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Urban Affairs Committee
August 18, 2016

[LR490]

The Committee on Urban Affairs met at 1:30 p.m. on Thursday, August 18, 2016, in the Bremer Center, Aurora, Nebraska, for the purpose of conducting a public hearing on LR490. Senators present: Sue Crawford, Chairperson; John McCollister, Vice Chairperson; Laura Ebke; Curt Friesen; Matt Hansen; Sara Howard; and Dan Hughes. Senators absent: Colby Coash.

SENATOR CRAWFORD: (Recorder malfunction)...do not enforce the energy code. In areas where the local political subdivision has not adopted an energy code or does not enforce the energy code, engineers, architects, and builders are still legally required to ensure that new construction, renovation, and additions to existing buildings meet the Nebraska energy code. The Nebraska Energy Office does provide limited enforcement of the energy code in those jurisdictions, but only on a complaint basis. Another key distinction between building code statutes and the energy code statutes is the difference between language allowing political subdivisions to amend their local building code and the statutory language allowing political subdivisions to amend their local energy code. Under the Building Construction Act, political subdivisions that adopt a local building code have the option to modify their local code as long as it conforms generally to the state building code. In contrast, political subdivisions that adopt a local energy code must meet or exceed the Nebraska energy code. As part of the LR490 study, my office worked with the League of Municipalities to conduct a survey of municipalities on a number of issues related to code adoption and enforcement. I've asked the committee legal counsel to brief the committee on the preliminary results from the survey, which hopefully will help paint a picture of code adoption and enforcement in municipalities across the state. We've also heard one issue on the building code related to day-care codes and inconsistency between code in our HHS statutes and building code statutes on day care, which we will probably address in the December hearing if we don't hear about it today. While we regularly hear from city and county officials in Omaha and Lincoln, today's hearing provides the committee with an opportunity to hear from Nebraskans who might not otherwise travel to Lincoln for hearings. In addition to the briefing from committee legal counsel, there are a number of testifiers behind me to talk about various code issues, including several code officials from area communities. I will likely defer any technical questions to committee counsel, but I would be happy to try to answer questions. [LR490]

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SENATOR McCOLLISTER: Thank you, Senator Crawford. Members of the committee, do you have any questions? Thank you. [LR490]

SENATOR CRAWFORD: Okay. [LR490]

SENATOR McCOLLISTER: Mr. Fitzgerald, you're up. [LR490]

TREVOR FITZGERALD: (Exhibit 1) Good afternoon, Chairwoman Crawford and members of the Urban Affairs Committee. For the record, my name is Trevor Fitzgerald, T-r-e-v-o-r F-i-t-z-g-e-r-a-l-d. As Senator Crawford indicated, the purpose of my testimony is to brief the committee on the results of the LR490 code survey that was conducted by the League of Municipalities in conjunction with our office. The survey, which was conducted in July, asked municipal officials a number of questions regarding their local codes, including: One, which standard codes they have adopted; two, whether they have amended any standard codes as part of the adoption process; three, whether they help enforce state codes, such as the Nebraska Energy Code, the state electrical code, or the state fire code; four, whether they have an active code enforcement program; five, what penalties they have in place for code violations; six, whether they have a contract or licensing or registration program in place for building contractors; and seven, what remedies are available to property owners within their municipality to address code compliance issues. The survey was distributed on-line to municipal officials on July 11 and closed on July 22. During that two-week period, we received responses from 78 different municipalities throughout Nebraska. Since the survey was conducted anonymously and did not require that municipalities identify themselves, we only know the classification of 57 of the 78 who willingly identified themselves. Of those municipalities which listed their classification, there were 23 cities of the first class, 18 cities of the second class, and 16 villages among the survey responses. So while we didn't get a survey response from Omaha and Lincoln, we generally know what Omaha and Lincoln are doing with codes, but this gives a good kind of broad grouping of other sized classes of municipality. Again, a copy of the survey results or the summary results from the survey are included in your materials. As a refresher for committee members, since 2003 Nebraska has adopted as its state building code a series of model codes published by the International Codes Council, or ICC, which is a national association that develops model building codes and standards. The state building code consists of three model codes: The

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International Building Code, or IBC; the International Residential Code, or IRC; and the International Existing Building Code, or IEBC. New editions of these codes are published every three years and the state has currently adopted by reference the 2012 editions of these codes, with the exception of the residential fire sprinkler mandate in the IRC and the energy efficiency chapters in both the IBC and IRC. As Senator Crawford noted in her testimony, counties, cities, and villages may adopt a local building code as long as they either adopt the state building code or a building code that conforms generally with the state building code. Political subdivisions may amend their local codes for a variety of reasons, but also must regularly update their code, which is defined in statute as updating the code within two years of any update to the state building code. Of those municipalities that responded to the survey, 73 percent reported that they have adopted a local building or construction code. As is to be expected, villages were more likely not to have adopted a local building code and most municipalities that did not identify their classification in the survey also reported that they did not have a local building code. Most municipalities that did report their code reported that they are currently on the 2009 editions of their building codes. Since the update of the state code to the 2012 editions did not go into effect until August 30 of last year, municipalities have until August 2017 to update their codes in compliance with statute. While a handful of municipalities have already updated their local codes to the 2012 editions, or have even adopted the 2015 editions in several cases, the survey did reveal that a significant number of municipalities are currently operating under prior editions of the code. I would note that under Section 71-6406, no political subdivision may adopt or enforce a local building code, other than as provided under the Building and Construction Act. So if a political subdivision fails to regularly update its code as required, then it may no longer enforce its code. This means that any municipality still on a pre-2009 version of either the IBC, IRC, or IEBC has a local building code that is technically unenforceable, since the two-year window to adopt the 2009 code editions has already passed. A small number of municipalities also appear to have language in their ordinances providing for automatic adoption of new codes, which constitutes an unconstitutional delegation of legislative authority. Language in state statute which permitted automatic adoption of new codes was partially repealed in 2014 and fully repealed last session with the passage of LB704. A high percentage of municipalities have also elected not to adopt one of the three codes that make up our current state building code: the IEBC, the International Existing Building Code. Since the IEBC was not added to the state building code until 2010, it's possible that the inclusion of the IEBC in local codes is simply

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trailing behind its inclusion in the state code. It's also worth pointing out that political subdivisions do have the ability to adopt only some of the codes in the state building code, but it is notable that less than half of municipalities that reported adopting a local building code chose to include the IEBC in their local code. Moving to the amendment of local building codes, municipalities reported a wide range of different amendments to their local codes, most frequently reporting that they, like the state, had to remove the residential fire sprinkler mandate from the IRC. As a general trend, cities of the second class and villages were more likely to simply adopt the state building code in its entirety, while cities of the first class were more likely to amend their standard codes in some way. Another common trend in the amendment of codes is the adoption of what I like to call supplemental codes. These are standard codes which, while not as all-encompassing as say the IBC or the IRC, work in conjunction with those major codes. Commonly adopted supplemental codes include the International Property Maintenance Code, or IPMC, International Mechanical Code, or IMC, International Fuel Gas Code, or IFGC, International Swimming Pool and Spa Code, or ISPPSC, and the International Green Construction Code, or IGCC. Plumbing codes were another common form of supplemental code that was frequently adopted by municipalities. Nebraska's plumbing code statutes allow municipalities and counties to adopt their own plumbing code, but also provide for a default code in the event a jurisdiction has not adopted a plumbing code. The current default plumbing code in state law is the 2009 Uniform Plumbing Code, which is promulgated by the International Association of Plumbing and Mechanical Officials. Interestingly enough, the majority of municipalities that reported to us that they adopted a plumbing code elected to adopt the ICC-promulgated International Plumbing Code, rather than the Uniform Plumbing Code. Since this is an area where there are two competing standard codes and since the default plumbing code has not been updated since 2011, this is something where the committee may wish to reexamine the decision to continue utilizing the UPC as the default code at some point in the future. Moving next to the enforcement of state codes, a slim majority of municipalities stated that they enforce the fire code, while a majority said that they did not enforce the electrical code or the energy code. At the same time, a number of respondents on the fire code and electrical code pointed out that they use state inspectors with either the State Fire Marshal's office or the State Electrical Division. So in all likelihood, most enforcement of those two codes is currently being done by the state. While the exact number is unclear, it does appear that a significant number of municipalities which have adopted a local building code are not enforcing the Nebraska Energy Code, which is

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the 2009 edition of the International Energy Conservation Code, or IECC. In fact, it's possible that some municipalities may actually be enforcing an energy code that is less restrictive than the 2009 IECC, which is a violation of the energy code statutes. As the committee heard during the LR174 interim study on the energy code last year, prior to the 2012 code cycle the IECC and two of the codes which make up our state building code, the IBC and the IRC, were separate codes. They remain is separate sections of state statute currently, but beginning with the 2012 published codes the energy efficiency chapters of the IBC and the IRC incorporate the IECC by reference. Should the Legislature decide to update the energy code to either 2012 or 2105 IECC, the question of whether to keep the energy code separate from the state building code or integrate the two could affect how the energy code is currently being enforced in many jurisdictions. In addition to code adoptions, the survey asked municipalities to briefly describe their code enforcement procedures. I won't go into a lot details because we have code officials behind us. There are a number of municipalities that have adopted a local building code but do not have an active code enforcement program. But most municipalities that have adopted their own codes have some form of permanent funded code enforcement. In some cases, smaller municipalities have utilized interlocal agreements to contract with nearby larger cities or counties for code enforcement. I believe we have a testifier behind us who can talk about those kind of situations. In terms of penalties, the municipalities reported using a variety of techniques to ensure code compliance, including fines, double permit fees, loss of inspection deposits, denial of occupancy certificates, and in some rare cases legal action. A handful of municipalities have enacted local contractor licensing or registration programs, which provides them with an additional tool to help spur compliance by contractors. These local contractor licensing and registration programs vary, with some applying only to certain subsets of contractors, such as plumbers and electricians or HVAC contractors, while others apply broadly to all building contractors. When asked as part of the survey whether current penalties were sufficient to ensure future code compliance, most municipalities stated that they had minimal compliance issues. In those municipalities where there had previously been compliance issues, problems cited included insufficient staff or resources, difficulty getting the city to bring court action, judges assessing low penalties in those cases that are taken to court, and the fact that any fines collected do not return to the city, they must be allocated to the local school system. As Senator Crawford noted, there are multiple code officials behind me who plan to testify and can speak in far more detail about local code

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enforcement than I can, but I would be happy to answer any questions the committee have at this time, either regarding the survey results or any code-related issues. [LR490]

SENATOR McCOLLISTER: Are there any questions for Mr. Fitzgerald, committee members? Thank you very much. Now I ask for the other speakers to sign in, please, and then please come up, and we appreciate your testimony. [LR490]

CRAIG LEWIS: I guess I get to be first. My name is Craig Lewis, C-r-a-i-g L-e-w-i-s, and I'm from the city of Grand Island. I've been a building official there, I've been a building inspector and a building official for the last 35 years, so I've been there for some time. I guess I was asked to come today. I don't have any great testimony other than to tell you that, yes, the city of Grand Island adopts building codes and enforces those building codes. We do, as you've seen, we currently adopt the 2012 IBC, IRC. We do not adopt the International Existing Building Code, have some kind of a heart murmur with some of those things at times. If you read that code, it simply refers you to the two building codes. So sometimes I think that's just an effort to buy another...or sell another book from the ICC. So I think there's an opportunity to not have that. With the 2015, that may change because of the Chapter 35, which is the existing building code, is no longer a provision of the code. Again, we adopt codes throughout the city of Grand Island, two-mile jurisdiction. Probably typically in a typical year we do about \$75 million of construction. The last couple years we've done \$130 million, \$135 million worth of construction, so we've had some pretty good construction years. We adopt building codes, plumbing codes, electrical codes, we do all that ourselves. We do not adopt the International Energy Code. The state said they would come and do that, and we've relied on their expertise to do just that. You know, one thing that was mentioned or was not mentioned a little bit about the different codes the state has, Title 124 does tank and field or septic tanks and leach fields on private on-site waste water treatment facilities. They did that a number of years ago. We inspected those for probably the past 50 years, and the state came in and said we will take over that responsibility. We let them do just that. We also get involved in a lot of, you know, property maintenance codes as well. Again, we're a somewhat small jurisdiction. We have two building inspectors, two electrical inspectors, two plumbing inspectors, a plans examiner, myself, and two counter personnel. Like I said, we do \$77 million to \$130 million a year. It keeps us fairly busy. You know, \$6,000 to \$7,000...or 6,000 to 7,000 permits a year and about that many inspections. I

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would say that enforcement is usually fairly good. Do we have enforcement problems, not as widespread, but we do at times. The frustrating part for us as a inspector official is the legal system. We have a great legal system, probably the best in the world, but it takes a lot of patience. A lot of time when we do minimum housing, we just got a current problem right...with a property right now. We actually contracted out with a local attorney; by the time he did the briefs to get in front of the council, it's going to take us 90 days just to get in front of a judge to get this boarded up, open and accessible public nuisance in front of the court systems to allow us to take it down hopefully. So that's the issue I would tell you that we have, that it's a long process. It's a good process to go through legal. We shouldn't be taking anybody's property away from them without a process, but the process can take years and years and years for us to get much accomplished. With that again, I don't mean to testify in great detail. I'm just curious about there are a lot of jurisdictions within the state who adopt building codes. I would tell you that the Nebraska Code Officials Association is a good association. And when you get contractors or builders come to our town and say, why are you doing this different; I don't have to do this in Lincoln; I don't have to do this in Omaha; I don't have to do this in Hastings, I want to say, really? Just a minute, I'll get them on the phone and we'll find out what's going on. It changes the situation a little bit. We talk quite frequently. With that, I'm more than happy to answer any questions. But again, it's an interesting career to have for the last 30-some years. The days are always different. You get great builders, great contractors, and you get some that aren't so great. But (inaudible) throughout the process you get it done. We have very few. Occasionally we will have a homeowner or a property owner and a builder that just can't seem to get along, but usually we're able to work some of those things out. I know you mentioned the state energy code, that we did have, you know, and the State Energy Office came to Grand Island on one particular case and did a good job of studying and finding out that there was deficiencies in the house. And again, the remedies again...I don't know, that's way above my pay grade. That's more the legal professional's pay grade to figure out what remedies there are. But I think typically they are civil and the city does get involved in them. And I find it kind of interesting because I've always been of the opinion that as a building department we cannot assess fines, we cannot assess penalties. We can charge a investigation fee, which amounts to that but penalties are by the court system. So that's kind of our only option to get penalties assessed but go through the legal system.

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SENATOR McCOLLISTER: Thank you, Mr. Lewis. Questions from committee members?
Senator Crawford. [LR490]

SENATOR CRAWFORD: Thank you, Senator McCollister. Do you have any provisions where if a builder is not passing inspection there would be consequences for future permits or... [LR490]

CRAIG LEWIS: No. No, I think it's a little bit difficult. Oftentimes you may find a contractor that built a house for somebody and if you have an issue with this property is it fair to put somebody else in jeopardy and say, no, you can't build on this one because you're using the same builder? That puts a penalty probably on someone that's not involved in it, so we do not. And again, I don't...we have some of those...we have the contractors that if you had issues with them in the past you usually watch out for them and they know that we know that they have had some issues. But most of them are trying pretty good to do what they are supposed to do. [LR490]

SENATOR McCOLLISTER: Any other questions? I have a question. In your vantage point in your long experience with this, are there any suggestions that you can give to us as we move forward to perhaps revising this, some of these statutes, that would make your job easier or... [LR490]

CRAIG LEWIS: Keep it simple. [LR490]

SENATOR McCOLLISTER: Keep it simple. [LR490]

CRAIG LEWIS: It's...I just read and I talked to our...you know, we also have a local arm of the Fire Marshal's Office in Grand Island. So when we deal with the Fire Marshal, I can deal with him. It's fantastic because if I have a question...day-care centers and those kind of things that come up, he's two doors down. I walk down and get him and we deal with liquor license inspections and day cares and all those things. It's...and I see this, that he has...the State Fire Marshal just put it in a memorandum to him of their process going and updating their code. I think they're in the 2000 Life Safety Code. Now they've got to go to 2012. Twelve years is a long time not to update your codes, so. And it looked to me like that was an exorbitant process to go through that. So I would encourage you to, you know, keep whatever process you can somewhat

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simpler. You know, and I know that years ago we tried to say there was an automatic update which, you know, you can't do that, that's unconstitutional, which I understand that. But it would make it simple because once you adopt a code as a state building code or once we get a new code, I go through the process with our local Building Code Advisory Board. We sit down, we get...they publish what's called a significant amendment or significant changes to the codes. We go through those, we go in front of that Building Code Advisory Board, which is made up of local architects, engineers, builders, homebuilders, walk through that, say, okay, here are all the changes. You know, for one, R313 is the residential sprinkler code. While our local residential housing contractor went through the roof, you know, when they found out this was a provision in the code. So we go through those a lot and then we go to our city council and say, here's what we recommend. And I know as the Nebraska Code Officials, when you change it seems like it's quite a process to go from the 2012 to the 2015 or to change those codes. So I would say, yeah, keep it as simple as you can to get those codes there and then certainly allow local jurisdictions to make amendments. Each jurisdiction is different. City of Hastings is 30 miles south of where we are. Our soils are entirely different, you know. There's (inaudible) sand; there's (inaudible). There are local things that you need to address when you get into those codes. And again, the relationship between the fire code and the building code, you know, the Fire Marshal's Office does a great job. They got a big area. I think oftentimes they fail to appreciate that theirs is a use code and it's a fire code where they look for exitings, they look for, you know, occupants and all those things. And the building code just does things like snow loads, wind loads. That building code, if you look through it, gets through there and says, okay, here's how many people I have. It requires a fire alarm system, requires a fire sprinkler system. If you look at that code, there's a lot of references to NFPA, so those NFPA codes and the ICC codes work and conform to each other. They're all there for one reason: it's to get a safe place to be. And again, I always tell people, you walk in a building like this and you kind of take it for advantage when you go out to a mall or you walk in a building that everything is good. Well, that exit door back there didn't just happen to be there, somebody asked for it to be there. When you take a drink of water, you expect that water to be clean. That didn't happen, there's a lot of work that went into that water to make sure it's clean when it got to your site. So... [LR490]

SENATOR McCOLLISTER: Very good, thank you. Anything else, committee members? Thank you, Mr. Lewis. [LR490]

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CRAIG LEWIS: Thank you. [LR490]

MARK EVANS: Good afternoon. My name is Mark Evans, M-a-r-k E-v-a-n-s. I'm Mr. Lewis' neighbor to the south. I'm from Hastings, Nebraska. I've been working there for an astounding 18 years. It doesn't seem like that long, but the years go by. I wanted to just maybe touch on a few things that Mr. Fitzgerald had spoken about. And I guess some of the real questions would be, if that's okay, would be, you know, is the International Existing Building Code mandatory then or not? That's one thing I had a question on. Another thing that you touched on at the end was penalties, and Mr. Lewis also spoke to that. But one of the things that was stated was that the fines then go to the public school system. And one of the things that some jurisdictions have adopted and the city of Hastings has done, and we do it more with our nuisance and property maintenance issues than building code violations, but would be a diversion program where you send them a letter; you say you're in violation; if you come in and pay this fee and then you go through this diversion process, then the moneys can go into a diversion fund and the cities can retain some of that money. And it doesn't work for every problem or every issue, but it is one way that the cities have found a creative solution to that problem. It keeps the court system from having to hear some of these minor and petty issues, and it provides some additional revenue for the city. The city of Hastings, I think our diversion fund is sitting around \$15,000, which would be enough to maybe abate or mitigate one or two abandoned properties that need demolished and tore down, that have been abandoned essentially--either absentee owner or a bank has acquired it. We have one property that is owned by a bank in Utah and, you know, they have no interest in coming back to Hastings and cleaning up that property so. Property maintenance is a time-consuming process. It takes a long time to get a property, you know, we give them notice and they have maybe 60 or 90 days to abate it. If it is an abandoned property, then we're trying to find the owner. Then we have to go to the district court and get a court order to demolish that property and it can take, you know, upwards of one or two years to get these properties to a position where the city can then go in and demolish them or abate them. So I wanted to visit a little bit about that. Backing up, Hastings adopts the International Building Code, International Residential Code, International Existing Building Code, a number of things. One thing that Hastings is a little different than Grand Island and some other jurisdictions, we do not have our delegated authority from the State Fire Marshal's Office. So there's kind of two options there. The State Fire Marshal can have a delegated authority as an employee of the jurisdiction and

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they enforce locally the Fire Marshal's Life Safety Code. Hastings doesn't have that, so we have a district inspector who covers a number of counties. And he would act more like the state electrical inspectors do. So that can be a little bit of a challenge when it comes to permitting and plan review. You know, plans come in to our office, we review them, we issue a permit, and then they have to submit plans to Lincoln to the State Fire Marshal for review. And so it sometimes adds a little...I don't know if you want to say confusion, but another layer to the permitting process. And so that some communities enjoy...Mr. Lewis says, you know, if he has a question, he's two doors down, and for us it's, you know, we have to make a phone call and...or make an appointment and have a meeting on site. It's not insurmountable, but it is a little different process and I wanted to just point that out that there are two different conditions there. Probably the other thing that I guess I would like to just maybe point out is through a little bit of a story. So...and I'm sure you understand, but when a building code is adopted...like the city of Hastings, we go an extra two miles for our extraterritorial zoning jurisdiction and we enforce the building code in that. But then outside, once you cross that magic line and you're out into the county, the county doesn't adopt or enforce any building code or life safety code or anything like that. And so we get the occasional call from either a village or a resident in the county, hey, I'm having problems with my builder. What can I do? And, you know, the only remedy that they have is a civil suit. And, you know, for the state to hire inspectors and employ them, you know, and cover those rural areas, I understand that would be a tremendous financial burden and so I'm not sure that there's a really great solution out there. One of the things that was mentioned at the Nebraska Code Officials Association meeting was interlocal agreements, and I think that would be an excellent solution for counties. That was a direction they felt they wanted to go, would be to either contract or have an interlocal agreement with the city of the first class or second class that's located in their county and work that way. At the...I should say I'm on the board of directors for the Nebraska Code Officials Association as well, so I'll make a little pull for them. But at our meeting in July, we discussed LR490 a little bit and, you know, it was kind of a wait and see. We obviously don't want to take a position on a study bill, but we discussed a little bit and the interlocal agreements was one of the suggestions put forth. And some jurisdictions do that a lot and other jurisdictions, like Hastings, we don't do that at all. But it would be something I think that would be a remedy to pursue. So with that, I will say I would be glad to ask...or answer any questions you may have. [LR490]

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SENATOR McCOLLISTER: Thank you, Mr. Evans. Any questions from the committee? Thank you. Next. [LR490]

ALAN PICKREL: Alan Pickrel, A-l-a-n P-i-c-k-r-e-l, I'm the Hall County Building Zoning Inspector. We do...I've been in the...I was in a city jurisdiction for 15 years and then Hall County had decided that they were going to do an "interloc" agreement with the cities. They had let their building inspection program go away and then all the cities around there had decided that maybe they would like it back because some things were going awry in their districts and they wanted some kind of a checks and balance. So anyway, I came with them. And we had meetings with (inaudible) four towns and with the county, and we met and talked over which codes, what we want to do and how we want to do it. We started off looking at Grand Island since that was, you know, in Hall County. We adopted the 2012 IBC, the IRC, the Uniform Plumbing Code, and the IRC. We made as few amendments to the code as we could, more to adjust to what the cities or the towns were doing, and then they each have their own unique qualities or people that they go through. It's been a transition. I think it's been received very well. We're starting to get some big projects out in the countries and out in the counties and I guess, you know, the towns were just getting some substandard work and no one to go to. So that's basically why they started up the program again. And like I say, I think it's been well received. But they do have an "interloc" agreement between all the county and the four towns represented. [LR490]

SENATOR McCOLLISTER: Thank you. Senator Crawford. [LR490]

SENATOR CRAWFORD: Thank you, Senator McCollister. So the remedy or the solution in this case is that primarily inspections before approval that now is provided that wasn't provided before? Or what's the main correction or improvement that's happened since you've stepped in with this interlocal agreement? [LR490]

ALAN PICKREL: Basically, the permitting and to make them aware of what the codes are, as far as what the builders are allowed or not allowed to do. They...I guess, most builders know what to do. If you have a checks and balance, it just...I don't want to say it keeps them honest, but it does know they're going to be looked at. And it does help. [LR490]

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SENATOR CRAWFORD: Thanks. [LR490]

SENATOR McCOLLISTER: Question, how do the builders know? What process do builders usually employ to know what the codes are? And secondly, is the state doing sufficient outreach to builders and officials like yourself? [LR490]

ALAN PICKREL: Yeah, I guess most of the builders are from a larger municipality that have been brought up with the codes. There's a few in the county that aren't aware of it; but once you make them aware of the code or what they're doing wrong, they don't have a problem adjusting. As far as the state, I don't think a lot of them know they have to be registered with the state to be a contractor. I don't know how that...how you'd notify them differently that they, you know, do, but... [LR490]

SENATOR McCOLLISTER: But the state gets out and meets you and helps you understand what the codes are, particularly when they change? [LR490]

ALAN PICKREL: I guess the training and...I've never had a meeting with the state that I know of. [LR490]

SENATOR McCOLLISTER: Would that be a good idea? [LR490]

ALAN PICKREL: Yeah, I don't know. You know, time spent...I mean, you're always updating yourself on the codes. When they're becoming new you can get a notification and you usually go through the code book. Of course, you have builders that go through it and critique it, and anything they like or don't like they're going to bring it to your attention. [LR490]

SENATOR McCOLLISTER: Thank you. Good to see you again. Welcome. [LR490]

PAMELA LANCASTER: Thank you. I'm Pamela Lancaster, P-a-m-e-l-a, Lancaster, L-a-n-c-a-s-t-e-r. I'm a Hall County Supervisor, and I have been for 20 years. I was just reelected in the primary for four more, so you're stuck with me for a little longer. I feel like I really need to support Alan. It's my fault, whatever. The fact of the matter is we did, five years ago, decide as a

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cost-saving measure, quite frankly, when our building inspector retired, not to continue that process in our county. And that's what it was, was cost savings. Senator McCollister will tell you that we've had another conversation about budgeting in Hall County, and we're extremely conservative. We watch every penny and we know where it goes. So we thought this was a good thing. Well, it turned out five years later, not such a good thing. You're going to hear a lot about municipalities, but you don't hear very much about counties, as my neighbor to the south said. And I thought that was really gracious of him to mention it. It's...as we studied it...well, let me back up. Actually what happened is one of the mayors from our villages came to us and said he was representing the other villages and that they were very concerned about life safety issues. They were concerned about people doing their own wiring, people putting up buildings, their brother-in-law putting up a garage, whatever. You sell them the home later to whomever, you put on an addition, and where's the...I mean, where's the tracking? What happened? You know, even things like footings. And I will tell you that I'm the daughter of a lumberman, but I learned to paint...or to dust paint cans as a child. I didn't know anything about this. And when they came to us, it wasn't quite as...I mean, Alan saw that the part that was the easier part, and even finding him and hiring him was a struggle. But we worked for over a year to even have this, even with the mayor supporting us. And there was pushback from the county, and someone, quite frankly, our rural representative at the county level. And I never was quite clear about all why that was, but the villages were determined, they stayed with us whatever. I was probably the least likely person to lead this because I really didn't know a lot about it, but I've learned. And Craig Lewis was marvelous. If it wasn't for him, I don't think we'd have managed this because I leaned on him. It's just what do I do next, give me a timeline, give me a list, tell me what to do, what does this mean, you know, sort of a thing. And it's...we're really pleased with the fact that we're up and going. And, in fact, our villages felt so strongly about this, about the life safety issue and some of the support that I described, that they...the interlocal agreement that we signed, they all contribute a portion. It's like they...I think that they contributed 40 percent of what we determined would be the cost. Now, what we did also was this, Craig helped me with this. Because of the permits, there's a value to the permits. And so that would go, of course, against the cost of the office and we're hoping that in the county that we can eventually, we don't know about the first year or two, but we're hoping that 50 percent of the cost can be borne by the permits. And then we're...you know, then it's not...it's more manageable. But we ended up borrowing a pickup from the weed department that wasn't being used. I mean, we're starting this

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because of a true need and a true desire to make life better in our villages and our county area as well. So I just thought that I needed to support Alan a bit and say he was a fabulous find. I mean, we had...and by far hands and feet greater than the other applicants--we had a number and people that were well-intentioned and had some background. But like I said, I certainly wasn't the one to lead this. Oh, and by the way, it was a marvelous idea to say, well, have your municipality just extend. We tried that, Craig said no, don't need it. I've got too much to do now. So he said you want to do this, I'll help you, but you do your own. Yeah, so we've...that's where we are right now and you can stay tuned, but I'm so excited that we got this far and that everything seems to be going smoothly. When Alan says that things are going well, it's just good for him because we're doing this on a real whim and a prayer, and hopeful that it all goes as well as we...you know, that life is good, much better out there for everyone. So, that's it. [LR490]

SENATOR McCOLLISTER: Thank you, Ms. Lancaster. Questions? [LR490]

PAMELA LANCASTER: Pretty sure I couldn't answer them anyway, so (inaudible). [LR490]

SENATOR McCOLLISTER: Thank you. [LR490]

PAMELA LANCASTER: Thank you. [LR490]

SENATOR McCOLLISTER: Welcome, Gary. [LR490]

GARY KRUMLAND: (Exhibit 2) Hello, Senators. My name is Gary Krumland, it's G-a-r-y K-r-u-m-l-a-n-d, with the League of Nebraska Municipalities. The letter that's being handed out right now was a result of the survey that Trevor talked about. It came from the village of Inglewood and is addressed to both the committee and the League. But I thought I'd just get up and talk about it, and it raises a question that you've heard about several times today, is code enforcement in some of the real small communities. And there was a good response to the survey from cities that do code enforcement, but I would guess the majority and probably a large majority of the cities and villages, especially the small communities across the state, don't do code enforcement and probably don't even adopt the codes. And to be real honest, we pretty much recommend if they're not going to do the enforcement, they don't adopt the codes to don't give false hopes or it

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is going to be inspected and enforced. And you've heard some of the problems...well, with a real small community, you just don't have staff, you don't have somebody available to do it, and they're fairly complicated codes. And even if you trained one of the staff, you may not have a building once every several years. So it just doesn't pay to do that. So we've looked at some issues and what the letter from Inglewood suggests is that a committee get together and just look at some solutions to help small communities to do code enforcement. And we've put that on the agenda, so we're going to be having some cities get together to talk about this. But one thing that has been mentioned that we have talked about with cities and some of the small villages is interlocal agreements where a small community will work with a neighboring larger city that has a code enforcement division and have an agreement so that if the need comes up where they do need some sort of inspection or review of plans they can pay the larger city to do that. So those are some of the things we were looking at. But for the most part, for real small communities, they just do not have the capability right now to adopt the codes and enforce them. [LR490]

SENATOR McCOLLISTER: Thank you. Questions for Gary? Senator Friesen. [LR490]

SENATOR FRIESEN: I don't whether it's proper for me to ask a question, I'm not on the committee. Part of the question that I've talked to Senator Crawford on the floor when we were talking about building inspections last year was there's villages and cities out there of the second class that probably adopted building codes, and very stringent ones, but they actually do no inspections. So my concern at the time was that if that's the case, and we're starting to see people move from the larger cities to the smaller communities, and so they'll look at the city's codes and they'll say, well, they have the building code, they have everything in place, I can buy this house, I'm covered. And they get moved in and they find out somebody's remodeled it and rewired it and it doesn't meet code. What responsibilities are on the cities when that happens? [LR490]

GARY KRUMLAND: Well, and that's pretty much why we recommend that if they're not going to enforce it, they don't adopt the codes, because that would...so they don't give the false idea that it is being inspected. I don't know that there's any legal liability, but it does give it possibly a false impression that there is more to it, more enforcement, if they have a code that's not being enforced. [LR490]

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SENATOR FRIESEN: So there is no legal liability or anything upon the city that they do that?
[LR490]

GARY KRUMLAND: Well, I...probably not. I mean, I don't...based on the Political Subdivision Tort Claims Act and that sort of thing, from language in there. [LR490]

SENATOR FRIESEN: Okay, thank you. [LR490]

SENATOR McCOLLISTER: Anyone else? Any other speakers today? (Inaudible) [LR490]

TREVOR FITZGERALD: Whoop, got one more. [LR490]

JAMES HARPER: Can I fill my blue thing out afterwards? [LR490]

SENATOR McCOLLISTER: Do you have a sheet to turn in? [LR490]

JAMES HARPER: I pick one up...my name is Jim Harper, H-a-r-p-e-r. I live in Grand Island. I am a retired building official. I have worked for the cities of Hastings and the cities of Omaha, and so I am very familiar with Midtown Crossing and... [LR490]

SENATOR HOWARD: My district. [LR490]

JAMES HARPER: Your district. I do like what Senator McCollister is suggesting, as far as the state helping to support code officials when there's a new adoption of the code. I really like that idea. I don't know why it hadn't occurred to me. But I don't know if that would be financial or if there would be trainings that would go on, but I think that that has a lot of merit to it because the state is kind of taking the lead role, but really not involved. Well, this would be something where you could get involved and really be helpful. There's another thing that we were talking about before the meeting. The university--and I know you probably don't have much to do with the university--really has nothing in the way of code education in their curriculum. There's very few universities that do. I think that would be very helpful if somehow we could work along those lines to get code education on the IBC and the IRC into our curriculum. I think it needs to be

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done at the university. I think it's probably happening at our community colleges to some degree, but we do have architects that I found as a code official to be woefully weak in the codes. And it usually just comes through experience and on-the-job training to learn what the actual laws are governing construction. And the codes really are almost the beginning point when you start a project, so you need to have a good basic understanding. Most engineers and architects seem to have a good working knowledge of what I call the standards--how to do things--but they don't know when they're required and what the scoping is. So something to think about. But I do like your idea of support of the state. One other thing that I...idea that I want to leave with you is I think we want to remain a...we don't want to become a minimum/maximum state. Some states like Virginia and New York and California they have minimums. The state says this is the minimum, you cannot go below it, you cannot exceed it either; this is what you can do by way of products, alternatives, codes. And I think we really want to let our cities, if they want to move ahead and do something else that's over and above what the state might mandate, I don't see any reason not to let them do it. I think that's how you get excellence and encourage innovation, and I think it just moves you ahead. So I would suggest that you avoid the idea of being what they call a mini/max state so. [LR490]

SENATOR McCOLLISTER: Thank you, Mr. Harper. Thank you for your wise testimony.
[LR490]

JAMES HARPER: Oh, I don't know if it's very wise. And there's a lot of...we are really basic here. And I'm sorry, I'm still talking, I shouldn't do that. We are kind of at a point in Nebraska where we're not so rural anymore that we cannot do things, yet we're not big enough like California where we'd have a building standards commission and all of that sort of thing that gets very political. And I don't like that. I think we do better managing our affairs locally if we can. But we're kind of that in between size state, where South Dakota and North Dakota, you know, those are very small states and I think it's very manageable. [LR490]

SENATOR McCOLLISTER: So hold up. Let's see if there's any questions. Any questions?
Senator Crawford. [LR490]

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SENATOR CRAWFORD: Thank you, Senator McCollister. So do you have a professional association that you meet and help each other, educate one another about the codes, or does the League of Municipalities...okay, yeah. [LR490]

JAMES HARPER: Nebraska Code Officials Association, the one that you've heard about. They're very good. We've got quite a few members. Most first-class cities are members; city of Omaha and Lincoln are members. And we really rely on that for the exchange of ideas and keeping ourselves together. And the role of the state it seems to me like at this point is keeping us uniform so that...we are getting so out of step with one another that we're requiring fire sprinklers over here and not requiring them over here. And whatever else it might be. So that really seems to be the role the state is taking on at this point is coordination. [LR490]

SENATOR CRAWFORD: You mean by having a state... [LR490]

JAMES HARPER: By having a state building code. And I think that goes back to, what was it, 1985 or 1987, when the original Building Construction Act was conceived by Senator Wesely, as he would recognize that if you were in Norfolk or if you're in Hastings or Omaha there was differing requirements, and that made it hard on the builder. So I think that was his idea, coming up with the act, and it worked well for a lot of years. [LR490]

SENATOR McCOLLISTER: Okay, anybody else. Thank you. [LR490]

JAMES HARPER: Sure. [LR490]

SENATOR McCOLLISTER: Anyone else care to testify? Senator? Fair enough. With that, I'll close the hearing on LR490 and give the gavel to Chairwoman Crawford (inaudible). [LR490]

SENATOR CRAWFORD: (Exhibit 3) All right. So we have, just for the record, we have submitted testimony from Brooke Iverson from Kearney, Nebraska. Any other...all right. With that, we'll close the hearing. Thank you so much for being here and for testifying today. We appreciate it. [LR490]