enforcement Agency, presumably that's typically going to be where a local citizen might at least first go if they're unhappy or feel that their house hasn't met code. However, in those jurisdictions where either there is no code enforcement or there isn't a code or the energy code is not part of the local code, in those instances, what the local citizen has is the ability to come to our office within the first two years that a building's been occupied or built and ask us to do an inspection. And we do occasionally do that. In my nine months in the office, I know that we've had at least two or three situations where that's taken place. The question then comes, and as Chairman Crawford indicated, is that if we find that the building does not meet the Nebraska Energy Code, then I as the agency director can order the...and I think order is a little bit toothless here, but can order that the builder bring it up to standard. And if they do not, they would be subject to a fourth degree...Class IV misdemeanor. The one point I'd want to emphasize there is our agency is not an enforcement agency, and so at that point it would be up to one of the law enforcement agencies, either within the local jurisdiction--presumably the county attorney, or I would imagine that in an egregious case, the

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Attorney General's Office could take that action, although I'm not aware of that ever happening to be truthful. To my knowledge, or to what am I understanding from staff's information, is while there's been those inspections conducted by the Energy Office where homes have been found to be noncompliant, they weren't aware of any situation where in fact that level of enforcement-- where someone had been charged with any kind of misdemeanor. I would say, however, that the way the process has worked, however, is that when we find that a house is not up to that code, we do provide a written indication of that and the justification for that. And in my prior background as an attorney, I think that I'm assuming or I might presume that the Legislature at that time saw that as being a tool. That letter from our office indicating our finding as something that they could use in at very least, discussions with the builders and/or if necessary, potential litigation. And I can say from personal experience with at least one situation since I've been in my position that we issued that kind of a letter. Ultimately, I had a follow-up from the counsel for the homeowner that indicated to me...he didn't tell me exactly what the result was, but he said that they had reached a settlement with the builder to...that was satisfactory to the building owner. So I do think there is a benefit to our office providing that service. Moving on somewhat then or at least wanting to make a general mention to the fact that state funding building codes are also subject to the Nebraska Energy Code. Although, the DAS Building Division may waive a specific requirement for a subject building, if meeting that requirement they determine is not in the best interest of the state. Plans for occupied state-funded buildings are also reviewed by the engineer that we have on staff in the Energy Office to ensure that they meet the code. As Senator Crawford explained, compliance with the code is important, because the state of Nebraska, upon acceptance of the American Recovery and Reinvestment Act funds or ARRA, agreed to meet a compliance rate of 90 percent with the 2009 IECC code. A residential compliance baseline study conducted in 2011 showed a compliance rate of 65 percent and a follow-up study conducted in 2013 showed rates increased to 75 percent. A commercial compliance baseline study conducted in 2014 showed a compliance rate of 83 percent. While the ARRA funds cannot be returned, it's possible I suppose that future funding for energy weatherization and other programs might be restricted if the 90 percent compliance rate is not achieved. In order to meet that compliance rate, the Energy Office conducts training sessions across the state and also provides materials and technical assistance regarding the codes. From 2008 to 2014, approximately \$872,000 in federal funds have been used to finance energy code activities of the agency, with a small amount of the state funds used as required matches. Finally, as Chairman Crawford explained, the Energy

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Office also leads a codes compliance collaborative to assist with code issues. That group is facilitated and supported by a regional energy organization: the Midwest Energy Efficiency Alliance, who I believe is going to be testifying as well. And it's comprised of policymakers, builders, code officials, product representatives, HVAC contractors and general code contractors, utilities and others. The collaborative has helped design the first energy codes 101 sessions that was presented to the committee last year and also designates other training ideas and helps with other state outreach efforts. I'd note that the collaborative has been recognized by its peers in the industry for its work. And the feedback that I've gotten through the national state energy officials group is the high esteem that I think the work here in Nebraska has been in that area. With that, I conclude my testimony, but would be happy to answer any questions. [LR174]

SENATOR CRAWFORD: Thank you. Thank you for that testimony and for your work. Senator McCollister. [LR174]

SENATOR McCOLLISTER: Thank you, Madam Chair. Thank you, David, for the testimony. How many complaints did you have in a typical year? [LR174]

DAVID BRACHT: I'm not sure if quite in a typical year...I can get that information to you, because I know that we do track that. But I think...my belief is we've probably had three or four in the nine months that I've been here in the office. [LR174]

SENATOR McCOLLISTER: That's all? [LR174]

DAVID BRACHT: Yeah, so it isn't a great number. I would agree with that. [LR174]

SENATOR McCOLLISTER: How many inspectors do you have? [LR174]

DAVID BRACHT: So we...I don't have a dedicated inspector for doing that service and actually, I think what we end up doing is using some of the inspectors that we use with some of our other weatherization programs that actually go out and do the inspections in that case. So through the Nebraska Energy Office's weatherization program, we're working with weatherization that's

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dealing with these same kind of issues. And that's the person that then gets involved in that inspection. [LR174]

SENATOR McCOLLISTER: Well, let's assume you get a complaint. What typically happens then? Do you actually go out and look at the property, do you simply call the builder, or...? [LR174]

DAVID BRACHT: No. An inspection of the building is in fact done at that point. [LR174]

SENATOR McCOLLISTER: I see. And the complaints generally come from the homeowners? [LR174]

DAVID BRACHT: At least the ones that I've been familiar with, that's been the case. [LR174]

SENATOR McCOLLISTER: Okay. Would you say there would be some inherent advantages or efficiencies by joining the two requirements--the building codes and the energy codes? [LR174]

DAVID BRACHT: You know, I have to tell you I've not thought about it enough to really give...what I think is not even close to an educated answer on that, so I'm going to have to defer, I'm afraid. [LR174]

SENATOR McCOLLISTER: Thank you. [LR174]

SENATOR CRAWFORD: Thank you. Other questions? I have one question... [LR174]

DAVID BRACHT: Sure. [LR174]

SENATOR CRAWFORD: ...related that may help us think about that question. And that is I wonder do you keep track when you're looking at compliance and measuring compliance? Could you provide us with information on how compliance rates may differ in the jurisdictions that have local energy codes and local code enforcement versus the compliance rates in areas that do

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not have local energy code enforcement? Not that you can do it today, but is that something that you keep track of and could provide us? [LR174]

DAVID BRACHT: I'll have to...I guess what I would tell you that I'll do for you is we'll make sure that we get that compliance study that we did because I'm sure what it will depend upon...and that compliance was really based on a specific study. So we didn't...we don't necessarily track compliance, because there isn't any mechanism really to track compliance. So we'll go back to look at that study and see if there is any regional or geographic assessment of that. [LR174]

SENATOR CRAWFORD: Okay. And we have some head nods behind you, confirming that we can do that. [LR174]

DAVID BRACHT: Okay. [LR174]

SENATOR CRAWFORD: For the record. So we'll look forward to that. They may help us think about the question as well. Thank you for your testimony. [LR174]

DAVID BRACHT: Yeah. Okay, thank you. [LR174]

SENATOR CRAWFORD: So second, actually, we have one other briefing and then we'll be to you right after that. Thank you. The next invite briefing we have is from Ian Blanding, from the Midwest Energy Efficiency Alliance. Welcome. [LR174]

IAN BLANDING: (Exhibit 2) Thank you. Chairwoman Crawford, committee members, I want to thank you for the opportunity to comment at. And special thanks to Senator Crawford for introducing LR174, the interim study hearing on the Nebraska Building Energy Code. In reference to the interim study, MEEA would like to simply present some information about energy code work currently being done in Nebraska, highlight efforts going on in other Midwestern states and discuss the 2012 and 2015 International Energy Conservation Code. MEEA, or the Midwest Energy Efficiency Alliance, works closely with states across the Midwest, providing research and factual information regarding the energy code adoption process

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and options for improving code compliance. One of the ways MEEA has been assisting the state of Nebraska, and it's been discussed previously, has been through its co-leadership with the Nebraska Energy Office, working on the Nebraska Energy Code Compliance Collaborative. The collaborative, as discussed, is a group of 20 to 25 stakeholders from all sectors in the building community that convene quarterly to strategize and implement ideas designed to improve compliance in the state. In fact, the idea for the interim study originated from the collaborative. This collaborative has also served as a vehicle for robust discussions among different energy stakeholder sectors and will be a great asset to the state of Nebraska for all future trainings, studies, and outreach. The Nebraska Energy Code Compliance Collaborative was formed in 2013. And in regards to energy code building adoption throughout the Midwest, in Appendix 1 and 2 in your packet, you'll see that five states in the Midwest have adopted or are in the process of adopting the 2012 and 2015 IECC. Minnesota and Michigan have recently adopted the 2012 IECC, while Iowa and Illinois are now in the process of adopting the 2015 IECC. Iowa has formally begun the adoption process and Illinois will be the first state in the Midwest to adopt the 2015 IECC, with an effective date of January 1, 2016. As indicated, the most recent edition of the energy code is the 2015 IECC, which replaced the 2012 IECC about 16 months ago. On comparison, there is little difference in the energy efficiency required between the residential versions of the 2012 and 2015 IECC. However, the requirements for the commercial portion of the code result in significant difference in energy use. Nevertheless, there are considerable differences in the energy efficiencies between both the commercial and residential of the 2012 and 2015 IECC when compared to Nebraska's 2009 IECC. According to the Department of Energy's Energy Cost Savings Analyses for Commercial Buildings, the 2012 and 2015 are estimated to save 12.5 percent and 24 percent in energy cost, respectively, over the 2009 IECC and are cost-effective to implement. The energy savings for the 2012 IECC commercial code over the 2009 are derived from improvements in air sealing, lighting and fenestration. The 2015 IECC commercial code increases efficiency by requiring increase commissioning requirements for large buildings, along with major improvements to HVAC, water heating, and lighting efficiencies. The improvements to the commercial section of the 2015 IECC make the code significantly more efficient than the 2012 IECC. As previously mentioned, the residential sections of the 2012 and 2015 IECC are similar in requirements and energy use. When revealing the residential portion of the 2012 and 2015 IECC, both codes have the same requirements with respect to air sealing and duct leakage. These codes also include increased insulation values,

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improved windows, and mechanical ventilation when compared to the 2009 IECC. Each of these code improvements yield long-term energy and cost savings to the homeowner. According to the Department of Energy's Nebraska Energy and Cost Savings Study, homeowners will gain energy and economic benefits when moving to either the 2012 or 2015 IECC from the 2009. If Nebraska adopts the 2012 or 2015 residential section of the IECC, individual homeowners in the state could expect to save approximately \$325 on annual energy costs. When compounding those energy savings across the average number of one- and two-family residences built annually, Nebraska would yield an annual statewide energy savings of \$1.7 million. Since the life of newly built homes can last 50 to 100 years, the annual savings highlighted above have the potential to continue well into the next century. In addition, the 2012 and 2015 residential sections are deemed cost-effective. According to the same previously mentioned DOE study, when factoring in the annual energy savings and incremental construction costs per home, homeowners would yield a simple payback of 4.1 years when complying with either of these codes. However, when amortizing the incremental construction costs in a 30-year mortgage, homeowners will see a positive monthly cash flow after one year. As discussed, the residential 2012 and 2015 IECC have a negligible difference in energy savings. However, the 2015 IECC has clearer language and provides an additional compliance path: the Energy Rating Index, or ERI Compliance Path. The ERI uses an energy modeling system to assess a single energy score for a home, and an ERI score of 55 is required to comply with the 2015 IECC in Nebraska's climate zone, Climate Zone 5. The ERI path makes the 2015 IECC more flexible than the 2009 and 2012 IECC because it allows tradeoffs and provides builders an additional way to meet the 2015 IECC residential requirements. In closing, MEEA commends the state of Nebraska for holding a hearing about the advancement of the state energy building code. As mentioned, the 2012 and 2015 IECC are more efficient and will considerably reduce the amount of energy use per building when compared to the current 2009 Nebraska Energy Code. Five states throughout the Midwest and 24 throughout the nation have already adopted or are in the process of adopting a version of the 2012 or 2015 IECC. The Department of Energy has determined that updating the state energy code from the 2009 to the 2012 or 2015 IECC is cost-effective and has been shown to reduce energy use and improve comfort and health for building occupants. Given that buildings use more energy than any other sector in this country, investing in building efficiency will have a considerable positive impact to the environment and residents in the state, and those benefits will continue for the life of the building. Thank you. [LR174]

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SENATOR CRAWFORD: Thank you very much, Mr. Blanding. And thank you for really laying out the difference between 2012 and 2015 for us to consider. I appreciate that. [LR174]

IAN BLANDING: You're welcome. [LR174]

SENATOR CRAWFORD: Questions? Senator McCollister. [LR174]

SENATOR McCOLLISTER: Thank you, Madam Chair. You used a term in your testimony...and thank you for your testimony... [LR174]

IAN BLANDING: You're welcome. [LR174]

SENATOR McCOLLISTER: ...adoption process taking a certain length of time. How long does that process typically take and what does it usually involve? [LR174]

IAN BLANDING: Yeah, well, it kind of depends on the state and, you know, what is written in the legislation. But you know, typically it's about a year--six months to a year. And generally, you know, it involves the state wanting to adopt and proposing the adoption and then going through a series of public hearings, you know, committee meetings--primarily building commission, and then that would move up from there. So it goes through an iterative process of public hearings as well as committee meetings. [LR174]

SENATOR McCOLLISTER: Okay, thank you. You identified about a four-year payback for new construction in terms of improved energy efficiency, isn't that correct? [LR174]

IAN BLANDING: Yeah, well, all new construction. [LR174]

SENATOR McCOLLISTER: Okay. How about for existing construction? There would be no requirement, I assume, to update those energy requirements for existing facilities, properties, or homes? [LR174]

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IAN BLANDING: Yeah, only if there's an addition to a building would that requirement be... [LR174]

SENATOR McCOLLISTER: What triggers that need to update the energy efficiency? [LR174]

IAN BLANDING: In existing buildings? [LR174]

SENATOR McCOLLISTER: Yes. [LR174]

IAN BLANDING: Only if there's additional construction on the building would that additional construction need to comply with the energy code requirement. [LR174]

SENATOR McCOLLISTER: So if we're changing the light fixtures in the building or something like that, that would not necessarily trigger enhanced energy requirements? [LR174]

IAN BLANDING: Yeah, no. Correct. [LR174]

SENATOR McCOLLISTER: Okay. Thank you. [LR174]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you very much. I appreciate that. [LR174]

IAN BLANDING: Thank you. [LR174]

SENATOR CRAWFORD: And now, Ms. Iverson. Thank you for your patience. [LR174]

BROOKE IVERSON: You do this, I don't know what to do. [LR174]

SENATOR CRAWFORD: And you just say your name and spell it. And then we have five minutes. [LR174]

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BROOKE IVERSON: Okay. I'm Brooke Iverson, B-r-o-o-k-e I-v-e-r-s-o-n, and I...as an educator--eighth grade, middle school, I'm fighting the urge to tell you guys to take brain breaks and maybe think-pair-share because it's kind of warm in here and it's Friday, so I'm fighting that back. But I appreciate being included in this discussion. Unfortunately, I'm on the side of a homeowner that has been I guess into a home now for almost two years that does not meet code--never met code. When we purchased the home, it was a new build and somehow, somehow, the city and the contractor built the home in which we are now living in without meeting the standards of the code requirements in our city. And I was interested in hearing what other professionals would have to say, because I'm just a layperson here, in the fact that the Department of Energy...I believe you had asked, you know, how many people have called or inferred in this. And it was a low number and I instantly went: that's because no one knows about this ability or this option that's out there for homeowners. I was lucky enough to have a really great realtor who put me in contact with someone else, who you will probably hear from later today, regarding, hey, this is the possible next step that you could do. So I was one of the complainants, I guess if that's the right word, of instigating this measure. I've gone through it. They came out, they investigated, they gave paper...and I believe there's paper copies of what our results were. And I'm not going to...you guys can read, you can look through that. But overall, the message was clear. It's out of code and we would have to spend more than \$1,000 to make it up to code. Which now as a homeowner, if we want to sell, it's our money, and we've spent a quarter of a million dollars already on the home to purchase. So now I have to debate, do I want to tie my money up into litigation or do I want to tie my money up into improving my home that I, as a homeowner, I guess naively assumed that all of these requirements were met. I teach English, I don't build homes. I don't...you know, my husband is a salesman, we...this is not our first home, but unfortunately, it's our first poor home...poorly built home, I should say. I just...it's frustrating because we have no recourse, we have no steps to take. Unless I had known personally my realtor, who had said, hey, talk to this person, and then they got us in contact with the Department of Energy, I would not have known what to do. We are considering litigation now, because we have asked our builder for a year after we had moved in: take care of these needs, take care of this situation. He did not, he refused. He did receive the notification from the Department of Energy of what was not up to code. Can lightings were not properly insulated, the HVAC unit was not properly insulated, so that all translates into us losing money on energy side of utilities. And the last gentleman who spoke mentioned that, you know, homes are 50 years in

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length of standing, and I just started almost crying thinking that's a lot of money out of my pocket that I'm going to be losing because of the utilities. Our insulation isn't properly done. Just a lot of little things that to an average person doesn't...you wouldn't catch, you wouldn't know. So I am hoping that through this legislation that is occurring is there's going to be consumer protection, there's going to be a consumer recourse. What avenues do I as a homeowner do I have? If I buy a crappy car, I get a lemon law that protects me from that. I don't have that for a homeowner. And you're spending so much money on something...we were buying our forever-home. It's a beautiful location, I love the city that I live in, but imagine the frustration and the anger that you feel when you pull in every single day in your garage. You just look at the house and go (sighing noise). I mean most of us have probably seen The Moneypit--the movie The Moneypit, if you haven't. Luckily it's not that yet, but in order to make the changes we need to make...we looked at selling this summer and we couldn't. We couldn't do it. And the same builder that built our house has several other homes up for sale and they have stayed, so his name has been spread in town of don't buy these homes. Well, who's going to buy our house knowing that he built our home as well? So there's a lot of ramifications that I have that he doesn't have. A \$500 slap on the wrist when he's making hundreds of thousands of dollars? And as an educator myself, I am obligated to continue my education. That's what needs to happen as well. Builders, architects, the city code members all need to have education, because our house was built in 2013 and it was built to 2003 IECC codes when it had already changed to 2009. And I would not have known that without the Department of Energy. [LR174]

SENATOR CRAWFORD: Thank you for your testimony. I appreciate you being here to share your story. Senator McCollister. [LR174]

SENATOR MCCOLLISTER: Yeah. Thank you, Senator Crawford. What kinds of deficiencies were there in the house? I mean, what were the differences in the code that manifested in your house? [LR174]

BROOKE IVERSON: According to the paperwork that we got back, there was...a big one for me and my husband was our home was supposed to have two-by-sixes on the mainframe floor. He built two-by-fours and the insulation that he put in was not adequately built...yeah, it's all in here. [LR174]

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SENATOR McCOLLISTER: Okay. [LR174]

BROOKE IVERSON: I was reading through it, I kind of anticipated a little bit of it. But yeah, he's not going to offer to build us a brand new...you know, put two-by-sixes in, but he certainly didn't come and help out with the insulation either. [LR174]

SENATOR McCOLLISTER: Did you buy the house from the builder? [LR174]

BROOKE IVERSON: Yeah. [LR174]

SENATOR McCOLLISTER: Okay. Normally in some of those purchase contracts, if there's a material deficiency in the house they're obligated to disclose it. Did that not occur? [LR174]

BROOKE IVERSON: Nothing. No. And it's an interesting fact that when the Department of Energy came out and ran their test...I think it's called like a REScheck, something like that...that's when they noticed that we actually didn't even have permit of occupancy to be living in our home. So we've lived there almost a year. So there's a lot of missed calculations...I mean, how do you live in a home that wasn't given occupancy title to? The city should have checked up on that, my builder should have checked up on that, the loan title should have checked up on that. But unfortunately, we're living a pretty big nightmare in my opinion. It was...it's heartbreaking for me. [LR174]

SENATOR McCOLLISTER: I'm very surprised you don't have legal recourse. [LR174]

BROOKE IVERSON: Well, we've waited. And that's the type of people we are. We hope that the people we are dealing with on a day-to-day basis--are making big purchases like this, will do the right thing. And he's made it very clear that he is not one of those type of people. And then we did talk with a lawyer in partially getting involved with another lawsuit with him, with a homeowner which had it worse than we did. And the lawyer basically said, you know, you can join us but they're going to have most of the money allocated to their needs and not necessarily to yours. So we waited long enough and now financially we're able to say, okay, we're going to take our hard-earned money and we're going to put it into a lawyer. And we're going to do our

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best to do what we can to get our house taken care of. But at the same flip side of that, he did take care of some of the material that was in the paper, but I don't want him in my home. I don't want him to do the work. He already messed up. He already had a whole year. So that's the recourse...I can sue him, but I don't want him to do it. And you know, it's just kind of landsliding a little bit, but we finally put our foot down actually this month and said we're going to do what we need to legally to take care of this because nobody should be in the position that I'm in--that we're in. [LR174]

SENATOR McCOLLISTER: Do you have any estimate at all what it would cost to bring your home up to code? [LR174]

BROOKE IVERSON: Minimum? About \$9,000. [LR174]

SENATOR McCOLLISTER: Goodness. And that doesn't include the money he's already spent to improve the stuff? [LR174]

BROOKE IVERSON: He put in the insulation and can lighting, but not to the fact...I could sit on my couch still and I can still feel the air hitting my hair. [LR174]

SENATOR McCOLLISTER: Wow. [LR174]

BROOKE IVERSON: So it's like, why would I ask him to come back? [LR174]

SENATOR McCOLLISTER: I'll stay in touch, I'd be interested to see how this comes out. [LR174]

BROOKE IVERSON: Yeah, I'm interested as well (laughter)... [LR174]

SENATOR McCOLLISTER: Okay. [LR174]

BROOKE IVERSON: ...on both sides. I want it for me as well as for the committee to...what can we do? Because there are a lot of consumers out there like before had mentioned, hey, we need

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more ability to get homeowner...you know, stop the renting and start the homeowning. But I'm thinking renting isn't too bad sometimes, but... [LR174]

SENATOR McCOLLISTER: I wish you well. [LR174]

BROOKE IVERSON: Yeah, thank you. I appreciate it. Any other questions? [LR174]

SENATOR CRAWFORD: Other questions? Senator Hansen (sic). [LR174]

SENATOR HUGHES: Yeah. Thank you very much for coming. [LR174]

SENATOR CRAWFORD: I mean Senator Hughes. Excuse me. [LR174]

SENATOR HUGHES: What did you call me? I missed it. (Laughter) [LR174]

SENATOR CRAWFORD: Senator Hughes. [LR174]

SENATOR HUGHES: Thank you, Chairwoman Crawford. Thank you for coming today.
[LR174]

BROOKE IVERSON: Yes. [LR174]

SENATOR HUGHES: It's been a long afternoon. What would you suggest as a remedy? I mean, what would you...I mean, do you have...you've probably thought about this. [LR174]

BROOKE IVERSON: Yeah. [LR174]

SENATOR HUGHES: But what would you like to see happen to prevent other homeowners from having to go what you've gone through? [LR174]

BROOKE IVERSON: Yeah, that's a great question. I feel like there needs to be more, I don't know if it's advertisement, but knowledge of this is out there for consumers to follow up if you

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aren't happy with what has occurred, call the Department of Energy. They can come out, they can...you know, I feel like that's a huge component that's missing because it's not...I guarantee you most of my friends that are homeowners have no idea that it even exists until I go through it and I say, hey. I would also like to see more stringent, I guess, policies regarding the situation I'm in with my builder. It needs to be a heavier slap on the wrist. It needs to be city, state, pull permits, you're not building...you can't go under another company's name and build. There has to be much more, I guess, more strict laws. I don't know what they're called. I mean, I just...it's \$500, it's nothing. [LR174]

SENATOR HUGHES: Yeah, and that's just for the energy portion now. [LR174]

BROOKE IVERSON: Right. Right, I mean... [LR174]

SENATOR HUGHES: For the other deficiencies, was there not a...I mean, I'm assuming you live within a political subdivision or a town? [LR174]

BROOKE IVERSON: Yeah. [LR174]

SENATOR HUGHES: Was there not a building inspector that had to sign off? [LR174]

BROOKE IVERSON: Yeah. [LR174]

SENATOR HUGHES: Isn't there some culpability there? [LR174]

BROOKE IVERSON: I asked for an actual copy from the city and they refused to give it to me. How do you get something that they won't give you? My builder won't give me any copies of, like, warranties types, like what's the brand of my door, what's the brand of my carpet. He just absolutely refuses. And so, I mean, it's hard because as a teacher, I in essence work for the city. [LR174]

SENATOR HUGHES: Right. [LR174]

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BROOKE IVERSON: Do I want to take them on? Because that to me is the bigger umbrella of... [LR174]

SENATOR HUGHES: Right. [LR174]

BROOKE IVERSON: ...I think they just got so overly excited, I guess, about building all these new homes. And it just was a quick check mark, check mark, check mark. And again, they didn't have the occupancy permit pulled for us. So it makes me really curious as to if they really were on my property. I don't know. [LR174]

SENATOR HUGHES: Yeah, I...hmm, okay. [LR174]

BROOKE IVERSON: And I think education needs to be done for that as well. If you're an inspector, you have to have some education--continuing education. [LR174]

SENATOR HUGHES: Right. [LR174]

BROOKE IVERSON: From my knowledge, I could be a city inspector if I wanted to be. I just need to take a...I should be actually, because I'd do it right. [LR174]

SENATOR HUGHES: Now (laugh)... [LR174]

BROOKE IVERSON: Yeah, so. [LR174]

SENATOR HUGHES: So I would assume a city council person or a mayor or somebody would jump all over this. [LR174]

BROOKE IVERSON: Well, the Mayor was actually CCed on this information and he never returned my phone calls. Trust me, I have executed every avenue that I could without possibly being blackballed from my city, to where I would have to move out and change my name. So, yeah. [LR174]

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SENATOR HUGHES: Yeah, hmm. Thank you. [LR174]

BROOKE IVERSON: Yeah. [LR174]

SENATOR McCOLLISTER: Quickly. [LR174]

SENATOR CRAWFORD: Senator McCollister. [LR174]

SENATOR McCOLLISTER: You're in Lincoln, are you not? [LR174]

BROOKE IVERSON: No, I'm in Kearney. [LR174]

SENATOR McCOLLISTER: Kearney? Okay. [LR174]

BROOKE IVERSON: You don't know me. Yeah, and we've experienced some really great growth. [LR174]

SENATOR McCOLLISTER: And you...they're subject to both the energy standards and also the building codes... [LR174]

BROOKE IVERSON: I would imagine, yeah. [LR174]

SENATOR McCOLLISTER: ...in Kearney? [LR174]

BROOKE IVERSON: Um-hum, yeah. [LR174]

SENATOR McCOLLISTER: Well, I think you... [LR174]

BROOKE IVERSON: Trust me, I'm not done with this. [LR174]

SENATOR McCOLLISTER: No. [LR174]

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BROOKE IVERSON: But I...this is a good step for me to say... [LR174]

SENATOR CRAWFORD: Yeah, yeah. [LR174]

SENATOR McCOLLISTER: Yeah. [LR174]

SENATOR CRAWFORD: Right. [LR174]

BROOKE IVERSON: ...to legal counsel of this is where we've been. [LR174]

SENATOR CRAWFORD: Yeah. So just...I want to just make sure I confirm with legal counsel for the record. So a locality that has code inspectors that enforces the building code, which is structural safety issues,... [LR174]

BROOKE IVERSON: Right. [LR174]

SENATOR CRAWFORD: ...might choose to have an energy code that they enforce, or the city might not enforce the energy code. So I'm not sure if the Kearney... [LR174]

BROOKE IVERSON: Yeah. [LR174]

SENATOR CRAWFORD: ...the city of Kearney is one where there is supposed to be local inspection or not of the energy code. [LR174]

BROOKE IVERSON: Yeah. [LR174]

SENATOR McCOLLISTER: Oh, energy, not...oh, okay. [LR174]

BROOKE IVERSON: Right, the energy code. Right. [LR174]

SENATOR CRAWFORD: Right, is that a... [LR174]

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TREVOR FITZGERALD: Yeah, that's correct that cities can, even if they have a code inspection (inaudible) for the building code, they don't necessarily have to inspect for the energy code. [LR174]

BROOKE IVERSON: Right. [LR174]

SENATOR CRAWFORD: So the enforcement is really complaint only. [LR174]

TREVOR FITZGERALD: That fault is going to stay, yeah. [LR174]

BROOKE IVERSON: Yes. Yeah, I apologize, yeah. [LR174]

SENATOR McCOLLISTER: Okay. [LR174]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you again. [LR174]

BROOKE IVERSON: Yes. Thank you for having me. [LR174]

SENATOR McCOLLISTER: Good luck. [LR174]

BROOKE IVERSON: Thanks. [LR174]

SENATOR CRAWFORD: All right. So the next invited testifier we have is Jay Davis, from the city of Omaha. [LR174]

JAY DAVIS: Well, good afternoon, Madam Chairman and the rest of the committee. [LR174]

SENATOR CRAWFORD: Good afternoon. Thank you. [LR174]

JAY DAVIS: Thank goodness I didn't testify on the last one, because I'd probably have to order pizza for you. I got a whole bunch of stuff to give you on that one, so. [LR174]

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SENATOR CRAWFORD: You send us an e-mail. [LR174]

JAY DAVIS: Yeah (laugh). My name is Jay Davis, J-a-y D-a-v-i-s. I'm assistant planning director and superintendent of the permits and inspection division for the city of Omaha. A couple things I'd like to address. I was very disheartened to hear the last testifier, because in our business that doesn't make us look good. In the city of Omaha, all of our inspectors are required to have certification and continuing education. That's part of what we do there. I have a couple of answers for you how to fix it outstate. Number one is, if you're a building official in a community, at least you need to be certified by the International Code Council to do that job. In fact, state licensing is common in a lot of states for building officials. While that sounds harsh, there's a reality to that, that lets you kind of keep yourself out of the trouble that they may be looking at right now. In Omaha, we enforce the 2009 Energy Conservation Code, along with our building code. Our inspectors, while we can't do absolute insulation inspections and we can't do all the time-consuming things we need to do because of personnel, we do a lot of those spot inspections. And our builders are very good about putting the compliance certificates on the panel for us, because we require them to bring us the REScheck on the residential properties and then the compliance certificate at the end is on the panel which says they put in everything they said that they were going to put on the REScheck. So our inspectors can verify that, they can go into an attic scuttle if they need to, if they think something's wrong. We already know at framing if the walls are two-by-six or two-by-four. Right now, the code currently, you can't do it without going to two-by-six. So they check the high heels on the rafters, all the things that need to get the energy process working for us. We don't really...this sounds terrible, we don't care which adoption we have to go with, but what we have to be careful of is that we're not over-regulating at the same time we add everything else on this. And I know Senator Crawford and some others have heard me talk before that the state has a large problem, in the fact that we don't have a building commission and we don't have inspectors for different departments like the Energy Office. That's a problem, because I think Lincoln, Omaha, Grand Island, Hastings, and generally Kearney do a pretty decent job of what they're supposed to do. But there's so many areas in outstate Nebraska that don't understand any of what we have to do and there's nobody there to look at it. I often go on the life-safety side of it, because I'm a little more comfortable in life-safety and the structural side of the business, but the reality is if we have all of these laws in place, then nobody is actually watching them out there. So what is the consumer getting? Well,

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we don't know. And in the situation in Kearney, that is very disheartening, like I said. There are things that occurred there that should never have gotten as far as they did, but the oversight, for whatever reason...I understand not having enough inspectors, I understand having 24,000 building permits and six people to do it. We've been through that, but we worked through it, because our staff was all trained and educated to do what they do. The last thing I would recommend to help with both of these problems, whether it's building code or the energy code, is to license your contractors. I wholeheartedly agree with your last testifier that continuing education is about as important as it gets. And I know there's two contractors behind me that will probably go with me on that, because we do license contractors in Omaha and we do require continuing education. It's beneficial to the consumer to do that, it's beneficial to the builder to do that, and it certainly makes my job a whole lot easier, because we work together to work through the problems and the new technology and the issues at hand, try to solve those problems collectively before we have to start becoming the hammer on the project, and then move forward so that the consumer gets the best product they can get. Again, we want to make sure we're doing the best that we can, we don't want to be over-burdensome. We use the codes to the consumer's advantage. And keeping in mind building codes, energy codes, we're all...the only one that's not is an electrical code, by the way, that's not a minimum standard. Everything else is a minimum standard that we work with. And it's kind of interesting that we should take that turn, although electricity is our biggest friend and enemy at the same time. So with that, I'd be happy to answer any questions for you if anybody has any, so. [LR174]

SENATOR CRAWFORD: Thank you. Questions? Senator McCollister. [LR174]

SENATOR McCOLLISTER: Yeah. Thank you for your testimony. Thank you, Senator Crawford. How do we resolve that tension between handymen and building contractors? Because I know that certainly has occurred in Omaha... [LR174]

JAY DAVIS: It did occur in Omaha. [LR174]

SENATOR McCOLLISTER: ...and that some of the landlords want to be able to use a handyman to fix a screen door. But there was a move afoot to get those guys licensed as well. [LR174]

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JAY DAVIS: Actually that was incorrect from the very beginning. Not on your part, but what you heard was incorrect from the very beginning. Our intent was never to go after the handyman, the guy that puts in a piece of glass or puts on a screen door or fixes it. We were after the people that build or remodel the projects where life-safety becomes an issue. And so Handyman Joe, I think, was the name that was thrown around during the council testimony on that. We actually backed some things out of the code to what they can do legally without any issue whatsoever. If you want me to go the other direction on the property owner situation, I said I'm going to order pizza now, because we'll be here awhile. As it was with the last one, one of the problems that we have...and I understand this, everybody...you know, I was in the military, so I get this. I protected our country for a reason. We all have rights, but at the same time, some of the people who live in the properties and some of the people who live around the properties have the same right. And when these properties get to the point where people's health is at risk because Handyman Joe did plumbing work and didn't know what he was doing and cross-contaminated a system, people suddenly get sick. They did, you know, electrical work outside the state law, as a matter of fact, and then all of a sudden the house catches fire, burns down, people perish. As you may know, it was in December of last year, we had that exact situation where--a boarding house--work had been done over a period of time by people who were not licensed and it caught up to us. Sadly, it caught up to us. So when you license...the way we looked at it, we said, okay, we're going to take different levels of contractors, which the code council creates tests for. The test is a test of the minimum standard...here I go again. We're doing a minimum standard and a minimum test to get a basic knowledge of how the codebook works, not what you know in the code, but the codebook itself. And then you start to move forward with the training, either on a local level or on a state level, either one would work. We're using the local level currently. It's been very successful for us. We've had about a 67 percent reduction in red tags or notices of violation on new construction, renovation. That's huge. Before, the contractors were thinking one thing and our inspectors were saying another thing and nobody was meeting in the middle. And now we added the codebook in there so both sides have it and it's been a very effective tool for us both ways. So I support it wholeheartedly. You know, and the State Building Commission would help, subsequently the electrical board would be a huge benefit to everybody across the state too. But again, it all comes back to funding. How do we fund these? And nobody wants to pay more taxes, and nobody...you know, I get that. We just have to try to make do with what we do. But a couple things I feel you could do pretty simply are to require that building officials have a

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certification, either at the state level or national level. That alone makes them a little different level of understanding of what their job really is. And I know in some communities, the building inspector and the building official is also the guy that plows the snow and mows the grass. I mean, we understand that too, but some of that training is beneficial to them as well, as they move forward. [LR174]

SENATOR CRAWFORD: Other questions? Senator Hughes (laughter). [LR174]

SENATOR HUGHES: I didn't have a question, I just wanted to get that in. No, I do. What...you talked about having the contractors licensed. [LR174]

JAY DAVIS: Yes. [LR174]

SENATOR HUGHES: What kind of fee and what kind of hoops are there to jump through for a contractor to get the license to be in Omaha? [LR174]

JAY DAVIS: Currently in the city of Omaha there's a fee, which is \$300 a year for upper-tier contractors. It graduates down to the lower tier contractors. The A-class contractor, the B-class contractor, C...well, A, B, C, and D-class contractors all required to take a class on the code. The Class E contractors, which are pretty much limited to the roofing guys and the siding people, window replacement people, there's no test involved in that and there's a \$200 fee. Then there's a bonding and insurance requirement for them as well. So the test...I'm sorry, the test is a national test written on the international codes. [LR174]

SENATOR HUGHES: So the primary contractor, the owner of the company, or someone in his employ? [LR174]

JAY DAVIS: Correct. [LR174]

SENATOR HUGHES: I mean, you could have, you know, 50 carpenters out there, but just one person in... [LR174]

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JAY DAVIS: One person. [LR174]

SENATOR HUGHES: ...per company has to have that license and take/pass the test? [LR174]

JAY DAVIS: That's correct. Correct. And what happens is and how we've used this effectively already is that if we get into a serious problem on a project, we don't go to the superintendent in the field. We go to the license holder in the office and say, hey, we got this problem, and work through that. [LR174]

SENATOR HUGHES: Okay. [LR174]

JAY DAVIS: Excuse me, yes. [LR174]

SENATOR CRAWFORD: Thank you, Senator Hughes. I have a question. So since I...if I understand it correctly, so your code enforcement folks are also enforcing the energy code. So if you show up at a house and it does not comply with the energy code, what would happen in the city of Omaha? What is the local enforcement there? [LR174]

JAY DAVIS: We generally catch it at the framing stage. And mostly we start with what we catch on the heating and air conditioning system, whether the ducts are sealed properly and if the proper stud spacing is in place, if they've sealed all their plates, all the things we can see up-front. What we don't actually see physically is the insulation in the wall, because we have to do the framing first. We don't go back to do a separate insulation inspection, but in my time with the city, I've never seen one missing it in the wall, but I certainly have seen it missing in the attic because somebody forgot to do it. Easily remedied, but shouldn't have happened. And so we will do spot checks on all properties. We'll stop by and even observe when the insulation goes in, if we see the insulator on site, to make sure that they're meeting that requirement. [LR174]

SENATOR CRAWFORD: What happens if they aren't? [LR174]

JAY DAVIS: They're going to notice...you did ask that question, I'm sorry. [LR174]

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SENATOR CRAWFORD: It's all right. [LR174]

JAY DAVIS: It is hot in here, isn't it? No. Yeah, well, they're given a notice of violation or correction order to correct that particular issue and then we go back out and do a reinspection on that part of the project that failed the compliance. When it comes to commercial buildings, we go back to the engineer of record currently, because they're designing it to meet the COMcheck or the commercial version of REScheck. And so we go back to them and say, hey, this is not being done or this is missing, not according to plan. [LR174]

SENATOR CRAWFORD: And they must fix it? [LR174]

JAY DAVIS: They must fix it, yeah. [LR174]

SENATOR CRAWFORD: Or else? [LR174]

JAY DAVIS: Well we can sit on a job for a long time. [LR174]

SENATOR CRAWFORD: Okay. [LR174]

JAY DAVIS: We've done it before. So basically, what happens is the work stops until we clear that to move on to the next step. [LR174]

SENATOR CRAWFORD: Okay. [LR174]

JAY DAVIS: And my experience has been, especially with homebuilders, is that if I'm sitting on one of their jobs for about three days, they're not very happy with me, so it gets fixed. [LR174]

SENATOR CRAWFORD: Thank you. That helps. Other questions? Thank you. Thank you. [LR174]

JAY DAVIS: You bet. Thank you. [LR174]

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SENATOR CRAWFORD: So the next invited testifier is Gene Knaggs. [LR174]

GENE KNAGGS: (Exhibit 4) I'm sorry. I've got some homework for you. I don't even know if I'm going to get to all these. Five minutes is a short amount of time. I'm used to standing when I talk, but I'll try this. Okay, my name is Gene Knaggs. [LR174]

SENATOR CRAWFORD: And if you would spell that. [LR174]

GENE KNAGGS: K-n-a-g-g-s. I am a builder. I do live in the same city that the one gal testified in and I do have issues. But I also represent, since I'm representing the Nebraska State Home Builders Association, I'm representing 450 building professionals and their point of view. So I'm mixing their point of view and my point of view together. But you need to start out looking at what are the energy codes doing? And if you look at page 1 on here, of course you can see we adopted the 2009, which is 17 percent better than code, but if you see how fast they increase--2012, 30 percent; 2015, 50 percent--this is a huge, fast increase. And with this increase there's, I want to say, a major problem of educating the builders on what they need to do to comply to this code. So for that point of view, I'm also a HERS rater, so I get invited into a lot of homes in western Nebraska. And a lot...in this area, there's very few code jurisdictions. Most you'll only go in, you pull out a \$25 zoning permit and that is also your occupancy permit, so whether the house is done or not, you still get to move in--safe or not, you still get to move in. But I need to look at the demographics of the builders in our association. These builders that actually take on projects of building homes are average of 40, 50, 60 years old. And they've learned to build from 1970s, 1980s. Well, where's their source of gaining new knowledge on what's coming up? Sure, Nebraska can adopt the 2009 code. It goes through, no one even knows they adopt it, and that's a big issue. And then of course, like the city I'm from, of course they adopted a higher-version code, but then they left the energy code down. Well, there's a big, major life-safety issue, by not having those two codes in line. That's what we were going to...you were asking earlier. And I want to give you some good examples why...but until I get there. Okay, as you're seeing on the second page, I took this right out of the 2009 codebook. And most builders don't even know this exists. I can guarantee I could show this to 400 of my members and I'll bet you 10 might know it's there. And then, even when you think about this jurisdictions--the code officials, some of them know it's there, but they don't even bother enforcing it. And without this

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being done properly, the house is not being built to code. So what I need to look at is, gee, where are my builders coming from? You know, they're subject to having to compete with each other--you know, those who build to code and those who don't. And of course, appraisers evaluate them all the same, whether they're built to code or not, which is wrong. But if you look, most contractors don't even know that what climate zone we're in and what code we need to build to. But to give a good example, in Kearney, where we did have a problem with her, the city amends out the code and it says, well, this...I'll call this equivalent, so we'll build two-by-four walls with R-15 insulation in there. Well, the state minimum code says it's 20, so how can a code official outdo the Nebraska legislative Law? I think that's absolutely wrong. There is a process set up through the regs. They're supposed to--the code official, is supposed to write up a report, this is what I want to do, send it to the Energy Office. The Energy Office reviews it and they've got so many days to respond, yes, you can do this, no, you cannot, which is very important. There is...I don't think that's ever been done. So then again, the Energy Office has no teeth. I mean, should they have some way to say, hey, code official, we need to be doing this right, you know, you can't just come in and amend out the Nebraska state law. I mean, it's not fair to the homeowners. Okay, so now I want to give you a little example of the reasoning why these codes need to be in line with each other. So let's say the city of Kearney adopts the 2015 code--which they are already talking, they've talked to me about it--and they're...but they're still only enforcing basically the 2006 or 2003. Well, so the builder goes in and builds a little tighter envelope and not knowingly, putting all the codes in proper perspective, they don't put in proper ventilation. Well, then the moisture doesn't get out. This is going to be short. Well, the moisture doesn't get out. Well, the moisture doesn't get out, well, then you got this mold problem. And then another thing, they go in and they...oh, there's three examples, okay. They go in and put in the huge exhaust hood in their kitchen and, guess what, it's that (inaudible) 600 cubic-feet of air a minute. Well, they don't realize they're backdrafting appliances in their home. This is a picture of...the last page is a picture of an appliance in a home that they basically that's what they did. I don't know if you have a picture of a water heater on yours. Yeah, I do on mine. But this has been passed, and if you don't take all of the codes together, it ain't going to function. I mean, there's codes that are there for a reason and if the city amends one out and adopts another and enforces...it's not going to work. It just ain't going to happen. So, to make things much shorter...I mean, I could talk for days on this. So if you really need more information, please don't hesitate

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to call, because I am the chair of the codes committee at the Nebraska State Home Builders Association. And I'm willing to take questions. [LR174]

SENATOR CRAWFORD: Excellent, thank you. Questions? Senator McCollister. [LR174]

SENATOR McCOLLISTER: Thank you, Chairwoman Crawford. What should we tell that woman that just came up and testified, tough luck, your building contractor may not have known or the city didn't enforce the standards properly? [LR174]

GENE KNAGGS: Yeah, well whose problem was that? Did the Energy Office fail to educate that person because they don't have the funds to go out there and put on these educational things? There is no...okay, these 40 to 50-year-olds are in charge of building these houses, where did they get their education? They don't have to have a license. My gal that cuts my hair has a better license than a contractor. All I've got to have is a hammer and insurance and I can build a house and stick five lives into it. Gee, is that really important to align the codes? I would think so. And can I see, do we move ahead and adopt the higher code like '15? Well, I think that could be disastrous, because of this playing around with code officials changing the codes and not aligning the safety issues with the energy efficiency, because you really think those two examples I gave you is all about efficiency of the home. If they don't get the humidity out and stuff, it's a big problem. So we need to step back, reevaluate what the Energy Office does. They need to educate the homeowners to not give value to those homes and then we also need to work on educating the builders. And I mean, these builders are way behind the times. Like I said, most of them learned to build their houses from the '70s and they're still building that way. And you think of these codes, what they're doing, they're changing that building envelope dramatically, and a simple thing like an exhaust fan could cause carbon monoxide poisoning in the house. So and then, if you don't get the proper dilution in your house, you got the radon issues that go right along with it. So you just can't build a better envelope and not address the whole issue. [LR174]

SENATOR McCOLLISTER: Whose duty is it to educate the contractors, the city of Kearney or the state of Nebraska? [LR174]

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GENE KNAGGS: Well, the city of Kearney tried and the Energy Office even tried to do a training session in Kearney, but none of the inspectors showed up, even from the region. So like I said, you've got to have some laws that say, hey, you either do this...I mean, I have to pass a test to get my driver's license. Surely saving four or five lives in a house or making a better well-being for them would be worth at least a little examination so you have the basic knowledge to perform this task you're doing. You might not need this for building a house, a garage, a barn or...I mean, you need it for a house, but something that someone lives in, we need...I hate to ask for more regulations because that's...and more taxes to go along with it, but for the sake of the people, that's what we need. I mean, safety is a big issue. [LR174]

SENATOR McCOLLISTER: Are the contractors licensed in Kearney? [LR174]

GENE KNAGGS: No, insurance. If you have insurance, you're in. [LR174]

SENATOR McCOLLISTER: How about the inspectors? [LR174]

GENE KNAGGS: Inspectors? I went and looked on-line and Max, yeah, he does have his code official inspection for building inspection. But right now, the electrician is out, so he's doing electrical inspections. He's not qualified to do it, but he's doing it. And there's a lot of cases where these kids...like the one I know came from Parks and Rec. And this goes throughout, this is not just Kearney, this is Holdrege, Lexington, North Platte. I've been to all those places and had the same issues. And of course they're new and they've got to learn. And then there's some of us that have been in the field for 20 years and we know substantially more than they do, but then their chief official says, well, this is what we are going to look at. Well, gee, that's not really doing their job. They should have a plan review--the information should all be written on there to begin with. Without that plan review, how can they come back and say, hey, this don't meet the code? And if you ever do adopt a code, I mean, having that option--the 2015--to do the modeling, it's a way big advantage for builders than versus the 2012. Why would you want to put that in? I don't support 2012, I go for 2015. But right now, we're struggling to get 2009, so we need to work on educating those people desperately. [LR174]

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SENATOR McCOLLISTER: When I built up a couple additions at our house, in a week we found an architect. And I think the city of Omaha approved the plans before they constructed...they did the construction. Wouldn't that--those plans--indicate whether or not a building was up to standard, in terms of energy codes or building codes? [LR174]

GENE KNAGGS: It should, and there should be a whole layout of saying this is what you need in this plan, you know. And the heating guy should do the Manual J, to show, hey, they calculated the right size of the house. That should be with the plan. I have done a lot of HERS ratings on houses. People bring me plans and they want to qualify for the high-efficiency loan program. I look at that and says, gee, who drew this, an architect? Yeah, it's a nice picture, but there's no information for me here. It don't even tell me what's in the walls or nothing. [LR174]

SENATOR McCOLLISTER: Okay. [LR174]

GENE KNAGGS: I mean, we got to have...we need a set of rules for everyone to follow and so (inaudible) she won't get burned--the less chance of her getting burned. And this issue is like...I was in Sutherland and having the same issue. A builder was building a house and I go, hey, there's no headers in here and I can see the floor going like this inside the house. I went down to the basement and of course there's 4-foot open spans and 30-foot eye joist spans that should have been 18, and of course there's no code inspections. So, yeah, do we need a statewide code official that maybe someone could call and complain to and say maybe they can come look at it, you know? Because you got to figure rural Nebraska, they've built most of their own homes. And so but they themselves need resources. But if they build a home and five years later sell it to someone else, yeah, is there a safety issue? Yes, I'd say there is. I mean, I've seen a lot of safety issues. And if you really need more information, we could sit down for a week. [LR174]

SENATOR CRAWFORD: I have one other question, just to make sure I understand what I believe I heard you say. So from a Nebraska State Home Builders perspective, I believe I heard you say that you think that the energy code and building code should be enforced together. Is that true, and do you think that is a fair representation of Nebraska State Home Builders perspective on that question of whether to enforce them together or not? [LR174]

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GENE KNAGGS: Well yeah, personally...a lot of that came from me, from my past experience.
[LR174]

SENATOR CRAWFORD: Okay. [LR174]

GENE KNAGGS: But you got to think, you know, the house she bought, that was an average built house in Kearney. I would say 75 percent of the houses don't even meet code right now--the state minimum code. And then if you go further out, Grand Island, North Platte, it gets worse and worse progressively. So I mean, yeah, you got the metropolitan area here where you've got a lot of code officials and education stuff. But I mean we need to reach out to Scottsbluff and Gering to get to all these builders. I mean, we have...there's a homebuilders association in Ogallala basically pulling the weight, because the distance is a problem. And you know, for the Energy Office to get out there, yeah, it's going to cost money too. But then again, without the funds, without the people there to do the work, to represent our people, of course there's energy issues, environmental issues, and it just goes on. [LR174]

SENATOR CRAWFORD: Thank you. I appreciate your time and your expertise and your offer to answer further questions later. I appreciate that very much. Thank you. [LR174]

GENE KNAGGS: All right. [LR174]

SENATOR CRAWFORD: So our next invited testifier is Jerry Standerford, Metro Omaha Builders Association. [LR174]

JERRY STANDERFORD: (Exhibit 5) My name is Jerry Standerford, J-e-r-r-y S-t-a-n-d-e-r-f-o-r-d. Good afternoon, Senator Crawford and members of the committee. Thanks for sticking it out here. As I said, my name is Jerry Standerford, I'm a homebuilder from Omaha. I manage both Sherwood Homes and Lane Building Corporation. I've been building homes in Omaha for over 40 years. I'm here also today as the chairman of the code and regulations committee for the Metropolitan Omaha Builders Association. Our association in Omaha is comprised of over 60 builder members, with total membership of over 300. And in 2016, the MOBA will celebrate its 70th anniversary. As a homebuilder, we are very concerned about the adoption of the 2012 and

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the 2015 IECC. As you know, the adoption of a code is the adoption of a law. And in our jurisdiction, anything that's in that codebook is not negotiable. It's very clear, there's interpretations that come along with the written code, and so it's not a guideline, it's something we have to go by. A mandatory adoption of additional code requirements often put an unfair burden we feel on the builders of new homes, at the expense of our customers. I have yet in my 40 years ever seen a new code that reduced the cost of new construction. It just doesn't happen, that's not the way they're designed. So we consider often a new code that comes out an unfunded mandate. And the 2000 IRC was the first code that was adopted by the city of Omaha. With it came instructions--directions to the code officials, to the builders to get together, that the codes are written for a broad range of people, a broad range of the country, that they expected those codes to be amended at the local level. Every year since, and every time we've had a new code proposed in the city of Omaha and the IRC--and I'm only speaking about residential construction, we don't do anything with commercial construction--every time we've put together and worked with the city to amend those codes. Codes do need to be amended per the local...in each local jurisdiction, and the city of Omaha has been very good about that. Often the proponents of the new codes are government employees, you hear a lot of noise about that. They're providers of product just by the way the codes are written. I mean, if I have a new product and I want to sell 10,000 of them across the country, it would behoove me to get to the code council and promote my product, which happens often there. And the same occurs with the vendors of different services. Again with energy raters, often they're unlicensed. I don't know if energy raters are licensed--they have to be certified, but I don't know that there's a license requirement in the state of Nebraska for the energy raters who say that, yes, you did comply, which is something we're going to have to have as we go to the 2015. Unlike many of the points of the International Residential Building Code, energy is not...the energy code is not a life-safety issue. In the IRC Code, when we make amendments to the IRC, we're not allowed to change the life-safety issues. I sat on a Building Board of Review in Omaha. We can make amend...if you screw up, you do something wrong, you need to bring it before the Building Board of Review to have them look at it and either say yes or no. Even at that level, we're not allowed to adjudicate life-safety issues in the code. And again, the energy code is not a life-safety issue. Again, the addition of codes always...we incur many more costs than material and labor. A lot of the numbers that I see--and I read a lot of the reports saying how much we're going to save and how much it's going to cost--often those costs are inaccurate, often those costs don't reflect the

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additional time it takes to build that house. I mean construction days for us to schedule an inspection in the city of Omaha. And believe me, we have a ton of them. I think we have maybe, what, 13 inspections in a residential house to schedule. We have to give a 24-hour notice to the inspector. And as good as they are, they're limited in how fast they can get there. Often it doesn't happen the next day. My meter is running. That house is being built on my money, not the code officials', not the energy department, not anybody else, so when...and those days are not scheduled into...or those cost of those days are not scheduled into. Again, right now if we have to have duct testing, if our duct is outside the building envelope, that requires the sealing of the duct. We also have to allow days to have a third party come in and inspect those ducts. Additional holding cost for the time when we build houses for sale, I mean, those houses, our market time is stretched out due to the economy of the last seven years. Money that we spent for the additional cost is not in there. We talk about payback, the cost for the system maintenance down the road. I have a hard time getting my homeowners to change a furnace filter every 30 days. If we go to air exchange the outside air, the maintenance of the more improved, higher technology is a problem with that. We also compete with existing homes. Just last week, maybe you heard, ConAgra is talking about maybe moving 1,000 people out of Omaha. I'm going to compete with that buyer's existing house that was built, and often we see our buyers having to move down because of the increased cost. Often, builders are the low-hanging fruit when it comes to energy, because we know if you put this new code in, we don't have a choice. We can either quit building or we can build it according to the code. As far as the moving forward, we talk about 111(d), and how that's part of the deal. You know, this is one way...the end user is one way, even in 111(d) they identify it as the easy way to qualify for that. I'm like Gene, I can talk all day. [LR174]

SENATOR CRAWFORD: We have (laugh)...ask questions. [LR174]

JERRY STANDERFORD: But maybe we should have done this in Omaha over coffee this morning. But you know, regulation and codes are a huge increase. They're probably the biggest increase in the cost of our houses that we've seen in the last five years. It's not lumber, it's not concrete, it's not anything...between building codes, regulations, the EPA, arterial street improvement fees, on and on and on. That is the biggest single cost. [LR174]

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SENATOR CRAWFORD: Thank you. I'm going to go ahead and stop there and have people ask questions, so you can maybe address questions that people have to ask. [LR174]

JERRY STANDERFORD: Thank you. Sure, thank you. [LR174]

SENATOR McCOLLISTER: One short question. [LR174]

SENATOR CRAWFORD: Senator McCollister. [LR174]

SENATOR McCOLLISTER: Yeah, thanks, Chairwoman Crawford. Do you have an estimate of what it would cost for us to adopt the 2012 IECC standards per house? [LR174]

JERRY STANDERFORD: We think, going from the 2009 to the 2012, we think it's in excess of \$3,000. [LR174]

SENATOR McCOLLISTER: Holy smokes. [LR174]

JERRY STANDERFORD: Using those numbers, we don't see the payback. I did submit to you a study that was done not by anybody commissioned, not by an energy group department commission. I submitted you a study that was done by Arik Levinson, he's a professor at Georgetown. And you don't have to read all 40 pages, the essence of what he has is in the abstract on the first page that talks about his study of the energy codes in California since their inception in the 1980s, which is a pretty good study. I talked with him last week. This was done on the...because electrical energy is a huge part in California, that's what he did for this year. He's updated this study this year and he will be doing another study this year based on gas cost. [LR174]

SENATOR MCCOLLISTER: Thank you. [LR174]

JERRY STANDERFORD: Yeah, thank you. Sure. [LR174]

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SENATOR CRAWFORD: I have a question in terms of compliance cost. So I don't know if you've had a chance to see the 2015 that gives the more flexible option. I was just curious if you had a chance to see that or if you could see that making...reducing enforcement costs...or reducing in compliance costs, excuse me, if you had more flexibility in how to meet the standards. [LR174]

JERRY STANDERFORD: Well, we certainly think that more flexibility often offers a chance to reduce that cost, but we also don't know...I think that most of these costs right now--the payback right now, you can get a 15 percent or a 15-year loan for about 3.78, I think it was this morning. I'm old enough--40 years, you know, I lived through the 18 and 20 percent. That really racks in. And historically, we had a lot of years that the interest was 9 and 12 percent that the people were borrowing for these houses. Where does that leave us based on the numbers of the increased costs and the payback? And we don't always look at that. There's no sunset law in these codes. It continues on and on. And my card--I stapled my card to all of those reports. Feel free to give me a call, I'm happy to help with that. Okay, thank you. [LR174]

SENATOR CRAWFORD: I appreciate that, thank you. Thank you for being here. Next we have Jesse Krivol (phonetic). [LR174]

TREVOR FITZGERALD: I don't think he's here. I don't see him. [LR174]

SENATOR CRAWFORD: We do not have Jesse. So the next person...and unfortunately, we had someone else who was not able to be here today. So the next I have: Garry Ruliffson, thank you. Excuse me. And this is our last invited testifier. After this, anyone who wishes to testify may do so. [LR174]

GARRY RULIFFSON: Thanks for giving me the opportunity, Senator Crawford and committee. I sit on the Nebraska Energy... [LR174]

SENATOR CRAWFORD: Oh, I'm sorry. I butchered your name, but now I have to ask you to spell your name. Thank you. [LR174]

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GARRY RULIFFSON: Spell it. It is Garry, with two r's, G-a-r-r-y, last name is Ruliffson, R-u-l-i-f-f-s-o-n. [LR174]

SENATOR CRAWFORD: Thank you. [LR174]

GARRY RULIFFSON: Yes. I actually sit and represent utility on the Nebraska Energy Office Code Collaboration. Why would a utility be involved with codes? We don't enforce the codes, we're not the arm of that, but the one thing we do provide is education. We have directives to be more efficient with our customers, to teach them how to use energy more wisely. Part of that is also helping the builders and the real estate agents. Just yesterday, I gave a three-hour credited class to the real estate agents up in Omaha on building science and energy codes to try to help that market understand the changes that are actually occurring around their own industry. And I would agree with, you know, all the builders here, there are challenges with going to change. But as a utility, in my 35 years, we get codes every so often. I've got a high build concern with my home, and you find out it's a fairly new home, and then there's issues with...comfort issues. And I had a call the other day with a lady that just bought a new home and the rooms over the garage were 15 degrees colder than the rest of the home. And you have to kind of explain to them that, well, nobody's really done anything wrong. It's just understanding how to assemble the building according to code, not just build it to code because sometimes what's written in a book doesn't necessarily get implemented in the field. I checked the list of the air ceiling and my insulation has been put in, but has it been installed correctly? So what the utility tries to do, we not only encourage codes, but you know, whatever the cities they decide to adopt or amend or use, we support them in everything we can do, because we're trying to teach again those customers to be more energy efficient with their energy use. And it's a challenge as a utility when they do call us, because if we try to work with the builders or whomever is involved, to say, hey, here's what you...you know, hire an energy rater, get with your builder, call the Energy Office, try to help solve these challenges from a utility standpoint. And we do try to support them. I know on our DSM Program we do provide on homes that are actually built...earlier, Gene was talking about the HERS score, it's the lower the number, the more efficient the homes are. We do encourage our homebuilders to build more efficient homes and we provide incentives to build a HERS score of 65 or lower to build a good home. And I think the whole key thing is, is that education. You know, because we're fortunate in Lincoln and Omaha. The inspectors typically do a great job,

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you know, we work hand in hand. I've worked with Jay, you know, even though Gene's outstate, we've been on different committees. I worked at Nebraska Public Power for several years, too, and knowing out in the rural areas it is a little more of a challenge dealing with building codes. And so I guess, I'm just here representing the educational piece of it, the work the committee's been doing. I actually sit on the educational committee. Every year we evaluate to try to find out how to fund and create not only for the builders, but the inspectors, the appraisers, the homeowners. OPPD has had some educational programs at one time for their customers. And the key factor for the utility is try to meet our goals of maybe not having to build a power plant in the future. And that's really all I have if there's any questions. [LR174]

SENATOR CRAWFORD: Thank you. Questions? No. Thank you for being here and testifying. [LR174]

GARRY RULIFFSON: Oh, thank you. [LR174]

SENATOR CRAWFORD: So that is the end of our invited testifiers. We do have a letter for the record. John Easter, from the American Chemistry Council. And now, if anybody else would like to testify on LR174. [LR174]

JAMES HARPER: I came just to listen, but I took some notes. [LR174]

SENATOR CRAWFORD: Okay. [LR174]

JAMES HARPER: My name is James Harper, Grand Island, Nebraska, 4203 Springview Drive, and I'm a retired code official. I've worked in the cities of Omaha and Hastings. I've been around codes for about 35 years. I've been out of it for about 4 years, so I'm a little rusty at testifying. First thing, these are the kind of materials the Energy Office is providing code officials. I don't know if you've ever seen these, but they're terrific. It's terrific educational material and they're doing a great job as far as educating code officials. It's very available, you just got to get to the meetings, so code officials don't have an excuse in that regard. Senator McCollister is gone and I really wanted to answer his question. He was asking about existing buildings. And a couple weeks ago, we had a webinar on the International Existing Building Code and that code is part of

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the state building code if you look at the component parts. And if you look at that closely, it addresses energy specifically, so it gives you a systematic approach on how to deal with these existing buildings. And it really is very minimal. I think there's virtually nothing you have to do with regard to complying with the energy code on an existing building. So I wanted to point that out, that there is a systematic way of dealing with that if you adopt the existing building code as a municipality. Second thing that I noticed is I kind of like your idea, Senator Crawford, about listing the energy code with the building code. I know in the Building Construction Act we list the codes...I think there's three. To have the fourth one there as the energy code might be beneficial. My understanding is a municipality could always pick and choose which of those codes they wanted to incorporate into their municipal code. I think that's still how the statute reads, help me out. So I kind of like that idea. I do like the idea of matching them up with the building code and the energy code, because I've sat through so many code hearings and these things are discussed in their entirety. You can do it, have an older edition of one code and a newer edition of another, but they're really kind of meant to be brought together as one, because they're kind of discussed that way. Well, I'll leave it at that so I won't take your time. An idea I've always liked is we were talking about what do you do if you have something that's noncompliant or different? I've always liked the idea of the code authority makes a decision, they may approve an alternate, they may not approve an alternate. They may disagree whether there's a nonconformity or problem in the field with the building, but that can go to a local appeals board. Every municipality I knows has a...Omaha has a Building Board of Review, most communities call it a building board of appeals. And those are ways of resolving those issues. Then you have people who are knowledgeable sitting on those boards to render decisions. I've always liked the idea, and Lynn Chamberlin is going to hate me for this, of having some way of the state being able to recognize those types of appeals that are done at the local level and those would have some basis for them to accept. And I'd think more in terms of alternate materials and methods. That would be a basis for them to say, okay, we know it doesn't meet the state energy code, but a local board has indeed heard it, knowledgeable people have considered it, and we think it's good, even though it is an alternate or a departure from the code. I think that the state of Nebraska...this is the fourth point, needs to be more active in the development of model codes. We're obviously absent at code development meetings and it's just very difficult for us, and certainly the Legislature, to deal with technical code issues, so we need to have more of a visible presence at code development meetings. And other states do. Oklahoma appears at code development

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hearings, they testify, they submit code changes. And I think the state needs...that's really where those discussions need to be had is at the code development level and hopefully that minimizes the number of amendments you make at a local level and for more consistency. What else did I have? Do I have a minute or am I done? [LR174]

SENATOR CRAWFORD: One minute. [LR174]

JAMES HARPER: There's a process, we don't have a building commission, but I see us inching our way there. And maybe an idea that we could think about is a building commission really wouldn't be actively enforcing codes, but they may be in the position of accrediting building departments. And there are programs out there to accredit building departments. And as a state agency, you could say, well okay, you've got a recognized accredited department; we think you can run your own show and you know, we're not involved in the day-to-day enforcement. Because there is just so much, as Jay Davis talked about, in the day-to-day enforcement of codes, I don't see a state agency really being...working at that level, because it's just overwhelming. So just something to think about. And I hope that's helpful, and I'll answer any questions if I can. [LR174]

SENATOR CRAWFORD: Thank you. Questions? Thank you, appreciate that. Anyone else wishing to testify on LR174? Yes? Two more at least, looks like. [LR174]

DENNY VAN MOORLEGHEM: Well, good afternoon, Senator Crawford. [LR174]

SENATOR CRAWFORD: Good afternoon. [LR174]

DENNY VAN MOORLEGHEM: I'm Denny Van Moorleghem. I'm from Regency Homes in Omaha and I'm also involved with MOBA, the metropolitan homebuilders association. I really didn't plan on testifying today, but we've been listening now for a couple of hours and I really want to focus on cost. In the last year and half, our house prices, and I'm talking sticks and bricks, have gone up 9 percent. That's about \$30,000 on a \$300,000 house. Our lot costs have gone up \$15,000 or \$20,000. Much of it is with government regulation, but a lot of it is labor and material and basically a lack of labor...you have to pay more to get more. [LR174]

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SENATOR CRAWFORD: I'm going to interrupt you just one moment and ask you to spell your name, please. Thank you. [LR174]

DENNY VAN MOORLEGHEM: Oh, that's right. D-e-n-n-y V-a-n M-o-o-r-l-e-g-h-e-m.
[LR174]

SENATOR CRAWFORD: Thank you. [LR174]

DENNY VAN MOORLEGHEM: That's a long one. Okay. We sell about 50 or 60 houses a year. Rarely does...and we offer a full range of energy options: extra insulation, garage insulation, high-efficiency air conditioners and furnaces, geothermal systems. And in 50 houses, we might do one geothermal system, because it is close to having a payback. Nobody asks, nobody pays any more money, nobody wants insulation. The houses are...I can't speak for our buyers, but there's really no demand, okay? Now Jerry's numbers of \$3,000 of extra cost for his company is about \$4,000 for ours. We have different contractors and different systems, okay? We don't see that there's a payback, especially at 3 percent or 4 percent interest rates to our buyers. And as I said, the buyers don't really care. That's really unfortunate, I understand. Our feeling is that we are...and maybe Lynn would know better than I, but we are about 95 percent...we are going to spend a lot more money to solve the problem on a 5 percent gain on energy savings. We're past the point of diminishing returns based on the current code standards. When we went from the...let's see, two or three years ago we went from Energy Star, and most of the builders in Omaha were using that. The standards were raised, the price was going to go up and the buyers wouldn't pay it basically, okay? And that cost was minimal, maybe \$2,000. The whole system as far as I know, maybe Jerry will know differently, is not ready for it. Appraisers won't appraise for the extra value. In Omaha, we've changed and added a line in the MLS that talks about what the HERS rating is. And the board office...well, there was a big drama a couple years ago about adding that and rating all the houses in our community. So there's no standard that an appraiser can use to say that my Energy Star house or my 2015 building code house is worth any more money than the next. And the appraisers typically will not give any extra value. And if they do give the value for some other reason, fancier granite or whatever it might be, we don't have...the bankers, as far as I know, are not giving any value for that extra energy savings, because there is some extra energy savings. So we're kind of caught in this box, you know. We're getting pushed

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both directions. I read Jerry's report that he gave you on the way down, that clearly states in California, that according to that study there is no extra net energy savings, because the people get careless: they leave the lights on and they let the air conditioner run more. Okay? So what is the real savings here? Okay? But the bottom line is we're trying to protect our customers and our industry by keeping houses affordable and spending money where it should be spent. That's where the buyer wants it. And if there was a payback like geothermal...and the only reason geothermal has a payback, it's got a 30 percent federal tax credit, okay? So that's all I have to say. Okay, have any questions? [LR174]

SENATOR CRAWFORD: Thank you. Any questions? Thank you. [LR174]

DENNY VAN MOORLEGHEM: Thank you. [LR174]

SENATOR CRAWFORD: Welcome. [LR174]

LYNN REX: Senator Crawford, Senator Hansen, congratulations. Thank you for staying. Trevor, you too. First of all, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. Again, thank you for the hearing, we really appreciate it. It is important. My purpose in testifying is just to underscore the importance of keeping a local option there, so that municipalities can modify the codes based on local needs, which has been done historically in the state of Nebraska. So with that, I'm happy to answer any questions you have. We appreciate the fact that you've taken time to look at these important issues today. [LR174]

SENATOR CRAWFORD: Thank you. Questions? Thank you. [LR174]

LYNN REX: Thank you very much. [LR174]

SENATOR CRAWFORD: Would anyone else wish to testify on LR174? Then we will close the hearing. Thank you for being here. [LR174]