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Urban Affairs Committee
February 16, 2016

[LB806 LB857 LB865]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, February 16, 2016, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB865, LB857, and LB806. Senators present: Sue Crawford, Chairperson; John McCollister, Vice Chairperson; Colby Coash; Laura Ebke; Matt Hansen; Sara Howard; and Dan Hughes. Senators absent: None.

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 Chair of the Urban Affairs Committee. We have a couple members that are on their way and a couple members that are presenting bills that will be joining us later. So we will start off having members of the committee and committee staff who are here right now do self-introductions.

SENATOR MCCOLLISTER: John McCollister, District 20: central Omaha. I'm sorry.

TREVOR FITZGERALD: Trevor Fitzgerald, committee legal counsel.

SENATOR HOWARD: Sara Howard, I represent District 9 in midtown Omaha.

CHRIS TRIEBSCH: And I'm Chris Triebsch, I'm the committee clerk.

SENATOR CRAWFORD: Also assisting the committee is our committee page Kelli Wazikowski from Omaha, who is a political science and sociology major at the University of Nebraska-Lincoln. Thank you. This afternoon we will be hearing three bills and we will be taking them in the order listed outside the room. On each of the tables in the back of the room you will find blue testifier sheets. If you are planning on testifying today, please fill one out and hand it to Chris when you come up. This will help us keep an accurate record of the hearing. Please note that if you wish to have your position listed on the committee statement for a particular bill, you must testify during that bill's hearing. If you do not wish to testify, but would like to record your position on a bill, please fill out the pink sheets in the back of the room. We would ask that if you have any handouts that you please bring at least 10 copies and give them to our page. If you need additional copies, she can help you make more. So I would remind everyone when you come up to testify to please make sure to state and spell your name for the record. And we begin each hearing with the introducer's opening statement, and after the opening statement we hear from the supporters of the bill, and then from those in opposition, followed by those speaking in a neutral capacity. The introducer will then be given the opportunity to make any closing

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statements, if they should wish to do so. We typically do not use the light system in Urban Affairs Committee unless we have a large number of testifiers, but we would still ask you to keep your testimony under five minutes and avoid repetitive testimony if possible. I would remind everyone, including Senators, to please turn off your cell phones or put them on vibrate. And with that, we will begin today's hearing with LB865. And I will be turning things over to Vice Chair McCollister.

SENATOR MCCOLLISTER: Good afternoon, Senator Crawford. LB865 is now open. [LB865]

SENATOR CRAWFORD: Thank you. 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. This past interim my office held a stakeholder meeting on LR159, an interim study to examine Nebraska's handicapped parking statutes. This meeting involved representatives from various disability advocacy organizations, including AARP, Disability Rights Nebraska, Arc of Nebraska, and the Nebraska Statewide Independent Living Council. As part of the interim study, the stakeholder group reviewed Nebraska's current handicapped parking statutes and compared them with handicapped parking statutes in other states. A chart that was prepared by the Legislative Research Office comparing state handicapped parking statutes is included in your materials. LB865 would adopt one of the recommendations from the LR159 stakeholder group, by amending the definition of handicapped or disabled person. While the current definition includes individuals who are unable to travel more than 200 feet without the use of a wheelchair, crutch, walker, or other assisted device, handicapped parking statutes in 30 other states also include individuals who are unable to travel more than 200 feet without stopping. Similarly, three additional states have comparable language, but with a different distance requirement. In addition to changing the definition, Section 2 of the bill repeals obsolete language in the handicapped parking statutes. While the definition change in LB865 will likely impact only a small number of individuals, the bill will bring Nebraska's handicapped parking statutes in line with the majority or other states and provide a more accurate and inclusive definition of all individuals' disabilities. Thank you for your time and I would be happy to answer any questions the committee may have. [LB865]

SENATOR MCCOLLISTER: Thank you, Senator Crawford. Any comments or questions from the committee? Seeing none, thank you very much. [LB865]

SENATOR CRAWFORD: All right, thank you. [LB865]

SENATOR MCCOLLISTER: Well, now I ask those people willing to testify on a proponent basis. [LB865]

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MARK INTERMILL: (Exhibit 1) Good afternoon, Senators. My name is Mark Intermill, Ma-r-k I-n-t-e-r-m-i-l-l, and I'm here today to speak on behalf of LB865. As Senator Crawford noted, AARP was part of the discussion of changing the handicapped and disabled persons parking slots statutes. We do support the language or the proposal that's included in LB865. We think updating it to that 200-foot standard does...and I've included some of the language from our surrounding states, what they include in terms of requirements for meeting or obtaining a placard. I think this makes us consistent with other states, and also I think that the 200-foot threshold for a lot of our constituents who are up and past 65 is a factor. And I did some field work this weekend and went to Home Depot and Target and Super Saver, and it is important to be able to have access for those individuals who may have congestive heart failure, severe arthritis, those types of conditions to be able to park within a reasonable distance of the place that they need to get to. So I do encourage you to advance this bill. [LB865]

SENATOR McCOLLISTER: Are there any questions? I have a couple. You went through the regulations that the legislative research did for this particular issue, correct? [LB865]

MARK INTERMILL: Yes. [LB865]

SENATOR McCOLLISTER: Apart from the 200-foot distance, were there any other things that stood out as being unusual or out of place? [LB865]

MARK INTERMILL: We did have some discussion about the access to the numbers of parking spots available for people who have a placard. I don't think we could...there wasn't anything that we could identify that we could to address that. Also access to...you know, the issue of meters and handicapped parking. There were some questions that we talked about that, but I think this represents what we felt we were able to address at this time. [LB865]

SENATOR McCOLLISTER: The duration wasn't an issue? In Nebraska--six years? I think as I scanned the chart, I saw six years was kind of on the outside. [LB865]

MARK INTERMILL: Yeah, but I think there could be...that's something that the committee could consider, but I also think that when a person...and I'll use the example of a person with congestive heart failure, who has a hard time getting...negotiating a parking lot, that's probably not going to change that much. There are some opportunities for short-term placards I think. But for those individuals who have the condition, that require this type of a plate, I think it's not inappropriate. [LB865]

SENATOR McCOLLISTER: How about the enforcement and penalties? Is that... [LB865]

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MARK INTERMILL: We had some discussions about that too. We have some...the folks who rely on the plates, and especially those who have a wheelchair, really need those spaces in order to get in and out of a vehicle. We've had stories about incidents where they would see somebody in a parking place that may not need to be there. And I think, you know, there is an issue of enforcement that needs to be addressed. But I don't believe that we saw anything in the statute that we could really do to do that. It's just a matter of encouraging local law enforcement to take those things seriously. [LB865]

SENATOR McCOLLISTER: How about encouragement on the other side of the coin? Those people that are relatively healthy that apply for a permit and what I would say perhaps misuse it? [LB865]

MARK INTERMILL: Yeah. My father, in the last 13 years of his life, was in a wheelchair and we had a placard. And I'm not going to say it wasn't misused by some in my family when he wasn't present. But I think that's...I tried not to do that. I understand the importance of having those places accessible. I think that's just part of the whole enforcement issue though, of trying to make sure that the people who use those spaces are the ones who need the spaces, are the ones who get to use the spaces. [LB865]

SENATOR McCOLLISTER: Thank you. Any other questions from the committee? Thank you, Mr. Intermill. [LB865]

MARK INTERMILL: Thank you. [LB865]

SENATOR McCOLLISTER: Maybe take this opportunity to introduce our members that just joined. Dan. [LB865]

SENATOR HUGHES: Dan Hughes, District 44: 10 counties in southwest Nebraska. [LB865]

SENATOR COASH: Colby Coash, District 27, right here in Lincoln. [LB865]

SENATOR EBKE: Laura Ebke, District 32. [LB865]

SENATOR McCOLLISTER: Yeah, welcome. Are there any other proponents wishing to speak? Those people wishing to oppose the bill? Anybody wishing to testify on a neutral basis? Senator Crawford. [LB865]

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SENATOR CRAWFORD: Thank you for your great questions. I'm just as I'm closing going to point out that we did have a full-ranging discussion of handicapped parking issues with the stakeholders, and the question about enforcement was one that was raised. And we talked about different options that might be pursued on that front in the end, but we kept coming back to the fact that there was state authorization for local enforcement, and so some creative things could be done at the local level really to increase enforcement. And we had a discussion of what that might look like with advocates pushing that at the local level more. The language on how long to have the permit, that change to make it six years was made previously. So what this bill does is it just deletes obsolete language that happens to be in that same section, when it used to be three. So the bill itself does not change from three to six, it just deletes the old obsolete language. The decision to make it six was made with a different bill, at a different time. There was some discussion about whether or not, if someone is permanently disabled, they should have to do it every six years as well. It's a condition that is not going to improve. We had that discussion as well, turns out that to comply with federal law you do have to have a renewal period, and so there isn't an option to create some class of conditions for which one would get a permanent plaque. But what we did also learn in that discussion was our DMV has an award-winning on-line process that allows doctors to submit information for the handicapped parking permit electronically on-line. And so the fact that you do have to get it renewed every six years should not be a burden to someone who has a condition, as long as their physician is working with the DMV and using that process. It should be a seamless process, they should not have to go to the DMV office to do the renewal. Their physician should be able to handle that and help them get that renewed each six years. [LB865]

SENATOR McCOLLISTER: Thank you. Any questions for Senator Crawford? Thank you, Senator. [LB865]

SENATOR CRAWFORD: Thank you. [LB865]

SENATOR McCOLLISTER: (Exhibit 2, 3) We have letters of support for LB865: Nebraska Planning Council on Developmental Disabilities; and the Arc of Nebraska. So that concludes the hearing on LB865. Thank you very much. [LB865]

SENATOR CRAWFORD: Thank you, Vice Chair McCollister. I appreciate that. We will now open the hearing on LB857. Senator Hadley, welcome. Welcome, Speaker. [LB857]

SENATOR HADLEY: (Exhibit 1) Thank you, Chairperson Crawford and members of the Urban Affairs Committee. I believe, I was thinking back there, I think this is my second time in front of the committee and I'm batting 100 percent right now, so I just thought I'd let you know. At that point in time we adopted the International Plumbing Code here about three or four years ago and

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I think Senator Coash remembers that. My name is Galen Hadley, G-a-l-e-n H-a-d-l-e-y, I represent the 37th District and that's Kearney and basically the lower one-third of Buffalo County. I'm here today to introduce LB857. LB857 would change the population threshold of when first class cities are required to hire a full-time fire chief. Currently cities of the first class are required to hire a full-time fire chief when their population exceeds 37,500 inhabitants. LB857 would change the threshold to 45,000. That is the only change that is in the bill. It does not change any of the other requirements that are in statute right now, but merely the threshold. The intent of this bill is to retain control at the local level. As you know, one of the real advantages of volunteer fire departments across the state is the local control that's involved with volunteer fire departments. There are groups of very proud people who are very happy to volunteer and help their communities. The current population threshold to hire a full-time fire chief only applies to cities of the first class. Omaha and Lincoln do not fall into this classification and, therefore, will not be impacted by this legislation. The population of the two largest cities of the first class, Bellevue and Grand Island, are already above the current threshold of 37,500 and the proposed change of 45,000 and therefore also are not impacted. May I provide a little bit of background outlining how the current threshold of 37,500 was set? The first bill introduced with the concept of mandatory, paid, full-time fire chief and paid fire department was LB607, which was introduced in 2007. LB607 provided that any first class city which has a population of greater than 38,000 would be required to hire a full-time fire chief and full-time firefighters. The Urban Affairs Committee heard and killed the bill on the same day. The next year, LB1096 was introduced by Senator Friend. This version only required a paid, full-time fire chief, dropping the idea of mandatory paid firefighters. The green copy sets the population threshold at 20,000. After the hearing, the Urban Affairs Committee adopted a committee amendment to raise the threshold to 35,000. When it came to the floor, there was another amendment on the floor that raised it to 37,500 and there was discussion on the floor to even raise it to 40,000 in 2008. The intent was of removing several cities of the first class, Columbus, Norfolk, North Platte, Hastings, and Kearney from the list of cities required to hire a full-time fire chief. LB1096 passed in 2008. During the hearing, Senator Friend stated, the bill does not require the creation of a paid fire department, but rather establishes a process in a lot of ways to gather the necessary information to enable the decision to be made locally. During the LB1096 testimony hearing, Dave Engler, representing the Nebraska Firefighters, testifying in favor of the bill, stated, "we don't feel this is an issue, volunteer versus paid, but we do feel that in cities of this population it is important that we have someone that spends full time administering the various activities of the department, which includes everything from training to response times, to just monitoring the level of activity." As you can see, the population threshold was a moving target. It moved from 20,000 and eventually was set at 37,500. I've introduced LB857 to retain local control of the fire department at the local level. Kearney, sitting below the 37,500 population bubble, has a unique, mixed fire department comprised of a full-time fire administrator, paid by the city and appointed under the Civil Service Act by the city manager; paid administrative staff; a volunteer chief; and numerous dedicated volunteer firefighters. This method has worked well for the city for over 20

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years. It's also important to know that we are unique in that our EMTs are not part of the fire department. They are provided by Good Samaritan Hospital, who runs the emergency medical technician part of the first responders, so our volunteer fire department is strictly firefighters. Kearney currently has a paid, full-time fire administrator, as I said, appointed by the city manager that Dave Engler recommended during the LB1096 hearings. The city of Kearney has an exceptional, dedicated, volunteer fire department that has achieved an outstanding reputation with an ISO, which is an international rating system, of two. There is, I believe, only one city in Nebraska that has a rating of one. It's one of the best cities...ratings in the state. Testifying after me will be Jim Tacha, volunteer fire chief for the Kearney Fire Department; and Jason Whalen, Kearney's paid, full-time fire administrator. These testifiers will outline Kearney's unique fire department organization that is composed of three entities that work together for the benefit of the citizens of Kearney and the surrounding area. The three entities are the city of Kearney Fire Department, the Suburban Fire District Number One of Kearney, and Kearney county's and the Volunteer Fire Department. As I said earlier, the EMS do not respond by the fire, they're by Good "Sam." We will have a handout detailing this structure. And I gave you a letter of support from the mayor of Kearney, signed by the city council members. By increasing the population threshold to 45,000, cities such as Kearney will be able to maintain their local control, enhance public safety, and strategically design the organization of their fire departments to rapidly address changes and needs of the individual communities. I would appreciate your passing LB857 out. Thank you. [LB857]

SENATOR CRAWFORD: Thank you, Senator Hadley. Questions? Yes, Senator Coash. [LB857]

SENATOR COASH: Thank you, Chairwoman Crawford. Speaker Hadley, you may have mentioned this in your quick opening, but I'm just trying to get my head around what does the city of Kearney have right now? They have a fire administrator? [LB857]

SENATOR HADLEY: Yes. [LB857]

SENATOR COASH: And is that a full-time position? [LB857]

SENATOR HADLEY: Yes. [LB857]

SENATOR COASH: And the city pays that wage? [LB857]

SENATOR HADLEY: Yes, pays that wage. [LB857]

SENATOR COASH: Does the fire administrator report to the mayor of the city? [LB857]

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SENATOR HADLEY: He reports to the city manager of the city, I believe. [LB857]

SENATOR COASH: Okay. [LB857]

SENATOR HADLEY: We have the fire administrator here who could fill in the other details, but he does report to the city manager. [LB857]

SENATOR COASH: Who reports to the mayor. [LB857]

SENATOR HADLEY: That's right. [LB857]

SENATOR COASH: And this bill would require a fire chief. What is the difference between a fire administrator, which you have, and what would be a fire chief if Kearney's population grew and we didn't pass this bill? [LB857]

SENATOR HADLEY: My feeling is, if the population grew of Kearney and we didn't change this bill, in essence, you would have to have a paid fire chief. And since we have two people doing that, I think it would require us to pay an additional person to take over for that...doing some of the duties that the fire administrator does. [LB857]

SENATOR COASH: So you think that, unchecked with the growth of Kearney, you'd have to keep the current fire administrator and then add a fire chief? [LB857]

SENATOR HADLEY: Up to the population of 45,000, which is the limit that I'm talking about at setting a limit. [LB857]

SENATOR COASH: But doesn't the fire administrator serve at the pleasure of the city? [LB857]

SENATOR HADLEY: Yes. Yes. [LB857]

SENATOR COASH: So if...I mean, I don't like to hear people losing their jobs, but if this bill didn't pass and Kearney grew, you'd have to have a fire chief. Wouldn't the mayor just say, well, we've got to get rid of the fire administrator and hire a fire chief or maybe promote the fire administrator into a fire chief? [LB857]

SENATOR HADLEY: That's exactly right, Senator Coash. [LB857]

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SENATOR COASH: But I don't see...I mean, do you believe that it's mandated there would be two positions that are doing the same thing? [LB857]

SENATOR HADLEY: You know, I think the big difference is that by having a fire administrator, we have a lot of the duties that a paid fire chief does now in other cities, is done by the fire administrator now. But the fire chief, I think has the advantages of--and I forgot to mention them--if you'll give me a second. You know, it's...the key advantage is that this is a volunteer. And he is elected or she is elected by the members of the Kearney Volunteer Fire Department, so this person is one of them. I was thinking of an outlandish situation that if we suddenly decided that the Speaker of the Legislature was going to be appointed by the Governor rather than elected by the members in the body. The same concept of, you know, they feel the camaraderie that they've elected their leader. And I think you do lose something when it is the city manager or the mayor who says this is the fire chief. [LB857]

SENATOR COASH: So the...if I can continue. [LB857]

SENATOR CRAWFORD: No, please, keep going. [LB857]

SENATOR COASH: So the fire administrator, as it sits now, is from within the ranks of the volunteer fire department? [LB857]

SENATOR HADLEY: It could be, but it doesn't have to be. [LB857]

SENATOR COASH: So it's elected from within... [LB857]

SENATOR HADLEY: It doesn't have to be. [LB857]

SENATOR COASH: But the volunteers are the ones that choose that person? [LB857]

SENATOR HADLEY: That's right. [LB857]

SENATOR COASH: And when you say that it's a volunteer...but that position is paid...the fire administrator is paid? [LB857]

SENATOR HADLEY: It is a paid position and it's covered by the Civil Service Act of Kearney. He's just like any other employee. [LB857]

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SENATOR COASH: Okay, I understand. Thank you. [LB857]

SENATOR CRAWFORD: Thank you. Senator McCollister. [LB857]

SENATOR McCollister: Thank you, Chairwoman Crawford. Just so I understand, Speaker Hadley, the authority...the paid administrator works for the city manager, correct? [LB857]

SENATOR HADLEY: That's correct. [LB857]

SENATOR McCOLLISTER: But yet you have a fire chief. Is there any...some discordance between those positions where... [LB857]

SENATOR HADLEY: I've never seen any discordance, Senator McCollister. And they're both going to come up and testify on this bill, so that would be a very good question to ask them. [LB857]

SENATOR McCOLLISTER: Thank you. Thank you, Speaker. Thank you. [LB857]

SENATOR CRAWFORD: Thank you, Senator McCollister. Other questions? [LB857]

SENATOR HADLEY: Thank you. [LB857]

SENATOR CRAWFORD: Senator Hadley, I was going to ask you a question. [LB857]

SENATOR HADLEY: Oh. Well, I was going to try to sneak out. I spent years watching testifiers trying to get away from the table. [LB857]

SENATOR CRAWFORD: Actually, I just had two. So one question is, do you have a sense of when you expect Kearney to grow to hit that limit? Do you have a projection? [LB857]

SENATOR HADLEY: Do you know, I can tell you that the last three censuses Kearney has grown 15.3 percent, 12.21 percent, 12.2 percent. So I would guess it's growing between 12 and 15 percent every ten years, so we could move it out to do it. But the closer you get to that the more chance that you're going to get it. And I think this...that's a great question, because I think this moving it to 45,000...the reason that Kearney is asking for it, it gives them time hopefully to work through this as we go forward. And I think you'll hear from the testifiers the system is working in Kearney. [LB857]

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SENATOR CRAWFORD: Thank you. Now I'll let you sneak away. Are you staying to close?
[LB857]

SENATOR HADLEY: May I please leave now? I'll be back. [LB857]

SENATOR CRAWFORD: Thank you. So we will now hear from proponents of LB857.
Welcome. [LB857]

JIM TACHA: (Exhibit 2) Good afternoon, Chairperson Crawford and members of the Urban Affairs Committee. My name is Jim Tacha, J-i-m T-a-c-h-a, and I'm the chief of the Kearney Volunteer Fire Department. Thank you for allowing me to testify before your committee today relative to LB857. And as Senator Hadley spoke earlier, it would increase the population threshold to 45,000 before requiring a first class city to employ a full-time chief. And on behalf of the Kearney Volunteer Fire Department, I'd like to go on record in support of this bill. We are a very unique organization and we're comprised of volunteers as well as paid firefighters/engineers. The KVFD is managed by a volunteer fire chief who is elected by the volunteer membership and a full-time fire administrator who is employed by the city of Kearney. The volunteer fire chief and administrator work in tandem to accomplish any and all tasks that a full-time chief would provide. This process has served our community well for over two decades and is strongly supported by the citizens of Kearney and Buffalo County, as well as the city of Kearney administration and our suburban fire board. And, as he also stated earlier, an example of this would be that we have received an ISO rating of two from the insurance service office for the city of Kearney, which we have maintained since 2004. We are comprised of three different entities that work together for the benefit of the citizens of our fire protection district. And those entities are the city of Kearney Fire Department, Suburban Fire Protection District 1 of Buffalo and Kearney Counties, and the Kearney Volunteer Fire Department corporation. Both the city of Kearney Fire Department and the suburban fire protection district operate under separate budgets, have separate equipment, and most importantly, have separate response procedures. However, the volunteer personnel for both entities are provided by the KVFD corporation. There are typically between 50 and 75 members comprising the corporation at any given time. As a volunteer chief, I'm responsible for the overall planning of the city fire protection and direction of the volunteer fire department in order to ensure the loss of life and property are prevented and/or minimized. I am ultimately responsible for incident stabilization and command and control of emergency scenes. Additional responsibilities include, but are not limited to: managing the volunteer fire department members; ensuring that all firefighters have adequate training; development of policies and standard operating guidelines; discipline of volunteer fire department members; recruitment and retention of volunteers; planning and coordinating of budgets with the fire administrator; and fire prevention and education. By passing this bill, we'd be allowed to continue to operate in the professional manner which the citizens of our fire

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district have come to expect. I'd like to thank all of you for allowing me to testify on behalf of this bill. And I'd be glad to try to answer any questions for you. [LB857]

SENATOR CRAWFORD: Thank you. Senator Coash. [LB857]

SENATOR COASH: Thank you. Are the...can you speak to the training and education requirements of a fire administrator versus a fire chief? [LB857]

JIM TACHA: Training and qualifications? [LB857]

SENATOR COASH: Well, I mean, is there a difference between what a fire administrator is required to...the training and the school that a fire administrator would need versus what might be mandated for a fire chief. Is there any difference? [LB857]

JIM TACHA: The fire chiefs, themselves, come up through the ranks, I guess, if you will. We start as a volunteer. You have to meet certain criteria and you have to have served so many years as a captain and then as an assistant fire chief and then working your way to chief. So anybody that is elected chief has come up through the organization and really, just the amount of training we do is tremendous and it's just...it's ongoing. If you look at statistics, I mean, in just our department over the past two years has been over 6,000 hours a year, just in training. The fire administrator is appointed or is hired through the city and does have certain qualifications, which Jason could speak better to those. But it is a civil service position and does have a lot of requirements that he has to meet to get that, so. [LB857]

SENATOR COASH: Well, and...I'm sorry. [LB857]

SENATOR CRAWFORD: I'm sorry. Thank you. Yes, Senator Hughes. [LB857]

SENATOR HUGHES: Yes, thank you, Chairwoman Crawford. I guess kind of following Senator Coash's, what's the difference in the jobs between the...? [LB857]

JIM TACHA: I would say the best way to put it is, Jason's position would be more administrative things with the paid members of the department. And mine is more of a suppression and operations from the standpoint on the fire grounds, as far as my responsibilities; mine is more with the volunteers. We do have 11 paid engineers and nine of those are volunteers also and the other two used to be. They were both over 20 years as a volunteer and it just...you know, lifestyle changes. You know, they don't do that anymore. So to help you guys kind of understand a little bit how the department works, somebody work...get off their shift at 7:00 in the morning as a

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full-time engineer; at five (minutes) after 7:00 we get a structure fire and they're on a nozzle going into the scene. You know, they're...pardon? [LB857]

JASON WHALEN: As a volunteer. [LB857]

JIM TACHA: As a volunteer, yes. [LB857]

SENATOR HUGHES: So when you say "engineer," what do you mean? [LB857]

JIM TACHA: An engineer would be a paid driver, if you will. We just refer to them as engineers. So how the...how we are staffed is, the station is in town...and the two stations in town and at the airport have somebody manning that station at all times, which would be one of the paid members. But when an alarm comes out they bring the apparatus to the scene but everybody else that shows up is in a volunteer capacity. [LB857]

SENATOR HUGHES: So they'd show up at the scene, not necessarily at the house. Okay. [LB857]

JIM TACHA: Yeah. If it's an in-town call, we go to the scene. If it's a rural call or suburban call, we go to the station and we respond from there. [LB857]

SENATOR HUGHES: Okay. One more question, if you will. So I understand the city of Kearney Fire Department and then the suburban fire protection district, which would be surrounding Kearney. Then what is the Kearney Volunteer Fire Department corporation? [LB857]

JIM TACHA: Basically, we--for lack of a better way to put it--supply manpower to both the...most towns, I guess, have a separate, if you will, city fire department and then we have a separate rural fire department. We're combined, so everybody on our department does both, you know? So even though they're separate, different responses and stuff, ultimately, all of our members respond to either rural calls or city calls. [LB857]

SENATOR HUGHES: So why the corporate structure? [LB857]

JIM TACHA: As far as? [LB857]

SENATOR HUGHES: Well, it says Kearney Volunteer Fire Department corporation. [LB857]

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JIM TACHA: Right. [LB857]

SENATOR HUGHES: Why is corporation in that...? [LB857]

JIM TACHA: I'm not sure. [LB857]

SENATOR HUGHES: Okay. I'll ask... [LB857]

JIM TACHA: Yeah. He might be able to explain that a little better. [LB857]

SENATOR HUGHES: Okay. Thank you. Thank you for coming in today. [LB857]

JIM TACHA: No, sure. No, no, that's fine. [LB857]

SENATOR CRAWFORD: Thank you. Other questions? Yes, Senator McCollister. [LB857]

SENATOR McCOLLISTER: Yeah. Thank you, Chairwoman Crawford. Mr. Ta-cha (phonetically), is that correct? [LB857]

JIM TACHA: Ta-ha (phonetically). [LB857]

SENATOR McCOLLISTER: Ta-ha (phonetically). It seems like an unusual arrangement for a city to do this. Is Kearney unique in this way? [LB857]

JIM TACHA: It is. Yes. As far as I know, we're the only city in the state of Nebraska that does this, the only city I know of around. But it works very well for us. And the big difference is we're a combination department, but not in the normal sense that you'd think like most places have. If they have a paid department, they have volunteers that back that. Whereas, really, every...we are really basically a volunteer department that has paid engineers so we always have somebody that can respond with the apparatus like immediately. [LB857]

SENATOR McCOLLISTER: I know Kearney is probably a little larger than Grand Island and Hastings, maybe even Scottsbluff. Do they have similar arrangements or is Kearney truly unique? [LB857]

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JIM TACHA: They really are unique. I think all of them you just listed are a paid department, as far as everybody that I think is mostly...they would be a paid department. [LB857]

SENATOR McCOLLISTER: I see. It seems to me that you're making a significant contribution in time. How many hours a week do you do this as a volunteer? [LB857]

JIM TACHA: Somebody asked me that earlier and it kind of a little bit depends on if you have any outside things going on and just the number of calls we might get in a week. Some weeks it's more, some weeks it's less. There are always administrative things going...I mean, things with the volunteers or whatever that we're always handling. I stop...I work another full-time job away from this, but I get into town about 4:00 or 4:30 every day and usually stop at the station for an hour or so, depending if we have anything on the weekends. And then, of course, we have meetings during the officer meetings and I'm part of the board also, so. [LB857]

SENATOR McCOLLISTER: So fires only occur after 4:30? [LB857]

JIM TACHA: Yeah, it's like about 2 percent of what I do. But you know, it really...it works well and I can say, with Jason as the administrator, we...and even before, it's a great system for us. It really is. [LB857]

SENATOR McCOLLISTER: Well, thank you. I certainly hope you don't have a fire while you're all here. [LB857]

JIM TACHA: Yeah, we've got enough guys that they could handle it, so. [LB857]

SENATOR McCOLLISTER: Thank you, Chief. [LB857]

JIM TACHA: Yeah. You're welcome. [LB857]

SENATOR McCOLLISTER: Thank you. [LB857]

SENATOR CRAWFORD: Other questions by committee members? I wonder if you could talk a little bit about how you coordinate with the fire administrator in terms of training. So you list that as one of your responsibilities in terms of adequate training. What is your role versus the fire administrator's role in ensuring that training occurs? [LB857]

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JIM TACHA: Right. My role would be to oversee training. We do have a training officer on the department that's currently elected. We also have...Kelly Hardin is our training assistant chief, if you will, who is also over...you know, it's kind of a span of control thing. You know, things get delegated. So I coordinate or we coordinate with the training coordinator. And there's just input from everybody all the time on this. As far as monthly trainings go, we try to do at least three to six months in advance so everybody knows what's coming up. And then we offer...I mean, we send guys and gals to different trainings throughout the country, you know, Baltimore or to Indianapolis every year to get some more hands-on training, which then they're required to come back and present to the department in a training scenario. And then as far as on the paid drivers end of it, Jason could go a little bit more into that, but they're also required to...they have certain requirements they need to meet also, so. [LB857]

SENATOR CRAWFORD: Kind of the paperwork or certification side, is that you or would that be the administrator? [LB857]

JIM TACHA: It's more on my side. [LB857]

SENATOR CRAWFORD: Okay. [LB857]

JIM TACHA: We fill out training certification sheets and they get turned in and logged. [LB857]

SENATOR CRAWFORD: Okay. And now are you also in a leadership position of the suburban fire protection district or is that a different person that is in a volunteer, leadership position there? [LB857]

JIM TACHA: I would be also the chief, yes, for basically...it's kind of separate entities, but we're all one in that everybody responds. You know, all of our members are on both departments. The biggest thing with the suburban is it's just a separate budget process. It's away from the city. They do share some things with the city, such as our rescue truck; they each pay 50 percent of that. But like the rural engines and pumpers and tankers and stuff is paid for by the rural part of it and the city equipment is paid for by the city of Kearney. [LB857]

SENATOR CRAWFORD: Now, as I understand you, it's important that this position is an elected position from the volunteer membership. You see that as an important... [LB857]

JIM TACHA: I think it's important. For lack of a better way to put it, you kind of pay your dues coming up. And if they feel you've earned that, then you get elected and they're one-year terms.

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It's every April. So if for some reason you weren't fulfilling it or something, they would probably make another choice. [LB857]

SENATOR CRAWFORD: So it's a one-year term? [LB857]

JIM TACHA: It's a one-year term, yes. [LB857]

SENATOR CRAWFORD: Are you able to have multiple terms or do you have term limits? [LB857]

JIM TACHA: Yes. Yeah, there's no term limit that I'm...so, yeah, yeah. I don't know what's the longest anybody has served. It seems like normally it's five years, five or six years that somebody serves. [LB857]

SENATOR CRAWFORD: So my final question is, how important do you think it is that that leadership position has the name "chief" attached to it? [LB857]

JIM TACHA: I think it's the head of the department, so I think it's important that a...you know, I think when you think of a chief of a fire department, you think who's the leader of his department, who's ultimately responsible for the volunteer part of it. And I think that, historically, goes with that, perhaps, so. [LB857]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you. [LB857]

JIM TACHA: Sure. [LB857]

SENATOR CRAWFORD: Thank you for your testimony and for your service. [LB857]

JIM TACHA: Yep. [LB857]

SENATOR CRAWFORD: Other proponent testimony for LB857. Welcome. [LB857]

JASON WHALEN: (Exhibits 3, 4) Good afternoon, Chairperson Crawford and members of the Urban Affairs Committee. My name is Jason Whalen, J-a-s-o-n W-h-a-l-e-n. I am the fire administrator for the city of Kearney and I'm here to represent the city of Kearney. Thank you for allowing me to testify before you today relative to LB857. On behalf of the city of Kearney, I would like to go on record as supporting the passage of LB857, which you know increases the

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population provision relating to the employment of a full-time chief. As the fire chief has given you a broad overview of the operations of the department, I would like to give you some information on how the fire administrator fits into this equation. The fire administrator is appointed under the Civil Service Act by the city manager, which is similar to the requirement of this bill mandating that the full-time fire chief be appointed under the Civil Service Act. As the fire administrator, I'm responsible for the supervision, scheduling, performance evaluations, and discipline of all the paid staff, which includes 11 firefighter engineers, one fire inspector, one office manager, 12 part-time drivers, and one part-time secretary. I work, basically, as a liaison between the city of Kearney and the volunteer fire department. I conduct and oversee all of the day-to-day operations required of a working fire department. These duties include, but are not limited to: managing the budget and monitoring expenditures; ensuring that all facilities, equipment, and apparatus are in good working order; researching and preparing reports; handling public record requests; public relations; and civic group presentations. The city of Kearney and the Kearney Volunteer Fire Department take public safety very seriously. Together, we are constantly evaluating our operations to determine shortfalls and we make adjustments as needed. Proof of this is a recent addition of a full-time fire inspector to assist with preplans, inspections, and fire prevention activities. At this time, we feel that our system is meeting or exceeding the expectations of our citizens and community. Evidence of this is the average city response time of less than two minutes and the average response of 26 firefighters per incident and the more than 6,000 hours of training logged by KVFDF members in the calendar year 2015. I encourage you to pass this bill, because in doing so it ensures that we will be able to continue to protect and serve our community in a professional manner that the citizens of Kearney have come to expect. Thank you, all members of the Urban Affairs Committee, for allowing me to testify on behalf of the city of Kearney. And if you have any questions, I would be happy to try to answer them. [LB857]

SENATOR CRAWFORD: Thank you. Questions? Senator McCollister. [LB857]

SENATOR McCOLLISTER: Yeah. Thank you, Madam Chair. Thank you for your testimony. You talked about the fact that you review the metrics of the fire department in Kearney, is that correct? [LB857]

JASON WHALEN: Yes. [LB857]

SENATOR McCOLLISTER: Yeah. Is it a cost-effective way to approach the problem? Do you compare that with other cities to know you're taking care of taxpayer dollars? [LB857]

JASON WHALEN: Yes, absolutely. This...as you know, this...we had a long history of a volunteer department. The city of Kearney and the citizens take a lot of pride in that and that is a big portion of this. We have done some figuring. We figured if we did go to more paid staff to

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operate, such as Hastings and Grand Island, we're looking at doubling our budget, going from...right now, our budget this year was \$1.9 million. And it would be an additional \$2 million if we fully staffed the department in such a way as Hastings and Grand Island. [LB857]

SENATOR McCOLLISTER: That's impressive. Thank you, very much. [LB857]

JASON WHALEN: Thank you. [LB857]

SENATOR McCOLLISTER: Thank you, Madam Chair. [LB857]

SENATOR CRAWFORD: Thank you. Senator Hughes. [LB857]

SENATOR HUGHES: Yeah. Thank you, Chairwoman Crawford. I guess back to the question: What is the Kearney Volunteer Fire Department corporation? [LB857]

JASON WHALEN: I'm going to have to look for sure. I believe, talking to Kelly, we believe that that happened back when they had the ambulance service and they did that for protection. And it's kind of just grown that way. As the chief tried to elite (sic) to, we...that...the fire chief of the corporation--the corporation has a board of directors that handle the discipline of the volunteers, the chief is a member of the board of directors--they basically provide the manpower of the department...of both of those departments. So...and which goes to the fact on this bill, if we did require the city of Kearney to have a paid fire chief, that then poses a problem because is the suburban going to then have a separate fire chief? Is there going to be a conflict of interest? Right now, that paid fire chief is over both the city of Kearney Fire Department and the suburban fire department and the manpower is all members of the KVFD corporation, per se. [LB857]

SENATOR HUGHES: So...yeah, that's the manpower. So are there protections granted since it is...you are part of a corporation? Is that... [LB857]

JASON WHALEN: I am unsure. I will have to...that...I was just... [LB857]

SENATOR HUGHES: That's fine. Thank you for clarifying that. Thank you. [LB857]

JASON WHALEN: Okay. Yes. [LB857]

SENATOR CRAWFORD: Thank you. Senator Howard. [LB857]

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SENATOR HOWARD: Thank you, Senator Crawford. Thank you for your testimony today. [LB857]

JASON WHALEN: Thank you. [LB857]

SENATOR HOWARD: In hearing about the structure of your organization, it seems like it's sort of grown in an ad hoc manner. Would you agree with that statement? That, as needed, you would pick up some of the operational capacities? [LB857]

JASON WHALEN: Yes. Yes, yes. We're constantly evaluating. [LB857]

SENATOR HOWARD: And as needed, the chief would pick up some of those? So tell me a little bit about your strategic planning process and how you're planning for the future in a city that's growing so quickly. [LB857]

JASON WHALEN: We are...with the chief being over all...and just to try to explain it in a simpler manner, the chief, very similar to the chief of Lincoln, the chief of Omaha, Grand Island, they have a broad overview of the entire department, however, they delegate stuff out. My position would be very similar to an administrative chief in any other department. I am taking care of all of the day-to-day operations of the working fire department, whether that's staffing, whether that's meetings, going to city council, I'm doing all that stuff in his absence. As well as the chief, we handle the fires--as we talked about earlier with us being gone--we have a command structure that operates. And those other duties have been delegated very similar to what a fully paid fire department would do. So we kind of divide and conquer, per se. We are constantly...I mean, I grew up through the ranks of this department as well. I started out as a volunteer. I was a volunteer for five years prior to getting hired as a paid driver. And I was a paid driver for eight years prior to being promoted to fire administrator. And I still am a volunteer. So, like the chief tried to explain, too, at the end of the day when I go home from work, if we get a call after that, I go to the fire call and I'm a volunteer. I'm not under pay for the city at that time, so. [LB857]

SENATOR HOWARD: May I ask another? [LB857]

SENATOR CRAWFORD: Absolutely, Senator Howard. Yes. [LB857]

SENATOR HOWARD: I was actually curious about how you're planning for the future in a city that's growing. Do you have a strategic plan for the fire department, specifically? [LB857]

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JASON WHALEN: Not specifically, other...I mean, I guess I don't know for sure what you're asking. We are...we have just recently added another fire station, which required us to add additional staff for that. Part of it, we just hired a fire inspector, which directly correlates with the growing needs where every day we're getting requests for fire prevention activities, for visits, inspections, tours, and preplans. As Kearney is growing, we were falling short of keeping up on our preplans and getting out and doing that stuff. And so we, you know, that is what our future is. We are looking at another station right now, which entail is we're looking at additional staff. And we don't have the time line for sure of that, but that is definitely in the makings right now. [LB857]

SENATOR HOWARD: So in terms of future planning, would you say that the responsibility for strategy and visioning for your department falls in your purview or falls in the fire chief's purview? [LB857]

JASON WHALEN: Honestly, I would say it's shared. [LB857]

SENATOR HOWARD: Okay. [LB857]

JASON WHALEN: We work...I can't explain enough how well of a working relationship we have between the suburban board, the city of Kearney city council, the city administration, and our fire department staff. I mean, it's truly unheard of in this industry in the state, so. [LB857]

SENATOR HOWARD: Thank you. [LB857]

SENATOR CRAWFORD: Other questions by committee members? So would you...do you see this structure as one that grows as the city grows? Do you anticipate that it could continue to evolve as the city grows even larger? [LB857]

JASON WHALEN: I do. I think, again, we are constantly analyzing that and we...you could change this to 45,000 and we could...the city could decide we think we need a fire chief at 43,000. I'm not saying that won't happen. But we feel like it's better for us to analyze that and control that decision. There's been departments throughout the state that have gone one way and then others in the department that have gone the other way. There's departments that are smaller than us that have a paid fire chief and there's a department in the state that had a paid fire chief and just reversed that and went back to a volunteer fire chief. So it's really about local control and knowing that we are...we take it very serious. We answer to the citizens of Kearney. And right now they're happy with the service that we provide. And I think that...I really think that adding a fire chief is not...is nothing is going to change of our deal except cause...maybe cause

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problems with our organization as a whole, considering the suburban district and how we work as one department. [LB857]

SENATOR CRAWFORD: So has there been a recent discussion about whether we want to stay with the current system or move to a chief? Has there been a recent discussion in the city? [LB857]

JASON WHALEN: No. Other than supporting this bill, we do not want to change systems. We really feel that we have a good system. It's working. The citizens of Kearney are happy with it and we do not want to change that at this time. [LB857]

SENATOR CRAWFORD: Okay. Right, right. And would you say, is it your responsibility as an administrator to gather the data on response times and be watching for that? Does that really land in your lap, would you say? [LB857]

JASON WHALEN: Yes, it does. Yes. I take...myself and my staff below me...my office manager does a great job keeping stats. And we are constantly updating those. We update our...I give a weekly report to the city manager, which includes every call that we had, our response times on those calls. And so that is monitored. [LB857]

SENATOR CRAWFORD: Great. Any other questions? Thank you for your testimony. [LB857]

JASON WHALEN: Thank you. [LB857]

SENATOR CRAWFORD: Other proponents for LB857. [LB857]

JERRY STILMOCK: Good afternoon, Madam Chair, members of the committee. My name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my clients, the Nebraska State Volunteer Firefighters Association and Nebraska Fire Chiefs Association, in support of LB857. The items that came to mind before and now during the hearing of the reliability of the Kearney citizens and the outside...citizens outside Kearney. Think in terms of your experience to Kearney and the University of Nebraska at Kearney, the growing campus from maybe when you went or when you had a relative go compared to what it's grown to now. Kearney High School is building a new high school. And neither of those entities have voiced any concern that I've been made aware of that the fire department is not adequate. Contrary, of course, you've heard that ISO rating of a two--the highest is one--and the worst you might receive is ten. So to have a two for a combined volunteer and some-paid department, I think is extraordinary. The issue of the corporation, I think it's an old vestige of before your predecessors,

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your colleagues put protection in place for volunteers for free from liability and a grant of immunity. So I think of...in terms of, for your--some would say meager--but your compensation as senators. If the role that you played as a senator exposed you to liability, what would you do to protect yourselves? And I think that's the same thing that the volunteers did. They were concerned--somehow this started back in the '50s and '60s--that there was no protection, there was no immunity from liability. They said, well, I want to volunteer in my community, but I don't want to lose my car, my house, my wages that I've earned and through my bank account, so let's create this shield. And I think that's probably what happened. And some of those entities remain, as you've heard this afternoon. The community and city of La Vista, it has local control, but I say La Vista because they're a community that recently moved from a volunteer department over to receive services from a paid entity. So as a local entity, La Vista was measuring...the city council and mayor were measuring what types of responses were being made. The administration there, I think, felt that it was time to do something. And because response times were down, there were...you know, La Vista being, one might assume, pretty much a community that commutes to work outside of the parameters of La Vista and so what happened is, the local administration decided it's time to do something. So La Vista now has entered into a contract with Papillion to have Papillion come in and provide services. So the reason I bring that up, of course, is because local control recognized something should happen. But you haven't heard that, at least we haven't heard it yet today. We haven't heard it from the city fathers, the council and the mayor that have submitted letters in support of this legislation. We just haven't heard it. You haven't heard it. When LB1096 was discussed and passed, there were other issues, I believe, going on in Bellevue that required some state attention and the result, one of which was the passage of this particular law. But I read with interest of a Bellevue report from the Leader during January that said one of the things happening to Bellevue was not only the budget problem, because of having to pay for a paid service now, but they were also experiencing people that were being trained by Bellevue, they were being paid by Bellevue, but they were...those paid members were moving on to other opportunities: Omaha, Lincoln, a elevation in pay, whatever the circumstances were. And in smaller communities, we see that happening in law enforcement. They get trained up, they go to law enforcement training in Grand Island, they spend their six months to become certified, and lo and behold, they're no longer working for the city of Syracuse. Now they're moving on to the sheriff's office or the State Troopers. It appeared to me that that's what may be happening in Bellevue so that when Bellevue was dealing with other issues, all of a sudden they have compound issues now, at least what the media would have us hear and perhaps believe as well. So for some of those reasons, my two clients are here urging your support of advancing this bill, LB857. I think my last comment would be I don't think anybody envisioned at least the discussions that were happening in 2007-2008, when eventually LB1096 was passed, that this was intended to pull other communities in other than Bellevue. And I think that's the reason why the number was placed so hard. I think everybody looked out and saw Kearney might be the next. And it was placed high, higher, but not, perhaps, high enough to meet the needs of Kearney. Senators, thank you. [LB857]

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SENATOR CRAWFORD: Thank you. Any questions? Thank you for your testimony. [LB857]

JERRY STILMOCK: Very well. Thank you. [LB857]

SENATOR CRAWFORD: Other proponents of LB857. Welcome. [LB857]

GARY KRUMLAND: Senator Crawford and members of the committee, my name is Gary Krumland, it's G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities, appearing in support of LB857. We do think this is an issue of local control. The bill, right now, just applies to two cities, two first class cities, as you've heard, Bellevue and Grand Island. Grand Island has had a full-time fire chief for a number of years. And there are about ten other first-class cities who also have full-time fire chiefs and paid fire departments, generally supplemented with volunteers. But they are probably in the range of population of 26,000, 27,000 and lower, so they're not going to be affected by this. So it's kind of Kearney that's caught in between because they do have a volunteer system that works and they're the one city that is probably going to be caught by the population threshold in the bill. So this will help them maintain local control and keep their system that works. I'd be happy to answer any questions. [LB857]

SENATOR CRAWFORD: Questions? Thank you, Mr. Krumland. Anyone else wishing to testify in support of LB857? Anyone wishing to testify in opposition to LB857? Welcome. [LB857]

DARREN GARREAN: (Exhibits 5, 6) Chairwoman Crawford, members of the committee, thank you for your time. My name is Darren Garrean, first name, D-a-r-r-e-n, last name is Garrean, G-a-r-r-e-a-n. I'm president of the Nebraska Professional Firefighters, representing approximately 1,300 paid firefighters, personnel, EMTs, paramedics across the state. I think it's important that this committee know that I, too, was a volunteer fire chief, as it's germane to this issue. What she's going to hand out is LB1096 and testimony from that. And I think it's important that this committee know, particularly because of term limits, nobody was here back during that discussion back in 2007-2008. I'm going to read a piece of LB1096 and it states in Section 1 that, "The legislature finds that the matters relating to emergency medical first response and fire protection are matters of state concern, particularly in larger cities that rely primarily or entirely upon volunteers to provide these services. Recognizing the increasing complexity and difficulty in providing these services, the stringent and growing training demands made upon volunteers, the demographics of an aging population, the economic pressures that deny or inhibit employers from granting the opportunity for volunteers to respond to emergency calls during business hours, and the economic costs to residents and businesses of financing either a paid or partly paid emergency response system, the Legislature hereby declares the necessity of establishing a system and process whereby certain cities of the first class would be required to review, study, modify on a continuing basis the emergency response system with appropriate public input,

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based upon local conditions and circumstances." Now, I bring that...I read that, because again this committee was not present and part of that discussion back in 2007-2008. But the Legislature--albeit not the 104th--the 100th Legislature deemed this to be an issue of state necessity. And the population of 37,000 was agreed upon by the Legislature and the discussion of starting out was at a much lower threshold. Now, from the testimony so far, we're representing the necessity for only one city, to the best of my knowledge, being Kearney. I want to go into the testimony side of 2008, which is the other piece that was handed out, particularly on page 7, if I might. And it was testimony from Dave Hogelin, who is from Columbus. As you go down, his testimony particularly to the fire chief is, "Right now as it stands in the city of Columbus, to be the fire chief you have to be in the department for three years. You have to be a volunteer for three years. That is the requirement. The professional staff is not allowed to participate in this." So Columbus, particularly, has paid firefighters that respond to that community and they have a volunteer fire chief. So it creates a unique situation particular to Columbus. Now that may not be the case in Kearney, it's not the case in Grand Island, it's not the case in Bellevue. But the threshold that was raised to 37,500 was, for whatever reason, placed at that level. There are obviously issues of having a paid staff that might report to a volunteer fire chief, although it has been working. But I think that threshold, if anything, should be considered and possibly lowered. With respect to Speaker Hadley and those that testified prior to me, I think it's important that I raise the issue of constitutionality if we're talking about one city and we're talking about one position and we're talking about one person. This bill, if it is just about the one person, the one individual, I think the title of that--they do have a paid staff--the title being fire chief, I think that city could maybe make some arrangements or some conditions that might be able to justify that position. I'll be glad to answer questions. There's a lot, obviously, in the testimony prior that I didn't go into. This issue has been raised prior to this legislation as the 104th and where it was ended up with the bill of LB1096 was compromised and it had been working. It would be my opinion that, I don't know Kearney would reach that threshold prior to the census and if they did not, we're talking about another 14 years before that would be an item of concern. With that, I'd conclude my testimony. [LB857]

SENATOR CRAWFORD: Thank you. Questions? Yes, Senator Ebke. [LB857]

SENATOR EBKE: I'm curious about your constitutional take on this, because even though Kearney is maybe the only city that falls into this category at this point, it applies to all first-class cities. Correct? [LB857]

DARREN GARREAN: Correct. But if that threshold is just for the ability of one individual...I'm not an attorney. I just raise that question because if this is about one city, one individual, one position, it just raises concern for me. [LB857]

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SENATOR EBKE: Sure. But any number of other cities could also reach that threshold in the next 15, 20 years, whatever. [LB857]

DARREN GARREAN: Possibly. Yeah, I couldn't tell the population growth of any city as much as anybody else. [LB857]

SENATOR EBKE: Okay. [LB857]

SENATOR CRAWFORD: Other questions? I wondered if you would say, in the sense of what you think the intention was, if you were involved in these debates and discussions, about what it was that a paid, full-time fire chief brought to the department or to the city. Like what is it...what are the main responsibilities or capabilities that are critical in your mind? [LB857]

DARREN GARREAN: Sure. It's actually detailed even further down in the current statute of LB1095 (sic), that the fire chief shall collate, analyze the information gathered pursuant to subsection (1). And it goes into planning, it goes into basically data collection. There's a responsibility of that individual and who they report to. All of that is in there. A lot of this is responsibility given to the fire chief and responsibility given to them coming back to the cities. You have somebody that's accountable for those items. I think that was a big part in that initial discussion. It's not a matter of whether or not a volunteer or paid person has dedication to their community. There's no doubt that a volunteer has a tremendous dedication to community. I think it was a matter of there was a recognition of some responsibility that needed to be dedicated and a lot of responsibility coming back to the cities. That's my understanding. [LB857]

SENATOR CRAWFORD: So that the position is accountable to the city, directly, in some ways? [LB857]

DARREN GARREAN: Yes. That's probably the biggest part, whereas, as you can see, the responsibility in Columbus, for instance, those couple of items just being tenured for three years, that being the only responsibility to get elected to be the fire chief. I don't think that that would be enough, in my opinion, that the city would be okay with. I think that they would want more out of that individual for fire protection, for planning, for data collection, all of those things. And without having that ability...that accountability, you can ask for it and you don't necessarily always get it. [LB857]

SENATOR CRAWFORD: Thank you. Anyone else with questions? Yes, Senator McCollister. [LB857]

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SENATOR McCOLLISTER: Yes. Thank you, Madam Chair. I think we can acknowledge that this organizational structure is unique. Is there anything in your experience or knowledge that would indicate this structure has resulted in poor performance? [LB857]

DARREN GARREAN: To the best of my knowledge, this is not a performance-based issue that as far as if you're getting into somebody didn't do their job or didn't do their duty. There are definitely studies that are done as far as response times and the amount of people that show up to calls and those kinds of things. I don't think that's what is driving this today. There was definitely discussion of that in 2007-2008 as far as response times and the ability of people showing up and not showing up. But I think it got narrowed down to where we are in this is really about the fire chief's position, not about paid staff. So I think those are two separate items. And really in this, particularly to the fire chief. To the best of my knowledge, it's not a matter of duty to (inaudible) scenario. [LB857]

SENATOR McCOLLISTER: I think the administrator indicated there's a metric that fire departments use a scale from, what, one to ten? [LB857]

DARREN GARREAN: It's an ISO rating. It's actually an insurance rating that you are classified based upon response and your ability to respond. And that ISO rating directly corresponds to your insurance rating that you would pay in your business or in your home. So the lower that ISO rating, your insurance actually has an impact on that. So if that number is a nine or a ten, you're going to pay a higher insurance premium because the response and the ability to have those things takes longer and it gets...you don't have the ability for fire suppression and so you're paying more on your insurance premiums. If that ISO rating is lower, generally your insurance premiums are lower. The goal of all fire departments is to get that as low as possible because it actually saves money for the citizens. There's a lot of things that go into the ISO ratings. It's not just response times, it's how much apparatus, it's personnel, it's the entire structure itself that play a part of that. The structure that they have, obviously with an ISO two rating, is working. But I think, particularly again to this is the issue of a quote fire chief in that position. [LB857]

SENATOR McCOLLISTER: Who grades or who gives a fire department their ISO rating? [LB857]

DARREN GARREAN: It's the insurance service...I can't think of the exact name, but they come around and rate. And then from that rating is how the insurance is for that area, that geographic designation. [LB857]

SENATOR McCOLLISTER: In your many duties, do you compare the ISO ratings of all the communities in the state? [LB857]

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DARREN GARREAN: I have not and I don't know that anybody has done that. I'm sure it can be done. And I think it's also one of those things that, if there's a change, you have to request that they come in and do a study. So, for instance, if there was more staff or you had a structure change, then you would want them to come in and do a study and see if there was a change in that number. [LB857]

SENATOR McCOLLISTER: Yeah. Thank you very much. Madam Chair, thank you. [LB857]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you for your testimony. [LB857]

DARREN GARREAN: Thank you. [LB857]

SENATOR CRAWFORD: Anyone else wishing to speak in opposition to LB857? Anyone wishing to speak in a neutral capacity on LB857? Speaker Hadley, would you like to close? [LB857]

SENATOR HADLEY: Thank you, Madam Chairman. I appreciate the questions and I appreciate our fire administrator and our fire chief explaining the unique situation that we have in Kearney. I would absolutely agree with our constitutional expert, Senator Ebke. The bill I see in no way has constitutional problems, because it applies to all class one cities that they may change and such as that, so there's no constitutional issue. And we're not arguing with...there was a lot that was handed out. And I have all the testimony; I read it. We're not arguing with what the bill talked about, LB1096, but we're just talking about is the level that you have to have a paid fire chief. And I could give you a couple of quotes from Senator Friend in the floor debate. And one of them: The reasoning behind 37,500, as I think alluded to earlier, I think it gives other first class cities, in particular Kearney, time to adjust. Well, we've been at it...what? This is 2016, that's 2008, we've had eight years now to adjust and we feel it's time to adjust it again. He goes on to say: So after more discussions out there yesterday--in essence, in the lobby--37,500 would give Kearney, I guess to a certain degree, breathing room, which it has and now we're asking for more breathing room. The other thing, we talked about ISOs and Kearney is very proud of an ISO of two. As I mentioned earlier, I believe--we did some research and I'm not going to pick on any other cities and what their ISO is, you could find that out--but two is an exceedingly high ISO. My understanding, there's only one city in Nebraska that has a rating of one. And this includes paid or volunteer and fully-paid fire departments. But, again, this is not about a fully-paid fire department. This is about a paid chief. And I think we all...I think it's hard to argue that a volunteer chief chosen by the members of the fire department, I think works well. I think in any organization if the leader is chosen by someone outside of the organization it just runs into problems that can happen. A volunteer fire department with a paid chief I think can run into

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some problems. So I would hope you would give favorable consideration to raising the limit. This would give, I think a couple of things. One, it gives Kearney some breathing room again, but it also I think sends a message to volunteer fire departments across the state that we know what your concerns are. This may not impact a lot of cities, but it impacts cities of the first class. We hear what your concerns are and we're willing to listen and we want you to continue doing the good job that you can. I'd be happy to answer any questions that you might have. [LB857]

SENATOR CRAWFORD: Questions? Senator Howard. [LB857]

SENATOR HOWARD: Thank you, Senator Crawford. Thank you, Speaker Hadley. One of my concerns with the bifurcated leadership system that is currently existing in Kearney is that it doesn't appear as though it's anybody's responsibility for future planning. And so it sounds like Kearney had about eight years to plan for this transition. Do you know of any planning that's been going on to prepare for the change? [LB857]

SENATOR HADLEY: Yes. Thank you, Senator Howard. I know that the city council has worked a lot on long-range plans. And I can tell you this because I was involved in one of the long-range plans that got our second fire station. And now we have a third fire station as a result of the long-range plans that we're making for the city of Kearney. This is an important...the volunteer fire department is an important part of the city of Kearney, so this is part of the city planning process, looking at where we put stations, how...what...we mentioned the number of full-time employees, \$1.9 million. That has to go through the budget process that is a part of the long-range plan for hiring engineers and staff to do it. This is...so, I can assure you, Senator Howard, this is an important part of our planning process. [LB857]

SENATOR HOWARD: And the city council does that planning, I'm guessing, in concert with the administrator and the chief? [LB857]

SENATOR HADLEY: Yes. Yes, absolutely. [LB857]

SENATOR HOWARD: Thank you. [LB857]

SENATOR CRAWFORD: Other questions of the Speaker? So the bill focuses on the population level. It sounds to me like what's happened in Kearney has been a creation of a unique organizational structure to address the needs of a growing city. So I was curious if you had given any thought or had any reaction to the issue being ways in which first class cities could address those needs that were considered...that are considered important about having a full-time fire

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chief, the planning, the data gathering, the analysis, to assess whether or not there were other options that a city could use to meet those standards, as opposed to moving the line? [LB857]

SENATOR HADLEY: You know, I really can't answer that, Chairperson. But I would say after my experience in Kearney in being on the city council and mayor, I know that we constantly looked at it because it's a budget issue that you're dealing with. When you're spending \$1.9 million for the full-time staff, you certainly do look to see what is the best way to manage that staff. And as earlier it was said, LB1096--is that the number? I keep getting--yeah. I remembered the bill number, everyone. You know, they talk a lot about setting a line. I mean, as far as I could see, there was no magic formula in setting a line. And I'm not asking...I'm not coming here with a magic formula that says 45,000. But I think it's a way of sending a message to Kearney that we...and those other first class cities that we have a way of doing it. A couple of other things: One, the ISO rating...someone mentioned about the volunteers and the chief having to get there, Chief Tacha...and Senator McCollister, I mispronounced his name twice in the city council, so I've learned how to say it now, so. One of the reasons we are a city that is different from a La Vista and such as that, because our workers basically live and work there. And the ISO rating does reflect lower insurance premiums. So that's one of the reasons that our major employers, at times, are willing to let their staff...it's a bottom line number for them. [LB857]

SENATOR CRAWFORD: Any other questions? Thank you. [LB857]

SENATOR HADLEY: Thank you. [LB857]

SENATOR CRAWFORD: So we have a letter, for the record, a letter of support, Mayor Stanley Clouse, city of Kearney. And with that, we'll close the public hearing on LB857. We'll open the public hearing on LB806. Welcome, Senator Mello. [LB857 LB806]

SENATOR MELLO: (Exhibit 1, 2) Good afternoon, Chairwoman Crawford, members of the Urban Affairs Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District in south Omaha. LB806 would adopt the Riverfront Development District Act. This enabling legislation would create a new organizational tool for strategic and intentional municipal economic development and tourism efforts, focused on riverfront areas across the state of Nebraska. Under the act, municipalities along riverfronts, as defined in the bill and the new amendment, would be authorized to create a riverfront development district by city ordinance. A riverfront development authority would be appointed by the mayor of the municipality with the approval of the city council. While LB806 provides a framework for local communities to establish a riverfront development district and a riverfront development authority, the municipality would have the flexibility to narrow or tailor those powers to the needs or vision of their municipality in accordance with their city master plan or in response to public input. Before

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I go into more detail about the riverfront development districts and the authorities, I want to give you a little background as to the development of this legislation. Cities in the United States and throughout the world have been historically established along banks of major rivers. As local economies have changed over time, cities have moved away from their historic riverfronts, resulting in abandonment in close proximity to their central city cores. Recently, other states have seen success as their cities have embraced the historical significance and the economic opportunity that exists along their natural waterways. Discussions are ongoing in Omaha and in municipalities across Nebraska as they consider ways to strategically develop riverfronts to boost tourism and economic development, and to enhance the quality of life for their residents. In Omaha in particular, the 2014 Urban Land Institute report and other more recent discussions regarding the Missouri Riverfront surround a vision of an active, vital riverfront that would be the center of gravity, a connector, a place for community celebration, an economic development driver, and a source of regional pride. The ULI report itself focused on opportunities, challenges, and demographic shifts, and was the summary of an advisory services panel for Omaha, Nebraska and Council Bluffs, Iowa. I looked to the 2014 ULI report, met with a number of stakeholders, researched other states and other municipalities, and looked at Nebraska's current statutes to bring the idea presented before you today in LB806. This fall, information was compiled by our Legislative Research Office to examine what measures other states have taken to establish tools for their cities to develop or redevelop along riverfronts. There is not one specific method used specifically across the country, rather a patchwork of local tools, state tools, local investment, and state investment options. What I'm proposing for you today is actually modelled after some of the more recent tools Nebraska has put in place for its municipalities, notably business improvement districts and municipal land banks. LB806 would be a mechanism for municipalities to use existing tax authority and invest revenue in the development of a riverfront area in a transparent, intentional way. In other words, grow their local economy and increase the quality of life for their residents by their own means. With the amendment we just passed out, the definition of river, for the purposes of this act, would be the Missouri River, Platte River, North Platte River, South Platte River, Republican River, Niobrara River, Loup River, North Loup River, Middle Loup River, South Loup River, Elkhorn River, North Fork of the Elkhorn River, or the Big Blue River. Municipalities of all classifications, except for villages, would have the potential to access this new special economic development tool. LB806 provides a framework for a municipality to work within. They would retain the flexibility when establishing the city ordinance and in taking any further action. Additionally, two or more cities which have a contiguous riverfront along the same river could enter into an agreement pursuant to the Interlocal Cooperation Act to create a single authority to jointly oversee and manage the districts created. LB806 would require the boundaries of a riverfront development district to be within the corporate limits of the city, and not extend more than one-half mile from the edge of the river or rivers along which the district is created. A riverfront development authority would be a separate political subdivision, similar to a municipal land bank. LB806 clearly establishes that a riverfront development authority would be subject to the

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open meetings act and that all of the authority's records and documents shall be considered public records. The authority would be appointed by the mayor of the municipality, with the approval of company's city council. Members would be required to have the collective skills, expertise, and knowledge in the areas of residential, commercial, and mixed use real estate development, financing, law asset management, economic and community development, and tourism promotion. Members of the authority would serve without compensation and avoid conflict of interest, as defined specifically in the underlying legislation. The authority would have the ability to enter into an agreement pursuant to the Interlocal Cooperation Act, adopt bylaws to regulate its affairs, enter into contracts, create and implement plans for improvements and redevelopment, develop, manage, and coordinate public activities and events, acquire, construct, maintain, and operate public off-street parking facilities, improve public places or facilities within the district, construct or install pedestrian malls or plazas and sidewalks, employ agents and employees permanent and/or temporary, grant or acquire a license, easement, or lease, make recommendations to the city or the municipality as to the use of any occupation tax funds or special assessment funds collected within the authority, accept transfers of real property or interest in real property from other political subdivisions, own or hold real property within the boundaries of the district, administer the use of revenue collected within the boundaries of the district, receive funding through grants and loans from municipalities, the state, the federal government, and/or any other public or private source, fix, charge, and collect rents and leasehold payments for the use of real property of the authority, invest money of the authority in instruments, obligations, securities, or property, and issue bonds...and I should reiterate issue any revenue bonds, as it's spelled out in the bill. The language regarding the revenue is modeled after the Business Improvement District Act, and similar to business improvement districts, this is a way for a municipality to be intentional about using the revenue from an area to improve that specific area. The potential interplay between business improvement districts and riverfront development districts is something that needed to be addressed in LB806. That issue, as well as several other improvements to the bill, are addressed in the amendment before you this afternoon. AM2137 is the result of discussions with stakeholders in technical and logistical considerations since the introduction of LB806 last month. The amendment would make seven primary changes: first, amend the definition of river; second, clarify that a municipality is to establish a cap on the bonding authority available for the use within a district; third, specify that the authority would make plans for improvements and redevelopment within a district in conjunction with the municipality that created the district; fourth, clarify that property owned by the district would be exempt from the taxation; fifth, insert language granting flexibility, so that the municipality may, by city ordinance, limit the powers of the riverfront development authority; this language is drafted to reflect that not only does the city establish the powers of the authority through its original city ordinance, but in their continued oversight, it would have the ability to make future changes as needed by city ordinance; sixth, broaden the potential improvements that may be desired to be addressed within a riverfront development district, such as construct, install, and maintain boardwalks, docks, barges, or wharfs; and seventh, the most

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substantial revision found in the amendment, is the addition of new sections that would address the issue of potential overlap of the levying of an occupation tax or special assessment for an area within a district. It was brought to our attention, through conversations with a number of stakeholders, that this change is needed to be made to avoid any unintended consequences, specifically with conversations within the city of Omaha. The new sections would ensure that property that may fall within a business improvement district and a future redevelopment district, or vice versa, would not have an overlapping financing mechanism. The ability to garner a special assessment would only be available within the district that was first utilizing that tool. The same would be true if the city created any new occupation tax within that authority. I want to draw the committee's attention to the fiscal note on LB806. It caught me by surprise, as well as others, as we were working on the amendment that there was a small fiscal note attached to this bill. We've started conversations with the Legislative Fiscal Office, in light of this bill mirroring similar bills that have come in front of this committee and others as it relates to creating special districts that serve as political subdivisions, in light of other bills not having a fiscal impact, in which the Fiscal Office is reviewing previous fiscal notes to similar concepts as it's laid out in LB806. It's true that municipalities could take steps to develop or redevelop their riverfront areas right now with existing authority, and from discussion with the League of Municipalities and others, it's clear that there is a desire to do that across the state of Nebraska. That makes this organizational tool timely and extremely relevant to this committee and to the Legislature in looking for ways that we can support local communities as they work to grow their local economy and grow tourism in their community. With that, Madam Chair, I'd be happy to answer any questions the committee may have. [LB806]

SENATOR CRAWFORD: Questions? Senator McCollister. [LB806]

SENATOR McCOLLISTER: Yeah, thank you, Madam Chair. Thank you, Senator Mello. You talked about stakeholders. Can you tell us who your stakeholders are? [LB806]

SENATOR MELLO: We've had a number of conversations, Senator McCollister, with municipalities across the state, obviously. We've had conversations with a number of stakeholders in the Omaha area, since that was kind of where the idea kind of came from, in light of a recent urban land institute report, talking with the League of Municipalities, amongst other organizations around the state. For the most part, the feedback we received, really there was some specific feedback we received from the city of Omaha that we address in the amendment, which we're very appreciative of. But shockingly, a lot of what we heard from a number of stakeholders around the state was more of why did we select the rivers that we selected. And there is one particularly that I'll draw the committee's attention to: the Big Blue River, that cuts into Senator Kolterman and Senator Ebke's district, was the one we heard a considerable amount of feedback from in kind of southeast, south central Nebraska, of people wanting to know why we didn't include that river in the original bill, in light of them seeing everything else in the bill

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that they were supportive of. But they just wanted to know more of why did we select the rivers that we did and if there was any potential conversations to expand the use of this tool to other rivers across the state. [LB806]

SENATOR McCOLLISTER: How about Salt Creek? [LB806]

SENATOR MELLO: We actually...I will be very diplomatic, actually. There was a joke made at our meeting we had on Friday about Salt Creek, and to some extent I don't think Salt Creek...I don't think there was a view of Salt Creek being a major river. While it does go across...it cuts across the city of Lincoln, it serves more as a flood control vehicle, maybe more than an actual river that's been used for major redevelopment, so to speak. And but no doubt, if the city of Lincoln was to approach us and ask us to consider that, and ask this committee to consider, I'm sure we would be more than willing to entertain conversations about Salt Creek. [LB806]

SENATOR McCOLLISTER: Well, thank you. You enumerated the powers this authority would have. Does it have eminent domain authority? [LB806]

SENATOR MELLO: No. [LB806]

SENATOR McCOLLISTER: So that would come from the city? [LB806]

SENATOR MELLO: That would come from the city. And that's a great question, Senator McCollister, because there is some misunderstanding of...initially misunderstanding of the bill when some people had approached us in regards to understanding the bill. The only...like other special districts that this committee has created over decades, the only real tax levying authority comes with the special assessment. And that is something that every special district essentially gets, in regards to levying a special assessment within that special district. Primarily business improvement districts being the main entity that utilizes special assessments. It does spell out in the bill that if a city chooses to create an occupation tax that the authority essentially has the ability to accept that occupation tax from the city and explain to the city this is how we're going to choose to spend the money that you give us from the occupation tax that's collected within our district boundary. So in that respect, it does not have eminent domain per your question, but particularly just touching onto those other taxing components, the special assessment occurs with pretty much every major special district that gets created. And the occupation tax is not...the ability to levy an occupation tax, cities already have that authority and that ability now, it simply spells out in the bill that they can accept that money from the city, and how the money would be spent. [LB806]

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SENATOR McCOLLISTER: Thank you, Senator. Thank you, Madam Chair. [LB806]

SENATOR CRAWFORD: You're welcome. Other questions? Senator Hughes. [LB806]

SENATOR HUGHES: Yes, thank you. Senator Mello, you'd liken this to a business improvement district, did I catch that correct? [LB806]

SENATOR MELLO: The best way to describe it, Senator Hughes, is it is a mix...it is a hybrid, conceptually based on existing statute between a business improvement district and a municipal land bank, which we created in 2013. [LB806]

SENATOR HUGHES: Okay. Then I also though you said that this, if they were to take advantage, the river development would not be able to partner with other...like a TIF or something. Did I catch that...I mean, you didn't say TIF, but they would only be able to take advantage of the river development district and not any other tax incentive? [LB806]

SENATOR MELLO: We spell it out in the amendment, and it was a significant issue that was brought forward, the city of Omaha in conversation brought it forward, again on our most recent meeting on Friday. The concern was if you have an existing business improvement district and you have some potential overlap with a riverfront development district, both districts can't utilize the same taxing source over the same piece of property. So if an existing district is there first, then if there is overlap you can't charge that other district the same kind of tax. And more importantly, what we've discussed is, and at least in the city of Omaha there is downtown improvement districts--there's a BID in downtown Omaha. And some of the properties may abut to each other, they may have a little overlap. And the question is, is you really can't include those properties in an overlap if you're going to use the same revenue stream, which would be a special assessment. [LB806]

SENATOR HUGHES: Okay. Yeah, I was looking at the tax side note, the revenue side. Okay, one last thing. You have in here Section 8, the bill provides that real property of a river development area and its income operations are tax exempt. [LB806]

SENATOR MELLO: Yes. [LB806]

SENATOR HUGHES: So is that like a business improvement district? [LB806]

SENATOR MELLO: Actually, what it's like is any political subdivision in the state of Nebraska. And actually, that Section 8 is why you see a fiscal note. Which is part of the discussion we're

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having with the Fiscal Office is all political subdivisions in the state are tax exempt, because...and particularly...and this particular subdivision is created by the city, which is already tax exempt. So our discussion with the Legislative Fiscal Office is we're providing them historical fiscal notes in other bills that have done very similar concepts. If a city has some of these existing authorities and they're creating a political subdivision within the city to carry out specific tasks, functions, and duties, you wouldn't be losing any new revenue because the majority of the existing operations or activities already fall within the city's ability, and so they're not paying existing taxes now on that. In the questions we're posing, we did this in 2013 with LB97 and the Nebraska Municipal Land Bank Act, a land bank is essentially a similar political subdivision created by a city to carry out functions on behalf of the city. And there was no fiscal note, as we mentioned, with the creation of a land bank because they're simply carrying out duties on behalf of the local government, in regards to, in theory, what the local government could already be doing piecemeal through a number of different approaches. We just consolidated, in this particular case, a number of existing concepts or an existing statute and put them all into one place. [LB806]

SENATOR HUGHES: Okay, thank you. [LB806]

SENATOR CRAWFORD: Other questions? I wonder if you could summarize what the shortcomings of a business improvement district are that this improves upon. You said it was a hybrid of the two, but if someone were to want to develop the riverfront with the business improvement district tool, what would be the shortcomings of using that tool? [LB806]

SENATOR MELLO: I think to some extent the shortcoming of a BID, it just doesn't have the same authorities as the land bank has, when it comes to acquiring, holding, developing some of the property the same way a BID does. A BID traditionally only does very public improvements: sidewalks, streetscapes, light posts, other components that are traditionally only very public amenities within a geographic boundary. The ability with the riverfront development district is they can go out and acquire land, hold the land on behalf of the city, in regards to being able to utilize that land for development along the riverfront if so need be. And so I think that is probably the biggest component and the biggest difference between a BID. And what you have in front of you in LB806 is that we've taken what we think is the best components of a land bank and have created it, in this particular case, to allow...we'll pick on Bellevue as a good example, in regards to Bellevue being able to create an area in acquiring land so to speak. This development district acquiring land, piecing the land together to be able to do a much bigger redevelopment area so to speak, whether it's a boardwalk, whether its a trail along the Missouri River that connects to some other component--Hayward Park, maybe, or somewhere else in Bellevue. That is probably the bigger differential of what we have in this bill, in comparison to what your traditional business improvement district is. [LB806]

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SENATOR CRAWFORD: Excellent, thank you. Any other questions? Thank you. Are you staying to close? [LB806]

SENATOR MELLO: I will, but I may waive closing, depending on quick or how long this goes. [LB806]

SENATOR CRAWFORD: Okay, excellent. Thank you. So we will now open for testimony in support of LB806. [LB806]

GARY KRUMLAND: Senator Crawford, members of the committee. My name is Gary Krumland, G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities, appearing in support of LB806. We do think this would be a good tool for cities to have to both improve the community and make the community more attractive both for residents and for visitors. As Senator Mello mentioned, it's kind of a combination of the new and the old. It's a new concept and it's targeted to a specific area, but it also uses a lot of the same powers and things that are already used for business improvement districts, which cities across the state are familiar with, and the new land bank. So it works in those areas and we think it would work here. It also allows cities to take advantage of the natural resource, the river that goes through or alongside of the city. Just looking at it, there's probably about 25 cities that would be eligible, simply because of the location of a river through or adjacent to the city. Whether all of them would even think about it, it would probably depend on the circumstances. But we do know there are several cities that have expressed interest in it. And as Senator Mello included, that included some of the cities along the Big Blue River. And we do support the amendment, but the city of Beatrice specifically contacted us and said it's not something that until the bill passes they would consider, but they would like to be included. Because for Beatrice, the river actually goes right through the city, through a park, they would be the ideal city for something like this to happen. So for those reasons, we do support the bill. [LB806]

SENATOR CRAWFORD: Thank you. Questions? Thank you for your testimony. Anyone else wishing to testify in support of LB806? Welcome. [LB806]

GARNER GIRTHOFFER: Thank you, Chairwoman Crawford, members of the Urban Affairs Committee. My name is Garner Girthoffer, G-a-r-n-e-r G-i-r-t-h-o-f-f-e-r, I appear on behalf of Omaha By Design in support of LB806. Omaha By Design is a nonprofit focused on urban renewal design. In particular, LB806 is attractive because it is narrowly tailored, specifically focused on redevelopment of the riverfronts, specific tools that aren't necessarily available under current law, at least in one package. And for those reasons, we support the bill and encourage you to advance it from the committee. [LB806]

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SENATOR CRAWFORD: Thank you. Questions? Thank you for your testimony. [LB806]

GARNER GIRTHOFFER: Thank you. [LB806]

SENATOR CRAWFORD: Anyone else wishing to testify in support of LB806? Welcome. [LB806]

STAN STAAB: (Exhibit 1) Good afternoon, members of the committee. Thank you very much for giving the opportunity to testify. My name is Stan Staab, S-t-a-n S-t-a-a-b, I am currently the co-chair of our group in Norfolk, Nebraska. We call ourselves the NorthFork Development Group. Approximately 11 years ago, a wide cross-section of visionary citizens, and I would mention that we are all volunteers in this group, ranging from about 10, to 15, to 20...it depends on who shows up. We're from Norfolk area, we formed a group called the NorthFork Development Project, we have been meeting monthly for the past 11 years. The purpose of our group is to assist in the creation of a recreational, residential, entertainment, and business corridor along the North Fork of the Elkhorn River to enhance the economic opportunities and the quality of life for the citizens of Norfolk and northeast Nebraska, and all citizens in Nebraska--possibly even our Iowa friends. I would ask you to refer to our handouts, they're professionally done by a group you may recognize--HDR, some years ago. We have a brand, we have branded our town, we are calling it River Point, especially the downtown area. If you've been to Norfolk...and if you've not been there, I advise you to come up and join us someday for coffee, we'll show you the town. The river literally is at the end of Main Street, from west to east, being on the east side. It's become a very interesting project. It started out slowly, there were a lot of people that wondered if we could make this happen. I have personally been to San Antonio River Walk a couple of times, and I've watched Omaha's work over the years, and I would applaud Omaha for taking the lead on this. It's very dynamic and interesting, exciting things that the city of Omaha is doing with the Missouri River. Norfolk was established along the North Fork of the Elkhorn River, in fact, they messed up the name. North Fork was supposed to be our official name, it was sent to the US Post Office in the years that we were founding, and they sent back a no, you can't spell it right, you're called Norfolk. So that's kind of an interesting trivia there. Areas along the river have become substandard over the years. Our community has begun working towards revitalizing the river corridor. In January of 2015, the Nebraska Game and Parks Commission awarded our city a grant in the amount of \$561,373, it's actually quite larger than that. The Natural Resource District contributed some of this also to this to construct over 5,000 feet of trails along the banks of the North Fork River, in an area called Johnson Park, which is an old area you might spot in those handouts--historic area along where the community was founded by the old mill that was put in on the North Fork. Tremendous amount of history goes back, actually to the founding of our community, and to this whole idea to try to resurrect some of these things. At this time, the ground is being prepared for the construction of the trail, we're hoping for fall construction. The actual construction is, as I said, scheduled for 2016. On

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behalf of our NorthFork Development Project organizers, we thank you for introducing LB806, and fully support this bill. Passage of this bill will allow both metro and rural communities, such as ourselves...I presume we're still considered rural, we don't think we are, but some call us that...to develop and promote usage of our rivers for economic and recreational purposes and support our vision. I would also like to thank the National Park Service, who we've worked with over the years on this, they have a stake in it, the Nebraska Game and Parks Commission. And you'll notice there's a seal on that one map from the landscape architects who donated their time and expertise two or three times to come up and give us some great ideas on planning for this. So I would like to thank and compliment them for their work, we appreciate that very much. Thank you, I'd answer any questions you might have. [LB806]

SENATOR CRAWFORD: Thank you, Mr. Staab. Questions? Thank you for sharing and testifying. [LB806]

STAN STAAB: Thank you. [LB806]

SENATOR CRAWFORD: Anyone else wishing to testify in support of LB806? [LB806]

PAT MRSNY: (Exhibit 2, 3) Good afternoon, Senator Crawford, members of the Urban Affairs Committee. My name is Pat Mrsny, P-a-t M-r-s-n-y, and I'm the parks and buildings maintenance superintendent for the community of Norfolk. The city of Norfolk is in support of LB806, the Riverfront Development District Act. Our community has long valued our position upon the banks of the North Fork of the Elkhorn River and the Elkhorn River. Many decades ago, the city, in conjunction with the US Army Corps of Engineers, installed a gated North Fork River flood control levee within the community. This forward-thinking action not only prevented damaging floods, but it also allowed our community the relatively unique ability to have a controlled river running through the center of our town. Over the years, there has been efforts made to designate the area along the banks of the river as a developmental riverfront area. From time to time, the city purchased some of the land along the river for recreational purposes and trails, but there remains significant blight and need for improvement and development. The elected officials and a cross-section of visionary citizens see the great potential LB806 could have in allowing our community the tools and funding necessary to improve and develop our river area. We believe the ability to officially establish a riverfront development district and authority is in lockstep with the strides we have made as a community in recent years and will greatly benefit Norfolk's ability to systematically and creatively turn our unique river into a Nebraska treasure for years to come. We would like to thank Senator Mello for his introduction of LB806, and would encourage all members of the Urban Affairs Committee to support the legislation. Thanks to each of you for your time and service to our state. I would be happy to attempt to answer any questions you may have. [LB806]

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SENATOR CRAWFORD: Thank you. Questions? Do you have a particular use of the tool, that you anticipate or are looking forward to using? [LB806]

PAT MRSNY: Well, it's just an added...you know, as we say, just another tool in the toolbox. We've had this vision in plan going way back to the 1970s, to develop our river. And of course funding, you know, we got to look at all the priorities, and we just haven't developed over time as fast as we'd like to. And we see this as being the tool that will help us accomplish that, to develop that riverfront corridor. [LB806]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you, thank you for coming. Thank you for your testimony. Anyone else wishing to testify in support of LB806? Anyone wishing to testify in opposition to LB806? Anyone wishing to testify in a neutral capacity on LB806? Welcome. [LB806]

CASSIE PABEN: (Exhibit 4) Welcome. 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 economic development for the city of Omaha. And today, I'm speaking on behalf of Mayor Stothert. Over the last year or so, the city of Omaha has been looking at ways to not only develop, but activate the riverfront. As part of this effort, we, along with the city of Council Bluffs, brought in the Urban Land Institute, or ULI, to study the area and establish a vision that allows both communities to better activate this space. Upon completion of their study, ULI released a report with recommendations to both cities on how to best activate the waterfront. We are currently in the process of developing an implementation strategy that addresses not only activation, but potential development for the riverfront. Although the city is always exploring new economic development tools, we do have concerns about the proposed legislation before you today. It is worth note, in his opening remarks, Senator Mello mentioned the amendment. We have been involved in some discussions, however, we have not seen the amendment as written today that was given to you, so our concerns are based upon the introduced legislation. Our concerns are the implementation of the riverfront development district, or RDD, would result on a tax increase for the citizens of Omaha, either through an occupation tax levy within the district boundaries or through a special assessment to the property owners within the district. We have heard repeatedly from the citizens in our community that they do not want their taxes raised, and the mayor does not support a tax increase. The proposed legislation does not address the RDD if formed, and how that would work with a business improvement district. Now I know in the amendment there is some language, however, the copy that we had to go off of did not address this. In Omaha, our current downtown improvement, or our BID, does include a significant portion of our riverfront. There could be some complications on how you would handle the assessments, you could also have business owners or property owners within there potentially having two different assessments. The legislation, as it's currently written, not withstanding the amendment, does not provide a cap to the bonding authority of the RDD. Not

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having a cap in place provides uncertainty to property owners and business owners in the area, as to what the additional tax that they would be paying could be. And moreover, and this again I believe is addressed in the amendment, but LB806 would allow the riverfront development district to create or implement plans for improvements for redevelopment within the boundaries on its own, or in conjunction with the city or other public or private entities. Given what the city has already undertaken with its downtown master plan, along with other studies, and being a significant property owner along our riverfront, we would expect that any plans that were done with the riverfront development district be done in conjunction with the city, and not in a silo. For these reasons, this is why the city of Omaha will remain as a neutral party. And I'd be happy to answer any questions. [LB806]

SENATOR CRAWFORD: Thank you. Questions? Yes, Senator Howard. [LB806]

SENATOR HOWARD: And I know you heard some of the outline of the amendment. Did that predominantly address your concerns? I'm hearing the same things from your testimony that were in the amendment. [LB806]

CASSIE PABEN: Potentially. I'd need to read the amendment as it's written. I believe it could potentially address some. You know, a large part of it is that depending on how you look at it, you're looking at a tax to ultimately pay off bonding capacity that the authority would have or to pay off those revenue bonds. And again, I would go back to we've heard repeatedly from citizens that they don't want a tax increase or an additional tax. [LB806]

SENATOR HOWARD: And so if these concerns were addressed, would you be supportive? [LB806]

CASSIE PABEN: I can't say, without reading the amendment. [LB806]

SENATOR HOWARD: Thank you. [LB806]

SENATOR CRAWFORD: Other questions? Thank you for your testimony. Anyone else wishing to testify in a neutral capacity? Would you like to close? [LB806]

SENATOR MELLO: Briefly. Chairwoman Crawford, members of the committee, I will ensure that Ms. Paben, from the city of Omaha, will get a copy of the amendment. I thought we had e-mailed everyone we talked to on Friday a copy of the amendment. So I will follow up with my staff member, who is helping staff the Appropriations Committee right now, to make sure the city of Omaha received that amendment prior to today's hearing. The issue that was raised, as I

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will reiterate it, the city already has the authority to levy an occupation tax or special assessment. There is no new tax provided in this bill that the city of Omaha, or any other cities for that matter, don't already have available to them right now, if they so choose to utilize it. This simply dictates that if they choose to utilize those taxes within this certain geographic area in a district the money would go back to the district to be able to use for the purposes that we spell out in the bill. So I want to be very crystal clear in regards to that was both in the original bill and it's part of the amendment version of the bill. All cities have the ability to levy these occupation taxes and the special assessments, they would be the ones that would make the determination of whether or not to levy these taxes in the first place. So it's purely enabling legislation, in regards to whether the cities choose to utilize that as a revenue stream. They may simply choose to utilize private dollars, philanthropic dollars, any other kind of mechanisms. They may choose to use existing general fund property tax and sales tax dollars for a city to cover the cost. That's left up to the city to decide, that's not spelled out specifically in the bill. The other big component, and it was laid out in the amendment that you heard, in regarding the capping the bonding authority. As we mentioned in the amendment, they can only do revenue bonds, in regards to the district. So that's something that's very clear, there is no general obligation bond, they have to have a proven revenue stream and/or physical property to serve as collateral in regard to doing any bonding. Very similar to what the Nebraska Municipal Land Bank Act is spelled out as well, that that authority, that special district can only do revenue bonding in a very similar capacity, which is why we included it very similar in what you have in front of you in LB806. The bigger issue I would make though, is that this is not a bill purely about the city of Omaha. As you can see from the map, and you can see how we've drafted the bill, this is trying to apply to cities across the state that have riverfront areas that they may want to use a special district because they don't use business improvement districts. And that's something that I'd bring to this committee what we had last year, when we brought the Business Improvement Modernization bill, is that most only Omaha and Lincoln utilize business improvement districts. So a city like Crete, a city like McCook, a city...you know, to some extent, you're the only two senators not from an urban area outside of maybe Bellevue. There's just...business improvement districts just aren't used in smaller first-class cities across the state. This is an opportunity to take what we see in the major urban areas with the business improvement concept and make it work for smaller communities across the state as well. And I think that's something to point out, in regards to this bill, probably more than anything else. Is looking at, just what you heard from the city of Norfolk, in regards to the North Fork Development Project that's been going on for a number of years, and to some extent what we've heard from our friends in the city of Beatrice, in regards to the Big Blue River, that cuts through the core of their city, of wanting to have some additional tool that they could utilize in regards to doing major development or redevelopment along their riverfront, to the hopes of bringing more tourists and building more economic growth in their city. It's something this committee hopefully will look favorably on in some respect, it's something that this committee has looked favorably on over a number of years, with similar concepts and bills that I and other senators have brought before you. As always, if there's any questions or any other

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concerns that do get raised, by all means I'm here to answer any questions. But I want to reiterate the taxing component can only be reiterated so many times, this is no new authority. Cities have this authority right now in existing statute to do both the special assessment and the occupation tax, and that's a determination that they would make through their own city local governing body to make, not through the actual bill itself. With that, I'd answer any questions you have, Madam Chair. [LB806]

SENATOR CRAWFORD: Thank you. Senator McCollister. [LB806]

SENATOR MCCOLLISTER: Yeah, thank you, Madam Chair. I know this isn't Omaha-centric, so to speak. Didn't the ConAgra situation precipitate this particular bill? [LB806]

SENATOR MELLO: I think it sped up the process, in regards to looking at something that could be given to the city of Omaha for the ConAgra campus, in case that ever became available to do redevelopment, Senator McCollister. That really did accelerate, I would say, the discussions, the thought process, some of the ideas, in regards to getting something crafted, in light of what we saw on October 1 with ConAgra, a Fortune 500 company choosing to move its headquarters out of the city of Omaha. [LB806]

SENATOR MCCOLLISTER: Thank you, Senator. Thank you, Madam Chair. [LB806]

SENATOR CRAWFORD: Thank you. Any other questions? Yes, Senator Hughes. [LB806]

SENATOR HUGHES: Yes, thank you. So I guess, walk me through this just a little bit, that the city of Omaha would acquire property along the riverfront? [LB806]

SENATOR MELLO: Well, any municipality with the creation of a riverfront development district...and I know Senator Crawford asked a question, my staff passed me a note, as well as the legal counsel provided her a note that reiterated the same thing, which is business improvement districts right now...if the city of McCook wanted to do a business improvement district, it must be in an existing business area. So if you had a riverfront area that was undeveloped, your business improvement district couldn't go there and collect and get to that. That's the challenge right now with the existing business improvement district model. So to some respect, Senator Crawford asked the question why this over a BID, that's probably as much of another reason why you'd want this over a BID. Because you can't get the BID to that undeveloped riverfront area. Your question, Senator Hughes, is in the sense that this district, as created by let's say the city of McCook, could go...or maybe actually, let's pick a city that actually could use it, because McCook may not...yeah, McCook could use it, but let's pick Benkelman, since that's my favorite

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community I always like to utilize. If Benkelman chose to create a riverfront development district, and through city ordinance created the riverfront development authority, that authority could acquire property along the riverfront. They'd have to purchase it, they couldn't use eminent domain to get it, but they could acquire the property whether through donation, whether purchasing it, whether it went through a tax sale certificate process. To some extent, they could try to put bids out there. They could acquire property, so to speak, very similar to what we've discussed in regards to a Municipal Land Bank could try to acquire that property. They then can do something, whatever they chose to do with that property, but it would also, as the amendment points out...and it was a concern that was raised by stakeholders, including the city Omaha, is if the city has a master plan already, with regards to with that property and with that area, that the riverfront development authority can't just go build whatever it wants on that property. It's got to fall in line with what the city has already laid out as part of their overall master plan. And whether they're a city of the second class or a metropolitan class, they all have master plans that lay out, so to speak, what their intended purpose and goals are of the community, how certain areas of the city should be zoned or should be looked to develop. So that's one caveat. If they can acquire the land--they can buy it, they can get it donated, but to for them to develop the land or do something with that property along the river...if there is a master plan that says here is what we want to see happen with it, they've got to follow that master plan or work in conjunction with city leadership to be able to move forward with that. [LB806]

SENATOR HUGHES: Well, let's go back to my favorite city, Omaha, and talk about what...if the river development plan, and there was retail developed in there, that would have to be in private hands? That would not be in city leases or anything like that? [LB806]

SENATOR MELLO: The city...I think to some extent, Senator Hughes, that the focus is more on the public infrastructure and other infrastructure needed along the riverfront. If there was a business that was to move down there, so to speak...you know, if they wanted to rent space or rent land from the district authority, it spells out in the bill that the riverfront development district or the authority can lease land to other people to utilize the land for other purposes. So it would be...I don't think you're going to see local government create private businesses that they would house on the riverfront development kind of geographic area. It's more of getting the land ready, getting the land developed so that you can do something with that land. As what we've discussed before, a lot of opportunities or parks...kind of public spaces to be used for concerts, festivals, things of that nature, transportation components that may be needed to move people from one area of the river to the other. That really is kind of what is spelled out in the bill. Not so much that a city would go and create a private for-profit business, so to speak, operated by the district, operated on behalf of the city of Omaha. Because that's just not their responsibility. [LB806]

SENATOR HUGHES: So it would not necessarily resemble the River Walk in San Antonio, where you got a huge retail development along... [LB806]

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SENATOR MELLO: Well, I mean, you could have...now the difference is...an ideal world, look, I think most people would love to see a San Antonio River Walk kind of concept along the Missouri River and the Omaha, Council Bluffs area. The challenge is that's a much bigger river than what you have in San Antonio. But there was obviously a concerted effort to build certain developments along that river and to try to encourage private development along that river to help bring in private businesses to rent commercial space from a number of different developers and property owners there. So that can be done with the authority, they can help facilitate acquiring the land and then selling that land back to someone else and say if you want to develop a beachfront restaurant on the shores of the Missouri River, that's something that they can help create along that process. But they would not own that private development, though. [LB806]

SENATOR HUGHES: Okay, that's really where I wanted to go. To make sure that any land being taken off the tax rolls, thus continuing to erode the revenue for school districts under the TEEOSA formula is not going to come back to bite us. [LB806]

SENATOR MELLO: No, it will not. [LB806]

SENATOR HUGHES: Thank you. [LB806]

SENATOR CRAWFORD: Other questions? Could you talk about the difference between this special district issuing a revenue bond and the city issuing a revenue bond to do improvements? [LB806]

SENATOR MELLO: While I'm not probably near the expert that your legal counsel is in this issue, I would say my general understanding is it's very similar. I mean, the reality is if an SID or a business improvement district chose to issue a revenue bond, they would have to provide the source of revenue in regards to how they were going to pay off that bond, and a stream of revenue to pay for it. In this particular case, the challenge will be a little bit is they've got to develop a revenue...if they're going to bonding, which in the amendment caps bonding, they've got to show how they're going to pay for it. And it's going to have to be revenue either from some form of revenue the city would give them, in some form or another, and/or they would acquire property that would then serve as the collateral for the revenue bond in light of if the revenue bond was not paid, they would lose and forfeit the property they own and essentially to whoever they took the bond with. So similar to how we create it with the Land Bank Authority, which creates a very similar mechanism of revenue bonds having to have certain collateral to be able to do it, if you don't have an ongoing revenue stream. The challenge still is most people are not going to give revenue bonds to a political subdivision without a very strong revenue stream to pay off those bonds. [LB806]

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SENATOR CRAWFORD: Okay, thank you. Any other questions? Thank you. [LB806]

SENATOR MELLO: Thank you. [LB806]

SENATOR CRAWFORD: (Exhibit 5, 6, 7, 8, 9, 10, 11) For the record, we have letters of support from Mayor Sue Fuchtman, from the city of Norfolk; a letter of support from Norfolk Area Visitors Bureau; a letter of support from Norfolk Area Chamber of Commerce; a letter of support from Omaha City Councilman Gary Gernandt; a letter of support from Omaha By Design; a letter of opposition from Nebraska Hotel and Lodging Association; a neutral letter from Greater Omaha Chamber of Commerce; and a neutral letter from Mayor Jean Stothert, city of Omaha. With that, we will close our public hearing of LB806. And we will be going into Executive Session, so as you leave, we just ask (Recorder malfunction). [LB806]