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Government, Military and Veterans Affairs Committee
February 12, 2009

[LB279 LB280 LB450 LB512]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Thursday, February 12, 2009, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB512, LB279, LB280, and LB450. Senators present: Pete Pirsch, Vice Chairperson; Robert Giese; Charlie Janssen; Russ Karpisek; Scott Price; and Kate Sullivan. Senators absent: Bill Avery, Chairperson and Rich Pahls. []

SENATOR PIRSCH: It will be LB512 first. Just to kind of get a sense of who's here to testify in favor and oppose. If you're here to testify for LB512, could you raise your hand. This is Senator Lautenbaugh's bill. One, two, is that right? Okay. Any, no opponents to LB512, any opponents or neutral? Okay. How about LB279? Is anybody here to? Okay. Either opponents or proponents for? Okay. Super. How about LB280? Is anybody here yet on LB280? Okay. And LB450, is anybody here for that? Okay, thank you very much. Very good. And Senator Janssen is here, so we'll begin. Welcome to the Government, Military and Veterans Affairs Committee hearing. I'm State Senator Pete Pirsch representing Legislative District 4 in western Omaha, Douglas County, and Boys Town. I'm going to turn to the members of the committee for their introductions. We'll start on my right and introduce yourself, Senator. [LB512]

SENATOR JANSSEN: Charlie Janssen, District 15, which includes Fremont and Dodge County. [LB512]

SENATOR GIESE: Bob Giese, District 17, Dakota, Dixon, and Wayne Counties. [LB512]

SENATOR PIRSCH: Very good. This is our committee counsel, Christy Abraham, a very important person here. And do you want to introduce yourself, Senator? [LB512]

SENATOR PRICE: Sure. Scott Price, District 3, Bellevue to Gretna. [LB512]

SENATOR PIRSCH: Very good. And our committee clerk, Sherry Shaffer. And Senator Lautenbaugh, you're the sponsor of LB512, we'll start with you whenever you're ready. [LB512]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman and members of the committee. [LB512]

SENATOR PIRSCH: Can I just say a little something. I took it for advantage that everybody has probably heard this a million times, but I'll just say this for the heck of it. The bills are going to be taken up in the agenda order posted on the door. Sign-in sheets are at both entrances. I think you've all done this before. But just in case you

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 12, 2009

haven't, the beige sheet, if you're going to testify at the table here, if you can give that to the committee clerk. If you're not going to testify, you just want to be on record, either as a proponent or opponent, there's a different sheet, a white sheet that you can fill out and those are at the tables near the entrances as well. If you can print your name, indicate who you are representing if you do come up and testify. And please spell your name for the record. The introducer is going to make initial statements followed by proponents, opponents, and then neutral testimony. Closing remarks are reserved for the introducing senator. Just ask to the extent that you can, try not to be repetitive. If you have a prepared statement or exhibit, we're going to need 12 copies. If you don't have 12 copies, one of our pages over here can help you make those, will make those copies for you. If you want to turn off your cell phone and pager at this time. Our pages today are Nick Bussey from Lincoln and Courtney Lyons from Plattsmouth. And with that, Senator, feel free to proceed. [LB512]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman, members of the committee. LB512 amends the law regarding airport zoning. Current law provides for airport zoning to protect both users of the airport and those living in the vicinity of the airport. In the situation where there was an airport owned by a political subdivision and any part of the dangerous area falls outside the zoning jurisdiction of the political subdivision, a joint airport board is established by statute. This creates sort of a cumbersome process where two units of government have to get together. This bill would create one entity and I do have my city administrator from Blair here to explain why this is a problem and how this would work and how this would be an improvement. I'd be happy to take any questions you might have. I'll...and I know he will, too, so. [LB512]

SENATOR PIRSCH: Thank you very much. Any questions for the senator? Seeing none, thank you very much. We'll start with the first proponent. [LB512]

RODNEY STORM: (Exhibits 1, 2, 3, 4) Good afternoon, Mr. Chairman and fellow committee members. My name is Rodney Storm, R-o-d-n-e-y S-t-o-r-m. I am the city administrator for the city of Blair. And I also serve as the airport manager for the Blair Municipal Airport. I'd like to thank you for the opportunity to testify in support of LB512. We feel that LB512 is...essentially makes one simple change to the current statutes. Under LB512, every political subdivision that has adopted a comprehensive plan and zoning regulations and has an airport hazard area of its zoning jurisdiction shall adopt--and I think the important word there is "shall"--adopt, administer, and enforce zoning regulations for the airport hazard area. These regulations shall meet the minimum standards or regulations as prescribed by the Nebraska Department of Aeronautics for each airport. Currently each airport, if the airport hazard zone extends outside the city or county's zoning jurisdiction, the city and county may create a joint airport height zoning board to govern the necessary restrictions to protect the airport hazard zones from intrusions that could cause safety problems for the airports' citizens and cause flight restrictions that could negate the millions of public dollars that have

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

went into the development of our airports. There is very little guidance on what should be included in the regulations. The guidance today generally restricts zoning to three miles and 150 feet in height, and doesn't necessarily allow for the protection when the hazard areas extend beyond the county lines which occurs in several areas. This joint board has a membership which consists of two members appointed by each entity who then appoint a fifth member to serve as chairperson. The board must then go through the process to adopt height zoning regulations, public hearings and etcetera. Once they have adopted the proposed rules and regulations, must then enforce these rules and regulations in addition to any zoning and building ordinances that the counties and cities may have. We believe this creates an additional layer of government intrusion that is not necessary. LB512 would remove this unnecessary layer of government. We believe that if the cities and counties are already enforcing zoning and building codes, it is only prudent that they enforce the height zoning regulations to protect the millions of dollars of public investment in our airports. Currently at the Blair Municipal Airport, as an example, if someone wants to build something that is controlled by the height zoning regulations, they must apply to the county building department for their building permit, wait for their approval, and then apply to the city who administers the height zoning regulations. We feel this is an unnecessary intrusion and delay that the county could easily have handled in one review. In addition, by requiring the Nebraska Department of Aeronautics to adopt minimum regulations for each class of airport, it will help provide uniform regulations: regulations that will help each airport maintain safety standards prescribed by the Federal Aviation Administration. The department could determine, based on the airport's classification, the necessary distances that are needed, need protected. There are airports today that due to their usage may need hazard zone protection that extends five to ten miles in one direction or another. By adopting these minimum standards, it will help ensure that the airspace needed now and in the future for each airport is maintained to provide for a safer aviation industry in the state of Nebraska. With increased demand for cell towers, the call to expand use of wind to meet our future energy, electrical energy needs, it is imperative that we have the necessary regulations in place to prevent conflicts between aviation, communication, and energy. LB512 provides that mechanism to help better protect our aviation industry and reduce the intrusion of government into the lives of our citizens. I have attached a copy of the height zoning regulations for the Blair Airport, along with a couple of maps to help you better understand the area of influence as it currently is. And with that, I would take any questions that you may have. [LB512]

SENATOR PIRSCH: Thank you. Senator Janssen. [LB512]

SENATOR JANSSEN: Thank you, Senator Pirsch. Mr. Storm, I'm from Fremont, and we've got a municipal airport there, so I'm trying to follow this. I came from the city council, we have an airport board. I don't know the exact name of it, but it's appointed by the mayor, and we also have a planning, an airport advisory board outside of that. Can you speak with any knowledge of how that would affect...how this bill would affect?

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 12, 2009

[LB512]

RODNEY STORM: Not knowing for sure how Fremont is, you know, is organized, my assumption is that you have an airport...do you have an airport authority? [LB512]

SENATOR JANSSEN: Yes. [LB512]

RODNEY STORM: Okay. The airport authority then runs the airport and should be appointed by the mayor. You probably have a joint zoning board in addition to that, that similar to what we're doing in Washington County that has to oversee the height zoning. The county and the city governs the land use zoning for that area. What this bill would do then would say essentially that by adopting minimum standards as adopted by the Department of Aeronautics, that Fremont and Dodge County would not have to have that joint board, thus removing one more layer of government that people have to deal with. If this bill passed, those height zoning board regulations would have to be adopted by the city council, planning commission of the city council as part of their zoning regulations and then that city or county then would have to enforce those; thus you don't need a separate zoning board to do that for the height zoning. [LB512]

SENATOR JANSSEN: So, okay, one more follow-up question. I just want to make sure I follow this. So in essence, would we be taking, and I don't, the city council...several times we worked with, to my knowledge, it was always the FAA told us where we had to be and we did it. But would this be taking that authority? We could exceed the FAA sometimes and they would welcome that in many cases. They want more of a height requirement if possible. But would we be taking that away from the local control and saying this is our state law, you have to do this? [LB512]

RODNEY STORM: No. What this bill, LB512, says is the state would adopt those minimum standards. It doesn't mean that the city of Fremont, Dodge County couldn't adopt something more restrictive if they felt that it was needed in their area. But what it would do is adopt minimum standards for the protection of that, you know, of those areas. And as you say, FAA is very stringent and they're being more stringent in the future. And our concern is that we create this other layer of government out there that in a lot of the smaller areas, not necessarily just in Blair or some of the smaller areas, Tekamah and some of these places, that you have the joint zoning board that it's hard enough to get people to be on those boards--and they're enforcing rules and regulations in addition to what the county and city is already adopting for regular zoning. This simplifies the process. It requires that the city and the county, if they have jurisdiction in that area, would have to adopt those regulations and enforce them. Therefore you have not the need for the separate entity. [LB512]

SENATOR JANSSEN: Okay, thank you. [LB512]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

SENATOR PIRSCH: Senator Price. [LB512]

SENATOR PRICE: Senator Pirsch, thank you very much. Sir, Mr. Storm, how do you perceive this having any impact for joint use, military and/or civilian air fields outside of cities, inside of cities; I mean, just the whole, because there are joint ones outside of Offutt. [LB512]

RODNEY STORM: Yeah. I can't comment to that. I don't know what the current regulations are relative to the military. My knowledge basically goes to just the public use airport such as Blair's and the smaller ones. I know we've had conversations in the past with Eppley, that this would potentially help them in an area or two where they don't necessarily extend their current zoning as much as they would like, particularly to the north. But as far as the military, I could not answer that for you. [LB512]

SENATOR PRICE: All right. Thank you. [LB512]

SENATOR PIRSCH: Thank you. I do have a couple of questions. And help me, step me through this again, conceptually. This is an effort to cut the red tape, right, as far as regulating airports? And currently, of course, there's city zoning jurisdiction, county zoning jurisdiction, both overlap this airport that's outside of the municipality, but within the zoning jurisdiction of the municipality. That's what we're talking about, right? [LB512]

RODNEY STORM: Correct. [LB512]

SENATOR PIRSCH: Okay. Is there a third entity: we talk city, county; now is there a third, kind of a joint entity that has jurisdiction as well over these airports and zoning? [LB512]

RODNEY STORM: Yeah. Currently, under statute that, for height zoning, the city and the county may create the joint board to enforce the zoning, the height zoning regulations. So this would eliminate the need for the requirement to have that joint board. [LB512]

SENATOR PIRSCH: I see. [LB512]

RODNEY STORM: Those regulations then would be enforced by either the county or the city. And it goes both ways. You may have an area where a county has an airport that the safety zone hazard area extends out into a zoning area of the city, and it would require that city then to be enforcing those zoning for the protection of the county airport. [LB512]

SENATOR PIRSCH: Okay. So these joint zoning boards that are composed of city and county, that was an effort historically in the past to eliminate red tape and have a single

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 12, 2009

entity that you could come to. [LB512]

RODNEY STORM: Right. [LB512]

SENATOR PIRSCH: But, and now you're proposing replacing that with a different unified...and let me get this straight then. You're saying that if the...so you're saying as between the city and the county, if the airport is located outside of the city, then the county would have, be the jurisdiction? [LB512]

RODNEY STORM: What it would be is currently most cities of the...cities of the first class, your zoning area of influence goes two miles outside the city limits. Counties then serve the rest of the area. In the case where the airport, I'll say, would be located a mile or say even two miles outside the city limits, let's say on the edge of the zoning jurisdiction for the city and county, if you look at that map; one of the maps that I gave you there, you can see that when you're going out three miles from each end of the runway, each side of the runway, you have areas then that if the city can only zone out to that two-mile area; you have literally three miles of unprotected area unless the county enforces the zoning in that area. Where there becomes a need for the joint board so that you can have the regulations uniformly throughout that whole area. [LB512]

SENATOR PIRSCH: And we've got a couple of maps here. Is this the one? [LB512]

RODNEY STORM: Yeah, what those maps there...the first one shows the zoning map for the Blair Airport and shows the different zones as established in the zoning regulations. The second map basically clearly shows those areas of influence which you see some footages there that say 150, or 35 to 150. If it's out in, if somebody is located out in that area that's 150, they essentially could build something that would be, for lack of a better term, up to 150 feet high above the elevation of the end of the runway, okay? So if somebody wanted to, they could build a, I'll say a barn up to 80 foot tall, if it's out in that 150 foot area. If they are in that area that shows 35 to 150, then you might be limited because if they wanted to, depending on where they're at, because it's generally going to be going up at say, 40 to 1 slope, depending on how far out, you may only be able to build something that would be 50 foot high. So it would limit that so you don't have the intrusion into the clear landing space for the aircraft. [LB512]

SENATOR PIRSCH: Yeah. Let me clarify though. You're suggesting though that one of the two existing, either the county or the city have essentially primary jurisdiction in, from now on, right? And how would you... [LB512]

RODNEY STORM: Right. Well, they both could have jurisdiction, but they would have to adopt those minimum standards. There's nothing there today that says one or the other would have to adopt standards. You know, there's nothing to say that you would have

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

to. It may preclude that airport from being able to get funding or future funding. What this would do would be require that if they adopt planning and zoning under state statute, then like everything else, there's certain things that the state says you have to have in your planning and zoning...this would require them to adopt, if they have an airport hazard area in their area, they would have to adopt those minimum standards prescribed by the Department of Aeronautics for the airport. [LB512]

SENATOR PIRSCH: Okay. I appreciate it. Any other questions? Senator Price. [LB512]

SENATOR PRICE: Senator Pirsch, thank you. Sir, again, when we go from may to shall, I have concerns in that we're mandating they're going to do so and we're going to do it from the state level. Now the FAA is the top dog here in a lot of this, okay. So we already have enforcement practices already out there that they have to have. And you don't get to usurp the FAA on any given day. Could this not be a situation where we're going to limit some planning because we're adopting a statewide, someone sits in a room and says statewide, this is how it's going to be? That we could limit something? I mean, do you foresee that? I mean, if we're going from the may to the shall, and then we're going to have a statewide regulation. [LB512]

RODNEY STORM: But what you're, Senator, what you're currently going from...they may adopt, the joint board and may enforce those regulations. This would go to the fact that if they have adopted land use zoning, adopt a comprehensive plan; that that plan and so forth would have to adopt those minimum standards for the protection of the height zoning. Therefore, that airport then does not have to have the secondary entity to provide that regulations and another intrusion into where people have to go. [LB512]

SENATOR PRICE: All right. Thank you. [LB512]

SENATOR PIRSCH: Any other...oh, we are joined now by Senator Sullivan and Senator Karpisek as well. And so are there any questions for this testifier? Seeing none, thank you for coming forward and testifying. We'll move to our second proponent. [LB512]

GARY KRUMLAND: Senator Pirsch and members of the committee, my name is Gary Krumland. It's spelled K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities, appearing in support of LB512. And this is probably repeating knowledge you already know, but I'd just like to explain a little bit about city zoning and county zoning and how they interact. Cities and villages have authority to zone and plan. Counties do too. Cities, the two largest cities, metropolitan class cities and primary class cities, basically Omaha and Lincoln, have authority to zone within the corporate limits, and also to regulate the use of land to zoning three miles beyond the corporate limits. So they preempt any county regulation in that area. The next tier of cities are cities of the first class. Those are a population of 5,000 to 100,000. They can extend their zoning regulations out two miles from the corporate limits. And they have authority, complete

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

authority on zoning. And then second-class cities and villages and those are basically those under 5,000 can go out one mile. So when they are doing zoning and then similar rules for the county, you have to appoint a planning commission. The planning commission creates a plan, reviews it, and makes recommendations to the governing body, and they make the final decisions. Airport zoning is a little different because it says for the height, not the use of land, but for the height, if the airport extension where they need to zone goes beyond the authority, say, of the extraterritorial jurisdiction of a city, and goes into either another city's jurisdiction or county jurisdiction, you need to create this joint board to regulate heights. So what we're trying to do with LB512 is instead of saying this extra board is created, we're just asking or telling whoever's zoning jurisdiction the airport falls into and the extension of the runway, the slope of the runway, they would enforce the rules for the airport. I don't think the rules themselves necessarily will change, because right now, the Department of Aeronautics does have some rules on the slope and height. They have more extensive guidelines that airports follow. If the airports want federal funding, they have to do airport zoning. And under here, the Department of Aeronautics increases those standards. They would be adopted--even if we don't change the law--they would be adopted by the joint board. What we're saying here is rather than have the joint board, whichever political subdivision has jurisdiction over the area, they would be the ones to adopt and enforce those height standards. One advantage is for most property owners in the area; it may not make a difference because it's going to be enforced anyway. It's either going to be enforced by the joint board or by the city zoning administration or the county zoning administration. It would make a difference if somebody wants to get a building permit in that area. Under current law, they have to go to the city or county and ask for a building permit and then go to the joint planning board to get a permit relating to height if they fall in that area at the end of the runway. Under LB512, if that would pass, it would just go to one or the other, whoever has jurisdiction in that area, and ask for a permit and both the height and the building use would be regulated by that particular jurisdiction. So we're thinking it's eliminating one step, both on the government level and that you don't have to have this joint board and for the property owner who needs to enforce it. The only exception would be if you go to a situation where an airport zoning area approaches an area that does not have zoning, so there is nobody in part of the airport zoning area that is there to enforce it, then the joint board is created. So that if you have a city airport, and it extends into a county that does not have zoning, the county and the city then would create a joint board. So the county has a say even though they don't have zoning in the area, they would have some say in the enforcement of the airport zoning height standards. I'd be happy to...if I've completely confused everybody, I'd be happy to answer any questions. [LB512]

SENATOR PIRSCH: Oh no. I think that was very clarifying. I appreciate that. Could you, just towards greater clarification, I appreciate your comments, because they do help to frame the issue for me better. Say you have one kind of piece of the puzzle that's still remaining, say you have two cities together like Ralston, Omaha, La Vista, Papillion,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

back to back. All right, the runway by and large is in say, Omaha, but you know, part of it goes off in Ralston. How do you determine as between the two political subdivisions? You're saying whoever has jurisdiction. Who has jurisdiction? [LB512]

GARY KRUMLAND: Well, if and using Ralston and, Offutt probably doesn't apply because I think this just applies to airports owned or controlled by political subdivisions. But say you have an airport in Sarpy County and the end of the runway, the airport zoning area, goes off into maybe, you know, Papillion-La Vista in Sarpy County. The standards for how that is going to be regulated are already determined by FAA and through them, through the Department of Aeronautics generally. They have some rules. They also have some guidelines on what they think is appropriate. So the rules are already set, it just depends on where you fall in that, who would be enforcement. So you may have a situation where you might have two cities and a county enforcing the regulations that have already been adopted. And they would have to then go through the process to adopt them and enforce them. But the regulations, for the most part, would be the same. [LB512]

SENATOR PIRSCH: Very good. Any other questions? Bob. [LB512]

SENATOR GIESE: Yeah, thank you, Senator Pirsch. Mr. Krumland, then, just one further step for clarification. Can there ever be any gray area where a county would deny or approve, and a city deny a situation? I mean, is that the, is that why we're here today or are we here to make the... [LB512]

GARY KRUMLAND: No, I don't know that, I don't know that that would get in there. I mean, if, it would be...the regulation would apply to a property and it's either located in the county jurisdiction or the city jurisdiction. [LB512]

SENATOR GIESE: So it's, there is no... [LB512]

GARY KRUMLAND: Yeah, I mean, there wouldn't be competing, and as long as they both adopted the airport rules which are, you know, the Department of Aeronautics would be, either have or would be developing, then I don't think there would be a conflict between the two... [LB512]

SENATOR GIESE: Okay. [LB512]

GARY KRUMLAND: ...because the rules are standard. [LB512]

SENATOR PIRSCH: Senator Price. [LB512]

SENATOR PRICE: Senator Pirsch, thank you. Sir, two questions. Is the only function of the zoning board to regulate projects or something for height restrictions? [LB512]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 12, 2009

GARY KRUMLAND: Height. Yes. So the use is handled by the county or the city, depending upon where the property is located. [LB512]

SENATOR PRICE: So even if we dissolve this board, it would only be for matters of height? [LB512]

GARY KRUMLAND: Yeah, height for the airport, yeah. [LB512]

SENATOR PRICE: Okay. And could you tell me now, we have said in the current, the board is created when you go outside, when you have two jurisdictions basically. And if those two jurisdictions at the end of the EZT, Extra Zoning Territory, if that three miles off a runway, what's that height? That three miles, that 40 to 1 slope. What's that height? [LB512]

GARY KRUMLAND: I'm...I'm afraid I'm just not, I don't have the familiarity. I can't tell you, I just don't know. [LB512]

SENATOR PRICE: I'm just trying to...I'm just trying to run, you know, how often do we run into this fact and also are there other issues, I know if there's an air show, that some of these height restrictions come off the side not just the ends. So I want to make sure the board instead of...it goes to more than just a single plane. [LB512]

GARY KRUMLAND: Yeah. The Department of Aeronautics specific regulations talk about the end of the runway, but their guidelines talk about sides. [LB512]

SENATOR PRICE: So I just wanted to make sure that we understood that it will bleed over more than just the end of the runways, but off to the sides, because you know, if they're doing acrobatic flying, there are different... [LB512]

GARY KRUMLAND: Yeah, and those would apply regardless of who's actually enforcing them. [LB512]

SENATOR PRICE: Okay. Thank you. [LB512]

SENATOR PIRSCH: Any other questions? Seeing none, thank you for coming down and testifying. Are there any other proponents? Seeing none, are there any opponents? Anyone here to testify in the neutral capacity? Senator Lautenbaugh to close. [LB512]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman and members of the committee. This is another one of those bills where I felt you would benefit from the explanations of the people who deal with this day in and day out. What this is really designed to do, and I hope it's become clear from the testimony and the questioning we had, is basically to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

create a one stop place to go. If you have property within the city and you're going to do something with it, as it exists now; you'd have to talk to the city about zoning, and then this joint board regarding zoning. If this is adopted, there is no more joint board. If you're in the city, you deal with the city on zoning. If you're in the county, you deal with the county on zoning. And this imposes the minimum standards that the FAA imposes anyway. So that's what we're trying to do here is just clarify things, protect these small airports, because if this doesn't happen and for some reason these minimums aren't in place, they would lose their FAA funding anyway. So I mean, that would be a problem for them, and these smaller airports are vital to the smaller communities, just as the larger ones are vital to the larger communities. So that's what we're trying to do here, is just simplify this, clarify the regulations, and let people know where you have to go to get your zoning questions answered, if you will. [LB512]

SENATOR PIRSCH: Very good. Any questions? Seeing none, thank you very much. We'll conclude the hearing then on LB512 and take up the matter of LB279. That is a bill that is sponsored by Chairman Avery, and here to introduce it is our committee counsel then. [LB512]

CHRISTY ABRAHAM: (Exhibit 1) Good afternoon, committee. For the record, my name is Christy Abraham, spelled A-b-r-a-h-a-m. I am your legal counsel, and I am here today to introduce LB279 on behalf of Senator Avery. And like Senator Avery would want me to, I have a handout. LB279 is the result of a recommendation from the BRAC Task Force. Last summer, Senator Avery introduced an interim study to look at Base Realignment and Closure. We call it BRAC for short, and the task force was formed to study Nebraska's military installations and missions and how Nebraska can strengthen those missions and installations. Four senators sat on the task force including our own Senator Karpisek, Senator Pahls, Senator Avery chaired it. There are also two members in the audience that I believe will also testify, Ned Holmes and John Wood. Additionally, there are people from the military community there and from various chambers of commerce. As you probably know, the Base Realignment and Closure process is used by the Department of Defense to sort of reorganize its installation infrastructure to more efficiently and effectively support its forces and missions. Each round of BRAC results in the closure of military installations. The last round was in 2005, and for the most part, Nebraska has really been spared from the BRAC process. But that doesn't ensure that it always will be that way. And that's why this task force was formed to sort of ensure that the state is doing everything it can to support its military bases and missions. One of the recommendations of the BRAC Task Force was to ensure that military installations, governmental entities, and developers coordinate when developing near military bases. LB279 requires municipalities and counties to provide notification to the military installation which is located within its jurisdiction regarding any development of property which may affect the military installation. The BRAC Task Force had several meetings, and in the course of these meetings, there was information provided to us that there have been incidents both near Offutt and in

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

Lincoln where maybe there needs to be more communication between governmental entities, the developers, and the military installations. And this is the goal of LB279, more communication. I passed out a handout which shows you, there's...there's quite a few states that have already enacted laws regarding land development activities near military bases. And their reasoning is they want to ensure that the military can continue to function and train the way they need to, but also meet the standards of our...meet the growing needs of cities that are surrounding those military installations. So thank you for your time. I am happy to answer any questions, but I know there are apparently four distinguished gentlemen who will follow me, who I'm sure can answer your questions also. But I'm happy to take any questions if you have any. [LB279]

SENATOR PIRSCH: Very good. Thanks for the introduction. And we will move on then to proponents if there are no questions? Hold on. [LB279]

SENATOR SULLIVAN: Oh, can I just ask one quick question? It almost goes without saying that, you know, you should be a good neighbor to each other. So is there, was there a particular instance that precipitated this or just the task force talking about this or? [LB279]

CHRISTY ABRAHAM: Yes, and I think Mr. Holmes who will follow me can probably give you more detail on that. But I know the situation near Offutt was there was a development planned, and I believe it was some sort of ball field, soccer field, or baseball field, and it really was going to be incompatible with the needs of Offutt. And I believe what happened is the private entity came in and purchased that land so there wouldn't be the incompatible development there. And so I think after hearing stories like that, I think the task force felt, gosh, what we really need is for developers and cities and counties to talk to the military installations before approving some sort of development. [LB279]

SENATOR SULLIVAN: Okay, thank you. [LB279]

CHRISTY ABRAHAM: Thank you. [LB279]

SENATOR PIRSCH: Super. Okay. We'll start with the first proponent of LB279. Good afternoon. [LB279]

DAVID SNODGRASS: (Exhibit 2) Good afternoon. Senator Pirsch, members of the committee, my name is David Snodgrass, S-n-o-d-g-r-a-s-s. As the Deputy to the Department of Defense Regional Environmental Coordinator--and I'm sorry, I've got some handouts here, too--Regional Environmental Coordinator for Standard Federal Region VII, which includes the state of Nebraska, I appreciate the opportunity to provide comments to this important legislation. The Department of Defense supports the proposed legislation and would like to suggest that language be added authorizing the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

planning director to set deadlines for military installations, to submit comments, grant extensions that deadlines...to those deadlines as appropriate, and directs the planning director to submit military installation comments to the planning commission and/or the city council prior to any meeting the proposal is to be considered. Our recommended language has been coordinated and endorsed by our Air Force sister office in Dallas and Offutt Air Force Base. We welcome the opportunity to work with you and your committee on this and any future matters that may affect the defense installations and agencies in the state of Nebraska. Thank you for your interest in this matter, and I'm free to answer any questions I might. [LB279]

SENATOR PIRSCH: Great. Thank you very much. Are there any questions? We'll start on the end, Senator Sullivan. [LB279]

SENATOR SULLIVAN: Thank you, Senator Pirsch. So this statute proposed legislation should say doesn't necessarily bar any development, it just makes sure that the lines of communication are open before anything takes place, is that correct? [LB279]

DAVID SNODGRASS: Our understanding is that's true. Yes, ma'am. [LB279]

SENATOR PIRSCH: Senator Karpisek. [LB279]

SENATOR KARPISEK: Thank you, Senator Pirsch. Mr. Snodgrass, on the additional language, this would...would it not just be enough that they would be contacted in the normal flow of development, building permits and things, rather than setting a different date or a different time line for the military? [LB279]

DAVID SNODGRASS: I believe what this is intended to do is ensure that there is a mark on the wall that's consistent anywhere that they go, anywhere in the state that provides some consistency and some continuity to the process. Yeah, sometimes that notification is passed back and forth, sometimes it doesn't. Sometimes it depends upon the people that are present at any given time. So what this does is provide the Department of Defense at least is another level of assurance that the money that's being invested in the facilities within the state has got a chance and some legs to last a while. [LB279]

SENATOR KARPISEK: Okay. I guess I'm going to have to...I'm going to have to think (laughter) and try to figure that one out. Thank you, Senator Pirsch. [LB279]

SENATOR PIRSCH: Senator Price. [LB279]

SENATOR PRICE: Senator Pirsch, thank you. Sir, just to make sure I understand, it seems pretty easy to me what you, one of the things you're saying is the military needs to respond back to the community. [LB279]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

DAVID SNODGRASS: Absolutely. [LB279]

SENATOR PRICE: That right now, we don't have a burden of response from military back to the community once they've opened that door. And given the nature of everybody PCSing, going on TDYs, etcetera, that could drop off the shelf and we would never know. So actually the burden is placed on the military more than anybody else. [LB279]

DAVID SNODGRASS: With this amendment. Correct. [LB279]

SENATOR PRICE: Right, with this amendment. Thank you. [LB279]

SENATOR PIRSCH: A couple of questions. First of all, so in looking, and I'm looking at the green copy, the original copy of the bill which just provides that apparently there's going to be a notification made to the military installation, and then that would be, was it 2 weeks or something like that, 14 days before, within 14 days after becoming aware of the development? So the plan is developed I suppose. If...what happens, if for whatever reason, negligence or whatever, they don't do that? Is there any consequences or I mean, that occurs in these states? [LB279]

DAVID SNODGRASS: Sir, I couldn't answer that. This is local legislation, local language. This is not something that Defense has sponsored. We're here to voice support for the effort and interest in it. [LB279]

SENATOR PIRSCH: Okay, and then is this something that you find, obviously locating and keeping open bases that are within the state is, I think, an important thing, an interest the state has. Is this something that is an inducement for the...for the federal government to be here in the state? I mean, is it something that they look for? [LB279]

DAVID SNODGRASS: It's another level of assurance. I would say that. We're facing encroachment issues across the country that threaten the missions of the installations. And if those missions are threatened, anything is possible. [LB279]

SENATOR PIRSCH: And I would presume that these are not...obviously, if it says development, this is land that isn't already, and obviously this is new, we're talking about newly developed land that wasn't developed that is in the buffer zone, so to speak, that is going to be developed. Is that the type of property we're talking about here? Land that is not on the base, not owned by the base; land that is within the city's jurisdiction and, but has not yet been developed, correct? [LB279]

DAVID SNODGRASS: Either, and again, out of my lane because this is not our language, but I would hope the intent was either new development or new construction

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

on barren ground or any kind of redevelopment of existing. [LB279]

SENATOR PIRSCH: Okay, redevelopment would count, too. And so the city would be aware of that. There would have to be notice of that or application for that. And so what this would effectively do is give the base or the installation a notice, but it doesn't require that the, I mean, it just makes the military installation aware of it, but it doesn't require their approval or change the nature of the issue. What, as a practical matter, what does that...what benefit does that give the base to do, I know in the example that was given before, maybe if it's, I think the example was they were going to turn a ball field, use it as a ball field and perhaps whatever was going on on the other side of the fence, probably you know, incompatible with that. At that point in time, I suppose that the military installation could look to purchase the property outright. I think that's what, the remedy that they took in that case. Or they could perhaps, would that give the installation enough time to perhaps show up at any city hearing and contest or give reasons why it shouldn't be so utilized? [LB279]

DAVID SNODGRASS: In my experience, a notification process gives the installation a chance to do an assessment as to what impacts, if any, that development might have on the installation or the mission. If there is, you know, some type of differing standard, for instance. FAA regulations are different than Air Force runway instructions, requirements. And so the local community may not be aware of some of those military requirements. It, at least, gives the installation a chance to go back to the community planners and say there is or is not an impact. If there is an impact, this is what it would be and how it would influence us. [LB279]

SENATOR PIRSCH: Okay. Any other questions? Seeing none, I appreciate your coming down here today and testifying. Are there any other proponents? Very good. [LB279]

NED HOLMES: (Exhibit 3) Good afternoon, Mr. Chairman. My name is Ned Holmes, spelled H-o-l-m-e-s. I am the senior military affairs liaison for the Greater Omaha Economic Development Partnership. If I had a choice between a root canal or testimony here, I would probably choose the root canal. Well, I did have the root canal this morning, and I am now testifying. I was privileged to be a member of the BRAC Task Force chaired by Senator Avery and thank him for introducing this important legislation, LB279. Let me start by providing the following quotes from the Offutt Air Force Base Air Installation Compatible Use Zone, more commonly known as AICUZ Report dated November of 2007. I believe the first part of this statement is valuable and provides to those of us here an understanding that LB279 is not only about protecting military resources, but about the public. It says, "to create a greater margin of safety for citizens." Another segment speaks to the mission and installation and says, "will help protect Offutt from encroachment." So as you might have concluded, this Offutt AICUZ Report is designed to provide a guideline for the military installation and for the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

community, the purpose of which is ensuring compatible uses for public and private lands in the vicinity of military air fields--in this case, Offutt Air Force Base. This Offutt document concludes by stating that it is "hoped the information will be incorporated in community plans, zoning ordinances, subdivision regulations, building codes, and other related documents. As local communities prepare their land use plans, the Air Force must be ready to provide additional input. The base civil engineer is the official liaison with the local community in all planning matters." To illustrate the importance of such a bill as LB279, and this is not the case that Ms. Abraham was referring to, but we have had a recent case of a developer looking to purchase a site near Offutt Air Force Base. Before the local economic development team proceeded, contact was made to the base civil engineer for their assessment. All of the preceding that I have talked about has used Offutt and community guidelines. For this body here, we cannot assume that other military installations in our state have in place similar regulations or that the regulations between the community and the military installations exist or are formalized with agreements. For this reason, I strongly recommend LB279 be endorsed by this committee. I thank you, and I would be more than happy to entertain any questions.
[LB279]

SENATOR PIRSCH: Thank you. Senator Price. [LB279]

SENATOR PRICE: Senator Pirsch, thank you. Mr. Holmes, you are to be congratulated on your endeavors today, given the conditions. I understand this, you know, because I come from the Offutt community, but I would like to broaden it a little bit to make sure we've got it. When we think of Ashland, when we think of our armories across the state, when we think of something up in Scribner, this would apply to all those areas, correct?
[LB279]

NED HOLMES: Yes, sir. [LB279]

SENATOR PRICE: So we're ensuring that nothing happens if, for the board zones, we have a firing range at the back...at the back side of the firing range, the military does a lot of good work to make sure nothing happens, but sound can't be kept in and people developing and they might not be aware of them so. These are the things you're envisioning impacting both the person who would want to develop and the military.
[LB279]

NED HOLMES: I think the Offutt illustration was just to illustrate how it is in effect and has been implemented and that we can't be sure that other similar federal or local installations have similar guidelines or that there is good communication between the municipalities and the military commanders at those installations. Yes, sir. [LB279]

SENATOR PRICE: And that, excuse me, takes a great segue, it might seem pretty much in the minutia, but we say the city will contact or the installation will be notified.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

Does that mean someone is going to walk up and hand a letter to the gate guard if there is one or do they actually have a formalized channel? Because if someone wants to be nefarious, they could say, hey, I dropped off notification and they gave it to, you know, anyway. I just wondered is it necessary that we define it to a POC with an installation that's standardized or is that enough just to say an installation? [LB279]

NED HOLMES: Well, I think we could say the commanding officer of the installation would probably be the best way to get that into the proper channels. I mentioned that the base civil engineer, as far as the AICUZ guidelines, is the point of contact. But if you give it to the installation commander in the case of an Air Force base and it was given to the base civil engineer. So I would say installation commander would be proper. Yes, sir. [LB279]

SENATOR PRICE: Thank you. [LB279]

SENATOR PIRSCH: Senator Sullivan. [LB279]

SENATOR SULLIVAN: Thank you, Senator Pirsch. Is there one certain place I can go to, to find out where all these military installations are in Nebraska? [LB279]

NED HOLMES: Well, we have done an inventory. The BRAC Task Force did inventory all of the state military, federal and state military resources, and so that is available to this committee and I'm sure that Ms. Abraham can take care of providing that to you. Yes, ma'am. [LB279]

SENATOR SULLIVAN: Oh they do. Okay. Thank you. [LB279]

SENATOR PIRSCH: And so military installation, that would include...would that include state? [LB279]

NED HOLMES: Absolutely. Yes, sir. [LB279]

SENATOR PIRSCH: Okay, very good. And I think the way that you're, the green copy of the statute refers to it is the notification has to go to the official in charge of the installation. [LB279]

NED HOLMES: Okay. Yes, sir. [LB279]

SENATOR PIRSCH: So I don't have any questions with respect to that, but this is just simply a notification requirement so you, there's no kind of constitutional, you know, kind of takings, issues, I suppose. But are there any issues that may come into play with respect to valuations of this property? This property...has this had an effect upon valuations in other, I don't know if you know this, there's a number of other states that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

have done this. If you have this additional requirement or loop, I suppose probably not too large of an effect. If you're not, if you don't need to get an approval, but it's merely a notification type of standard, right? [LB279]

NED HOLMES: I'm not aware of what impact it has on property values. One comment to follow up on Mr. Snodgrass. Even though you do have a situation where a developer is going to develop an area, and you have the concurrence of the base civil engineer or the installation commander, I think what we're saying, in addition, to broaden this out is that doesn't necessarily mean that it is prudent to go ahead and develop the property because the Base Realignment and Closure, when those occur, the BRACs; they will look at how the community has supported and responded to development around these installations. So even though the base civil engineer might say it's okay to do something doesn't mean that it is probably the best thing for us as a community to do. So we have to be, you know, aware of that, too. So that's, this is just the first step. Yes, sir. [LB279]

SENATOR PIRSCH: I see. Well, I think that's a very important point to make is that that is a consideration on the BRAC fund, so I think we need to be mindful of that. Are there any other questions? Seeing none, I thank you for your testimony here today. Very helpful. [LB279]

NED HOLMES: Sure, you bet. [LB279]

SENATOR PIRSCH: Are there any other proponents of LB279? [LB279]

JOHN WOOD: Mr. Chairman and members of the committee, thank you. My name is John Wood. I'm the executive director of the Airport Authority here in Lincoln, and I'm also the Chairman of the Military Affairs Committee for the Chamber of Commerce. Military installations, just like civilian airports around the country, can suffer from encroachment to their facilities. We've talked about that today already. Developers often look at available land in the vicinity as ripe for development. While the property may not be immediately adjacent to a military base or, for that matter, to an airport, its development can still have an adverse impact on the operations, safety, environmental issues, especially where flying activity is concerned. Here in Lincoln, the Lincoln Airport is home to the Nebraska Air National Guard and many units of the Army National Guard including Army flying activity. While we here in Lincoln at the Lincoln Airport Authority enjoy a good working relationship with the city of Lincoln/Lancaster County Planning Commission, other military installations in the state may not be so fortunate. It simply makes common sense to make military units aware of development that might possibly have an impact on their mission and give them an opportunity for input. This could go a long way to prevent the unintended consequence of hampering the current or potential future mission of the military facility. Losing the assets and perhaps more importantly the jobs of a military facility because we didn't keep them in the loop and allow development to encroach on their operation just doesn't make any sense. It's a simple

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

step to take, and I'd be happy to answer any questions. [LB279]

SENATOR PIRSCH: Very good. Does that give them notification of 14 days to become aware of the development...let me see that, after becoming aware of the development. What does that mean when you say aware of the development, and who has to become aware of the development? The planning director, I guess, is the one that is charged with that. [LB279]

JOHN WOOD: I think when somebody would apply, you know, and my guess would be when somebody applies to the local entity, be it the city or the county or whatever the planning agency is for the appropriate permits, change of zone, you know, all of those sorts of planned unit developments. I don't know all the terms. [LB279]

SENATOR PIRSCH: Yeah. [LB279]

JOHN WOOD: You know, they're going to come in and say we want to develop a piece of property or redevelop a piece of property or a building permit perhaps to put up a cell tower on an existing developed piece of property. I mean, it can be any number of things. And I think what that's saying is once that planning agency becomes aware of that proposal, then they need to include the local military installation in their notices. As I said, here in Lincoln, we've got a pretty good relationship; the airport does. So we get notified if there's something around the airport, you know, we generally get notified. But you know, the commander of the Air National Guard doesn't get notified, and he may; while we work very closely with him and I think we have a very good relationship with the National Guard and try our best to protect their interests, there may be something that could come up, and I don't have an example for you right now--in the future, that the commander of the 155th Wing, as an example, might see as an impediment to his mission that we would not recognize. And so by notifying him, just like they notified, I'm sure what is a long list of people, they need to notify if somebody applies for development somewhere. It's simply an opportunity for input. [LB279]

SENATOR PIRSCH: Very good. And the, is that enough time? I mean, this 14 days, was that taken from other state statutes and does that realistically give the military installation enough time to do whatever it is that they're going to do? [LB279]

JOHN WOOD: I can't answer where that was taken from. I don't know where the 14 days comes from. [LB279]

SENATOR PIRSCH: Okay. [LB279]

JOHN WOOD: But I think as Ned indicated earlier about Offutt, I mean, the idea is to get them some notification and if they've only got 14 days to respond, then they need to get on the stick and respond just like anybody else does. But at least they had the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

opportunity. [LB279]

SENATOR PIRSCH: Very good. I appreciate that. Any other questions here? All right, seeing none, thank you for coming down for the day and testifying. [LB279]

JOHN WOOD: Thank you. [LB279]

SENATOR PIRSCH: I'll take the, one of the next proponents here. [LB279]

WALT ZINK: I'm Walt Zink, Z-i-n-k and I'm here on behalf of the Lincoln Chamber of Commerce. I'm a lawyer here in town. I'm also a retired major general from the U.S. Army and the Nebraska Army National Guard. I guess, Mr. Chairman, to your question, it seemed to me that, on the green copy, that it looked like the notification was from the particular subdivision to the military. There is no...and I think that's maybe what Mr. Snodgrass (inaudible), there is no response deadline back from the military which does leave it kind of open-ended and I don't, I don't know whether it's appropriate to have a response time. I've not thought through what the appropriate response time might be. Whether, 14 days seemed to me to be a little bit short, depending on the nature of the product, and the project. I would say, it was pointed out, I think, Senator Price made a really good point. A lot of the focus is on Offutt because that's our primary installation and maybe the Lincoln Air Base with the Air Guard there, but there are lots of armories and reserve centers throughout the state of Nebraska that this has some potential effect on and training areas that it has some potential effect on. So if I were to characterize this with a subtitle, I would say this was really the economic and good neighbor act. It really, what it is does is it attempts to codify, I think, efforts by government and the military to work together and to anticipate things that are coming down the pike rather than either party being surprised. It doesn't say to any particular subdivision, you can't do this. But what it is does say is you ought to think through the effect of this, because the military, whether it be Offutt or Lexington, has an impact and it has an economic impact on that particular community, that particular county, that particular area. And if you're going to do something that affects that, it ought to be a conscious decision. That if you say, look, we're going to build a bunch of apartments at the end of the range at Ashland and shut down that range, then we ought to go in there with our eyes open and say the effect of that is we're going to have to either lose Ashland or relocate Ashland to do those sorts of things. And I think that's what this legislation is doing at this point in time, is saying, governmental subdivision, once you know about it, you've got to tell the military. And I think this codifies what goes on in large measure today because there is a lot of discourse back and forth. Where it really comes into effect is BRAC and as BRAC has affected the entire military community, both the active community and the reserve component community. It requires all of us, I think, putting our economic development hat on to look in the out years and say we know what Offutt is doing today. We know what, in Grand Island, the helicopter communities are doing today, but we ought to think about what missions might be coming down the pike and what the second

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

and third order affects things. That's what Mr. Wood addressed and so I think that's why this is important because it really says to all the participants, we're going to statutorily make you think about talking about this in advance and if after you look at it, you say, this particular mission and the economic development of it and the importance to the nation is so important, we want to keep that and we're going to exclude some types of development, fine. On the other hand, if you say, look, it's more important given the circumstances of economic development for our community, we're willing to give this up and then we're going to go in with our eyes open. But everybody will know that in the back, in advance rather than being surprised. So subject to any questions, that's all I have. [LB279]

SENATOR PIRSCH: Thank you very much. Just in looking at the language here on the green copy on page 4, lines 2 through 4, is new language. So this would, this was used previously in the past any time there was development by a municipality and said that they had to notify the Board of Education of the school district in which the real estate to be affected by the proposal and then adds, this bill adds also military installations. [LB279]

WALT ZINK: Correct. [LB279]

SENATOR PIRSCH: So and it has to do it so many days before the next, the meeting at which this proposal will be considered. So I guess that kind of, I mean, is that a correct interpretation of how this is? [LB279]

WALT ZINK: I think that is, Senator, I think that is the correct interpretation. [LB279]

SENATOR PIRSCH: Okay. So then my question was, and I hadn't looked at or heard the whole bill, does this give the installation enough time? This is kind of a separate second requirement which is you also have to notify them at least ten days before any city planning commission that's mulling over the proposal hears the proposal of proposed development. So I guess that answers that question. [LB279]

WALT ZINK: You probably not even, shouldn't even ask a lawyer that question. I probably couldn't, I would probably tell you that I need more than ten days to tie my shoes, so. You know, it's probably not a fair. [LB279]

SENATOR PIRSCH: Okay. Well, that's all the questions I have. Any others? [LB279]

WALT ZINK: Okay, thank you. [LB279]

SENATOR PIRSCH: Seeing none, thank you. Are there any other proponents of LB279? [LB279]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

MEGAN LUCAS: Good afternoon, Senator Pirsch, committee. It's nice to see you. My name is Megan Lucas. I'm president and CEO of the Bellevue Chamber of Commerce, home of Offutt Air Force Base. I'm before you to speak in support of LB279. I do want to let you know that as the home of Offutt Air Force Base, this is a process that's been utilized for years. That as a developer or development comes into Bellevue and shows an interest on a piece of property that is adjacent to the base or within the AICUZ zone or the no fly zone, the base is aware of that. In other words, we make the base aware. So there is a process that's currently in place, and it has been in place for years. And as the Chamber of Commerce, it's our role also to make sure that those, that encroachment issues are taken very seriously. Indeed Offutt Air Force Base is the third largest economic engine in the state of Nebraska and the major or the only, the most significant economic engine in the city of Bellevue. So it would certainly not be in our best interest to ignore things like encroachment issues and no fly zones. But the community of Bellevue, the Bellevue Chamber of Commerce supports LB279, certainly in the areas that Senator Price mentioned that have military installations or military pieces of property throughout the state of Nebraska. Because indeed, we don't know that those things actually occur. Comments or questions for me? [LB279]

SENATOR PIRSCH: Any questions? Senator Sullivan. [LB279]

SENATOR SULLIVAN: Thank you, Senator Pirsch. I assume you've probably looked at this proposed legislation. [LB279]

MEGAN LUCAS: Yes, ma'am. [LB279]

SENATOR SULLIVAN: And does the process that you currently use in communicating with Offutt kind of follow the outline of this legislation? [LB279]

MEGAN LUCAS: Yeah, well, the way it occurs is when we have a development or we have an interest in a development, we go to the head of planning which is the director of planning and then we go to the base with it. So there's a very comfortable, direct line of communication between the Bellevue Offutt Community and the military, the installation commander and of course, the civil engineering about what's going on around the base. We see it in military installations throughout the country. Certainly, if we look at Las Vegas is a perfect example of the encroachment issues that they're having and the battles they're having in Las Vegas. We are very sensitive to the encroachment issues, and we want our base to continue to grow and be the economic engine it is for the community, but also to support the military and military personnel which is why we're so sensitive to it. [LB279]

SENATOR PIRSCH: Senator Price. [LB279]

SENATOR PRICE: Senator Pirsch, thank you. Ms. Lucas, just for edification purposes,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

is there not, there's a development right off of, between Fort Crook and Highway 75, just not a quarter mile, half mile to the active end of the runway, correct? So we do see where economic development is still being encouraged in and around the base, so it doesn't just shut everything down. [LB279]

MEGAN LUCAS: Exactly. Exactly. And when you talk about the runway, we have the AICUZ zone which is the no fly zone and a couple of years ago, the Air Force actually reduced the AICUZ zone. It's called the AICUZ which is the air control zone, which is a big three-dimensional "V" you know, that extends along the runway, out to the end of the runway. And so although the Air Force reduced their no fly, the AICUZ zone, the city maintains the former one because it's larger. So there is some development, but we monitor that and make sure it's not anything...and we do that in conjunction with our friends at Offutt Air Force Base, with the engineering department. And Senator Pirsch, I'd like to follow up on your question earlier if you don't mind about land adjacent to bases. Indeed, it was brought up earlier about the baseball village that was interested in purchasing land, not in the no fly zone, but certainly contiguous to Offutt Air Force Base. When those sorts of things happen, the city will communicate to the base, the base will then communicate back and say, we recommend, we have no problems with this. You know, they have terms that they utilize or strong, strongly recommend you find an alternative. What happens in those situations is that we have to go out...the base will not buy property. They can't buy property unless they have a specific mission for it. So it'd be great if the base, at that point, or any installation could say, well, let's buy this to protect us from encroachment. and that's when our friends at the Omaha Foundation came in and purchased that property contiguous to the base which then supports our efforts to create or attract new missions. [LB279]

SENATOR PIRSCH: Well, I appreciate that explanation. I think we have to be extremely careful when we're looking at keeping bases here and not just... [LB279]

MEGAN LUCAS: Absolutely. [LB279]

SENATOR PIRSCH: ...meet, you know, because I think as the previous testifier testified, they may have some sort of formal requirement, but it is, nonetheless, a factor in other decisions that have larger implications. So I appreciate that. Any other questions? Seeing none, thank you for coming down and testifying. [LB279]

MEGAN LUCAS: Thank you for your time. [LB279]

SENATOR PIRSCH: You bet. Okay, are there any other proponents to this bill? Seeing none, are there any opponents? Is there anyone here to testify in the neutral capacity? [LB279]

GARY KRUMLAND: Senator Pirsch, members of the committee, my name is Gary

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

Krumland, that's spelled K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities. I'm testifying neutral because I just wanted to make one comment. A bill like this could help with communication, but I think it would help with the implementation, at least from the city and village side...I was going to offer to maybe if we define military installation a little better so somebody knows what we're talking about. From the testimony, there appears to be already a list. If there's somehow we could set a process to notify the zoning people who are involved with this so that they know exactly who they need to notify, I think it would be very helpful. [LB279]

SENATOR PIRSCH: Well, I, is there anything further you'd like to say about that? [LB279]

GARY KRUMLAND: Well, I was just going to comment on a question, too. [LB279]

SENATOR PIRSCH: Oh sure, go right ahead. [LB279]

GARY KRUMLAND: And you've noticed already Section 1 of the bill talks about metropolitan cities which is Omaha; Section 2 is primary which is Lincoln. Section 3 relates to all other cities and villages and as part of their process, in order to do any zoning, they have to...it goes to the planning commission first, they hold a hearing and then make a recommendation to the city council or village board. Then they also then hold a hearing giving 10 days' notice. So there's several parts of it. This does, in fact, give the notice at the beginning of the process, so it's an appropriate time to do that, and it's also, you know, mirrors what they give to schools. So it would be at the start of the process. So I just, there was some question about that, so I wanted to comment. [LB279]

SENATOR PIRSCH: Oh good. Anything further? [LB279]

GARY KRUMLAND: No, that would be it. [LB279]

SENATOR PIRSCH: Very good. Well, I appreciate your testimony. It sounds like you don't have any, you know, testimony with respect to opposing the general concept of it. I think it is just clarifying... [LB279]

GARY KRUMLAND: To make sure it can be. I guess, and I haven't seen the amendment, so I don't know if that would make a difference. [LB279]

SENATOR PIRSCH: Oh, it's your understanding that there's an amendment coming down the pike that defines, further defines military installation or that's what you're asking? [LB279]

GARY KRUMLAND: No, I thought there was...someone mentioned an amendment

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Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

about response time or I don't know what that was for sure. [LB279]

SENATOR PRICE: POC. [LB279]

SENATOR PIRSCH: Well, thank you very much. Are there any questions, any other questions? Seeing none, thank you very much. Are there any other individuals here to testify in the neutral capacity? Very good. Thank you very much for coming down today. We will move on to the third bill for today. That's LB280. Senator Avery is the sponsor and so our committee counsel will do the introduction. [LB279]

CHRISTY ABRAHAM: Thank you, Senator Pirsch. [LB279]

SENATOR PIRSCH: Oh, I'm sorry, I forgot to ask you. Did you want to waive closing with regard to the last, LB279? [LB279]

CHRISTY ABRAHAM: I don't think staff can close, so. [LB279]

SENATOR PIRSCH: Okay. So we'll move on to LB280 then and go ahead with your introduction. [LB279]

CHRISTY ABRAHAM: (Exhibit 1) Thank you, Senator Pirsch. My name is Christy Abraham. The last name is spelled A-b-r-a-h-a-m. I am the legal counsel for this committee. And I am introducing LB280 on Senator Avery's behalf. Again, in the spirit of Senator Avery, I have a handout for you. LB280 creates a statewide Commission on Military Affairs. And like LB279, this is a recommendation from the BRAC Task Force. As you'll see from your handout, this is sort of a sampling of states that have established statewide commissions, and they provide a focal point and a single voice when dealing with the state's military interest. Historically, states really have organized when there is a potential BRAC threat. That's sort of when states get interested and start developing these statewide commissions. But that really hasn't been the trend recently. More states now are developing these standalone state level military affairs offices that really are there to support the states military installations and missions. Many states are looking to preserve and expand their military installations. When the BRAC Task Force was considering this recommendation, there was really, I think, two major considerations that they were thinking about. The first was that the task force really felt that Nebraska's ability to communicate with federal, state, and local officials with one voice on military issues is really essential. And secondly, I think the task force felt that Nebraska really needs to expand its current efforts in this area to stay competitive with these other states. So LB280 is hopefully accomplishing some of those goals by creating the statewide commission. The Commission on Military Affairs will work with local, state and federal officials to develop and implement a comprehensive plan to support the best interests of the military assets of Nebraska and the nation. The commission is going to be composed of five members which includes the Adjutant

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

General, the Governor will appoint with legislative approval. The bill also states that the commission will employ an executive director. So it will have at least one staff member and then the bill allows additional staff as may be necessary. The duties of the commission include preparing an annual report, summarizing the military assets, and also include any recommendations for preserving or sustaining the military assets in Nebraska. So again, thank you for your time on this bill, and I'm happy to answer any questions. And again, as you know, you have good people that are going to follow me to answer any questions you might have. [LB280]

SENATOR PIRSCH: Very good. Thank you for that. [LB280]

CHRISTY ABRAHAM: Thank you, Senator. [LB280]

SENATOR PIRSCH: Any questions off that or do we want to wait for the other testifiers? Seeing none, we'll move on to our first proponent then. Again, welcome. [LB280]

NED HOLMES: Good afternoon again, Mr. Chairman. My name is Ned Holmes, spelled H-o-l-m-e-s, and I am the senior military affairs liaison for the Greater Omaha Economic Development Partnership. Again, not to be repetitive, but I was...it was a privilege to be part of the task force and again, I thank Senator Avery for introducing LB280. In the case of the communities adjacent to or near Offutt Air Force Base, the impact of the military is very significant to the vitality of the area, including Omaha. This fact was reinforced back in 2002 with the merger of U.S. Space Com and U.S. Strategic Command at Offutt. More recently, with the announcement that Offutt Air Force Base was once again being considered for two new Air Force missions, that of Air Force Global Strike Command, a 900-person headquarters; and the other a 400-person numbered Air Force for Cyber. If you account for the current economic impact of Offutt Air Force Base which Ms. Lucas spoke to, which for fiscal year 2008 was \$2.42 billion, and you add to that the Nebraska Guard, we're looking at over \$4 billion annually to our state, not to mention the increase of these missions, if we land them here in our state. Now that's the good news. The reality is that we have competition for our existing missions and competition for these new missions. First, the comment that I just made about the existing missions. There were some very important lessons to be learned from the last round of BRAC in 2005. While Offutt scored well as a location for headquarters and administrative type functions, the base was rated very low for operational missions. If you broaden this out to our statewide Air Force assets, we have an aging fleet of aircraft at Offutt, and also here in Lincoln. And if you couple this fact with any infrastructure deficiencies and a case can be made by a future BRAC commission or even a local commander for that matter, to move the mission to another location or to another state. To conclude this notion on existing missions and the BRAC report, it was clear from the analysis that communities that were being very proactive and aggressive in preventing encroachment issues, communities that were working to improve the infrastructure on and around their military installations, and communities

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

that had developed strong partnerships with military officials, these were absolutely critical factors in the BRAC analysis. Now let me address the new missions and state that for the Greater Omaha Chamber, we became very proactive with the recent U.S. STRATCOM mission expansions, starting with the Space Command merger in 2002 until recently in working to retain, expand, and attract new business to support these missions. We also recognize very quickly that keeping the existing missions in place and being proactive for the attraction of new ones such as Cyber was the most effective campaign for business expansion. For example, in 2002, we had around 1,200 defense industry contractors at Offutt or around Offutt Air Force Base. In 2009, we have over 3,600 and more than 50 companies. What I am indicating here is because of the missions that have expanded at our base, we have acquired new companies and additional growth as far as contract personnel and support people. This success was possible because of a strong and unified team effort on the part of the local Chambers of Commerce, leadership of the defense companies, and other business or civic leaders; close and frequent contact and involvement with the base and the officials there, and always keeping our elected officials, state and federal, current on base issues. I can point to the very same team approach in place right now as we prepare for the site visits for the Global Strike and the Cyber Missions that I mentioned earlier. It must be a team effort, but a unified approach on these efforts. Therefore, I strongly encourage this committee to support LB280, to create the Commission on Military Affairs, to use the same approach which has...that has worked at the local level, one that is in place in other states, many of which are in direct competition with us on these missions that we're trying to attract. A state office that keeps his fingers on the pulse of the military resources in Nebraska, maintains close contact with military officials, state and federal delegates, develops a strategic plan that addresses the issues necessary to protect these assets and effectively coordinates the advocacy for these new missions. That concludes my formal remarks, and I would be happy to entertain any of your questions. [LB280]

SENATOR PIRSCH: Thank you for your testimony. [LB280]

NED HOLMES: Yes, sir. [LB280]

SENATOR PIRSCH: Any questions? Seeing...Senator Karpisek. [LB280]

SENATOR KARPISEK: Thank you, Senator Pirsch. Good to see you again, Mr. Holmes. Have you seen the fiscal note? [LB280]

NED HOLMES: I did when I got here. I did. [LB280]

SENATOR KARPISEK: I'm trying to be careful and not be too hard on the fiscal, but doesn't that seem way higher than what, can you see it being lower than that? [LB280]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 12, 2009

NED HOLMES: Well, I can see a public/private partnership, or possibly a private process where the funding for such might be a combination of either state or public money as well as private investment in this or solely private. [LB280]

SENATOR KARPISEK: As we did talk about during the BRAC hearings. [LB280]

NED HOLMES: Yes, sir. Right. [LB280]

SENATOR KARPISEK: I just wanted to get that on record because that is a little scary. But I think it's a great idea, and I think if we could work on that number, it. [LB280]

NED HOLMES: Any number is scary. [LB280]

SENATOR KARPISEK: Well, that's true, but this one is even more scary. Thank you. Thank you, Senator Pirsch. [LB280]

SENATOR PIRSCH: Very good. Are there any other questions? Seeing none, we'll move on to the next testifier. Thank you very much. Any other proponents? [LB280]

JOHN WOOD: Good afternoon, again. My name is John Wood. I am the executive director of the Lincoln Airport Authority, and I'm also chairman of the Military Affairs Committee for the Lincoln Chamber of Commerce. Yeah, I had a bunch of prepared remarks, but we've already had them. There's no point in me repeating them. You know, here in Lincoln, the latest figures I had which are two or three years old is that the Army and Air National Guard here in Lincoln generate over 2,000 jobs with payrolls that exceed \$35 million. So they're a major employer in the Lincoln area, and we certainly want to protect that. Something that may not be too widely known, I know Senator Karpisek in the BRAC hearings that we had this summer found out, with the last round of BRAC that the federal government went through was in 2005, and we came very close in that process to losing the Air National Guard from Nebraska. They were apparently on the list to be closed and just a few weeks prior to the list actually coming out, they got taken off for...we don't need to go into all the reasons, and I'm not sure I know them all. But the point is that you can't sit back. Somebody mentioned earlier that, I think it was Christy, that traditionally states, you know, as soon as BRAC came up, then states got really interested in this; and that's usually too late. By the time the process starts, if you've got deficiencies, if there are problems between the local communities and any given military installation, it's too late to fix it, because BRAC happens too quickly and they don't look at yeah, we'll fix that so you can stay. It's either in place by the time BRAC starts or it isn't, whatever...whatever the situation may be. It's been mentioned that a lot of other states--and there are, maybe 15 or 20, I didn't see the list that was passed out--have these kinds of military affairs offices that work with the military. We, we're falling behind, we don't. And if we don't have some attention paid to it on a regular ongoing basis, then by the time some situation comes up, you can't get

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 12, 2009

ahead of it. It's like fighting the flood when the water is already rising. You've got to have the dikes in place ahead of time. The legislation attempts to set up a process where we pay attention to the military as an employer. And do the same things for them we might do for any other major corporation that employs people here in Nebraska. And so I think it makes sense. I have not seen the fiscal note, so I don't know what you're talking about there. But clearly we need to do something or we run the risk of sitting on our hands and then when it all falls apart, going gee, we didn't know. And I'll be happy to answer any other questions. [LB280]

SENATOR PIRSCH: Thank you very much. We'll start on the right, Senator Giese. [LB280]

SENATOR GIESE: Thank you, Senator Pirsch. Mr. Wood, on how long a fiscal note, are there any federal grants available that you are aware of to start a commission like this? [LB280]

JOHN WOOD: I'm not aware of any federal grants to...no. I'm not aware of any federal grants for an ongoing effort to work with the military. I think the military looks at this, you know, the federal government in general, but the DOD looks at this as, again, like many corporations. Are the places we're located supportive of us or not? And if there's other states where they're more supportive of the military and the bases more fit the mission and the state over here is not as supportive for whatever reason; they're going to gyrate to those places where they get more support. [LB280]

SENATOR GIESE: Thank you. [LB280]

SENATOR PIRSCH: Senator Price. [LB280]

SENATOR PRICE: Senator Pirsch, thank you. Mr. Wood, just to follow-up on Mr. Holmes's comment with what the Omaha Chamber and the Bellevue Chamber does, I'm sure that the Lincoln Chamber works closely with the Guard function here. Could you see that you would also work with helping us meet the obligation of such a commission, if need be? [LB280]

JOHN WOOD: I'm sure we can explore that, and I'm sure there'd be some willingness to take a look at that and work with you, yeah. [LB280]

SENATOR PRICE: Thank you. [LB280]

SENATOR PIRSCH: Any other questions? Seeing none, we'll move on to the next testifier. Thank you. [LB280]

JOHN WOOD: Thank you. [LB280]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 12, 2009

WALT ZINK: I'm Walt Zink. That's Z-i-n-k. Mr. Chairman, Senators, for all the reasons already indicated, I urge the support of LB280. I would add that one of the things that's always significant to me is Offutt and even the Lincoln Air Guard are pretty self-fulfilling sorts of endeavors. In other words, we know kind of what they bring. But when you look at a lot of our reserve component units out in the outlying communities and I think, you know, as we go forward, a real challenge...a challenge is for Greater Nebraska, and those have a big economic impact. And what I think LB280 does is give us a chance to be, again, proactive in this arena and look at the things like...all this happens to just be Lincoln, you know, Innovation Park. And can that be used in conjunction with some of the military missions that we have out there. And if you sat through, as we do, some of the presentations by the military people, they talk about being positioned to accept new missions. It's not enough just when a new mission comes along to say, oh yeah, we'd like to have that, but we've got to be positioned to have the facilities, the space, and the work force to do that. And I think this is a real great asset to do that. So subject to your questions, I don't have any further comments. [LB280]

SENATOR PIRSCH: Very good. So being proactive is... [LB280]

WALT ZINK: Absolutely. [LB280]

SENATOR PIRSCH: Are there any questions? Seeing none, thank you very much. And we'll move on to the next proponent. [LB280]

DAVID SNODGRASS: (Exhibit 2) Senator Pirsch, committee members, again, Dave Snodgrass, S-n-o-d-g-r-a-s-s. I work for the assistant secretary of the Army for installation and environment. I'm the deputy director of the regional office in Kansas City. We cover everything from Iowa, Nebraska, all the way down to Louisiana, Texas, New Mexico. And I'm here to testify in support of this bill, primarily the intent and the concept of the legislation. The long-term sustainability of military installations is generally tied to three factors. First, their size and available space for evolving operational missions. Second, the effects of technology on the military capabilities and tactics. And third, the external political, environmental, and developmental pressures facing that installation. State and local governments can significantly influence installation sustainability. And LB280 unequivocally expresses the state's interest in supporting the best interest of its military assets, while establishing legal authority for the state and the military to work together as partners to promote the long-term viability of these vital facilities. To follow up on a question you asked earlier about other monies available, I do know that Kansas has gotten a grant from, I believe, the Department of Defense Office of Economic Development, which funds portions of their Governor's Military Council which is very similar to what you're doing here. So again, thank you for the interest in the matter. We strongly support the legislation, and if anyone has any questions, I'll be happy to answer them. [LB280]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

SENATOR PIRSCH: I appreciate your testimony. Are there any? Senator Price. [LB280]

SENATOR PRICE: Senator Pirsch, thank you. Mr. Snodgrass, can you tell us an example, a community or state that didn't do this and lost something that they...in other words, they were just asleep at the wheel, if you would, in this region, in your recollection? [LB280]

DAVID SNODGRASS: Well, Senator, I've been doing this for a grand total of about eight months now. So my experience is very limited. I'm retired military. I have seen other, other factors, other encroachment issues, and I do know there is a huge sense of interest every time BRACs are announced. There's a lot of scrambling going on and a lot of that dies down and it gets very quiet once the BRAC is passed. [LB280]

SENATOR PRICE: I just...well, the Chanute Air Force Base, a base like that got closed and the State of Illinois was asleep at the wheel and then all of the sudden when it was done, they thought how did this happen? And we just don't want to be in that situation. So again, thank you. [LB280]

SENATOR PIRSCH: Very good. Any other questions? Thank you very much for coming down. Any other proponents? [LB280]

MEGAN LUCAS: Good afternoon again, Senator Pirsch, Senators. Megan Lucas, L-u-c-a-s, president and CEO of the Bellevue Chamber of Commerce. We are here in support of LB280. As my colleague, Mr. Holmes said, we have a very strong contingent in the Bellevue-Omaha area that works on a daily basis to what...towards what I say or I call the defending ourselves against BRAC. You're right...I forget who said it earlier. You cannot wait until a BRAC assessment is coming to ramp up your community to defend yourself against BRAC. It is a daily, it is a lifestyle, quite frankly, and we live it every day in, as I would like to call the Bellevue Metro. And so we are here in support of LB280. I think from the perspective of all of the assets in the state of Nebraska that are military related, this commission or something similar to, looking out for all assets within this state, is a good idea. Certainly, we focus on the Bellevue-Offutt community. We do not have...we lend our support to Lincoln and the Lincoln Chamber whenever we can. But on a daily basis, our focus is on our base and our community. So something that's looking statewide, certainly, we support. [LB280]

SENATOR PIRSCH: Thank you for your comments. Any questions? Seeing none, thank you very much, Ms. Lucas. [LB280]

MEGAN LUCAS: Thank you. [LB280]

SENATOR PIRSCH: And any other proponents? Seeing none, how about opponents?

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

How about those wishing to testify in a neutral capacity? Very good. Seeing none and so having seen none, we will then close out the testimony on...the hearing on LB280 and move to our final bill of the day, LB450. That is Senator Campbell who is the sponsor. And I appreciate those of you who came down and testified. Good afternoon, Senator Campbell. And take your time, whenever you're ready to proceed, you just do so. [LB280]

SENATOR CAMPBELL: Good afternoon. Thank you, Vice Chairman Pirsch and members of the committee. I'm here today to open on LB450, the Capitol Environs bill. And I'm hoping that this is probably the easiest bill you have today. The bill extends the western boundary of the environs district from 10th to 5th Street here in Lincoln. And you're saying, okay, what's an environs district? The purpose is to ensure the height of future buildings will not obstruct the existing west view corridor to the Capitol--the vista of the Capitol. Now it would be a question that would come to mind: the north, east, and south vistas are already protected in statute. And it calls to mind, why would they not have included the west when they did the other three directions? Well, sometimes when you're the cause of a problem, you get an opportunity in later years to come back and be the person who can correct that. I served a number of years ago on the Public Building Commission which was a duty that I had as a county commissioner. And it's a joint agency between the city of Lincoln and the county of Lancaster that oversees all public buildings. Omaha and Douglas County, I think, have one. And when the vistas were protected on the other three directions, the county of Lancaster and the city of Lincoln said to the Legislature, would you please not include the west because at that time, we were trying to determine if we were going to add a fifth floor to the County-City Building which is at the end of the mall. If you go to the Lincoln statue side and you looked down, you see the County-City Building. And we specifically asked for that. What we found out is that it was far too costly to add a fifth floor to the County-City Building, and we never did that, nor would we intend to do that. So now I have an opportunity as a state senator to come back and make sure that that west vista is protected. And there are testifiers with a lot more expertise than I do who are going to follow up here. But I wanted to explain that past to you because it makes sense. And if you think about, when you are coming in on Rosa Parks Way which is the west, as you're coming down, you would want to protect that vista of the Capitol--it's beautiful. So with that, I'll thank all the testifiers that came today. They're going to explain this briefly to you, but it's merely adding that direction and a protection. We have unanimous agreement of the Environs Commission for the city of Lincoln and the present Public Building Commission. So I feel pretty good about that. And Vice Chairman, I will waive closing, unless you have specific questions, I'll stay. [LB450]

SENATOR PIRSCH: Very good. Thank you very much, Senator. [LB450]

SENATOR CAMPBELL: Thank you. [LB450]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

SENATOR PIRSCH: Are there any questions for the Senator? Seeing none, thank you very much. And we will, if you're going to waive your closing, that's just fine, so. [LB450]

SENATOR CAMPBELL: Thank you, Senator. Okay. [LB450]

SENATOR PIRSCH: We'll start with the first proponent then. [LB450]

JEFF SEARCY: Good afternoon, Senator Pirsch, committee members. My name is Jeff Searcy. It's S-e-a-r-c-y. I have the privilege of serving as chair of the Nebraska Capitol Environs Commission, and thank you for your time this afternoon. Since its creation in 1988, the Capitol Environs Commission; it's a joint city-state body that five of the members appointed by the Mayor of the City of Lincoln and two by the Governor. We've had the mission of preserving and enhancing and advocating for the proper setting of our wonderful landmark statehouse here, the Goodhue statehouse within our capital city. And with the dynamic ever-changing nature of the capital city itself, one of the commission's tasks is to be vigilant about any change and adapt to new opportunities provided by the city's development as new construction is created. It's also our task to preserve certain aspects of the existing environs that we feel worthy of preserving for future generations. It's the preservation of an existing asset that LB450 proposes today, and the reason that the Environs Commission asked Senator Campbell to introduce LB450 is to help enhance this existing state law to preserve the view corridor to the Capitol which was created several years ago when the Lincoln's West Bypass Highway was built, creating a new entry into the city to the downtown from the west. I'm sure we've all driven it many times. This elevated roadway also provided those driving into the city a new on access view of the Capitol over the roof of the City-County complex. However, if we're not vigilant now as a commission, this view could be blocked if new future construction exceeding the height of the City-County Building were ever to occur directly to the west. So by passing LB450, state legislation would extend the protection of the existing state law to include this view corridor and assure its existence for future generations. Some of the members of this body may recall in, I think it was 2001 or 2002, LB729 was passed which provided similar update to the extension of both the north and the east arms of the environs district. So for those reasons that I've mentioned, the Environs Commission feels such an update to the west of the district equally critical and therefore the need for LB450. And we thank Senator Campbell and therefore ask the committee to unanimously approve LB450 toward passage, and I thank you for your time this afternoon. [LB450]

SENATOR PIRSCH: Thank you for your testimony. Are there any questions? I just have a quick one...there's no undeveloped lots there on the Lincoln Mall that would, if...for instance, a building that were to be erected that would exceed that, the current height, that would require tearing down an existing building, correct? [LB450]

JEFF SEARCY: Are we saying to the west? [LB450]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

SENATOR PIRSCH: To the west, the area that we're considering...I mean, that's...
[LB450]

JEFF SEARCY: I wouldn't know exactly the...we may have other testifiers that may
have a more definitive answer there. But that is the intent of the legislation to really
prohibit that from occurring. [LB450]

SENATOR PIRSCH: Thank you very much. [LB450]

JEFF SEARCY: Thank you, Senator. [LB450]

SENATOR PIRSCH: We'll move on to the second testifier, proponent. Good afternoon.
[LB450]

MICHAEL SMITH: Good afternoon. Senator Pirsch, members of the committee, I'm
Michael Smith, director of the Nebraska State Historical Society. Smith is S-m-i-t-h. I
come to you today in support of LB450. I serve as director of the Nebraska State
Historical Society, also a State Historic Preservation Officer, and by statute through my
position, I'm a member of the Capitol Commission. The first thing I want to say is to
thank you and your colleagues who aren't here for your support, your continuing support
of our National Historical Landmark, our Capitol and its grounds, through your actions,
your appropriations for its preservation and restoration. The Capitol is truly Nebraska's
most important building in matters civic and legal as well as in architecture and art.
Personally, when I return to Lincoln from travels whether they be on business or
pleasure, I'm always delighted to spot this great building on the horizon. It really says
that I'm home. Moreover, the very sight of the Capitol reminds me of the dedication,
optimism, and commitment our forbearers who built and paid for this building stone by
stone, year by year, during the 1920s and '30s when that wasn't very easy to do. LB450
extends the boundary of the important protective zone, the Capitol Environs District, to
the west. As Mr. Searcy indicated, the 2002 legislation was passed which extended the
northern boundary of the Environs District to include the Nebraska State Historical
Society headquarters building at 15th and R, the north end of the Centennial Mall. The
northern axis of the Capitol and the important Capitol views from that direction are
protected and as Senator Campbell said, from the west and the south also. By
protecting these views of the Capitol, not only from the north, but also from the four
cardinal directions, we honor the building and thus our state. We also help to ensure
that future generations of Nebraskans as well as those who will come to visit us will be
able to focus their attention on this magnificent building and the system of government
and the way of life that it represents. The Capitol is the visible home of our democracy.
We want the people to have the best possible view of this building so central to those
who, excuse me, so central to who we are and how we conduct our civic business.
LB450 would enable the Environs Commission to ensure that these goals are met for all

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

the Capitol's axial malls going into the future. Therefore, on behalf of the Nebraska State Historical Societies and if I may, the future citizens of Nebraska, I request that LB450 be advanced unanimously by your committee to the floor for consideration by the full Unicameral. [LB450]

SENATOR PIRSCH: Very good. [LB450]

MICHAEL SMITH: I'll be happy to answer any questions if I could. [LB450]

SENATOR PIRSCH: Thank you very much. Any questions then? Seeing none, thank you for coming down. [LB450]

MICHAEL SMITH: Thank you for your time and attention. Appreciate it. [LB450]

SENATOR PIRSCH: And we'll move on to the next proponent of LB450. Are there any opponents? Anyone here to testify in a neutral capacity? Good afternoon. [LB450]

BOB RIPLEY: Good afternoon, Senator Pirsch, members of the committee. My name is Bob Ripley, R-i-p-l-e-y. I have the privilege of serving as Capitol Administrator for the Office of the Capitol Commission, and I have nothing specific really to add other than perhaps to attempt to answer Senator Pirsch's earlier question about buildings that, or sites that are available on Lincoln Mall currently. To give you a little more definition of how the current environs district is and what we're proposing to do to extend it further to the west, the district currently runs from the Capitol along what is now Lincoln Mall up to the point of 10th Street which is just in front of the face of the County-City Complex. So actually the County-City Building is not currently in the district, and the district extends from Lincoln Mall a block north and a block south. So it's literally parallel to that west access. So it's a two-block-wide strip with Lincoln Mall running through the center of it, ending at 10th Street. The next block is the County-City Building and if you go all the way in a two-block fashion to 5th Street which is further west yet on, essentially, if you will, the back side of the County-City Building, 5th Street would run right up to where the elevated roadway of Rosa Parks Way comes in and curves. And so if we were to protect all the land including the County-City Building all the way to where the roadway is as you drive in from the west, it would not allow any building to be built in a height taller than the County-City Building so the visibility from the roadway would always be protected as you view over the County-City Building to the Capitol beyond. The height limit is already established with regard to the existing mall which is from 10th Street to the Capitol. And indeed there are some open lots, essentially parking lots along there right now. And existing legislation does cover and protect those areas. The most recent piece of construction was one done by Nebco, the Abel Company, and it was done right across the street from the County-City Building, and it is kind of the poster child, if you will, for all the design standards as well as height limits, setbacks, materials, and so on for any construction along that mall. And so our hope is that there is more construction

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

occurring between the County-City Building and the Capitol along Lincoln Mall. Lincoln Mall ends at the County-City Building, and it's J Street once you're on the west side of the building. And so it's really that side of the County-City Building that this extension would include. I hope I have made it more clear and not less in my explanation. [LB450]

SENATOR PIRSCH: Well, thank you very much. So let me get this straight. Currently protected under current law, it does go down the Lincoln Mall, is that right? [LB450]

BOB RIPLEY: Correct. [LB450]

SENATOR PIRSCH: And it goes all the way to across the street from the County-City Building? [LB450]

BOB RIPLEY: It comes, goes actually to the center line of the street in front of the City-County Building. So this proposed extension would include the two blocks that the County-City Building sits on plus eight more blocks paralleling J Street on the west side of the County-City Building which takes you right up to essentially where the bend in Rosa Parks Way curves and then enters the city on K and L. [LB450]

SENATOR PIRSCH: I see. I'm really glad that you helped clarify that in my mind because I thought we were talking about the Lincoln Mall area, or you know, where the BlueCross/BlueShield building was and all that. [LB450]

BOB RIPLEY: Exactly. [LB450]

SENATOR PIRSCH: But that's part of it already. [LB450]

BOB RIPLEY: That's currently in there. We're simply trying to, like I say, this might have been included in the original Capitol Environs District, had Rosa Parks Way existed when the 1977 legislation was created that first protected what we now know as Lincoln Mall. It's just that Rosa Parks Way has provided us a new opportunity, albeit ten years ago, to have a new entrance to the city essentially on axis with the Capitol. It's kind of a nice way to have a road brought in when it isn't dead center on the west axis of the building. [LB450]

SENATOR PIRSCH: Very good. Okay, so this is in light of the fact that it's basically designed for that drive in now on the Rosa Parks Way. [LB450]

BOB RIPLEY: Right. And to protect it, just so no buildings occur in the foreground that would not only block the view to the Capitol, but would be obviously taller than the County-City Building which would block pretty much an on axis view coming into the city. [LB450]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

SENATOR PIRSCH: Very good. Thank you for that clarification. Senator Sullivan.
[LB450]

SENATOR SULLIVAN: Thank you, Senator Pirsch. And I wouldn't want to block that, my view, when I come in from the west, coming to work on Sunday night to come to work at the Capitol. So it's...it is a great vista. [LB450]

BOB RIPLEY: Great. Great. Thank you. [LB450]

SENATOR PIRSCH: One other thing. That particular area, that isn't an area that has been typically, you know, utilized by a business like the downtown area, a building in terms of...it would be an anomaly for a tall structure to locate there, wouldn't it be?
[LB450]

BOB RIPLEY: It would indeed. And the reality is, the ground actually falls away from the County-City Building on the west side, so it gets lower. And so the current height limits are one of two. And I'll try to say this so it doesn't become too confusing. There's an elevation taken off of the Capitol that is a U.S. Geological Survey which just snaps a horizontal line, regardless of what the ground does; there's a constant line there and then there's also a dimension from the ground to a point on the Capitol which establishes that elevation. The Capitol is the highest knoll of land in the downtown area, purposely chosen as the site of the Capitol for that very reason. So land falls away from the Capitol essentially on all sides, including the west. It drops slightly as it's going to the County-City Building and once you get behind the County-City Building, it drops even further. So buildings must conform to one of two elevations, depending upon which one is lower. Either they measure the height from the ground to the top of the building as its limiting factor or in the case where perhaps ground might go higher than say a building 57 feet above the ground might break the plane that was established by the 57 feet, so there's an elevation there that it cannot go above that elevation or it must be 57 feet above the ground, if it's in fact, ground that's lower. So that's how the legislation is currently set up. All we're doing is extending that protection to the existing roadway. [LB450]

SENATOR PIRSCH: Very good. Senator Price. [LB450]

SENATOR PRICE: Just out of curiosity and I apologize for walking in a little bit late, there are no plans right now in any of the boards in Lincoln for a building to perhaps encroach on that now? [LB450]

BOB RIPLEY: None that...none that I know of. And the Lincoln Mall is very well established, it's beautiful, landscaped; there are a lot of design guidelines, benches, ash containers, all of those sorts of things specified as part of the design standards between the Capitol and the County-City Building. The only thing this legislation is really asking

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

for is the height protection. Because once we get on what we would call, I would call the west side of the, or the back side of the County-City Building, there's no need for the benches, the landscaping, and so on. That's a zone that's pretty much cut off from it. We're just trying to make sure that no building occurs there that blocks the vista that you see when you drive into the city from the west. That's really the issue here. The Environs Commission has an interest not in extending their per se design guidelines which deal with building setbacks and so on. They're just interested in any new construction that occurs on the west side not being taller than the County-City Building. [LB450]

SENATOR PRICE: Okay, thank you. [LB450]

SENATOR PIRSCH: Very good. Any questions? Seeing none, thank you very much for coming today. [LB450]

BOB RIPLEY: Thank you. [LB450]

SENATOR PIRSCH: (Exhibit 1) Any...well, I'm going to offer to the record a letter that has...from Marvin Krout, Planning Director of the Lincoln/Lancaster County Planning Department, in support of LB450. Anything else? Very good. And any other...Senator, first of all, let me see, is there anybody else here to testify in a neutral capacity? Seeing none, go ahead, Senator Campbell, if you'd like to close. [LB450]

SENATOR CAMPBELL: I waived closing, but I think I can answer somewhat of your question and certainly Senator Price's because you were not here when I opened. It is important that the public, the current Public Building Commission and Senator Price, that is made up of representatives from the county board and from the city council and they oversee the public buildings owned by both of the entities. And it's important that we have their unanimous approval because almost all of the land west of the County-City Building is under the control of the city or county. So the chances that they're going to build a huge skyscraper are not very good because they unanimously support LB450. Does that help? Senator Pirsch, does that? [LB450]

SENATOR PIRSCH: Very, I think that's a great comment. [LB450]

SENATOR CAMPBELL: It's not like there's private enterprise out there that's just ready to build, and we're going to cut off the legs to it. [LB450]

SENATOR PIRSCH: I appreciate that, that condition. [LB450]

SENATOR CAMPBELL: I just wanted to clarify that. [LB450]

SENATOR PIRSCH: No, I'm glad you did. I think that answers the question squarely.

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Transcriber's Office

Government, Military and Veterans Affairs Committee
February 12, 2009

And so any other questions for closing? [LB450]

SENATOR CAMPBELL: Have a great weekend. [LB450]

SENATOR PIRSCH: Seeing none, thank you for coming down and introducing LB450.
And that will conclude our last hearing of the day. [LB450]

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Government, Military and Veterans Affairs Committee
February 12, 2009

Disposition of Bills:

LB279 - Placed on General File with amendments.
LB280 - Placed on General File.
LB450 - Placed on General File.
LB512 - Placed on General File.

Chairperson

Committee Clerk