

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee March 1, 2019

**PANSING BROOKS:** Good afternoon and welcome to the Judiciary Committee. My name is Patty Pansing Brooks and I'm from Lincoln, representing District 28 right here in the heart of Lincoln. I am the Vice Chair of the-- of the Judiciary Committee and I'd like to start off by introducing members of the committee who are here starting on my right.

**SLAMA:** Yes. Julie Slama, District 1, covering Otoe, Pawnee, Richardson, Johnson, and Nemaha Counties.

**BRANDT:** Tom Brandt, District 32, Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties.

**PANSING BROOKS:** And assisting the committee today are Laurie Vollertsen, our committee clerk; Neal Erickson and Josh Henningsen, our two legal counsels. The committee pages are Alyssa Lund and Dana Mallett, both students at UNL. On the table inside the doors you will find the yellow testify sheets. If you're planning on testifying today, please fill out one and hand it to the page when you come up to testify. This helps us keep an accurate record of the hearing. There is also a white sheet on the table if you do not wish to testify but would like to record your position on a bill. Also for future reference, if you are not testifying in person on a bill and would like to submit a letter of support for the official record, all committees have a deadline of 5:00 p.m. the day before the hearing. We will begin bill testimony with the introducer's statement, followed by the opening. We will hear from proponents of the bill, then opponents, and finally by anyone speaking in the neutral capacity. We will finish with a closing statement by the introducer if they wish to give one. We also ask that you begin your testimony by giving us your first and last name, and please spell them for the record. We utilize an on-deck chair right up here next to-- to the left, to your left of the testifiers' table. Please keep the on-deck chair filled with the next person to testify in order to keep the hearing moving. If you have any handouts you're welcome to bring up at least 12 copies and give them to the page. And if you do not have enough copies the page can help you make some more. We will begin using-- we-- we will be using the light system. It's this box up here with the colored lights. When you begin the testimony, the light on the table will turn green. The yellow light will come on when-- as your one-minute warning, one minute left. And when the red light comes on we ask you to wrap up your final thought and stops-- stop your testimony. As a matter of committee policy, I'd like to remind everyone that the use of cell

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phones and other electronic devices is not allowed during the public hearings, though senators may use them to take notes or stay in contact with staff. At this time I'd ask for everyone to look at his or her cell phone and make sure that they are on silent mode. Also, verbal-- verbal outbursts or any applause is not permitted in the hearing room and such behavior may be cause to be asked to leave if-- if-- leave this hearing room. And one more thing: You will notice committee members coming and going. That has nothing to do with the importance of the bill or a specific senator's position on a bill. But the senators have bills to introduce in other committees or other committee meetings to attend. So with that, we will begin today's hearings and first we have the gubernatorial appointments. We have three of them to the Crime Victim's Reparation Committee, and first we will have Shawn or, no, Michelle Schindler. Welcome.

**MICHELLE SCHINDLER:** Hi. Good morning.

**PANSING BROOKS:** Please begin.

**MICHELLE SCHINDLER:** OK. I am Michelle Schindler. I hail from Lincoln, Nebraska. Went to Northeast High School and then attended the university. And, yeah, and studied criminal justice and then got my master's in Family Sciences. I began working with the Crime Commission back in the '80s for an undergrad intern with their computer NCJIS program, and then began working and running the youth center in Lancaster County. I don't know what else you want to know about me. I have a 19-year-old son who lives in Colorado Springs. I come from a small business family, agriculture, and from Hartington, Nebraska, and I am on this, I'm on the Crime Commission, and I was asked to be on the CVR Committee. I do appreciate your support for the victims of crime. I think restorative justice is very powerful. It's very powerful. And I think that the way in which you obtain funds to help restore the victims of crime means a lot. We've seen requests for funeral services, for education, for therapy. And I think recovering from being a crime victim is a lifelong journey. But this committee and this state's response to those who are in need says a lot about all of you and all of us as a community and state.

**PANSING BROOKS:** Thank you, Ms. Schindler. Are there any questions? Yes, Senator Brandt.

**BRANDT:** Thank you for appearing today. How many years have you served on this commission?

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**MICHELLE SCHINDLER:** This would be my circuit-- on the Crime Commission or specifically on the CVR or both?

**BRANDT:** Both.

**MICHELLE SCHINDLER:** OK. I've been on the Crime Commission approximately six years. And this would be my second term on the CVR Committee.

**BRANDT:** Is-- if you had the opportunity to change anything, would you change anything?

**MICHELLE SCHINDLER:** Well, personally, I do think that the requests exceed the revenue that we have to provide. So looking at alternative funding sources, I don't know necessarily if it would be taxes, you know, or General Funds, but I do like that a portion of what the inmates goes to supports this program. And I think that could be evaluated. I think that for recovery and for those who have committed harm, I think it's important for them to I understand their responsibility to help make people whole and I think it's all about restorative justice.

**BRANDT:** OK. Thank you.

**PANSING BROOKS:** Thank you, Senator Brandt. Any other questions? I just want to add that I have had the good fortune of working with you in a number of areas and I really appreciate your effort and your advocacy and I see that you've won the Excellence in Detention Facility Administration 2008 Award, and so I appreciate all your work.

**MICHELLE SCHINDLER:** Thank you.

**PANSING BROOKS:** Thank you. Any other questions? No. Seeing none, I don't know if people are here or if you have any proponents that would like to-- to speak or opponents. Anybody in the neutral? OK. Thank you, Ms. Schindler.

**MICHELLE SCHINDLER:** Thank you.

**PANSING BROOKS:** This closes the hearing on the gubernatorial appointment of Michelle Schindler, and we do have a letter of support from Larry Dix from the Nebraska Association of County Officials. Next, I'd like to open the gubernatorial appointment to-- for Shawn "Ether"-- Eatherton?

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**SHAWN EATHERTON:** Eatherton.

**PANSING BROOKS:** Eatherton to the Crime Victim's Reparations Committee. Welcome, Mr. Eatherton.

**SHAWN EATHERTON:** Thank you. I'm Shawn Eatherton, S-h-a-w-n E-a-t-h-e-r-t-o-n. And I appreciate the opportunity to be in front of you here today. I'm the Buffalo County Attorney by trade and have been so. I just started my fifth term out in Kearney. I also serve as an adjunct professor at the University of Nebraska at Kearney. I'm the past-president of the County Attorneys Association and I serve on the NACO board as the attorneys' rep-- representative. Right now I certainly believe very much in restorative justice. I believe that the CVR is, unfortunately, it's-- is kind of the-- the-- the-- the-- the port of last harbor for many people and--

**PANSING BROOKS:** Could you pull that just a little closer? I'm sorry, we're--

**SHAWN EATHERTON:** Certainly.

**PANSING BROOKS:** Yeah, thank you.

**SHAWN EATHERTON:** Is that better? I-- I do believe in the CVR. I believe it is the port of last harbor for many people. It's-- it's their last opportunity. And-- and-- and it is unfortunate the limitations that we have, but that-- but-- but they are there. And then the-- the CVR I think does the the best it can to put people in the position that they can to-- to make ends meet, in the end of the day. And they are-- they are sad situations but they are caused by other people, and the best we can do for the victim at times is-- is give them some financial assistance.

**PANSING BROOKS:** Thank you, Mr. Eatherton. Any questions for Mr. Eatherton? OK. Thank you for coming today. Any proponents in support of Mr. Eatherton's appointment? Any opponents? Anybody in the neutral? So we do have a-- I think we have a letter of support, yes, from Larry Dix from the national-- or Nebraska Association of County Officials. And that will close today's appointment on Crime Victim's Reparation Committee for Mr. Shawn Eatherton.

**SHAWN EATHERTON:** Thank you, Senator.

**PANSING BROOKS:** Thank you for coming to you today.

**SHAWN EATHERTON:** Thank you.

**PANSING BROOKS:** OK. And finally we are having the-- we are going to be having the gubernatorial appointment to Crime Victim's Reparation Committee with Mr. Thomas Parker. I understand he's-- is he calling in? Oh, OK. Excuse me. So he did send-- submit a letter to for the record and we do have that letter. We will recognize the fact that he-- his background includes 37 years as a sworn law enforcement officer with the Nebraska State Patrol and he retired in 2009 as captain and troop commander of the 11 Panhandle counties. So he was appointed originally for the Crime Commission in 2017. And so we will recognize that letter. And are there any proponents in support of Mr. Parker or opponents? People in the neutral? Seeing none, there are no additional letters and that closes the three gubernatorial appointments that we had to the Crime Victim's Reparation Committee. Thank you. Now we're going to open the hearing on LB689. And if those who are prepared to testify would come forward, and we have Senator Cavanaugh. Welcome, Senator Cavanaugh.

**CAVANAUGH:** Thank you, Vice Chairwoman Pansing Brooks and to the committee. I am Machaela Cavanaugh, M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h, Senator for District 6 in west-central Omaha. LB689 was introduced, as introduced, prohibits housing discrimination on the basis of sexual orientation, gender identity, or citizenship status. And I do have an amendment which I have copies of. Current law forbids discrimination on the basis of race, creed, religion, color, national origin, sex, handicap, and familial status. This bill would ex-- extend the same protection to members of the LGBT community and to those who are noncitizens. Specifically, under LB689 it would be unlawful to refuse to rent or sell to tenants or buyer on the basis of their sexual orientation, gender identity, or citizenship status. This law amends the Fair-- Nebraska Fair Housing Act. This is a comprehensive act that, according to the stated legislative intent, prohibits discrimination in the acquisition, ownership, possession, or enjoyment of housing throughout the state of Nebraska. Current law prohibits restrictive covenants, a limitation on the transfer of housing, from being based on race, religion, or any other prohibited factor. Section 1 of the bill and my amendment, AM295, would extend this prohibition to LGBT and citizenship status. Current law also prohibits sellers or landlords from refusing to sell or lease property or to discriminate in terms of a lease or sales contract to any person because of their race, color, or other prohibited factor. Section 2 of the bill would extend these pro-- prohibit-- these prohibitions to LGBT and

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citizenship status. Section 5 of the bill would bar landlords from denying rental on the basis of sexual orientation, gender identity, or citizenship status. The bill further-- furthers our state's commitment to equality before the law. It is a broadening of the prohibition against arbitrary discrimination. The bill still allows for exemptions for religious organizations and for private homes. Section 28-322 of the Fair Housing Act exempts religious organizations, people who rent rooms or a portion of their private homes to others, private clubs, and housing for older people. These exemptions remain the same with this bill. In other words, people will still have the ability to determine for any reason who may live in their homes. Only those landlords or real estate transactions that are subject to the existing Fair Housing Act are affected by this, this bill. Current law prohibits discrimination based on national origin or race. To ensure that all are protected, this bill would include citizenship status as a factor the landlord or seller may not consider. I appreciate that landlords or sellers may request documentation or conduct inquiries to determine whether a potential renter meets the criteria for rental. So as long as the same procedures apply to all potential renters, landlords can ask for identification documents or identifying information or can institute credit checks to ensure ability to pay rent. Under LB689, landlords may not refuse to rent or sell to persons solely because they are not a US citizen. This is because a person's ability to pay rent or their fitness as a tenant is not necessarily connected to their citizenship status. With respect to the-- to extending LGBT protection, by enacting this bill we will join an ever-growing list of states that have extended housing protections to LGBT people. Twenty-two states and the District of Columbia protect against housing discrimination on the basis of sexual orientation. Twenty states and the District of Columbia protect-- protect against housing discrimination on the basis of gender identity. I've brought an amendment today to do two things. First, it ensures that a landlord or seller may conduct eligibility checks that are required under any state or federal law. Some housing programs require that a tenant be a US citizen or eligible resident. So this amendment allows for a landlord or seller to ensure they are in compliance with these rules. Second, it also adds source of income as another protected class. Discrimination based on an applicant's source of income is one of the most blatant and common forms of discrimination a person will face while seeking housing. Anyone who has looked for an apartment on Craigslist or any other rental/apartment searching Web site is familiar with the phrase, no Section 8, or, no vouchers accepted. If you're not familiar with these programs, you may not have taken note

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of what this means, but it is the landlord saying they will not rent to anyone who is receiving rental assistance based on their income. There are many different types of these programs there. Some are offered by churches, nonprofits, and some are administered by the federal government. By far, the largest rental voucher programs are administered by the Federal Department of Housing and Urban Affairs and the Veterans association [SIC]. For instance, HUD-VASH vouchers as-- is the Veterans Affairs supporting housing voucher. This voucher guarantees rental assistance for homeless veterans and provides them with case management and clinical services provided by the Department of Veteran Affairs. An eligible recipient can find a private apartment and will pay no more than 30 percent of their income on rent. The VASH voucher will guarantee the landlord the remainder of the rent. Right now it is legal for a property owner to deny the veteran's rental application based solely on the source of payment and not the applicant's rental history, criminal background, or any "eleva"-- other relevant risk factors. Protecting an applicant from discrimination based on their source of income does not mean that every landlord is required to rent to every voucher holder who applies for an apartment. This simply means that a veteran has a voucher, with-- a veteran with a voucher be evaluated by the same standards as any other prospective tenant when they are looking for an apartment. They are not asking for special treatment, simply equal treatment. This-- I bring this bill for the simple yet important reason. It is the right thing to do. People have a basic right to housing or an assurance that they may live in a safe and secure home, free from discrimination and hate. It is our obligation as policymakers to make sure that everyone can enjoy this basic assurance. Thank you for your time and I'm happy to take any questions.

**PANSING BROOKS:** Thank you, Senator Cavanaugh. Appreciate your bringing this bill. Any questions? Senator Brandt.

**BRANDT:** Thank you, Senator Cavanaugh. I guess I'm a little confused. On the-- on the amendment on citizenship status, what did that change from the bill?

**CAVANAUGH:** It added it. That wasn't in the original bill.

**BRANDT:** Oh.

**CAVANAUGH:** It wasn't in the green copy.

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**BRANDT:** OK. So this bill says then a landlord cannot ask about citizenship status?

**CAVANAUGH:** They would have to require the same documentation for every applicant. So if they require documentation of-- identification documentation, it has to be the same for every person who applies. So they can't just ask what country are you from and are you--

**BRANDT:** Would a driver's license serve as-- as qualification of citizenship?

**CAVANAUGH:** I'm not sure that it would.

**BRANDT:** You know, I--

**CAVANAUGH:** I-- I believe that our DACA students can have a driver's license, so it doesn't indicate citizen steps-- citizenship status.

**BRANDT:** If the individual is not a legal citizen of the United States, would they be obligated to rent to them?

**CAVANAUGH:** So they wouldn't be obligated to rent to them. They would be obligated to not ask them that question.

**BRANDT:** OK. Thank you.

**PANSING BROOKS:** Thank you. Any other questions? No. And will you stay here to close?

**CAVANAUGH:** Yes.

**PANSING BROOKS:** Thank you,--

**CAVANAUGH:** Thank you.

**PANSING BROOKS:** --Senator Cavanaugh. OK. Proponents. Oh, and could we have a count of how many people are here to testify on this bill, please? OK. Thank you very much. Welcome.

**ABBI SWATSWORTH:** Thank you, Senator Pansing Brooks and members of the committee. My name is Abbi Swatsworth, A-b-b-i S-w-a-t-s-w-o-r-t-h. I am the executive director of OutNebraska, Nebraska's statewide organization working to empower and celebrate lesbian, gay, bisexual, transgender, and queer questioning communities. OutNebraska stands in strong support of LB689. Twenty-two states and Washington, D.C., have legislation in place to protect LGBTQ people from housing

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discrimination. It is time for Nebraska to join this number. Protecting people from discrimination is simply about treating others as we want to be treated ourselves. LGBTQ Nebraskans want to provide for their families, and stable housing is a key element in family life. In a 2015 survey, 73 percent of LGBTQ Americans reported being strongly concerned about housing discrimination from agents, landlords, and neighbors. I've known multiple people who have experienced housing discrimination. In one case, a lesbian couple was forced to move from their longtime rental when the building was sold. The new owner told them that he did not rent to, quote, their kind. He threatened eviction if they did not vacate. Not wanting to mar their rental record, the couple were forced from their home and the neighborhood they loved. While most realtors, landlords, and management companies want to do the right thing, there will always be a few who will only do what's right when the law requires it. For those times when good judgment breaks down, we need laws so that all people, including those who are gay or transgender, have equal access to housing. Discrimination threatens not only access to housing but the stability of communities. Members of the LGBTQ community are more likely to become homeless and, once homeless, more likely to endure discrimination and harassment that extends their homelessness. In a survey of transgender Americans, one in five report having been homeless as a result of their gender identity. No one should be refused access to housing, be forced to vacate current housing, or become homeless because of who they are or who they love. Finally, LGBT community members can also be members of immigrant and refugee communities. For this reason and because it is the right thing to do, OutNebraska fully supports housing protection on the basis of citizenship. We encourage you to advance LB689. I'm happy to take questions.

**PANSING BROOKS:** Thank you, Ms. Swatsworth. Any questions?

**ABBI SWATSWORTH:** Thanks.

**PANSING BROOKS:** I appreciate your coming today.

**ABBI SWATSWORTH:** Thank you.

**PANSING BROOKS:** Next proponent. Welcome.

**ISABEL SALAS:** Hi. My name is Isabel Salas and I'm a community organizer at the South of Downtown Community Development Organization and I'm here today as part of Collective Impact Lincoln, a partnership

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between South of Downtown CDO, Nebraska Appleseed, and Civic Nebraska. The purpose of CIL is to be present in six--

**PANSING BROOKS:** Could you spell your name?

**ISABEL SALAS:** Sorry. I-s-a-b-e-l S-a-l-a-s. The purpose of CIL is to be present in six low-income neighborhoods in Lincoln in order to listen to residents' concerns, give residents the tools and opportunities to take action, and support policy change responsive to their needs. Through this initiative I knocked on the door of Denise Dickeson, a resident living on the 900 block of D Street in Lincoln in District 27. She's asked me to read this letter into the record in support of LB689 in the hopes of that sharing her story can help Nebraskans just like her achieve housing equality. Dear members of the Judiciary-- Judiciary Committee, my name is Denise Dickeson and I'm writing in support of LB689, introduced by Senator Cavanaugh, to add sexual orientation, gender identity, and citizens-- citizenship status to the list of protected classes in real estate and leases. I'm especially supportive of amendment AM295 to add source of income to these protected classes. I'm a recipient of a Section 8 voucher to assist my income, and I know firsthand how difficult it is to be able to receive and even use a Section 8 voucher. I want to share my story for the greater good so that people in my situation won't be stigmatized when they're looking for a place to live. Many property owners and landlords have a bias against Section 8 recipients. I have to attend classes about being a responsible tenant and was on the housing waitlist for two years before I even got my voucher. Two years is an extremely long time to wait to even get benefits. And even then, there was no guarantee that I would find a place that accepts my assistance. During that period I lived in slum housing just across the street from where I live now because I couldn't afford anything else. I expected my housing assistance to improve my situation right away, but even when I got the voucher I had to wait while my landlord considered whether or not they even wanted a Section 8 tenant in their unit, even after jumping through the hoops to get assistance. I am not alone and many tenants in my situation face this challenge too. Fortunately, my landlord right now is great. He works to fix anything before the yearly housing inspection, which guarantees that my home is a safe and healthy place to live. Because of my housing voucher and my landlord, I don't have to live in slum housing. However, I know a lot of people aren't as lucky as I am to find a place that accepts housing vouchers. Right now many Section 8 recipients have to return their Section 8 vouchers because they can't even find a place that accepts

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them. I am on disability assistance as well, and being able to use my Section 8 benefits gives me the ability to live in a community I love. I believe landlords shouldn't be able to discriminate against people in my situation simply because their source of income. I'm happy to share my story in support of LB689 and amendment AM295 which will work for the greater good of our communities so people can have access to healthy, affordable housing options.

**PANSING BROOKS:** Thank you, Ms. Salas. We're grateful you're here. Any questions? No. Thank you very much.

**ISABEL SALAS:** Thank you.

**PANSING BROOKS:** Next proponent. Welcome.

**ERIN FEICHTINGER:** Hello, members of the Judiciary Committee. My name is Dr. Erin Feichtinger, E-r-i-n F-e-i-c-h-t-i-n-g-e-r. And don't worry. By the end of today you will all know how to spell it. I coordinate community outreach and advocacy at Together, which is a social service agency that has served Omaha for 44 years. Our mission is to prevent and end homelessness in our community, and for this reason we support LB689 updating the nondiscrimination language in the Nebraska Fair Housing Act. Our goal is an ambitious one and it requires a holistic and comprehensive view of the causes of homelessness. Last year we helped 25 individuals and 41 families transition from homelessness to housing through our Horizons program, which provides intensive case management to our clients, helping them find and keep stable housing. So this means providing financial assistance, education on reading and understanding a lease, their rights and their responsibilities as renters, and budgeting for rent and utilities. Additionally, our Front Door Diversion Program had over 500 meetings with people facing the immediate prospect of homelessness, helping connect them to necessary resources. So our team of case managers understands better than most the barriers to housing faced by low-income members of our community. We are also painfully familiar with the long-term causes and consequences of homelessness, some of which are gender identity, sexual orientation, and citizen--citizenship status. As an organization we are dedicated to dignity and compassion for every member of our community who comes to us for help. We are similarly committed to being a safe space for the LGBTQIA+ plus community and our brothers and sisters who may or may not be citizens. None of these identities negates their need for food, housing, and sympathy. As for Senator Cavanaugh's amendment, this is another one we're painfully familiar with. Discrimination against source of income

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most often applies in cases where our clients receive Section 8 or housing choice vouchers from a public housing agency or any sort of public assistance as their primary form of income. This discrimination results in a very long waitlist for an available unit and, therefore, a longer time in a homeless shelter or on the streets. It also means another unnecessary barrier to stable housing for our most vulnerable citizens. The addition of these classifications in the nondiscrimination language is a reflection of how far we have come in recognizing the necessity of fair housing for all. We support this effort reducing barriers to access for those we serve. And I am available for any questions that you might have.

**PANSING BROOKS:** Thank you, Ms. Feichtaker [PHONETIC].

**ERIN FEICHTINGER:** You're gonna get it by the end of the day, I promise. I'll be here again.

**PANSING BROOKS:** Feichtinger, OK. Any questions? No. Thank you very much for coming today. Next, Senator Conrad.

**DANIELLE CONRAD:** Hi. Good afternoon.

**PANSING BROOKS:** Good afternoon. Welcome.

**DANIELLE CONRAD:** Thank you and happy Friday. Hi. My name is Danielle Conrad, it's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d, and I'm here today on behalf of the ACLU of Nebraska. Initially, we'd like to thank the committee for their time and consideration of this important matter and we'd like to thank Senator Cavanaugh for her leadership in bringing forward this important legislation. We're passing around some written testimony so I'll just hit the high-- high points so that-- to not to take up too much of your time, standing between you and your weekend and the other important bills on your agenda today. But housing discrimination laws that protect LGBTQ people from being unfairly evicted, denied housing, or refused the ability to rent or buy housing on the basis of their sexual orientation and gender identity are important. Think for just a moment about when you conclude your workday today and as you head home to the sanctity, to the security, to the comfort of your home and how important that is to your life and to your family's life. And imagine the instability that comes if you're denied access to safe and stable housing based simply on who you are and who you love. So the reality is, is that we know LGBTQ Nebraskans are discriminated against in the basis of housing. We know that from the studies and we also know that anecdotally through

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our legal intake assistance of the ACLU of Nebraska. From a policy consideration I also want to make sure to draw the committee's attention to a very recent public opinion poll that was conducted by the University of Nebraska which specifically asked Nebraskans how they felt about housing discrimination on the basis of sexual orientation and gender identity. And an impressive 72 percent of Nebraskans, let me repeat that, 72 percent of Nebraskans from across the state and across the political spectrum support laws protecting lesbians, gays, and bisexuals from housing discrimination. So not only would you be on the right side of history; you stand in support with your fellow Nebraskans. Let me just say a few words about some of the legal issues implicated in this legislation, and I'm going to focus primarily on LGBTQ issues. I know one of my-- my friends who's an immigration law expert is right behind me here today. But it's important to note that there is no federal law that specifically provides protection on the basis of sexual orientation or gender identity in the housing market. There have been strong rulings and considerations by HUD acknowledging that on the existing basis of sex or gender, and there is an emerging consensus in the federal courts finding the same. However, it is important to note there is no specific case law on point in Nebraska state courts and there is a very recent adverse ruling from the Eighth Circuit that implicates these issues and that necessitates a strong, clear ruling in support of equal rights in housing. So with that, we'd be happy to answer any questions and we thank you for your time.

**PANSING BROOKS:** Thank you, Senator Conrad. Any-- any questions? OK, I do have a question.

**DANIELLE CONRAD:** Yes. Yes.

**PANSING BROOKS:** I'm so grateful for the work that you do and you know that we've had other cases on LGBT--

**DANIELLE CONRAD:** That's right.

**PANSING BROOKS:** --people, and actually one's about to come up on the floor next week.

**DANIELLE CONRAD:** That's right.

**PANSING BROOKS:** And so can you talk about the fact why this is not special rights for LGBTQ people or special, because that's some of

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what we're hearing? This is not an attempt to give any groups special rights. Is that correct?

**DANIELLE CONRAD:** I think that's exactly right, Senator Pansing Brooks. And we thank you for your leadership on these issues. What LB627 is about, your legislation in regards to employment nondiscrimination, what Senator Cavanaugh's legislation, LB689 is about, other provisions that are before this Legislature this session are about equality, are about fairness or being treated as we would want to be treated, as it's about ensuring equal footing and dismantling oppression and discrimination, which not only hurts the people that are being discriminated against but which hurts us all.

**PANSING BROOKS:** Thank you. And also, could you speak just briefly on this case, in this case, do you foresee innumerable lawsuits coming because of this, because that's the other argument we keep hearing.

**DANIELLE CONRAD:** Sure. And-- and I think-- thank you, Senator Pansing Brooks, for the question. And you know, it's important that we have all of the perspectives be a part of the debate, but it's also important to note that these debates are not happening in a vacuum but, in fact, within the context of history and that frequently we hear this kind of slippery slope argument that if we pass this kind of legislation in the employment or the housing context that it's going to open up the floodgates for-- for litigation which is, of course, costly, lengthy, and uncertain, and while a powerful tool, sometimes a very costly tool to resolve our differences in a democracy. So we can look at the experience of our sister states. We can look at the experience of communities that have already updated their laws in a common-sense, no cost way, just like LB689 and LB627 does, and you can find that the facts just don't bear that out. What happens after law-- after communities update their laws is that it provides a clear, bright-line rule for all stakeholders, employers, employees, landlords, tenants to know what the rules are and to ensure that everybody is-- is-- is abiding by them with clarity. And typically then what happens, the process is really good at ferreting out frivolous litigation as it is in other contexts. And so I have strong confidence that that would be the same if-- if LB689 or LB627 were-- were to pass, and I hope they do.

**PANSING BROOKS:** Thank you. And just-- just one more thing: Would this law stop a landlord from being able to evict a tenant who was either causing huge messes or, you know, breaking things within the--

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**DANIELLE CONRAD:** Sure.

**PANSING BROOKS:** --and causing damage? Could you speak to that? Does it-- again this is a special rights question that, again, I just want to clarify for the record.

**DANIELLE CONRAD:** Sure. Well, thank you so much again for that question. And I think that is an important reminder as you take up this legislation or look at these issues in the employment context. These laws don't vitiate common sense or our statutory and legal framework otherwise. For example, in the employment context, of course, you know Nebraska is a right to work state, right? So what that means is that employers can make a decision about who to hire or fire based on any number of reasons as long as they're not reasons that are-- are grounded in discrimination. The same would apply here in the housing context. The normal rights, responsibilities, and obligations that go into the housing context continue to bear in this context. It just ensures and ferrets out impermissible discrimination that hurts us all.

**PANSING BROOKS:** Thank you very much, Senator Conrad. Any other questions?

**DANIELLE CONRAD:** Thank you so much for your time.

**PANSING BROOKS:** Thank you for coming today. Next proponent. Welcome.

**ALEXIS STEELE:** Thank you. My name is Alexis Steele, A-l-e-x-i-s S-t-e-e-l-e. Dear Committee, I'm the policy staff attorney for the Immigrant Legal Center, a nonprofit law firm that serves clients across Nebraska. I am testifying on behalf of our firm today in support of LB689. The Immigrant Legal Center report-- supports this bill because it expands prohibited forms of discrimination in sale or lease of property to appropriately include identity characteristics inextricably tied to human dignity. LB689 is a remarkably straightforward bill. It proposes to prohibit discrimination on the basis of sexual orientation, gender identity, and citizenship status. These bases of discrimination would join already prohibited bases of discrimination: color, race, religion, national origin, handicap, family status, and sex. Collectively, each of these designations is either an immutable characteristic, such as race or sexual orientation, or one that is technically mutable but that our law recognizes would be wrong to be forced to change for equal treatment, such as familial status or citizenship status. And it is important not

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to lose sight that citizenship status is not a binary. Immigration status is not a binary. One may be discriminated against on the basis of being a lawful permanent resident versus being a citizen without this bill. While these characteristics are fundamental to identity, they have no bearing on a sellers' or lessors' logical analysis of an individual's suitability as a possible purchaser or renter. This is why the Immigrant Legal Center supports this bill and urges each senator on the committee to vote in its favor. We take great pride and responsibility in supporting measures to make and keep our state a fair, nondiscriminatory land. As advocates for people who have fled their nations for lack of protections and fair treatment on the bases of each of the characteristics proposed to be protected in this bill, we have an extremely detailed and strong appreciation for and take great honor in supporting LB689 today. As an affiliate of the Justice for Our Neighbors network, I move to end with a quote. Love your neighbor as yourself, Mark 12:31, not love your neighbor if he is like yourself but as yourself, however he, she, or they may be. As many parents quote this to their children to urge them to treat others fairly in kindness, especially when a child would not want to, this bill justly requires just that-- fair treatment-- but in accordance with the law where proverbial kindness fails. I welcome any questions and thank you for your consideration.

**PANSING BROOKS:** Thank you very much. Any questions? I just have one. Thank you for coming today. I was wondering about your discussion of the mutable and immutable characteristics. Is that pursuant to Supreme Court dicta or do you-- how is that? Is this a theory that's come up? I'm just interested because I hadn't really--

**ALEXIS STEELE:** Absolutely. When referring to those immutable characteristics, I'm referring to civil rights protections that recognize that characteristics such as race, color, religion, and the list goes on, how those are fundamental to identity, fundamental to human dignity, and either cannot be changed because they simply are facts of existence or should not be forced to change for equal treatment.

**PANSING BROOKS:** And-- and-- and have there been cases on this? That's what I was wondering if those language--

**ALEXIS STEELE:** There have been cases in the context of employment discrimination as well as housing. And those cases include those that are established and protected under federal laws.

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**PANSING BROOKS:** Wonderful. If you could get some of those cases to the committee, I think it would be-- we'd be very interested in that.

**ALEXIS STEELE:** Absolutely, I will do that.

**PANSING BROOKS:** Thank you very much. Thank you for coming today,--

**ALEXIS STEELE:** Thank you.

**PANSING BROOKS:** --Ms. Steele. No other questions. Any further proponents? Proponents? OK. What about opponents and-- pardon me? Proponents, yes, uh-huh. Welcome.

**ELLA DURHAM:** Hello. My name is Ella Durham, E-l-l-a D-u-r-h-a-m. My son is almost 16 and, of course, daydreaming about his first apartment. You would think that my conversations with him about this would be about what to expect financially, how exciting it is to have your very own place for the first time, and how to start preparing for that independence. And, yes, while we do have these conversations, they are always secondary to another reality that I have to prepare him for. My son is queer and trans and he can be legally discriminated against because of this in the state of Nebraska. I talk to him about how those suffering from housing discrimination are often forced into small or low-quality housing, that housing discrimination contributes to residential segregation and is a barrier to home ownership, both leading to generational wealth disparities. I actually encourage him and urge him to consider moving to another state where he would be more protected, for example, Colorado, Iowa, Minnesota, or Illinois. I know this firsthand because I am queer and I have had to navigate my identity to protect myself and my child against housing discrimination. If I weren't tied to Nebraska under a set of personal circumstances, I would have moved away long ago because of the lack of protections in Nebraska. As I have argued in regards to workplace protections for the LGBTQ+ community, Nebraska loses some of its best and brightest young people because they can see they are not valued and protected under Nebraska law. One in five millennials identify as LGBTQ+ and only 66 percent of young people today identify as exclusively heterosexual. Housing discrimination based on sexual identity or gender expression would be wrong if it were only one person. But how can we allow this for such a significant portion of our community? Even though we face these issues directly, we carry quite a bit of privilege being white and by me having the socioeconomic mobility to have pulled us out of poverty and even be considered middle class now. With that, I have to honestly say I'm

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less worried about myself or my son being able to secure housing than I am for someone whose citizenship status is in question. I can only imagine how compounded these issues become for immigrants or refugees. No person should face housing discrimination based on their sexual orientation, gender expression, or citizenship status. LB689 is only the right thing to do and just one small but critical step in dismantling the systematic oppression of these people in our state. Nebraska touts itself as a state with family values. Let's put our policy where our mouth is and show families of all backgrounds are valued. Thank you.

**PANSING BROOKS:** Thank you very much for coming, Ms. Durham. Any questions? No. Thank you for your courage. Any further proponents? Proponents. OK, we'll now switch to opponents. Opponents. And if you could-- yes. Opponents. And if you could please come down, those of you who are opponents if you could come into the first row so that we can keep things moving along here, that would be great. Thank you. Welcome.

**DON PEARSTON:** Hi. My name is Don Pearston and I actually didn't arrive today to give testimony on this particular bill. But as I listen to it, I'm in support of the LGBT section of the bill. But when I hear the concept about income discrimination, I wanted to let you know that all issues are not centered around discrimination. And as a business owner, rental property owner, when I first got into the business I had a family approached me about renting a house. I thought they'd be fantastic. And then they said, well, we're on Section 8. Well, I hadn't experienced Section 8, so I contacted them, let them know I had an application from this family. And they came out, inspected my building. So I have 100-year-old buildings in the downtown area. Their inspections are far more rigorous than even the building and the safety inspection regiments. I was eager to rent to the family, but when the list of things came back that I needed to fix, holes in screens, as a hundred and-- actually 110-year-old building, one of the floors weren't level, it would cost me thousands and thousands of dollars to bring my building up to code so that I could rent to them. So I elected from that point on not to deal with Section 8. As you can imagine as a business owner, rental owner, I want to rent to the-- the largest piece of pie that-- that I possibly can. There's a lot of people that I'm going to weed out, felons, crackheads and so forth. But I want to keep the pie as large as possible. With that said, I'd like to rent to Section 8, but it would cost me a lot of time, money, and effort. In addition to what I already do for the building and

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safety requirements why I get inspected once a year with them, this would add an extra layer of inspections. So that's why again I support the LGBT section of the bill but income discrimination and the concept of discrimination itself is not always the central of people like myself's opposition to this kind of bill. So there are business decisions invoked with that.

**PANSING BROOKS:** Thank you, Mr. Pearston. Any questions for Mr. Pearston? No. Thank you very much. Next opponent. Welcome.

**LARRY STORER:** Larry, excuse me, Larry Storer, 5015 Lafayette Avenue, that's spelled S-t-o-r-e-r, District 8. Once again we're really talking about constitutional issues here. I want to start off with life, liberty, and pursuit of happiness, mine; freedom of speech, mine; due process, mine; equal access under the law and protection, mine, mine. My freedoms are being restricted in favor of certain classes of people. Now I am a taxpayer. I am a property owner, single family household. But you're telling me in this bill that I don't dare rent out a room in my house to somebody in order to pay my property taxes which are getting pretty hard to pay because of things like this but I also want to read some of your own state constitution here. From Article III, Section 9-- 18. Local or special laws are prohibited. But if you read clear back to the end, granting any corporation, association, or individual or group, if you read the intent, the right to, etcetera, etcetera, etcetera, they have exclusive privileges, immunity, or franchise whatsoever. And, skip down further, all other cases where a general law can be made applicable, no special laws shall be made. Are you telling me that the Constitution the United States is not a general law for all of us to follow? What about the oath of your office. The oath of your office on page 69 of your own Journal holds you accountable for not having give any special interest or privilege or recognition to any particular group. I'm sorry but my life, liberty, and happiness is being restricted by special groups that are asking for your special attention. I think the constitution is clear I'm not supposed to discriminate. You don't have to tell me on what. We've got so many alphabet letters now and so many Section 8's, 5's, 4's, 3, 2, 1's that I'm afraid ask anybody anything. I'm afraid to look at anybody. I'm afraid to rent my room out to help me pay my property taxes because somebody will make an assumption, run downtown and file a complaint whether it's valid or not. Within six months, I'm a convicted-- I'm a convicted felon or whatever. Excuse me, that's not right. Thank you.

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**PANSING BROOKS:** Thank you, Mr. Storer. Any questions? Seeing none, next opponent. Thank you. Welcome. Welcome.

**JOHN DOCKERY:** Good afternoon. Thank you. My name's John Dockery and I live in Omaha. I'm retired from surgical and medical sales.

**PANSING BROOKS:** Could you please spell your name?

**JOHN DOCKERY:** Oh. It's J-o-h-n D-o-c-k-e-r-y.

**PANSING BROOKS:** Thank you.

**JOHN DOCKERY:** Fifteen years ago I bought four rental properties as an investment which I have managed myself. And there's a lot of other people in the state that are just small, small investors just like me. I've always enjoyed working with people and take pride in the rental properties and the relationships with those who live there. I'm opposed to LB689 to add gender identity, sexual orientation, and citizenship status to our current list of nondiscriminatory classes. I've learned through experience to be as objective as possible when picking new tenants. I've rented to many types of people: singles, couples, and families. And I've never had anyone offer their sexual orientation or gender identity or would I ever ask. As far as citizenship status, I've never had a problem. I've rented to legal immigrants before and they went through the same application process and are evaluated in the same way. What I look for in a prospect is primarily if they will pay the rent and take care of the property. Everyone fills out a standard lease application. I call employers, former landlords, and personal references to identify their ability to pay, pay the rent and take care of the property. One's sexual orientation, gender identity, or even citizen-- citizenship status is not on my application. One of the ways that our current law protects them is the class "creed," which is listed in the first references of the present nondiscriminatory classes. My suggestion is to add "creed" to all of the other lists in our state real estate laws. Thank you.

**PANSING BROOKS:** Thank you, Mr. Dockery. Any questions? Seeing none, thank you. Next opponent. Welcome.

**MARILYN ASHER:** Hello. My name is Marilyn Asher, M-a-r-i-l-y-n A-s-h-e-r. I am recently retired from the state of Nebraska as an employee. My husband and I are supplementing our retirement income through rentals. And I would just like to read a portion of the Nebraska conscience clause, Article I, Section 4 of the Constitution

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of the State of Nebraska: All persons have a natural and indivisible right to worship Almighty God according to the dictates of their own consciences, nor shall any an interference of the rights of conscience be permitted. As a landlord, and I am also a landlord with my siblings, I find LB689 is about forced participation. I'm opposed to LB689 because it part-- it forces me to possibly rent to an illegal noncitizen that would be-- and I could be accused of criminal conduct. We are in effect opening our doors as a sanctuary to people who are not legal citizens. I am not opposed to noncitizens who are legal but very opposed to those who are not and do not in good conscience feel that we can rent to them. Thank you.

**PANSING BROOKS:** Thank you, Ms. Asher. Any questions? Seeing none, thank you. Next opponent. Welcome.

**JOHN CHATELAIN:** Good afternoon, Senator Pansing Brooks and other members of the Judiciary Committee. My name is John Chatelain, J-o-h-n, last name C-h-a-t-e-l-a-i-n. And I'm speaking on behalf of the Metropolitan Omaha Property Owners Association. And the comments I make are on behalf of the association, not my own personal views. But Metropolitan Omaha Property Owners Association is an association of about 500 members that all own rental properties in the metropolitan Omaha area. And we also affiliate, through the Statewide Property Owners Association, with the Real Estate Owners and Managers Association in Lincoln, and the Gage County Landlord Association in Beatrice and other groups across the state primarily for lobbying purposes. And we speak on this bill just very generally. Our association in no way would advocate discrimination against people based on their sexual orientation or their gender identity. I'm not so enthused, however, about adding more classifications of people who could sue the landlord if they were not rented to or if they were-- if their lease was terminated having nothing whatsoever to do with those protected classes. Specifically, I want to speak against the amendment. I believe there is a proposed amendment to LB689 that would add source of income as a protected class, specifically Section 8. My wife and I have rental properties. We rent properties Section 8 and we rent properties without Section 8, but we make a conscious decision to go with Section 8 if we do so. And like that Mr. Pearson said, there is indeed a lot more work involved if you make that decision to go with Section 8 and I don't believe that we should be meddling in the business of the landlord to that extent where we would insist that they take Section 8. And I and I speak on behalf of our association on

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that point. So specifically we would reject or oppose the proposed amendment.

**PANSING BROOKS:** Thank you. Thank you for coming, Mr. Chatelain. Any questions? No questions. Thank you.

**JOHN CHATELAIN:** OK. Thank you.

**PANSING BROOKS:** Next opponent. Welcome.

**GENE ECKEL:** Good afternoon Senator Pansing Brooks and members of the Judiciary Committee. My name is Gene Eckel, that's G-e-n-e E-c-k-e-l, and I'm a board member for the Nebraska Association of Commercial Property Owners and the Apartment Association in Nebraska. Our intent here was to support this bill. But after hearing of the amendment by Senator Cavanaugh, we're now being switched over to oppose that portion of it. We do support the original legislation. It is-- mirrors the protection already set forth by HUD's final rule in 2012. And our members typically don't even ask about citizenship so we don't-- we don't have any issue with that. With regard to the source of income, though, we do. We really don't believe that's the intent of Congress when they passed the Fair Housing Act. And lot of times the entities that are paying the subsidized portion are slow and that affects the landlord's business process and business model. It also requires the owners and operators to adhere to additional requirements. And I believe you just heard from another person who testified in opposition. It forces the landlord or the management company to use a local public housing agency's model lease instead of their own. It requires them to enter to housing assistance payments contracts with an agency, which also has added administrative responsibilities. It makes limitation on increases and-- and-- and subject to approval by the agency of those increases in rent. And there is the potential delay in rental payments of any point without recourse due to federal budget appropriation delays. With that, we'd just like to ask the committee to support the original legislation but oppose the amended portion. And I'd be happy to answer any questions.

**PANSING BROOKS:** Thank you for coming, Mr. Eckel. Any questions? No. Thank you very much.

**GENE ECKEL:** Thank you.

**PANSING BROOKS:** Next opponent. Welcome.

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**SCOTT HOFFMAN:** My name is Scott Hoffman. Last name spelled H-o-f-f-m-a-n, first name Scott, S-c-o-t-t. I wasn't going to challenge this bill but I'm kind of between opponent and-- and neutral. I've dealt or I've been doing-- renting property for almost 35 years, and in those 35 years I've dealt with hundreds of tenants. And I've only had to do-- evict five people, and they were wicked evictions. I mean were literally deadbeats. They knew the law. It takes 10 to 14 days right now for-- to trial and the judges usually set the-- the court dates for 14 days to-- to evict people. But I wanted-- Senator Brandt brought up about as far as identifying people. When we run an application, the primary thing that we're going to need is a Social Security number. So if somebody is new to this country, they don't have a Social Security number, that's going to be difficult to run an application. Our organization that we use, we can contact them and make some exceptions to the rule. But obviously, we're-- we got to treat everybody equally and we've got to know these people's backgrounds. How long they've been in the country would be another issue. Currently right now I rent to somebody from the Congo. They filled out an application. It was remarkable. I rented to them. It wasn't a problem so, but I just wanted to address that. I mean and as far as the income issue, I don't know, that is a federal level. It's not state. It's not city. I don't know if everybody is aware of this but that's why I don't do housing because they don't pay for damages. I don't know if you knew that or not. Well, let me repeat that. Housing does not pay for damages. You have to rely on the indigent person that's getting housing assistance to begin with to rely on them paying the damages, and if you think it's going to be one month's rent you're sadly mistaken. Usually evictions run close to about \$3,000. That's what the last one cost me between attorney fees, clean the property up, and leaving it empty. So again, I'm against the amendment on the income issue and then trying to explain exactly why we have to run the applications. The 30 percent is kind of redundant. We actually require 40 percent. We have to bring that up a little bit. Recently I had a lot of my properties reevaluated with the county assessor. Omaha and Lincoln's doing that and they skyrocketed. I mean I literally will have to raise my rents \$100 dollars a month just to cover the taxes. I mean it went up hundreds of thousands of dollars. So that is an issue as far as us trying to maintain our properties and make affordable housing. That's it. We live in a state, and you know, Senator, the property tax issue is a very big issue, and it is as for us as landlords. So that's it. Any questions?

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**PANSING BROOKS:** Thank you. Thank you for coming, Mr. Hoffman. Any questions? No.

**SCOTT HOFFMAN:** Thank you.

**PANSING BROOKS:** Thank you very much. Any additional opponents? And please come down if you can so that we can keep this going. Welcome.

**SAMUEL LYON:** Thank you. Senator Brooks, members of the Judiciary Committee, my name is Samuel Lyon, S-a-m-u-e-l L-y-o-n. I have been a landlord for about 15 years, bought my first property 15 years ago and have several here in Lincoln. Also have enjoyed leasing those out to many, many citizens of the-- Nebraska, people who live here, work here, enjoy the state. I love working with people. I love interacting with them. I don't enjoy everything that they do and every-- every -- all the ways that they take care of the building or the property. But I do enjoy working through things and talking with them about those things. I think what a lot of this comes down to is, for us landlords, the property that we have is our investment. It is our 401(k), if you will. And every time we rent it to someone, we put that at risk. The people that come into it, if they damage it, if they destroy things, if they consume them, it's generally not them that are going to fork out the \$3,000 to \$5,000 to rehab that property. It's us. And just as sometimes in the previous years, your 401(k) have got a \$5,000 or \$10,000 hit, it hurts. And it hurts us when our-- when our properties get a \$4,000 to \$5,000 hit. I also have never had anyone volunteer to me what their sexual orientation is or, most the time, whether they're married, how many-- you know, really anything. And I don't ask. But I do care very much about how well they'll take care of the property. How many times the police are going to get called out to that property. And if they're going to pay their rent. Those are kind of the three things that I look at mostly. And I-- I pull a credit check. I do a background check, and I interact with them and I ask them questions and I try to base my decisions on whether I'm going to rent to them on whether we're going to have a good interaction and they're going to take care of the property and pay the rent or if they're-- or if they're not. As far as the Section 8, I have accepted Section 8 for about 5 years of my 15 years. I haven't for about seven years. One of the reasons is that Section 8 does themselves discriminate. They discriminate based upon a screen that's torn, a hole inside of the drywall that's bigger than the size of a quarter. And even if you've passed all the-- all the inspections which might have, and if the tenants take out one of the screens to-- one of the kids takes out one

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of the screens and loses it or pulls the refrigerator shelf out, the-- the Section 8, when they come in to inspect it, will-- will say I have to fix that. And if I don't, their only method of making me fix it or making the tenants do what they need to do is to pull the money. And so as a source of income that's very important to me is to know that that person's source of income is it going to continue. And so what Section 8 says is if you-- if we catch somebody that's in there that's not supposed to be there, like a boyfriend or someone or-- or if the housing doesn't meet its inspection, we will pull the housing from you. Now I have someone in my-- in my housing that obviously can't afford it. So would be very opposed to those. And for those reasons, I oppose this bill.

**PANSING BROOKS:** Thank you, Mr. Lyon. Any questions for Mr. Lyon? Seeing none, thank you for coming.

**SAMUEL LYON:** Thank you.

**PANSING BROOKS:** Any additional opponents? What about people in the neutral? Welcome.

**BEN WATSON:** Thank you, Vice Chair, and thank you, Senators. My name is Ben Watson, that's B-e-n W-a-t-s-o-n. I am the housing investigations unit director for the Nebraska Equal Opportunity Commission. I here today to testify in a neutral capacity on this bill as a representative of the commission, the NEOC is a state agency that investigates discrimination claims. We have direct oversight in carrying out the provisions of the Nebraska Fair Housing Act. This year marks the 50th anniversary of that state act. The NEOC operates in part through a work-share agreement with the U.S. Department of Housing and Urban Development. Because of this agreement and because the state and federal Fair Housing Acts are substantially equivalent, we rely on federal guidance and interpretation to inform our work. While I am here to testify in a neutral capacity, it is fair to say that NEOC is generally in favor of legislation that makes housing more fair and inclusive for more people. And such legislation helps us fulfill our mission of eliminating discrimination in the state. Both the federal and state fair housing laws include protections on the basis of sex. Per HUD guidance, the NEOC already processes housing claims based on sexual orientation and gender identity under sex discrimination. Last year the NEOC processed three housing cases involving sexual orientation under sex discrimination. Separating out sexual orientation and gender identity as their own protected classes would encourage more individuals to come forward and also lead to more

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thorough and precise investigations. It will also clarify and improve the law for housing providers who often do not know that sexual orientation is included in sex discrimination. In 2012 HUD enacted a final rule in response to concerns over LGBT individuals and families being denied housing in their programs. The rule notes that, quote, it is important not only that HUD ensure that its own programs do not involve arbitrary discrimination, but that its policies and programs serve as models for Equal Housing Opportunity, end quote. Because of this final rule, a person living in or applying for public housing in Nebraska or a person using a housing choice voucher, formerly known as Section 8, is protected right now from sexual orientation and gender identity discrimination. By this final rule it likely makes sense for the Legislature to provide this same protection to all Nebraskans so those who are not living in public housing and not using vouchers are not less protected than those Nebraskans who do live in public housing or use vouchers or use HUD-backed mortgages. In regards to citizenship we can state that, despite our neutral stance, we are generally in favor of expanding protections under the law to new groups. As part of a neutral stance, though, the NEOC does feel it is important to note that at least two communities exist in Nebraska where local ordinances may be in conflict with this new protected class. If this bill becomes law, the NEOC and, thus, by extension, the state government may be pulled into a potential legal conflict with those communities. Fiscally, while we anticipate this bill becoming law would create an increased number of complaints filed with the NEOC, we believe our current staffing and budget can absorb that increase. Regardless, we do not feel we would be in a position to measure the exact effect until fiscal year '21-22. I'm available for questions. If I may suggest as a unit director of housing investigations, if anyone specifically has any questions about how we would investigate or enforce these new sections, I'd be happy to answer those or anything else.

**PANSING BROOKS:** Thank you. I-- I guess I'd like to hear how you do investigate it since you're offering--

**BEN WATSON:** Sure.

**PANSING BROOKS:** --[INAUDIBLE], Mr. Watson.

**BEN WATSON:** From what I understand and from what I've read in this bill, this would just add protected classes to the bill so we would enforce the law for these protect-- protected classes the same as we do the current ones, such as race and national origin. So if a person

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came to us and said they believed they were not rented an apartment because of their sexual orientation, we would then get that person to file a complaint and then they would-- we would serve the landlord and we would conduct an investigation and look into if the-- if sexual orientation was indeed the actual reason that person was not rented an apartment or if there was a legitimate nondiscriminatory reason, such as perhaps that person had a lower credit score or that person had a bad background check. Their-- their previous apartment they had left in shambles and so they had a bad reference. And so if it turned out that the person who had-- the person who complained was actually the most qualified person to apply, that would indicate it most likely was sexual orientation that caused them to not get the apartment. Conversely, if they weren't qualified to rent in some way or-- or another tenant was more qualified because they had a better credit score then that would indicate it was not discriminatory. That's just kind of the general process we go through and for any of the protected classes in the law.

**PANSING BROOKS:** OK. And also I presume that you have been involved with Equal Opportunity Commissions that are in various states, at least probably through meetings and other. So can you talk about the other states that have had these kinds of protections? Have there been additional multiple litigation? What kind of-- I mean we're hearing from some people that this could cause hundreds of cases to be all of a sudden filed. What's your thought on that?

**BEN WATSON:** Uh-huh. It-- every state is different. I mean I have heard that-- that New York had, you know, a large increase. But Colorado, I have not heard that there was a huge increase. There certainly will-- would be an increase. You know right now when somebody believes that they've been discriminated against and they look up their own state law and they look down the list of protected classes, if they don't see sexual orientation there or gender identity then they go, oh, I'm not protected, and they don't call us, even though they technically are under section, they could call us. They don't know that. So I, you know, just looking down and seeing it they would call. I don't have any specific statistics about other states, but I mean it certainly would result in more complaints I would think.

**PANSING BROOKS:** So do you-- do you have-- do you have a stand on if there are more complaints that that would indicate that there are problems out there?

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**BEN WATSON:** Uh-huh. Well, like I said, we-- we do every year have people who do come to us and file based on sexual orientation under sex discrimination. We had three last fiscal year. That-- that actually represented half of the housing complaints based on sex. There were three other sex discrimination cases in-- in housing from the NEOC that were involved-- that involved I guess what I would call regular sex discrimination as opposed to based on sexual orientation. So, yeah, I mean it's impossible to predict. Part of the problem is we do not track any statistics about people who call up and indicate things that aren't covered. You know, we actually get a lot of calls from people who want to file a complaint saying they were discriminated against because they're smokers or actually we-- we do get some that call because of source of income. But we don't track those because they're not the protected classes in our laws. So we-- we just mark those as "did not have a valid complaint" basically. And so we-- we do not have exact numbers to give you, unfortunately, on how many called for those other protected classes that we don't cover.

**PANSING BROOKS:** So has the NEOC ever thought of adding to whatever Web site that people are coming to and looking to see whether or not they are protected, something that indicates that they would be protected under sexual orientation or-- or--

**BEN WATSON:** Uh-huh.

**PANSING BROOKS:** --identity, why like just under regulations or annotation? It seems like that could be on the Web site to be able to let people know that you will take their case and help them out.

**BEN WATSON:** I believe that through-- through our current thought process is that it's not necessarily neutral to outright state that, but we do include links out to federal guidance that says such things. It's-- it's kind of awkward to investigate sexual orientation under sex because we don't actually investigate it as sexual orientation. We investigate it as-- as a sort of-- I'm trying to remember how-- how it's exactly phrased. It's-- it's a gender stereotyping or sex stereotyping. Basically, the legal theory is that-- a we see if a-- a landlord has discriminated against a possible renter or-- or in-- or in sales based on the person not conforming to the typical behavior you'd expect from a male or a female, which would include dating a person of the opposite sex. So it's a very convoluted way of investigating it right now without those act-- without sexual orientation or gender identity being added to the law explicitly. And so we do-- I think-- I think there is a presentation up on our Web

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site that explains this but it's-- it's convoluted and you have to get to it and you have to kind of just go through it to understand it. It certainly would be a lot simpler just to have those protected classes stated outright in the law.

**PANSING BROOKS:** Clearly, if the NEOC is confused and-- as they feel it's convoluted, there's a need for this to protect people who are being discriminated against and so that people can understand their rights and not end up homeless or in other-- in other bad place. Thank you very much for coming.

**BEN WATSON:** Thank you.

**PANSING BROOKS:** Any other neutral testimony? Senator Cavanaugh, would you like to close?

**CAVANAUGH:** Thank you, Vice Chairwoman and committee, for hearing my bill and everyone's testimony today. So I believe very firmly that housing is a human right and that we should be doing everything that we possibly can to ensure that the citizens of Nebraska have access to quality, safe, affordable housing. This bill, like almost every single bill that I have brought this session, has personal ties for me. The vouchers piece, my uncle is a Vietnam War veteran and he has a HUD-VASH voucher. He does not live here in Nebraska, but I, when we go and visit my mother's family, we go and visit his apartment. And it's not an amazing palatial place. It's a one-bedroom, just enough space for him to have a chair and a-- a desk and his bedroom, but it suits him and it's safe and it's clean. And so it's important to me to make sure that we're looking after our veterans and those that need financial assistance and that they can access quality housing without discrimination because of their financial means. Former Senator Conrad's testimony about public opinion poll and that 72 percent of Nebraskans believe that this should already be the state of things for the LGBT community, the testimony that we just heard from the previous gentleman about the complications right now that they actually can pursue legal action for discrimination against the LGBT community but it's convoluted, so this bill helps make that easier for everyone involved, makes the intent of the law clearer and more explicit. Country of origin, it's-- it's not a question that needs to be asked. It's-- doesn't mean that you have to rent to somebody. It's just not something that we should be asking people where they're from or who they love. I love my aunt. She's an immigrant from Croatia. I love my cousin. She's gay. I love my uncle and he has a HUD-VASH voucher. I love these people and I think that all of these people deserve

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housing, that they deserve safe and affordable housing. A good tenant is not based on gender identity or sexual orientation or citizenship or because of where their money comes from. I've been a homeowner for almost five years so, as you all know, I turned 40 in January. That means I've rented a lot in my life. And I've had some really terrible roommates and I've had some really terrible people live above me and below me, and they were white Nebraskans of means. It had nothing to do with their gender identity, their citizenship, or where their money came from. They were just bad tenants. And I'm sure everyone sitting behind me would come back up here and happily testify that they've had bad tenants of those persuasion. So it's not about asking anyone to rent to a bad tenant. That is not the purpose here. The purpose here is to not exclude people because of some ideological difference you may have with them. If they're a good tenant, you should take their business, and that's really the only intention here. I'd like to just leave the committee with one last thought. We-- we heard Mark 12:31, love thy neighbor as yourself. I've been looking over a book that I shared with Senator Pansing Brooks and it's-- in it a referenced something from the Catholic catechism, and I am Catholic and so I went and looked it up. It refers to how Catholics within the faith should interact with those within the faith who are in the LGBT community. And it says in the Catholic catechism that they must be accepted with respect, compassion, and sensitivity. Every sign of unjust discrimination in their regard should be avoided. That is what drives me here today and that is why I hope that you will move this forward to the floor. Thank you very much.

**PANSING BROOKS:** Thank you, Senator Cavanaugh. Any questions? No. Seeing none, thank you.

**CAVANAUGH:** Thank you. Have a great weekend.

**PANSING BROOKS:** Thank you. Closes the hearing on LB689. Let me see if there were any letters. Just one second. There we go. There are letters, so if we could just wait one second. So we have-- we have 6 letters in support and 26 letters of opposition and zero letters in the natural. So that closes the hearing on LB689. And now welcome, Senator Hansen. We'll be opening the hearing on LB395. Welcome.

**M. HANSEN:** Welcome. Thank you. Good afternoon. Vice Chair Pansing Brooks and members of the Judiciary Committee. My name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. Since this is my first of five bills on landlord-tenant law, let me start with some background. Last year I introduced a series of interim

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studies on affordable housings neighborhoods and rental issues. This is a direct result of many conversations I heard from my constituents as I represent a district and neighborhoods with a high rate of renters. Two of those interim studies, LR392 and LR433, were scheduled for hearings by the Urban Affairs Committee and we heard testimony in Omaha, Grand Island, and Ord. I was glad to have a chance to hear the issues regarding affordable housing and rental property in cities of different size across Nebraska. At all of these hearings, though, the continued focus of testifies and advocates drifted toward issues related to landlord-tenant issues rather than neighborhood and municipal solutions for development and housing. It became clear to me that as a state one area in which we can clearly help our constituents when dealing with access to housing is to update our landlord-tenant law. Following those hearings, my office worked with a variety of different stakeholders to identify current problems with the state's Landlord, Tenant Act. Following those conversations, we've come up with five proposals you will hear today. I chose these to present-- I chose to present these as five separate bills rather than as one package due to the fact that I think they represent all discrete issues deserving of focus and range from issues I would hope are consensus to ones I know are a larger ask. Moving forward I will likely ask this committee to combine several of these bills, but for the moment I just want to thank you for your patience in hearing these bills in a row today. These issues all came from different conversations with different advocates, and I think it is important to hear each on its own merits. With that, I will move on to the first bill we have here. LB395 would prevent victims of domestic violence from being evicted if the reason they are being evicted stems from circumstances surrounding their abuse. For example when the police are called as a result of an argument, under some circumstances the landlord has the ability to end a lease and evict tenants regardless of who the instigator was. You'll see in the bill that there are two places that add language-- with added language, and that is because there are currently two ways a tenant could be evicted in Nebraska that don't include nonpayment of rent. The most common method landlords use is referred to as a 14/30 notice where tenant is-- where if a tenant is failing to adequately maintain the unit or is breaking the lease somehow they have 14 days to fix the problem or else the landlord can start eviction proceedings. Additionally, in 2016 we passed into law a stricter type of eviction process where a landlord can end the lease and evict a tenant after five days' notice with no opportunity the tenant fix the problem if the tenant, member of their household, or guest engages in any criminal-- violent criminal

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activity in the premises, the illegal sale of any controlled substance on the premises, or any other activity that threatens the health, safety of other tenants, the landlord, or the landlord's employees. LB395 would prevent victims of domestic violence from being evicted under both methods. It is ultimately up to the judge in the eviction proceedings to decide if the grounds for the breach or noncompliance is the direct result of the tenant being a victim of domestic violence. These tenants are especially in need of this exception when it comes to the five-day eviction notice since the law states that criminal activity only needs to be committed by anyone with the tenant's permission to be on the premises. There is currently an exception for those who seek a protection order, but forcing victims of domestic violence to get a protection order or else be subject to eviction is dangerous and undermines the victim's ability to decide what is in their best interest. Across the country there have been several lawsuits challenging the constitutionality of ordinances that allow eviction of tenants when a crime occurs at their homes even where there are victims. We need to ensure we are not leaving ourselves open to litigation and, more importantly, that our laws do not prevent victims of their neighbors from calling police when they are needed. For survivors of domestic violence, housing security and access to police assistance are essential for living free from abuse. We need to make sure our laws are tailored so that victims of crimes are not unfairly removed from their homes. With that, I'll end my opening and be happy to take any questions from the committee.

**PANSING BROOKS:** Thank you, Senator Hansen. Yes, Senator Brandt.

**BRANDT:** Thank you, Senator Hansen, for bringing this bill. Could you clarify for me? Did you say we have a law in place now if the victim has a protection order?

**M. HANSEN:** If the victim has a protection order, they are protected from one of the two types of evictions, yes.

**BRANDT:** So they would be protected from just one of the two.

**M. HANSEN:** Yes, that's my understanding.

**BRANDT:** OK. Thank you.

**M. HANSEN:** Of course.

**PANSING BROOKS:** Any other questions? Thank you, Senator Hansen.

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**M. HANSEN:** Thank you.

**PANSING BROOKS:** OK. We move to proponents. And how many people are here to speak on-- on this bill specifically? OK. So as-- as we hope you would remember, if you-- you don't have to use your entire time. And since these bills all do relate to each other, if you could just talk specifically about the part you love or do not care for we would appreciate you moving along on this. Thank you. OK. Yes, please. Welcome.

**ROBERT SANFORD:** Good afternoon, Senator Pansing Brooks and members of the Judiciary Committee. My name is Robert Sanford, R-o-b-e-r-t S-a-n-f-o-r-d, and I am here today on behalf of the Nebraska Coalition to End Sexual and Domestic Violence in support of LB395. Nebraska Revised Statute 76-1431 currently provides that a landlord can evict a tenant in certain circumstances with a five-day notice. The activity that can lead to such an extreme result includes, but is not limited to, a physical assault or the threat of a physical assault, illegal use of a firearm and other-- and/or other weapon, or any other activity or threatened activity that threatens the health or safety of any person. The actions described above do not need to be the actions of the tenant. Section (5) of the law appears to provide protections from eviction for individuals who report the activity to police or seek a protection order. Unfortunately, this is not enough. As a society we often believe that calling law enforcement or obtaining a protection order does in fact provide safety for victims and ends the abuse. However, far too often I hear that victims fear contacting law enforcement. In fact, in some communities in Nebraska victims with a protection order who contact law enforcement when a violation occurs are themselves arrested and charged with a crime simply because of the respondent's behavior. This creates a chilling effect that keeps victims from accessing law enforcement services or from obtaining a protection order in the first place. The relief that those in opposition to this bill will say is already in place in Section (5) of 76-1431, is nonexistence-- is nonexistent for tenants victimized by violence in these communities. LB395 adds to Section (5) of 76-1431 by stating that subsection (4) of the current law does not apply to victims of domestic assault. It is an attempt to ensure that victims of domestic violence, those who are already vulnerable in our society and unable to control the behavior of a partner who chooses to use abuse and, for whatever reason, fear contacting law enforcement or seeking a protective order do not need to fear being evicted for the behavior of their intimate partner. As a society, we often place blame

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on victims for the behavior of someone else choosing to use abuse: if only the victim would leave the relationship; if only the victim would get a protection order or call law enforcement. At the same time, we fail to provide the support to victims that is needed to overcome the abuse if they do not respond in the way we think they should. LB395 is an important bill. It provides victims of abuse with additional important safeguards. The coalition thanks Senator Hansen for taking up this issue and we encourage you to advance LB395. Thank you.

**PANSING BROOKS:** Thank you, Mr. Sanford. Any questions? No. Thank you very much for being here.

**ROBERT SANFORD:** Thank you.

**PANSING BROOKS:** Next proponent. Welcome.

**CHRISTON MacTAGGART:** Good afternoon, Senator Pansing Brooks, members of the Judiciary Committee. My name is Christon MacTaggart, first name C-h-r-i-s-t-o-n, last name is M-a-c-T-a-g-g-a-r-t. I'm the domestic sexual violence project manager for the Women's Fund of Omaha here to testify in support of LB395. Survivors of intimate partner violence are four times more likely to experience housing instability than those not experiencing such violence. This is for a variety of reasons but includes eviction due to lease violation as a direct result of violence. Nearly half of all homeless women report that their homelessness is the direct result of domestic violence experiences. This causes strain on our residential and shelter services where the need already exceeds the availability. Nationally, over 186,000 households leaving a relationship where there's abuse and attempting to enter a domestic violence shelter were unable to do so. Many states have already implemented laws to increase housing protections for domestic violence survivors. Those protections include the right to early termination of a lease for victims leaving an abusive relationship, exemption from eviction for lease violation relating to domestic violence incidents, and the right to have locks changed. As of 2017, Nebraska was 1 of 14 states that had yet to legislate any of these protections in this way. LB395 will ensure that one of those protecting survivors or providing survivors an exemption for eviction as the result of their abuse is established. The current law, as referenced, states that a victim can be evicted within five-days' notice for the rental prop-- from the rental property for damages or an assault on them by a partner unless they file a protection order or report the activity to law enforcement. Giving a victim an arbitrary five days to meet requirements so they don't end up homeless puts all

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the responsibility on someone who is already in danger, who may still be in the hospital or recovering from injuries, and is dealing with the other impact of-- of trauma and-- of a crime being committed against them. Also, engaging the system is a time of escalation for domestic violence victims and it can be incredibly dangerous. Safety is in jeopardy, arrests are not always immediate, and protection orders are most definitely not guaranteed. Victims know what they need to do to stay safe but current law mandates actions that can potentially put them in greater danger in order to avoid becoming homeless. Our current housing laws essentially hold victims responsible for their own abuse. LB395 would extend support to survivors during those times and, as such, the Women's Fund respectfully urges the committee to support this bill and advance to General File. I'd be happy to take any questions if you have them.

**PANSING BROOKS:** No questions. Thank you so much. Next proponent. Welcome.

**SCOTT MERTZ:** Thank you. Good afternoon, Senator and members of the Judiciary Committee. My name is Scott Mertz, S-c-o-t-t M-e-r-t-z. I am a managing attorney with Legal Aid of Nebraska. Now Legal Aid of Nebraska is the only statewide organization, and has been the only statewide organization for over 50 years, that provides legal services and legal representation to low-income renters threatened by eviction. Our organization employs roughly 45 attorneys across six state offices. In 2018, Legal Aid of Nebraska closed over 12,000 cases, and among those over 1,000 cases involved the tenant who had a legal issue in a rental housing. In many of those cases we are able to protect the tenant, preserve their housing, but often we are the ones who have to explain that under the law as currently written there is little that one can do and they must leave their homes, sometimes with their children in tow. And this is happening in an environment where there is a chronic shortage of affordable housing across Nebraska. Now another priority for us at Legal Aid of Nebraska is domestic violence. Domestic violence is a serious problem for low-income Nebraskans eligible for our services and we try to ensure that any victim of domestic violence is afforded legal representation, including representation in those situations where their housing is threatened. Because a victim of abuse often lives with their abuser, often that abuser is on their lease and often that abuser has compromised their housing by committing a criminal act on the rented premises. Perhaps they've drawn the attention of the police, perhaps causing disturbance to neighbors and other tenants in a building. Perhaps that abuser has

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damaged the property on the premises. Now if that client resides in public housing or is perhaps on a Section 8 voucher or any other manner of federally subsidized housing, that client is afforded certain protections already under the Violence Against Women Act, protections that will ensure that victims of domestic violence are not twice victimized by losing their housing or housing benefit simply because their abuser was on the same rental agreement. Federal law prohibits a landlord from using an act of abuse or threatened abuse that happens on rented premises as the basis for terminating a lease or rental subsidy. But such protections in their current form only exist to those in federal housing. LB395 will bring Nebraska Landlord, Tenant Act closer to common-sense protections afforded to the survivors of domestic violence in federally subsidized public housing. The bill provides greater assurance that victims of domestic violence need not fear reporting acts of violence to the police or obtaining a protection order such that courts will-- to the courts and risk access to their housing. For these reasons, Legal Aid of Nebraska supports the passage of LB395. And at this time, I'm happy to take any questions.

**PANSING BROOKS:** Thank you for coming. Any questions? No. Thank you. Welcome.

**ALEXIS STEELE:** Thank you, Senators. My name is Alexis Steele, that is A-l-e-x-i-s S-t-e-e-l-e, and I'm the policy staff attorney for the Immigrant Legal Center, a nonprofit law firm that serves victims of crimes across Nebraska. I am testifying on behalf of our firm in support of LB395. The Immigrant Legal Center supports this bill because it provides victims of domestic violence with a reasonable and much deserved measure of housing security. Specifically, LB395 would recognize that a victim of domestic violence is not in violation of the obligation to maintain his or her dwelling unit when that basis of that inadequate maintenance is the direct result of domestic violence. This obligation of maintenance arises under Nebraska's Landlord, Tenant Act and it includes the obligation to not damage the premise and to maintain conduct on the premise that will not disturb neighbors' peace. These obligations are reasonable and desirable in themselves. But anyone familiar with the entrapments of domestic violence would recognize how impossible they might be for a victim to meet. Domestic violence is an assertion of power and control over a partner in an intimate relationship. This violence can be physical, emotional, sexual, reproductive, financial, and digital in abuse. Displays of physical abuse and emotional abuse can be particularly

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physically violent and common displays of this conduct include physical assaults and destruction of property as means of intimidation. Such violence not only hurts victims but also the physical home itself sometimes. It is important that our laws recognize that victims of domestic violence are, by virtue of their victimization, under the assertion of a perpetrator's control and power. The alternative is to render victims further helpless by not recognizing their suffering. LB395 takes up the moral and expert call to protect victims of domestic violence. It is important to note that LB395 does not eliminate any tenant obligations. It singularly recognizes the inadequate maintenance based on victimization is not grounds for termination of rental agreements. In practical terms, to a victim this bill represents security in housing that an abusive partner would no longer be able to take away by violence. To a victim it means being able to call the police without having to weigh the risk of indelible harm or death against housing. Nebraskans need this bill. In 2017 alone, Nebraskans made 4,427 reports of physical domestic violence assaults. That number does not even begin to capture the magnitude of the victimization because it represents the number of reports made, not number of victims harmed. Each report corresponds with violence that can and often does affect more than one person in the household, especially when children are present and inescapably embedded in the situation. The Immigrant Legal Center calls on each member of the committee to recognize the imperative to condemn domestic violence by advancing this vital protection for victims so that they may one day become survivors. I welcome any questions and thank you for your consideration.

**PANSING BROOKS:** Any questions? Yes, Senator Brandt.

**BRANDT:** Thank you for testifying, Miss Steele. You had 4,427 reports of physical violence last year. And maybe I should have asked this question on the previous testifier. How many of those resulted in a loss of-- of apartment or-- or house?

**ALEXIS STEELE:** So that information as it's cited comes from law enforcement reports and those reports did not include that information. They did break down the number of simple aggravated assaults-- or simple versus aggravated domestic violence assaults. And I have detailed the distinction within. I-- I do wish that I could provide that information.

**BRANDT:** All right. Thank you.

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**ALEXIS STEELE:** Thank you.

**PANSING BROOKS:** Thank you. Any other? No. Thank you very much for being here. Ms. Steele.

**ALEXIS STEELE:** Thank you.

**PANSING BROOKS:** Next proponent.

**ERIN FEICHTINGER:** Hello again. My name is still Dr. Erin Feichtinger, E-r-i-n F-e-i-c-h-t-i-n-g-e-r. I still work for Together, hopefully, and we still have the same mission. We support LB395 because it is one step in helping us to end homelessness. The connection between housing instability, homelessness, and domestic violence was well described by testifiers before me so I won't repeat them. I just want to tell you that all of the people that we work with through our housing programs are homeless and many of them are homeless as a result of domestic abuse. Many of them find it hard to escape homelessness because of domestic abuse. Recently we had a client whose abuser, who was also on her lease agreement, we had worked with her to get her housed, made significant damage to her apartment unit while abusing her. We worked with her to move her out of state so that her abuser could not find her. She was not evicted but she well could have been. We had to do a lot of negotiations with her landlord. She ended up being charged for the damage caused by her-- by her abuser on top of a new security deposit for a new apartment. Without our help she would have been evicted. She would currently be homeless. Her abuser would still be able to find her. What happens to all the other victims of domestic abuse who don't have a small army of people working to help them find safety and stability? We believe it is fundamentally unfair and counter-productive to subject a victim of domestic abuse to eviction proceedings for criminal activity on the part of their abuser. All this does is perpetuate the cycle of poverty and trauma and negates the incredibly difficult work that has already been undertaken by a person to get themselves back on their feet. We understand this is not the fault of the landlord either and we know that many landlords are as concerned as we are for the safety of tenants. We understand also their concerns for protecting their property. Our concerns are for protecting our people. We want to thank Senator Matt Hansen for introducing this package of bills today and we invite you to join us in our mission and in our work by supporting all of the important legislation that you'll hear today. And I'm available for any questions.

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**PANSING BROOKS:** Thank you. Even-- thank you, Dr. Feichtinger.

**ERIN FEICHTINGER:** You got it this time.

**PANSING BROOKS:** Thank you. Only took me twice. So even though you are repeating-- repeating or coming up here repeatedly, for the transcribers we would still like you to say who you're representing--

**ERIN FEICHTINGER:** Sure.

**PANSING BROOKS:** --because otherwise we aren't going to expect the--

**ERIN FEICHTINGER:** Confusing.

**PANSING BROOKS:** --transcribers to go back--

**ERIN FEICHTINGER:** I get it.

**PANSING BROOKS:** --and look for--

**ERIN FEICHTINGER:** OK.

**PANSING BROOKS:** --previous testimony. So could you repeat where-- who you're--

**ERIN FEICHTINGER:** Yes. I represent Together Omaha, which has served the community for 44 years.

**PANSING BROOKS:** Great. Thank you. We'll need to do that every time. Thank you.

**ERIN FEICHTINGER:** Sounds good.

**PANSING BROOKS:** Any questions? No. Thank you. Any further proponents? OK, what about opponents? And just to remind people, you can come down here. Thank you for doing that. Welcome.

**JOHN CHATELAIN:** Thank you, Senator Pansing Brooks and members of the committee. John Chatelain, appearing on behalf of Metro Omaha Property Owners Association. The name John, J-o-h-n, Chatelain, C-h-a-t-e-l-a-i-n, and I speak on behalf of our association in opposition to LB395. It would amend Nebraska Revised Statute 76-40--1431 which provides for 14/30-day notice and also for a 5-day notice which we sometimes refer to as the clear and present danger notice. Both the 14/30-day and the 5-day notice are very important tools for the landlord to be able to manage the property for the sake of the

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property and also for the sake of other people in the property if it's an apartment building. And I'm also a private practice attorney and I do a lot of work in the landlord-tenant area and I represent landlords and we use the 14/30-day and the 5-day notice quite often. They are important tools, as I said. The proposal would be to paragraph-- subparagraph (b) of that, of that statute: A tenant shall not be in breach or noncompliance under subdivision (1)(a) of this section if the grounds for the breach or noncompliance is the direct result of a tenant being a victim of domestic assault under 28-323 or other crime committed against him or her by an intimate partner as defined in such section. Now it's very unclear how this could be interpreted by the landlord. What-- what would it mean to be that it was a direct result of a tenant being a victim of domestic assault or other crime by an intimate partner, and how would the landlord be in a position to be-- to determine whether one of the tenants was a victim of a-- of an assault? The-- the victim and the other tenant would be in a position to know that perhaps. They probably would be disagreeing about that. But certainly the landlord wasn't present and the landlord would not be in a position to be able to make that determination. It's not clear how this could be administered or the mechanics of this could work. Now without a finding and a judgment from a court, how would the landlord know if someone was a victim? This would, this allegation, would come up probably at the eviction hearing that the person being evicted would claim that they were a victim of an assault of this nature and the tenant would have the ability to provide evidence of what happened. But the landlord would not be in any position to be able to provide any evidence. And would this require some kind of court determination? You know, it would take months for a case of this type to go through criminal court. By the time the person was charged, arraigned, and tried, if it was a jury trial, it would take even longer. This would really frustrate the ability of the landlord to be able to evict tenants that were causing a disturbance in the property and causing a danger to the landlord or to other tenants in the building. Similarly, the five-day notice would be frustrated by this bill because it would render the five-day notice almost totally ineffective in this situation. It would be impossible for the-- for the landlord to refute an allegation that the tenant claimed to have been a victim of an assault in conducting the eviction process. So, just because of the mechanics of this bill, our association opposes it. We certainly do not minimize and we're certainly not insensitive to those people who are legitimately victims of-- of assault. So

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that's all I have to say about it. If you have any questions, I'd certainly--

**PANSING BROOKS:** Yes, Sen--

**JOHN CHATELAIN:** --try to tackle them.

**PANSING BROOKS:** --Senator Brandt.

**BRANDT:** Thank you, Chairwoman Pansing Brooks. I'm-- I'm still trying to get a-- an idea of the scope of this problem and it sounds like your association represents a large number of units or-- or landlords. How much of a problem is this, does this represent where you have a domestic violence situation and they're at risk for-- for losing their-- their apartment or their house?

**JOHN CHATELAIN:** Well, most of the evictions come up because of a three-day notice for nonpayment of rent. But we do handle a fair amount of them that are based on a 14/30-day notice or a 5-day notice, the clear and present danger notice. Now how often this issue would come up we don't really know because LB395 has not passed. I'm more concerned about the fraudulent complaints to get out of being evicted that would come up if LB395 passed and the inability of the landlord to be able to refute that claim at the time of the eviction hearing.

**BRANDT:** All right. Thank you.

**JOHN CHATELAIN:** OK.

**PANSING BROOKS:** Thank you, Mr. Chatelain. I'm more concerned about actual complaints that could come up. So it's my understanding that-- that there could be an eviction for illegal use of a firearm or other weapon. Is that correct?

**JOHN CHATELAIN:** Are you talking about under the clear and present danger,--

**PANSING BROOKS:** Yes.

**JOHN CHATELAIN:** --the five-day notice?

**PANSING BROOKS:** Yeah.

**JOHN CHATELAIN:** That is correct.

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**PANSING BROOKS:** So how do you determine that? Couldn't that be continued litigation about whether or not it was-- I mean you could-- you can use the same kind of reasoning that-- that you just used, that it could take a whole court order and determination whether or not it was a illegal use of a weapon or firearm.

**JOHN CHATELAIN:** Well, the landlord shouldn't file a five-day notice unless the landlord has proof of that. And so it would be the landlord that would be the plaintiff in the case, filing the case based on actual proof of those situations occurring. This allegation of-- of assault between the tenant and the tenant's partner would be a different matter because that information would be strictly between the two of them and it might not even lead to a court case. So that the tenant could come into the eviction hearing claiming that he or she was a victim of an assault which would make it very difficult for the landlord to proceed with the 14/30-day or the 5-day.

**PANSING BROOKS:** So it couldn't be a use of a weapon between the two, some sort of illegal weapon between the two, the two tenants.

**JOHN CHATELAIN:** Well, it's-- it's unclear just what-- how this-- how this would be interpreted when it says the direct result of a tenant being a victim of domestic assault.

**PANSING BROOKS:** OK. Do you understand--

**JOHN CHATELAIN:** They-- they could claim that that was a direct result of.

**PANSING BROOKS:** So do you understand the arguments made by the Nebraska Coalition to End Sexual and Domestic Violence that said this could have a chilling effect? It does have a chilling effect on people who are abused and-- and then they don't feel like they can even call police because that action to call police could lead to their eviction.

**JOHN CHATELAIN:** Well, they have the option of filing a protection order and that's probably what they should do in that situation. And a lot of protection orders do get filed.

**PANSING BROOKS:** And would that tie the hands of the-- of the landlords from evicting that person?

**JOHN CHATELAIN:** I don't believe so.

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**PANSING BROOKS:** That's what's the concern.

**JOHN CHATELAIN:** No.

**PANSING BROOKS:** Would-- it's because-- so would the landlord then be able to, if there was a protection order, can the landlord still kick a tenant out who--

**JOHN CHATELAIN:** I don't know why the landlord would. If the-- if the--

**PANSING BROOKS:** Well,--

**JOHN CHATELAIN:** --offending partner was-- was the subject of a protection order and the victim was still in the rental unit and was not causing any further problems, I don't see why the landlord would evict in that situation.

**PANSING BROOKS:** I don't either but it's-- we're hearing that that does happen. So-- but thank you so much.

**JOHN CHATELAIN:** OK thank you.

**PANSING BROOKS:** Next opponent. Welcome.

**LYNN FISHER:** Thank you, Senator Pansing Brooks and the rest of the committee. My name is Lynn Fisher, L-y-n-n F-i-s-h-e-r, and I represent my company, Great Place Properties and also the Real Estate Owners and Managers Association here in Lincoln which we're also members of the Statewide Property Owners Association. So specifically on LB395, as a landlord our charge is-- one of our-- our responsibilities and duties is to provide safe and peaceful, quiet, comfortable places for people to live. Imagine you're one of my tenants and you live above another apartment and the apartment below you has a couple of folks that aren't getting along. And one night at 2:00 a.m. you're awakened by lots of commotion and lots of activity and police cars on the premises or neighbors coming out to find out what's going on with a lot of-- a lot of commotion. And you give me a call or send me a-- a text and ask me, you know, what I can do to take care of those kinds of things from happening again and maybe they've happened several times in the past. So it's my duty to try and provide again for you the kind of peaceful enjoyment of your apartment that you would expect. So we need to have the tools in place for us to be able to make your place again peaceful and enjoyable. And I think LB395 makes it difficult and sometimes maybe impossible for us to provide that for you. So we're opposed because we need to have all the

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tools we can to keep you as a neighbor from being an additional victim besides the people involved in that-- that apartment below you. Any questions?

**PANSING BROOKS:** Do you have any questions. Yes. Senator Slama.

**SLAMA:** Thank you for coming out today. And I think you raised a fair point. Have you experienced situations like you illustrated in your testimony at your properties?

**LYNN FISHER:** Yes.

**SLAMA:** How often did those happen?

**LYNN FISHER:** Well, fortunately not very often, because we are very, very careful to do a background check. And if anyone has this in their past and whether they're on either side of a domestic violence situation if we find out through doing a rental history check that that's maybe a pattern in someone's life, we will not rent to them.

**SLAMA:** But it's still been something you've had to deal with as well.

**LYNN FISHER:** We still had to deal with it, yes.

**SLAMA:** Thank you.

**PANSING BROOKS:** Any other questions?

**LYNN FISHER:** Thank you.

**PANSING BROOKS:** Welcome.

**GENE ECKEL:** Good afternoon, Senator Pansing Brooks, members of the Judiciary Committee. My name is Gene Eckel, that's G-e-n-e E-c-k-e-l, and I'm a board member for the Nebraska Association of Commercial Property Owners and the Apartments Association of Nebraska, which is an affiliate of the National Apartment Association. I'm also an attorney that represents many landlords and apartment communities. I first wanted to say I intended to testify on all the package of bills by Senator Hansen. Unfortunately, I have to get back and pick up my son from school so this will be my last testimony today. But I would invite Senator Hansen to work with us and contact me to see what we can work out on any of these pieces of legislation. We oppose LB395 for a few reasons. Number one, it does prevent a landlord from protecting other tenants and management staff from violence associated

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with domestic violence. In 2015 the Nebraska Supreme Court held that a landlord owes a duty of care to its tenants. In that case, though, it-- it involved where the landlord did find out that the woman's son did have a history of violence and a few days later he assaulted an elderly man across the hall. It also makes it almost impossible for a landlord to remove a tenant if the perpetrator is allowed to come back to the rental dwelling. Under the 14/30 provision, you know, it's-- it's-- it's basically saying, look, if this happens we're going to give you a warning. And it gives the tenant the opportunity to take steps to prevent it from happening in the future. We do support protecting victims of domestic violence. But we have to find that-- that balance between a landlord's ability to protect the tenants and the landlord's ability to also do what they can to protect people who are victims of domestic violence. The five-day notice provision, I drafted that. And when I drafted that legislation, I did put in those exemptions for-- and my intent was to put exemptions in for victims of domestic violence. And as you see, it allows them to either seek a protective order or a restraining order or they contact law enforcement to initiate criminal action, which would probably relate to the domestic assault under Section 28-323. If they contact the police or other law enforcement, they're going to try to initiate some type of criminal action which would fall under that and would allow the landlord to have any information that they have, that they are a victim of-- of domestic violence. And I have to agree with what a previous testifier did say. It is-- there is no way for a landlord to know if someone is a victim of domestic violence unless there is someone to support that. I can tell you that as a-- as an attorney, last year I did over 1,200 evictions. The times that I had to use an eviction for a five-day, none of them involved domestic violence. Typically, it's going to be where someone has assaulted someone on-- on the property. Maybe it might be someone who's a guest or another person, but it wasn't a-- it wasn't an issue of domestic violence between partners, or times it would be some other criminal act. With regard to the 14/30, typically that's going to come up when it continues to happen over and over and over again. A lot of my clients, they want to do something to help out the victim and they want-- some of their questions are is there some way we can work with this tenant so maybe their husband or boyfriend who's on the lease, can we just have that person evicted and allow this person to stay? So at least my clients try to do what they can to help the victim. But when it gets to the point where it's consistently happening over and over again and they have other tenants who are in fear of the violence that's going on and they say I want out of my lease, the-- the property manager and

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landlord have to do something at that point because they have that duty of care. The only thing I would ask is that--

**PANSING BROOKS:** Can you just quickly wrap up? The light is on.

**GENE ECKEL:** Sure. Here's what I want to just add that if there could be an, in that exemption provision on a five-day notice, that perhaps it would just limit it to the tenant can only use that exemption once during the lease term because, again, it can continue to happen over and over again. And that puts the landlord and other tenants in a-- in a very dire situation. With that, on my testimony, I would just ask the committee to oppose LB395. I'd be happy to answer any questions.

**PANSING BROOKS:** Any questions? No. Thank you.

**GENE ECKEL:** Thank you, Senator.

**PANSING BROOKS:** Next opponent. Please come down if you want to testify. Welcome.

**SAMUEL LYON:** Thank you, Senator Brooks, members of the Judiciary Committee. Again, my name is Samuel Lyon, S-a-m-u-e-l L-y-o-n. I want to thank you for taking up matters of rental things. I think a lot of times we just sort of get forgotten as landlords and tenants and I think as you'll see today there are a lot of nuance, there's a lot of nuance to leasing a home to an individual for a term of time. And as landlords, we do that gratefully and happily and just dutifully, I guess. I, though I mentioned that I-- I've had rentals for 15 years, the first rental that I bought was a duplex and then I bought two more duplexes. I think that multifamily housing is substantially different from single family as it comes to these types of issues where you might have disturbances to an individual that has nothing to do with the party that's in that. They're in a duplex or side by side and-- and they're hearing noise at 2:00 a.m. I have had-- had those 2:00 a.m. phone calls several times. And there is no worse feeling as a landlord than somebody calling you, waking you up at 2:00 in the morning saying, they're screaming over there and I don't know what to do; what can you do? I want to be clear that as far as domestic violence goes, there's nothing worse in my book than a man, and generally it is men that try to dominate and intimidate and abuse generally women. And as a landlord, I'll do anything that I can to help out a woman stuck in that situation where there's a man that's trying to intimidate them and dominate them. And I've worked with several. In both cases, neither of the men were on the lease. They

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were boyfriends that came. They generally provided some level of financial support and that's why the woman kept allowing them in. I want to thank the previous testifiers for their help in this, these situations, because this is a huge problem in our state. But I would agree also with the previous testifier that says there's got to be some kind of something as far as a limit to how many times that they can-- they could use this, this to not be evicted. I've never evicted anyone for this reason. It's always been rent. And generally speaking in these cases there's also destruction of property and late on rent and a lot of other things that we could use. But as landlords, we-- we don't want to kick people out. We only get paid when people are living in the place. But we also don't want the neighbors leaving because they're tired of-- of the doors getting smashed in next door and windows being broken out. So I just urge you to think about it from both sides and think how can we come to a conclusion that's-- that's good for everyone. And in most cases that-- in both cases that I saw personally it's-- it's up to the woman to assert herself. And if they won't assert themselves, there's not much that anyone else can do so. So let's-- I appreciate the-- that people are helping women assert themselves against-- against people that would abuse them. And so thank you.

**PANSING BROOKS:** Thank you, Mr. Lyon. Any questions for Mr. Lyon? No. Thank you very much. Next opponent. Welcome.

**SCOTT HOFFMAN:** Again, my name is Scott Hoffmann, S-c-o-t-t H-o-f-f-m-a-n. And actually to address Senator Slama's question about whether I've experienced it, and, yes, I have. This happened about a year ago. I'll just refer to his name as Michael. And I have a tool from the Lincoln Police Department that we are on their e-mail alerts. If a police officer shows up at one of our properties, we actually get alerted no matter whether it's domestic or assault or drugs. If a police officer shows up at the door, it's a nice tool that we have. So there is a way to find out if it's domestic, and it was. We have it in our lease just simply as assault. We don't refer to it as domestic or whatever. But that is a 14/30-day call for me. And in this case it happened, you know, right around the end of July. Normally we do not give a 14/30 unless it's delivered on the first of the month. And to correct Senator Hansen's interpretation of the 14/30, and this comes from my attorney, the 14/30 is delivered. You give it on the first. You collect your rent for that month and if they don't do anything, which he did, he assaulted her again, and I said, OK, that's it, because we just don't want to be involved with it. Both parties need

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to leave. And so we wanted to terminate the lease. But within that 14 days if they do not commit a violation then everything goes back to square one and everything's OK. Now if it does happen then they have to be out within 16 days. There's no eviction. There's a difference between termination of the lease and eviction. There's two different causes here. So if they're not out by the first of the following month then I have to go to my attorney and say, OK, we want to terminate the lease. They didn't move out. And so that's another 14 days for a trial. So there's almost 45 days that goes by. So I guess senators were asking how long do we sit around until they figure this out and how long is a perpetrator going to live there with the victim. So that's the purpose of how to diffuse it. But the bottom line is then they can get another week to vacate, so it could almost go on for six weeks. So there's a difference between eviction. Everybody's going eviction, eviction. You have to go to court and it take 14 days for a trial while people sit about it and think about it. In the meantime, we can't do anything. And we did do a 24-hour notice to inspect the property. He was kicking in doors, busting holes in walls. All this stuff we had to repair after they-- and they did vacate. They did decide to vacate at the first so we didn't have to go to trial. There was no eviction. It's just a terminated lease and they agreed to leave. So I'd entertain any questions.

**PANSING BROOKS:** Thank you. Any questions?

**SCOTT HOFFMAN:** All right. Thank you.

**PANSING BROOKS:** Thank you very much for coming. Next opponent. Opponent. OK, anybody in the neutral? OK, Senator Hansen to close.

**M. HANSEN:** Thank you, members of Judiciary Committee. So relating to this issue, I kind of want to talk about the process issue of how would the court figure this out or how would the landlord know? The landlord has to know something has happened in order to give the notice and ultimately get to a court case. They have to have some idea in their mind, you know, to even instigate this whole process. So having the burden of asking them to-- or not even necessarily asking them. Having the defense for the-- for the person or for the tenant seems like a logical step. You know we just know an assault happened. How are we ever going to figure out what type of assault it is? It's like, well, you still have to know an assault happened. You still have to know something happened in order to start this whole process. In terms of it being messy or confusing or taking a long time, I mean this is-- this is an affirmative defense the ""defend"-- the tenants

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can raise. You're in front of the court. You're at threat of the eviction. We've gone through all of the notice requirements. And you say, hey, the underlying cause here is, you know, my ex-spouse was dropping off the kids pursuant to our custody order, so therefore they were a guest. And in the process we got into a fight and he-- and he shoved me, he punched me. And you-- and that's a finding the court can have. I also think it's kind of a little interesting that we trust courts to go through the-- the same courts, to go through all the criminal cases. We trust all the courts to go through the protection order orderings. But then all of a sudden we have the same standard we're asking the same judge to apply in an eviction proceeding, we're all of a sudden worried the judge can't figure it out. I mean it's a standard they apply in both protection orders and-- and other instances. And I just, kind of going back to the kind of fundamental principle, I don't know if-- if evicting the victim of a domestic violence is of benefit to the victim of domestic violence. That was kind of the way it was framed a little bit. Fundamentally, this is just kind of a last result of-- of I'm about to be homeless, I'm about to be kicked out because I'm the victim of a crime. And you get one last chance in front of a judge before the, you know, before they issue the-- the-- before they issue the eviction to say, hey, the whole purpose of this was I'm the victim of a crime. With that, as always, I'd be happy to work with-- with all stakeholders and thank the committee for their time.

**PANSING BROOKS:** Thank you, Senator Hansen. That closes the hearing on LB390-- oh, oh, do you have a question?

**SLAMA:** Yeah, just a quick clarification on-- question on my end. How are we supposed to determine if the tenant in question is a victim of domestic assault if, under our current criminal courts, we have a presumption of innocence until proven guilty? So until they've gone through that process, we can't make a definitive determination as to whether or not a crime occurred because we're presuming the innocence of the other party.

**M. HANSEN:** That is, I guess, that would be-- that's an interesting way of framing it and I hadn't considered it that way. I-- my-- my intent was to not delay this to the point where you had to wait for the criminal trial to go forward because, as we'll see in some of these other bills, these hearings are pretty-- very expedited. Maybe we could potentially double-check and change the wording that alleged to be a victim or something or-- or have some sort of evidence standard

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that they would have to bring to clarify that it's separate from the criminal case.

**SLAMA:** Thank you.

**M. HANSEN:** Of course.

**PANSING BROOKS:** Thank you, Senator. We-- we have four letters of support of LB395 and one letter of opposition and zero neutral letters. So that closes the hearing on LB395. Senator Hansen is here again for LB396. Senator Hansen.

**M. HANSEN:** All right. Good afternoon, Vice Chair Pansing Brooks and members of the Judiciary Committee. My name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. LB396 outright repeals section 76-1443, which prohibits judges from granting continuances in eviction proceedings unless extraordinary cause is shown and accrued back rent is paid. In my work this past interim working with the Nebraska College of Law Civil Clinic, I was surprised when they informed me that Nebraska is the only state in the country whose Residential Landlord, Tenant Act effectively prohibits continuances and eviction proceedings by only allowing them when, quote, extraordinary cause shown rather than the good cause standard used in every other civil proceeding. I know most-- I know there's some attorneys in this room but for everyone else, a continuance is the postponement of a legal proceeding granted by the judge at the request of either party or the judge themselves. Not only is Nebraska unique in this aspect but within Nebraska eviction proceedings are unique in that they are the only type of proceeding with this ordinary-- extraordinary cause standard. LB396 would, of course, not mandate continuances but would allow the judge discretion to decide if a continuance is warranted in limited circumstances. It is not right, for something that has the ability to evict someone from their home, the court has such little authority to reschedule a hearing, especially when it's commonly granted and all other civil matters. We've heard from attorneys who've had clients evicted for simply not being able to take off work at the specific date and time of the hearing. We want to make sure they're not creating a system where people are deprived their day in court and being evicted from their homes because they're unable to be present at a hearing. Behind me there are testifiers who work directly with clients affected by the statute who will be able to give more details. But with that, I'll close and be happy to take any questions.

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**PANSING BROOKS:** Any questions for Senator Hansen? No. Thank you.

**M. HANSEN:** Thank you.

**PANSING BROOKS:** First proponent. And how many people do we have testifying on this bill? Thank you. First proponent. And if you could come down here and fill in the seats that would help us move this at a more rapid pace. Thank you. Welcome.

**SAM RAYBINE:** I have some handouts. Good afternoon, Chairwoman Pansing Brooks and members of the committee. My name is Sam Raybine, S-a-m R-a-y-b-i-n-e. I'm a senior certified law student at the University of Nebraska College of Law and I co-lead the Civil Clinical Law Programs, Tenants' Rights Project. I am testifying in support of LB396 as a citizen, not on behalf of the university. I will address the two provisions in 76-1443 that disproportionately burden tenants, that cause be shown and the payment of past and future rent, and I will explain why this law needs to be repealed. This law requires that tenants show extraordinary cause in order to qualify for a continuance in an eviction proceeding. As Senator Hansen just informed you, Nebraska is the only state in the country whose Residential Landlord, Tenant Act contains such provision, and it is not included in the uniform act. This provision is not only inconsistent with other states in the uniform act . It is inconsistent with Nebraska law. As described in detail in a document I handed out, in all other matters a continuance will be granted for good cause shown. To highlight this discrepancy, in eviction proceedings involving commercial tenants a court is permitted to grant a continuance for good cause shown. But in a residential eviction, where the result is possible homelessness, the tenant is required to show extraordinary cause. Common good reasons for requesting a continuance, such as work conflicts or transportation concerns, will likely not meet the standard of extraordinary cause. Even the inability to consult with a lawyer will likely not constitute extraordinary cause, which is an outrageous conclusion to reach. Second, not only must a residential tenant show extraordinary cause; they must also pay all rent the landlord claims is due and will accrue during the case. This provision is grossly unfair because tenants are essentially having to pay for the opportunity to fairly and reasonably present the merits of their case, a request that would be granted in all other legal proceedings upon a showing of good cause. We are aware of the time-sensitive nature of eviction proceedings, but the way that Nebraska's continuance provision is currently written effectively precludes tenants from being able to receive a continuance to present

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their defense to the eviction. Nebraska law is making tenants homeless because they don't have enough time to consult with an attorney, prepare a defense, or because they can't take off time from work on the day for which the landlord scheduled the hearing. Considering what is at stake, 76-1443 needs to be repealed. There's no reason to amend it, as there are other laws on the books that already govern continuances upon a showing of good cause. By repealing this law, judges will be able to use their discretion to determine whether this is were-- whether there is good cause to continue the hearing in order to preserve a fair and just proceeding and due process under the law. At this time I would be happy to take any questions that you might have.

**PANSING BROOKS:** Any questions? Seeing none, thank you for coming. We're always pleased to see law students.

**SAM RAYBINE:** Pleasure to be here. Thank you.

**PANSING BROOKS:** Next proponent. Welcome.

**JOY KATHURIMA:** Thank you. Good afternoon, members of the committee. My name is Joy Kathurima, J-o-y K-a-t-h-u-r-i-m-a. I was a senior certified law student at the University of Nebraska College of Law in the fall of 2018 and was a coleader of the Civil Clinics Law-- Civil Clinic Law Programs, Tenants' Rights Project last semester. I'm testifying in support of LB396 as a citizen and not on behalf of the university. I want to express to the committee how harmful 76-1443 is to low-income tenants and why repeal is not only necessary; it is urgent. I will do so by sharing a story of a hypothetical tenant who has suffered a result-- as a result of this law. The facts resemble many cases the clinic has handled over the years. Imagine yourself as a young, single mother working two jobs to make ends meet. To make your life harder, the water heater breaks down in the duplex apartment you rent. You properly give notice to your landlord and he assures you that he will take care of it, yet he never does. Finally, after going weeks without hot water, you are forced to purchase a new water heater with what little money you have. When the first of the month arrives, you are unable to afford rent. It was spent on the hot water heater. Immediately, you are notified by your landlord that he has terminated your lease agreement and that on-- an eviction hearing has been scheduled in a week. You think you have a defense because of the hot water issue and because the landlord did not properly serve notice, so you plan to ask the judge for some time to contact an attorney to represent you. You take the morning off from work to go to the

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hearing. You explain your situation to the judge and ask for a continuance to seek legal counsel. The judge is sympathetic to your situation but, however, because of this law your hands are tied unless you can come up with the rent, plus future rent, which you cannot. The judge has no choice but to deny your request. Having no evidence to present, the judge finds in favor of the landlord. Soon after, the sheriff arrives at your home, moves all of your and your children's belongings to the curb, and locks you out of your home. You are homeless. You are homeless because of this ridiculous law that was written by landlords 40 years ago and because 40 years ago tenants had nobody there to fight for them. But we are here now. We are here to support the repeal of a law that should never have been adopted. This law prevents tenants from having a reasonable opportunity to present their case. There is no other state in the country that has an anticontinuation statute like this. This law is cruel and Draconian. Nobody should lack access to legal process because they can't satisfy an arbitrarily enhanced burden or because they lack the funds to buy their right to present their defense. That is why I'm testifying in support of LB396 and that is why 76-1443 should be repealed. Thank you.

**PANSING BROOKS:** Any questions? Well, I have a question. Thank you for coming. I was wondering, do you-- do you know, can you talk about judicial discretion under this bill a little bit? Is there judicial discretion?

**JOY KATHURIMA:** Yeah. So when-- in any continuance situation there would be judicial discretion. So if this bill were to-- if this law were to be repealed, there would still be judicial discretion. It would just be under a good cause standard instead of the extraordinary cause standard demanded under the current law.

**PANSING BROOKS:** OK. But as you stated in your first-- in your hypothetical,--

**JOY KATHURIMA:** Yes.

**PANSING BROOKS:** --they really don't have judicial discretion as the--

**JOY KATHURIMA:** Yeah, they--

**PANSING BROOKS:** --law state-- is stated now.

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**JOY KATHURIMA:** Yeah. As with the law stated now, the extraordinary cause stan-- burden makes it hard for judici-- judicial discretion to really be applied because extraordinary cause is such a heavy burden for the tenant to be able to show. So even if the judge was like, I'm sympathetic to you, you haven't shown what is considered extraordinary cause, their hands would be tied to not be able to actually help the tenant have their day in court.

**PANSING BROOKS:** OK. Think that's all I have. Thank you, Ms. Kathurima. Thank you for coming today.

**JOY KATHURIMA:** Thank you.

**PANSING BROOKS:** Again, we're happy to have students here.

**JOY KATHURIMA:** Thank you.

**PANSING BROOKS:** Next proponent. Welcome.

**SCOTT MERTZ:** Thank you. Thank you, Senator, members of the committee. My name is Scott Mertz, S-c-o-t-t M-e-r-t-z, and I'm a managing attorney with Legal Aid of Nebraska, an organization that is the sole statewide provider of free legal services, free civil legal services, rather, in Nebraska. So for over nine years, as part of my job, I've advised or represented hundreds of low-income tenants faced with eviction. These individuals come to us confused. They're upset and they do not understand their rights. They do not understand their responsibilities under our Landlord, Tenant Law. One thing these tenants do not fully understand is the speed, the speed with which they can be removed from their home through judici-- judicial eviction. Most do not appreciate the delivery of a written notice that gives a tenant no more than three days to have-- to come up with the rent money or have their family fully removed from their premises. A summons can soon follow that assigns a court date, with as little as 10 days' notice and no more than 14 days' notice. These individuals will then have to appear in court and try their case under the rules of evidence and after which a judge will render a final judgment and possibly have that family removed from their home on the very same day. And within this very short process, statute 76-1433 pres-- prevents such individuals from obtaining a continuance in order to attend and adequately prepare for a trial that will determine if they can remain in their home or be forcibly removed by law enforcement. Our clients are low income but they most often still have jobs. They have children without adequate childcare. They are living paycheck to

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paycheck. It is near impossible to adequately prepare for such an important hearing under such short notice. These individuals are mostly unrepresented as there are few to zero options for representation in such cases outside of our own organization and potentially the civil clinics administered by the law schools. The landlords, however, are almost uniformly represented by counsel when in court. In my nine years of practice primarily in Douglas County Court, I have witnessed thousands of pro se clients appear before a county court judge often by the dozens in a typical day, appearing in rapid succession, all faced with the eviction from their home. Most are ill-prepared to proceed with their case. I have witnessed their failed attempts to get just a little more time before proceeding with the trial, time to obtain representation or even just consult with an attorney before the case can proceed. I have seen these individuals appear without necessary witnesses, without necessary evidence. A continuance would afford such individuals some manner of dignity, some semblance of fairness under this process. But the existence of 1433 prevents the judiciary from exercising the discretion to grant a continuance for anything but the most extraordinary cause. This requirement unfairly treats tenants facing eviction as a special class of defendant unworthy of the exact same rules afforded to every other party in a civil matter in the state of Nebraska. The passage of bill LB396 would restore some semblance of fairness to the eviction process and Legal Aid of Nebraska supports the passage of bill LB396. And with that, I'm open to any questions.

**PANSING BROOKS:** Thank you, Mr. Mertz. Any questions? No. Thank you very much for coming today. Any more proponents? OK. Opponents. Opponents. Welcome.

**JOHN CHATELAIN:** Welcome. John Chatelain, J-o-h-n, Chatelain, C-h-a-t-e-l-a-i-n, and I'm speaking on behalf of the Metro Omaha Property Owners Association and the Statewide Property Owners Association today in opposition to LB396. And LB396 would-- would repeal Nebraska Revised Statute 76-1443, which is part of the Nebraska Residential Landlord, Tenant Act, and it provides for no continuance unless there is extraordinary cause and then not unless the defendant shall deposit with the clerk of the court payment of the rents that have been-- that have-- have accrued. And typically the way an eviction case works is that the landlord will try to work with the tenant. If the rent is due on the first, the landlord will try to work with the tenant if they're a little bit late, because the landlord doesn't want to have an eviction, doesn't want to have an empty house,

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and doesn't want to evict the person. So possibly the three-day notice might be served around the eighth or tenth of the month and then three days have to expire. Typically, the complaint is not filed immediately at the expiration of the three days. Again, the landlord is wanting to work with the tenant. And then the hearing will come up about two weeks later. So now we've got probably three weeks or four weeks into this process without the landlord receiving any rent. And then the eviction hearing, if it is successful for the landlord, then the final stage is the filing of a praecipe for a writ of restitution, and then the writ is served by the constable or the sheriff, which takes about another week. And so the landlord's probably going to have about a month or six weeks invested in this process without any rent being paid. Now there was testimony about having to pay the rent for the-- for a continuance as an imposition. I don't see that as an imposition, because the tenant agreed to pay the rent in the first place, and, well, and is not doing it. And it's unfair to the-- to the landlord to have them go on for a continuance maybe more than once without receiving any rent. If LB396 were to pass, I would foresee that the cost of providing for the possibility of being denied rent for longer periods of time would need to be factored in. This would likely cause stricter screening procedures, possibly denying some people the ability to rent a property. Another likely result might be higher rents for the tenants because this extra benefit to the tenant would have to be-- have to be funded. Landlords operate on tight budgets. You've probably noticed real estate taxes are going up all the time. Landlords have to pay principal, interest, taxes, insurance, maintenance, and these items don't stand still.

**PANSING BROOKS:** Thank you, Mr. Chatelain. If you could just finish [INAUDIBLE].

**JOHN CHATELAIN:** Are-- yes. These items don't stand still while the tenant is not paying the rent. So it is a serious matter to the landlord that the rent be paid.

**PANSING BROOKS:** Thank you.

**JOHN CHATELAIN:** Any questions?

**PANSING BROOKS:** Any questions for Mr. Chatelain?

**JOHN CHATELAIN:** Thank you.

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**PANSING BROOKS:** Thank you. Next opponent.

**SCOTT HOFFMAN:** My name is Scott Hoffman, S-c-o-t-t H-o-f-f-m-a-n. I guess the question, Senators, I have is, how much time are we supposed to give him? It's ironic because I actually wanted to come in, and we may do this next year. We wanted to move up the court date. We wanted to go 7 to 10 days because the 14 days is-- there's two weeks right there and then we've got to wait another week for the constable to come along. And then not only that, within the 14 days we're advised by our attorney not to harass them or come over and talk, which we certainly don't. But there's other expenses involved. We've got utilities. We have like a landlord revert with Black Hills gas. We-- these people will not pay the gas bill. It goes back into our name. In fact, that happened the last eviction that had. We also have there if they're living in a house and not paying the water bill, it's assessed to the property owner. So they're using-- basically taking a hot shower on us. Pardon the pun, but that's-- that's what [INAUDIBLE]. That's what I always refer to it as. So there's-- there's other expenses involved than just paying the rent. We do, I, fortunately, own some of my houses free and clear, but I sympathize with the landlords who have a mortgage payment to pay on top of the interest and the-- and the taxes that we're-- that we're dealing with. So the point is continuing, continuing for how long? You had two weeks to decide what you want to do. Now most of the time these people will move out the day before the trial. I'm serious. You go to court. You go to-- I invite any of you senators, seriously, go down to Lancaster County Court, eviction court, and just sit there as just an observer. Just go to court and see what's going on down there. It's going to be mostly the land-- landlords and then the tenants come up and they-- they show up like they're supposed to and they're not paying the rent. And you know, they ask, you know, it's ruled in favor and it's the writ of restitution and you get the property back. But the problem is two weeks have already gone by. And to actually sit there and wait for them to get counsel when they can't even afford to pay the rent is another issue. I don't know how many-- you know, everybody knows what an attorney charges. Some of you are attorneys. I don't know what your hourly rate is, but you're dealing with that too. So other than that, any questions? I'm done here.

**PANSING BROOKS:** Any questions? Senator DeBoer.

**DeBOER:** What would you say is the percentage of nonpayment of rent you have, you know, that goes to eviction of the tenants that you have?

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What percentage of your tenants do you end up in these kind of proceedings?

**SCOTT HOFFMAN:** Well, I mentioned that earlier, Senator DeBoer. In 35 years, I've had hundreds of tenants. I've got 17 parties that I deal with and I've only done 5 evictions and they were ugly. I mean these people were-- they're basically career deadbeats. They know the law. We see some of the same people down there again and again and again. An unwary landlord rents to these people. I mean we do want to get our rent, and not to mention partial rent too. I mean, no rent at all? If your rent is \$700, why don't you throw me a bone, give me \$300? I'll work with you on the other \$400. We always do that. But to have nothing at all for a week to three days is an issue.

**DeBOER:** So that's a pretty small percentage. I-- I--

**SCOTT HOFFMAN:** Very small percentage for me, but never-- it's always a nonpayment of rent. It's-- it's not a 1430. It's usually the people can't pay the rent and they've been there for two weeks and the trial's, you know, have had plenty of time.

**DeBOER:** I asked this because I used to sell apartments for a long time and--

**SCOTT HOFFMAN:** Sure.

**DeBOER:** --so I was in the office and I saw that it was a very small number of these that it was. So I think in the amount of, you know, total amount of money that you're getting in rent each month, you're missing out on a huge portion of your income each month. It's a small portion--

**SCOTT HOFFMAN:** Right.

**DeBOER:** --that you would-- you would be missing from these nonpayment of rents.

**SCOTT HOFFMAN:** Well, it's-- it's the utilities that go back--

**DeBOER:** Sure.

**SCOTT HOFFMAN:** --into our name, too.

**DeBOER:** Still,--

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**SCOTT HOFFMAN:** But-- but a lot of times, Senator, these people do not show up for court. They'll stay there for the whole 14 weeks and what we call, refer to, as milk it. And you won't see them in court. I mean half the time the-- the-- the defendant's not there. And we-- we routinely go over there the day before the-- the trial to see if they're there. We don't go knocking on the door, but if we see evidence that they may be there, you know, we [INAUDIBLE].

**DeBOER:** So I guess I'm confused.

**SCOTT HOFFMAN:** Yeah, go ahead.

**DeBOER:** So you recei-- routinely, but there were five times over the course of your rentals, so--

**SCOTT HOFFMAN:** Very low.

**DeBOER:** --I'm missing this "routinely" in the five times or "routinely" there's some other process that you're talking about that I'm not--

**SCOTT HOFFMAN:** I'm saying when I've gone down to eviction court, this is what I've witnessed, you know, as far as when I have gone down. I've been down there other times when I wasn't evicted otherwise, not just the five times but more than five times, you know, talking to other colleagues or landlords, you know, dealing with evictions, so.

**DeBOER:** OK. Thank you.

**SCOTT HOFFMAN:** Yeah. Thank you.

**MORFELD:** Senator Pansing Brooks.

**PANSING BROOKS:** Yes. Thank you. Senator Morfeld, go ahead.

**MORFELD:** Thanks for coming today. I guess, so I understand that there's some deadbeat renters. I-- I can understand that.

**SCOTT HOFFMAN:** Certainly.

**MORFELD:** My parents owned a-- a rental property. I helped them manage it. You know, as a teenager I saw what happened. I own a rental property right now. So I understand that there's deadbeat renters. But the problem is, is that there's also deadbeat owners. And I've experienced those people too. I've represented some of those people in

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terms of getting them to resources that they needed. And so it's a balance of due process. I mean so what if somebody has a valid claim? Shouldn't they be afforded the same due process as anybody else with a valid--

**SCOTT HOFFMAN:** Senator Morfeld, are you talking about a 1430 where the landlord's not living up to his repair obligations or--

**MORFELD:** That-- that might be the case.

**SCOTT HOFFMAN:** Right.

**MORFELD:** And they may be confused as to what their actual legal options are. I-- what I'm saying is, what if the tenant has a valid, legal defense to, you know, the eviction action? So shouldn't they have the same ability to have a continuance and it not be extraordinary circumstance?

**SCOTT HOFFMAN:** If it's a-- Senator, I guess if it's involved in not paying the rent, you got two weeks, you know? And we have bills to pay, I mean, you know, mortgages, yeah.

**MORFELD:** I get that you have bills.

**SCOTT HOFFMAN:** Yeah.

**MORFELD:** I have bills to pay.

**SCOTT HOFFMAN:** Certainly. Certainly.

**MORFELD:** And I have a rental property.

**SCOTT HOFFMAN:** Actually it was one of my questions to see if any of you senators actually own rental property and you deal with it.

**MORFELD:** Absolutely.

**SCOTT HOFFMAN:** Yeah.

**MORFELD:** I've seen good renters. I've seen bad renters. But I see a lot of bad-- I see a lot of bad people that actually rent out property too. I think there's more good ones than bad ones. But the problem that I have with this is it seems, as compared to other legal actions and-- and due process, it doesn't provide the court-- it doesn't provide the individual the same ability to have a continuance as any other legal action, which bothers me. But I see your perspective. But

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I think that we have to acknowledge that there are also deadbeat homeowners, too,--

**SCOTT HOFFMAN:** Right. Right.

**MORFELD:** --and other folks that, you know, that we need to make sure that-- that renters have protections.

**SCOTT HOFFMAN:** Well, that's-- that was one thing I was answering, you know, as far as paying the rent. Because when my tenants do come in and they offer-- we also say, well, can you come up a few hundred dollars? And they usually do. But to have none of the rent and wait for two weeks for a trial and then have more continuances, I don't see that.

**MORFELD:** How many times have-- how many times have you had a continuance? How many times has somebody asked for a continuance?

**SCOTT HOFFMAN:** You mean to pay the rent in partial rent or-- ?

**MORFELD:** No. In the-- what we're talking about here, in the court action.

**SCOTT HOFFMAN:** Well, there is no continuance. That's what they were trying to pass the bill for, that we're not--

**MORFELD:** Yeah, I know.

**SCOTT HOFFMAN:** Yeah.

**MORFELD:** That's the thing, is--

**SCOTT HOFFMAN:** Right.

**MORFELD:** --they can't do it because it's extraordinary circumstance.

**SCOTT HOFFMAN:** But I have stayed out of the courtroom and I've only done five evictions in 35 years because I've dealt with tenants that have paid me partial rent, and I've dealt with that probably 40 or 50 times. I had one guy at literally after a year and a half I said, Daunte [PHONETIC], you're gonna go, because every month he would do this. He would pay the rent late, so.

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**MORFELD:** No, and I-- I totally sympathize with the fact that you get-- you get some deadbeat renters. And I've seen that happen before so I'm not dismissing that. I'm just--

**SCOTT HOFFMAN:** Right.

**MORFELD:** --it's a balance and it's a fairness issue. And I know that there's another side to that.

**SCOTT HOFFMAN:** Comes down to the application process too, so.

**MORFELD:** Absolutely. And I appreciate you coming in today, sir.

**SCOTT HOFFMAN:** Yeah. Thank you.

**PANSING BROOKS:** Any other questions? Thank you. Additional opponents.

**GARETH REES:** Gareth Rees, G-a-r-e-t-h R-e-e-s. I'm here in opposition to this. The law requires if you are going to collect rent you must give personal service on the tenant. If your only goal is to end the tenancy of the tenant, you can use post and mail. So rent is not delinquent for me until the third day of the month. Upon the fourth day of the month I give notice, three days. It takes me to the sixth. I then have to go to my attorney. He has to file the proper paperwork and now we've got 14 days. And occasionally the judge does not adhere to the 14-day rule but it will be somewhat later. So we're getting to the 20th, 21st day of the month, and you've collected no rent for that month. I have no hopes and no goal of collecting rent from the people on whom I am engaged in an eviction. My sole goal is in a vacant apartment so that I can rent to somebody who does pay rent. So the-- the entire purpose of this legislation, as far as it affects me, is providing additional free rent to a tenant who is not going to pay rent. I have never collected rent from somebody that I evicted. It simply doesn't happen. So the purpose of this legislation is to require me to provide additional free rent to people that I rented to. Do you have any questions, please?

**PANSING BROOKS:** Do you have a question? I have one. Thank you for coming, Mr. Rees. So what happens if somebody is in the hospital and can't make it to the hearing and-- and the judge has his hands, his or her hands, bound by the exact date of, like, well, you didn't pay, you're in the hospital, too bad, the law says no discretion, you're out? Do you feel that's fair?

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**GARETH REES:** I've never had that circumstance.

**PANSING BROOKS:** OK. That's--

**GARETH REES:** It would not be fair that somebody is in the hospital and they get evicted. But I've never had that happen. My problem is always someone who makes the choice to get a free month's rent and to just continue.

**PANSING BROOKS:** OK. Thank you very much, Mr. Rees.

**GARETH REES:** Thank you.

**PANSING BROOKS:** More opponents. Welcome.

**DON PEARSTON:** Hello again. My name's Don Pearston, D-o-n P-e-a-r-s-t-o-n. A quick story about myself: I moved here about 19 years ago from southern California as a student and I bought an old rental, a little over a hundred years old, and continued to work and for 18 years I had built my rental business as really a gritty, blue-collar worker. And I wanted to tell you that I do my own legal work because, from the beginning, I was working two jobs in the daytime and I couldn't afford three or four hundred dollars for an eviction attorney. So I got the proper documentation and learned how to go to courts. And since all my buildings are older, the tenants that I rent to are on the lower socioeconomic scale. It works for me and I've been successful of helping tenants and building strong relationships over these 18 years or so. But in doing the legal work myself, I've sat in Judge Rodney Reuters' court quite a bit. It's unfortunate that he knows my name. I sit in the back and once all the lawyers and attorneys have cleared out he calls me up, Don, come on up. And so this bill looks to me like it'll mandate a continuance, but I see continuances happening in the courts all the time. I've sat in those courts hours. My question to you, as senators, have you sat in to an eviction court at all? Ninety percent or more evictions are over nonpayment of rent. It's not the 14-day notice, damage, or other issues. It's nonpayment of rent. And sometimes lawyers will get together with the-- with the tenant and a continuance will be given, just not mandated, of course. One of the persons giving testimony earlier mentioned that the example about the water heater. There are laws in place where tenants can let their landlords know that things need to be repaired already and so-- so having some continuance, like the gentleman before me, is it's just another gouging of a landlord. Of course, some landlords don't take care of their properties and so

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forth. But my contention is that offering up a continuance when a tenant already knows they've got-- you know, I give a three-day grace period and then on the fourth day I'll give a three-day notice. On the fourth, I go file my case, from that date I got 14 days until the court date happens. And I was going to-- I'm here to talk about LB434, more specifically about that. But how many weeks? My question to you is, how many weeks should a landlord give a tenant to get prepared? That seems to be the case--

**PANSING BROOKS:** Thank you.

**DON PEARSTON:** --for the other side. I-- would hope that three weeks is more than plenty for a tenant to get legal representation.

**PANSING BROOKS:** Thank you,--

**DON PEARSTON:** Thank you.

**PANSING BROOKS:** --Mr. Pearston. Any questions for Mr. Pearston? No. Thank you for coming again.

**DON PEARSTON:** Thank you.

**PANSING BROOKS:** Yes. If-- if everybody could please remember to watch the light because we really are trying to keep it so that everyone gets the same amount of time. Thank you very much. Welcome.

**LYNN FISHER:** Senator Pansing Brooks, Lynn Fisher again, Great Place Properties. My name is spelled L-y-n-n F-i-s-h-e-r, and I'll try to be very brief, just to cover a couple of points that have been brought up. The example of the water heater going out and the landlord not taking care of it, you know, the tenants have lots of rights. They can give a three-day notice to the landlord for not taking care of a problem like that. They can call Building and Safety. Building and Safety will be out there the next day. It will get taken care of, believe me. And if-- if a-- if a tenant has the money to pay for a-- hundreds of dollars repair for a water heater, they're better off to pay their rent, call Building and Safety to get it taken care of. To address what judges will or will not allow, their discretion, Senator Pansing Brooks, when you're in eviction court judges exercise discretion all day long. The law may be a particular prescribed procedure, but they-- they vary from that often in order to accommodate what's reasonable for both landlords and tenants. Attorneys for landlords will negotiate out in the hallway lots of

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different agreements to try and accommodate what's reasonable in each circumstance. So just because the law says that a continuance not-- may not be granted, if somebody's in the hospital, if-- if a-- if a tenant comes in and says, hey, my landlord didn't replace my water heater and that's the situation, a judge is not going to say, sorry, we're going to evict you, even though they know that there's some extenuating circumstance. So that just doesn't happen. So that's not really a realistic example. As you know from past testimony, if you maybe recall, but I've been involved with RentWise, which is a program for folks that are trying to do better at being a tenant. Most of them are on the low-income scale. And over 10,000 people have taken advantage of RentWise just-- just in Lincoln alone. And those people are made fully aware of all the resources available to them, including the services of Legal Aid. And so we-- we let them know that they have lots of different ways that they can go about getting help for particularly dealing with the bad landlords out there. And there are, Senator Morfeld. We agree. But thankfully it's a very small minority. Be happy to answer any questions.

**PANSING BROOKS:** Thank you. Any questions for Mr. Fisher? Mr. Fisher, I think part of the problem is that the, you know, it may be working well in Lancaster County, but there could be other counties across the state with which you might not be familiar that we're getting anecdotal evidence and letters to the fact that there are cases where the judge just says, you missed the date, that's it, you're out. So--

**LYNN FISHER:** Most-- most of my judges that I've dealt with here for sure--

**PANSING BROOKS:** I think we have good judges [INAUDIBLE].

**LYNN FISHER:** --and in York, York County have-- have done a good job.

**PANSING BROOKS:** Thank you very much. Any more opponents? Welcome.

**LARRY STORER:** Larry Storer, S-t-o-r-e-r, 5015 Lafayette Avenue, Omaha, Nebraska. I know you folks are getting tired of me but 2013 Constitution State of Nebraska, Article I, Section 25, rights of property. It also gets into no discrimination and aliens, that there shall be no-- etcetera, etcetera, etcetera-- in respect to the acquisition, ownership, possession, enjoyment or descent of property. Well a rental property is the rental property of a landlord. It's not the property of a tenant. And the landlord has superior rights under the law, general law. But we have a constitution now that instead of

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being a pocket constitution it is 3,000 pages long due to judicial interpretation and progressive rewriting of the laws and regulate-- or rules and regulations that supposedly backup those laws, because the courts delegated, and Congress, delegated the responsibility under the constitution. That applies to Nebraska also. I don't think I want to be a landlord. I need to supplement my retirement income again to help pay my property taxes because the inspectors might come and take my property any day and I need to fix it up. I see we're rewriting the inspection laws as I speak. I'm not prepared for that. Are the tenants prepared for that? I think the time frames in this bill are extremely difficult for anybody that's considering to be a landlord or even staying as a landlord, remaining as a landlord. There's other laws that cover this, I think. Yeah. Somebody commits a murder, that should be out of my hands if I'm the landlord and somebody commits a murder on my property, in one of my tenant's apartments, whether they're a same-sex spouse or not. Other laws control that. That-- that shouldn't be in here. There used to be a publication called Common Sense that roused the tenant-- citizens' blood pressure. And they went and decided they were going to rewrite their Articles of Confederation after they finally met and had a confederation. They had a small constitution, but they decided it wasn't good enough. They didn't trust their legislators because a lot of them were loyalists. We did not have the constitution yet. So I don't know why they think we should trust a Unicameral where the people do not have a voice. Thank you.

**PANSING BROOKS:** Thank you, Mr. Storer. Any questions? OK. Any further proponents? Any neutral testimony? Senator Han-- oh, neutral, OK. Welcome.

**SAMUEL LYON:** Thank you, Senator Brooks. Again, Samuel Lyon, S-a-m-u-e-l L-y-o-n. I wanted to just give a neutral thought, a couple of thoughts here very quickly as I-- I have a washer that I need to go pick up and take to one of my tenants so they don't pay for it and take it out of my rent. Thank you for-- again, thank you for your-- your consideration of these-- of these bills. As you can see, there is a lot of nuance. Thank you for putting up with us landlords. We are quite the cast of characters, as you can see. I realized that most of these-- most of these-- most of this Legislature is not for me. It doesn't-- doesn't affect directly my day today because I'm a good landlord. And specifically this one I can come down as neutral because I haven't actually been through a eviction process totally yet in 15 years. So if I go next year to an eviction process and if they get a

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couple of continuances that's just the cost of doing business, as far as I'm concerned. But one thought that I will leave you with as you consider this legislation is I don't generally give notice until 30 days past rent. So I try to work with the people and say, hey, what's going on? Did you lose your job? Do you have a kid that was in the hospital? What's-- what's going on? How can I help you pay the rent? The tighter the-- the-- the-- the Legislature gets on me, the-- the quicker I will be to give that notice, right? Because I know now I-- I-- I can give the notice and then kind of get through it, and so I can wait and-- and talk to them and try to communicate and get that rent going. But if I-- if I know, hey, you've got to do this and then there's another continuance and maybe another continuance, then maybe on the third I'm just serving them notice. Again, I'm not kicking them out but I'm starting that process much sooner because I know that the process is longer. So just as you-- as you consider this legislation, know that that might be an unintended consequence, not that it's retaliatory but I just know if this is a three-month process, the sooner we can get going on it the better off we'll all be. So that's my thought. Thank you again for wrestling with this and I appreciate your time.

**PANSING BROOKS:** Thank you, Mr. Lyon. Any questions for Mr. Lyon? No. Thank you for coming. Any other neutral testimony? No? Then Senator Hansen to close. Thank you.

**M. HANSEN:** Thank you, Senator Pansing Brooks and members of the Judiciary Committee. Again, let me thank you for hearing these five bills in succession. Part of the reason we decided to split them up in packages, I felt that kind of each one of these is a real discrete, concrete component. And I thought just maybe in a longer comprehensive bill, a section like this would be glossed over as a repealer and we'd get a lot of attention on other ones. And to me this is very just kind of, as a lawyer, one that just jumped out at me when I heard it. Not only is it one of the highest standards. It's a separate standard compared to all of our Nebraska laws and it's a separate standard compared to all other United States Landlord, Tenant Acts. It's a higher standard than commercial tenants, foreclosures, all criminal matters, divorces, child custodies. And our court system works fine. Our judges use their discretion fine in those instances. And despite all the opposition testimony we heard today, I don't think there was a clear public policy reason as to why this is a higher burden. Yes, it-- yes, it is, landlords are on a tough spot. They are the, you know, plaintiffs in a case. But you know, similarly, if there was a

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car crash, I'm sure a plaintiff's attorney would love to stop continuances in a car crash if they thought they had a slam dunk case. But we as a state don't allow that. Same with a prosecutor. I'm sure a prosecutor would love to stop continuances if he felt he had a slam dunk case, but we as a state don't allow that. And I don't know why we would have a separate issue for just purely for residents in a Residential Landlord, Tenant Act. And with that, I'll close.

**PANSING BROOKS:** Thank you, Senator Hansen. We do have two letters of support, three letters-- letters in opposition, and zero letters that are neutral. And with that, we close hearing LB396 and move on to LB433 with Senator Hansen.

**M. HANSEN:** Thank you, Senator Pansing Brooks and members of the Judiciary Committee. My name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. LB433 requires that a landlord return the balance of a tenant's security deposit with a written itemization of deductions within 14 days after the date of termination of tenancy. Currently, a tenant must first contact a former landlord and request the balance of the itemized list to be returned to them, and then the landlord has 14 days from that date to return it. It is important to remember that the security deposit is just that: a deposit of the tenant's own money for the landlord to hold in case damage is done to the property. If no damage is done that takes up the full amount, that money should automatically be returned to its owner, the tenant, regardless of whether or not the tenant contacts the landlord again after they move out. In other words, when the need for the, quote, security part of the deposit is gone, by default those funds should be returned to the rightful owner, the tenant. LB433 also has a provision that says a tenant does not have to pay for damages that results from the removal from the unit by order of a governmental entity because it was not fit for habitation due to negligence or neglect by a landlord. If your apartment is condemned by the city, for example, and you are forced to flee with only a few hours' notice, you should not be charged for things like not cleaning out your fridge or have crayon marks on the wall. The urgency of being evacuated prevents a tenant from going through their usual steps of cleaning or making repairs. It makes sense that a landlord should be responsible for those types of damages if the reason the tenant had to rush to leave is a result of the neglect of the property of the landlord. The bill adds damages of one month's rent and court costs to what the landlord already owes to the tenant for violation of this section, which is the security deposit balance and reasonable

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attorney's fees. This part is important since currently if a landlord fails to return a security deposit the tenant is only entitled money owed and the attorney fee if there is a judgment, which fails to have a detrimental effect. As with all my bills today, this bill will not make the process harder for landlords already using good practices. Those who already rightfully return tenants' deposits will not be affected. In fact, it will make it easier on landlords because they make the recording of new addresses and return of the deposit their normal move out process and does not have to wait for tenants to return back to them. With that, I'd be-- close and be happy to take any questions.

**PANSING BROOKS:** Any questions for Senator Hansen? No. Thank you. Proponents. And just to remind everybody, please come down to the front row if you didn't know that. Also if you hear testimony similar to yours, you can just sign the-- the sheet at the back because your names will go in as opposition or proponent by that act as well. Thank you. Welcome.

**ALEXA BARTON:** Thank you. Good afternoon, members of the committee. My name is Alexa Barton, A-l-e-x-a B-a-r-t-o-n. I'm a senior certified law student at the University of Nebraska College of Law and was a co-leader of the Civil Clinical Programs, Tenants' Rights Project. I am testifying in support of LB433 as a citizen and not on behalf of the university. I would like to discuss the legal reasons for changing 76-1416 to require landlords to return tenant security deposits. First and most importantly, the security deposit is not the landlord's property. By requiring tenants to demand the return of their security deposit, the current law treats these funds as if they belong to the landlord. The security deposit does not belong to the landlord. It is not a fee or any other source of income for the landlord to use at its disposal. It is the property of the tenant held in security, held for purposes of security, and when the need for that security is gone these funds should be returned to the lawful owner, the tenant. Second, Nebraska is an outlier in that it requires tenants to demand the return of their deposit. Only five other states, besides Nebraska, require tenants to make this affirmative demand. And the uniform act already contains a similar provision as what LB433 proposes. Requiring landlords to return the deposit is commonplace and LB433 would simply put Nebraska in line with the vast majority of states and with the uniform act. Third, 14 days to return the deposit balance is reasonable. This is a fair compromise between the interests of the landlord and the tenant. Landlords will have two weeks to inspect the

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apartment and appraise its condition. Alternately, a tenant has an interest in the rightful return of his or her property within a reasonable time after the tenancy is terminated. These changes will not unduly burden landlords, as Senator Hansen said. This money does not belong to the landlords so they are not losing any money. Landlords will still be able to make legal deductions. The only change is that they must automatically return the remaining balance to the tenant rather than requiring the tenant to demand it. While the burden on landlords is minimal, the potential benefits for tenants are great. Tenants, especially low-income tenants, often rely on the return of their deposit in order to recover necessary expenses. Landlords are in a better position to be familiar with the legal system and legislative requirements related to the return of the security deposit-- this is apparent from the number of landlords who are here today-- whereas many tenants are unaware of this unique requirement imposed on them. In conclusion, LB433 rightfully places the duty to return the deposit on those who are inherently more familiar with the system. At this time, I would invite any questions.

**PANSING BROOKS:** Any questions for Ms. Barton? Thank you for coming. Again, we're thrilled to have law students here. Welcome.

**SAM RAYBINE:** Hello again, Chairwoman Pansing Brooks and member of the committee. My name is Sam Raybine, S-a-m R-a-y-b-i-n-e. I'm a senior certified law student at the University of Nebraska College of Law and I co-lead the Civil Clinical Law Programs, Tenants' Rights Project. I am testifying in support of LB433 as a citizen and not on behalf of the university. I would like to discuss the problems and consequences of requiring tenants to demand return of their security deposit from their landlords. First, the demand requirement gives tenants the impression that their landlord has the right to refuse their request. The statutory language of 76-1416 appears to affirm rather than correct this misconception. Moreover, most tenants simply do not know that they have to affirmatively request their deposit to be returned. This provision disproportionately harms students and others who are less likely to be familiar with Nebraska's unique requirement. It is more reasonable to put the burden on the landlord, who is in the capacity of running a rental business, to know and understand that it is their duty to return the property of the tenant. Another consequence of the current language is that it incentivizes landlords to keep their tenants in the dark about their security deposit. Tenants who are unfamiliar with the law are vulnerable to exploitation by landlords who do not operate in good faith. This creates a windfall

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to the landlords who get to keep the deposit if the tenant does not ask for it back. This is especially egregious when you consider the fact that the money does not belong to the landlord. As Ms. Barton just explained, it is the tenants' money being held by the landlord as a deposit, not that dissimilar from a bank holding a deposit in a savings account. It does not become the bank's money. It is still your money. Third and most important, the current law in particular disadvantages low-income tenants who are living paycheck to paycheck. This a lot of money for low-income tenants and they rely upon the lawful return of their security deposit. Section 76-1416 obstructs and delays its return. LB433 would affirmatively put vitally important money back in the pockets of low-income tenants during the transition into a new home. A few hundred dollars can make a big difference during this crucial period of time. Outside of facilitating their move to a new home, this money can pay for groceries, gas to get to work, school clothes for their children, medicine for sick family members, you name it. It's the tenants' money and they need it. Landlords will most certainly testify against this bill because they've been profiting off of this landlord-favorable law for decades and they want to keep profiting off of these poor tenants. They won't come out and say that and they will likely come up here and provide other excuses for opposing this bill, but the true reason they don't like this bill is because the current bill has provided them a windfall for decades and they don't want to see that go away. All that this bill does is require that landlords give tenants their security deposits back within a reasonable amount of time, and that's all. Thank you very much.

**PANSING BROOKS:** Thank you, Mr. Raybine. Any questions? Oh, yes, Senator Brandt.

**BRANDT:** Thank you, Chairwoman Brooks, Pansing Brooks. Mr. Raybine, do you-- do you rent an apartment right now?

**SAM RAYBINE:** I do. I am a current renter.

**BRANDT:** Are you? So usually what is the going rate right now for a damage deposit?

**SAM RAYBINE:** Right now going-- for myself personally?

**BRANDT:** Yes.

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**SAM RAYBINE:** It was \$350.

**BRANDT:** I mean one month's rent, is that fair,--

**SAM RAYBINE:** Yes, it is.

**BRANDT:** --usually what they put forward? Have you heard of landlords that have had damages far in excess of the damage deposits?

**SAM RAYBINE:** I'm-- it's quite possible. Whether that exceeds \$350, there are other legal remedies that they can pursue if they want to recover those costs and damages.

**BRANDT:** I mean do you think-- do you think the system is unfair right now?

**SAM RAYBINE:** In what regard?

**BRANDT:** In regard to what they're asking for damage deposits?

**SAM RAYBINE:** So I think what they're asking for a damage deposit is reasonable. But the mechanism for returning security deposits, which is not the landlord's money, is not reasonable.

**BRANDT:** I guess I'm confused. Can you enlighten me why that isn't reasonable?

**SAM RAYBINE:** Because we understand like the purpose of a security deposit, and as Ms. Barton explained, once the tenancy period is over, that money no longer belongs to the landlord. Now if they need to make deductions for damages based off that security deposit, by all means, if it's a, you know, lawful re-- a legal reason for making those deductions, they're more than welcome to do so. But once those deductions have been made, it should be the landlord's affirmative duty to return the balance back to the tenants.

**BRANDT:** And in a lot of cases that is not happening in the state of Nebraska?

**SAM RAYBINE:** They are under no obligation to do so.

**BRANDT:** But is that common practice that it is not returned?

**SAM RAYBINE:** No.

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**BRANDT:** OK. Thank you.

**PANSING BROOKS:** Any other questions? No. Thank you, Mr. Raybine.

**SAM RAYBINE:** Thank you.

**PANSING BROOKS:** Welcome.

**SARA RIPS:** Welcome. Thank you, Chairman Pansing Brooks. My name is Sara Rips, S-a-r-a R-i-p-s. I am an attorney with Legal Aid of Nebraska. As Mr. Mertz said earlier, Legal Aid of Nebraska is a nonprofit law firm that is dedicated to providing low-income Nebraskans with quality legal services that they otherwise would be unable to afford. One of the legal services that Legal Aid of Nebraska assists with regards housing issues. The significant number of our housing issues involve landlord-tenant disputes. These landlord-tenants disputes often occur because of the disparate levels of knowledge between landlords and their tenants. Tenants do not know the law as well as their landlords, and landlords take advantage of this. One of the reasons that landlords have this higher knowledge of law is because they often have attorneys on retainer who explain the laws to them and counsel and advise them on their rights. Security deposits are not the landlord's money as both of the civil law school clinic students explained. The security deposit is not the landlord's money and it should not be treated as an income profit center for landlords. As to my clients, the-- the security deposits are a substantial amount of money to them, whether it is a \$200 deposit or a \$1,000 deposit. Many of my clients erroneously believe that their landlord had a good reason to not return the security deposit or that they were not entitled to receive the security deposit back at all. In our access to justice clinic, I almost every single day that we are open educate our citizens in their rights and responsibilities and that includes explaining to them that they have the burden of requesting their security deposit back. I help them draft letters to send to their landlords and I help them when their landlords are purposefully obstinate in returning their deposits. Even though Legal Aid of Nebraska can make an impact on an individual level, it is a drop in the bucket compared to the immense change that the passage of LB433 would bring to the quality life of our citizens. This is not an onerous burden for landlords because, as I mentioned earlier, this money is not their money and it should not be treated as such. The passage of LB433 will elucidate to landlords and tenants that the security deposit is the property of the tenant. Thank you.

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**PANSING BROOKS:** Thank you very much. Anybody-- anybody have questions for Ms. Rips? I guess I have a question. So you heard the last comment that-- from-- and I think one of those students said that-- that there aren't many cases of this. Can you talk about the number of cases you all have?

**SARA RIPS:** So, unfortunately, I can't provide you with exact numbers so this will have to be anecdotal, but I can supplement later. For the people we meet with, I would say that the vast majority of people do not understand that they have an affirmative duty to ask for their security deposit back. They just assume that they did something to not get it back.

**PANSING BROOKS:** OK. And do you have-- you don't know how many cases you have per year through Legal Aid?

**SARA RIPS:** In the-- in the information I handed you, it does lay out. I believe that we do about, of the 12,000 cases that we closed, that about one-twelfth of those, about a thousand cases, involved landlord-tenant issues.

**PANSING BROOKS:** OK. Thank you very much.

**SARA RIPS:** Thank you so much, Chairman Pansing Brooks.

**PANSING BROOKS:** Next proponent. Welcome.

**ERIN FEICHTINGER:** Hello again. Dr. Erin Feichtinger, Community Outreach and Advocacy for Together in Omaha. I'm here on behalf of our organization in support of LB433. And I'll keep this very brief because everyone has affirmed what we also believe, especially as it pertains to the unequal knowledge for our clients who are low-income renters. I also just want to address what Senator Brandt asked and your question, Senator Pansing Brooks. I polled our case managers about this before we came in. And so 25 individuals-- or 25 families and 41 individuals we helped house last year. Every single one of those clients did not receive their security deposit back from the last time they rented because they did not know that they should ask for it. Which meant that when it came time for them to get housing this time around, they did not have any money. They did not have enough money for a security deposit and first month's rent. So we are supportive of LB433. We think it levels the playing field and will

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have a tremendously positive impact on the lives of those we serve. So I'm available for any questions.

**PANSING BROOKS:** Any questions? No. Thank you very much, Doctor. Welcome.

**KEVIN RUSER:** Good afternoon, Senator Pansing Brooks, members of the committee. My name is Kevin Ruser, K-e-v-i-n R-u-s-e-r. I'm a professor of law and director of Clinical Programs at the University of Nebraska College of Law. Before joining the law faculty in 1985, I was a managing attorney at Western Nebraska Legal Services, which is now part of Legal Aid of Nebraska. During my 40-year career, I worked on a number of residential landlord and tenant cases. I'm testifying today on my own behalf and not on behalf of the university. I'd like to focus on another provision of LB433 which is the proposed amendment that would allow a tenant to seek liquidated damages equal to one month's rent if a landlord failed to return a security deposit as required by LB433. This amendment I think is probably troubling to some, but it would hardly break new ground. There are many other provisions in the act that currently authorize liquidated damages, both as to landlords and to tenants. Examples would include damages for abuse of access, which is one month's liquidated damages; damages related to intentional interruption or-- of essential services or unlawful ouster, three months' liquidated damages-- three months' rent liquidated damages; damages related to a bad faith failure to deliver possession of leased premises, three months' liquidated damages; and damages related to a tenant's bad faith holdover after termination of a lease, three months' liquidated damages. So the act provides liquidated damages in many circumstances because the harm suffered by an aggrieved party is difficult to quantify and providing liquidated damages would achieve two things. One, it conserves the resources of the parties and the courts by eliminating the need for extensive evidence relating to hard-to-quantify damages; and, two, it furthers the goals of the act by encouraging both landlords and tenants to comply with its requirements. So in summary, I urge the committee to support LB433. I'd be happy to answer any questions.

**PANSING BROOKS:** Thank you, Mr. Ruser. Any-- do you have a questions? No? Thank you very much for coming and for bringing the students.

**KEVIN RUSER:** Thank you.

**PANSING BROOKS:** Yes, next proponent. Welcome.

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**CARINA McCORMICK:** Thank you, Senator Pansing Brooks. My name is Carina McCormick, C-a-r-i-n-a, McCormick, M-c-C-o-r-m-i-c-k. And I'm representing myself for this particular testimony. I really want to convey how essential it is to renter's finances of whether or not they'll get their security deposit back and in what time line. I think maybe people who are homeowners or in different financial situations don't understand how big of a difference that can make and the dread and anxiety from the uncertainty of not knowing whether you'll get your deposit back is horrifying, frankly. I have a good landlord now. I trust that he will give me my deposit back. But in a previous-- with the previous landlord I had no idea. And he had-- had been so unresponsive to me for the entire time we lived together that I was guessing I wouldn't get it back and I-- I didn't know what I could do. And it was completely up to him how long he wanted to give it back to me. And at the time when I was moving the degree of anxiety that that caused me stopped me from being able to make good plans, all those sort of things. And this simple bill would take away that kind of stress for so, so, so many renters. I eventually did get the deposit back months later. He also found an entire nother month's rent bill-- check that he just lost. That's the sort of thing we're dealing with, with these landlords. And renters really need the certainty of knowing the time line with which they will get their deposit back, and they shouldn't have to ask for it because it's their money. Doesn't make sense. It's not logical to think that they should have to ask for it back. And it will provide a lot more continuity and certainty to renters' financial situations with this easy bill. So I ask you support it. Thank you.

**PANSING BROOKS:** Thank you. Thank you for coming. We appreciate your voice, representing yourself.

**CARINA McCORMICK:** Thank you.

**PANSING BROOKS:** All right. Next proponent. Welcome.

**RENEE JUST:** Hello, Senator Pansing Brooks, Committee. My name is Renee Just, R-e-n-e-e J-u-s-t. I am testifying on behalf of myself. I have been a tenant for about 10-15 years. I've lived in at least eight different places. And I recently graduated law school and I had no idea that I had to demand my deposit back. And I'm somebody who is relatively sophisticated and I wasn't aware that that was my affirmative duty. In the places I've lived I have gotten my deposit back most of the time. I almost have never gotten a full deposit back, but every time I've gotten a deposit back, except a couple times, I've

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been told what it's been used for. Whether they've replaced lightbulbs or something that comes up, whether it's stove covers, I've always had an idea of why I did not get money returned to me. And I've never questioned it. It's always been very reasonable on what a landlord needed to do in order to get my unit back into a shape where they could charge reasonable money for it. There have been times that I did not get a deposit back and I just assumed that they spent it all on I don't even know what. But it is very stressful to not get a deposit back and to not even realize that you have this duty to do something in getting your own money returned. I welcome any questions.

**PANSING BROOKS:** No. But thank you for coming and telling your-- your stories, personal stories. Thank you. Next proponent. OK. Opponents. Welcome.

**JOHN CHATELAIN:** My name is John Chatelain, again, J-o-h-n C-h-a-t-e-l-a-i-n. I'm speaking on behalf of the Metro Omaha Property Owners Association and also the Statewide Property Owners Association, and we oppose LB433 because it proposes to change a statute which is a good statute. It proposes to change it to start the 14-day clock ticking on the termination of the tenancy rather than the demand and designation of the location where the payment or the accounting may be mailed. The question then becomes really a matter of mechanics. We-- we oppose this bill because of the mechanics, because it's not clear when exactly that the tenancy would terminate. Suppose there are multiple college students living in the house and you know how that often is. One moves out and another one comes in to fill that slot and there's kind of a continual rotation of students. When does the termination of the tenancy-- for the one that moved out? And would the landlord even know that the tenant considered their tenancy terminated? It's not a large imposition upon the tenant to write a letter or to make a demand to the landlord, say, hey, I need my-- I need my deposit or I need an accounting of my deposit. The problem with this proposal is we don't know when the termination is going to occur. Another situation is what we've talked about earlier, when a tenant is being evicted. Does the tenancy end at the expiration of the 3 days from the 3-day notice, or 30 days from 14-, 30-day notice? Or does it end when the judge enters the judgment restoring possession of the property to the landlord? Is that when it ends? Could the 14-day clock start running when-- at the expiration of the 3 days or at the judgment or when the tenant is locked out after the judicial proceedings? So it's very unclear just when that occurs. Some of the testimony of proponents were to the effect that the deposit is

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supposed to be returned-- that is not the case-- either the deposit or a written accounting for the deposit. Oftentimes, the deposit is used up because of rent that is owed or-- or damages to the property. Under this proposal the 14-day clock could expire before the landlord even gets the property back to be able to survey possible damage to the property to be able to make the accounting. The other troubling thing about this, this bill, is the expansion of the penalties. Currently the-- the statute provides for damages to the-- to the tenant plus attorney fees if the tenant is successful in the lawsuit over the deposit. But this bill would then add liquidated damages in-- in it-- in addition to the actual damages of one month's rent plus attorney fees. The landlord would then be in a very difficult position of not knowing when the tenancy terminated. But then having to pay the landlord's attorney fees and also the tenant's attorney fees, so would almost be forced to settle with that tenant and give them money that-- that they were not entitled to. So it's basically issues like this that we would have to oppose this bill. I think without adding the additional liquidated damages and then leaving that demand requirement along with the address of where to send the deposit or the accounting, then we would have no problem with it. But it's-- it's the problem of knowing when the termination occurred. Are there any questions?

**PANSING BROOKS:** Yes, Senator Morfeld.

**MORFELD:** OK, so there's a lot to unpack there. So you're basically opposed to the entire bill. What-- which part of the bill are you in support of?

**JOHN CHATELAIN:** I would support the bill as it is, the statute as it is.

**MORFELD:** Well, no, I'm talking of the bill. The statute is statute. This is a bill. So which part of the bill would you support, because it sounded like you said you wouldn't--

**JOHN CHATELAIN:** I don't think the bill is necessary at all because the statute is a good statute.

**MORFELD:** Do you think that-- do you think that it's the responsibility of the tenant to request their security deposit?

**JOHN CHATELAIN:** You know, that some of the testimony was to the effect that the tenant would never get the deposit back unless they requested

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it. I don't think that's the case. The landlord oftentimes does send the deposit or the accounting without the request.

**MORFELD:** OK. But the problem is, is that that's not always the case. I know that personally is not always the case.

**JOHN CHATELAIN:** Uh-huh.

**MORFELD:** So-- so I appreciate everybody in here is perfect landlords and doing really well and I know a few of you personally. I know that's-- that's probably the truth actually. But what about the bad landlord that doesn't send it? Do you think that they should be required to send it without the request of the tenant?

**JOHN CHATELAIN:** I think they should re-- if they-- if they know where to send it and there is some money to be returned. I think they should send it even without the written demand. But it's a matter of-- of-- of mechanics. If you're going to be imposing damages upon the landlord, particularly liquidated damages of one month's rent plus attorney fees, we better know when that 14-day clock starts running. We-- we need to know that.

**MORFELD:** OK. Fair enough. But going back, do you think that it should be the responsibility of the landlord to send the security deposit to the tenant? Do you think that the tenant should be required to have to request a security deposit at the end of the-- the term of the lease?

**JOHN CHATELAIN:** I think that the landlord should return the security deposit if there's any due and owing, with or without a demand.

**MORFELD:** OK.

**JOHN CHATELAIN:** However, if you're going to impose these damages upon the landlord then I think we need to know when that clock starts running and, therefore, you need the written demand or you need the demand from the tenant to the landlord if you're going to impose these damages on the landlord.

**MORFELD:** OK. Thank you.

**JOHN CHATELAIN:** OK?

**PANSING BROOKS:** Anything else? Yes, Senator DeBoer.

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**DeBOER:** Thank you. I think some of what you were saying to Senator Morfeld helped me out a little bit, but-- but also I wanted to just sort of ask you, it seems like your concerns here could fairly easily be addressed. We could address the issue of, in the case of a termination, when is-- you know, or an eviction, when is the termination for purposes of this section. We could also address the question of what to do, you know, about multiple individuals living-- . Would you be willing to work with the introducer to clarify the language so that we can, in fact, codify the idea that you said you like where the landlord should be sending money back to the tenant if there is money remaining after you've taken out for whatever you need?

**JOHN CHATELAIN:** Well, I agree that that is the-- the right thing for the landlord to do if there is money due and owing to the tenant.

**DeBOER:** Yes, if there's money.

**JOHN CHATELAIN:** But this statute is talking about assessing damages, including liquidated damages of one month's rent plus attorney fees. And so if-- if-- if that's where this is going then the landlord needs to know when that 14-day clock starts running.

**DeBOER:** I-- I agree with you. You ought to know when your clock starts running. But I think that that's something that we can-- we can write in a statute is when the clock starts running.

**JOHN CHATELAIN:** Well, it's already in the statute. It's when demand occurs. When the-- when the tenant makes demand and tells the landlord where to send it. That's when the clock starts running.

**DeBOER:** I'm saying in the bill, we can write a bill, sir, I think that would say when the clock would start running, which would address your issue which is you don't, under this bill, understand when the clock would start running. So if we can write a bill, sir, that says when the clock starts running, would you be OK with then making this change to the law which would then shift the burden from the individual tenant, who does not participate more than just on the occasion of their own tenancy in these kinds of transactions, to the landlord who does to determine, OK, now we must pay whatever is left after the correct things have been taken out?

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**JOHN CHATELAIN:** Well, we do have a statute now that is very clear about when the clock starts running and that's when the demand is made by the tenant.

**DeBOER:** Right.

**JOHN CHATELAIN:** And I don't think that's a large imposition upon the tenant to contact the landlord and say, hey, what about my deposit; can you send it to me? And it should be in writing as well.

**DeBOER:** I--

**JOHN CHATELAIN:** I don't see why-- tenants aren't helpless here. I don't think they're babies. I think we need to put some responsibility on them to have that duty if-- if they want to start this clock running where they're going to sue the landlord and get a judgment against the landlord including attorney fees. I don't see that that's a large imposition on the tenant.

**DeBOER:** I understand that you-- that you don't see that that's a large imposition, although we did hear testimony saying that there are many people who, fairly savvy about the law, graduate from law school. I myself did not get my money back because I didn't ask for it because I didn't realize that was the law. I'm an attorney. Now I'm a senator and I didn't realize that. Now this was before I was a senator. But still, there are people out there who don't realize this. That's fine. But it seems to me that the person who deals in the normal course of business with this sort of thing might have the better position for determining who would be, you know, to-- that the-- the deposit ought to be returned. There's not a question in there for you, sir. But I-- I would ask that Senator Hansen work on that language to make sure that, if this bill goes forward, we can take care of your concerns about making sure that those dates are very particular and that there are some in place for you all.

**JOHN CHATELAIN:** I-- you know, I'm always open to considering things and-- and talking to anyone about these issues. So by all means, he could contact me.

**DeBOER:** Great. Thank you.

**JOHN CHATELAIN:** I think that's what you were asking.

**DeBOER:** I wasn't asking but, yes, that's what I was saying.

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**JOHN CHATELAIN:** Thank you very much.

**PANSING BROOKS:** So I-- I'm not done either, so--

**JOHN CHATELAIN:** OK.

**PANSING BROOKS:** --Mr. Chatelain, that have you worked with Senator Hansen on any of this, this bill?

**JOHN CHATELAIN:** No. Unfortunately, these bills were all introduced and, to my knowledge, no landlord association or landlords were contacted before these were introduced, which I think is somewhat unfortunate.

**PANSING BROOKS:** Well, with the speed of how things work in the Legislature, it's pretty hard for us to contact every group that might be interested, that's for sure. But you talked about the fact that-- that the bill-- that you wouldn't know where to send it. And I think that the bill provides that the last known address is where you would send the money. What about-- why-- why don't the landlords put in their rental agreement the notice of the fact that, if you believe the landlords should be doing this, then you should be giving landlord-- the landlord-- or the tenant. If you believe the tenant should be notifying you that they want their money back, which I think you would know when they're leaving anyway and not-- and you're going to have to reread it. But why don't you at least put in the-- in rental agreements that the tenant has to do this, I mean if-- if so many people have-- have come forward and said, we had no idea that we had to contact the landlord? And of course, I have anecdotal evidence that-- where landlords-- where I've been told just don't, forget it, kiss the-- kiss the deposit good-bye. So I know you don't think that happens because you're good at what you do and that you represent all good people. But there are landlords that just-- do come and say this is-- this is something that, you know, there's a stain here or there's-- I mean so there are, there are people that act in bad faith, obviously, on all sides: the tenants, the landlords. Isn't it better if we have knowledge and communication and transparency on what is going on?

**JOHN CHATELAIN:** Well, section 76-1416 already provides for that situation where the landlord is being irresponsible about communicating with the tenant regarding the deposit.

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**PANSING BROOKS:** And again then the land-- then the tenant has to come and file the suit and claim all of that and--

**JOHN CHATELAIN:** Yes. If they-- and-- and then they get attorney fees and--

**PANSING BROOKS:** So-- so generally the theory today is put all onus on the tenants, don't help them, who the tenants are people that are in a different position. They're generally students or people that don't have the knowledge of the business people that we have here today, who are business people with great knowledge of landlord-tenant law, of how to protect yourselves, how to protect your-- your property. And so you-- you are-- landlords are dealing at a higher level and a-- and a more knowledgeable level than a tenant. Right? Wouldn't you agree with that?

**JOHN CHATELAIN:** I don't know that I would make that assumption. We have some tenants--

**PANSING BROOKS:** Then-- then we can't--

**JOHN CHATELAIN:** --that are very savvy and they are professional litigators and I see them in court all the time. They know exactly--

**PANSING BROOKS:** How many is all the time? How many per year do you see?

**JOHN CHATELAIN:** I have-- I probably have half a dozen cases right now that I'm defending landlords from, from aggressive, professional litigator [INAUDIBLE].

**PANSING BROOKS:** Statewide?

**JOHN CHATELAIN:** In Omaha.

**PANSING BROOKS:** In Omaha. OK. Thank you very much.

**JOHN CHATELAIN:** OK. Thank you.

**PANSING BROOKS:** Next opponent. Welcome.

**KERRY DAVIDSON:** Senator Pansing Brook [SIC] and members of the Judiciary Committee, my name is Kerry Davidson. That's spelled K-e-r-r-y D-a-v-i-d-s-o-n. I'm the executive director of both Good Samaritan Society-Superior and Good Samaritan Society-Hastings

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Village, and I'm a proud member of the Nebraska Health Care Association. I'm here today to testify in opposition to LB433. The Good Samaritan Society is a nonprofit organization that was founded in 1922 and is driven by a mission to share God's love with seniors and others in need. Our Hastings campus, along with several other senior living complexes across the state, provides independent living apartments for seniors in addition to skilled nursing facility care and assisted-living services. Independent living is an option for individuals who need only minimal assistance, like meals or quickest response help in an emergency situation. These independent apartments for seniors fall under the requirements of the Landlord and Tenant Act. Our concern is only with lines 15 through 19 of the bill which requires the deposit be returned to the tenant within 14 days of termination of occupancy. It is our goal to return as much of the tenant's deposit as possible. However, the inflexibility of this requirement means we may not have sufficient time to gather quotes from contractors in scheduled repairs. Currently it is our practice to try less costly options first, like having the stain in a carpet cleaned rather than just replace the carpet. But in this-- but this can take additional time. However, this approach allows our organization to return as much of the deposit as possible to the tenant. The seniors moving from these independent apartments are often moving to a higher level of care and may need assistance from family in downsizing their belongings. If family members are out of town, a more flexible time frame allows us to help the senior move to a higher level of care while leaving his or her items in the apartment until the family can make arrangements for them. I understand the goals of LB433 is to protect the tenant. I just wanted to make the committee aware that when it comes to seniors living in independent apartments, an unintended consequence may be that there may not be time to explore lower cost approaches to a pair-- repairs, and other arrangements may need to be made when the senior is moving to a higher level of care. Thank you for your time, and I'm happy to answer any questions.

**PANSING BROOKS:** Thank you, Mrs. Davidson. Yes, Senator DeBoer.

**DeBOER:** Hi. Thank you, Mrs.-- Ms. Davidson, for testifying today. Would something like 30 days be more helpful? Is this-- is this a--

**KERRY DAVIDSON:** That would be exactly what we really do. We are the type that have it in our occupancy agreements that are done on a 30-day basis. All of those pieces are in there. But giving them the

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option to not request it for, let's say, 17 days gives them 17 days that they-- they've got all that time to move out, because we can't go into a unit and look at any kind of repairs until after they've moved out. For an example, somebody rips the linoleum and the carpet moving the refrigerator out. We will try to patch that and not have to replace the entire kitchen's worth of the linoleum. So we need time to have, to be able to come in and find out if that's an option or not. Because if we can patch it, we're talking a \$100 versus \$1,100 for replacement. So that's just ultimately our goal. And like I said, it's just part of the consequences for our seniors, however.

**DeBOER:** So would your opposition go away if that changed to 30 days [INAUDIBLE]?

**KERRY DAVIDSON:** It definitely would, because we do give it back--

**DeBOER:** Thank you.

**KERRY DAVIDSON:** --and prorate the monthly rent.

**PANSING BROOKS:** OK. Thank you very much for coming. Next opponent.

**DANA STEFFAN:** Good afternoon. I am Dana Steffan. D-a-n-a S-t-e-f-f-a-n, and I'm a fee-based property management company here in town and I do return those security deposits with-- within the 14 days. And a lot of the points I was gonna make have already been brought up, but I just don't understand it being a burden. Now, when tenants do give me notice to vacate, I send out the move-out packet. In that packet does contain the demand letter. They just need to fill in the blanks. Another sheet in there gives a checklist of things they need to complete: make sure, look under the refrigerator, clean under there; check the miniblinds; you know, just the typical stuff a lot of tenants tend to miss like the burner pans. Those were mentioned earlier. We give the tenants notice to that. A hundred of my-- 100 percent of my tenants get that letter. I only get maybe 30 percent of those letters back. So the tenants are notified. They still don't return it. They still don't give me the demand letter. I also get demand letters written on napkins. I take it any way I can get it, just anything. And then the concern of multiple people living in the home, who gets the money? I have it that I've returned it to the first person on the list. The first one entered on the lease agreement, that's the one I return it to. Second one calls and complain: well, I was supposed to get it. And my favorite: you need to split that up. They did that damage. This person did that damage. I feel I should get

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80 percent of the deposit back and the other 20 percent should be split between the other two people. By providing that demand letter, that takes it out of my hands and tells me, gives me direction exactly what needs to be done, who gets the money back, where it needs to be sent. Just last week I had a tenant call me. He had moved out in July and he said: you did not return my deposit and I want it back. I said, great, let me check on that. I checked on that. I found the check, provided a copy to him that says, well, we did return it. Here's the copy of the check that went through the bank. And he thought his roommate took it. Well, it was made out to him. Sometimes they forget. Again, is it a real burden to return that letter? I send those letters out all the time for demand back. And also I wanted to mention its education. With social media, by God, everybody wants an emotional support animal. I know we're not here to discuss that. But with social media, why not get it out there? Hey, tenants, you need to demand your deposit back. Go for it. I think, clarify me if I'm wrong, I think they have up to two years to do that. So you know, if you moved out and it's a year down the road, go for it, make that request. Again, I return them within 14 days whenever possible and send them to the last known address. Thank you. Any questions?

**PANSING BROOKS:** Thank you.

**DANA STEFFAN:** Thank you.

**PANSING BROOKS:** [INAUDIBLE] coming today. Mr. Storer, welcome.

**LARRY STORER:** Again, Larry Storer, 5015 Lafayette, Omaha, Nebraska. This might be a little bit of a stretch but I've been following things at the county and the city and-- and here for a couple of years now, and I want to suggest some-- something that under the state constitution, once again, Article III, Section 15-- no, I'm sorry, Article III, Section 16 has to do with contracts, municipalities and city, states and-- entering into contracts which may be contrary to the law. Conflict of interest, I believe the term is. It just seems very strange to me that with the recent developments regarding the Kay apartments in Omaha that this morning we have in the World-Herald a announcement that there's a counterlawsuit by the owners of Kay apartments. And as I'm reading in this bill, it seems very similar to what's been going on there: however, a tenant shall not be liable for damages directly related to the tenant's removal from the premises by order of any government entity as a result of the premises not being fit for rehabilitation-- habitation due to the negligence or neglect of the landlord. OK. We don't know that until after the fact, do we?

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And-- and it has to be adjudicated. But as I understand, a law is a contract. Our constitution was based on English law and most of that was all derived out of certain contracts that may have started with social contracts. But I think I learned in business law class many years ago that a law is sort of a contract between the government and a people. So you know, I do pay rent to the county and I do pay rent to the state through state income tax. You probably get part of my property tax also. But I do know that Justin Wayne and the mayor of Omaha have been talking about this and it makes me wonder if their Attorney General may-- maybe should look into the possibility of a conflict of interest. Thank you.

**PANSING BROOKS:** Thank you, Mr. Storer. Any questions? No. Thank you for coming. Anybody in the neutral? Oh, more, I'm sorry, more opponents. If you guys could come down for us that would be helpful. That's OK.

**LYNN FISHER:** [INAUDIBLE] close I thought--

**PANSING BROOKS:** We just thought--

**LYNN FISHER:** --thought I could just slip in.

**PANSING BROOKS:** Thank you. Mr. Fisher, welcome.

**LYNN FISHER:** Thank you. Lynn Fisher, L-y-n-n F-i-s-h-e-r. Try to be even briefer if I can, since we've-- most the points have been covered. In other states the deposit amount can be more than one month's rent, and one of the reasons we have a lower amount in Nebraska, my understanding is, is to give some advantage to the-- to the tenants to limit the amount of deposit that they're required to provide. We love giving deposits back. If tenants would automatically pay for damages as they leave, we wouldn't even need a deposit. But we have to have that because, in most cases, they-- they would refuse to do that. I would characterize the money as not being the tenant's money until it can be determined that there are no damages or that part of the deposit should be theirs for damages less than the amount of the deposit. So it isn't their money until we determine what the-- the damages are. And we love giving back the whole deposit. That means we save a lot of time and expense. On a personal note, I'd be happy to work with Senator Hansen on-- on coming up with a way to educate tenants. I personally always send the deposits back within 14 days and we always tell our tenants what their rights are. And I'd be happy to

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work on some kind of a compromise to educate tenants about their rights.

**PANSING BROOKS:** Thank you, Mr. Fisher.

**LYNN FISHER:** Any questions?

**PANSING BROOKS:** Questions? No. I don't see any. More opponents. OK. Any other opponents? OK. Neutral testimony if you please.

**SCOTT HOFFMAN:** Do you have my name or do you want me to spell it? Scott Hoffman.

**PANSING BROOKS:** [INAUDIBLE] do. Yes.

**SCOTT HOFFMAN:** S-c-o-t-t H-o-f-f-m-a-n. Well, this has always been kind of a touchy subject. We've always given our tenant's deposit back, especially after they move out. When it involves an eviction, you know it's usually gonna go south, you know, there's-- but according to my attorney, he advises me to make up a list of everything and to mail it to the last address. Obviously, the deposit is probably going to be ate up, and then give a definition of all the damages. Now mostly-- let me pull this out-- I don't know when this law was created, what, 40 years ago, but we live in a cell phone era, you know. A simple text or phone call, I mean that could be a demand right there. I mean-- I mean seriously, where's my deposit at? You know, I mean, yeah, you're going to get it back within 14 days. A lot of times we rush it. Sometimes it's within a few days after they move out. Most of the reason why, because I own houses, we'll hold the deposit until we get the water bill because the water bill is assessed to the property. My one concern is, and I'm not done yet, but with Senator DeBoer not getting her deposit back because she didn't know, I mean I don't know she ever tried to call the-- to call the landlord or anything to make sure. But that's-- seems like a simple contact, you know, a phone call. This is where I live. Where do we send the deposit to? That's pretty much why I've stayed neutral on this because this is a touchy subject, so. But other than that, that's-- that's about it, so.

**PANSING BROOKS:** Thank you. Questions? No. Thank you very much for coming.

**SCOTT HOFFMAN:** All right. Thank you.

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**PANSING BROOKS:** Any other neutral testimony? No. Senator Hansen for closing.

**M. HANSEN:** Thank you, Vice Chair Pansing Brooks, members the committee. Just being real brief, I'm not 100 percent sure how to address some of the opposition today for this particular bill, because some of the opposition seemed to be opposition to the current statute. Fourteen days is current statute. Termination of the tenancy is current statute. Of course, I'd be happy, on that when exactly does the tenancy end, be happy to provide some clarifying language. And I will say I do-- I do want to say comparing this, this bill to the last bill, on the last bill with continuances, especially talking about the evictions related to nonpayment of rent, you know, 14 days was portrayed as this huge amount of time to come up with your rent money, and now in this bill 14 days is so quick of a time to return a security deposit. So I'll just leave that as food for thought for the committee on-- as we weigh all these different-- different dates in different statutes and different burdens. And I will close my testimony.

**PANSING BROOKS:** Thank you, Senator Hansen. We do have two letters of support for the record, two letters of opposition, and zero neutral letters. So thank you. And with that, we close the hearing on LB433. And next we have LB434 from Senator Hansen.

**M. HANSEN:** Thank you, Vice Chair Pansing Brooks and members of the Judiciary Committee. My name is Matt Hansen, M-a-t-t H-a-n-s-e-n. I represent District 26 in northeast Lincoln. Nationwide, when a tenant is late on rent, by law, a landlord must provide written notice to the tenant that if they fail to pay in a certain number of days the landlord will terminate the lease and initiate eviction proceedings. States differ, however, on exactly how many days' notice the landlord has to give. In Nebraska we require just three days' notice. LB434 aims to lengthen the notice requirements that landlords must give tenants before they begin eviction proceedings from three days to seven days. I decided to introduce this change to a seven-day notice after speaking with multiple community stakeholders with intent to still give landlords enough time to evict a tenant and get a new tenant into the unit by next month so that no new burdens are placed on the landlord and no additional rent money is lost. For context, the uniform act sets this at 14 days and that was what was originally recommended to me, but I decided on 7 days because it is a good middle ground that would have real-life benefits to renters, giving them a

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full week's notice, while at the same time being fair to landlords who are just trying to get rent paid on their properties. The bill also has adds a right of redemption, where a tenant, once per year, can pay the landlord all rent late fees and court costs incurred within seven days of a termination of the rental agreement and the landlord must accept that payment and stop eviction proceedings. This extra provision makes it more clear to both the tenant and the landlord that the tenant is able to pay everything they owe in full and remain in their homes, and benefits everyone since evictions are costly and burdensome for landlords. The limitations, being able to use the-- this right only once per year, would-- would be designed to prevent tenants from abusing it. I've heard from several people out in the community, including those who work to secure housing for vulnerable populations, that a three-day notice is far too short of time to find someone else to have-- a time line to find somewhere else to live. You all should have received a letter this week from David Bruno, who works with young people transitioning out of foster care in Lincoln. I would encourage you to read his letter in full, but I'll point out that he sees many of the young people he assists hurt by the short three-day eviction notice. And once they have an eviction on their record or spend time in the homeless shelter, it is even more difficult to find a job and somewhere else to live, creating continuous cycle [INAUDIBLE] of homelessness and poverty. Simply giving tenants four additional days' notice before an eviction starts would do much to help those clients and others, while ensuring landlords are not additionally burdened financially by the change. Even if renting, these are still people in homes were talking about and families deserve a week, in the very least, to try and find a way to remain in their homes. With that, I'll end and take questions from the committee.

**PANSING BROOKS:** Senator DeBoer.

**DeBOER:** Thank you, Senator Hansen. I-- the seven days thing, I don't know that much about. I'm looking forward to hearing from the others. But the-- the right of revocation here, it seems like if you've gone so far. I mean sometimes landlords will have already rented to the next person and already be planning to put that person in. And then now they've got someone's paid all the rent in and now they have to sort of go back on that. Can you speak to that issue? Is that something that could happen under this, under this bill?

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**M. HANSEN:** That would require a situation for a landlord to, as I understand it, to have rented out the same unit before they actually prevail in any sort of eviction proceedings. So that would be something that could possibly-- could possibly happen, the same way you could expect somebody you know if maybe indicated that they're going to end a month-to-month lease and then they don't actually end it. You know?

**DeBOER:** OK.

**M. HANSEN:** Does makes sense?

**PANSING BROOKS:** OK. Senator Hansen, could this happen multiple times in a year to a landlord?

**M. HANSEN:** So the right of redemption is-- is-- is designed and we limited it to only once so as to not just completely change how the system works. This is kind of a Hail Mary. You know, you were in the hospital so you missed a pay cycle and you had some debt and you're and you finally get your ducks in a row. But it's day eight. And you could say, hey, this is-- this is a one-time occurrence. It was an odd situation. Here it is. I'm willing to pay a pretty high burden because it includes costs and costs and any court costs. And you kind of wipe your slate clean and let you go back in your home.

**PANSING BROOKS:** And-- and what do you say to people who are going to say that the eviction process already takes long enough and too long?

**M. HANSEN:** We'll have some advocates speak to that. I mean it is by far, as we've established earlier, the quickest court hearing we have in-- in this-- in this-- in this state. You know, I've worked on some criminal justice laws and we'll have people, you know, waiting 35 days for mis-- in jail for, you know, a misdemeanor court case. And here, you know, landlords can-- guaranteed a 10 to 14 days they get a court hearing. That's already a pretty beneficial place to be in. And this is designed, there's a-- there's a time line some others can speak to. This is designed to still, from start to finish, be less than 30 days.

**PANSING BROOKS:** OK. Thank you, Senator Hansen. Any other questions? No. Seeing none, proponents. Welcome.

**ERIN FEICHTINGER:** Sorry I keep coming up here. I wish you could actually hear from the people we serve, but it's hard to get here. My name is Dr. Erin Feichtinger, E-r-i-n F-e-i-c-h-t-i-n-g-e-r. I run

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Community Outreach and Advocacy at Together in Omaha, and I am representing our organization in support of LB434. In both of our housing programs that we currently run, we run almost-- we run very frequently into problems with the three-day notice to quit. These problems are confusion and time, both of which lead to housing instability and homelessness. Our diversion program is one of six access points in the city of Omaha. This means that if you are sleeping in a shelter in a place not fit for human habitation or will be homeless tonight that you can come to Together and meet with our front door team to access the wider homeless service system or work to self-resolve the main problem that has made you homeless. Every day that our front door services are open, a community member will come in with a three-day notice to quit, thinking that it means that they are being evicted. It is understandable that they would be confused, giving the-- given the language of the three-day notice. And by the time the person gets to us, they have most likely started making arrangements to move out, thinking that this is an eviction rather than an opportunity to remedy the breach of the lease agreement. By the time this person gets to us, they have almost no time to remedy that breach because of the incredibly narrow window afforded the tenant. For our case management program, the three-day notice limits both our client and our organization. Many of our clients have received a three-day notice at some point in their housing history. Either their confusion about what it means or the extremely limited amount of time they have to resolve nonpayment leads to eviction proceedings. This, in turn, leads to a permanent mark on a person who is already facing serious barriers to housing stability and increases the probability that they will end up homeless. Second, if one of our clients receives a three-day notice while in our program, our team has to pull the money together to maintain their housing within that short three-day window. Changing the three-day notice to a seven-day notice is common sense. Seven days is more time for a person to self-resolve, to remedy the breach of their lease agreement and maintain their housing. This change will allow those tenants on fixed incomes, seniors, young families, people with disabilities who receive part or all of their income in the mail from assistance programs room to breathe if that income is late due to circumstances outside of their control. Seven time-- seven days is more time to plan what to do, to find help from organizations like ours, and to make sure that you and your family are safe whatever the outcome. Opponents to LB434 will probably argue that the difference between a three-day and a seven-day is more lost income. We would note that changing to a seven-day in notice means more time for a tenant to resolve their nonpayment,

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meaning the landlord has a pay-- paying tenant, uninter-- uninterrupted occupancy, and no additional legal fees. We would also argue that the difference truly is between housing and homelessness. We would also like to suggest that in addition to changing the length of time in these notices that you see fit to mandate simple and uniform consumer protection practices such as standardizing the language in three-day notices so they're not as confusing. I wish I was a law student. They've all been very impressive up here. But even I'm confused by a three-day. So thank you for your thoughtful consideration. And I'm happy to answer any questions.

**PANSING BROOKS:** Ms. DeBoer, or Senator DeBoer.

**DeBOER:** That's OK. It's been a long day. Dr. Feichtinger, I'm-- so your basic premise is that with four extra days they can maybe resolve the problem, and I see that that could potentially happen on occasion. But it seems to me if you're behind on your rent and all of that, four days isn't-- can you speak to-- help me out with this. Help me out with how four more days is gonna make a material difference in your financial situation.

**ERIN FEICHTINGER:** Sure. I can't speak-- I don't want to make generalizations, but let's just say for someone who comes into our organization with a notice to quit or, you know, or to remedy, that our organization would have time, right? By the time they get the notice, they have to then figure out transportation to come down to our organization to come meet. Maybe they don't get-- we don't get to them that day, right, and then by that time you have one day to figure out what to do. Couple more days our organization could pull together some money, we could work with you to pay off your utility, you know, other problems that aren't just related to rent that could help you stabilize financially so that you can maintain your housing. That's our-- that's our sole purpose as an organization is to help people find housing stability. Did I answer your question, Senator DeBoer?

**DeBOER:** I think you did. Thank you.

**ERIN FEICHTINGER:** OK.

**PANSING BROOKS:** Thank you. Any other questions? No more questions. Thank you very much. Next proponent. Welcome.

**LEIGHA WICHELT:** Good afternoon, Chairwoman and members of the committee. My name is Leigha Wichelt, L-e-i-g-h-a W-i-c-h-e-l-t. I am

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a senior certified law student at the University of Nebraska College of Law. I am enrolled in the Civil Clinic Law Program and co-lead the Clinic's Tenants'-- Tenants' Rights Project. I am testifying in favor of LB434 as a citizen and not on behalf of the university. The Nebraska Landlord, Tenant Act currently provides that a landlord must give a tenant three days' notice before terminating a rental agreement if there is an outstanding rent balance. As it stands, this law accelerates an already expedited eviction process to an unmanageable speed for Nebraska tenants. LB434 will ensure tenants have the opportunity to come current on their rental obligations and avoid eviction. It is a win-win for both tenants and landlords. More landlords get paid and fewer tenants are forced into homelessness. We acknowledge that most tenants are probably aware that not paying their rent could result in an eviction. What most tenants do not know is just how quickly that process can happen. In the matter of a weekend, as the statute reads now, a renter can be put on the path to homelessness. Three days is woefully insufficient to ensure that the tenant has a reasonable opportunity to pay past-due rent. The Uniform Landlord, Tenant Act suggests a 14-day notice before a lease can be terminated, and most states have adopted this amount of time as reasonable. LB434 will provide for only seven days but these seven days, rather than three, give tenants a few extra days to ask a family member for help or earn another paycheck. Landlords are likely to testify that seven days plus the seven-day right of redemption for a tenant to cure a breach is too long and unfair. But under the current Nebraska law, landlords are allowed a full 14 days to cure a breach before a tenant can terminate a rental agreement. For example, if a heater goes out in the home, the landlord gets a full 14 days to fix it before a tenant can terminate a rental agreement. Whether it's a failure to private-- provide heat or a failure to pay rent, a breach is a breach. Seven days' notice plus seven days right of redemption to cure a breach is fair and brings the rights of tenants more in line with the rights provided to landlords. As the timeline I passed out makes clear, the seven days' notice gives the landlord sufficient time to initiate and complete the already fast eviction process before the next rental period. Importantly, if the tenant can come up with the money during the redemption period, great. The landlord gets to maintain their income stream and the tenant gets to keep their home. This bill does not unduly burden landlords. It benefits them. LB434 only extends the eviction process by 4 days but creates a 14-day window for a landlord to get paid, which is ultimately what they seek. Landlords are not in the business of eviction. They are in the business of collecting rent. This bill promotes that. And evictions

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should be considered an action of last resort. Instead the-- the current three-day notice makes evictions the default in Nebraska almost automatic. At a minimum, tenants should be given at least the same opportunity to cure a breach as does a landlord. If a landlord is given a full 14 days to provide heat or hot water or other essential services, it's not unreasonable to provide tenants seven days plus another seven days to redeem their home and avoid homelessness. Thank you. I'd be happy to answer any questions that you have.

**PANSING BROOKS:** Thank you very much. Any questions? I don't see any. Thank you very much. Glad you're here. Welcome.

**SARA RIPS:** Thank you. It's good to be back. As I previously stated, my name is Sara Rips, and I'm an attorney with Legal Aid of Nebraska. I want to paint for you a picture--

**PANSING BROOKS:** Sorry, if you could spell it again each time the trans [INAUDIBLE].

**SARA RIPS:** Oh yeah, of course. I'm sorry. Sara, S-a-r-a, and Rips, R-i-p-s. I want to paint a picture for you of the average Legal Aid of Nebraska's housing client. The vast majority of our clients have a source of income, despite what many people think, either through employment or through receiving disability benefits. Our average housing client is a single mother with children facing eviction. This is usually due to a failure to pay rent within the three-day period granted by the Nebraska statutes. Nebraska's laws are overly harsh when it comes to a missed rent payment. I want to share with you some real examples of clients that have been, and not uniquely, disadvantaged by this statute. I had a client who was a college student. She went on-- every month she would mail her landlord the rent check. She went on spring break and when she returned home she checked her mailbox and discovered a three-day notice. Her landlord was under no obligation to let her know that the rent had been late. My client did not know that her landlord had never received the check until she received the three-day notice. By the time she received the notice, though, the three days had expired. She tried to pay her rent but the landlord outright refused to accept it, told her that she had already turned it over to her attorney and so her hands were tied. My client had never been late on rent in her entire tenancy. If LB434 had been in place, my client would not only have been granted an additional four days to attempt to remedy the rent, but also the seven-day right of redemption would have avoided the lengthy litigation that was required by Legal Aid of Nebraska to rectify this

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situation. I had another client who was a single mother with two young children. Her landlord lived out of state and let the house fall to shambles. My client sent the landlord a note saying that she was withholding her rent because of the cost that she'd incurred to make desperately needed repairs to her home. The landlord mailed her a three-day notice to quit from Texas. By the time it arrived, the three days had already passed. My client panicked and since she had no time to consult with an attorney or receive any legal assistance, she literally overnighted a check to the state of Texas. The landlord refused to accept the payment and he initiated legal proceedings. In the meantime, Lincoln's Building and Safety condemned the home. If LB434 had been in place, my client would have had time to consult with an attorney about her rights. She would have had the opportunity to try and work with the landlord and clarify the significant defects that he was obligated under the law to fix. My client did not withhold rent out of malice but, rather, because she spent hundreds of dollars in repairs to the plumbing, garage, and egresses to the home. My clients often have little children. Being stressed-- being evicted is stressful enough for adults but for children it adds a high level of uncertainty and instability to their lives. This impacts their ability to succeed in school and life. My clients want to be good citizens. My clients want to be responsible. They want to be good tenants. One of the greatest barriers for my clients, though, is a lack of a safety net. The provisions of LB434 help provide a safety net that provide them with the ability to have a little bit of extra time to pay their rent. And this provides-- places little to no burden on landlords, especially when you consider the costs of litigation and rereating a unit. I believe that the enactment of LB434 will also help judicial efficiency by reducing the number of eviction actions brought in our county courts. The right of redemption allows good tenants the benefit of the doubt once every 12 months. This has been purposely designed so that landlords are not taken advantage of and so tenants are protected when unexpected life situations happen. We urge the Legislature to amend LB434 to include language that would require landlords to provide notice to tenants of their right to redeem in seven-day notices to quit or pay. Otherwise, there is a strong possibility that tenants will not know their rights and landlords will again be able to abuse tenants' lack of understanding of the eviction process. I have gone to court on the coldest day this year and the snowiest day of this year to fight to keep people in their home. An extra four days goes a long way when it comes to keeping our most vulnerable citizens, our children and our elderly, from homelessness. For the vast majority of my clients, if they had the protections that LB434 offers they

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would have been able to avoid going to court altogether and avoid homelessness. Thank you.

**PANSING BROOKS:** Thank you. OK. Any questions? Thank you very much.

**SARA RIPS:** Thank you.

**PANSING BROOKS:** Further proponents. Welcome.

**KEVIN RUSER:** Thank you. Senator Pansing Brooks, committee members, my name is Kevin Ruser, K-e-v-i-n R-u-s-e-r. I'm a professor of law and director of Clinical Programs at the University of Nebraska College of Law. I'm testifying today on my own behalf, not on behalf of the university. I want to speak to two points briefly. It's been a long day. You've more than earned your handsome \$12,000 annual salaries. First, I want to talk about the three-day notice. The hard thing about the three-day notice, from my perspective, is that under the statute, 76-1413(2), notice to a tenant is effective upon placing it in the mail. So if a three-day notice, for example, is placed in the mail on a Friday afternoon, a tenant who works may not get it until the end of the day on Monday when they come home. That turns a three-day notice into a zero-day notice. If Monday happens to be a holiday and mail isn't delivered then the tenant is already one day out on a three-day notice. So I can't speak to financial wherewithal of tenants that an extra four days would provide, but as a matter of due process it feels like notice should be real notice and not illusory. The other thing is, that I want to speak to briefly, is the right of redemption. You've seen the time line that has been provided to you. This just allows a tenant to once every 12 months, no more than once every 12 months, redeem a lease if they've gotten behind and if they come up with all the costs, including court costs, that the landlord has incurred up at that point in time. It can only be used once a month. It's not a way to game the system by any means, and I think it's a beneficial addition. So with that, I would be happy to answer any questions.

**PANSING BROOKS:** Any questions? Thank you, Professor, for coming. Next proponent.

**ISABEL SALAS:** Thank you. I'm Isabel, I-s-a-b-e-l, Salas, S-a-l-a-s. I'm here speaking on my own behalf. I wear a lot of different hats in my personal and professional life, and one of these is being part of a advocacy group called Renters Together. And I just wanted to really quickly address Senator DeBo-- DeBoer's question that came up a little

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bit earlier, a few testifiers ago. Someone reached out to Renters Together on February-- or on February 3 or 4, whatever day Monday was, and they said, hey, I've had problems with my landlord in the past and they-- I got a notice to-- I got a three-day notice on Saturday. Well, we go Saturday, Sunday, Monday, that's your three days right there. And so I just wanted to provide this really, really quick example to show that this is something that has impacted people very, very real, concretely in their lives.

**PANSING BROOKS:** Thank you so much. Any questions for Ms. Salas? Thank you for coming. OK. Any more proponents? Opponents. Welcome.

**DON PEARSTON:** Hello again. My name's Don Pearston, D-o-n P-e-a-r-s-t-o-n. When I rent to a tenant, I make sure that I explain the lease and they know with certainty what amount of rent's due, when it's due, and then I have a grace period as well. If there's any kind of a breach in the rental agreement in terms of the paying of rent, it's typically a pretty serious issue. Maybe they've lost their job, for example. Laying an extra four days is not going to allow them to run out and get a job and be able to pay rent. So that kind of four-- four-day miracle is simply not going to happen. Most of the time when people can't pay rent, something has seriously happened in their life. I talked briefly about the-- and I-- that I do my own evictions, and I wanted to just go through really quick and give you an idea, on the best-case scenario, how long it would take me to get somebody evicted to the courts. So I gave a three-day grace period and then on the fourth day I give a three-day notice. If they haven't paid rent by then, then I go to the courts and then I have 14 days from that point. OK? That sets the court date around the 22, and that's the best-case scenario. My question to you, as senators, how many days do we need to give tenants to come up with rent? We are-- they make it sound like we're benefiting somehow by giving them four days to come up with rent and less in litigation. That's completely fiction. We're talking over three weeks. This is the best-case scenario. So here's what goes on. Once the court date happens, then the constable will come out in two to three days. OK. If we're lucky that the constable or the sheriff will come out by the twenty-fifth and see the tenant, and again that's the best-case scenario, during that, that's, mind you, we're at 25 days into the month, no rent, and we are flat-footed at that point. What do we have to do? We have to go in there, clean, paint, do maintenance. I'm a middle-class working guy. I have to go in there. I make my living by being paid with rent on the first day of every month. Imagine if you had to make your living for a month in five

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days. OK. That's the best-case scenario. So I have to get it all ready to go. I have to run an ad and then I have to go through a lot of different applications until I find somebody. It's-- it's not a-- it's a miracle that doesn't happen, especially in this renter's market. It's very tough to find people that can get through even a basic rental application. So my thought for you is you have to understand it's unlikely, if I have to wait to the twenty-second just to get a court date, it's unlikely I'm going to rent that apartment by the first of the next month. So here we are, we're in the second month, OK, without rent paid. And people rent apartments on, what, the first, second, maybe the third day at the latest. We call that the winter blues. Like, for example, if we have an empty apartment today, it's unlikely that we're going to rent that for the rest of the month. And we got to heat it. So it's a double-whammy for us. We are landlords. We're business people. And we get paid on the first by renting an apartment. Any kind of delay is further tactics that damages landlords and considers landlords to be the-- the golden goose, so to speak, of Senator Hansen's various bills. Thank you.

**PANSING BROOKS:** Thank you, Mr. Pearston. Any questions? No. Thank you. Next opponent.

**JOHN CHATELAIN:** My name is John Chatelain, J-o-h-n C-h-a-t-e-l-a-i-n. And I'm president of the Metro Omaha Property Owners Association and also speaking on behalf of the Statewide Property Owners Association in opposition to LB434. And it was nice to see my old law school classmate Kevin Ruser here. We had a nice chat. And I'm somewhat compelled by his due process argument, but for the fact that the tenant already knows that the rent has not been paid. So the three-day notice is not the first notice that the rent has not been paid, because the tenant knows that the rent hasn't been paid. The tenant usually has more days than three days. The rent is due on the first, typically. Most landlords don't serve the three-day notice on the first or even the second. The fifth is probably the date when a late fee might kick in, so possibly they might serve the three-day notice on the fifth or sixth. But many cases it's even beyond that so that the-- the tenant knows-- has notice that the rent's not paid and something is going to happen there. The-- we could go to a seven-day notice, that's true, but these things don't happen without unintended consequences. And what those would be is that the leeway that the landlord has in giving the tenant a little bit of extra time would go away. If we went to a seven-day notice then probably the landlord would have to serve that seven-day notice on about the second or

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third, which would expedite that procedure. It would also probably require maybe a little stricter screening procedures because the landlord's on a tight budget. They have to pay their expenses, their taxes, insurance, maintenance, the principal and interest. So you know every day that they're losing rent, they're getting into a bind financially as well. So they're going to have to take this into account through stricter screening procedures, maybe higher rent, less leeway or less up ability to work with the tenant. And let me last say something about the redemption procedure in LB434. Typically by the time the case gets to court, after the running of the three-day notice, the landlord is somewhat exasperated trying to work with the tenant. Oftentimes, they do work with them, even after the case is filed. If the tenant can pay all the rent and the costs of the lawsuit, they will still work with them. But to require them to under this right of redemption I think is an unfair burden on the landlord because they just-- they may be at their wit's end trying to work with this person by that point, so.

**PANSING BROOKS:** Questions for Mr. Chatelain? Thank you.

**JOHN CHATELAIN:** OK.

**PANSING BROOKS:** Next opponent. Welcome.

**LYNN FISHER:** Senator Pansing Brooks, thank you again. Lynn Fisher, L-y-n-n F-i-s-h-e-r. We try very hard to work with tenants and avoid evictions. You know, our time frame is very similar to what you just heard. We give four days grace period. We text. We call. In some occasions I'll knock on doors. We try everything we can to find out why the rent's not being paid and give tenants every opportunity to do that. By the time we give a three-day notice we have-- we've exhausted all of our efforts and the tenant is purposely not contacting us and we are exasperated. We don't want to go to court. We don't want to spend the money. We don't want to go through the hassle. They're forcing our hand and they're-- they're actually working hard at getting into eviction court. It's-- it's a serious situation that we try to avoid. Giving tenants that are unwilling to work with us extra time is just totally unfair. That's all I have to say.

**PANSING BROOKS:** Thank you, Mr. Fisher. Anybody have questions?  
[INAUDIBLE] coming today. Welcome.

**SCOTT HOFFMAN:** Scott Hoffman, S-c-o-t-t H-o-f-f-m-a-n. By the way I want to start out this, it's March 1. Rent is due, so I just had to

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kind of put that out there. I've actually got two texts from my tenants saying the rent's under the door, so that's a good thing. Anyway, I don't know. The best way for me to look at it, I don't know if you senators got a phone up there or not or if you got your calendar, but we do give a three-day grace period and, in this case, with Friday being March 1, you got the second which is Saturday, third. We will require that that rent be paid on Sunday. If not, we can deliver the three-day notice on the fourth. Now, when we send that out by mail, according to my attorney, we have to allow two days for mailing. So officially the three-day notice doesn't start until the sixth. OK? So we've got one, two, three. OK, so Friday we've got to give them that whole complete day, and then all of a sudden you run into Saturday and Sunday. Obviously, you can't file on those days. So we'll go run it down to our attorney, which would be the eleventh, and then, you know, nine times out of ten he's been in a court. So it won't get filed until the twelfth. And then the courts say 14 days, no less than 10, so that puts it at the twenty-sixth and that's me giving a three-- allowing three days. So you can understand, Senators, the timeframe that's involved, which you-- you-- you brought up, Senator Pansing Brooks, about how much time it actually takes. And this is-- this is just with the three days. OK? So there's plenty of time in there to negotiate. Plus, we-- we're always looking for partial rent. Now, for example, if we were to take a partial rent, let's say those three days went by and the guy comes up, his rent is 600 bucks and he says, here's \$300. Well, guess what? That starts all over again because you took a partial payment. None of that's been brought up here at all today. Take a partial payment. It starts it all over again and then you can resubmit another three days. They can even get additional time if they come up half the rent. We're talking about people not coming up with anything at all. Again, throw us a bone. You know, give us something and we'll work with you. So, but other than that, that's pretty much the explanation on that. Any questions?

**PANSING BROOKS:** Thank you, Mr. Hoffman. Any questions?

**SCOTT HOFFMAN:** Senator Brandt.

**PANSING BROOKS:** Senator Brandt.

**BRANDT:** Thank you, Mr. Hoffman.

**SCOTT HOFFMAN:** Yeah.

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**BRANDT:** It's been enlightening for me because I've never been a landlord. How many have-- how much-- how do you want to phrase this? If you take a partial, it starts over. But what percent on a monthly basis usually pay nothing?

**SCOTT HOFFMAN:** When people pay nothing, it's never happened, Senator. It's literally never happened. Every time somebody's had a hard time paying their rent, they've always come up with a few hundred bucks. I go, do you got anything? And then we work with them, we really do. I mean we-- going to an eviction court, Senators, it is ugly. That's why I'm saying if you ever get a chance, go down there and just check it out. We don't want to, and it's expensive because we get stuck with a property that they're going to trash. They're not going to clean the place up. And-- and we got one where they kicked down doors and tore screens off the wall. We had replace it. And according to Mr. Pearston who was up earlier, it does take another month to get that. So we're out another month's rent. So we are working with people as much as we possibly can.

**BRANDT:** So in most cases people will try and give you a little bit of money to keep it-- keep it going.

**SCOTT HOFFMAN:** Yes. Yes.

**BRANDT:** Stay in the apartment or the house.

**SCOTT HOFFMAN:** Yes. And then we put up with that for a while. Then I-- I had a guy that went for-- I told him after three-- he did it right from the git-go. And, but we had a year lease so we adhered to that lease. But after that lease, lease, you know, 30 days, we're not going to do it anymore. We put up with another six months and finally we told him, I said enough's enough, we'd give him a 30 day. But I never had to evict him. Never. He always knew where the cuts, because I would call him and remind him. I'd go I'm going to file suit, and he would-- he would come up with money. Yeah.

**BRANDT:** All right. Thank you.

**SCOTT HOFFMAN:** You bet.

**PANSING BROOKS:** Senator DeBoer.

**SCOTT HOFFMAN:** Yes.

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**DeBOER:** I guess it's only fair that I ask this question of you since and I asked of--

**SCOTT HOFFMAN:** Sure. Go ahead.

**DeBOER:** --Dr. Feichtinger. Four days, I mean I hear that four days in the eviction process, and I understand that and I can see that that is significant. But it seems like what I'm hearing and my experience of landlords is that typically they will try to work with people, as you've said.

**SCOTT HOFFMAN:** We do.

**DeBOER:** And so is this going to have a material effect on you? In other words, aren't these seven days kind of built into the kinds of time frame that you will already sort of be trying to work with people? And some of the testifiers before said, you know, it's-- it's maybe gonna help you to-- I mean not that you're gonna go to eviction proceedings. But you know, if the person can, by virtue of having an extra four days, get an organization to help them--

**SCOTT HOFFMAN:** Right.

**DeBOER:** --to give you your money, it seems like that's a win-win for everyone.

**SCOTT HOFFMAN:** Well, technically, Senator, it's already five because we're instructed to do it first-class mail. We have-- because the mail takes two days. So we can't even start the time clock for two days after we've given them three days to pay the rent. So we're like maybe one or two days' difference from there. And then Senator Hansen's, it's like a get out of jail free card. I mean when are we going to apply the seven-day? Are we going to do that like the, you know, six months into your lease? Are we going to do that right off the bat? Do we-- when do we apply the three days and when do we decide to use the seven-day rule, I mean, because you can only use it once in one year? It's very complicated. So--

**DeBOER:** I--

**SCOTT HOFFMAN:** --I guess I'm confused on that issue too.

**DeBOER:** I think I understand it that there would never be a three-day, it would always be the seven-day [INAUDIBLE].

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**SCOTT HOFFMAN:** No. No, he said once a year, you know, you can use it. Then that means it-- does it-- the rest of the months mean that we can do the three days? That's what I'm understanding out of the bill.

**DeBOER:** I-- I think it-- it is a three-- there's two parts.

**SCOTT HOFFMAN:** OK.

**DeBOER:** One is the three-day. Then leave-- there's no three-day anymore; it's a seven-day requirement. And what, in addition to the seven days, so the three-day becomes a seven-day, in addition to that, once per year, even after this, the right of redemption authorized may be used once per year. Yeah. If within seven days, subsequent to the termination, then they would have-- so that's another seven days, they would have this chance to revoke. But anyway, so--

**SCOTT HOFFMAN:** Very, very complicated. I mean I'm still trying to learn here. But like I said, three days along with this, most of us landlords do three to five days for grace periods. And-- and-- and we have met with-- Lynn Fisher and I have met with Courtney, Senator Hansen's, and we explained it to him and I think she was a little mystified: oh, I thought the three-day stated from the first. No, it's after we, you know, give the grace period. Then it starts after that. So there's-- there's that. It just doesn't start from the first. People, you don't give us our money by the third, we're-- we're-- we're going to give you three days. It doesn't work like that. That's not what we're doing. I mean January 1, New Year's Day, come up with the rent. That-- we're not doing that. Is-- you-- you got to figure for weekends and holidays.

**DeBOER:** Right. That's-- that's why I am trying to-- to sort of figure out if-- if this is going to actually change the actual--

**SCOTT HOFFMAN:** I hope not. I hope not, because three days is plenty when we're dealing with-- if you guys are going to do that then move up the court dates. Why should we wait an extra 14 days for a trial when you already give the person 7 days, which is what Mr.-- Mr. Pearston explained.

**DeBOER:** Yeah.

**SCOTT HOFFMAN:** There's just too much time here, so.

**DeBOER:** OK. And then my other question is I-- I heard some folks talking about maybe the wording of the three-day language. Would you

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object to having more universalized wording for this three-day, seven-day, whatever ends up being, but let's say it's the three-day notice, having more universalized language so that it is not confusing to the people about--

**SCOTT HOFFMAN:** Usually when we-- what, usually, Senator, when we send out a three-day notice, we explain to them. They get it in the mail. And then we're gonna call maybe a day before that's up to see what's going on. We'll leave him alone for a couple of days. But that's usually, again, a rapport between the tenant and landlord. We do not want to go to court. We do not want to go to court.

**DeBOER:** Yeah.

**SCOTT HOFFMAN:** We want to get our rent paid and we're going to work with them.

**DeBOER:** Right. So some kind of universalized-- so you're not married to the language in the three-day at this point is what I'm [INAUDIBLE].

**SCOTT HOFFMAN:** Yeah. When you say universal, it leaves it in limbo exactly what kind of language you're talking about. Every-- pretty much everybody knows three days, you know? And-- but a lot of them don't understand the weekends. You cannot count Sunday as a day. You can count Saturday because it's a mailing day, but Sunday is not considered one of those three days. It is not.

**DeBOER:** OK. Well, thank you very much.

**SCOTT HOFFMAN:** You bet. Thank you, Senator. Any more questions?

**PANSING BROOKS:** Questions? Thank you. More-- any more opponents? Welcome.

**DANA STEFFAN:** Greetings again. I'm Dana Steffan, D-a-n-a S-t-e-f-f-a-n. I'm a fee-based property manager here in town and I wanted to speak to how this is going to affect the relationship between the landlord and the tenant. Nobody likes to receive a collection letter and that's what a three-day notice is, you know, a demand to pay. In our rental company what we do, rent is due on the first, late after the fifth. I take the sixth and the seventh to try to contact the tenant, find out what's going on, why is the rent late. So that takes us to the eighth. If you change it to a seven-day notice, I'm going to start sending those notices on the second. I

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don't have to give a grace period. Rent is due on the first. So if I give the seven-day on the seventh-- or on the second, that's going to put us out to the seventh and eighth where I'd be in the first place. But that is really going to affect the relationship that I have with my tenants, because again, collection letters are no fun. They get those letters in the mail. They do kind of freak out. Well, what is this? Why am I getting this? I have till the fifth to pay the rent. I say, no, rent is due on the first. And again, it's all spelled out in the lease agreement. They say that those extra four days are really going to help him. They knew rent was due on the first. It's due on the first every month of the 12-month contract that they signed. So anyways, I just want you to consider the relationship between the landlord and the tenant. And now if this law is changed, I'm going to have to issue those notices even earlier and work with the tenants less just to stay on the time schedule. Again, I'm a fee-based property manager. I'm there to represent the owners of these rental homes. Any questions? Thank you for your time.

**PANSING BROOKS:** Sorry. Questions?

**DANA STEFFAN:** No questions?

**PANSING BROOKS:** OK. No. Thank you.

**DANA STEFFAN:** 'Cause I'm out of here.

**PANSING BROOKS:** Any additional opponents? Neutral testimony, any neutral testimony. Senator Hansen to close.

**M. HANSEN:** Thank you, Senator Pansing Brooks, members of the committee. So-- so I guess I've been remiss in saying this. I do appreciate, as always, all testifiers that come up with, you know, sharing their experience, their concerns, their perspectives. I think on this bill especially, maybe more so than some of the other ones, we're seeing the difference between the landlords that are here in this room, the landlords that are based in this community, and the landlords that aren't. As you heard from some of the proponent testifiers, there's out-of-state landlords that mail a notice with three days, file, wait three days and file something. And then there are landlords here that are-- seem exceedingly generous, have grace periods, built-in times, payment plans, all sorts of things. What I essentially get from this bill would be, this would be, by switching to the seven days-- and, Senator DeBoer, I would degree- agree with your description of the seven days plus the right of redemption--

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would essentially kind of statutorily implement the grace period, so to speak, that a lot of people talked about. You know, even the three to five days plus a three-day notice is, you know, six to eight days. There are some landlords that don't give that notice and quickly turn around. As you said, there's probably all sorts of genuine situations where somebody doesn't pay rent and don't know they don't pay the rent, you know. You know, somebody expects their partner to do it but their, you know, their-- their roommates do it; it doesn't. You know, it gets slid under the door, what-- who knows? You know there's some situations where there's just genuinely no notice. You're surprised. You're shocked. You know the check's sitting on your fridge and, you know, you forgot to put it in the mail because you're trying-- was trying to line it up with the pay cycle. Essentially, what I was trying to do with this bill was especially make sure we're protecting those landlords that don't work with their tenants, that don't give that grace period, an opportunity for the tenants to go forward. I will say even just-- just listening to the testimony, I think there's different interpretations of how that three-day notice runs in the mail. It was my interpretation that it went-- started when you put it in the mailbox, which is a difficulty because with holidays, with weekends, whatnot, we actually create some-- some strange situations where people effectively have no notice. If that's something that has more support to clarify how those days account, make sure tenants at least have the appropriate notice, I think that be a great place to work. And with that, I will close on this bill.

**PANSING BROOKS:** Thank you, Senator Hansen. And letters, there are three letters of support, four letters of opposition, zero neutral letters. And that closes the hearing on LB434. And last but certainly not least is LB435, and Senator Hansen is here again.

**M. HANSEN:** Thank you, Senator Pansing Brooks. My name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. I will say this is my last bill for today and I believe my last bill in front of Judiciary for the year.

**PANSING BROOKS:** Oh, no.

**M. HANSEN:** So how quick you're going to miss me after-- after being so annoyed with me today. All right. And this is LB435. Currently in Nebraska, a landlord cannot retaliate against a tenant for two reasons: one, for joining a tenant's rights organization; and, two, for filing a housing code complaint with a government agency. LB435 would add to this list by saying a landlord cannot retaliate by

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recreasing [sic] rent, decreasing services, or evicting a tenant when: one, the tenant has notified the landlord of a housing code violation or noncompliance with the lease; and, two, when the tenant has exercised or attempted to exercise a right under the lease agreement or provided under current law. In our work with this issue over the past year, I've learned that open communication between landlords and tenants is often the first and best recourse for resolving any disputes and issues that arise. However, a tenant approaching a landlord directly with complaints is oddly missing from the antiretaliation portion of the landlord-tenant laws. If a tenant doesn't feel safe going to the landlord with a complaint first, problems will persist or they'll be forced to go directly to the city with complaints. Enforcing antiretaliation measures is especially important since the entire system of enforcement of housing codes and other upkeep is based off tenants coming forward to file complaints. It is in the best interests of landlords that-- for tenants to not go over their heads for the city. In fact, in a city like Lincoln, it is required that tenants first go to the landlord before filing complaints with the city even though they are not legally protected from eviction or rent increases if they do so. Effectively renters do not have antiretaliation policies in cities with this policy. The way this would work within this bill was that there'd be an additional new presumption of landlord retaliation if there's evidence that a tenant-- tenant engaged in a protected activity within six months before the retaliatory conduct occurred. Important to landlords, however, is the presumption is rebuttable, meaning they would simply need to present evidence that the alleged retaliatory conduct occurred for a valid legal reason. Including a rebuttable presumption will not affect landlords or have a legal reason-- not affect landlords that have a legal reason to increase cost or rent or decrease services or bring an action for possession. And I will say I was kind of thinking about this in the context of the early first bill, all those many hours ago on domestic violence, where it was how does the landlord know-- and this-- of what is actually going on in the situations. I think about this in the same as-- as the landlord is the one who does know why the rent went up, who does know why services change, who does know why something happened. And so just saying it's on you to show your cause why rent increased, why you filed eviction, yada yada yada is-- is-- makes more sense as opposed to having the tenant having to try and prove the landlord's intent when the landlord is right there knowing that intent. This bill should in no way negatively affect landlords who are already following the law. Under this bill, they will in fact be able to better communicate with tenants who feel safe

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to come forward and communicate issues with them directly as opposed to getting others involved when they don't need to be. With that, I will end my opening on my last bill of the day. I'd be happy to take any questions.

**PANSING BROOKS:** Thank you. Any questions for Senator Hansen? Yes, Senator Brandt.

**BRANDT:** Thank you, Chairman Pansing Brooks. Senator Hansen, would this law be unique to Nebraska?

**M. HANSEN:** No. No, it would not.

**BRANDT:** I mean how many other states have a law like this?

**M. HANSEN:** I don't know that off the top of my head, but I would guess someone behind me might be able to answer. Certainly the protection for-- for-- protection for antiretaliation for bringing a complaint directly to a landlord is fairly common to my understanding.

**BRANDT:** All right. Thank you.

**M. HANSEN:** Thank you.

**PANSING BROOKS:** Any other questions? No? Senator Hansen, thank you.

**M. HANSEN:** Thank you.

**PANSING BROOKS:** First proponent? Proponents? Welcome.

**DAMALI BRITTON:** Thank you. Good afternoon. My name is Damali Britton, D-a-m-a-l-i B-r-i-t-t-o-n, and I'm a fellow at Nebraska Appleseed. I'm here in support of LB435 on behalf of Appleseed and Collective Impact Lincoln. As a part of my role with Collective Impact Lincoln, I have heard several alarming stories about people living in substandard conditions faced with the impossible choice between living in a place that they can afford and living in a place that is harmful to their health. A few months ago, I met a couple who epitomize this challenge that so many low-income Nebraskans face and the lasting implications of their choices. The couple had found black mold in their apartment bathroom and informed their landlord. However, the landlord refused to do anything to fix the problem. After some time passed, the tenant decided to take off some of the contaminated tiles and air them outside because the musty smell from the black mold became so overwhelming that she would nearly faint when spending time in the

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bathroom. Even after leaving the tiles outside, the smell was so strong that passersby would comment on it. The dentist-- the tenant began talking to neighbors about how the landlord was not helping maintain the adequacy of the apartments and began trying to organize other tenants to get the landlord to make repairs and address the mold. Soon after the tenant began organizing, the landlord sent the couple an eviction notice. The landlord claimed that the tenants broke the lease agreement by removing the moldy tiles. This was clearly a pretext and was in reality retaliation. After receiving the eviction notice, the couple had difficulty finding another place, and at the time of our conversation, they were homeless. Having to explain why they left their previous residence was yet another barrier for them to find a home that they could afford. These kinds of stories, where tenants make complaints and subsequently the landlord becomes hostile, exemplify why tenants need further protections against the landlord retaliation. LB435 strengthens the Landlord and Tenant Act by incorporating a presumption of retaliation for landlord conduct that has occurred within six months of a complaint. This bill helps ensure tenants can make complaints with-- about violations and organize with their neighbors without fear of landlord retaliation. For these reasons, we ask the committee to advance LB435. Thank you.

**PANSING BROOKS:** Thank you, Ms. Britton. Anybody have a question? Well, thank you very much for coming and staying this long. Next proponent? Welcome.

**ERIN FEICHTINGER:** This is the last time you'll hear from me, Erin Feichtinger, E-r-i-n F-e-i-c-h-t-i-n-g-e-r, representing Together in Omaha in support of LB435. In both our case management program and our diversion meetings, we have heard stories of retaliation by landlords that have led directly to a person's housing instability or homelessness whether through assessing exorbitant fees for maintenance, ignoring repeated complaints leading to decreasing services and uninhabitable conditions, and most concerning to us, creating a general reticence about making complaints out of fear of losing the housing that they desperately need. We also run one of the largest all choice food pantries in the state of Nebraska and serve about 500 families a week. And in one of those weeks, we did a survey about rental housing of our food pantry clients. Of the 110 people who responded who were currently in rental housing, 62 are experiencing problem in their rental units and 44 have made a complaint and found their issue either unresolved or were retaliated-- or felt they were retaliated against by their landlord for making that complaint in the

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first place. One woman complained that her stove did not work and that her back door would not lock. The stove was replaced. The door was never fixed. And the property manager told her that she will be charged for any additional maintenance calls. Another gentleman has walking pneumonia, uses a cane. Our organization has filed several work orders to ensure his safety like fixing the window before the polar vortex we recently had, getting the heat under control, and updating the apartment to get rid of all the code violations that are trip hazards. The maintenance man came and said that if our client filed another complaint, he would have, quote, a problem. The window was I guess fixed by putting plywood over it, painting it white, and dropping the blinds and hoping we wouldn't notice. The stove-- the heat was eventually turned down, but every time the furnace kicks on, our client gets nauseous. Now opponents of LB435 will tell you that this never happens. We've heard a lot of generalizations today to that effect. At Together, we know that retaliatory conduct is pervasive especially when it comes to low-income renters like those we serve. We know that fear of retaliation leads to substandard living conditions and that substandard living conditions lead to all manner of bad situations that may result in eviction and homelessness. We also know that some tenant's overall vulnerability makes them susceptible to exploitation on top of the sort they already experience in a rental market that does not prioritize safe, quality, affordable housing. We will continue to advocate for our clients, and we wish that we could help every single tenant experiencing retaliatory conduct by their landlord because we believe that housing stability is the foundation of any individual's success. We support LB435 because it balances the scales in this relationship and allows the people we serve more protections and thus more stability when they need it most. We support this bill because our organization cannot stand behind and advocate for every single person experiencing retaliation, but the Legislature can. So thank you again to Senator Hansen for introducing this package of bills and to you for your thoughtful and serious and very long consideration of this important issue.

**PANSING BROOKS:** Thank you, Ms. Feichtinger. Any-- any other questions? Thank you very much for coming. Appreciate it. We are keeping to the light, you guys. Welcome.

**ALEXA BARTON:** Thank you. Well, good evening now. My name is Alexa Barton, A-l-e-x-a B-a-r-t-o-n. I am a senior certified law student at the University of Nebraska College of Law. I'm testifying in favor of LB435 which expands protection for tenants from retaliatory conduct.

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Again, I am testifying as a citizen and not on behalf of the university. First, the changes in LB435 would protect tenants when they make a complaint to the landlord of a housing code or a lease violation and for exercising a right under the lease agreement or provided elsewhere in the law. These protections are necessary for at least three reasons. First, it is just common sense that the first place tenants report a violation would be to their landlords. In fact, 76-1425, the act that this is amending, contemplates that tenants will approach their landlords to cure deficiencies in the unit or lease agreement. As the law currently stands, tenants are discouraged from doing so for fear of retaliation. Second, it-- often it is a prerequisite that tenants talk to their landlords first before they can report a housing code violation to a government agency, but because this first and necessary step is not protected, tenants are left with two options, one that's bad and one that's worse. Either inform the landlord of the violation and risk retaliation, or force your family to live without heat or water or whatever the violation is. It's only after the tenant risks retaliation that they can seek intervention from a government agency. Both forms of reporting must be protected for this law to actually have its desired effect. And third, we have an entire section devoted to actions tenants can take in the face of noncompliance of the landlord, but these activities are currently not protected under the act for retaliation. The second change proposed by LB435 is to include a rebuttable presumption of retaliation. Retaliatory conduct is notoriously difficult to affirmatively prove. Additionally, tenants are often not represented by counsel where landlords are almost always represented by counsel. This presumption recognizes the difficulty of proving retaliation. In conclusion, expanding the antiretaliation statute would only affect landlords who are unlawfully retaliating against their tenants. This bill would not affect law-abiding landlords operating in good faith and only serves to protect tenants who exercise their legal rights. Thank you.

**MORFELD:** Thank you very much. I don't have a question. Do you have a question, Senator Brandt?

**BRANDT:** No, we're good.

**MORFELD:** Senator Brandt doesn't have a question either. Thank you for coming in and waiting so long tonight. We really appreciate it. Next testifier? Proponent? Welcome.

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**LEIGHA WICHELT:** Good evening, Chairman and members of the committee, my name is Leigha Wichelt, L-e-i-g-h-a W-i-c-h-e-l-t. I am a senior certified law student at the University of Nebraska College of Law. I am enrolled in the civil clinical law program and colead the clinic's tenant's rights project. I am testifying in favor of LB435 as a citizen, not on behalf of the university. When I think of the importance of amend-- amending the antiretaliation statute, I think of the Yale Park Apartments in Omaha, Nebraska. I think of 500 tenants forced to live in terrible conditions who then had to sleep in shelters on cots after they lost their homes. I think of the 1,962 city code violations. I think of people living with their ceilings caving in, in rooms with moldy walls and carbon monoxide leaks. I think of what it would feel like to live with no heat, with a bedbug infestation, and with bedrooms with no avenues of escape in the event of a fire. And I think about what might happen to me if I would happen to complain to my landlord about it. Currently Nebraska law does not protect tenants from retaliation if a tenant makes a complaint directly to a landlord concerning a housing code violation or breach of the lease agreement. What that means is if a month-to-month tenant asks for heat, the landlord may retaliate by raising their rent, decreasing their services, or terminating their tenancy. The tenants of Yale Park Apartments were refugees. They had limited resources, no bargaining power, and no way of ensuring that they would not be homeless if they filed a complaint or pursued their lawful rights and remedies under the Nebraska Landlord Tenant Act. These tenants were afraid that they might lose their home, have their rents increased, or their services decreased. As my colleague Alexis stated previously, our laws provide minimal protection against retaliation by landlords, so for months, these horrible conditions went unreported for fear of the consequences. And as an ultimate consequence it-- consequence, 500 tenants were homeless. Fortunately we are on the right track. Current Nebraska law does protect tenants from complaints made to government agencies. Expanding the antiretaliation statute to include complaints made directly to the landlord will ensure no Nebraska tenant will live in fear that they will be retaliated against for attempting to remedy unhealthy living conditions, no matter the avenue they choose. While LB435 will offer greater protections, it falls short of what we've seen in other states. We would encourage this committee to consider including the nonrenewal of a lease among the adverse acts prohibited as retaliation. A landlord can choose not to renew, but if he or she does so after a complaint has been made, this would be presumed retaliatory. This small in-- addition will impact the most vulnerable of tenants, those on month-to-month agreements like those at Yale Park

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Apartments. Without some protection against retaliatory nonrenewal, tenants with short-term leases will remain fearful of reporting deplorable conditions for fear that they will be homeless at month's end. Thank you. I would be happy to answer any questions.

**MORFELD:** Thank you for your testimony. Any questions? Oh sure, Senator Brandt.

**BRANDT:** The committee would like to ask a question.

**MORFELD:** Senator Brandt has a question.

**BRANDT:** Yeah. Thank you, Ms. Wichelt, for-- for testifying. I think it's great that you're a law student, and you-- everybody has stuck it out this long. Would you agree that the Yale Park situation's not the norm for most tenants or landlords?

**LEIGHA WICHELT:** I don't know that I can confidently testify that that's not a norm. I think we've heard a lot of testimony that there's been a lot of situations where a tenant has reported a housing code violation to a landlord and that landlord has retaliated against them with threats or other-- other ways.

**BRANDT:** Yeah. But I guess we always use the worst case examples that we can find, and I'm guilty of doing the same thing. And I guess I don't want to paint all the landlords with the same brush, you know, being somewhat familiar with the situation. And I guess in a-- in a more normal situation I mean, are you aware of a lot of retaliation going on in the state of Nebraska in your research? Did you do much research on this?

**LEIGHA WICHELT:** The-- the clinic takes a lot of landlord-tenant cases in, and we often see retaliation happening. It's difficult to talk about the data as far as how much retaliation is actually happening because tenants are afraid to report the retaliation after they've been retaliated against. So I do think that we see it even more than what's reported.

**BRANDT:** OK. Thank you.

**MORFELD:** Thank you. Next proponent testifier? Welcome.

**CARINA McCORMICK:** Good evening. My name is Carina McCormick, C-a-r-i-n-a M-c-C-o-r-m-i-c-k, PhD. In this testimony, I'm representing the group Renters Together. Before I start my written

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testimony, following up on the question from the last one, I would like to point out that the actual occurrence of retaliation is not the only quantifiable instance that we need to look at. But the fear of retaliation causing renters to not make the complaints that they're entitled to by law is actually a more important focus point for whether this law needs to be changed because we want the renters to feel empowered, to make the request to the agencies that they're entitled to under law. OK. So four years ago, residents in this neighborhood have been talking to each other, going door-to-door, figuring out what we can do to improve our homes and our neighborhoods and what support people need in that work. First, the group was called We Are Vital. More recently, we've been stretching out across the city under the group Renters Together which focuses just on renters. We've heard countless stories from renters and residents in the neighborhood. And in the conversations with renters, the most common concern we hear is that landlords are not responsive to making improvements and repairs in their units or common areas. And so the renter's health and quality of life suffers because the landlords aren't making these repairs, yet renters are afraid to take the actions that would help them achieve their living conditions and those actions to which they're entitled through various laws and codes because they know that they risk eviction by doing so. And they make the decision that it's not worth the risk. Something really disheartening about hearing these stories is that we know they are right. We know that they do face eviction if they try to take a stand to get healthy living conditions either by reporting it to code enforcement or pairing with groups like ours. We've had trouble even getting stories to pass forward, like to Senator Hansen, because people are afraid that if they even talk about it, that they might get evicted. Although existing laws may, in name only, state that landlords cannot retaliate for code violations, we know for a fact that renters are frequently evicted after reporting code violations. We know that existing law does not actually prevent-- protect renters from retaliatory evictions because Nebraska landlord-tenant laws are currently so weak in regard to tenant rights. Landlords can evict tenants for practically any reason. Thus, following tenant reports to agencies, landlords can easily find a different claim justification for the eviction. The tenant facing the terrifying prospect of eviction must somehow prove that the eviction was retaliatory. The proposed bill appropriately shifts the burden to the landlord to prove that the eviction is justified for another reason. LB435 not only protects renters, it allows city or state agencies to function as intended to remedy unsafe and unhealthy conditions. The occurrence of

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retaliatory evictions weakens the power of agencies who are tasked with ensuring living-- healthy living conditions.

**MORFELD:** Thank you, Dr. McCormick. Any questions? Thank you for coming tonight. Next proponent testifier? Welcome.

**SCOTT MERTZ:** Thank you, members of the committee. My name is Scott Mertz, S-c-o-t-t M-e-r-t-z. I'm a managing attorney with Legal Aid of Nebraska. I'll do my best to be brief and succinct because I think many of the points I wish to make have been made. I simply-- only to reiterate, our organization is more or less the only option for low-income renters who are facing some manner of problem or risk of loss of housing with their landlords. So we're the organization talking to individuals who are afraid of losing housing, who have some manner of grievance or complaint with their landlord. And we are the ones advising those individuals of their rights and their options, their obligations to provide some written notice, how to formulate that notice. What this bill will do will embolden our organization to provide that service and provide that advice because what we can now do is affirmatively state that there is protection in place, that if you make legitimate grievance, you will not be retaliated against by your landlord, and if you are, there are protections in place. There is an affirmative defense that we can help you raise in court. It I think clarifies what the law is. It makes more sense that the bill will include complaints made directly to the landlord, not just complaints to the agencies as the law is written now. It's simply common sense. It's simply strengthening what's already there, and this change is going to help our organization better assist tenants who have legitimate complaints regarding their housing. And with that, I thank you, and I'm open to any questions.

**PANSING BROOKS:** Thank you. Any questions? Thanks for coming and being here so long. Okay. Any more proponents? OK. Opponents?

**JOHN CHATELAIN:** I'm getting this drill down pretty well. My name is John Chatelain, J-o-h-n C-h-a-t-e-l-a-i-n, and I represent Metropolitan Omaha Property Owners Association and also the Statewide Property Owners Association which is a group that we affiliate with across the state, primarily for lobbying purposes and so forth. And our association-- did I spell my name? I'm sorry if I didn't. We oppose this bill. First of all, it adds a couple of new triggering events for this antiretaliation regime. And the second of those is the tenant has extra-- exercised or attempted to exercise a right or remedy under the lease agreement or law. I'm not quite sure what that

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right under the law means in the context of the landlord-tenant relationship. I mean tenants could exercise rights under the law, but I don't know how that-- that's far too general for-- for our purposes here. But-- but our main concern about-- is-- is the-- the presumption that would last for six months after a triggering event. The-- the-- the conventional wisdom is that tenants are afraid to make code enforcement complaints against a landlord or to file 14/30-day notices. That, in my experience, is absolutely not true. I see plenty of tenants that filed code enforcement complaints against their landlords, so that is not universally true. But this rebuttable presumption against the landlord also doesn't take into account that oftentimes there's retaliatory action by the tenant or the former tenant against the landlord. You know, it's getting to be more and more common that we have the pro se litigant or the self-represented litigant and they will file repeated lawsuits against the landlord for things because they're aggrieved, they're disgruntled, over having been evicted. If LB435 were to-- to pass, this would be a boon to those ex-tenants who are disgruntled that want to carry out retaliatory action against the former landlords. Normally the burden of proof in a-- in a case is on the plaintiff, in other words, the person wanting to prove the case. That's how our whole judicial system is set up. The plaintiff must meet the burden of proof. Then it's up to the defendant to prove the existence of defenses. LB435 would shift this burden, making the landlord prove that retaliation didn't happen. This would be a bizarre twist in how lawsuits are normally tried. It would create an unlevel playing field in favor of the ex-tenant and an incentive for the tenant to sue the landlord. And under this statute, the damages are liquidated at three months the periodic rent. So if the rent is \$1,500 a month or let's say it's \$1,000 a month, then that would be \$3,000, and the tenant is entitled to attorney fees. So this would be a real incentive, with this presumption in place, for the tenant to sue the landlord. And there would be plenty of attorneys representing them for those attorney fees.

**PANSING BROOKS:** Thank you, Mr. Chatelain. Any-- any questions? Nope? Thank you very much.

**JOHN CHATELAIN:** All right. Thank you.

**PANSING BROOKS:** Have a good weekend.

**JOHN CHATELAIN:** It'll be a shorter weekend now.

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**PANSING BROOKS:** Welcome, Mr. Fisher.

**LYNN FISHER:** Senator Pansing Brooks, the rest of the committee, thank you for all your patience today. Lynn Fisher, Great Place Properties, L-y-n-n- F-i-s-h-e-r, I'll be even more brief. It's not fair to put the presumption of guilt on the landlord, as Mr. Chatelain just said. And landlords cannot evict without cause and not for any reason whatsoever. That's a misstatement by one of the-- the former testifiers. And so even the worst landlord can't do that without running into some legal problems. Judges won't stand for it. And there are already laws in place to hopefully prevent or eliminate these horrible places that we've heard testified about. I can't imagine how horrible it was up at Yale Park in Omaha. I think that's an Omaha problem and certainly needs to be addressed by the people up there that weren't enforcing the codes. Here in Lincoln, and I hope in most other places in the state, codes are enforced. And those horrible places are a rarity. So this law is unnecessary. Thank you.

**PANSING BROOKS:** Thank you. Appreciate it, Mr. Fisher. Any questions? No? Thank you. Have a good weekend. Mr. Storer, welcome.

**LARRY STORER:** Thanks, again. My name's Larry Storer, S-t-o-r-e-r, 5015 Lafayette Avenue, Omaha, 68132. I have to disagree with that gentleman. Yale Park problem is not just a Omaha problem. If it's a legal problem in Omaha, it's a legal problem everywhere, isn't it? And I noticed in here that I probably am covered by this law, so they can knock on my door any day. Anybody can file a complaint against me for any reason, and the city of Omaha will come marching to my door, remove me, put me in a temporary housing somewhere. But I'm not a refugee either. But they can do that because-- because they can. That's wrong. So it's not just an Omaha problem. Presumption of guilt? I'm sorry, I thought the rule basically was innocent until proven guilty. Burden of proof is usually on a plaintiff, isn't it, or the county attorney? Yeah, we got some lawyers that can get people off sometimes. How much responsibility do the refugee resettlement agencies have for that fiasco in Omaha? Those refugees couldn't speak English, didn't know how to write English, didn't understand the forms or the rules. So somebody had to help them, didn't they? Well, yeah. Who put them there in the first place? I don't think Mr. Kay went and contracted individually with each one of them. However, the housing code, it says housing code, it applies to residences. I surely don't want to let any of my neighbors come over close to my property because they can file a complaint, but I can't do anything about their cats in

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a city that really doesn't want to hear it. Neither does the county. It looks like they're actually moving to limit testimonies. City of Bellevue wants to eliminate testimony altogether. And then the lawyers downtown Omaha say lawyers can't talk to us, the counsel can't talk to us, the Douglas County Board can't talk to us unless you want to ask a question. Any questions?

**PANSING BROOKS:** Questions?

**LARRY STORER:** I didn't think so. Thank you.

**PANSING BROOKS:** Have a good evening and good weekend. More-- are you an opponent?

**SCOTT HOFFMAN:** Yeah.

**PANSING BROOKS:** OK. Opponents?

**SCOTT HOFFMAN:** Scott Hoffman, S-c-o-t-t H-o-f-f-m-a-n, I guess I'm the last one here to testify, but gee, can't we just all get along? That just seems to be one of the big problems here. Obviously the landlords that are causing the problems, they're not here today. You can tell most of us are pretty good landlords. That's why we're here to testify because we don't want this blowing back in our face. And the 14/30, the tenant can use that just as much as the landlord can. Now they may not be aware of it, but when-- when people don't have heat, I can tell you what, I've gone out at 2 o'clock in the morning. I don't want my plumbing to burst, especially on this weekend. So we're not going to let people-- you know, they're paying us rent. You know, we're-- they're-- we're providing a service. We're not going to let our tenants-- most of us are not going to let our tenants live in squalor. But the thing is there's-- there's low-income housing out there. There's landlords that're just getting by. They aren't doing anything that they're supposed to be doing. Gee, you know, do your 14/30 call codes and move out. Move out, OK? Don't stick around. I mean if you're not getting along with each other, this retaliation I think is just redundant. Why do you want to continue living there? And I guess that's the point that I want to make. I mean if two people aren't getting along, just like a husband and wife, things don't work out, they get a divorce. Well then, the tenant and landlord needs to get a divorce. And that's-- that's what needs to be done. So other than that, that's my final testimony there. So any questions?

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**PANSING BROOKS:** Any questions?

**SCOTT HOFFMAN:** Oh come on. Somebody's got to ask one question, you know.

**PANSING BROOKS:** Thank you for coming.

**SCOTT HOFFMAN:** You bet. Thank you.

**PANSING BROOKS:** OK. Any neutral testimony-- or any further opponents? Now, is there any neutral testimony? Now, Senator Hansen to close.

**M. HANSEN:** Thank you, Vice Chair Pansing Brooks and the members of the Judiciary Committee, especially members of Judiciary Committee who made it all the way to the end and didn't leave us to go to Mexico. Let me-- let me-- let me just again reiterate by thanking all the testifiers we had today. And I do mean that, before-- in support, opposed, neutral. And again, part of the reason I broke this up into five bills, there were a multitude of reasons, and a part of the reason that I broke it into the five bills is because I kind of felt that each individual issue was one that deserved to stand on its merits. And as you all know, Senators, or should-- will know soon, when you-- sometimes when you introduce packages, you try and work out a compromise. And you work out a deal in section one. Then all of a sudden, there's this deal in section two. I thought by maybe having some focus on each individual one, we can get there. And let me address kind of the Yale Park situation. So I actually wish there was more overlap between this committee and Urban Affairs because Urban Affairs heard my interim steer-- hearing that inspired me to do a lot of these bills a couple days after Yale Park. I think it was-- I think it was like a Thursday to a Tuesday. It was less than a week. And we had-- that was on everybody's minds that was everybody that was there. And then obviously is a huge red flag as to-- there are some systems we have in place, maybe it's Omaha, maybe it's everywhere, some problems we have. I wanted to write these bills to kind of stand on their own. Because I do agree with kind of Senator Brandt who was getting at the point of bad facts, you know, bad facts, bad cases make bad law. So this-- none of these bills are necessarily, Yale Park happened, we have to change things. You know, one of the things I addressed in my opening for this bill was actually-- it was actually a policy of the city of Lincoln has that I find troublesome. So going forward, happy to-- happy to work-- happy to work on these things. Just time and time again, as we've heard, access to affordable housing is a priority. And I think one way we, as a state, can do that is kind

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of make sure that we are protecting people in the landlord-tenant law. And if you-- a lot of our sections the landlord-tenant law have not come up in a while. And just my kind of follow-up point is as I've been doing more and more especially in my service on the Judiciary Committee, you see how many different systems we have in place, that when you look at an individual piece, they seemingly make sense. And then when you layer them on top of each other, how confusing and bizarre an unintended result you get. So you know, think about-- think about the-- trying to petition your landlord and availing yourself of that case, going into court with your landlord, not being able to get continuance, and so on, so on, so on. Well, each individual one might have a good public policy reason when you have say like a tenant in a bad situation, you know. They have to-- they have to, you know, missing a retaliatory protections if they do get evicted, they can't get a continuance. You know, the three day modus might not have gotten there with effectively any notice. And sure, very few people probably get hit with the full force of all five of these. Some do. And there's been some testimony that it happens, there's somebody who's in the absolute worst case scenario and they just are completely left out in the cold. With that, I thank the committee for their patience and we're looking forward to working on this package of landlord-tenant bills. Thank you very much.

**PANSING BROOKS:** Any questions for Senator Hansen? I do-- I don't think everybody necessarily appreciated the fact that you did separate all of those. If they'd all been put into just two bills, it would have been a lot more difficult for the opponents to come and talk about the things about which they were most concerned. So I hope people are grateful for your efforts and that they then come forward and work with you to fix whatever it is that they think is wrong. So thank you for going to that effort, Senator Hansen. And before we close, we've got five letters of support, four letters of an opposition, and zero neutral letters. And that closes the hearing on LB435. Thank you. Have a great weekend, everybody.