

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Urban Affairs Committee February 11, 2020

**WAYNE:** We're on. Good afternoon and welcome to the Urban Affairs Committee. My name is Justin Wayne, I represent District 13, which is north Omaha and northeast Douglas County, and I serve as a chair of the Urban Affairs Committee. Normally, we have themes to our committee. And today, there's no rhyme or reason to the schedule, so bear with us as we get through this. We got a different set of bills today. We will start off by having members to my right do self-introductions.

**ARCH:** John Arch, District 14, Papillion, La Vista, and Sarpy County.

**M. HANSEN:** Matt Hansen, District 26: northeast Lincoln.

**BRIESE:** Tom Briese.

**HUNT:** Oh.

**BRIESE:** Excuse me.

**HUNT:** I'm Megan Hunt, I represent midtown Omaha.

**TREVOR FITZGERALD:** Trevor Fitzgerald, committee legal counsel.

**BRIESE:** My apologies there. Tom Briese, District 41.

**CRAWFORD:** Good afternoon. Senator Sue Crawford, District 45, which is eastern Sarpy County.

**CONNER KOZISEK:** Conner Kozisek, committee clerk.

**WAYNE:** As you can see, we're super excited. We're jumping all over each other. We are ready to have some great hearings today. Also assisting us is our committee page, Angie Pierre-Louis, from Pembroke Pines, Florida, who is majoring in social work at Union College. This afternoon, we will be hearing seven bills which will be taken in the order listed outside the room. Each of these-- on each of the tables in the back of the room, you will have-- what you will find is a blue testifier sheet. If you are planning to testify today, please fill out one of those and hand it to Conner as you come up. This will make sure that we have accurate records for the hearing. Please note if you wish to have your portion listed on the committee statement for a particular-- or your position listed on the committee statement for a particular bill, you must testify in that position during the bill's hearing. If you do not wish to testify, but would like your record or

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your position recorded on that particular bill, fill out the gold sheet in the back of the room. Also, I would note the Legislature's policy is that all letters before-- for the record must be received by the committee at 5:00 p.m. on the previous day. Any handout submitted by a testifier will also be included as part of the records and the exhibits. We would ask that you have 10 copies. If you don't have one, please let our page know. We'll try to get additional copies for the committee. Testimony for each bill will begin with the intro-- introducer's opening statement. After the opening statement we will hear from supporters of the bill, then in opposition, followed by neutral testimony. The introducer will then have an opportunity to make a closing statements. We ask that you begin your testimony by saying your first and last names, spelling both for the record. Also, we will be using the four-minute light system. When you begin your testimony, the light on the table will be green, then it will be yellow with one minute left, and then we'll have a red light and we'll ask for you to wrap it up at that time. There are other hearings going on. People will be moving in and out of the committee. The senators will be. Don't take that as offense to your bill as if they don't want to hear your bill. Oftentimes they have to go to another committee and present their other bills in that committee. So I would like to remind everyone, including senators, to turn off or put your cell phone on vibrate, which I just checked mine. With that, we will begin today's hearing with LB-- I guess it's Senator Hansen's bill, as he already made his way there, LB114 [SIC]. Senator Hansen, welcome to your Urban Affairs Committee.

**M. HANSEN:** All right, thank you. Good afternoon, Chairman Wayne and fellow members of the Urban Affairs Committee. For the record, my name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. LB1114 is intended to clarify a very specific election provision under SID statutes by providing a procedure for determining whether 90 percent or more of a district is considered for, quote, residential use. As you know, SIDs are created for different reasons. Some are pure residential and some are mixed residential, commercial, and possibly recreational. The statutes that govern how SID trustees are elected are there to ensure that the interests represented on the board represent a majority of the landowners in those districts. That is why when an SID is formed, all landowners vote for the first five board members and gradually, as the SID progresses and is presumably built up, eight years after the first election, the residents vote on a majority of board members, voting on three of the five-member board. Over 20 years ago, in 1999, the

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Legislature passed language adding in a provision that regardless of how many SI-- years an SID has been in existence, if there are no resident landowners in the district or if 90 percent or more of the SID is owned for other than recreational uses, the five members of the board are still elected by property owners. LB1114 would give a formula for determining whether that 90 percent threshold is met and allow county officials to determine whether that provision applies to the SID election at hand. The committee should have received an amendment that we work through NACO that aligns the language with other statute. With that, I would close and be happy to answer any questions.

**WAYNE:** Any questions from the committee? Senator Crawford.

**CRAWFORD:** Thank you, Chairman. And thank you, Senator Hansen. Was there a particular case that brought this issue to your attention?

**M. HANSEN:** Yes and no. So it was presented to me as just a bill to fix an issue. Since my initial discussion of the bill and my agreeing to carry the bill, I do realize that there is a particular case in which there has been an, an election and some kind of concern over this provision. And I believe there will be testifiers behind me that can get into more details of that case.

**CRAWFORD:** Thank you,

**WAYNE:** Senator Briese.

**BRIESE:** Thank you, Chairman Wayne. Thank you for being here. Of course, as I look at the language here, we talk about we're looking for property that has residential dwellings, correct? Platted lots with residential dwellings. But we're also looking at the number of unplatted land, in other words, the number of acres also with residential dwellings. And so are you, are you-- am I reading that right? That we're trying to determine that fraction there?

**M. HANSEN:** Can you walk me through which line you're looking at?

**BRIESE:** And that's on, that's on line 14. Divide the number of platted lots and on 14 then, the number of unplatted land, which is the number of acres with occupied residential dwellings. So if we have a bunch of unplatted land in acres, does each acre have to have a dwelling on it to count towards that or-- to me it seems unclear but--

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**M. HANSEN:** No. And so my understanding is, is where you're kind of measuring the number of acres that are platted with a residence versus the number of acres total, regardless if it's platted or unplatted. And so that's the, that's the calculation to determine whether or not you've met the 90 percent threshold. So if you, say, have like 90 percent land that is unplatted or 90 percent land that is platted but zoned commercial or things of those nature, that would be your comparison tool.

**BRIESE:** But we're using as the numerator, I guess, the sum of platted a lot with a residence and the number of unplatted acres apparently with a residence. I get-- to, to me, I don't know how clear it is. But that's OK.

**M. HANSEN:** OK. Sure, we can certainly work to clarify. Yes.

**BRIESE:** Thank you.

**M. HANSEN:** Thank you.

**WAYNE:** Any other questions from the committee? Seeing none, thank you for coming.

**M. HANSEN:** Thank you.

**WAYNE:** First, we'll have proponents. Proponents? Welcome to your Urban Affairs Committee.

**JOANN FISCHER:** I'm a little short here. I'm Joann Fischer, I'm the Knox County clerk, election commissioner, and ex officio register of deeds. J-o-a-n-n F-i-s-c-h-e-r. And I thank you for listening to our testimony today. I'm here as a proponent on a conditional support for LB1114 looking for clarification and direction with the election process. I feel that the bill clarifies the election officer within, with the addition of county clerk in counties having no election commissioner. This addition doesn't really impact anyone, but it's a simple clarification. Second, second, sanitary improvement district elections are not monitored, nor are they held in accordance with the Secretary of State's guidelines. So we're basically having to conduct the elections by, in each county, the election commissioner has to, or the county clerk. And just to give you a little history in our county, we're a rural county and we have two, what I would call, standalone SIDs. They're not near a city, they're not near a village. They're by the Lewis and Clark Lake. And the first one was created in 1959, and

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that SID is primarily all homes now, whether they be full-time or weekend homes. The second one was created in 1970, and it is a lot of trees, hills, valleys. It's a beautiful area. And as of right now, this is the one we're concerned about. This is the one that whether to determine the 90 percent, more or less if the area is owned for other than residential use. So just a little clarification would help us a lot with this. In that SID, there's approximately 2,300 platted lots, but there are also almost 190-- or 1,090 acres that are not platted. So this is where your discussion on where does this come from? But it's within the SID. A number of the lots of are-- I'm sorry, the unplatted areas are considered residential, but there are a number of them are agriculture. So this is where I feel that LB1114 will help in determining how the board of trustee's members are elected, not only for our county, but other counties and for future elections. The proponent-- proposed amendment that was given by NACO defining residential dwellings will help make that valid assignment. And also one that we had talked about was the 90 percent rule. What is the date that you determine that rule, that test? And so that's why we're asking that possibly this could be amended in to give that same date as when we determine when all eligible voters are, and that's 80 days prior to the election. I get our list from our assessor as to the landowners on that date. And that's where it would have be helpful to have this clarification and direction from LB1114 to determine if I have to follow the 90 percent rule or not. With that, I ask that you consider this bill and move it to General File. Thank you.

**WAYNE:** Any questions from the committee? Seeing-- Senator Crawford.

**CRAWFORD:** Thank you, Chairman. So and thank you for being here, Miss Fischer. Is there a current court case that defines 90 percent or how do you define 90 percent now?

**JOANN FISCHER:** Well, that was a little vague in the, in the statutes. And yes, there is a court case and we happen to be the one that's in that court case. And so right now, it is being appealed. As to the ruling, I don't know where we stand in the ruling process-- or I mean the appeal process. But, yes, there was direction given by the county attorney, and I followed that. It's gone to court and the judge did give one opinion and then gave a second one. And then now we are in, in appeals.

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**CRAWFORD:** And is it, is it your sense that the opinion is similar to this guidance or is it, or is this different than, than what the guidance of the court case would be?

**JOANN FISCHER:** This will be similar to what we're appealing to know-- all I want is some direction and clarification because we're simply-- just to sit down and everybody doing their interpretation, I'd rather have something in writing to follow so I can conduct the election properly.

**CRAWFORD:** Thank you.

**JOANN FISCHER:** You're welcome.

**WAYNE:** Any other questions from the committee? Seeing none, thank you for coming today.

**JOANN FISCHER:** Thank you.

**WAYNE:** Next proponent? Welcome to your Urban Affairs Committee.

**BRIAN W. KRUSE:** Thank you. Good afternoon, Chairman Wayne and members of the committee. My name is Brian W. Kruse, B-r-i-a-n W. K-r-u-s-e, I am the Douglas County Election Commissioner. I am here to testify in conditional support of LB1114, which provides clarification in determining occupancy and calculation of residential properties in sanitary improvement districts. The additions in this bill do not fundamentally change processes or procedures, but clarifies them. Specifically, the statute currently addresses, when residential owners comprise less than 90 percent occupancy, then five members of the board are to be elected by the legal property owners. The new portion of this bill lays forth the formula to calculate the 90 percent occupancy. I would ask that further clarification be included as an amendment to this bill as there is no time frame to determine the 90 percent. It seems reasonable for it to be aligned with the time frame when the list of eligible voters is determined by the county assessor's office. The exact language to be copied is: Shall not be more than 80 days prior to the election. In addition, it should be noted that in the event that a determination of the 90 percent is needed, our office would work in conjunction with other county offices to make that determination. In conclusion, with these amendments, I believe this is a good bill with sound and needed clarification to the process of determining the 90 percent ownership for sanitary and improvement districts. Therefore, with the above changes, I urge the

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committee to advance LB1114 to General File. Thank you for your time this afternoon.

**WAYNE:** Questions from the committee? Seeing none, thank you. And thank you for the work you do.

**BRIAN W. KRUSE:** Thank you.

**WAYNE:** Next proponent. Welcome to your-- I'm just kind of smiling because you're never a proponent here. So this is, this is great. I'm so happy.

**JON CANNON:** I'm the happiest person in the room, Senator. Chairman Wayne, estimable members of the Urban Affairs Committee, my name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the deputy director of the Nebraska Association of County Officials, otherwise known as NACO, here to testify in support of LB1114. First and foremost, we'd like to thank Senator Hansen for bringing this bill. We are in favor of having clarity when it comes to government operations any time that we can get it. I'm not aware of differing practices that are out there. I'm aware of the court case in Knox County. But if we can proactively avoid the potential for any kind of mischief, then we're certainly all for it. We would urge the adoption of the amendments which provides needed clarity as to the timing associated with this bill. I have nothing further, but I would be happy to take any questions that you might have. Thank you.

**WAYNE:** Any questions from the committee? Thank you for coming today.

**JON CANNON:** Yes, sir. Thank you.

**WAYNE:** Any other proponents? People are leaving, so I wasn't sure if they were standing up to walk up here or not. Any other proponents? Seeing none, any opponents? Welcome to your Urban Affairs Committee.

**JAMES PELSTER:** Good afternoon, Mr. Chairman, members of the committee. My name is James Pelster, J-a-m-e-s- P-e-l-s-t-e-r, I'm in opposition to bill LB114-- LB1114. I'm a general contractor in the Omaha area. I do commercial light industrial buildings for around 40 years, a little better. I'm also a trustee for SID 2 in Knox County and have been for 22, 23 years. And I'm pretty familiar with things. And this is one of the, this is one of the case that we're talking about here. As a trustee on an SID board, we take care of the roads and the common areas. That's basically our job. When your road conditions are always

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tied very directly to the value of the homes and the improvements in the development as homes are being built, and you know, we get a couple, two or three houses a year get built up there. We have a fairly small operating budget, so where we have to be very careful. And we are asked to take care of a lot more roads than we actually can. Knox County generally has this problem as well. On, on our election that we have up there, we have an election pending with-- and we just have three homeowner trustees that are signed up. No landowner trustees have signed up as of yet, although they can be wrote in at some point. And the election is like March 3rd. We get very little, very little help from the landowner trustees in the last, oh, three or four years they've probably, the two landowner trustees have probably attended three out of the 25 meetings. And we did have to fend off a court case, which is, is it's in the appeal process. In my opinion, the SID 2 bylaws and the CC&Rs, codes, covenants and restrictions, are entirely for residential purposes. I mean, my biggest concern is if we overturn a SID precedence that has been going on for many, many years, that in the situation we are in this up in Knox County, the landowners could take and have an election and abolish the CC&Rs and send this right back to pasture land, they could have hog confinements, you could have cattle feed yards. For all the people that have built and invested homes up there, we have homes that are right up to \$750,000. We have about 70 percent, we pay about 70 percent of the taxes up there. And we are the folks that are involved. And again, this it, this is entirely a residential situation up there. [INAUDIBLE] say, and thank you very much for your time.

**WAYNE:** Wait a second, sir. Let's see if there's any questions. Any questions from the committee? So SIDs legally don't control covenants, usually the HOAs do.

**JAMES PELSTER:** That's correct.

**WAYNE:** OK, so you're talking about your HOAs.

**JAMES PELSTER:** Yeah, we do have a homeowner association as well. And we have two separate groups, but we're kind of the same folks. There's 26 homeowners up there.

**WAYNE:** OK. Any questions from the committee? Thank you for coming today.

**JAMES PELSTER:** Thank you.



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**WAYNE:** Any other opponents? Welcome to your Urban Affairs Committee.

**BROCK NELSON:** Thank you for having me. Mr. Chairman, committee members, my name is Brock Nelson, spelled B-r-o-c-k N-e-l-s-o-n, and I am appearing here before you today as the president of the landowners association of the Devil's Nest rural residential development located in Knox County, Nebraska, primarily in SID 2. And I am an opposition of LB1114. Thank you for allowing me the opportunity to come here today. Recently, our sanitary improvement district, SID 2 of Knox County, has been drug into some legal proceedings with an outside developer of Sioux Falls, South Dakota. This developer has purchased lots and land in our development and has decided, you know, that he would like to do some things that are not allowed by the covenants. And currently the 30 or so resident owners who pay over 70 percent of the taxes to our SID get a vote on three of the five members, the other two are voted by the landowners. You know, it's been in place for a lot of years, it's been a pretty good thing for the area. It creates a good checks and balances. The way it sits now, the developer and the LLC that owns primarily their lots, have attempted to get the SID laws changed at the county level so that in essence they would have full autonomy to appoint all five of the members. We've won our appeal there, and I believe there's a pending court case that could see its way to the Supreme Court. You know, in the past two years, the two members who were appointed by the landowners have only attended five of the possible 26 meetings, with the main developer only attending, I believe, one of those 13 meetings that he would have been eligible for. As residents and active participants, we feel a change in the way this voting works would jeopardize our property values as the change in the 90 percent rule could also affect the voting in our owners association and would allow the majority landowners to change those codes, covenants, and restrictions. We feel that it's important that this-- to state that the homeowners in that area have absolutely no problem with any particular developers or any future developers, and actually we would like to participate in maximizing any of that development as, you know, the more tax dollars we have in the area, the more money we have to fund our SID and, and for the roads or so that, you know, roughly 10 miles worth roads. To this point, we haven't received any proposal from any of the developers on plans or anything that, that are out there to, to go with. My wife and I personally made significant investment in our dream home, knowing that those codes, covenants, and restrictions are in place to protect us, and we also felt that those developers were well aware of all those codes, covenants, and restrictions when they purchased their land as

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well. Today, I ask you to vote against LB1114 and thank you for your consideration. I'd be happy to try to answer any questions.

**WAYNE:** Any questions from the committee? Yes, Senator Briese.

**BRIESE:** Thank you, Chairman Wayne. Thank you for your testimony today.

**BROCK NELSON:** Yeah.

**BRIESE:** And so currently, when you're trying to apply the 90 percent rule, you're looking at what or how many lots are platted residential, would that be correct?

**BROCK NELSON:** I believe so, yeah.

**BRIESE:** Regardless of whether there is a residence on that property?

**BROCK NELSON:** Yep.

**BRIESE:** And the change that is being proposed here in requiring residences to be on that property would be very substantial?

**BROCK NELSON:** For our SID it would be very substantial. A little background on our SID 2, it's primarily contained of the Devil's Nest, which back-- maybe some of you have heard of it. In the late 60s, early 70s was an actual proposed ski resort. It was an up-and-running, had a ski slope on it and a barn and a yacht club. So there were very few commercial, you know, in essence, two properties. The rest was platted 2,400-some odd lots designed for the sale of use for houses, cabins, et cetera. And that's what kind of the covenants lay out now.

**BRIESE:** OK. And as far as you know, this, the current statutory language, when it is applied anywhere in the state, that's how it's applied, the number of platted, the, the number of plats, the number of properties that are platted residential?

**BROCK NELSON:** I wouldn't be the best, best one to ask on that one. You know, I couldn't speak to the others.

**BRIESE:** OK.

**BROCK NELSON:** We, we feel on ours that the argument that we dealt with at the county court level was that in essence, you know, the lots that didn't have residences on them, they were trying to consider as, in essence, commercial and, and then not being counted as resident lots.

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**BRIESE:** Thank you.

**BROCK NELSON:** Yeah.

**WAYNE:** I'm trying to make sure I understand the-- was any other have questions? Sir, I'm trying to understand. We keep, I think, interchanging SIDs and OHAs here. OHA-- HOAs. OHA is an Omaha thing. So how would changing the SID change the HOA?

**BROCK NELSON:** So I guess kind of some of the guidance that we've gotten from our, our attorney is that, and it may not, but it's the possibility that with the supermajority, in essence, of the SID, that our, our homeowners association would be voted on in the same way as far as on a lot, individual lot, individual basis per lot rather than residences, if that makes sense.

**WAYNE:** OK. I don't necessarily agree with that.

**BROCK NELSON:** Yeah.

**WAYNE:** But that's fine.

**BROCK NELSON:** I'm sorry, I'm not an expert by any means.

**WAYNE:** No, I was trying to see how you got there, that's all.

**BROCK NELSON:** Sure.

**WAYNE:** I appreciate it.

**BROCK NELSON:** Yeah.

**WAYNE:** Any other questions from the committee? Seeing none, thank you for coming today.

**BROCK NELSON:** Thank you, guys.

**WAYNE:** Any other opponents? Welcome to your Urban Affairs Committee. Good to see you.

**JACK PEETZ:** Thank you, Chairman. Thank you, members of the committee. My name is-- thank you for the opportunity to appear before you this afternoon. My name is Jack Peetz, J-a-c-k P-e-e-t-z, and I'm appearing here on behalf of a group of property owners in this area that are known as Friends of Knox County. It is a loose title that we have, and we're in opposition to LB1114 for two primary reasons. In the

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materials I've handed out to you involve the first reason. And the Urban Affairs Committee in 1999 in LB740 address these provisions dealing with the elections of trustees. And that's exhibit A that you have. The 1999 LB740 address several minor technical issues with SID elections, excuse me, but more importantly address the election of trustees when an SID was more residential or more commercial in nature. LB740 reaffirmed the in-residence property owners in a residential SID were to elect three of the trustees, all other non in-residence property owners in a residential SID got to elect the other two, and that's the way it's been done in the Devil's Nest area for probably 25 or 30 years. The committee at the time, in 1999, this committee also recognized at that point that there are more commercial type SIDs established that may have some residential in it, but in the comments of the, or the intent of that LB740, there is a reference there that they didn't want the residential property owners to control and perpetrate mischief on the commercial. So that's where the 90 percent rule came in. And you'll see in that LB740, which is attached, that language that creates the 90 percent exception if there are not in-residence landowners living within the SID. So right now, the language that's proposed in LB1114 attempts to convert the definition of residential to lots that would then fall into the 90 percent as opposed to in-residence. So what, and it gets back to Senator Brieese's comment earlier. What's the, what's the effect of that? Right now, the way the law is, if you are a member of an SID that's primarily residential in nature and you have residences out there, those residential folks get to vote for the three trustees to protect their investment. The other property owners that are not in-residence get to elect the other two. This bill, if it, in its current form, and I understand there is an amendment, would in effect take the ability of the 30-some residents in this Devil's Nest area and they would now have the about 0.013 percent of the property in the area and therefore would not be able to elect any trustees. They could can-- they could agree with the ones that are proposed by the developer. So that's one of the reasons we're opposed to it. The other one is that there is a district court case that was tried in Knox County on this issue, which you've heard referenced before, that was decided in November of 2019. It's currently on appeal to the Nebraska Supreme Court, and the district court judge in Knox County said, no, no. The way it was done all along is the way it should be. The way you've interpreted it this time is incorrect. So we would just ask that you not do anything with this statute until the Supreme Court case is heard. And then if there is something that needs to be done as a result of their

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interpretation, after they make their decision, you come back next year and do that.

**WAYNE:** Thank you. Any questions from the committee? So couldn't the opposite happen? Couldn't the Supreme Court say it's moot, that the Legislature should deal, deal with it and we don't want to deal with it?

**JACK PEETZ:** They, they could. It depends on, and I understand you're an attorney, and I'll defer to your ability to determine what the Supreme Court's going to decide. I think safety--

**WAYNE:** I usually get it wrong, by the way.

**JACK PEETZ:** No, I-- I've been there, too. But I, I suspect that the safety would say, let the Supreme Court decide, and then if you need to change it to clarify, do that next year. But don't clarify it into the face of something that may come out of a ruling that changes it. I don't think though, if you look at the LB740 back in 1999, that this committee, I think that they did a pretty good job of trying to balance that so that the residential can't take advantage of the commercial. But if it's a commercial SID, the residents could not control those three trustees to the disadvantage of the developer. And I think that if you reaffirm that, you might need to change a little bit of the language so it makes it easier for the election commissioners to decide that. But that doesn't mean that you take this provision and, and basically disenfranchise the 30 homeowners that are actually live up there now.

**WAYNE:** Thank you. Any other questions from the committee? Seeing none, thank you for coming today.

**JACK PEETZ:** Thank you. Thanks for the opportunity.

**WAYNE:** Any other opponents? Anybody testifying in the neutral capacity? Senator Hansen.

**M. HANSEN:** Thank you, Chairman Wayne and fellow members of the committee. Kind of addressing a couple of things. I would like, I would like to just kind of remind the committee that the proponents of this were election officials and county officials, several of whom didn't even have a stake in the particular case that the opponents were referencing. And I think that goes to show a need for clarity in this section. I'm understanding that there is that case out there,

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potentially will be a Supreme Court case. Potentially, it will give us guidance. I will say, if I was a landowner in that situation, I would be worried the Supreme Court would be-- decide against me as well. As-- so it's kind of a mixed bag. And as we kind of reference the last testimony, we'll see which way the Supreme Court comes down, if they get to this point at all. Could be in favor of the way this bill is drafted, it could be the favor of a different interpretation. We don't know. The intent here is not to actually change the 90 percent. The 90 percent is in statute. This is giving election commissioners a clear calculation on how to calculate that 90 percent. And if there's a different proposal or a different way to clarify how that 90 percent is calculated, that should, that should be fair. Going to the point about HOAs, I, unless there-- I, I don't-- I agree with you, Senator Wayne, I'm not quite sure how the connection between an SID board and an HOA, because an HOA is usually established and gains its power from deed restrictions. And those would be kind of independent of an SID election because that would be a deed restriction that would be in all of the lots. I would presume, oftentimes in HOAs we've encountered this in other bills, that if a developer owns most of the lots in any neighborhood still and the residents own a few, typically the developer controls the HOA as well because they've reserved themselves some voting power. And I know we heard testimony of that an interim study over the summer, in a different HOA in a different county. With that, I think this is at minimum a issue where there's kind of some desperate need for clarifying our SID election laws so we don't have multiple active court cases and we're not putting election commissioners and county clerks in fear that their interpretations are going to get them sued and appealed to the Supreme Court. With that, I would be happy to take any questions and happy to work with committee and stakeholders.

**WAYNE:** Any questions from the committee? Seeing none, thank you for coming today.

**M. HANSEN:** Thank you.

**WAYNE:** There's no letters of support or in opposition or in neutral. That will close the hearing on LB1114. We will now turn to LB86--

**TREVOR FITZGERALD:** LB743.

**WAYNE:** I'm just giving Senator Blood a hard time. LB743, Senator Blood. Welcome to your Urban Affairs Committee.

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**BLOOD:** Thank you, Chairperson Wayne. And good afternoon to the entire-- at least part of the Urban Affairs Committee this afternoon. My name is Senator Carol Blood, and that is spelled C-a-r-o-l B as in boy-l-o-o-d as in dog, and I represent District 3, which is composed of western Bellevue and southeastern Papillion, Nebraska. I thank you for the opportunity today to bring forward LB743, which is basically a cleanup bill relating to the State Electrical Act. Now, I brought this bill on behalf of the Nebraska Electrical Division in order to update our state statutes to come into line with the federal electrical codes. The entirety of the changes created by LB743 can be found on page 2, lines 15 and 16. We are changing the language in that section of statute from 2017 to 220-- 2020 and changing the publication number to match the more recent federal publication. This kind of update to our state codes is done every so often, and this year I was the one who agreed to bring it forward. For those of you who may not be familiar with the NFPA, this organization sets the foundation for electrical safety standards. It addresses emerging issues like emergency disconnects, surge protection, and power over Ethernet, Ethernet to name only a few issues. So in a nutshell, the NFPA standards help to save lives. Now, I'm a very strong supporter of our first responders and one of the most important lessons that I have learned come from our firefighters. And they taught me the five Es of community risk reduction when addressing this fire safety risk reduction. And those Es are: emergency response, economic incentives, education, enforcement, and engineering. So this bill is about enforcement and engineering. We adopt and update our fire and safety codes based on what we determine what is needed to address, address the current risk. We know the risk is fluid because it changes based on technology and homeowner needs or trends. So I will say that I know that some of the updates are going to create quite a lot of opposition from local homeowner home builders associations based on what they see as increased costs for building new homes and renovating existing properties. So I first want to point out that the requested updates are being asked for by the National Home Builders Association, so it appears that some of the local groups are not on the same page as their parent organization. And my office and myself spoke with some of the representatives of these groups in an attempt to reach a middle ground. But in the end, we couldn't come to a resolution that was going to make everyone happy. Our disagreement centers on just how much of an impact these changes are going to have on cost. Frankly, everyone had different numbers than what Mr. Booker gave me. And it's my hope that you ask questions from both sides as to actual costs, so we can get it on record. So on items like surge protector

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installation, GFI connectors for appliances and exterior disconnect switches, we're thousands of dollars apart on just how much those changes would cost the homeowners. Now, I understand that we're not talking about one-size-fits-all when we're talking about remodeling and rebuilding these homes, but I don't agree the costs are going through the roof. The bottom line about these specific changes is that they are rooted in safety concerns. And the cost for most of these updates is realistically under \$100 per home. Now, that's a small price to pay for the safety of our local families. With that, I'm nearing the end of my opening and I say that I'm ready to take any questions you may have. But I would like to quickly add that director Kevin Booker or a member of his agency should be here to testify and will be able to answer questions a lot more effectively than I can. And I want to add that I am not a fan of potentially raising the cost of building a home. I'm a fan of middle ground in support of the safety of our homeowners and the firefighters have to come to these emergencies. I'm not finding middle ground with this bill, and I find it disappointing because ultimately we're potentially talking about losing one's home, or worse yet, their lives or the life of a loved one. The one message that I keep hearing is how this is going to bring a cost to homeowners, especially new homeowners. But what I always find curious is that there are many businesses who have taken models, whether they lower the costs and they swallow a little bit of that because they want to make sure consumers can afford their products. Not once have I heard anybody offer to say, you know what, we'll swallow that extra hundred dollars, we'll swallow that extra couple of hundred dollars, because we do want new homeowners in Nebraska. Instead, what we always hear is, I'm going to dig in my heels and I'm going to put out the fear factor and tell you how much this is going to cost consumers, because I guarantee you it's not going to cost me because I'm going to make my profit. And I don't fault people for making a profit at all. But I fault people when we can't find middle ground on such an important issue. With that, I appreciate the opportunity to present this bill. And again, the technical questions, I sincerely hope that you'll save for others. And also, again, ask both sides about costs and you'll see how far apart we are.

**WAYNE:** Thank you. Any questions from the committee? Thank you. Will you stay around for closing?

**BLOOD:** For you? Most definitely.



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**WAYNE:** First up, we have proponents. Any proponents? Welcome to your Urban Affairs Committee.

**BRADLEY PIENING:** Thank you. Senator Wayne and committee members, thank you for hearing me today. My name is Bradley Piening, that is B-r-a-d-l-e-y P-i-e-n-i-n-g, and I am the plant operations manager at Schneider Electric Square D Factory here in Lincoln that produces Square D breakers. Tell you, Schneider Electric strongly urges the state to adopt the 2020 NEC in its entirety and without amendments to further enhance electrical safety for the citizens of the great state of Nebraska. According to the NFPA Journal, the following topics shaped the debate around the 2020 NEC, and here's why Schneider Electric feels each topic is important. Topic one, shaping the bait, was the GFCI protection for the entire basement, which included both finished and unfinished areas. The basement of a dwelling unit is in an area that has been shown to be subject to shock hazard due to the often damp conditions coupled with the use of electricity in these areas. This has driven the need for ground fault circuit interrupters, or GFCI, protection for personnel in these areas of the dwelling unit. Past flooding in the state has resulted in standing water in basements where occupants would have to wade through unprotected. And this presents a high risk of electrocution if there is a short around. Sump pump failures are also cause of standing water in basements. In 2014, a man lost his life in Moline, Illinois, when he stepped into standing water in his basement so he could switch out his failed sump pump. Topic two, that was around the debate was GFCI protection for dryers and ranges in the home. Dryers have been shown to have damaged power cords and/or exposed connectors to go undetected because we don't really move our dryers around very often. In June of 2018, a 10-year-old girl in Texas died after being electrocuted reaching behind her dryer to get her kittens out. Later that year, in October of 2018, a 4-year-old girl in Oklahoma died after being electrocuted trying to save her stuffed puppy from behind the dryer in her home. Ranges also present electrocution hazards if there is a short exists in these ranges. In May of 2015, there's a YouTube video posted showing that the exterior of a homeowner's range was energized when they turned the oven on. No one was executed in this example, but we can only imagine what would have happened if a child or someone would have come in contact with that range whenever the oven was turned on. In August of 2016, a professional plumber was electrocuted when installing a dishwasher. He came in contact with the range and it was energized on the exterior surface. Topic three that ranged around the debate was the emergency power disconnects on one and two-family

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dwellings. This is primarily based upon providing first responders an outdoor accessible emergency or service disconnect point in an emergency such, such as fire, gas leaks, structural damage or flooding. Access to the service disconnect point for fire department personnel is very challenging when they are located in a basement. Topic four was around surge protection, which electronic lifesaving equipment such as your GFIs, AFIs, smoke and carbon monoxide detectors can be damaged when the surge occurs due to a lightning strike of some sort or another overcurrent situation in the home or overvoltage situation. In many cases, electronic devices and equipment can be damaged and rendered inoperable by a surge whenever the owner does not know that it occurred. So these are only a few examples and reasons why Schneider Electric strongly urges the state to adopt the 2020 NEC in its entirety and without amendments. In only a few minutes, it is not possible to cover them all. However, it is clear that by adopting the 2020 NEC in its entirety, Nebraska will further enhance electrical safety for the citizens of the great state of Nebraska. Thank you. Any questions?

**WAYNE:** Thank you for coming today. Any questions from the committee? Yes, Senator Crawford.

**CRAWFORD:** Thank you, Chair. And thank you, Mr. Piening, for being here. Do you have cost estimates that you have, considering how much you think it would be for any new built new home or remodeling?

**BRADLEY PIENING:** I personally have not generated cost estimates for, for this particular amendment here. But, you know, and I have seen estimates that say it could be as high as, I mean, \$900 for the cost of a new home construction. But I think whenever I look at the cost of new homes that-- I'll put a dollar out there, about \$250,000 for maybe a 20, 1,600 square foot home. And if we're talking \$900 over \$250,000, we're really talking about a 0.36 percent increase in the cost of a new home. And, you know, for less than a half a percent if you can enhance the safety of that home for your family and your children, that is certainly worth the effort, or it's certainly worth the investment.

**CRAWFORD:** Thank you.

**WAYNE:** Any other questions from the committee? Senator Briese.

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**BRIESE:** Thank you, Chairman Wayne. Thank you for your testimony today. And these are all situations here that weren't adequately addressed by the 2017 version of the National Electric Code?

**BRADLEY PIENING:** Yes, those do, you know, the 2017 version, it doesn't have GFCIs for the 250 volt appliances, ranges, dryers, that kind of thing. GFCI protection is only required in unfinished basements of the home right now, whereas this extends it to finished basements of the home. So and there are no disconnect requirements for first responders, or surge protection requirements to protect your lifesaving devices in your home.

**BRIESE:** Thank you.

**WAYNE:** Any other questions from the committee? Seeing none, thank you for coming today.

**BRADLEY PIENING:** Thank you, Senator Wayne.

**WAYNE:** Any other proponents? Welcome to your Urban Affairs Committee.

**KEVIN BOOKER:** Thank you, Mr. Chairman, members of the committee. My name is Kevin Booker, K-e-v-i-n B-o-o-k-e-r, I'm with the Nebraska State Electrical Division. The state board would like to ask that this bill be moved forward without amendments. The top four changes, as were previously discussed, deal with some of the things that you're going to see in the handout that she's handing out right now. Our electrical board consist of electricians, engineers, and representative local utility companies. I am sure that a lot of what you're going to hear for opposition is all going to deal with cost. The board is more concerned about the safety aspects. We have four major changes that are being contested. The one is surge protective devices, and the top three are on the handout I gave you. A SPD device can range anywhere from \$30, I've even seen some cheaper, all the way to several hundred dollars depending on the level. The code only says it has to have something there, we don't spell out what type you have to have, so you can meet the minimum requirements of the code. So I tried to use a lot of examples. Means our friends from Schneider Electric are here today and a majority of our breakers and panels in use in the state are typically either Square D or Siemens are our two biggest ones that we usually see. So you're going to see on the handout that I included, one from Square D. The next thing as was discussed is the GFCI protection for ranges and dryers. I, too, have heard many of the stories too, and as equipment gets older and starts

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to deteriorate, a good friend of mine told me the story of his range. His wife was getting shocks on it. It turned out that the lower element of the oven had started to deteriorate. And you know, so luckily he put a GFI on it just to see what was going to happen, and it tripped as soon as the oven turned on. The third one, oh, I'm sorry, and I do have on there some of the cost. I did not go off of wholesale, everything I took was straight off of Home Depot's website. It's about \$4.08 more for this particular breaker. I've heard estimates that it's going to cost upwards of \$50 to add a GFI requirement for the basements. We currently require AFCI protection for finished basements. It's the exact same installation--

**WAYNE:** So I'm sorry to interrupt, but we have a rule, a strict rule in the Legislature of no props so.

**KEVIN BOOKER:** Sorry.

**WAYNE:** Doesn't bother me, but we have tradition here, I guess we stick to.

**KEVIN BOOKER:** OK, sorry. So the installation takes no more time for that particular breaker. For the other two breakers, it is about the same, plus one more wire for your ranges and your dryers. Every wire that has to be connected is already in your panel. The misconception we have is that the six-foot rule for that is not from the edge of the stove, but it's from the receptacle. I looked at 20 homes in Lincoln done, being done by multiple contractors last week. Of 20 homes, I found one home that would have required a GFI on the range because it's one to six foot from the sink to the receptacle, it would not be required. So out of 20 homes, it would have been required in one. Yes, the change would require that all dryers be included in that.

**WAYNE:** I'd ask that you wrap up your final thoughts, if you have any quick.

**KEVIN BOOKER:** So the one quick thing that-- I won't use my thing. The one quick thing that I recalled when we were having this discussion was the discussion we had two code cycles ago on what the cost of putting tamper-resistant receptacles in your home were going to be. As some of you may have heard, it was \$5 to \$10 apiece. Today's cost of the difference between the standard receptacle and a tamper-resistant receptacle for residential use is 50 cents. So I don't know where that \$5 figure came from two cycles ago.

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**WAYNE:** Thank you for your testimony. Any questions from the committee? I do appreciate-- Senator Briese.

**BRIESE:** Thank you, Chairman Wayne. Thank you for your testimony today. If you had to put a number on the additional cost to new home construction and flowing from adherence to the 2020 code, what would it be?

**KEVIN BOOKER:** So previously I was an electrical contractor myself. So I know very, very closely. On your basic requirements that are here are going to be on all homes, but off of a standard home of the 200 amp service, as you can see from my numbers, I came up with a little over \$700. For a 400 amp electrical service, which is the max you're going to put on a residence, I came up with all the way from \$1,000 to \$1,200, in that ballpark. The one thing to keep in mind on that is a lot of our rural power companies in the state today already have that requirement, that you have to have a disconnect at your demarcation point, which is the point of where the utility makes their connection. In the city of Lincoln and larger municipalities, we don't have that. So we do have, between where you're at in the state, our rural REs are already going to require that for firefighter response.

**BRIESE:** Thank you.

**WAYNE:** Senator Hunt, I have to go to another hearing.

**HUNT:** OK. Any other questions from the committee? Seeing none, thank you for your testimony.

**KEVIN BOOKER:** Thank you.

**HUNT:** Next proponent of LB743. Welcome to your Urban Affairs Committee.

**MARK ZIEBELL:** Thank you very much, members of the Urban Affairs Committee. My name is Mark Ziebell, and I come here today as a resident of--

**HUNT:** Could you spell your name for the record?

**MARK ZIEBELL:** I apologize. M-a-r-k Z-i-e-b-e-l-l.

**HUNT:** Thank you.

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**MARK ZIEBELL:** I come here today as a resident of Nebraska and an electrical safety professional employed by Eaton to speak in support of LB743. Eaton and our employees provide market-leading solutions using general construction that perform to the highest standards of safety and reliability. Many of these products are installed in homes, commercial buildings, industrial facilities, and utilities across Nebraska and the country. Eaton employs over 700 associates in three facilities in Nebraska, and this includes the Kearney plant, which employs more than 475 members and it is one of the largest engine valve plants in the world. At Eaton we commend Nebraska and the Urban Affairs Committee with its diligent review and adoption of the latest building codes to provide electrical safety for its residents. We support the passage of LB743 without amendments. Thank you for your time.

**HUNT:** Thank you, Mr. Ziebell. Any questions from the committee? Seeing none, appreciate it.

**MARK ZIEBELL:** Thank you.

**HUNT:** Any more proponents for LB743? Seeing none, any opponents? Seeing none, anyone here to testify in the neutral capacity? You've got to be quicker. First opponent for LB743. If you would like to testify, don't be shy. That's why we're here.

**DENNY MOORLEGHEM:** Hello. Good afternoon.

**HUNT:** Welcome.

**DENNY VAN MOORLEGHEM:** I'm Denny Van Moorleghem, D-e-n-n-y V-a-n M-o-o-r-l-e-g-h-e-m. Give you a chance to write that down. OK, I'm here representing MOBA, the Metropolitan Omaha Builders Association, Build Omaha, which is-- there are two homebuilders associations in Omaha, so we're here talking for all the builders, vast majority of them that are in the association, as well ENDC, which is a group that we put together for for subdivisions and in development work. I can really see the confusion because I'm confused when the price-- we're here about protecting our homeowners and investment and about affordability. Our housing prices have gone up in the last 10 years, about 14-- \$114,000 and we're pricing ourselves out of the realm of new construction where we can't produce a house. We build about 60 houses a year in Omaha. Average sale price is about \$380. Nine years ago, it was \$290. So it's, it goes up about \$10 or \$15,000 a year and we can't control it. I'm going to just address a few of the things as

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I go through the memory of what people have talked about. In terms of profit, that we can't raise prices fast enough to meet the demand. Prices go up faster than we can raise the retail prices because we drive buyers away from the new construction product as much as it is now. So year, year in and year out our actual percentage of profit drops. We're trying to fix that, but we just can't do it. We're fighting appraisals, we're fighting all kinds of things. If we raise prices too fast, as well as our competitors. So this, this notion that we're making more money, I wish we were, to tell you the truth. OK? So I passed out some flyers here. You'll see that, that Sherwood Homes in Omaha asked their electrical contractor to bid these items and it's broken out to the penny, I was surprised to see. Total is about \$2,500. That's a, that's a big spread from \$100, OK? If it was \$100, we wouldn't be sitting here today. So that's really the reason that we are here. I don't know, we have an electrician here who could maybe do it, who will testify in a minute, who can probably address these costs head on. The prices that you see in front of you are labor, material, installed, and that's what a builder will pay. That's the instructions that was given to the contractor. OK? Not marked up, not funny name-- numbers that we can present to you down here in Lincoln. I'm gonna just talk about the four items. Of course, we're in support of codes and we're in support of safety. We work with it all the time in Omaha trying to make, make things safe. But we have to-- we figure out, we, we put our time in here, these associations try to keep housing costs down. Surge suppressors, as far as I can see, they're there to protect things, not people. That's the-- if somebody has sophisticated equipment in their house that dedicated whole-house surge suppressors, maybe they should pay for it themselves and not put that burden on everybody who buys a new house from this point forward. Some of the earlier testimony primarily talked, as I could glean, was about existing houses, sump pump failures because of that type of thing. Sump pumps are on our, our GFIs now, and so they're going to go out if they're, you know, if there's a problem. We can't do anything about what happened in the past, and I realize we want to fix it from now going into the future. Basement receptacles, so the GFIs, GFIs in the basement are required now if it's unfinished, all right? Upstairs in the bedrooms is, it's required, and it's because of the perception that basements are wet. There's more, there's more moisture. Well, maybe in the old days when we build-- we've got 60 houses under warranty today in a given time and our incidents of water problems are higher with basement wind-- with, with windows, I mean, in bedrooms where the outlets are than in the basements with a new sump pump and drain tile systems that go into effect. The, the disconnect with the

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prices on there, I was surprised at that \$1,200. That seems like a lot of money, but those are supposed to be real, real prices. And I understand the safety issue with that. Along with that is the fact that they can be turned off by the neighbor kids. They can be turned off when, when people are-- they can be flipped by the neighbor kids or by anybody trying to break into the house. I realize there's locking devices to, to, that can be attached to those. But in my world, homeowners don't do what they're supposed to do until it's too late.

**HUNT:** OK, thank you very much for your testimony. Any questions from the committee? Yes, Senator Briese.

**BRIESE:** Thank you, Senator Hunt. Thank you for testimony here today. The numbers we're talking about here, \$2,500 on a \$380,000 home, those kind numbers drive people away from the new housing market.

**DENNY MOORLEGHEM:** We just raised, our company just raised prices two days ago, five grand. OK? And that's all right, it's only February and we'll expect one, at least one or more, and lumber is going straight up. So that people can't afford new houses today. And they can't afford apartments either. They can't afford anything because of cost increases and rent increases. So, yeah, so that three-- that \$2,500 will probably go to the buyer in the neighborhood of \$3,000 because we have to mark it up somehow. And so that just adds on another layer of price increases.

**BRIESE:** OK. I mean, clearly I think it's something that can be passed on to the buyer. But you, you feel that that would have a negative impact on your sales, essentially? Is that--

**DENNY MOORLEGHEM:** It would have a negative impact in the industry because we're pushing people away from new houses, and that pushes them back to the existing market who all of a sudden get more and more expensive because, because of that balance between new and used.

**BRIESE:** OK, thank you.

**DENNY MOORLEGHEM:** Yeah, did I answer your question?

**BRIESE:** Yes.

**DENNY MOORLEGHEM:** OK.



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**HUNT:** Any other questions? Sir, hold on. I have a question. This is not my world, like electrical codes and fire safety and stuff like that. Everything I know about this, I've learned in this committee pretty much. But I had a question about something you said. You passed out this, this flyer of costs. If-- and then you went on to say that a lot of this is already required. Is that true?

**DENNY MOORLEGHEM:** No, none of it's required.

**HUNT:** OK. Well, what do you say about what we're already--

**DENNY MOORLEGHEM:** The arc-fault, arc-fault breakers-- or arc-fault outlets have to be in bedrooms upstairs. OK? And if you have an unfinished basement, I mean, you need, you need them in the basement if it's unfinished.

**HUNT:** Yeah.

**DENNY MOORLEGHEM:** And this is saying that if you finish the basement, you need them. But now you don't, so you need them downstairs instead of upstairs.

**HUNT:** And with the-- did you say that the costs of building are increasing all the time? Like you said, something about how that's higher than ever to build these.

**DENNY MOORLEGHEM:** So since we came out of the housing slowdown, the labor shortages, the material shortages, the fact that the contractors and suppliers starved for a number of years, for six or seven years. So they had, they had, they were barely making it. So now in the first four or five years out of the housing slowdown, which kind of came back in 2010, OK, the cost escalations went up. We're paying twice as much to frame houses as we did about five years ago.

**HUNT:** What's the, what's the reason for the increase?

**DENNY MOORLEGHEM:** There's not enough people to put them together. There's not enough skilled labor to put the, to frame the houses. The electricians have, there's a shortage of electricians in the state because of Google and all the big, I mean, electricians, these guys, I mean, they're, they're in-- so as, as the supply diminishes, the price goes up because everybody is getting more money across, across the board. Does that help at all?

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**HUNT:** Yep, thank you. Appreciate your testimony. Next opponent for LB743. Welcome back, sir.

**WARD HOPPE:** Thank you. My name is Ward F. Hoppe, W-a-r-d H-o-p-p-e. I'm an attorney, and I'm a homebuilder and I'm a developer. My niche is affordable housing, both Low-Income Housing Tax Credit and workforce housing. That's practically all we do. We have projects in Lincoln, Lexington, Grand Island, Fremont, and West Point. Last year I was chairman of the Affordable Housing Group of the National Association of Home Builders. The Affordable Housing Group, that's the group that focuses on affordable housing, basically housing targeted 80 percent median income and below or government-assisted housing. In my committee, we complain all the time about regulation, and particularly codes that increase the cost of housing. I'm here representing the Home Builders Association of Lincoln and the Metro Omaha Builders Association Coalition. I think Denny was here for the Metro Omaha Home Builders. I'm also speaking for the Associated General Contractors, Nebraska Building Chapter, which represents 130 commercial firms that build vertically in the industry. As a group, we oppose LB743. In a nutshell, it adds an inappropriate cost to housing without equivalent safety or benefit. First off, National Association of Home Builders says a regulation, and most of it unnecessary, causes 40 to 45 percent of the cost of housing. That's probably a little bit long, but it certainly is a big part of the cost of housing and how it works. In this case, LB743, under the numbers I've been given, which are \$1,500 to \$2,500 a house, certainly impact the cost of the houses I build. I don't build those, the mid-range numbers and units like Denny does. I build at the entry level, I build at the low level. I build for \$175,000 a house. And when you're at that zone, \$2,000 adds over 1 percent to the cost of housing. Well, here's what's important about that. Every thousand dollar increase in housing takes 190 families out of the market place in Lincoln, Nebraska. And if you're talking \$2,000, double it, that's 380. So when you say it doesn't make an impact on housing, it sure does. And then when you try and look up statistics in Nebraska for electrocutions or electrical problems, they don't even keep the statistics there that insignificant. To make a long story short, four provisions of this bill increase housing substantially. Previous, excuse me, testifiers that are testifying. We would ask that either those be removed or localities be given the option to choose, to choose to pull those provisions out themselves. And I appreciate you listening, and we would urge you to vote against LB743. And I believe following me will be a Lincoln electrician that knows the numbers, and at least where it would be in my Lincoln

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markets, what he'd charge me to put in the additional items necessary by LB743. Thank you. Any questions?

**HUNT:** Any questions from the committee? Seeing none, appreciate it. Next opponent for LB743.

**JUSTIN BRADY:** Senator Hunt and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for the Nebraska Realtors Association, the Metropolitan Builders Association, and the Home Builders Association of Lincoln. There are just a few things I wanted to add that the previous testifiers didn't have time to get to in their testimony. One, I am not the professional electrician that was going to answer all your questions, he's still coming up. But first of all, the issue, the questions have centered around new homes. The issue when you adopt a state code, it is also retroactive. If you do any remodeling of your home, the new code applies. These costs that has been talked about today are significantly higher with remodeling. Obviously, if you have to replace panels or pull new wiring or do these things, it's different from a new home to a remodel. So that, that is another factor that hadn't really been discussed so much here. Second of all, Senator Blood, had mentioned that the National Home Builders association were in support of the code. That is a accurate statement, although they do say they want these four sections removed, no different than the groups that I am here representing support moving to the 2020 code so long as those four sections that add significant cost are removed. And again, I quickly looked it up, the code is 896 pages long. These four sections are the ones that they're specifically saying, wait a minute, we believe they add such a significant cost to homes. So with that, I'd try to answer any questions. Thank you.

**HUNT:** Thank you, Mr. Brady. Any questions from the committee? I have no questions, but thanks for that information.

**JUSTIN BRADY:** You're welcome.

**HUNT:** Next opponent for LB743. Seeing none, anybody here to testify in a neutral capacity? Welcome.

**ERIC HOKE:** Hello. Hello, Chairman, senators. My name is Eric Hoke, H-o-k-e, I am the owner of Eric's Electric here in Lincoln. I do work here in Lancaster County, Omaha, and the surrounding areas. I'm here to talk about LB743, and I know there has been numerous numbers that have been given out. I was asked by Home Builders, which I had served

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on the board as the president of the remodelers council and served on as the board, to actually get the price of the increase of what they would like to do. Safety is huge. I, I agree with safety. I was a firefighter for 10 years. I know what it's like to go into burning homes, I know what it's like to throw water on stuff. But also, that's why they have breakers. Years ago, that's why we were here testifying about arc-fault breakers that we had to put in, which we had. And a lot of them turned out they didn't work, so we had to go back and replace them on our cost. My cost, the electrician costs, other companies who own their own companies' cost, till they finally started getting it right. Now they want to start adding some more stuff, which again, I'm not going to say safety is-- safety is important. Surge protection, I know that numbers are thrown out pretty hard. My supply house where I get my surge protectors can average between \$35 dollars and \$100, \$35 being the lowest in you can have, to over \$100. Which is pretty reasonable. That protects more of your electronics, your TVs, your appliances, things like that. Basement protection of AFCI, GFCI breakers, those are \$36.50. Now, these are cost just from the supply house. This is not our markup, this is just a true fact of what our supply house. There's many supply houses here in Lancaster and Omaha. So \$36.50 of which would get you an arc-fault breaker and a GFI protection at the same, in the same breaker that would do everything you needed to do for your basements. An average basement sometimes would be an average of five to eight breakers, depending on what size. But some of these smaller homes, there might be one bedroom in there and one basement. Also on the Section 210.8, the 240 volt GFI protection, yes, those incidents of tragic were done other places. The dryers and stoves, those get into situations of when you're putting 240 volts to arrange a dryer and air conditioner. Those breaker cost are \$95.55 apiece for a GFI breaker, which would help, you know, that that's, that's what those cost per supply house. An average cost of the regular breakers that would go in a low-income home, which would just be a regular two-pole breaker, they're around \$7.25, just for regular two-pole breaker for your air conditioner, your dryer, or your range. So this increase of \$95.55 just for that GFI breaker for your homes. The big, and the big topic now would be the main disconnects, the disconnects that are going to go on the outside of the house. And yes, I will have to admit this has been inflated quite a bit. A normal cost from our supply house, now, there's many supply houses, 100 amp panel, the main disconnect would be \$485 for 100 amp. For a 200 amp, you'd be about \$533. For 400 amp on up, you're about \$980. Now this just includes material only, does not include labor to this stuff. The things that I guess I have questions on are-- I also do a lot of work

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for restoration companies here in Lincoln. Their main concern is the code, code upgrades that people have when they have insurance. There's a lot of houses that people don't have code upgrades. If all this came effect then they're not going to be able to afford the code upgrades, which then and later would have to pay out in the home since. So that's what the problem is, would be with that. So I have any questions if you need.

**HUNT:** Thank you so much for your testimony. Any questions from the committee? Senator Briese.

**BRIESE:** Thank you, Vice Chairman Hunt. And thank you for your testimony. You heard testimony earlier about the typical cost in a new home construction of what, what these would add up to. What would your total be ballpark?

**ERIC HOKE:** Labor and material, I'd be around \$2,500 per home. And that's just, you know, that's typical, you know, home. But, you know, also you got to also look at the, the homes for people that are first-time buyers. That, that's what, that's what's the thing is these first-time homebuyers trying to get a house and they have to come up with all these expenses. The second thing is, I know the disconnects are pretty difficult, too, on the outside of the house, which is a safety thing. But also the big thing is I know I'm going to get phone calls and I know other electricians are going to get phone calls of some kids running through the night, turning the breaker off, unless they put a lock on it. Some homeowners, you can tell them put a lock on it, they might forget. So that's just a, just an F, you know, FYI or something back.

**BRIESE:** OK. Thank you.

**ERIC HOKE:** You're welcome.

**HUNT:** OK. Any other questions? Thanks for your testimony today. Anybody else here to testify in the neutral capacity on LB743? Seeing none, Senator Blood, you're invited up to close.

**BLOOD:** Thank you, Chairperson Hunt, or co-chair or acting chair. So it was nice to see my friend Denny up here again, because he and I had many conversations when I was on the Bellevue City Council. And what I like best about working with him, and we did talk about this bill in advance, is that it's nothing personal. And I always respect that with him. I'm always concerned when we minimize things like people possibly

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being injured. For those that are from Omaha, the Omaha area, I'm sure you remember when Steven Nitz, that was just, I think, two years ago. He was an electrician that was injured while working on a building in downtown Omaha. He was electrocuted and burned. So we have to remember that there are people that we are trying to protect, not just the homeowners, but the workers as well. I think about tax dollars, I think about when there is an emergency, when there is an issue. And we haven't updated our codes based on technology, and technology in homes is changing. Ultimately, that costs taxpayer dollars for the entire community. Every time the fire truck comes in response, every time a first responder comes and responds to an emergency that comes out taxpayers' pockets. Do I have concerns that the cost of housing is going up in my part of the state? Absolutely. But the universal thing I keep hearing is that the reason that it's going up is because we don't have enough workers. And we don't have enough supplies. And so those costs are going up. So as those costs go up, do I feel bad for the consumer? Absolutely. Do I feel bad for the builders? Absolutely. I support the work they do. That doesn't take away from the fact that we have building codes and we have fire codes and we have electrical codes. We have codes for a reason. It's not because we're trying to do unfair regulations, it's that we're trying to protect public, stay updated, and be consistent. I'm not sure why we have an electrical board if we want to ignore what they're telling us. What would be the purpose? If they can't come to us and ask for change, why do we have an electric, electrical board? So I know that I'm not real popular with some people that I'm usually great friends with right now, but I feel like I'm doing it for the right reason. As you heard, there is apparently no middle ground to be had. And everybody's numbers are very different. So what the decision that needs to be made is do we do as we always do, which is we respect the people who we put in charge of letting us know what codes need to be updated? Or do we decide on our own that what they do is add-- for a job is not important and we don't really care what they have to say? And so I feel really fortunate that that now is on you, as I like both sides. But I do feel like this, this bill was brought forward for the right reason, and I hope you really consider all of the circumstances involved, especially who recommends when we change the code. Because I don't feel that they do this willy-nilly or without the support of the expertise that they have on that board. With that, I thank you for your time this afternoon. And I'd be happy to answer any questions, but it sounds like pretty much everybody's told you everything you need to know today.

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**HUNT:** Thank you, Senator Blood. Any questions from the committee? Seeing none, thanks for the bill.

**BLOOD:** Thank you so much for your time. I'll go back to my other committee.

**HUNT:** I'm going to turn over to Senator Crawford.

**CRAWFORD:** Sure. Which bill is next?

**HUNT:** Oh wait. Before, before we switch, there is some letters for the record. There's a letter in support from Schneider Electric, a letter in opposition from Sierra Homes, and a letter in opposition from the Nebraska State Home Builders Association. And next we'll move to LB984.

**CRAWFORD:** All right.

**HUNT:** By me, Senator Hunt.

**CRAWFORD:** All right, Senator Hunt. Welcome.

**HUNT:** Thank you. Thank you, Chair Crawford and members of the committee. My name is Senator Megan Hunt, M-e-g-a-n H-u-n-t, and I'm here today to present LB984. This bill would require that vacancies on certain municipally-appointed boards, authorities and agencies be filled no later than six months after the date of the vacancy. Under this bill, airport authorities, transit authority boards, land bank boards, riverfront development authority boards and housing agency vacancies must be filled no later than six months after the date of the vacancy. Currently, there is no statutory deadline for filling vacancies on these boards, agencies, or authorities. This issue came to my attention when a couple of articles appeared in the news about extended vacancies for certain positions. While I don't think these positions were left vacant intentionally, sometimes things fall through the cracks. LB984 provides a time line to make sure these positions are filled in a timely manner. While each of these boards, authorities, and agencies are appointed by municipalities, each of these entities is a legally separate political subdivision. Ensuring that these positions are filled in a timely manner is important because the import-- the appointments that municipalities make affects separate political subdivisions. So while the municipality is making these appointments, it impacts a separate independent authority for policymaking purposes. LB984 seeks to guarantee that those responsible

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for filling these vacancies act in a timely way to ensure that these political subdivisions can continue to meet their obligations and do their work for taxpayers and voters. The time line provided by this bill makes sure we avoid any extensive vacancies for, for authorities, boards, and agencies that provide vital services to Nebraskans. And I'd be happy to answer any questions. Thank you.

**CRAWFORD:** Thank you. Any questions from the committee? Seeing none, thank you. We'll now hear from proponents of LB8-- LB984. If anyone here is to speak in favor of LB984. Is there anyone here wishing to speak in opposition to LB984? Welcome.

**MARTY BILEK:** Good afternoon, senators. My name is Marty Bilek, M-a-r-t-y B-i-l-e-k, I'm chief of staff for Mayor Stothert in Omaha. Mayor Stothert is opposed to LB984 because it would create an arbitrary deadline for filling vacancies on certain boards and authorities that she currently manages. The mayor makes appointments to approximately 65 boards, commissions, authorities, and councils. With rare exceptions, vacancies are filled in a timely manner and the system we have in place is very efficient. Our boards and commissions binder contains the documents that create and define each of our boards, commissions, and authorities. These documents are provided-- these documents are approved by city ordinance, city charter, executive order, and state statute. They define scope of responsibility, number of board members, their respective terms, and the approval process. A separate spreadsheet is maintained and constantly updated that lists all of our board appoint-- appointments in order of their expiration date. Months ahead of expiration, mayor staff begin researching and vetting each vacancy to determine if the incumbent will be reappointed or if a new selection must be made. If a new selection must be made, one of three mayor's office staffers will consult with the appropriate city department director or city leader to compile information on new prospects and make recommendations to the mayor well before the vacancy occurs. The introduction of this legislative bill was likely precipitated by recent media coverage regarding vacancies that existed on the Omaha Housing Authority Board. Those board appointments have since been filled and the delay should be considered an anomaly. Finally, all of our boards, commissions, authorities, and councils are listed on our website along with member responsibilities, length of term, and expiration dates. The website serves to inform all of our citizens when opportunities exist to serve their community. Mayor Stothert asks that you oppose LB984 as it is



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unnecessary dairy and attempts to fix a problem that does not exist.  
Thank you.

**CRAWFORD:** Thank you. Are there any questions from the committee? Yes,  
Senator Arch.

**ARCH:** Thank you. Thank you for your testimony. Do you happen to know  
if you have current vacancies over six months?

**MARTY BILEK:** No, we don't. We, we seldom do.

**ARCH:** OK.

**MARTY BILEK:** Very seldom do we have-- it was an unusual circumstance  
that happened with the OHA board.

**ARCH:** Thank you.

**MARTY BILEK:** Basically I'll tell you what the circumstances were,  
somewhat, as we had to work with the OHA board, take their  
recommendations about residents of their facilities so that we could  
consider them and further vet them. And there was a communications  
breakdown and it's since been resolved. Those are all filled. And I  
think we're, we're in good shape now.

**ARCH:** Thank you.

**CRAWFORD:** Thank you. Any other questions from committee? Yes, Senator.

**BRIESE:** Thank you. And thank you for being here.

**MARTY BILEK:** You're welcome.

**BRIESE:** So it sounds like this bill wouldn't have much of an adverse  
impact on the mayor's office.

**MARTY BILEK:** It would have-- be honest with you, it would have little  
impact either way.

**BRIESE:** OK, thank you.

**CRAWFORD:** Thank you, Senator Briese. Any other questions? Seeing none,  
thank you for your testimony.

**MARTY BILEK:** You're welcome.

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**CRAWFORD:** Any other opponents of LB984? Anyone wishing to speak in a neutral capacity? Seeing none, Senator Hunt, would you like to close?

**HUNT:** Sure.

**CRAWFORD:** And there are no letters in opposition or in favor for the bill.

**HUNT:** Thank you, Senator Crawford. Mr. Bilek is right. This bill was brought up because the Omaha Housing Authority had no resident or racial minority member for months, but the law requires both. There was no resident commissioner for nine months, and at least five months went by without a racial minority on the board, which is required by law. When seats sit unfilled like that, you know, in this case, it affects 1,500 people who live in public housing in north and south Omaha and in my district. And so I think some guidance like this from the state can prevent these things from happening in the future. It's a good governance bill. We want to make sure that political subdivisions have the people in positions of authority that are required by law in a timely fashion. And, you know, in this case, it happened in Omaha. But there's nothing saying this couldn't happen anywhere in Nebraska. So the time line provided by this bill makes sure that we avoid any extensive vacancies like that. Six months is a very reasonable time period to find somebody to fill these vacancies. And so I'd ask this committee to advance the bill. Thanks.

**CRAWFORD:** Thank you. Any other questions from the committee? Seeing none, thank you. That will close our hearing on LB984, and I'll turn it back over to Vice Chair Hunt.

**HUNT:** We're gonna stand at ease for a couple of minutes so we can find Senator Wayne.

[BREAK]

**HUNT:** Welcome back to Urban Affairs. We're going to get back into it with Senator Morfeld's LB1116, whenever you're ready. And we'll, we'll return to LB864 from Senator Wayne after this bill.

**MORFELD:** OK. Vice Chairman-- woman Hunt, members of the Urban Affairs Committee, for the record, my name is Adam Morfeld, A-d-a-m M-o-r-f as in Frank-e-l-d, representing the "Fighting 46th" Legislative District here today to introduce LB1116. I introduced the LB1116 to help build healthy habits by requiring new constructions of schools to include

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water fountains. It does so by clarifying the standards that determine access to water in schools and placing into statute a key water access practice omitted in the 2018 Uniform Plumbing Code, which was recently adopted by this committee. This is a proactive, cost-efficient method to limit childhood obesity before it begins. LB1116 requires new construction of schools to include access to water fountains. Due to the time young people spend there, schools are a natural location for a proactive, cost-effective interventions to reduce obesity. The average amount of water consumed by students is greater in schools that provide and promote water. Making water available throughout a school building will also reduce reliance on sugary beverages before and after the school day. Nebraska, unfortunately, has an obesity problem. More than a third of our adults are considered obese, placing us 15th highest among states. The percentage of obese adults in Nebraska has risen 9 percentage points since 2003, increasing more each year. LB1116 can alleviate this problem by encouraging healthy habits in children, one of which is to encourage drinking water. I urge your favorable consideration of this bill. There are people behind me to testify in favor that can give answers to specific questions. And now I'm thirsty.

**HUNT:** Thank you, Senator Morfeld.

**MORFELD:** Had to throw it out there.

**HUNT:** Very cute.

**MORFELD:** Thought about bringing a big thing of water.

**HUNT:** Any questions from the committee? Seeing none, thank you.

**MORFELD:** Thank you.

**HUNT:** First proponent for LB1116. Welcome.

**JOHN HLADIK:** Thank you. Good afternoon, Vice Chair Hunt and members of the committee. My name is John Hladik, that's J-o-h-n H-l-a-d-i-k, and I am testifying on behalf of the Center for Rural Affairs. LB1116 addresses an omission in the Uniform Plumbing Code. The 2009 version requires schools to install at least one drinking fountain on each floor of a building designed for educational occupancy. And this requirement is absent from the 2018 Uniform Plumbing Code, which would allow schools to construct brand new buildings that do not include at least one drinking fountain on each level. This committee recently

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advanced LB809 to General File, which would update Nebraska's default plumbing code to the 2018 version. LB1116 would correct, correct this important omission by reestablishing the requirement that at least one drinking fountain be installed on each floor of a new school building. LB1116 is not a mandate. Right now, schools are being asked to follow two conflicting standards on planning for new school construction. Schools must follow the requirements of the International Building Code, which states that school buildings must include one drinking fountain for 100 occupants. And schools are also being asked to follow the Uniform Plumbing Code, which states that buildings must include one drinking fountain per 150 occupants. When building codes conflict, the practice is to follow the more stringent standard. LB1116 would clarify this in statute by setting one clear and simple standard. LB1116 only applies to new school construction. The Uniform Plumbing Code only takes effect when certain actions are taken. These actions include the construction of any new school building, an addition to any existing building, or a change in the occupancy limit or type of occupancy in any existing building. LB1116 adopts the same triggers as the Uniform Plumbing Code and will only apply when the terms of the code must be followed. There is nothing in this bill that would require schools to retrofit or modify an existing school building. LB1116 only applies to buildings used for educational purposes. A building must be considered educational occupancy under the Uniform Plumbing Code for these terms to apply. Standards for educational occupancy only apply to private and public schools. LB1116 adopts the same terms as the Uniform Plumbing Code and will only apply to buildings determined to be uniform, excuse me, educational occupancy under the code. We also urge consideration of AM2343. We feel LB1116 will make very important progress, but greater changes may be considered by the committee. In particular, bottle filling stations are widely recognized for successfully increasing water consumption during the school day. AM2343 follows the same format as LB1116, but applies to bottle filling stations instead of drinking fountains. Replacing drinking fountains with bottle filling stations would make it more likely that a student is able to access water throughout the school day and during, before, or after school activities. Achieving this would require that schools permit students to carry water bottles and AM2343 accounts for this by encouraging but not mandating them to do so. And with that, I would be glad to take any questions.

**WAYNE:** Any questions from the committee? Senator, Senator Hunt.

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**HUNT:** Thank you. So this says that the water bottle filling stations may be integrated, but it's not a mandate?

**JOHN HLADIK:** That's right.

**HUNT:** In this amendment, I'm sorry.

**JOHN HLADIK:** Yeah. In the amendment, it would be a mandate to include water bottle filling stations. And frankly, from our perspective, we think the first issue of importance is making sure that if we're going to build a new school, at least one drinking fountain on each floor. That is just a base standard. But I understand if the committee feels that this doesn't go far enough in really encouraging water consumption and AM2343 would, would do that.

**HUNT:** Tell me about schools that don't have water fountains.

**JOHN HLADIK:** We were fortunate enough to meet with the commissioner of education and to speak to some rural areas. And there are some challenges. We also heard of a school who doesn't have any running water whatsoever, and so they actually use outhouses, in the far western part of the state. And so while it might seem very reasonable to us, and certainly within architecture, I think it's probably an accepted best practice to go ahead and put that drinking fountain on each floor. The issue is that the 2009 building code had this, excuse me, plumbing code had this, 2018 one doesn't. And so we just want to be sure that's there as a backstop just in case. This may be more important when you talk about a major school renovation. If you're building a new wing with two floors, something along those lines, just to make something-- sure something is there. And from a financial perspective, I think it's reasonable because you're going to have a standard for bathrooms, and it's not gonna cost a lot of money to run a pipe to the other side of that wall, put that drinking fountain in there. And so the more you dig into it, it's, it's a new issue for me. From your comment earlier, I think we're both learning quite a bit here. A new issue for me, and I've just been very surprised to see some of the challenges that schools face. And as we know, schools move toward building those healthy habits and building more healthy students. This is one small step we can take.

**WAYNE:** Any other questions from the-- Senator Crawford.

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**CRAWFORD:** Thank you, Chair. And thank you for being here and for your testimony. So how would this interact with the one drinking fountain per 150 occupants rule?

**JOHN HLADIK:** Well, right now, I believe it's practice to follow the more stringent of the two. And so if I'm an architect and I'm proposing to build a school, I'm going to follow that at 100. The issue is that the code is conflicting. And so this would simply clarify and set that standard at 100. In practice, I think they're probably following the 100 anyway, but it's helpful to have that clarified in statute. And that's what the bill seeks to do.

**CRAWFORD:** Thank you.

**WAYNE:** Any other questions from the committee? Seeing none, thank you for coming today. I'm just curious, how many people are testifying on this bill? OK. Next proponent.

**LISA EISENMENGER:** Good afternoon.

**WAYNE:** Welcome to your Urban Affairs Committee.

**LISA EISENMENGER:** Good afternoon, Chairman Wayne and committee members. My name is Lisa Eisenmenger, L-i-s-a E-i-s-e-n-m-e-n-g-e-r. I am a mom, a physical therapist, and a 15-year-resident of West Point, Nebraska. The Center for Rural Affairs informed me of this bill, however, I am testifying in support of it with entirely my own comments. I fully support LB1116. It simply clarifies and improves access to clean possible drinking water and schools. A small investment in water fountains, specifically in new school construction, can make positive changes in the lives of children by providing them with access to inexpensive, healthy water while reducing long-term cost, waste, and expenses of treating chronic health conditions. West Point is in northeast Nebraska and has approximately 3,400 people and three separate school systems: public, Catholic and Lutheran. Our municipal water system has seen steady increases in unregulated neurotoxic contaminants over the last two years. In August, 2019, the Department of Health and Human Services finally issued a drinking water advisory, ultimately informing residents that our water isn't safe to consume at any age. Recognizing kids are among the most vulnerable citizens, DHHS promptly notified the schools to turn off the water fountains. Since then, all local schools have been providing bottled water or specially filtered fountain water. This has directly led to unexpected costs, increased

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waste, and decreased access to healthy water. As our educators quickly recognized, kids are thirsty. Between recesses, lunch, PE classes, and athletics, kids consume more water than previously realized. Furthermore, it's apparent that without drinking fountains, kids do substitute unhealthy alternatives even when the pop machines are turned off. Schools teach more than academics, they teach health habits. Offering water as an easy choice for kids sets them on a successful path for future health. While LB1116 won't fix our local water situation, as Nebraska's safe drinking water regulations are both outdated and basic. However, I assure you this bill is needed, realistic and achievable. My kids' school was built in 1918 and even that historical building meets the requirements of this legislation. Finally, LB1116 is not an unnecessary unfunded mandate. I used to say we don't need more laws. Generally, Nebraskans make sound, difficult choices and are accountable for their actions. But unfortunately, I've personally experienced the exceptions. Now I argue that we need enforceable standards and I don't think this legislation is excessive in any way. I hope you'll advance this bill. It's straightforward, it protects citizens from undue harm while establishing grounds for enforcement of what's right. Thank you.

**WAYNE:** Thank you. Any questions from the committee? Seeing none, thank you for coming today.

**LISA EISENMENGER:** Thank you.

**WAYNE:** Next proponent? Welcome to your Urban Affairs Committee.

**JULIA ISAACS TSE:** Good afternoon, Chairman Wayne and members of the Urban Affairs Committee. For the record, my name is Julia Isaacs Tse, J-u-l-i-a I-s-a-a-c-s T-s-e, and I'm here today on behalf of Voices for Children in Nebraska. Children are Nebraska's greatest resource and when, when children can reach their full potential in adulthood, our state and economy are better off. Adequate water intake improves children's health, and Voices for Children in Nebraska supports LB1116 because it ensures that more children can access drinking water during every school day. Adequate water intake improves general and oral health among children and has also been shown to improve brain functioning and educational performance in young minds. Over half of American students have inadequate hydration levels. Boys, black and Hispanic children, and younger children age 6 to 11 were much more likely to be inadequately hydrated. Boosting healthy water consumption among children should start where children spend much of their day, in schools. Schools participating in federal school meal programs are

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currently already required to provide drinking water at no cost during meal times. But access outside-- to water outside of meals vary significantly. One survey of over 1,200 American students found that 40 percent of students reported having only a few drinking fountains or dispensers, while nearly 3 percent of students reported having no working fountains. Another recent survey found that nearly a quarter of American schools did not permit students to carry a water bottle with them during the day. The installation of water fountains and provisions for water bottles in schools increases water intake and healthy hydration habits among students by taking the place of sugary drinks. One study found a triple-fold increase in water consumption after schools installed water jets and provided cups or water bottles. Another study found that schools with water dispensers were more likely to have students at a healthy weight, while the installation of water dispensers resulted in a decline in overweight students. By establishing a single standard to address water access in new school construction, LB1116 ensures that more young Nebraskans are healthy and ready to learn every day at school. Strengthening access to drinking water during the school day is a commonsense policy and support, support for it is strong. A recent national survey found that 96 percent of American adults supported requiring access to water throughout the school day. We thank Senator Morfeld for bringing this important issue forward and this committee for their time and consideration. We respectfully urge you to advance the bill. Thank you.

**WAYNE:** Thank you. Thank you for coming. Any questions from the committee? Seeing none, thanks again.

**JULIA ISAACS TSE:** Thank you.

**WAYNE:** Next proponent. We'll move on to opponents. Opponents? Anybody testifying in a neutral capacity. Senator Morfeld, you can close on your consent calendar. Yeah. Well, let me look at the letters of opposition. Letters of support from Amanda Kinney, American Heart Association; Sheena Helgenberger; Voices for Children; Sarah Soldier [PHONETIC], Megan Herrington [PHONETIC], Chris Redding-Wagner. Opposition: Nebraska Association of School Boards. Everybody just let the wind come out of the-- all right, am I up next? I am next, OK. What are we starting with first?

**HUNT:** Senator Wayne, you're invited to open on LB864.



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**WAYNE:** Good afternoon, Vice Chairwoman Hunt and members of the Urban Affairs Committee. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. As comm-- committee members no doubt recall, one of my priorities last session was LB85, which sought to address the Rental Housing Inspection Program in the city of Omaha. While ultimately the city adopted the Rental Inspection Ordinance without a need to pass LB85, many issues still occur that led me to introduce this bill. I'm kind of going a little bit off script. It's, it's partly because after talking to lots of tenants, talking to people in my district, people who own pest control companies, we introduced this bill to start a conversation. I think in no way this year will we be able with the short session to get this done. But the issue is so relevant when we talk about Omaha, particularly dealing with landlords and dealing with rental, with the influx of all these different communities coming together. Bedbugs can present a public hazard, particularly at schools, particularly on airplanes, particularly at hotels. And I've had legislative hearings interim studies, and sometimes we get good information and sometimes we don't. But when you introduce a bill, it seems everybody comes down and we can have a conversation about what works, what doesn't work, why there might be need some statutory changes, why there might not be some statutory things. But the reality is, is, it's something we as a body are going gonna have to deal with, as we continue to see population growth, as we can see-- continue to see urban development, as we continue to see affordable housing that includes apartment units and everything like that where people are living closer quarters. So I look for a discussion here. I would highlight to many of the people behind me, I don't want to consistently have people get up and just repeat the same thing. If there's something new and you're opposed, you can fill out the gold sheet and just say you're opposed or you're in support. But I am trying to get, one, who are all the people that should be at the table; and two, what are we doing about this issue? Because it is becoming a stress on our school systems. It is becoming a public issue, a public health issue. And so that's what the purpose of this bill is, is to have that conversation and see where we're going. And that maybe in a long session we can put together a package that works. Or maybe it doesn't even require statutory at all. It might just be something that the parties can work out within themselves. But we need to have that conversation. And I look forward to answering any questions.

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**HUNT:** Thank you, Senator Wayne. Any questions from the committee? Seeing none, thank you. First proponent for LB864. Welcome to your Urban Affairs.

**CARL BRAUN:** Good afternoon, Senator Hunt and senators of the Urban Affairs Committee. My name is Carl Braun, C-a-r-l B-r-a-u-n, and I am here to talk about bedbugs. I'm the owner of Quality Pest Control in Omaha and I'm also the president of the Nebraska State Pest Control Association. NSPCA represents professional, structural pest management companies in Nebraska and appreciates this opportunity to provide testimony in support of LB864 regarding professional bedbug management in Nebraska. Our member companies manage pests, including rats, mice, cockroaches, bedbugs, mosquitoes, termites, and many other pests in institutional, commercial, and residential settings. We're committed to providing quality pest management services that protect public health, food, and property. We support LB864 and recognize it as a private sector solution and ultimately the best solution to Nebraska's bedbug problem. Our support for LB864 stems from its adherence to bedbug management best practices that are based in science, proscribing duties-- prescribing duties for landlords, tenants, and pest management professionals, in most circumstances, requiring landlords to hire licensed PMPs. We are the most effective at eradicating bedbugs. We do believe that LB864 is great as it is, but could be improved by extending its reach to cities beyond the metropolitan class and potentially the entire state. Bedbugs are an incredibly complex insect to treat. Their unique hiding behavior and ability to feed undetected requires more extensive control measures than do cockroaches and other indoor pests. Eradicating bedbugs is very labor-intensive. It often requires movement of furniture and in some cases even disassembling it. Multiple treatments are necessary until success is finally achieved. This is not a task that is easily accomplished by the regular homeowner, landlord, or tenants. They do not understand the complex biology of bedbugs and are often armed with insufficient products and are ill-prepared to understand the amount of work required for successful bedbug management. According to job records from an NSPCA member company Orkin Pest Control, Omaha is one of the hardest-hit cities by bedbugs, ranking 35th in the list of top infested cities in the U.S.. Nebraska's bedbug policy has fallen behind other places heavily infested with bedbugs. Chicago and Philadelphia, as well as multiple states, including Connecticut, Colorado, Maine, just to name a few, have passed laws requiring the use of licensed PMPs. These laws are excellent policies because they, because they have no fiscal impact, yet are effective at reducing

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infestations and improving the lives of your constituents. LB864 is a private sector solution to a public health problem. I have clients who are victims of harrowing bedbug infestations, moms fearful of putting their babies to bed at night, barely sleeping themselves. The disabled grandfather in a wheelchair, living in an apartment crawling with bedbugs. And the family is afraid to ask their landlord for help because they fear eviction and nowhere to go. With infestation comes the stigma, the societal shame, physical distress, distress of bites, allergic reactions, secondary infections from bedbugs. Then there is the mental toll that often leads to loss of sleep, anxiety, and depression. Due to the difficult nature of managing these pests and the havoc they wreak, it is imperative that Nebraska has a specific law addressing the duties and responsibilities of landlords, tenants and PMPs. Implementing the expertise of licensed professionals is the most reliable and feasible answer to curbing bedbug infestations. Tenants should not fear eviction and its ramifications when they notify landlords of infestations. Landlords should be responsible for employing PMPs for inspections and treatments. Tenants must cooperate. It is a win-win-win situation. Tenants get relief from bedbugs, landlords ultimately save money by squashing the problem early and preventing the spread of infestation in their building, and the people of Nebraska win with fewer bedbugs being spread, spread among public transportation and schools, offices, apartments, and homes. I and the NSPCA strongly urge you to pass LB864 and fight back against bedbugs. And I apologize, I ran a little long.

**HUNT:** Thank you very much, Mr. Braun. Any questions from the committee? Seeing none, thanks for being here. And thank you for what you do.

**CARL BRAUN:** It's an honor.

**HUNT:** Next proponent for LB864.

**HARRY HEAFER:** Good afternoon, members of the Urban Affairs Committee. Thank you very much for hearing testimony this afternoon. My name is Harry Heafer, H-a-r-r-y H-e-a-f as in Frank-e-r, I'm a registered environmental health specialist through the National Environmental Health Association and the state of Nebraska. And I'm here on my own time, taking vacation time, not representing my employer. Make that clear, please. As a registered environmental health specialist, one area that I received many hours of training and is learning about bedbugs, their lifecycle, and best management practices for effective treatment. Bedbugs don't care how neat or clean you are, how rich or

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poor you are. They affect people of all economic statuses. They affect not only rental units, but also hotels and motels. When you travel, you can pick one up and bring it home. Movie theaters, airplanes, courthouses, which has happened here in Lincoln, and potentially even legislative hearing rooms. Any place the public gathers, you could find bedbugs. They hitchhike on clothes, on backpacks, however, they might get around. But that's how they typically travel. I also, in addition to my testimony, which as you can tell, I've added some scribbling notes to my own, which isn't complete for yourselves, but I also provided you a brochure from the Lancaster County Extension on dealing with bedbugs. This is an excellent document for people to have some general information about bedbugs and will provide you with some interesting bedtime reading tonight. You might have heard the phrase and been told by your own parents: sleep tight, don't let the bedbugs bite. I always grew up thinking that was just a fairy tale, but it's perhaps a scary Grimm fairy tale for those that actually have to face big bedbugs and live with them. I've done numerous inspections for bedbugs and observed that many landlords and some hotel, motel managers and owners use inappropriate techniques or make halfhearted efforts to effectively and properly treat bedbugs. LB864 is a good start in requiring owners of rental properties to hire licensed Nebraska-certified pest control operators to treat for bedbugs, which should result in more effective eradication of bedbugs in tenants' dwellings. This bill also includes a definition of a qualified inspector, which I'm glad to see includes local health department officials. I appreciate Senator Wayne's introduction of this bill. And as he mentioned, opens the conversations on a broader expanse for the discussions of how Nebraska could address this problem. LB864 also requires tenants to promptly notify their landlord if bedbugs are found and sets a time line for the landlord to inspect and treat. However, landlords need to do more and educate their tenants about the risk of bedbugs. The flyer that I provided you is available online as well through UNL Lancaster County Extension, it is a good start. Many people don't realize the itchy bites they wake up with is not likely a spider, but could be a bedbug and should be reported to the landlord without fear of being evicted. Another positive of this bill is providing requirements of certification of scent detection canines as part of the bedbug detection team. This will help ensure individuals don't try to pass off improperly or untrained dogs, thus scamming people who think they are hiring a certified bedbug dog. It's a good start in setting requirements as mentioned, however there are some changes I would encourage to be made to strengthen this bill across the state. As written, only Omaha is included in this bill. It should

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be expanded to include all cities across the state, particularly primary-class cities, which is Lincoln, and first-class cities, which is about another 30 communities. The bill only covers dwellings and tenants, but not hotels and motels. Many, if not motels and hotels, do a good job in addressing bedbugs and use licensed pest control operators. However, there are motel, hotel owners that don't or attempt to self-treat or just ignore the problems since their customers will be gone in a day or two. Hotels and motels should be required to use licensed pest control operators, which is required in several other communities in other states. While this bill requires someone who inspects or treats for bedbugs to be a licensed certified pest control operator, it excludes businesses who have a legitimate heat treatment operations. Additional requirements should be written to include heat treatment as an effective alternative for treating bedbugs.

**HUNT:** Sorry, I have to ask you to wrap it up, and we have your written testimony here. So if you have any final thoughts.

**HARRY HEAFER:** Heat treatment can also protect people from chemical exposure. So I would encourage additional language should be included. Thank you. Open for any questions.

**HUNT:** Thank you very much for your testimony. Any questions from the committee? Seeing none, appreciate you coming today and for taking your vacation time. Next proponent for LB864. Seeing none, any opposition testimony? Welcome, sir.

**JOHN CHATELAIN:** Good afternoon. Good afternoon, Vice Chair Senator Hunt and other members of the committee. My name is John Chatelain, J-o-h-n C-h-a-t-e-l-a-i-n, I'm a private practice lawyer in Omaha and also a landlord and also president of the Metro Omaha Property Owners Association. And we manage probably about 20,000 rental units, all of our members do, in the Omaha area. And our association opposes LB864. We're certainly not in favor of bedbugs. We certainly feel that there needs to be a way to deal with them. But we oppose this bill as written. My first question is why would it only apply to Omaha? There's certainly bedbugs in Lincoln and Grand Island and North Platte and other cities across the state, so I'm curious as to why it was just targeting Omaha. Under the bill, the landlord must engage a qualified inspector, I'm not quite sure what that is, within 96 hours of an electronic or written notice of a known or suspected bedbug problem. Now this notice provision in the act appears to be pretty weak to me. It allows for electronic notice and the landlord may or

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may not get the notice, but yet that 96-hour clock starts running. Another issue is that the management has no opportunity to conduct its own due diligence regarding the alleged problem before incurring the cost of the qualified inspector. What would the cost of a qualified inspector be? It's unknown. But to the extent that this bill would create a lot more business for that type of professional person, I'm sure there would be a cost there. And it's unclear just what that would be. Also, the bill talks about a commercial applicator, and the qualified inspector would likely be a commercial applicator. So could there be-- what would be the cost of the treatment? It appears once the qualified inspector is engaged the landlord has lost control of the process. It's in the hands of the experts. This bill does not distinguish between multifamily rental properties and single-family rental properties. The international maintenance code specifically distinguishes between multifamily units, and in those cases other members in the building are in jeopardy. So the landlord has a duty there to take care of insects. I don't know of any property manager, certainly not a member of our association, that would not immediately and vigorously deal with a bug problem in an apartment building. With respect to single-family homes. However, bug problems are generally the responsibility of the tenant. Now the responsible landlord will still take care of the situation, but would likely send the bill to the tenant for the inspection and the treatment because it's the tenant that brought the bugs into the, into the house. There-- let's say if there is a situation where a tenant has a propensity to harass the landlord, which we see occasionally. This bill theoretically gives the tenant the opportunity to do that by calling in a notice whether there is actual bugs or not, causing the landlord to incur the cost of the qualified inspector and possibly the, the treatment process. The act says that if the landlord fails to comply with the Bedbug Detection and Treatment Act, they are liable to the tenant for the tenant's actual damages. There is no provision, however, making the tenant responsible financially to the landlord for bringing in the bugs. We oppose this change. Obviously we would like to be a part of any discussion on this issue. But we oppose this change because it would add the cost of compliance to the landlords, and all that generally does is push up the cost to the tenants ultimately. And tenants are already struggling with high rents and, and the ability to pay them.

**HUNT:** All right, thank you, Mr. Chatelain. Any questions from the committee? Seeing none, thanks for coming today to testify.

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**JOHN CHATELAIN:** OK, thank you.

**HUNT:** Next opponent of LB864.

**DENIS TIERNEY:** Good afternoon, Senator Wayne and committee members. My name is Denis Tierney, D-e-n-i-s T-i-e-r-n-e-y. I come as a private landlord, we own both multifamily and single-family. And certainly, as Mr. Chatelain stated, the vast majority of the time the bedbugs are brought in by the tenants. The landlord does not supply the bedbugs. Whenever we have an empty unit, we will make sure that there is no bugs in the unit before we-- as we're turning them over. And the tenants will bring the bedbugs from one location to another. Perfect example is a multifamily that we have in West Point. And yes, there are bugs outside of Omaha. And the tenant skipped. We went in to clear up the unit, found out they had left bedbugs. Obviously, they took a lot of their bedbugs with them to their next residence. We don't know where because they skipped, but we had to clean up. We got Orkin in to, to treat it twice. The second time was, was just last Friday. But a good landlord will always treat for, for bedbugs. We do not want an infestation in any of our, either homes or our units. Again, there's no talk about the cost, additional cost to the landlord of this additional regulation. Senator Wayne mentioned LB85 and last year. There was no cost considered about that legislation also for the inspections that went on. I actually did the numbers, and using Bureau of Labor statistics, when you add in the vast majority of mom, mom and pop landlords having another job, they have to leave their job to go to the inspection and they lose wages, plus the employer loses their productivity. If you use the Bureau of Labor statistics, when you lose the wages and the productivity of the employer, it comes out to about \$80.45 an hour is spent with an inspection because the landlord has to be present. For the program that the-- at Omaha passed because LB85, to avoid the state passing the law, we came out with a \$160,000 per year per inspector that would be hired to comply with that program. That's \$160,000 that the economy of Omaha has to produce to, just to comply with that regulation. With this law, again, we have no idea of how much it will cost. This additional regulation on the small business person that is the typical landlord for both Omaha and, and elsewhere in the state. So you have to clearly consider what the costs are gonna be from this added regulation. Almost always those costs are going to be added on to the tenant because, in order for a small business person to be able to continue to stay in business, they're gonna have to pass those costs on to the tenants. I think it's a false assumption that the tenant is going to be afraid to tell the landlord

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because they're afraid to be evicted. All good landlords want to know if there's any bug problem and they want to get them treated. They're not going to evict the tenant because they have a bedbug problem, they're going to treat the bedbugs. That's good business, and any good landlord is gonna do that. Be happy to answer any questions.

**HUNT:** Thank you for your testimony. Any questions from the committee? Seeing none, appreciate you coming in today. Next opponent of LB864. Seeing none, anybody here to testify in the neutral capacity? Welcome to your Urban Affairs Committee.

**HANNAH WYBLE:** Thank you. All right. My name is Hannah Wyble, H-a-n-n-a-h W-y-b-l-e, and I am the founder and executive director of the refugee housing and advocacy organization Restoring Dignity, which is located in Omaha, Nebraska. Over the past year and a half, I have been in homes where families have shown me the extent of their bedbug infestations, bed sheets and pillows covered in blood stains from all the bites at night, parents staying up all night to pick bedbugs off of their children's skin so the kids can get good sleep and be well-rested for school in the morning, individuals only getting one or two or three hours of sleep at night because they can't sleep when the bedbugs feed, high school students wearing long-sleeved shirts all year because they are so ashamed of the bites and scars covering their arms. In this past year alone, I have received numerous emails and calls from teachers who are worried because students in their classes have bedbugs and they have found bedbugs crawling out of backpacks and going into other kids' backpacks. It's a huge problem. This bill is the first time, to my knowledge, that the public health crisis of bedbugs is being publicly addressed in our state. And I am so thankful for that and for Senator Wayne for bringing this up and making this a conversation piece. This is an issue that has long deserved attention. So the part of this bill that I can see creating the large, largest change in justice for tenants is that landlords will be prohibited from renting out apartments and homes where there is a known or suspected bedbug infestation. If you showed me a map right now of Omaha, I could point out a large number of different apartment complexes that currently have widespread bedbug infestations that my organization has brought to the attention of the landlords. Yet, even with these property owners knowing about these infestations, they still continue to rent out units. And the people moving in, you have no idea that they are moving into apartments or homes that are already infested. This is simply wrong. It should be illegal for a landlord to rent out a unit when they know that there are bedbugs present. And I



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am so thankful that this bill is addressing this serious issue. The reason I am testifying neutral today and not it, not-- what's the other word?

**HUNT:** Support?

**HANNAH WYBLE:** Not in support. Yes, thank you. It's getting late, my mind is like going out the window at this point. The only reason I'm testifying neutral is because in this bill, if a tenant does not do their part in following the directions from the pest control professional, they become liable for the entire bill. The issue with this requirement is there are currently no bedbug resources in Omaha, or I don't know there's resources in other cities, but in Omaha there are no resources if you get bedbugs. Some of the cost that families can occur is the money that it costs to go to a laundromat and dry out-- dry out all of your clothes on high for 60 minutes, the cost professional bedbug mattress covers, the cost of having to get rid of your furniture and replace your furniture. There are a lot of cost associated. And so my biggest fear is that tenants will end up having to cover the entire cost of the bill just because they don't have the financial resources to do their part of the treatment plan. So I have three proposals. One thing, I propose that a public fund or voucher system be set up that both tenants and landlords can use to help combat the bedbug public health crisis, because the true enemy here is the bedbug. OK? The true enemy isn't, it's not a tenant and it's not the landlord. It really is the bedbug. That is our enemy here. I would also ask that this committee does research into what has worked in other cities and states, because if something has worked, then we should try to follow suit. And then the third thing that might be a potential thing to think about is perhaps regular sprayings are required in multi-unit buildings to keep bedbug populations down, as well as cockroach, excuse me, cockroaches and other pests. So that's all. Thank you for your time.

**HUNT:** Thank you very much, Miss Wyble. Any questions from the committee? I appreciate that you touched on the economic impact of this issue. You talked about the cost of having to go to the laundromat and run your sheets on high and all of that. But what about the economic impact of a child who can't focus and can't go to school or parents who have to take time off work to solve this problem in their home?

**HANNAH WYBLE:** Yeah, it's huge. It's huge. And just from the families that we've worked with, we're seeing a lot of parents who are

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chronically underslept because they're up all night picking bedbugs off their kids, or the kids are going to school and they can't focus because they've been up all night. So it's huge. Bedbugs are, are an enemy of society. They really are.

**HUNT:** I would do the same thing if this was happening in my home, as a parent. I-- would you agree that this is a bigger economic drain than the cost of having to treat for bedbugs, perhaps between every tenant, or something reasonable that we can come to agreement on?

**HANNAH WYBLE:** Oh, my gosh. Yes. So bedbugs cause anxiety, depression, all sorts of different mental health issues, as well as health issues. If you have enough bedbugs, you can actually become anemic. So, yeah. This is a huge, huge, huge problem. And I think that it is going to take our entire state getting involved. I don't think it's just, oh, the landlords have to pay for it or the tenants have to pay for it, I really think that it needs to be more like a public fund that helps to fund the eradication of bedbugs.

**HUNT:** And in my district, I know in midtown Omaha, Dundee, Benson, I know there's a lot of reports of landlords and there's a lot of apartment buildings that have this problem, particularly where there is a high population of immigrants and refugees. And what-- you spoke to this a little bit, but what about landlords who are deliberately moving tenants in knowing that there's a bedbug problem and not disclosing that?

**HANNAH WYBLE:** Yeah, that's huge. And as a matter of fact, the majority of the families-- so we work with all refugee families, and most of the families that we work with were resettled here, meaning that they came from a refugee camp and were placed in Omaha. They did not get to choose the apartment that they came into, their resettlement agency did. And so when they came in, I always asked them, did you have bedbugs? Well, they didn't have bedbugs in the camps because bedbugs don't even exist in the camps, in Thailand, for example. But they're saying that when they moved in, the place was already infested. And so we know that people are being moved into units that are already infested, and it's wrong.

**HUNT:** I have constituents who said they had never seen a bedbug before, before they came here. And I think that there's a lot of stigma, a cultural stigma, and racism, honestly, play here saying like, well, these people brought the bedbugs. But there's absolutely no evidence that that's true. And these people are being taken

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advantage of and preyed upon by-- I could go off all day. I shouldn't. But thank you for your testimony. Any other questions? Thank you for coming.

**HANNAH WYBLE:** Yes, thank you.

**HUNT:** Any other neutral testimony on LB864? Welcome, sir.

**GENE ECKEL:** Good afternoon, Senator Hunt and members of the Urban Affairs Committee. My name is Gene Eckel, that's G-e-n-e E-c-k-e-l, I'm here on behalf of the Nebraska Association of Commercial Property Owners and the Apartment Association of Nebraska. Just for a little stats, the Apartment Association of Nebraska has about 343 apartment communities of its members between, throughout the whole state. That's about 45,000 apartment units. We're here in neutral capacity on LB864. And I heard a couple of things that, that came up, and I, I'd like to just kind of touch on some of the things that the Apartment Association is doing and the apartment industry. We're an affiliate of the National Apartment Association. Most of our members use what's called the NAA lease. And part of that lease is a bedbug addendum, which does go in detail on how to identify a bedbug and some best practice and what to do. So we're, we're glad that we are able to provide at least that information to our residents upon moving in. We also want to point out that some of our members, we're not only just multifamily owners and property management companies. Our members also include vendors, which would be the pest control companies. So they do come in and they do educate our members on what to do when there's bedbugs. Couple of things we want to mention, though, is both Omaha and Lincoln have adopted the International Property Management Code, and both of those codes make it responsible for the landlord to treat before they rerun it. And then the code also goes into affect the responsibilities of the tenant. So under the code, a tenant is responsible for keeping the dwelling pest-free and the tenant is responsible for the premises, that if there is an infestation, they're responsible for making sure there's, there's an extermination of it. What we would just ask is that LB864 be amended to either mirror what the International Property Maintenance Code requires or at least have that discussion of if the tenant is found to be liable or responsible for the infestation, that they're liable for the costs. Again, we're happy to have that conversation with Senator Wayne and anybody else on this committee, because we do think it's an important conversation to have. And as an industry, it does affect us and we want to make sure that our residents are protected from infestations that might start in

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one unit and spread to the contiguous units. We know it affects other people. We know that our residents don't wanna be part of a situation where there is an infestation. We want to be part of that solution. So with that, if anyone has any questions, I'd be more than happy to answer.

**HUNT:** Thank you, Mr. Eckel. Any questions from the committee? Senator Briese.

**BRIESE:** Thank you, Vice Chairman Hunt. Thank you for your testimony. You talked earlier about a duty to exterminate, and that is between tenants, correct?

**GENE ECKEL:** Well, the--

**BRIESE:** Pursuant to the code?

**GENE ECKEL:** Right. Pursuant to the code, the landlord has to exterminate prior to rerenting it. And then after the resident or tenant moves in, then they're responsible for keeping it pest-free. So then if they're found to, you know, be part of the situation where it's found that they were responsible for the infestation, then the tenant is then liable or responsible for making sure that there's a-- it's addressed.

**BRIESE:** OK, thank you.

**GENE ECKEL:** That's just pursuant to the code.

**HUNT:** Thank you. Any other questions from the committee? Seeing none, thanks for coming in.

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

**HUNT:** Anybody else here to testify neutral? Seeing none, Senator Wayne.

**WAYNE:** Well, with not that many opposition, maybe we will get it out this year. No, we won't. And so part of the reason, there are technical reasons why I'm struggling with trying to move it this year. But I do want to know, since I wasn't here because I was in another hearing, Brad Muerrens, and I have a sheet, left some handouts and he was going to testify. I do want that to be a part of the record because it was through no fault of his own. So if you could pass that out for me, that would be great. But I do think it's important we have

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this discussion. Part of the reason why there's a technical issue that I'm trying to figure out in my head, and I'm working with legal counsel to figure this out is, is this a building code issue? Well, because we're establishing some rights, is it a Landlord Tenant Act issue? And if we got to give them notice of their rights-- where if it's strictly building codes, there is ways for you to sue and there's ways for you to enforce it. But if it's a landlord, tenant issue, there also has to be a notice that typically is given out at the beginning to everybody who moves into a place. So there's some technical issues that I'm trying to, in my head, get my head wrapped around. And working with the parties, I do think everything that was said, I think we can find some common ground on all those issues. But from a technical standpoint, I got to figure out where to place this. And so that's part of the issue of why it probably-- why it won't move forward this year. But I think the information we gathered today was important, I think the parties being at the table are important. And if somehow we have a kumbaya in the next two weeks, and everybody agrees to everything, we'll make it a committee priority. But I don't see that happening with my schedule and their schedule. So that's why I just think we just need to move forward and learn some more and then figure out technically how we deal with the bill. So I'll answer any questions.

**HUNT:** All right, any questions from the committee? Seeing none, thanks, Senator Wayne.

**WAYNE:** Thank you.

**HUNT:** We have letters for the record. A letter of support from Ralston Public Schools, a letter of opposition from the Nebraska Realtors Association, an opposition from Dana Steffan, Ruth Peters, and Phil Pfeiffer. And with that, I will close the hearing on LB864. And we'll move to LB1178 with Senator Wayne.

**WAYNE:** Good afternoon. This is not the last hearing of our committee because we have a lot more bills than General Affairs, it seems like, just to keep Senator Briese awake. Good afternoon, Vice Chairwoman Hunt and members of the Urban Affairs Committee. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. I introduced LB1178 to address an issue that was brought to my attention by some of my constituents, also one of my clients and family members. Shortly after the land bank, Omaha Land Bank was created in 2014, the land bank became entering into what are known as the depository agreements with

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local nonprofits. I spent the last three years arguing on the floor about expanding the land bank and moving the land bank forward. And one of the biggest concerns we continue to hear was the ability for the land bank to acquire property and hold property. And the key word there was always hold. So under these five-year agreements, nonprofit organizations transfer property to the land bank temporarily with the intent to transfer the property back to the nonprofit at the conclusion of a five-year period. LB1178 makes a simple change to the Nebraska Municipal Land Bank Act that will prohibit land from being entered in-- or from prohibit a land bank from entering into such future depository agreements. It will not affect the past, it will just be going forward. There are two primary concerns that brought me to this bill and brought me to-- and brought this issue forward. First, it can be confusing for people who want to buy the properties from the land bank. Under the depository agreement, even though the property is owned by the land bank, the land bank can't sell the property because they have agreement to transfer it back. Why is that important? There was a person in my district who-- or a nonprofit organization, Habitat for Humanity, entered into one of these agreements. Initially the person was trying to buy that piece of property because they wanted to remodel, and it was actually two houses down from them. So the neighborhood, actually, it's a very active neighborhood that wanted to do something. That property has sat for three years not being fixed because of the depository agreement. Now, I understand there might be funding issues for Habitat for Humanity, et cetera. But the purpose and the original intent was to move property, to not let them sit for five or six years as they typically do with lien certificate sales. That's what we argued on the floor for three years. So I'm trying to make this consistent as we can. The second thing, which is maybe more important, is the case of nonprofits not have-- don't have to pay property taxes on this property as it sits. So from a private developer standpoint, when I enter into a contract with the land bank or I buy a property, in my contract with the land bank it says I have two years to develop that property. Because the goal for the land bank is to redevelop that property. And I think that's a noble goal and I think they do a good job of it. But it's, it doesn't, it doesn't match that a nonprofit can enter into an agreement and let the property just sit for five years. If I buy it, I have to fix it within two. But a nonprofit can continue to let it sit for five. I think we need consistency. So to be clear, though, as I've been for the last three years, I've been supportive of the work that the land bank has done for the Omaha housing groups, and I'm supportive of all the Omaha housing groups. I've said it before, I

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said it on the floor, I said it in this committee, nearly all new affordable housing being built in Omaha isn't always being built by private developers. There are plenty of nonprofits like Habitat for Humanity, Holy Name, Seventy-Five North. But despite that, that group and that support, the support I have of that group, we still have to fix this. Importantly, LB1178 does not affect any-- I got to make this again clear. It does not affect anything currently, the current agreements, but it would prohibit future ones down the road. When the land bank statutes were passed in 2013, the goal was to address vacant, abandoned, and tax-foreclosed property that were being left behind by the private market. Simply put, the land bank was never designed to be a bank. Again, simply put, the land bank was never designed to be a bank. LB117-- LB1178 would ensure that land bank renews its focus on cleaning up properties and moving properties back into the market. At least one individual, and you'll see you have two letters of people from my community, but you also have one individual who will testify behind me about some of the struggles of trying to deal with the land bank and then trying to figure out what properties are what. That used to be on their website, they would have all the properties listed. I looked at it yesterday, I did not see the depository properties on there, which makes it a little cleaner. But when I go to the Registers of Deeds and I still look up property that are down the street, it's still in the land bank's name. And then you got this issue of, well, does the land bank own it or not and how do we buy it? Well, we can't buy it because it's in a depository agreement. And that creates some of the confusion and heartburn with, within my community. So we're trying to address that issue because, again, I'm just trying to be consistent with what the land bank was supposed. And with that, I will answer any questions.

**HUNT:** Thank you, Senator Wayne. Any questions from the committee? Seeing none, I can take the first proponent for LB1178. Welcome to your Urban Affairs Committee.

**JUAN ALVARADO:** Thank you. Good afternoon. My name is Juan Alvarado, J-u-a-n A-l-v-a-r-a-d-o. I am actually a resident of northeast Omaha. I see a lot of land bank signs out there. As Senator Wayne talked about earlier, I am one of the private investors and I do like to pick up properties in the northeast and southeast community. But before we even entertain the idea of picking one up through the land bank, I respect the idea that they do ask for a specific task in progress on how we are going to redevelop or build a new home. They want specs, but they also want funding. They want to know that you've preapproved,

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you have cash, liquid cash for financings available. Well, I think it should be across the board because if I go to them and plea under agreement, hey, I promise you I will, I will get prequalified for this in a year, well, that opens my book too. So why would it be fair for them that they can hold property and I have to bring liquid cash prefunding or a conventional loan to the table, plus specs on how to remodel the project? And it's only fair because the purpose of the land bank is to revamp northeast Omaha, OK? So we bring these properties, you're gonna do them up to code, you're gonna rent them, you're going to flip them. Whatever you want to do, you've got to do them within two years. That is, that is the spec. And I like that. But I think we should be treated fairly, equally. I think if I like a property, especially the one that was in Benson, I want to go buy it. I have the funds to buy it. Previously, this was previously, I don't know the new management, they didn't have a full-time manager since May of 2019. So your bill would actually help. OK? So with this new management, I don't know. I'm going to try it again. But I would like to see transparency and be treated equally. And not because I don't-- I am not-- I'm for-profit, profit individual. There's nothing wrong with making a little money. I did it in Bellevue, I flipped homes in Bellevue. I love Bellevue. I did it in south Omaha, the market has risen [SIC] in South Omaha. Now I'm tackling northeast Omaha, 3060 Titus, that's where I live. I love my community, Florence. What's wrong with that? I want to see it beautified again. Miller Park, there's a lot of properties out there that if we have the cash, they're available to buy, we should be able to. That's all we're asking. If we can sit down and come to an agreement then we will. With that, I'll entertain any questions.

**HUNT:** Thank you, Mr. Alvarado. Any questions from the committee? Appreciate you coming today.

**JUAN ALVARADO:** Thank you.

**HUNT:** Thank you. Next proponent for LB1178. Seeing none, any opponents for LB1178? Welcome to your Urban Affairs Committee.

**SHAUN ILAHI:** Good afternoon, Senator Hunt and the members of the Urban Affairs Committee. My name is Shaun Ilahi, S-h-a-u-n, last name is I-l-a-h-i, and I'm general counsel of Habitat for Humanity of Omaha. We are a grassroots organization that builds and renovate houses, forges community partnerships, and breaks down barriers. We develop vacant lots and eliminate abandoned homes in north and south Omaha, while improving the overall appearance of our community. In 2020,



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Habitat Omaha will build or renovate 50 homes and complete more than 150 home repair or improvement projects. It is our goal to provide the foundation of a healthy and affordable home. I'm speaking to-- in opposition of LB1178 that will prohibit land banks from entering into certain agreements to temporarily hold real property, also known as depository agreements. These agreements allow land banks to clear title issues while under [INAUDIBLE], including special assessments and demolition liens. The agreements allow properties to be held with minimal tax payments, while organizations work on assembling properties. Land banks have a continued revenue source from properties that are held in depository and are then built on by organizations. These funds are critical to the ongoing success and sustainability of land banks that may or may not have any other built in streams of revenue to the land banks. Prior to Omaha Municipal Land Bank, properties sat vacant loaded with title issues for many years. The land bank has powers to clear a majority of these title issues that has hampered development in certain pockets of the city. We do not have the power to clear title issues or acquire ownership of properties to rehabilitate until the land bank and depository provision were created. Running the properties through the land bank is, which is possible due to the depository agreement, allows nonprofit developers to get certain title issues cleared. Land assembly is incredibly difficult. Many lots are unbuildable on their own due to size and require assembly. In a single vacant block in north Omaha there may be 10 different properties with 10 different owners with 10 cloudy titles. Development in north Omaha will not happen without lot assembly and a depository provision. The land bank in partnership with nonprofits are working on this very difficult issue. For years, houses that were demolished had a lien placed on them, but no action was done. In addition, 650 properties have been condemned with a demo order and sit in limbo due to cloudy titles which are difficult to clear. A developer will not purchase a property with a demo lien. Allowing depository provisions to prevail will allow these liens to be waived and get these properties back into circulation and development. Habitat Omaha demolished several hundred structures and holds 400 vacant lots. Many of these are unbuildable and need assembly. Allowing nonprofits to use the depository provision has allowed title issues to be cleared and notify the community of lots that are owned by nonprofits. The land bank has transferred 123 properties back to Habitat Omaha held through a depository agreement. That has allowed to build, sell, or give these properties to neighbors. In addition, the transfer of these properties back to Habitat Omaha has generated revenue stream for the land bank. I

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strongly urge you to oppose this legislative bill to ensure that the current depository provision remains in place in order to continue the positive impact that is occurring through our communities. Thank you, and I am happy to answer any questions that this committee may have.

**HUNT:** Thank you, Mr. Ilahi. Any questions from the committee? Senator Crawford.

**CRAWFORD:** Thank you, Vice Chair Hunt. And thank you for being here. So I'm just trying to understand exactly the purpose of the depository provision. You're holding-- they're having the land bank hold the land while you accumulate multiple lots or is-- they're holding the land while the titles are cleaned or, or, or checked? What's most important about the depository component?

**SHAUN ILAHI:** It's multifaceted. So actually, so a nonprofit will own the property and then there's a five-year agreement that you can, up to a five-year agreement, you can transfer the properties to the land bank. The idea, one of it is for you to save taxes, not paying property taxes. And then the tax you save, reinvest into organization, and then when you're ready to build on it, you can take it out of the land bank and build on it. The second phase is that there is a revenue stream, so basically the taxes-- or the property that comes out for the next five years, the half those property taxes goes back to the land bank. But you have to remember that a lot of these properties are abandoned and vacant, so they're getting zero dollars out of that to begin with. Some of these have demo liens, for instance, like when an owner wants to sell the property or just leaves, it gets abandoned and then somebody has to take care of it. Ends up city-- ends up taking care of it in terms of the assessment, especially a week later, assessments that maintain it. So what happens is that they become abandoned, the properties-- we're able to get them through tax liens sometimes. And sometimes when we do that he'll transfer it over, but there's still a demo lien on the property. And no developer is going to buy a \$10,000 property or 10 or \$10,000 demo lien or a property with a \$10,000 demo lien. So the land bank is able to clear that and then transfer it back, and then we can redevelop it, sell it to those other organizations we, we, we partner with to make affordable housing in our community. So that's another aspect of the, the land bank as well.

**CRAWFORD:** Thank you.

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**HUNT:** Thank you, Senator Crawford. Any other questions from the committee? Seeing none, thank you for coming today.

**SHAUN ILAHI:** Thank you.

**HUNT:** Next opponent to be LB1178. Welcome.

**MIKE RIEDMANN:** Welcome, Senator Hunt, members of the Urban Affairs Committee. And Senator Matt Hansen, happy birthday, My name is Mike Riedmann, M-i-k-e R-i-e-d-m-a-n-n, I'm the chair of the Omaha Municipal Land. I'm here today in opposition to LB1178, prohibiting land banks from entering into certain agreements, arrangements to temporarily hold real property. These depository agreements are fundamental to the ability of the land banks, and the Omaha Municipal Land Bank in particular, to facilitate the return of vacant, abandoned, and tax-delinquent properties to productive use. You've heard from a nonprofit today on how they use the depository agreements facilitates both the goals and the objections of the state by improving the social and economic value of our neighborhoods, but also the goals and the objections of nonprofits and the families they serve. I won't belabor the arguments on both of these. What I will offer though, is the land bank's perspective. More specifically, the Omaha Municipal Land Bank has the ability to hold properties for future strategic governmental purposes, such as affordable housing, open spaces and greenways; it permits the advance acquisition of potential development sites. You heard from the nonprofit many times, one lot will be available but it's only 40 feet wide. But the next property could be available. They will enter into a purchase agreement of that property, put it in the depository and then work on acquiring the other adjoining properties. So then they become a buildable lot. And so we facilitate that advance acquisition of potential development sites for them. But we also pre-- facilitate the predevelopment, planning, financing, and structuring. With the land bank's unique ability to remove tack liens-- tax liens, delinquencies, liens, and other building code liens on properties, it allows us actually, the land bank has the ability to clean a title. So a nonprofit might acquire property that has a tax-delinquent lien, may have a cloud on the title. By putting it in the depository agreement with the land bank, we're then able to clean that title. And then when we deed that back to the, to the nonprofit then they have a clean, usable, free title on those properties on that. Minimizing and eliminating violations of housing and building codes and public nuisances on these properties for development of affordable housing is one of our key

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goals. The nonprofits are required to maintain the property while it's being deposited with us, which reduces our cost. So many times we'll acquire one of these properties through either a tax delinquent sale or as a donation. Sometimes the owners will give us properties that do not have clean title. They don't know what to do with it. They've inherited it. We'll receive these properties. We're then able to clean those titles, most nonprofits are our biggest customers of these vacant lots and we would just hold title to them. And under the depository agreements, various nonprofits who are trying to put together a development out of single-family homes will buy them from us and turn around and give them right back to us in the depository agreement. That way they've locked in their future ability to use that property. So when those properties are seen on the Assessor's Office as owned by the land bank, they really were originally purchased by the nonprofit but put back through an agree-- depository agreement with us so that we would hold them and clean the title. And so that, that's where some of the confusion was. I think one time those depository properties were on our website. Now we don't show them, we only show the properties that are available for purchase by the public, and so these properties on there. Not only we've helped nonprofits--

**HUNT:** I need to ask you to wrap up if you have any final comments.

**MIKE RIEDMANN:** I'm gonna wrap up real quick. Not only we help nonprofits provide affordable housing, but the land bank also receives from the Douglas County 50 percent of the taxes paid on these properties for five years after deeding them back to the nonprofit. This revenue stream is very important to the land bank and helps us continue our operations activities. Today, we have a representative from the land bank staff that is here to answer any questions you might have if I'm not able to. Thank you.

**HUNT:** Thank you, Mr. Riedmann. Any questions from the committee? Does the land bank offer, offer to do this with, with private groups or just nonprofits?

**MIKE RIEDMANN:** We, we have a special--

**HUNT:** --these, these agreements.

**MIKE RIEDMANN:** We have a special opportunity with nonprofits that we can do depository agreements. They're only four nonprofit, so Holy

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Name, Seventy-Five North, and Habitat for Humanity are the two ones that we do most of our business with them.

**HUNT:** OK, thank you. Any other questions? Seeing none, thank you, Mr Riedmann.

**MIKE RIEDMANN:** Thanks.

**HUNT:** Next opponent of LB1178. Seeing none, is anybody here to testify in the neutral capacity? Seeing none, Senator Wayne, you're invited to close.

**WAYNE:** Colleagues for-- thank you and thank you for all the testimony. Colleagues, my first year here we prioritized land bank as a committee priority. We were here till 10:00 that night, fighting to get 26 votes. And then we had to bump it up because we had a three-hour rule to 33, and we got just to 33 only to have the Governor veto it. I fought for this institution. There is no statutory authority for them to do what they're doing now. And I've fought for this organization since that year in the same capacity, arguing against one thing: They should not be able to compete with the private sector. And we have-- they have systematically set up a different means to get things done than what the private sector can do. Private business can't enter into these contracts, private businesses and developers still have that problem of clearing title. But nonprofits can, and that was never the intention of what I wanted to talk about today. My intention was the neighbor down the street is looking at an eyesore of a property that is still vacant three years while it sits in the land bank because of a depository agreement. We were going to expand this across the state because it works, but this is a situation where we got to remove this part. Or else the whole thing could come crumbling down against the arguments we fought about for three years. I think it's that important. We have to make sure that the same requirements on a private person is put on nonprofit. And if they can clear a title for a nonprofit, they should be able to clear a title for a for-profit. Whatever it is, it has to be the same. And if the goal is to clean up the neighborhood and vacant parking lots then they can't sit for five years. That was the argument we had on the floor, Senator Briese will recall, about the tax liens. Because somebody can buy it and not do anything for three years. And about the time they start it, somebody else buys it. And it's a never-ending cycle of being on a tax lien for six years before the property is ever fixed. Well, we're at five years now. That's a problem. This is not a complex bill, I'm not going back and rearranging or invalidating contracts that are already existing.

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I'm saying, moving forward this has got to change. If the goal of the land bank is to move property forward, and again, I support the land bank, I think you do a great job. I can't have property sitting in my community for five years, because it doesn't take that long to clean title. More importantly, I don't think that's the role of it, nor did we as a body authorize it. So with that, I will answer any questions.

**HUNT:** Thank you, Senator Wayne. Any questions from the committee? Seeing none.

**WAYNE:** Thank you.

**HUNT:** Thanks for your bill today. We have two letters for the record. We have a letter of support from Thomas Henry and a letter of support from Black Men United. And with that, I'll close the hearing on LB1178 and invite Senator Friesen up for LB960. Welcome, Senator Friesen.

**FRIESEN:** Thank you, Chairwoman Hunt. My name is Curt Friesen, C-u-r-t F-r-i-e-s-e-n, I represent District 34, I'm here today to present LB960. LB960 is a very simple bill, really. It prohibits the transfer of moneys from a municipality's proprietary fund to its general fund. I was contacted by a constituent who had some concerns about these kinds of transfers after he had studied a budget in the, of a city in my district. He felt the rates collected for water and sewer and other utilities should only be used to support those utilities. And I couldn't disagree with him. Municipalities are required to show proprietary transfers on page 2A of their annual budget form that they file with the State Auditor of Public Accounts. Some cities make one-time transfers for what appears to be special projects, others make regular annual transfers, sometimes equaling the exact amount year after year after year. These proprietary funds should not be depleted so that when upgrades and repairs to related infrastructure is necessary, the funds would be available. As an example, this would be as if you, your sewer and water fund, if you make regular transfers out of that fund and then use it for other general obligations of the city, then down the road your water treatment plant needs work and then suddenly you have to issue revenue bonds to complete that work when those funds should have been accumulating in terms of cash reserves, so to speak, to replace those funds. So the language in LB960 seeks to amend what was adopted as AM1944 to LB734 in 1993, when former Senator Cudaback successfully moved to have LB734 returned to Select File for a specific amendment. And according to the transcripts, this language originally included in LB722 of that same year. One problem with this practice is that large water consumers

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such as schools, hospitals, and ethanol plants are supplementing a larger portion of the city's spending. Another issue of transparency that cities aren't required to give a descriptive reason for the transfer. While some cities do take this and take the time to state a reason for the transfer, most just state the transfer as one general fund to another. One fund to another general fund. This leaves little transparency for the taxpayer. While there is no fiscal impact to the state, there would be a fiscal impact to the cities so to speak, because their general fund now wouldn't be subsidized with these proprietary funds. So I know there's communities out there that there were some fiscal notes, like for the city of Lincoln. Their LES, I don't consider those transfers from a proprietary fund, they're more of a dividend payment. So I know the fiscal note showed that was in there. I'm willing to work with them to take that out, that wasn't my intent. And I know there's other municipalities that probably do transfers from their electric systems. An example would be in Henderson we have Perennial Public Power provides the, provides the maintenance and upkeep. The city leases the infrastructure to Perennial. So the city doesn't need to maintain a cash reserve to maintain the system, that is Perennial's job. And all they're doing is receiving that lease payment. So those aren't the funds I was looking for either. It was more of the proprietary funds for sewer and water that are being transferred out. And I don't think cities like Omaha and Lincoln are even able to make those transfers like smaller cities are. So that's where my direction was headed, and I'm willing to work with-- I have a following that followed me from a different bill here today, so we can address those concerns. And I think most of them can be taken care of just because those weren't the areas where I was intending to go. With that, I'd be more than happy to answer any questions. Thank you.

**WAYNE:** Does this bill tax a delivery of service of water?

**FRIESEN:** We could have a longer discussion if you want.

**WAYNE:** Seeing any questions from the committee? Seeing none, thank you for being here. First, we'll start with proponents. A second, then we'll start with opponents. Opponents? Welcome to your Urban Affairs Committee.

**JERRY JANULEWICZ:** Thank you, Senator Wayne, members of the committee. My name is Jerry Janulewicz, that is spelled J-e-r-r-y J-a-n-u-l-e-w-i-c-z. I am the city administrator for the city of Grand Island, formerly the city attorney for Grand Island. I'm here today in

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opposition to LB960. And Senator Friesen described the bill as a simple bill. My testimony is going to be very simple as well. The city of Grand Island receives, in lieu of tax payments from the city utilities fund, in the amount of \$771,398 per year, these are the actual amounts from 2018 to 2019. We received from the water fund, in lieu of taxes, in the amount of \$66-- excuse me, \$66,442 to a total of \$837,840 on an annual basis. Those payments are payments that are approved pursuant to bonds that have been issued by the city of Grand Island for upgrades to the electric system. The agreement the city has with bondholders specifically approved those transfers of 5 percent for taxes in lieu-- for payment in lieu of taxes to the city general fund. So those funds go right from the, from the various proprietary accounts into the city general fund and are used to support the city's payments for electric-- for fire department expenses, police, law enforcement, all those general funds kind of activities are funded in part by the payments in lieu of tax provided by the electric and water fund. And I, what I would like to mention is that there is another bill pending in the Legislature, LB1046, that would also impact the city's ability to collect revenue. That is a bill that affects the city's ability to collect franchise fees on cable TV companies. Those two bills that are pending before the Legislature, if enacted, would result in a loss of revenue to the city of Grand Island over \$1 million on an annual basis. That, that would be funds that would have to be made up primarily by property tax increases or cuts in the budget. And currently, the city of Grand Island is struggling to provide sufficient funding for fire, ambulance, law enforcement. Those departments are all came to us expressing the need for additional firefighters. Again, additional police officers, additional ambulance paramedics. It simply is becoming difficult for the city of Grand Island to fund all these general fund needs while at the same time facing cuts in revenue streams to the general fund. So I would ask on behalf of the city of Grand Island that LB960 be opposed and not advance from the committee. Thank you, and I'd be happy to answer any questions.

**WAYNE:** Any questions from the committee?

**BRIESE:** I got--

**WAYNE:** Yes, Senator Briese.

**BRIESE:** Thank you, Chairman Wayne. Thank you for your testimony.



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**JERRY JANULEWICZ:** Sure, Senator.

**BRIESE:** You referred to payments on some bonds earlier, and I didn't catch all that. What was that about again?

**JERRY JANULEWICZ:** We have issued bonds, bonds were issued in the year 2013 and I believe 2014, if my memory serves me correct. Those bonds contain covenants, agreements that the city is to uphold with the bond holders. Some of those covenants, or one of those covenants on each of those bonds allows the city to transfer 5 percent for in payment in lieu of taxes from the utility fund into the general fund.

**BRIESE:** OK, thank you.

**JERRY JANULEWICZ:** Sure.

**WAYNE:** Other questions? Other questions from the-- I do have one, but I do want to make a statement that that's why LB1046 should have come to this committee. That was a re-referencing one. Thought I'd throw that out there. But I-- what do we do for cities, towns, villages, what do we do about the debt that they might start incurring? Like, how do we, and this is not necessarily a fair question, but it does kind of go to the issue. We have to balance the budget at the state level. What do we do at, what should we do as a state for the local level to make sure that we're not out of whack, that we're not-- they're not getting in too deep?

**JERRY JANULEWICZ:** I'm not sure I have an answer for that question. You know, in the city of Grand Island, it's-- when we issue bonds for the utility, for the electric system versus go through vetting. And if we don't have the type of financial history, I guess, to support issuing those bonds, they're not going to be sold, as they can be sold at the high interest rate. Right now, the city of Grand Island, I think, has, my understanding, a AA rating on bonds issued by the electric utility system. So I think the city of Grand Island is in [INAUDIBLE] shape. I just can't speak to more generally than that, Senator Wayne.

**WAYNE:** That's fair. That was kind of an unfair question. Any other? Seeing no questions from the committee, thank you for coming today.

**JERRY JANULEWICZ:** Sure. Thank you.

**WAYNE:** Any other opposition testimony? Welcome to your Urban Affairs Committee.

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**DAVE PTAK:** Senator Wayne, members of the Urban Affairs Committee, my name is Dave Ptak, D-a-v-e, last name P-t-a-k. I am the city administrator for the city of Hastings, Nebraska, formerly the city attorney there. Transfer of proprietary funds to cities' general funds is nothing new and has been going on for a long, long time. Previously, when I was a city attorney in Norfolk, Nebraska, from 1981 to 1993, transfers were being made then, just as they are now. They existed long before we had lid statutes in Nebraska and they were adopted here by the Legislature. The City of Hastings estimates the impact of LB960 will be a general fund revenue decrease of \$1,400,000. This is due to the city's use of proprietary funds charged with overhead costs for city services from city departments, including administrative services, legal services, human resource services, finance services, IT services, and more. In addition, Hastings Utilities as a department of the city of Hastings, provides the city a cash in lieu of taxes. This transfer is limited to the hire of 5 percent or the annual American Public Power Association, which is known as the APPA, average for electric utility transfers. This is based on the annual gross retail and hotel sales of electricity in Hastings. This limitation percentage is set forth in the electric utility fund revenue bond covenants. The current percentage is 5.5 percent. The provisions of LB960 will result in an estimated loss to the city's general fund revenue between \$2.4 million and \$2.5 million based on fiscal year 2019-20 dollars. All told, the total effect of LB960 will be between \$3.8 and \$3.9 million in lost revenue to the city's general fund. Like the information that was furnished by the city of Lincoln in their statement filed with the Legislature, I can't find any basis to disagree with those estimates. The city of Hastings budgeted total general fund revenue for fiscal year 2019-20 of \$18.7 million. The loss of \$3.8 to \$3.9 million represents between a 20.3 and a 20.9 percent loss of general fund revenues. The city of Hastings, under Nebraska lid restrictions, only has the ability to raise an additional \$730,000 in property taxes, thereby leaving the city with between a \$3.1 and \$3.2 million shortfall. Let's compare Hastings to one of our sister cities in the tri-city area, Kearney. Kearney, like Hastings, owns its electrical distribution system. However, Kearney is a retail customer of NPPD and leases its distribution system to NPPD. In return, NPPD pays Kearney somewhere between 13 or 14 percent of its retail sales in Kearney as a lease payment. This is a business expense to NPPD. But is it a prop-- is it proprietary revenue to the city of Kearney that would fall under LB960? In any event, it appears that LB960 sends a direct opposite message regarding property tax relief. Taking away property transfers

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to cities' general funds will have just the opposite effect than property tax relief. Thank you. I'll be glad to answer any questions you might have.

**WAYNE:** Any questions from the committee? Thank you for coming today.

**DAVE PTAK:** Thank you, Senator.

**WAYNE:** Any opposition testimony?

**LYNN REX:** Senator Wayne, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska municipalities. We appear here today in opposition to LB960. We appreciate always working with Senator Friesen, and certainly with this committee as well. We don't think that this bill is a simple bill. We think this bill has serious implications for municipalities. One of the things that I think is important to note is in 13-518(6), under restricted funds, what that definition is. Make no mistake, any funds transferred are under the lid on restricted funds. Transfers of surpluses from any user fee, permit fee or regulatory fee, if the fee surplus is transferred to a fund or service or function not directly related to the fee, and the cost of the activity funding from the fee are under the lid on restricted funds. And that happens to be 2.5 percent over the prior year, plus 1 percent with a supermajority vote. As I've testified before the Revenue Committee on numerous occasions and this committee, occasionally, we have 529 municipalities in the state in Nebraska, 215 of those are up against the maximum levy limit. Another 115 of those are between 40-45. And so I think it's important to understand what this lid means in addition to the levies and how this all interrelates with the issue that's before you today. One of the things that I think is very important, it's been pointed out by the city administrators of Grand Island and Hastings today and also to us by municipalities that have called in from across the state, is essentially the fact that basically in the same way that a cable company would be paying franchise fees, that water services, sewer services are using the city clerk to do billing, they're having right-of-way issues, all these sorts things. These are embedded costs that have been part of municipalities for decades. As Dave Ptak said from Hastings, there's nothing new about this. This is also local decision making, local control. I can remember years ago that cities really made a decision in terms of the amount that they might transfer so that it's, there's fairness between the water rates, the sewer rates, and to make sure that there's equity between that and the property tax rates. So we think that this is a bill that I think is

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important for your consideration. We are always willing to work with senators, Senator Friesen and this committee. But again, I think that it's important to understand that there's case law, committee council is aware of this, case law that makes it very clear you cannot have confiscatory or arbitrary rates. So you're not going to have rates that are exorbitant. We're talking here about rates that are embedded, that have been here and that are basically part of municipal government and municipal operations for decades. So this bill would have a serious impact in that regard. I think there's accountability when it's under the Municipal Proprietary Function Act. There's hearings, there's a process in place, not unlike the Nebraska Budget Act. So with that, I'm happy to answer any questions that you might have.

**WAYNE:** Any questions from the committee? Seeing none, thank you for coming today.

**LYNN REX:** Thank you very much. Really appreciate it.

**WAYNE:** Any other opponents? Anybody testifying in the neutral capacity? Seeing none, Senator Friesen.

**FRIESEN:** Thank you, Chairman Wayne. I try not to bring people for a neutral opinion. A couple of things again, and I'll repeat myself. This isn't about electric utilities. We'll find a way to get those out, that's not where I was headed. Some felt that it was included in here. That is not a part of this bill. It is strictly after the sewer and water funds. There are communities out there that I feel have overcharged some entities. They don't do rate studies, sometimes, like they do in the bigger cities, and so they just choose large water users to raise their rates. They're transferring these funds into their general fund to just use as general fund operating costs. I've been involved in city budgets before and we did assign a portion of employees' wages and their time to those proprietary funds. I see no problem with that. You can assign accounting costs to that proprietary fund. I don't have a problem with that. But when you make transfers out of that proprietary fund and fund other parts of city government that have nothing to do with your sewer and water rates, now you probably inflated your sewer and water rates and people, maybe, that can least afford it are paying that versus the cost of the house they're living in, property taxes. So what I see happening sometimes is these funds are transferred out, there's not current reserves in there large enough to maintain that system. And down the road, that system needs work and then they have to do revenue bonds to upgrade

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their system. That's not fair to the users. Their money paying those rates should be held in that proprietary fund for fixing and upgrading their sewer system, their water pipes. As far as paying for bonds that have been committed to upgrade infrastructure, I have no problem with that either. That's what that money from those revenues should be doing. Again, totally take electricity off the table because there-- there's too many places that either lease their system and other things like that. Most cities, that is another issue. When you do a lease with NPPD, you can tell NPPD to raise your tax as high as you want, and they just make it a pass-through. It's a line item on your bill and you pay it. It's, to me, it's not proprietary fund because these cities do not have to maintain a reserve to upgrade or maintain that electric facility. That's usually the job of whoever is supplying, whether it's Perennial or one of the small power districts or NPPD. So I'm, I'm just saying that I'll get those totally off the table. They have never been a part of this discussion. I've tried to make that clear in the beginning. And revenue bonds, as far as upgrading your infrastructure, that's exactly where that money should be going. But I'm worried about the transfers when they just do transfers out of those funds to be used for whatever pet projects somebody really wants to do, and then down the road that that proprietary fund is short of revenue when it comes to putting in new sewer and water lines or upgrading their sewer plant. And then they have to do revenue bonds to do that upgrade. That, to me, is not the way to use funds in those proprietary funds. So with that, I'd like to answer any questions you might have.

**WAYNE:** Any questions from the committee? Senator Crawford.

**CRAWFORD:** Thank you, Chairman Wayne. And thank you, Senator Friesen. So you're saying payment in lieu of taxes, all of those--

**FRIESEN:** Those are usually used on electric systems, I think. But again, a utility in second-class city, for instance, they are a part of the utility. I don't know why they would pay a payment in lieu of taxes, because they wouldn't have any taxes due. But if part of your operating costs, your employees are shared between the street department and water and sewer. Yes, allocate half, half time or whatever you need to in your budget. Make it clear in your budget, so we have transparency on where those costs are allocated. That's what budgets are for.

**CRAWFORD:** Thank you.

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**WAYNE:** Any other questions from the committee? Seeing none, thank you for coming today.

**FRIESEN:** Thank you, Chairman Wayne.

**WAYNE:** Yeah, there's letters. Letters of support: the Platte Institute. Letters in opposition: city of Stromsburg, city of Nelson, Mayor Jean Stothert, city of Omaha. And that will conclude the hearing on LB960. I know, Senator, you have to go teach. OK.

**TREVOR FITZGERALD:** We're having exec on Thursday.

**WAYNE:** Exec on Thursday. Come with great ideas on [RECORDER MALFUNCTION].