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Urban Affairs Committee  
March 10, 2009

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[LB495 LB524]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, March 10, 2009, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB495 and LB524. Senators present: Mike Friend, Chairperson; Amanda McGill, Vice Chairperson; Colby Coash; Tanya Cook; Steve Lathrop; Kent Rogert; and Tom White. Senators absent: None. []

SENATOR FRIEND: We'll get started, but I'll read a few housekeeping items. First of all, this is the Urban Affairs Committee. My name is Mike Friend. I'm from District 10, northwest Omaha, and I'm the Chair of the committee. To my right...I'll start with some introductions. To my right is the Vice Chair of the committee, Senator Amanda McGill, and she's from Lincoln. The research analyst, I like to refer to him as the legal counsel even though he only practices law when we're in an executive session, so his name is Bill Stadtwald, and to my left is Senator Steve Lathrop. Steve is from the Omaha area. And other senators will come and go. Don't be offended by that. We still have hearings in other committees. As Senator McGill mentioned, Education is a big one today, so a lot of things going on. The committee has just been joined by Senator Kent Rogert, and Kent is from Tekamah, and also Senator Tanya Cook, and Tanya is from Omaha. So I wanted to let you know, if you have cell phones or pagers, if you could please silence those or turn them to vibrate or turn them off if you don't need them. Everything in here is transcribed, and cell phones tend to garble some of the transcripts. If you wish to testify, there are green sheets you can fill out. If you would fill those out before you testify, we would appreciate that. If you don't wish to testify, you can fill out a white sheet, and you want your name entered in the record. Testifiers, we'll give you about five minutes. We only have two bills today, doesn't look like we have a tremendous amount of folks in the hearing room, but anything over five minutes seems to, on most occasions be a little more than usually necessary. But I won't stop you. Like I said, we don't have too many things going on today. Testifiers, please state and spell your name for the record. First and last name we would appreciate that, again, for the transcribers. And if you have materials, our page...by the way, I forgot to introduce Beth Dinneen. Beth is the committee clerk. She wouldn't have said anything until we got done so (laughter) I want to make sure I introduce her. Blair Gay is the page. She would distribute the information for you to the committee members. She's from Columbus, Nebraska. She's a finance major at UNL, and it's better than political science, believe me. []

SENATOR LATHROP: Not necessarily. []

SENATOR FRIEND: Not necessarily. Okay, and with that, we do have a quorum, and we're going to begin...we have two bills today, LB495 and also LB524. We're going to begin with LB495. That is my bill, and Senator McGill will take over. []

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SENATOR MCGILL: Wonderful. []

SENATOR FRIEND: This is how nice Senator McGill is. I just bashed her chair with my elbow, and she apologized to me (laughter). How does that work? []

SENATOR MCGILL: I started swinging my chair (laugh). []

SENATOR FRIEND: Uh-huh. Vice Chair McGill, members of the Urban Affairs Committee, my name is Mike Friend. It's F-r-i-e-n-d. I am from Legislative District 10 in northwest Omaha. I'm here to introduce LB495, and it proposes to amend Section 19-916 which governs the approval of additions to a city of the first- or second-class or a village. An amendment to this section enacted in 2001 which was LB210 raised questions of interpretation relating to the ownership of dedicated streets in approved subdivisions. The current language which was stricken--stricken passage found on page 4 of the bill, lines 9 through 15--is replaced by the new language found on page 6 of the bill in lines 11 through 17 which makes it clear that the municipality becomes the owner of the dedicated streets and public areas upon annexation and not upon mere approval of the plat since formal annexation must follow the approval of the plat and the process set out in the statute. This provision represents the sole significant substantive amendment in the bill. The remainder of the bill largely rearranges existing provisions of the statute without substantively amending them. LB495 would restructure Section 19-916 to (1) clearly provide that approval of subdivisions of property in a city or villages extraterritorial zoning jurisdiction are to be done as provided in Section 16-901 to 16-905 and Section 17-1001 to 17-1004. (2) It allows a designated employee to approve further subdivisions of existing lots which is also current law, and (3) to consolidate the procedure for a governing body to approve additions to a city or a village. I would consider this a...I wouldn't consider it a technical amendment to existing law. I would respectfully consider it cleanup language. I'd be happy to answer any questions I can, and I don't know if we have any testifiers at all. (Laughter) That's all I'd have right now. [LB495]

SENATOR MCGILL: Do we have any questions for Senator Friend? I don't see any. Thank you. Do we have anyone here? Oh, we do have one, a proponent? (Laugh) And we've been joined by Senator Colby Coash from Lincoln as well. [LB495]

GARY KRUMLAND: (Exhibit 1) Senator McGill, members of the committee, my name is Gary Krumland. It's G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities in support of LB495. And I want to thank Senator Friend for introducing this bill. There's two handouts being distributed. One is a copy of the statute as it existed in 1929, and the other is a colored markup of the bill itself. As Senator Friend mentioned, in 2001 this bill was amended, and it left one section open to interpretation, especially if you looked at it without the context of the whole bill itself. This statute, and you can see that in the 1929 statute, has to do with additions to property. It's a separate

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process than annexation where somebody creates a subdivision adjacent to the city limits, calls it an addition to the city of, and at least until 2001, if the city approved the subdivision, automatically became part of the city. Because of development of SIDs and some other things, cities wanted to have a choice between approving a subdivision and bringing in the city, so in 2001, the statute was created that separated those two decisions. But in drafting the bill, there was one provision that was designed to apply when a subdivision is brought into the city, but it's now just sitting there as a subdivision, and it could be interpreted differently. And that's why I kind of did this color markup of the bill, and that's the handout. There is basically very little change. It's just that things are shifted around. If you look on page 2, there's a lot of language being deleted, color green. That's basically language that has been in the statute since 1901, and that's being moved to subsection 3. The same with the yellow language. The blue language on page 3 is the current subsection 5; that's brought up to subsection 1, and I'll explain why. The red language on page 4 is the language that raises the concern, and that has to do with ownership of streets when a property is brought into it, and someone could interpret that to mean any subdivision that was included. That's not the intent. I don't think that is the way the bill reads, but if you just look at it without the context, that's the way it could be interpreted. And so that language is transferred to the new subsection 3 on page 6 and makes it clear that if the Legislature body includes the addition in corporate limits, then those provisions apply. So without going into a lot of detail, what the bill will do as it passes is the provisions of subsection 5 in the current law would be moved to subsection 1. This lays out the process for subdividing and platting property within the city or within the zoning jurisdiction, and it ties it to other statutes relating to subdivision of property in the zoning jurisdiction. Subsection 2 remains the same. That's a process where a city or village can designate an employee to approve further subdivisions or divisions of lot basically that don't include streets, subdivisions, and then the new subsection 3 is language that was included in the old subdivision 1 plus some other languages to, again, lay out the process to bring additions to the city into the city. It leaves the process that was developed in 2001 where you have a separate process. You approve this subdivision, and then you go through a process to bring it into the city. It retains that, but it just restructures it so that there is a logical order to the statute, and I don't think any intent has changed, but it does make it a little clearer, and anybody reading the statute now would have a better idea of what the process is. And so I probably confused everybody, so I'd be happy to answer any questions that anybody has. [LB495]

SENATOR MCGILL: I like the color coding (laugh). Do we have any questions? Doesn't look like it. Thank you very much. [LB495]

GARY KRUMLAND: Okay, thank you. [LB495]

SENATOR MCGILL: Is there anybody else here to testify on this bill? Are you proponents? Okay, continue with proponents. [LB495]

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ROGER JOHNSON: (Exhibit 2) Senator McGill and members of the committee, my name is Roger, R-o-g-e-r K. Johnson, J-o-h-n-s-o-n. I'm here on behalf of the city of Plattsmouth, Nebraska. I'm also joined by the city administrator, Ervin L. Portis; Ervin, E-r-v-i-n, last name Portis, P-o-r-t-i-s. I would appear as a proponent of LB495 for the purpose of, I believe, clarifying differing interpretations of the 2001 amendment. As Mr. Krumland pointed out, I believe prior to the 2001 amendment, the annexation would have been mandatory as an addition to the city if it was adjacent and abutting the city. And that 2001 amendment really effectively allowed for the use of a sanitary improvement district to abut the city, but remain an SID and not be annexed. With the addition of the road language, I believe there are some differing interpretations of the fee simple title absolute ownership of those roads when it's an addition as opposed to a subdivision that would not be annexed. And I believe the language proposed in LB495 would clarify the meaning. Now I know there...and I'm hoping the little picture that I've provided gives a little visualization for the issues that are addressed in the way subdivisions and additions are proposed and approved. Then I've also provided a copy of Nebraska Revised Statute 39-1501, and I would draw your attention to paragraph 5, because there may be some concern over the approval of subdivisions that are out in the county, and not brought in as an addition. You notice in subparagraph 5 that in the event a road in that subdivision is not improved to a minimum standard, that the county would not have a maintenance obligation for that road, because that becomes one of the concerns over the ownership of the road is that a city street or a county road, who has the maintenance obligation? And I believe not requiring the annexation or not requiring the road to be owned by the city in a subdivision that is not prepared as an addition, I believe the protection exists in 39-1501(5). The protection exists for the county to not take on a maintenance obligation of substandard road. So I believe LB495 would clarify that 2001 amendment, allow the city to choose to annex or not annex, choose to proceed as if that subdivision was an addition or a subdivision while at the same time providing the protection of the county. Thank you. [LB495]

SENATOR MCGILL: Thank you. Do we have any questions? No. Thank you very much. Any more proponents? Any opponents? Anyone here neutral? Seeing none, Senator Friend, would you like to close? Senator Friend waives closing. We can move on to the hearing for LB524, also Senator Friend. [LB495]

SENATOR FRIEND: Thank you, Vice Chair McGill and members of the Urban Affairs Committee. Again, my name is Mike Friend, F-r-i-e-n-d, and I still represent District 10, northwest Omaha. LB524 is pretty simple yet I think you'll hear from some of the testimony, it will have some ramifications or there will be some consequences. The bill proposes to amend Section 18-1741.02, dealing with the penalties for handicapped parking infractions. This bill would simply increase the various penalties for such infractions, moving the penalty for an initial infraction from \$100 to \$150. For a second infraction, within a one-year period, from \$200 to \$300, and for a third infraction or a

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subsequent infraction during that same one-year period, from \$300 to \$500. The current penalties have not been revised since 1993, 16 years ago. Mr. Stadtwald and I got together late, I guess this summer, talked about the fact that these hadn't been addressed, and we thought that they would be decent subject matter for this committee and this session. I'd be happy to answer any questions, but it's pretty simple. [LB524]

SENATOR MCGILL: Any questions? No? Thank you very much. We'll take the first proponent. [LB524]

CRAIG ENENBACH: Good afternoon. My name is Craig Enenbach, E-n-e-n-b-a-c-h. I'm a long-time resident of Omaha, Nebraska, and I currently am the national treasurer of the Paralyzed Veterans of America and also the chapter treasurer of the Great Plains chapter of the Paralyzed Veterans of America, former chairman of the Mayor's Commission for the city of Omaha of the Citizens with Disability, and also proud that I was the coordinator for the world's largest wheelchair athletic event in Omaha last summer, the National Veterans Wheelchair Games. And I want to point out to you that I live this every single day. Members of Paralyzed Veterans of America which is congressionally chartered, you have to have a military veteran and have a spinal cord injury or disease. So I will say that virtually every member of the 20,000 members of the PVA use handicapped parking as I do, and as I was driving down here from Omaha, I was thinking about some guys were going pretty fast by me, and speeding on the interstate. And we all know there's laws for speeding, but what happens, you know, if go 5 miles over the limit? Not much. But handicapped parking, you really just stop my ability to go into the grocery store, conduct my business, and I have a van that has a lift that comes off the side, and I need the room to park. I can't park in a regular stall. And I urge you to consider this as vital to our well-being. Now, I would also say that anyone who drives after all the education that's gone on since the Americans with Disability Act and in the state of Nebraska, and in the city of Omaha, anybody who's driving knows what those big blue signs are. And they know what the...oftentimes the pavement is painted blue, and we all know what that is or should know. And, consequently, the only people who are really parking in there are consciously violating the law. And we're very proud to say that Omaha is the only city in the country really...if you get a ticket, you can go to the Safety Council and take a class to learn more about handicapped parking, to educate violators. And the people who go there find that very educational. But, you know, we went through all that education, and we went through all the media blitzes, and, again, I come back to everybody should know what those handicapped parking stalls are for. And they're consciously making a very conscious decision, forget it, I'm going to park there anyway. For anybody who goes into a...had somebody park in front of a High School and somebody was saying, well, I didn't know it was handicapped parking. But the whole parking lot is full, and, you know, I said, sir, do you think they're saving that one stall just for you because you're late? No. (Laughter) I mean, there's a reason for handicapped parking; there's a reason for it to be upfront. But to...I mean, you can't miss the big blue sign, and you're just making a conscious effort. And I think

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we're...our society has got to the point where well, the \$100 just doesn't cut it anymore. And, you know, we can sit in the class and we can almost make them...I believe it has become more socially unacceptable to park in handicapped parking than it was a long time ago, 15, 18 years ago when we first met Mr. Stadtwald, and we've testified many times for the Urban Affairs Committee. And we commend collectively the Urban Affairs Committee for tightening the laws of handicapped parking and making it, you know, make it more available for those who are actually needing those stalls. And so I urge you to consider this and urge you to...and I commend, first of all, Senator Friend for bringing the bill forward. I think it's time to raise the fine and, in this day and age, the only way...maybe the only way left is to get in their pocketbook and to get them to realize that this is a serious consequence that really, you know, displaces my ability to conduct my business. So I appreciate your support and welcome any questions you might have. Thank you. [LB524]

SENATOR MCGILL: Any questions from the committee? Senator Rogert. [LB524]

SENATOR ROBERT: Thanks for coming down. I think you're right when you say it's less socially acceptable to do that. I think people look...they frown upon others that do it, and I do it all the time...frown upon them as well (laughter). Back up (laughter). What do you say to the person that borrows their mother's car and has a permit in there and parks there? Or the, you know, or is driving their wife's car, you know, and the handicapped person isn't in there with them? Or they borrow the permit just in an effort to park in a closer spot, or if you have a vehicle where say, I drive somebody who needs handicapped parking so I borrow the permit, you know, to haul them around and do those things. I get concerns about the fact, how do we enforce the fact that the use of it correctly so that the people who need it can have spots available? You know, and it's not only about a car without a permit parking in a spot. It's people parking in the spots with permits incorrectly, and I think that is probably more often done than the other way, and that's what I would like to address. [LB524]

CRAIG ENENBACH: The short answer, and I don't mean to be facetious is guilty... [LB524]

SENATOR ROBERT: Yeah. [LB524]

CRAIG ENENBACH: ...and I'm sure you're going to hear from another person this afternoon who attempted to do that in the city of Omaha and other cities in the state of Nebraska that civilians write tickets. [LB524]

SENATOR ROBERT: Um-hum. [LB524]

CRAIG ENENBACH: And it's not just the police anymore, and often...I mean, we all know it when you're speeding down the highway. You're going to slow down when you

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see the police car, and the same way, parking in handicapped parking. But through the years, since the early '90s, we've trained probably over a thousand volunteers to write tickets, and so it's not quite...it's just the guy next to you. You don't know if he's going to write you a ticket. [LB524]

SENATOR ROBERT: Right. [LB524]

CRAIG ENENBACH: And we do write those tickets. What...unfortunately, it's not in every city, and it takes initiative with a grass roots effort to get it going, and people ask me, how do we get it started? And I says, it's you (laugh) going to your city council and amending your local ordinance to go along with the state ordinance, and as Bill will surely remember, that we fought that way back at the beginning, that you had to be a sworn peace officer in order to write these tickets. And we were fortunate enough to have the committee endorse it, the Unicameral sign it, and the Governor signed it, that now as local ordinance, you can write...people can write tickets. And we have a very vigorous program in Omaha where the Omaha police department is involved; the training academy is involved. We teach these people, and then they write tickets. And so it's becoming more than just the police. [LB524]

SENATOR ROBERT: How many individuals do you have in Omaha of doing that? [LB524]

CRAIG ENENBACH: Pardon me? [LB524]

SENATOR ROBERT: How many individuals do you have in that program in Omaha? [LB524]

CRAIG ENENBACH: Well, we probably trained over a thousand, maybe 1,500. Now, unfortunately, not everybody that we train continues on... [LB524]

SENATOR ROBERT: Falls off. [LB524]

CRAIG ENENBACH: ...and they, you know, they get all excited about it, and then it gets cold out or they forget about it, or...and there is almost intimidation that nobody...I personally don't like confrontation. And part of our cardinal rules is that you will not talk to the driver, because...one civilian to another, they're probably going to get mad at me. See, in fact, I had that happen not too long ago. The armored car is parked in the post office in handicapped parking, and I said, sir, do you realize this is handicapped parking? And he says, I don't care. I'll park here. And I said...if you don't like it, call the police. And I says, well, you know, I pulled out my badge from the Omaha Police Department, and I says, well, effectively, I am the police. And then he turns on his sirens and he about ran me over. And...but we did call the company. That's one of those few cases where we did actually talk to the driver, because it was so blatant, and he

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said, well, I do this every single day. And I said, well, it's wrong every single day. But.. [LB524]

SENATOR ROBERT: Right. [LB524]

CRAIG ENENBACH: ...some of it comes back to that it's socially unacceptable, and I'm seeing more and more people say, hey, you shouldn't be parking in there, or do you realize this is handicapped parking? We've learned that tactic through the years that that's the easy way out. Oh, gees, I didn't know that even though it's obvious, but let them move and get on with their business. And so, if your neighbor or your guy down the street or just, you know, like you were saying, don't park there. [LB524]

SENATOR ROBERT: Yeah. [LB524]

CRAIG ENENBACH: But it is an enforcement issue. It boils down to enforcement... [LB524]

SENATOR ROBERT: Yeah. [LB524]

CRAIG ENENBACH: ...and, you know, our police department has been great. We have a volunteer coordinator, and we keep track of all these guys, and we make sure that they're not want-to-be cops and renegades, and we try to, first of all, avoid confrontation and then write the tickets. [LB524]

SENATOR ROBERT: Great. [LB524]

CRAIG ENENBACH: And I think that's helping with the process. And I'm sure that the director of the handicapped parking patrol is going to testify, and she'll say that it's helping. But, you know, at the end of the road, you know, like I said, it's the money. [LB524]

SENATOR ROBERT: Yeah. [LB524]

CRAIG ENENBACH: You can talk to them till you're blue in the face and embarrass them, and...but I think one of the next things we need to do, we tried all the subtle things; we tried all the nice-to-do things. We put it on TV, and we have the training class, but now it's...we need to raise the fine, so that they only do it once. If they do it once, they better not do it again. Then the fine goes up. [LB524]

SENATOR ROBERT: Um-hum, thanks. [LB524]

CRAIG ENENBACH: Sure. [LB524]



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SENATOR MCGILL: Senator Lathrop. [LB524]

SENATOR LATHROP: I just want to know how much of a problem it is, you know, I park in parking lots. I walk by, and there's usually empty handicap parking stalls, and it makes me wonder, do we have a...is this a big problem that we're addressing, and that \$50 more in fine is going to fix it? [LB524]

CRAIG ENENBACH: I think it will help, you know, but, you know, of course, the Americans with Disability Act in the state statutes, you know, will specify how many stalls you need to have. And you...when you go to Walmart, when they have a thousand stalls and you end up with 25 of them right up front, except at Christmas time, some of them will be vacant. But when I go to Walmart, unfortunately, I see them...most of them being occupied, and, more unfortunately, I find some people that shouldn't be in there. [LB524]

SENATOR LATHROP: They'd have no sticker on them? [LB524]

CRAIG ENENBACH: No, they're just lazy and selfish, and they're violating the law, but they could care...they don't care. And, you know, we hear it, I don't how many times, oh, I'm only going to be in there a minute. And, you know, and we had posters made up actually, and they said, that's one minute too long, because I don't know when you're coming out. And it's not going to be just a minute. And I had another case where a guy pulls into Walgreens, and he left his motor running, and I talked to him. And he says, well, I'm not parked. I said, well, you're in the stall. And he says, well, my motor is running. And I says, you're (laughter)...I says you can get a ticket, and we did...in some cases, we have taken it to court, and the court in Omaha, at least, has overwhelmingly supported us...Marty Conboy in the... [LB524]

SENATOR LATHROP Most folks are actually going around with cameras, aren't they? Have I seen them in parking lots with cameras? [LB524]

CRAIG ENENBACH: Right. You know, when we... [LB524]

SENATOR LATHROP: That's those... [LB524]

CRAIG ENENBACH: ...when...this is...I'll speak from Omaha perspective. And Marty Conboy is, I think, the world's greatest prosecutor, but he says, you're going to go to court. Some of these people are going to plead not guilty even though they really know they are, but they're going to plead not guilty, and they're going to try to get off. And, he says, I need some evidence. You're not a sworn peace officer. You're not coming in here with years of training, and they insisted that we take pictures as proof. And, you know, these...you know, I've been in court so many times, and these defendants will lie through their teeth. You know, I would never park in handicapped parking; I've never

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been there before. And then they come to us, and we show them the picture of your car with your license plate in the stall. Oh, gees, you know, (laughter). And, I mean, you know, unfortunately, they'll lie through their teeth just to get out of that fine, you know, irregardless if it's perjury, and it's not right, and they're not being a very good citizen about it. But they're trying to get off, because it's only a \$50 fine. But...or whatever the case may be. But...we do take pictures. [LB524]

SENATOR LATHROP: Okay, thanks. [LB524]

SENATOR MCGILL: Are there any other questions? [LB524]

SENATOR COOK: I have a question. [LB524]

SENATOR MCGILL: Oh, Senator Cook. [LB524]

SENATOR COOK: Thank you, Senator McGill, and thank you for coming down today, especially through all that construction. I happen to be the proud daughter of two disabled parents, and I just need a point of clarification since you probably know this law really, really well. We're going to the movies; we drive. I use the button; we let them out at the door, the Twin Creek Theater in Bellevue, and then I go and park. Are you going to be mad at me when I walk with my perfectly two good legs back to the theater, because I've just parked there accessible, deny...? [LB524]

CRAIG ENENBACH: You violated state law. [LB524]

SENATOR COOK: Oh, I'm glad we have this on the record (laughter). What if...thank you, sir. And what was I supposed to be doing, because you know what the...? [LB524]

CRAIG ENENBACH: Well, what...you know what,...you know what... [LB524]

SENATOR COOK: They can't get in my car. [LB524]

CRAIG ENENBACH: Well, what will happen is that we, you know, we found that people go around...and the disabled person might stay in the car, and they go around, and they go to sleep in the car. They don't even...so the state law was changed to say that the disabled person must get in or out of the vehicle while it's in the stall. [LB524]

SENATOR COOK: Ah. [LB524]

CRAIG ENENBACH: And because...I mean, like in your case, you can leave them off at the front door, you go around and park. I mean, well, I do that all the time too. I leave my wife off at the door...I happen to have a...we have license plates, but...and I use the wheelchair. But candidly speaking, you probably shouldn't be parking in the

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handicapped parking. You could park in a regular stall, and after the movies, you come out to get your car, and then come around to pick them up again out the front door. [LB524]

SENATOR COOK: Okay. [LB524]

CRAIG ENENBACH: And Bill would...I mean, we've been down here so many times, and the whole purpose of this really... [LB524]

SENATOR COOK: Bill will help me out. [LB524]

CRAIG ENENBACH: ...you know, we found this, you know, there's loopholes and people, you know, we don't want people parking in the curb cuts, and we want people getting in and out while they're in the stall. And we want one placket per person, and all kinds of things that the Urban Affairs Committee and the Unicameral has saw fit to pass, to tighten the laws and...but it happens. [LB524]

SENATOR COOK: Okay. It did. (Laughter) It won't happen again. Thank you very much. [LB524]

CRAIG ENENBACH: And...that's a past...that's past tense, right? [LB524]

SENATOR COOK: It just has to be cold and roll up to the door. Thank you. [LB524]

CRAIG ENENBACH: (Laugh) Sure. [LB524]

SENATOR MCGILL: You can see that's an honest mistake sometimes happen, I guess. [LB524]

CRAIG ENENBACH: Probably...it's either the 65-mile-an-hour speed limit this morning, but by going 66, but (laughter). [LB524]

SENATOR MCGILL: Are there any more questions? No? Thank you very much. [LB524]

CRAIG ENENBACH: Sure. [LB524]

SENATOR MCGILL: And we'll take the next proponent. [LB524]

PAT ENENBACH: My name is Pat Enenbach, E-n-e-n-b-a-c-h. I am the director of the Handicapped Parking Patrol for the Omaha Police Department and founder of the Handicapped Parking Patrol. Senator Cook, you are not in violation of the law. My husband was wrong. [LB524]

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SENATOR COOK: Thank you (laughter). [LB524]

PAT ENENBACH: Because if, when you leave the movie theater, you come out with your parents and get into your car in handicapped parking, then you are legal. And if you get a ticket, give me a call. I'll take of it. [LB524]

SENATOR COOK: I will. Thank you. I do want your contact information (laugh). [LB524]

PAT ENENBACH: Like Craig says, into...you have to enter or exit the vehicle in the stall, so you can drop them off, pull in the stall... [LB524]

SENATOR COOK: But we could go back together to the vehicle. [LB524]

PAT ENENBACH: Yes, and you're perfectly legal. [LB524]

SENATOR COOK: Okay. [LB524]

PAT ENENBACH: And you could get a ticket, but if you do, we'll get it...that's not a problem. [LB524]

SENATOR COOK: All right, good. I appreciate it. The clean record (laughter). [LB524]

PAT ENENBACH: (Laugh) I am very much in favor of upping the fine for handicapped parking. I'd like to see it go to a thousand bucks, because it is so obvious when you sit in front of that big blue sign and deliberately, intentionally park there. The problem that we have is, there are a lot of senior citizens who do not understand the laws at all. For example, the other day I was at the store, my husband, and there was a man in handicapped parking, using his stall...sitting there. You would think that's legal. No, it's not legal. He has to get out of or into the car while it's in the stall. He let his wife out to go shop. Essentially, she's using his placard. He had no concept of what that meant. None. One of the...the other problem that we have that, I don't know if maybe you can get your facts together and figure out a way to do this. But the biggest problem is, is that people get placards and plates who shouldn't have them. They can walk more than 200 feet unassisted. They go to the mall, and they walk around, and they park in handicapped parking, and they walk three miles at the Westroads in the morning. I mean, give me a break, you know. You're supposed to be able to walk less than 200 feet without an assistive device, meaning prosthetic, wheelchair, cane, crutch, or oxygen, whatever. But you need one of those devices in order to park in handicap parking. I think that probably the biggest thing I've ever done in my life is this handicapped parking thing, and it happened when my husband broke his back, and he went back to work. And after six months of being off, and had his brand new van with the lift that he was all excited about it. He wanted to help me out and go to the store, but there was no place for him to park, because kids are running in there getting cigarettes,

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and people are lazy, running in there. And when you have a lift, you know, if you walk and you have handicap parking, if you have a prosthetic leg, for example, you qualify for handicapped parking. Problem is, is that people park right in the stall where it's van accessible, so you can get your van out. There's enough room, get your lift out, there's enough room. And they don't see the need to maybe park one over. You know, oftentimes there's an empty stall right next to the sign handicapped, but they think they got to park in the handicapped. The other thing is, I've been in many places where there are regular stalls right in front of the door, but down at the end of the row, there's handicapped parking. But these seniors think that they're supposed to go down at the end of the row and park and walk all that distance; they've got a heart problem. Well, if they were smart, they would park by the door where it was empty (laughter), and not have very far to go, you know. But then people come along with the lift and, we can't get out. So I'm very much in favor of the higher, the better. I understand not going too high at one time, but I still think that it's pretty obvious. [LB524]

SENATOR MCGILL: Well, thank you, Pat. Are there any questions? Senator Coash. [LB524]

SENATOR COASH: Thank you. I just have a couple of questions. The fines that you collect... [LB524]

PAT ENENBACH: Yes. [LB524]

SENATOR COASH: Do they go to the same place...do the funds go to the same places if I get a parking ticket...? [LB524]

PAT ENENBACH: Yes. They go to the same place as all the other...all the other tickets that the police write. I think they go to the school district in which they were written. [LB524]

SENATOR COASH: Okay, all right. And then my second question relates to the process for how a person who does qualify for a permit goes about it. For example, you know, what's the burden of proof that...? [LB524]

PAT ENENBACH: Your doctor just has to sign a form, saying that you can walk less than 200 feet unassisted, and they sign it, and that's that. Yeah, I wish we could have a law that would somehow or other stop physicians from doing that. But I don't know what it would be. I mean, the AMA would be here like, you know, ants on an ant farm. [LB524]

SENATOR COASH: So it takes just a letter from your doctor with the 200-foot unassisted. [LB524]

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PAT ENENBACH: That's it. Yeah. Um-hum. [LB524]

SENATOR COASH: Okay, so, all right, thank you. [LB524]

SENATOR MCGILL: Very informative. Any other questions? No? Thank you very much. [LB524]

PAT ENENBACH: Thank you. [LB524]

SENATOR MCGILL: We will take the next proponent. [LB524]

KATHY HOELL: Hi, my name is Kathy Hoell, K-a-t-h-y H-o-e-l-l. Like the previous two testifiers, I am totally dependent on handicapped parking, and like the previous two testifiers, I have horror stories out my ears of things that have gone wrong with handicapped parking and people who have abused it. And I am in total support of LB524, because at this point in time, parking illegally in the handicapped parking place is very blatant. I travel all over the state for work, and actually, the worst place I have found for violation of handicapped parking is this building. This is...there are eight handicapped parking places. Only two that are van accessible, and I, like Craig, need van accessible, because I have to let out my ramp. And I've had to have security come out and get me unstuck from sinking in the ground when a senator actually (laugh) illegally parked in (laughter)... [LB524]

SENATOR COOK: I just got here. Ms. Hoell, I just got here. That's awful. [LB524]

KATHY HOELL: No, it's not you. It's nobody here. But, I mean, (inaudible)...so, for example, last week I was here...I feel like I live here sometimes. (Laughter) And I guess that there are eight handicap parking spaces from this building. Six of them were taken by people that were illegally parked. I ended up having to park down on 14th and N which is quite a hike when it's cold. The police...Lincoln doesn't have a handicapped parking patrol like Omaha does. We have these little cars that go around, and they stop periodically, and they issue tickets. The only people I've ever seen them give tickets to are the people that are legally parked, because in Lincoln, they place a two-hour limit on handicap parking. And so we enforce that, but we don't enforce people who are illegally parked, so there are some real problems there. And I'm with Pat. We could raise to a thousand dollars. I'd have no problem with that at all. And one other thing, Senator Coash, you asked a question about...all of a sudden I'm drawing a blank. [LB524]

SENATOR COASH: Well, I asked about, where the fines go, and then the burden of proof. [LB524]

KATHY HOELL: The burden of proof. What I was going to say, what the state of Florida did a couple of years ago, was they withdrew all handicapped parking permits, and

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everybody had to reapply. And when they rewrote the law, they rewrote the law with a penalty for doctors that illegally signed that paper saying that they could...they had to...the doctors had to prove that the person could not walk more than 200 feet. And so I'm like Craig, I have a plate on my car. People like that didn't have to struggle, but the people that had the placard had to start over again and reapply for handicapped parking. And it did cause some controversy, but it also knocked down the number of people that utilized handicapped parking in Florida by about 50,000, so there is a lot of people out there abusing it. Thank you. [LB524]

SENATOR MCGILL: Well, yeah, thank you. Are there any questions? Thank you, Kathy. [LB524]

KATHY HOELL: Okay. [LB524]

SENATOR MCGILL: Do we have other proponents here? No? [LB524]

CRAIG ENENBACH: Senator, could I follow up with one clarification? [LB524]

SENATOR MCGILL: What is that clarification? Could you come back to the mike? [LB524]

CRAIG ENENBACH: Yeah. [LB524]

SENATOR MCGILL: Yeah, and state your name again so the record can follow this dialogue. [LB524]

CRAIG ENENBACH: This is Craig Enenbach, E-n-e-n-b-a-c-h. I wanted to clarify the application process is that...not at the back; back at the beginning, back in the early '90s, I got my first handicapped parking placard by the doctor writing on the prescription pad...Mr. Enenbach would benefit from the handicapped park...from the use of handicapped parking which didn't say much at all. But through the...probably through some of our initiative, Mr. Stadtwald, the Urban Affairs Committee, and the Unicameral, we've revised the process that now there's a form. And the Department of Motor Vehicles has been pretty great about this. There's a form you have to fill out, and the doctor has to certify that this person meets one of four conditions, and then he has to sign...he or she has to sign their name and put their identification number. And there has been occasion when...and the purpose of writing their number is that we shouldn't have dermatologists writing for handicapped parking (laughter). For example, and I had this candid conversation with my dermatologist, and says, well, no, no, never. But, you know, a doctor is a doctor. In the old days, but they certify that this person meets this criteria, and then that's kind of it. Given that he's within the realm of his specialty, so that...but it's very difficult to get between the doctor and their patients. And once they get the placard, you know, we don't do any...we say, well, that's...you know, we can't

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say...well, you're not qualified. That's not our job as Handicapped Parking Patrol or even citizens, but I just wanted to clarify that we made it a little tougher through the years, and now there's a real form. If you don't have the form, you don't get your placard. [LB524]

SENATOR COASH: Could you...you mentioned one of four conditions that have to be met. Do you know what those are off the top of your head? That...200 feet, I guess,... [LB524]

CRAIG ENENBACH: Um-hum. Well, 200 feet is the most obvious one. And one is, if you have a heart condition that says you can't walk very far even though in the same breath they're telling you to go walk around the mall for five miles. And if you've lost the use of your limbs, but even though you walk with a prosthetic. I know, I had the form in front of me, but the most obvious one is... [LB524]

SENATOR COASH: I can get it from Bill. I was just curious. [LB524]

CRAIG ENENBACH: The most obvious one is the 200 feet, and then the other one is kind of...it kind of goes along with the federal law, that in our estimation, I think they've broadened the law to go a little bit too far to grant the privilege...and I consider it a privilege to park there. It's a right and a privilege, but in the sense that, you know, they're trying to get it too broad. But I just wanted to clarify that, that,... [LB524]

SENATOR COASH: Thanks for clarifying that point. I appreciate that. [LB524]

CRAIG ENENBACH: ...the state of Nebraska here is doing better than we had in the past. You know, all that came through this committee, through your predecessors, and we will really appreciate your support in years gone by and today, of course, too. Thank you. [LB524]

SENATOR MCGILL: Well, thank you, for that clarification. And we had another proponent back there who wanted to come up? [LB524]

JOHN SHANNAHAN: John, J-o-h-n Shannahan, S-h-a-n-n-a-h-a-n. I didn't know I was going to testify today, but I support the increase in the fines of it. I've got a handicap. I was on Handicapped Patrol for a while. In regards to Senator Rogert's questions, one of the ways you can find if there's abuse, the handicap placards are identified male or female, and it's got the age group in there. And, yes, it is a problem in Omaha. And on Handicapped Patrol I was on for awhile, now I have got the police dispatcher on my speed dial. As soon as I find one, I call them in. It's a low priority, and they do get there. And the first reason I came down is to get educated of how to make an addendum to a current section of the law. I understand now all your addendums or laws are introduced the first ten days of the session. One of the problems that I have found in Omaha...I'm



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kind of getting off on the subject, but is snowplowed into the handicap and spring sale coming up. The businesses taking those stalls and putting plaques...palates of flowers in there. And then also, of putting trash containers in there. One company that puts a trash container in there, I went through my city councilman; he sent the police out. They said they had more than enough signs. The next time I went by, all they did was take the handicap sign down in front of that stall. Another business in Omaha, they would move the handicap away and put flowers in there for spring. I've taken care of that; I've e-mailed that company and they say they're going to take care of it. But I'm working on getting the new amendment to that. So that's...and I do support the increase (laughter). [LB524]

SENATOR MCGILL: Well, thank you, John. Are there any questions? No? Thank you very much. Are there any other proponents here? Anyone here in opposition? No one? Anyone neutral? All right. Then Senator Friend can close if he'd like. [LB524]

SENATOR FRIEND: Thank you. I just only wanted to say thanks to everyone for coming down, and I know it sounds like it's going to get nasty out so everybody drive safely. Other than that, I would answer any questions if you would have any. [LB524]

SENATOR MCGILL: Questions? No? Thank you very much. That closes our hearing for the day. [LB524]

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Disposition of Bills:

LB495 - Placed on General File.

LB524 - Placed on General File.

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Chairperson

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Committee Clerk