

Transcript Prepared by Clerk of the Legislature Transcribers Office
Urban Affairs Committee February 9, 2021
Rough Draft

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WAYNE: Good morning and welcome to your Urban Affairs Committee. My name is Senator Justin Wayne, Wayne and I represent the Legislative District 13, which is north Omaha and northeast Douglas County and I serve as Chair of Urban Affairs. We'll start off by having members of the committee and staff do self-introductions starting to my right with Senator Blood.

BLOOD: Good morning. Senator Carol Blood representing District 3, which is western Bellevue and southeastern Papillion, Nebraska.

BRIESE: Tom Briese, District 41.

HUNT: Megan Hunt, District 8 in midtown Omaha.

TREVOR FITZGERALD: Trevor Fitzgerald, committee legal counsel.

ARCH: John Arch, District 14, Sarpy County.

LOWE: John Lowe, District 37.

ANGENITA PIERRE-LOUIS: Angenita Pierre-Louis, committee clerk.

WAYNE: Also assisting us is our committee pages, Emily Loftis from Kansas City, Missouri, who is an economics major at UNL, and Kennedy Zuroff from North Dakota, who is a political science major and psychology major at UNL. Due to the ongoing COVID pandemic, the Legislature has adopted additional safety protocols that apply to all committee hearings, which are posted outside. Due to social-distancing requirements, seating in the hearing room is limited and we ask that you only enter the hearing room when it is necessary for you to attend the bill hearing prog-- in progress. The bills will be taken up in the order posted outside the hearing room and a list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that everyone utilize the identified entrance, the exit doors of the hearing room. We request that you wear a mask or face covering while in the hearing room. Testifiers may remove their masks during testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front of the table and chair in between testifiers. In the event that the hearing

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reaches seating capacity or is near capacity, the entrance of the door will be monitored by the Sergeant at Arms who will allow people into the room based upon seating availability. Persons waiting in the halls, we are asking that you observe social distancing and wear a mask covering while waiting in the hall. We ask that you please limit or if possible, limit-- eliminate your handouts. This morning we will be hearing three bills-- four bills and we'll be taking them up in the order listed outside the room. On the table near the entrance, you will find a blue testifier sheet. If you are planning on testifying, please fill out and hand it to-- please fill that out and hand it to Angenita when you come up. This will help us keep direct-- an accurate record of the hearing. Please note if you wish to have your position heard and listed on the committee statement without actually testifying, you may do so by filling out the gold sheet near the entrance. Also, I will note the Legislature's policy is that all letters must be recorded-- must be received by the committee by noon the day prior to the hearing. Any handouts submitted by the testifiers will be included as part of the exhibit. Testimony for each bill will begin with the introducer's opening statement. After the opening statement, we will hear from supporters of the bill, then from opposition, followed by those speaking in the neutral capacity. The introducer of the bill will have the ability to-- or have the opportunity to make a closing statement if they wish to do so. We ask that you begin your testimony by stating and spelling your first and last name. We will be using the four-minute light system. When your testimony begins, the light will be green. It will turn yellow at the one-minute warning and at the red light, we ask you to wrap up your final thoughts. I will remind everyone, including senators, to please turn off or silence your cell phone. With that, we will begin today's hearing with LB9. Welcome, Senator Blood, to your Urban Affairs hearing. Go ahead.

BLOOD: Well, good morning, Chairperson Wayne, and to the entire Urban Affairs Committee. My name is Senator Carol Blood and that is spelled C-a-r-o-l, B-l-o-o-d, and I represent a District 3, which is western Bellevue and southeastern Papillion, Nebraska. Thank you for the opportunity to present LB9 at today's hearing. As you know, an annexation means to unite or join one parcel of land into another. In Nebraska, there's two types of annexation. There's voluntary annexation and involuntary annexation, with involuntary annexation

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being the most common form of annexation. Municipalities annex for a variety of reasons. The most common reasons are to bring property that is developed adjacent, adjacent or contiguous to the municipality into its city limits. Another reason is to allow the municipality the ability to grow beyond the suburban development. Yet another reason, to extend public utilities, to broaden the client base, and to create an equitable split of the costs of the benefits of being located close to the municipality so that everyone can benefit. All Nebraska incorporated communities have authorization to annex. State law and case study state that property that is being annexed shall be adjacent and contiguous to the corporate limits. While villages and cities of the second class may jump up to 500 feet of open land to annex an established subdivision, first-class cities and larger are only allowed 200 feet. These areas do not include the right-of-way for highways. State statute also clarifies that land must be urban and suburban in character, but not use. To simplify that definition, a city may annex property that is being used for agricultural purposes. This does not make the property rural in character because it is the nature of the location plus its use that determines if the property is urban or rural in nature. Requirements for annexation depend on the size of your municipality. They are broken down by a municipal class, primary class, cities of the first class, cities of the second class, and villages. So today we're addressing the part of the statute that refers to cities of the first class. Nebraska's third-largest city, Bellevue, has the unique problem of being landlocked. It's blocked by the land owned by the federal government where Offutt Air Force Base is located and so there is land that is needed for Bellevue to grow, where we would like to utilize Offutt as our stepping stone to garner those properties, but we are unable to because of the 500-foot rule in state statute for first-class cities. If the federal government was not the property owner, that land would be adjacent or contiguous to a parcel of land that could potentially have been annexed, Offutt Air Force Base and Rising View military housing here in the center of Bellevue, but not within their corporate limits. The land is owned by the United States and Bellevue lost a federal case in the 1970s regarding an attempt to annex this federally owned property. There were concerns at that time about federal property, such as the base being annexed into a city, as local ordinances could contradict that of federal rules and regulations, which could create many issues. Bellevue now seeks a different solution, which is amending Nebraska

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Revised, Revised Statute 16-118 to account for federally owned property or property owned by the natural resources district. However, I'm going to add that after speaking with representatives of the NRDs, we brought an amendment that would remove them from the bill. Offutt Air Force Base and Rising View sit in the middle of Bellevue and hinders the city's ability to grow and develop. They are landlocked to the east and have boundary agreements regarding territories to the west and the north and the Missouri River is to the east. Bellevue's future growth and expansion can only occur to the south of the base. If legislation is passed amending Nebraska Revised Statute 16-118 to allow for a city to be able to pass over only federally owned property and/or installations, it would help cities affected by the same dilemma to continue with their growth and development. This is likely not specific just for Bellevue with Offutt Air Force Base, but as something that could be addressed for all federally owned installations here in Nebraska. I've brought a handout for you that shows both the layout of Bellevue to demonstrate why it's definitely needed for our area and-- excuse me-- and also lays out other areas around the state that are near federally owned parcels that might come into play in the future should this bill pass. Unfortunately, these properties hold special challenges, as the properties that may be developed are in flood zones or subject to air installation compatible use zone regulations. The purpose of the AICUZ, air installation compatible use zone program, is to protect the health, safety, and welfare from noise and safety hazards through compatible development in the airport environment. It's a program of the Department of Defense to address the development of land surrounding military air installations and so we're asking for your consideration when it comes to special evaluations, asking that it also applies to flood plains and air installation compatible air zones. Now you might also be wondering what Bellevue is doing to mitigate floods and flood risks moving forward. So there's two major focal points that have been reinforcing Bellevue's levee systems and studying the feasibility of installing a permanent pumping station that would help alleviate some groundwater and flooding concerns. The pump would be, be placed in, the pump would be placed in the waterway that removes all of the rainwater and groundwater out of Bellevue, dumping it into the Missouri River. Bellevue has been working with Omaha's HDR on a study analyzing the feasibility and associated costs of the project. The project should start this year. Other flood mitigation action consists

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of the city's two major levee structures along the Missouri River and the Papillion Creek being elevated by three feet or more by the Papio Missouri River Natural Resources District. Those-- all-- those should also be completed this year. So it's Bellevue's hope that you consider these unusual circumstances and see them as what they are, which are hurdles that could easily be addressed with a small change in state statute. I do have individuals here to testify with additional information and you'll note letters of support in your packets from area individuals and organizations that support the continued growth of the Bellevue community. I am happy to answer any questions you may have, but I encourage you first to hear from these testifiers, as your questions will likely be answered as a result of their presence and their expertise may well be more informative than mine. I'll also add that the amendment I'm offering touches on NRDs, but also includes language we've worked out with the NREA that would keep a noncontiguous piece of annexed land under the purview of the electrical-- electric utility that had been serving that parcel before the annexation, with a few exceptions. I also did include one letter for the record from John Love of Papillion Sanitation we received after the noon deadline. As we're still working out the kinks with supporters in this new hearing schedule, I hope you'll grant me some leeway there. With that, I conclude my opening.

WAYNE: Any questions from the committee? Senator Arch.

ARCH: Thank you. Just-- there's two amendments, is that correct, or is-- or does one supersede the other?

BLOOD: That's a good question. I haven't had a chance to see the second amendment--

ARCH: OK.

BLOOD: --so I will ask my staff when I sit down.

ARCH: OK, thank you.

TREVOR FITZGERALD: I can clarify-- if I could, I, I believe the, the first amendment was the previous amendment from the senator's office and then the, the most recent amendment was AM--

ARCH: AM159?

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TREVOR FITZGERALD: That's correct.

ARCH: And that's the one from--

BLOOD: It should include both.

TREVOR FITZGERALD: Yeah, that's the one that she's referencing, yes.

ARCH: Thank you.

WAYNE: Any other questions from the committee? Seeing none, thank you for being here. Next we'll start with proponents, pro-- welcome to your Urban Affairs.

RUSTY HIKE: Thank you, Senator Blood. Thank you, Senators. Thank you for your time. Thank you, Chairman, and thank you for your service to Nebraska. Senator Blood laid that out very well. I also left a little packet. I just want to go over the history of Bellevue's annexation.

WAYNE: Can you state your name and spell it?

RUSTY HIKE: Oh, I'm sorry. Rusty Hike, mayor of Bellevue, R-u-s-t-y H-i-k-e, lifelong resident of Bellevue as well.

WAYNE: Go ahead.

RUSTY HIKE: OK, so yeah, I left a packet with you. You should have this with the front page here. So this kind of shows our wards that are-- how they're laid out right now and you can see an obvious disconnect on them. This is where the problem comes in. If you see the big white swath between the two areas, it looks as though we've been illegally annexing for years. This one area is connected by what you might call a strip annexation. This area down here doesn't even touch anything, but when the city brought those forward, the county attorney chose to let those go. So I think we've stood the test of time. Is that right? Probably not. It's not the right way to do things, I don't think, but the problem being in that white area, the second page of that packet will show you where the air base, their utilization zone is. A lot of people will call that the air crash utilization zone, so it's just a safety zone for noise and potential crashes of air-- airplanes leaving and coming to the base, but you can't-- there's-- they're really restricted on what you can develop. So for a landowner

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to have a farm there or-- he can't, he can't sell that off for development, like, like a lot of people next to the municipalities can do, and make some decent money on it. So that land is probably only going to be farmland for, you know, for, for ever maybe, unless something drastically changes. Also, the next page will show you the second part of the problem is the flood zone, which runs pretty much in line with that AICU zone. And you go to the third page, I just kind of put them all on top of each other. So there's a huge wall there that prevents the city of Bellevue from crossing over and annexing, so that, that's the reason you see those, those questionable past annexations. Our bigger question is when, when we put in some SIDs, we're getting a lot of interest and there's a lot of growth potential south of the base. When we connect these areas to the annexations in the past that have probably done-- been done improperly, that leads the question is-- are, are those going to be objected to-- will they be taken to court? Because they don't really touch the city legally, so we're just trying to get that cleaned up and I think, I think the statute is probably the easiest way. As Senator Blood mentioned, we did try to annex the base in the '70s, that, that failed. And we want to be a good neighbor. We love our, we love our military family. We love our farmers. We don't-- we certainly don't want to penalize the farmers by annexing them and then getting rid of their special valuations when that land is going to be nothing but, but farm ground because it sits in a flood plain or the-- their utilization zone, so-- I just wanted to, I wanted to present our problem and let you know that we've tried different avenues, but there really is no way to connect us without, without changing the statute and making that a little, little easier for us in the future.

WAYNE: Any questions from the committee? Senator Arch.

ARCH: Thank you. Thanks for being here, Mayor.

RUSTY HIKE: Thank you.

ARCH: The valuation issue, can you talk a little bit more about that? So-- I mean, understanding that some of this can be developed, as you said, but how does the special valuation work?

RUSTY HIKE: The special valuation is given to people that are using it for agricultural purposes, which, which lowers the value from what

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regular land would be selling for in the area. So it gives them an extra, an extra layer of value there. It drops their, their valuation a little bit more.

ARCH: Did, did I understand that that's happening now? Did you, did you, did you mention that in your testimony?

RUSTY HIKE: If we were to annex the farmland that has that special valuation on it, under current statute, they would lose that special valuation because they're not within the city limits.

ARCH: When, when you, when you annexed?

RUSTY HIKE: When we annexed, so this would give--

ARCH: Prior, they have a special valuation, but if you annex, then they lose it.

RUSTY HIKE: Correct.

ARCH: Got it.

RUSTY HIKE: And it would make the farming, you know, a little tougher to, to show any kind of profit on it, so--

ARCH: Thank you.

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

RUSTY HIKE: Thanks again and I appreciate your, your service.

WAYNE: No problem. Next proponent. Welcome to your Urban Affairs Committee.

JOE KOHOUT: Chairman Wayne, members of the Urban Affairs Committee, my name is Joe Kohout, K-o-h-o-u-t, registered lobbyist appearing today on behalf of the United Cities of Sarpy County. The United Cities is a coalition of the mayors of the five municipalities in Sarpy County and I'm happy to say that LB9, when Bellevue was going through the process of, of drafting it, the mayors met, reviewed every draft, and, and were comfortable-- were very comfortable with the draft in its, in its

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present form. And one thing that I would just note-- and, and it's interesting as I sit here because I've, I've represented the United Cities for about 14 years now and this issue first manifest itself-- we first had a discussion about potentially looking at legislation as long as about ten years ago-- and I think it was when Senator McGill was Chair of this committee-- and went so far as to actually have senators up and touring and looking at the physical restrictions that were on, on the-- by the base and that sort of thing. And ultimately, where it came down to was there was a concern about-- because that version of it would have looked at essentially allowing for some form of strip annexation and we just didn't think that that was the best policy. So ultimately, we, we retreated from that position and now what you have in front of you is a, is a better option that's been vetted and that everybody is comfortable with, so--- in that area. And, and if any of you ever-- and I know Senator Arch knows this, I know Senator Blood knows this, but it's, it's very interesting when you're driving up in Bellevue and you can see the AICU zone. But what you don't realize is how far west that AICU zone does go and it goes all the way over, in some cases, past 66th Street because you cannot develop buildings of a certain height in that because the, the planes are coming in. So it's a, it's, it's a far-reaching zone that is really furtherance of economic development in the state. So we appreciate and hope you will consider LB9 favorably.

WAYNE: Any questions from the committee? Seeing none, thank you for being here.

JOE KOHOUT: Thank you.

WAYNE: Next proponent. Welcome to your Urban Affairs.

CHRISTY ABRAHAM: Thank you, Senator Wayne, and members of the Urban Affairs Committee. My name is Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m, here representing the League of Nebraska Municipalities. I don't know that I could add much to what Senator Blood and the mayor of Bellevue stated. They, they have explained the case very, very well. The league just wants to be on record as being supportive of this bill. It, it is possible that maybe other first-class cities would use it, but I think this is probably a pretty unique situation to Bellevue and we're just grateful for this bill

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that that gives them the flexibility that they need to grow. So I'm happy to answer any questions you might have.

WAYNE: Any questions from the committee?

CHRISTY ABRAHAM: Thank you.

WAYNE: I see none. Thank you for being here. Next proponent. Moving onto opponent, first opponent. OK, seeing no opponents, anybody testifying in a neutral capacity? Seeing none, Senator Blood, you're welcome to close.

BLOOD: Thank you, Chairman Wayne. In Nebraska, we spend a lot of time and money when it comes to economic development. We're always concerned about growing our state, but lots of times, as we see in LB9, for a community to grow, it just requires a tweak in state statute. No money, no major debates, obviously, no-- I don't think we have any opposition, but Bellevue is Nebraska's third-largest community, third-largest municipality, and they'd like to keep that title. But as is, there aren't a lot of choices for growth and we have discovered other municipalities, which are in the, the handout, that may benefit from this bill in the future. So we're not asking to do anything that is-- that isn't appropriate. What we're asking is for a fair deal. Allow us to continue to grow south, allow us to continue to develop, and allow us to grow Bellevue. This bill is very important to Bellevue. You know Senator Sanders and I are cosponsors on this bill because we know that this is probably the only option for growth for Bellevue right now. And so, as we all know too, growth means more tax dollars, which is for the greater good of all Nebraska. So with that, I appreciate your time and I hope you strongly consider voting this bill out of committee on behalf of our committee.

WAYNE: Any questions from the committee? Seeing none, we do have five letters of support, support from Sarpy County Economic Development Corporation, support from the Greater Bellevue Area Chamber of Commerce, support from Paul Hartnett, support from Cole-- Colm Breathnach, B-r-e-a-t-h-n-a-c-h, and neutral position from Nebraska Rural Electric Association. I'm sorry, four letters of support, one neutral. And with that, that will close the hearing on LB9. Next, we'll have-- a committee bill will be introduced by legal counsel and I do have a bill up in Education, so I might be leaving and legal

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counsel will introduce LB218 and LB221 if I'm not here. Welcome to your Urban Affairs Committee.

TREVOR FITZGERALD: Good morning, Chairman Wayne, and members of the Urban Affairs Committee. For the record, my name is Trevor Fitzgerald, T-r-e-v-o-r F-i-t-z-g-e-r-a-l-d, and I'm introducing LB161 on behalf of the committee. The primary statute that governs state and local building codes in Nebraska is the Building Construction Act, which adopts the state building code and provides procedures for the adoption of local building and construction codes. Under the act, the state building code applies to state-owned buildings and political subdivisions in-- sorry, in each political subdivision, which elects to adopt the state building codes-- code as its local building code and in each political subdivision, which has not adopted a local building code within two years after an update to the state building code effective, effective as a default code. In political subdivisions that adopt a local building code as provided under the act, the local code is the applicable building code. Last session, the Urban Affairs Committee heard and advanced two what I would dub cleanup bills related to state and local building codes, which were not scheduled for floor debate due to the lack of a consent calendar or a priority designation. LB161 is a reintroduction of the provisions of those two bills combined into a single bill. The first of those two bills-- and I will actually take them in the opposite order I listed in my memo, so my apologies. The first of those two bills, which was LB824 last session, is designed to address an unusual language quirk in the section of statute that adopts the state building code. As committee members may recall, in 2019, the Legislature passed three different bills, which all amended Section 71-6403, the section that adopts the state building code. Because those bills contain different effective dates and were not correlated as part of the normal legislative process, the Revisor of Statutes utilized their authority to correlate the changes in the bill to reflect all amendments. In the case-- in this case, the result was that language adopting changes to two of the model codes in the state building code, the International Building Code, IBC, and the International Residential Code, IRC, which ended up containing duplicative and redundant language. LB161, like LB824 before it, would eliminate this redundant language, as well as correcting a reference to the Department of Environment and Energy. The second of the two technical bills from last year, LB800, was

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designed to clarify that either the state building code or the local building code is the legally required building code, regardless of whether the state or political subdivision has specifically provided for enforcement of the code. By way of background, the Urban Affairs Committee regularly receives calls from code officials, property owners, homebuilders, and other construction companies and contractors with questions about which code is applicable under the Building Construction Act and the provisions and procedures for the adoption of local codes in Nebraska. In recent years the con-- the committee has received an increasing number of calls from property owners and contractors presenting an interesting fact pattern. In these cases, an insurance company, at least initially, refuses to pay claims to repair storm damage, claiming that since the political subdivision, quote, does not enforce the local building code, that the insurance company doesn't have to reimburse for repairs to beat the current code. These instances have occurred despite clear evidence that the political subdivision has adopted either the state building code or a local building code as provided under the Building Construction Act. And in at least one case, an insurance company initially refused to pay a claim for storm damage to a state-owned building and it's abundantly clear that the state building code applies to state-owned buildings. Currently, nothing in the provisions of the Building Construction Act requires that political subdivisions employ code inspectors or otherwise provide enforcement of local building codes and many smaller municipalities do not do so, as it would be financially impractical for communities to employ code officials to handle a small number of building permits on an annual basis. LB161 attempts to address this issue by stating in very clear language that the state building code or the local building code is the legally applicable code, regardless of whether the state, state agency, county, city, or village has provided for the administration or enforcement of the code. I'm not sure if there's someone behind me to testify. I would note that we did receive written testimony in support of the bill from Sara Kay from the American Institute of Architects Nebraska Chapter this morning, but I would be happy to answer any questions the committee may have at this time.

WAYNE: Any questions from the committee? Seeing none, will you be staying around for your closing?

TREVOR FITZGERALD: I will likely waive closing.

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WAYNE: OK. First, we'll have proponents. Any proponents? Any opponents? Any opponents? Anybody in the neutral capacity? Seems like consent calendar to me. We do have letters of support from the Associated General Contractors Nebraska building chapter and written testimony, Sara Kay of the American Institute of Architects Nebraska Chapter. And with that, I will close the hearing on LB161. Next, I'll turn it over to Vice Chair Hunt.

HUNT: So for LB218 and LB221, we're going to do a joint hearing. Thank you. Senator Wayne, welcome to your Urban Affairs.

WAYNE: Thank you. Good morning, Vice Chair Hunt and members of the Urban Affairs Committee. My name is Justin Wayne and I represent-- 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 most chairs, you introduce a bill and you think it has no controversy until the week before the bill and then it becomes fun. So this is this one. The purpose of LB218 and LB221 is to update Nebraska's default plumbing code. Since 1996, state law has allowed individual municipalities and counties to adopt their own local plumbing code, but provides for a default code in the event the jurisdiction has not adopted a plumbing code. Our current default plumbing code, which was adopted in 2012, is the 2009 Uniform Plumbing Code. LB28 would-- LB28-- LB218 would update the default plumbing code to the 2018 UPC, while LB221 would update the default plumbing code to 2021 UPC. The UPC is prom-- promulgated by the International Association of Plumbing and Mechanical Officials and has been designated by the American National Standards Institute as the American National Standards code, similar to the other model codes that we adopted in the state building code and the state energy code, the UPC is updated every three years. As members may recall in 2019, the committee conducted an interim study on the issue of plumbing codes, LR132. The primary purpose of the interim study was to solicit input on whether to update the default plumbing code; if so, which version of the code to adopt. At the interim study hearing on LR132, seven individuals testified. All seven individuals indicated their unanimous support for updating the default code to the 2018 UPC. And again, I want to stress all seven people said that this was a good idea. Last year I introduced LB809, which like LB218 would, would have adopted the 2018 UPC. LB809 was advanced unanimously by this committee, but was not scheduled for floor debate due to a lack of priority designation. I would also note

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LB809 saw no opposition either in person or written testimony. Since last year, a new edition of UPC has been published. LB221 would instead adopt a newer edition of the 2021 UPC. I introduced separate bills for each version for the UPC, though we could hold the hearing together on 2018 and 2021 versions and then allow the committee to determine which one is appropriate for updating the default plumbing code. Because of COVID, there were a number of groups that are ordinarily would have been here to testify, but LB221-- in support of LB221, but they chose not to testify in person. I draw your attention to the letter supported by the International Association of Plumbing and Mechanical Officials, IAPMO, which is also signed by the following additional organizations: the Mechanical Contractors of Omaha, Nebraska Plumbing-Heating-Cooling Contractors Association, Plumbers Local Union Number 16, Steamfitters and Plumbers Local Union Number 464, Nebraska State AFL-CIO, the city of Grand Island and the chief plumbing code officials in both Grand Island and Lincoln. Finally, I will note that the issue raised by the committee counsel in his memo, which has inadvertently led to the opposition of these bills despite there being no opposition last session. In 2019, the Legislature passed, passed my bill to provide that in cases where the county, city and village does not adopt a local building code within two years of one that we update, the state building code and the state-- update to the state building code, the state building code will kick in as a default code. Unfortunately, because several provisions of the three codes that we have adopted as the state building code also contain references to the International Plumbing Code, the IPC, there, there may have been issues in communities that which did not adopt both either the local building code or a local plumbing code where it technically calls for two different codes. Despite the fact that UPC and not the IPC has been our default plumbing code since 1996, some organizations that did not even testify on the plumbing code last year are now testifying in opposition to LB218 and LB221 based on the idea that we should switch from a default plumbing code, a UPC to IPC. I want to stress the importance factor under the current law, political subdivisions still have the ability to adopt the, either the UPC or the IPC. Nothing changes under LB218 or LB221 would change that. So the local jurisdiction still has the ability to adopt the IPC if it chooses to. If it doesn't, doesn't do anything, that's the only time the state default code kicks in. At the LR132 interim, interim study hearing in 2019, we heard extensive testimony on the benefits of the

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UPC, including that the UPC is wholly contained in a single code book, while using the IPC may require plumbers to purchase additional books. Many existing programs both at the local union programs and the Nebraska community colleges all turning to the UPC. The UPC was adopted statewide in, in Iowa in 2019 and has been adopted in communities throughout the neighboring states of Kansas and Missouri. There are individuals behind me who could probably speak better to some of the significant code changes in the plumbing code, but I'll be happy to answer any questions that I can at this time.

HUNT: Thank you, Senator Wayne. Any questions from the committee?

WAYNE: Senator.

HUNT: Seeing none. Oh, sorry, Senator Arch.

ARCH: UPC, IPC, would you describe the U-- would you describe the IPC as more stringent than the UPC?

WAYNE: I will let the people who are more in the field to do it. I know one is the international-- IPC is promulgated by the International Code Council. We, we met with, legal counsel and I met multiple times with the plumbers throughout Omaha, Lincoln and even smaller communities, Grand Island and villages who all of them follow the UPC. There's only a handful who follow the IPC. And those still, underneath both of those bills, those local jurisdictions can still adopt the IPC if they choose to. But we just-- they've always felt that it was, at least the industry always felt the UPC, the ones we met with, was better. As far as which one is more stringent, I don't-- you have to ask them [INAUDIBLE] does a little more.

HUNT: Any other questions? Senator Lowe.

LOWE: Thank you, Vice Chair. So what is the opposition on this? I, I have not gotten an email as far as opposition.

WAYNE: So you'll hear, I think there are some people in opposition today. But the gist of it is, is they prefer the IPC over the UPC. And so rather than updating anything, they would prefer that we got rid of the UPC altogether and have the IPC as our default code. And so you might call it an ideological difference, but for two years that issue hasn't been raised at all. And so this is the first that we heard

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about it this year. So that's really the opposition. So even if we don't change anything, they're still underneath the UPC. It's just the 2000-- 2009 version-- no 2012 version. So even if we don't do nothing, they're still under the UPC 2012 version.

LOWE: OK. How are--

WAYNE: Sorry, 2009 version that we adopted in 2012.

LOWE: How are the contractors and just the local plumbers who don't belong to an organization, how are they with this?

WAYNE: Even when we met with the people who weren't part of unions and local contractors, they still, at least in Omaha, Lincoln and Grand Island, to my understanding, they still follow the UPC. So, again, it was just a handful who didn't. And even under our bill, they can still go to a local city council, local jurisdiction and adopt it.

LOWE: OK.

WAYNE: I think it's just kind of what you were trained on. And unfortunately, over the last five to six years, well, actually 10 years, our community colleges and trade associations have all went to the UPC. So that's what they're all familiar with over the last 10 years so.

LOWE: OK. Thank you.

HUNT: Thank you, Senator Lowe. Any other questions? Seeing none, thanks for your introduction. We'll take the first proponent for LB218. Welcome.

BRIAN ROGERS: Good morning, Chairman Wayne and members of the committee. I am Brian Rogers, B-r-i-a-n R-o-g-e-r-s, I am a licensed master plumber and a certified plumbing inspector here on behalf of the International Association of Plumbing and Mechanical Officials, commonly referred to as IAPMO. I testify today to share support of LB221. The uniform codes published by IAPMO are developed through an inclusive process that follows the requirements established by the American National Standards Institute. This process ensures industry expertise is at the heart of the code, rather than the special interest of a dominant group. The Uniform Plumbing Code has been the

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preferred plumbing code throughout the state of Nebraska for many years. IAPMO has recently published the 2021 UPC, which contains better efficiency provisions, technological innovations and up-to-date methods that could provide greater benefits for Nebraskans. This is why I am, I am testifying in support of updating to the 2021 instead of the 2018, and why our industry partners shared their support in the sign-on letter before you. LB221 still allows for jurisdictions to adopt whatever plumbing code they wish. But if authorities take no action, the UPC serves as the default plumbing code. This has worked flawlessly in the state of Nebraska for many years. The UPC harmonizes with all building codes and is easier to enforce because there are fewer areas of field interpretation. This, in turn, helps eliminate conflict between contractors and inspectors that could lead to construction delays and cost overruns. As a frame of reference, neighboring states of South Dakota and Iowa, along with many other state and local jurisdictions throughout the U.S., adopt the UPC and do not have any correlation issues with their adopted building codes. Additionally, many education and training institutions in Nebraska teach only to the UPC as the foundation for their plumbing code curriculum. The 2021 UPC has an appendix known as the peak water demand calculator, which was scientifically vetted and can actually help generate cost savings. The water demand calculator is an innovative tool that updates pipe sizing methods for single and multi-family dwellings, providing savings on the overall cost of construction. The tool decreases the amount of water being used in the system, which reduces energy cost and improves public health and safety. Depending on the size and number of fixtures within a dwelling unit, applying the calculator's provision saves 10 to 15 percent in material and labor costs. Additionally, adoption of the UPC provides a pathway for the state and local jurisdictions to utilize all the supplemental appendices as needed. Now, prior to the hearing, the International Code Council has made claims that their plumbing code will generate cost savings and correlate with existing codes better than the UPC. These statements are untrue, and cost savings promoted in the 2019 ICC economic impact study are exaggerated and misleading. A third party plumbing engineering firm was commissioned to analyze the ICC data, and they found that the cost savings in the report are grossly inflated. The firm verified that ICC utilized disproportionate data and misapplied their own code, which distorts these purported cost savings. So any claims in construct-- in cost reductions may not

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necessarily be realized for building owners in Nebraska. I have with me an overview of the technical information about the intern-- inaccuracies in the ICC report and I can share it with the committee at the end of my testimony. Overall, IAPMO supports the state of Nebraska updating to the 2021 UPC, given the advance, advancements to help reduce construction cost and water use. Additionally, in order to align the many building codes, code bills before the committee and to ensure that the updated plumbing code goes into effect properly, we support the inclusion of language in LB221 that amends the Nebraska State Statute 71-6403 to adopt the 2021 UPC by reference. This minor change to the bill will promote continuity throughout the state and limit conflicts or confusion with industry professionals. Thank you for your time today and I would be more than happy to answer any questions.

HUNT: Thank you, Mr. Rogers. Any questions from the committee? Senator Arch.

ARCH: Thank you. I'll ask the same question. IPC versus UPC, is, is IPC more stringent or just different?

BRIAN ROGERS: You say more stringent. They're both minimum standards. Now with anything there's different levels of minimum standards. We believe that the Uniform Plumbing Code has a higher minimum standard that protects the health and safety of Nebraskans more than our counterpart, the IPC.

ARCH: Thank you.

HUNT: Any other questions? Thank you, Mr. Rogers.

BRIAN ROGERS: Thank you.

HUNT: Appreciate it. Any other proponents for LB218 or LB221? Seeing none, are there any opponents here to LB218 or LB221? Welcome to your Urban Affairs Committee.

RICHARD HAUFFE: Thank you. My name is Richard Hauffe, That is R-i-c-h-a-r-d, last name, H-a-u-f-f-e, I am a senior regional manager with the International Code Council and I handed a packet of information to Angelina-- Angenita, which has pretty much the text of my statement for today. My hope today is to tell you about the

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economic benefits of the international code, our plumbing code, and why was-- why it would be best to allow the IPC to be included as an option for building contractors and property owners. First, the International Plumbing Code is used in 35 states and the District of Columbia, New York City, Puerto Rico and Guam. Among the 20 largest communities in Nebraska, those that are using the IPC are, according to their ordinances, are Hastings, Norfolk, North Platte, Papillion, La Vista, South Sioux City, Beatrice and Alliance. Omaha and Douglas County and communities in Douglas County have been using the Omaha home-grown plumbing code, for lack of a better term. And while Sarpy County government itself has adopted the IPC. The IPC is innovative, efficient, effective and fully coordinated with all of the 14 other international codes. Correlation ensures there's no conflicts or overlapping requirements. Correlation between the adopted building codes is key so that all adopted codes work in harmonization. This correlation among limits on-- limits unnecessary modifications and amendments. The IPC references the International Building Code as adopted here in Nebraska over 20 times, while the IBC references the IPC 14 times. Correlated cross-references impact life-safety issues related to allowable use of combustible materials, design and installation of roof drainage systems, minimum number of required plumbing fixtures, fire and smoke protection features, accessibility provisions, including a direct reference to ICC A117.1 standard. The IPC roof drain and storm drainage system sizing methodology is based upon published roof drain local flow rates. The sizing methodology was developed and tested as part of an ASPE Research Foundation report. The other code sizing methodology is based on overall roof area and does not account for the roof flow rate of the given roof drains. The sizing method can lead to impounding water on the roof, on the building structure and lead to roof failures. The IPC has allowed siphonic roof drainage technology since 2012. Using this technology results in a typical savings of 20 percent to 45 percent from traditional roof drain designs. Siphonic roof drain designs will reduce required pipe sizes, reduce the amount of below-grade drainage, and will reduce underground trenching. The horizontal roof drain piping is level without grade easing coordination. I can go-- I see my light is already yellow. The--

HUNT: Go ahead and finish, I let the other testifier go.

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RICHARD HAUFFE: The accusations from the prior speaker about the study that was conducted by Hatch and Henderson Engineers covered a period of 2007 to 2018, it was published in 2019. By adding the material cost savings, labor cost savings and overhead cost savings, and there's-- I'm just going to let you all read that, OK. But it's significant, \$3,000 on a house. And this, in this time you're hearing from home builders and you're hearing from the realtors, what can we do about shaving off the cost of housing? I'm up in Minnesota, is one of the states where I work. That is a big topic with the builders organization. And they're looking for different ways and including attacking the codes. But there is a-- there are better ways. In closing, let's ask ourselves, what's the purpose of a default plumbing code in jurisdictions where there aren't codes adopted, where nobody is hired to conduct the inspections? As you know, the state IRC and the state IBC already referenced the International Plumbing Code. It would be helpful to property owners and to contractors, two entities that are primarily involved here, to be able to use the UPC or the IPC, to have that choice. I believe that by amending 20-- LB218 or LB221 to include the IPC as a legal alternative would clear up confusion. It would also give those individuals the option to choose the modeling, the model plumbing code that is already correlated with the other international codes and which is performed as a safe and costly code to build competent plumbing systems. I can entertain any questions.

HUNT: Thank you, Mr. Hauffe. Any questions? Senator Lowe.

RICHARD HAUFFE: Yes, sir.

LOWE: Thank you, Vice Chair. And thank you for coming today, Mr. Hauffe. Between the two codes, is there any safety issues?

RICHARD HAUFFE: I think they're both safe. They both perform the functions that you want out of your plumbing as a user virtually the same. There's different techniques, there's different flexibility issues that are allowed with the IPC to produce those same things. And I spelled out a lot of that right here. And in the Hatch report also, you know, goes into some length on that.

LOWE: OK, so as far as building using the IPC, your construction costs are lower?

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RICHARD HAUFFE: Yes.

LOWE: Is that correct?

RICHARD HAUFFE: Yes. And this is according to the Hatch study. You know, and I think it, it became more compelling for the code officials in, in Nebraska with those results to say why are we not letting those local jurisdictions have that as an option? And, you know, that's primarily-- that's, I have mixed feelings about coming here to oppose Senator Wayne's bill. I, my feeling is, though, an amendment that allows them that choice again, this is, you know, remote parts of the state, is probably in the best interests of all concerned.

LOWE: All right, thank you.

RICHARD HAUFFE: Thank you.

HUNT: Thank you, Senator Lowe. Any other questions? Seeing none, appreciate your testimony today.

RICHARD HAUFFE: Thank you very much, Senator Hunt and Senator Wayne. And I appreciate all the service you do for the state and getting elected and coming here.

HUNT: Is there anyone else here in opposition to LB221 or LB218? Seeing none, anyone here wishing to testify in a neutral capacity? Seeing none, we have written testimony for LB218. A letter of support from Justin Brady, representing the Home Builders Association of Lincoln; Metro Omaha Builders Association. We have written testimony in support of LB221 from Justin Brady, representing the Home Builders Association of Lincoln; Metro Omaha Builders Association. And I will read the letters after your close, Senator Wayne.

WAYNE: Where to start? One, the-- if you look at the opposition letters, those opposition letters and who are writing those opposition letters, those are all the jurisdictions who currently have IPC. That doesn't change underneath this bill, they can still adopt it, Sarpy can still adopt it. We're just saying that the default is going to be updated. So the idea that any of these, whether it's the city of Hastings or the city of South Sioux City or the city of North Platte would be hindered by this is just not true, or the city of La Vista. They use a different code. They can pass their different code and keep

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it moving. The issue is outside of those jurisdictions. The issue is if you don't have a default code, then what we just heard on the previous bill from legal counsel will happen also on the plumbing side, where the insurer will say your default code is 2009 and that will be the standard of which things are put back. And it typically happens in the rural county areas because most jurisdictions adopt some code, whether the city of Omaha, who takes a version of the UPC and pulls in part of the IPC and goes through their own rulemaking process in which they do it like a home-grown that was stated in testimony. And same as Lincoln, they all adopt their kind of own version. This isn't new. But really what it affects is the counties in the outside of the city limits. That if we don't have a default code, we have a problem. And what I don't want to do is have two different default codes, because you're going to have insurers say, which one? Then you're going to have contractors say, which one? Is it the IPC or the UPC? And if there is two different standards, then which one of my following, which one am I being insured on? Which one am I rebuilding something when something happens, such as a tornado or a pipe busts? For those who were here a while ago when Senator McCollister introduced a bill our first and second year, we were dealing with plumbing issues outside of Omaha in which there was actually fecal matter just going out into the yard because they built it and there was no code except for the default code. And there was an argument in 2009 where it was supposed to be or whatever, but besides the point, it got fixed. That's the reason for a default code, is to make sure that we have one default code that we can go off of. And with that, I will answer any questions.

HUNT: Thank you, Senator Wayne. Any questions from the committee?
Senator Lowe.

LOWE: Thank you, Vice Chair. What happens if a city or county uses the IPC and insurance then comes in and says, no, we follow the UPC because that's what the standard in Nebraska?

WAYNE: That won't happen. So like in Omaha, the insurer-- the, because state law says if you have a default code or the jurisdiction adopts something, that jurisdiction governs. So in Omaha, that won't happen. They follow the Omaha local plumbing code, which is a hodgepodge of different, different things. The state law is clear on that, and that doesn't change underneath, underneath either one of these bills. State

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law is just saying, here goes default. If South Sioux City wants to adopt something else, they can, and that's what they have to follow.

LOWE: And that's what the insurance company has to follow--

WAYNE: Correct.

LOWE: -- when they pay out?

WAYNE: Correct.

LOWE: OK.

HUNT: Thank you, Senator Lowe. Any other questions? Thank you, Senator Wayne. We have letters to be read into the record. For LB218, we have letters of opposition from the Nebraska State Home Builders Association; the Norfolk Area Chamber of Commerce; chief building official for the city of North Platte; the Nebraska Code Officials Association; plumbing and gas inspector for the city of Hastings; building inspector for the city of Hastings; code official for the city of South Sioux City; chief building official for city of La Vista. And we have a neutral letter from Jim Harper. For LB221, we have a letter of support from the International Association of Plumbing and Mechanical Officials, plus eight other organizations; a letter of support from the Steamfitters and Plumbers Local 464. We have letters of opposition from the Nebraska State Home Builders Association; the chief building official for the city of North Platte; Nebraska Code Officials Association; plumbing and gas inspector for the city of Hastings; building Inspector for the city of Hastings; code official for the city of South Sioux City; chief building official for the city of La Vista. And a neutral letter from Jim Harper. And that will close our hearings on LB218 and LB221 and close our hearings for this morning.

HUNT: Good afternoon, and welcome to the Urban Affairs Committee. My name is Senator Megan Hunt and I represent the 8th District, which includes the neighborhoods of Dundee and Benson in midtown Omaha. I serve as the Vice Chair of our Urban Affairs Committee. Unfortunately, our Chairperson, Senator Justin Wayne, can't be with us today. He might be back later, but I will be chairing this afternoon's hearings

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to start off. Let's start by having members do self-introductions, starting on my right with Senator Blood.

BLOOD: Good afternoon. I'm Senator Carol Blood and I represent District 3, which is western Bellevue and southeastern Papillion, Nebraska.

TREVOR FITZGERALD: I'm Trevor Fitzgerald, committee legal counsel.

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

LOWE: John Lowe, District 37.

ANGENITA PIERRE-LOUIS: Angenita Pierre-Louis, committee clerk.

HUNT: Thank you. Also assisting the committee are our pages, Noah Boger from Omaha, who is a political science major at UNL, and Samuel Sweeney from Omaha, who is also a political science major at UNL. Would you like to introduce yourself?

BRIESE: Oh, thank you. Tom Briese, District 41.

HUNT: Thank you.

BRIESE: Thank you.

HUNT: Due to the ongoing COVID pandemic, the Legislature has adopted additional safety protocols that apply to all committee hearings which are posted outside. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill that we're currently hearing in progress. The bills will be taken up in the order posted outside the hearing room, and the list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that everyone utilize the identified entrance and exit doors to the hearing room. The entrance door is on the left hand side of the room while the exit is on the right hand side. We also request that you wear a mask or face covering while in the hearing room. Testifiers may remove their mask during testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize

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the front table and chair between testifiers. In the event that the hearing reaches seating capacity or is near capacity, the entrance door will be monitored by the Sergeant at Arms who will allow people to enter the room based upon seating availability. People waiting outside the hearing room are asked to observe social distancing and wear a mask or face covering while in the hallway. We also ask that you please eliminate or if possible, eliminate handouts. All of us are reachable via email and so that's the way to get those handouts to us if you need to. This afternoon, we are hearing three-- three bills and we will be taking them in the order listed outside this room. On the table near the entrance, you will find blue testifier sheets. If you are planning to testify today, please fill one out and hand it to Angenita, our committee clerk, when you come up. This will help us keep an accurate record of the hearing. Please note that if you wish to have 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 to record your position on a bill, please fill out a gold sheet near the entrance. Also, I would like to note the Legislature's policy that all letters for the record must be received by the committee by noon the day prior to the hearing. Any handouts submitted by testifiers will also be included as part of the record as exhibits. We would ask that if you do have any handouts, that you please bring 10 copies and give them to the page. If you need additional copies, the page can help you make more. Testimony for each bill will begin with the introducers opening statement. After the opening statement, we will hear from supporters of the bill, then from those in opposition, followed by those speaking in a neutral capacity. The introducer of the bill will then be given the opportunity to make closing statements if they wish to do so. We ask that you begin your testimony by giving us your first and last name. Please also spell them for the record. We'll also be using a 4-minute light system today. When you begin your testimony, the light on the table will turn green. The yellow light will come on when you have one minute left and then when the red light comes on, I'll ask you to wrap up your thoughts and we can see if there are any questions from the committee members. I'll also remind everybody, including Senators, to silence any devices you have that will make noise. And with that, we will begin with LB467 from Senator Bostar. And while he's coming up, Senator Arch, would you like to introduce yourself?

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

HUNT: Thank you. Welcome, Senator Bostar.

BOSTAR: Good afternoon. Good afternoon, Vice Chair Hunt, and members of the Urban Affairs Committee. I am Senator Eliot Bostar, E-l-i-o-t B-o-s-t-a-r, and I represent Legislative District 29. I bring forth LB467 on behalf of the Nebraska Electrical Division, representatives of which you'll hear from shortly. Adopted in all 50 states, the National Fire Protection Association, Number 70, National Electrical Code is the benchmark for safe electrical design, installation and inspection to protect people and property from electrical hazards. LB467 updates the minimum standards as set forth in the National Electrical Code, which governs the state electrical board. There are eight states, Colorado, Georgia, Massachusetts, North Dakota, South Dakota, Texas, Washington and Wyoming that have already adopted the 2020 code and an additional 28 states that are in the process of adopting the code update. In Nebraska, several municipalities have already adopted or in the process of adopting the updated 2020 electrical code, including Grand Island, Hastings and Fremont. Electrical codes exist to protect life and property. We adopt and update these codes on a regular basis. Updates are needed to address evolving best practices, new safety technologies, as well as consumer and building trends. I expect that you will hear objections to this bill centered mostly around cost. The state electrical division, firefighters and electrical workers have made clear that these updates are not frivolous but necessary for the safety of Nebraskans. I encourage you to advance LB467. I also ask that you support AM136 that makes a correction to the beginning use date. I appreciate the committee staff for bringing this to my attention. Thank you for your time this afternoon. I'd be happy to answer any questions you might have.

HUNT: Thank you, Senator Bostar. Any questions from the committee? Seeing none, appreciate your opening.

BOSTAR: Thank you.

HUNT: We can take up the first proponent for LB467. Welcome to your Urban Affairs Committee.

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CRAIG THELEN: Thank you, Senator Hunt, and members of the committee. My name is Craig Thelen, C-r-a-i-g T-h-e-l-e-n. I'm the director for the State of Nebraska Electrical Division. The State Electrical Board requests LB467 be moved forward with the amendment correcting the dates. The State Electrical Board consists of electricians, engineers, electrical inspectors and representatives from local utility companies. The biggest concerns we have as a board are regarding safety. That's why we are asking you to move forward with the adoption of the 2020 National Electrical Code update. The NFPA is the national code and standards that we follow. The section of the NFPA that regulates the work we do is the NFPA 70, which every three years they address updates and put together the National Electrical Code. These codes and standards deal with safe electrical design, installation and inspection to protect people on property. Historically, updating the state electrical codes have moved through the Legislature without issue. Some major changes are impacting dwelling units, one of which is surge protection. Surge protection is used to protect your electrical equipment in your home from power surges, which typically are in the form of electrical spikes or caused, be from a lightning strike. Another area of change is Ground Fault Circuit Interrupter, or GFCI for household ranges and dryers. The previous code changes included GFCI to 120-volt circuits. But this code change covers 240-volt circuits that are located within six feet of water. A third change that-- that would be to include Ground Fault Circuit Interrupter or GFCI protection in finished basements. The current 2017 NEC code requires GFCI in unfinished basements and Arc Fault Circuit Interrupters, AFCI in finished basements. A final change is requiring emergency disconnect on the outside of a dwelling unit. Currently there are rural utility companies in the state that already require disconnect at a demarcation point where utilities make their connection on the outside of the dwelling unit. In the City of Lincoln and other municipalities, this is not required. This emergency disconnect would allow firefighters to disconnect power right away instead of waiting for the utility company to arrive and disconnect before going into the dwelling unit. In summary, these are the greatest highlights of the 2020 code changes that have a financial impact for all. The electrical boards supports the NFPA 70, NEC 2020 code changes due to the life safety impact on the citizens of Nebraska. Thank you for your time. I'll take any questions at this time.

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HUNT: Thank you for your testimony. Are there any questions? Senator Lowe.

LOWE: Thank you, Vice Chair Hunt. How much will it cost to the consumer if they decide to build a house for these updates?

CRAIG THELEN: OK, so the attachment I handed out kind of gives you a breakdown of the four areas that I talked about. It shows you, the first page is a breakout of cost from us by house-- electrical supply house. And the second two are quotes that were put together from contractors that show you what those cost. So I've seen numbers anywhere from 700, 750 all the way up to, you know, 12-- \$1,500 for those changes.

LOWE: Is that cost to the contractor or cost to the homeowner?

CRAIG THELEN: That's the cost to the-- if it was-- so if it's a new construction, that would be costs that would be to the general contractor. If it was a homeowner building their house and doing generally it themselves, that would be their cost to the electrician.

LOWE: OK. And you said right now in a finished basement Ground Fault does not require?

CRAIG THELEN: Correct. The Ground Fault is re-- Ground Fault is required in an unfinished basement, but in a finished basement it is currently not required, but the AFCI is required. So that first sheet shows the cost difference between an AFCI and then they make a dual function breaker, which is a AFCI/GFCI, so you're already paying for the AFCI breaker in a finished basement. So now adding the GFCI is a dual function breaker and there's like a \$9 cost difference between the two-- between the single function or the dual function breaker.

LOWE: All right. Thank you very much.

CRAIG THELEN: Yeah.

HUNT: Thank you. Any other questions? Seeing none, thank you for your testimony today. Next proponent for LB467. Welcome.

CHRIS CALLIHAN: Thank you, Chairwoman. Good afternoon, Senators. My name is Chris Callihan. It's C-h-r-i-s C-a-l-l-i-h-a-n. I'm the

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business manager of International Brotherhood of Electrical Workers, Local 265. I am testifying today on behalf of myself and the over 400 members of Local 265 in support of LB467, the adopt updated electrical standards to the 2020 NEC. The 2020 NEC update contains some code updates directed at life, safety and the protection of household appliances and equipment with computer-based technology incorporated as part of them. Part of this update includes the requirement for the installation of Type 1 or Type 2 Surge Protection Devices in the main service panel. The service protect-- the surge protection will be installed and be integral part of the service equipment. Surge protection will help protect the life safety devices in that household or dwelling unit, which can include fire and smoke detectors, radon systems, carbon monoxide detectors, GFCI/AFCIs and other surges-- and others from surges or transient voltages that could occur in the electrical system. Some of these devices could have been exposed to a transient voltage or voltage surge, and the people in the house might not even be aware of a fault in that device or that it is inoperable due to that surge. Adding this protection will also protect the sensitive electronics in most appliances and/or equipment in a household from these same surges or transient voltages in the system. We now have computer processing boards and refrigerators, microwaves, thermostats, washers and dryers, stoves, TVs, radios and doorbells, just to name a few. There are even vacuums that will now connect to the Wi-Fi in your house to tell you how it is doing. The cost to replace one or more of these items can easily be in the hundreds of dollars, if not thousands of dollars. Seeing the dollar amounts that it will potentially cost to add these changes can catch you off guard and that is understandable. But we do-- we do need to again look at what it is actually going to do for the house or dwelling that it is being installed in. It is not only going to help protect appliances and equipment that are installed and connected electrically to the house system, it will also help protect the very people living in the house or dwelling unit by helping protect the devices and equipment designed to protect them from a hazard or alert them of a hazard from voltage surges or transient voltages. A transient voltage or surge can come from something as common as simple as a motor in a vacuum cleaner, a ceiling fan or a countertop mixer. We should minimum-- we should not minimize the need to add new and necessary protection systems to our homes and businesses when they are presented to us. The cost of adding airbags to cars and trucks probably did not have a

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simple answer to it, but there was a value to doing it. I truly believe the same can be said here in our current situation with the 2020 NEC code update. Thank you for your time to listen to me today and for your helpful-- hopeful support of LB467. I'd be open to any questions or concerns you might have.

HUNT: Thank you, Mr. Callihan. Any questions from the committee? Seeing none, thank you for being here today.

CHRIS CALLIHAN: Thanks for the time.

HUNT: Next proponent for LB467. Welcome.

KURT GRIESS: Good afternoon. My name is Kurt Griess, K-u-r-t G-r-i-e-s-s. I am one of two City of Grand Island, Nebraska, electrical inspectors. We're one of the municipalities that did adopt the 2020 National Electric Code as of January 1st. I am also representing the International Association of Electrical Inspectors, Nebraska Chapter. I'm one of the board members and have dis-- had discussion about these 2020 changes. We've been hearing a lot about the costs. Yeah, and for the residential, it's the emergency disconnect, the service protection and GFIs. I wanted to point out, we've been protecting 120-volt circuits for quite some time. We're introducing the 240-volt circuits to be protected by GFCI protection now. The Ground-- or the circuit breaker will not have individual protection from a shock. We've had many floods as of past. I've inspected some of those floods. We've been in those buildings and in those structures that are still energized. Most of the flooded areas, the power never, ever got removed from those flooded areas. So there was people exposed to those hazards. I have a little chart here that tells me, you know, about 50 percent of what makes 100-watt light bulb glow is enough power to kill an individual. And these Ground Fault protectors could help prevent that where the normal installations that we have at this time are not evaluating or-- or not protecting for those individuals on those types of hazards. That's about all I had to add. Any questions?

HUNT: Thank you, Mr. Griess. Questions from the committee?

KURT GRIESS: Yes.

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HUNT: Senator Lowe.

LOWE: Thank you, Vice Chair Hunt, and thank you for being here today and making the trip on these roads. The outside disconnect, how do we secure that so some kid doesn't come by and flip all the power off in your house?

KURT GRIESS: The national code does actually have a-- addition in there that it can be locked on. All fire departments carry bolt cutters, grinders, etcetera. It can be locked on so no nuisance turnoffs will happen. I can add a little bit, though, too is, unfortunately right now, with all the different floor plans of all the finished basements that we have, finding those disconnects inside the house is pretty cumbersome, you know, especially in an emergency situation.

LOWE: All right. Thank you.

HUNT: Thank you, Senator Lowe. Any other questions? Seeing none, thank you for being here today. Next proponent for LB467. Welcome.

MICHEAL DWYER: Welcome. Good afternoon. Good afternoon. Vice Chair Hunt, and members of the Urban Affairs Committee. My name is Micheal Dwyer, M-i-c-h-e-a-l D-w-y-e-r, and I'm here today to testify in support of LB467. I'm testifying on behalf of the Nebraska State Volunteer Firefighters Association. I bring regrets from our lobbyist, Jerry Stilmock, who is unable to be here today because of a COVID contact. So unfortunately, you're stuck with me. My testimony will be brief. While our members certainly support the adoption of all of the standards recommended by the NFPA, I would draw your attention to Section 12, which has been mentioned a couple of times, which requires an emergency disconnect at a, quote, readily accessible outdoor location for dwelling units. As a volunteer firefighter for 37 years, I can tell you one of my first concerns at arriving on a structure fire is whether or not the power is still active. If it-- if we have any concerns that it is, then what I have to do is contact dispatch who has to contact the power company, who has to contact the crew, who has to respond to our location and then perform the disconnect, which actually only takes about a minute literally to pull the plug. But we're not qualified to do that. If they're not there, then I have to make a difficult situation about the safety of not only the people

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that are filling the fire ground, but also any of the residents that are still perhaps inside. So we would certainly encourage that. It's a fairly simple switch and it should allow us to kill the power. It was mentioned before about the lockout. I would confirm that-- that I know all of our trucks did and most of the other departments that we work with do have a bolt cutter. And if we know that that switch is there and it's a matter of a clipping a lock, that's fairly straightforward and easy for us to do. I would encourage your support of LB467 and the adoption of the underlying code and would be happy to take any questions you might have.

HUNT: Thank you, Mr. Dwyer. Any questions from committee? Senator Lowe.

LOWE: Thank you, Vice Chair Hunt, and thank you, Mr. Dwyer, for being here today. I found-- OK, so the fire department is allowed to do the disconnects switch.

MICHEAL DWYER: The ones under 7, not currently.

LOWE: Not-- not currently. What's the difference of disconnecting it here on the house as opposed to disconnecting it on the pole or wherever it comes from?

MICHEAL DWYER: I can answer that in a general sense. I'm certainly not an electrician, but I know that if somebody--

LOWE: A fireman and slipped in Holiday Inn Express.

MICHEAL DWYER: I did not. And that's the reason I can't pull the meter. As I understand it, the process is to simply go out there and disconnect the band meter so that it breaks that circuit. I know that if it's 2:00 a.m. in the morning and I'm not fully awake and it's raining and dark, the last thing I want to be doing is having myself, or God forbid any of my crew, climb up on that ladder and try to pull apart a meter. If something goes wrong, that's not a situation I want our people to be on. The other hand, I'm not real crazy about being aggressive in fighting the fire with our crew if there's still any concerns about whether that structure isn't-- isn't disconnected. I hope that answers the question.

LOWE: Yep. Thank you.

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

MICHEAL DWYER: Thank you.

HUNT: Any other proponents for LB467? Welcome.

DENISE KOZEL: Good afternoon. Thank you, Madam Vice Chair, committee members, my name is Denise Kozel, D-e-n-i-s-e K-o-z-e-l. I am a representative of the City of Grand Island Electrical Board. I serve and have served for over a decade as the electrical contractor member on that board, and I am here to give support to the initiative to adopt the new 2020 NEC. It's-- adopting the NEC does many things in the way of providing consistency between the municipalities and the state. The City of Grand Island has already moved forward and adopted the 2020 NEC to provide consistency for our contractor members. I believe that the changes in this code, although will add a cost to construction of a dwelling, the-- the cost is not substantial when you consider the safety benefits and the protection benefits of the proposed new code. I believe that that's all I have to say. I would welcome any questions.

HUNT: Thank you, Ms. Kozel. Senator Blood.

BLOOD: Thank you, Vice Chair Hunt. Thank you for your testimony. I'm listening to this testimony and the one thing that I don't think we've talked about that maybe you can answer is that-- doesn't it also allow the fire department to come, having that outside shut off, also allow the fire department to be able to keep the house safe until they know it's OK for somebody to enter it during an emergency situation?

DENISE KOZEL: Absolutely. The thought that you would be able to simply approach a meter and cut the ring and pull the meter safely is-- it's-- it's inaccurate, especially if the house is under load, especially if the house is suffering from a house fire caused by electrical, which would mean that you could-- you could suffer serious arc clef burns pulling that meter. And this is why they have made and proposed this-- this code change. And this code change also makes a lot of other things that go into wiring a dwelling a lot more consistent. You know, as far as-- as-- as the former gentleman mentioned, you know, with all the different locations and house plans,

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a person entering a house during a situation like that would not know where to find the disconnect, which would be at the panel main, which is what was required previously. So that would be a challenge. And-- and, you know, whether it's raining or not, our municipality and many other municipalities are going with-- with a ring type meter enclosure with a lock on that ring type to actually prevent people from pulling the meter. And-- and it wouldn't be-- I'm sure our fire department has a key to them, but it's not as straightforward as you think just pulling-- pulling the meter.

BLOOD: Right. But so in addition to obviously making it so-- safe for them to enter to put out the fire, it also allows them to keep the property safe so other people can enter as well.

DENISE KOZEL: Exactly. Exactly. And the-- the protocol after that is to have your local inspectors, building inspectors, electrical inspectors come into the building and-- and then it is-- it is their decision whether or not it's safe to restore power or what steps need to be taken before they can safely restore power.

BLOOD: And then a curiosity question, how many female electricians are there in Nebraska, do you know?

DENISE KOZEL: Journeyman, I'm aware of a dozen. Contractors, I was aware that there was a female contractor in Lincoln and that would be the-- the limit of it.

BLOOD: I just wanna say, I think it's a pretty kick ass.

DENISE KOZEL: Thank you. Yeah, I don't-- I don't-- I know I am aware that there are other female electrical contractors. I-- I've I've never run into them in any of our meetings or educational-- continuing educational things, so.

BLOOD: It's nice to see a little diversity up here. No offense to any of the males, but.

DENISE KOZEL: Oh no, no, no way.

BLOOD: Kind of nice, though.

DENISE KOZEL: Yep.

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BLOOD: Thank you for coming.

HUNT: Thank you, Senator Blood. Senator Lowe.

LOWE: Thank you, Vice Chair. How are you?

DENISE KOZEL: Good, thank you.

LOWE: Good. Why do not the power companies put the disconnect on the pole outside where it might be away from the fire because the fire could be around the electrical disconnect?

DENISE KOZEL: When you get into certain residential neighborhoods, there is no power pole. It is a pedestal or a transformer with a pedestal adjacent to it that goes to the house. So and is-- and as more of the slight, you know, the low suburban areas are being absorbed by the higher urban areas, you'll see those power poles disappearing because most utilities, their goal is to get the utilities underground to make them bulletproof in a storm or whatever. So saying-- to assume that that it will always be on a power pole, it would be-- that would be more of a rural situation. That would be very, very common to see that-- to see that on a pole base. As areas become more urban or I should say more suburban, the-- most municipalities like to put their utilities underground just to make them bulletproof from the extreme weather conditions we have.

LOWE: You know, I thought about that, but I just wanted a clarification on that.

DENISE KOZEL: Sure. Sure. Thank you.

LOWE: My thought was it would be away from the situation of a burning house or whatever--

DENISE KOZEL: Uh-huh. The one thing that you would be concerned about with pulling a-- a meter under load, especially under a load in and possibly an electrical fire situation, is you would be concerned that that person would pull it because when you remove a meter, you have to wiggle it up and down to get it to release its jaws. And that final moment when it lets go, there is a potential for an arc full current to pass and depending on the conditions, I-- excuse me, I wouldn't allow any of my employees to pull a meter. And most of our

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municipalities, even the rural ones, have-- have pretty strict rules about we wait for them before we pull a meter un-- in an absolute emergency-- emergency situation, we can get permission. But that also means that we have to put on proper PPE and arc full protection before we can do that. But if it's to-- if it's to save a structure or possible, if you were there, this is something that we prepare to do and we also have very good open lines of communications with our-- with our electrical municipality, so.

LOWE: OK, thank you.

HUNT: Thank you. Any other questions? Seeing none, thank you for your testimony.

DENISE KOZEL: All right. Thank you for your time, Vice Chair, committee members.

HUNT: Thank you. Any other proponents for LB467? Seeing none, we can move on to opponents for LB467.

MATT KINNING: Good afternoon.

HUNT: Welcome.

MATT KINNING: My name is Matt Kinning, M-a-t-t K-i-n-n-i-n-g. I do home building here in Lincoln, Kinning Design Build. I'm the president of the Home Builders Association of Lincoln. And I'm also here representing the Metro Omaha Builders Association with that. That's about 900 members here today. I am testi-- testifying in opposition to LB467 which seeks to update the-- to the 2020 electrical code. There are four sections in that proposed code that could increase the cost of new construction and have a greater impact on remodeling. Those sections require surge protection, GFCI on basement outlets, outdoor disconnects for electrical service, and GFCI outlets for ranges, dryers-- ranges and dryers in certain situations. The Home Builders Association has calculated that on a 1,600 square foot ranch that could cost about \$900 above our current code recommendations. When we get into remodeling, we're looking at thousands more than that. Most of the time you have to upgrade the panel and there is multiple impacts with that. As most of you know, that's where we're redeveloping a lot of our affordable housing. So it puts a huge, huge

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damper on affordable housing, affordable rents, those types of things to-- to do any updates there. And also of note, for every thousand dollars that the cost of a new home rises in Lincoln, Nebraska, that does price about 190 families out of the market. That is a study from the National Homebuilders Association that-- that had a case study-- case city was Lincoln, Nebraska. We are also aware that there have been some issues with the 2020 code and that NFPA is working on some amendments. So we are-- we are wondering what is the point of adopting this code when we're going to end up working through the amendments again in the foreseeable future. A couple of things I want to want to touch on. They've talked a lot about life safety, very little about personal safety. As someone that watches these job sites and is around it, if the firefighters have bolt cutters to get into it, these have bolt cutters to get into it. When we talk about the outside shutoffs our-- some municipalities and electrical services are requiring us to do it. Those rural areas that might not have the-- the-- the worry of the personal safety, their-- their electrical suppliers, they're LES, they're OPD, whoever that may be, has the right to say you need to put the disconnect on it. They can work those out in rural Nebraska. Here in Lincoln, Omaha, we don't have those issues. You didn't hear from our firefighters, so I would-- I would please think about personal safety when-- when thinking about that. And please remember that we are in a housing affordability crisis and we need all parties on board to-- to help work with that. With that, I'll take any questions.

HUNT: Thank you so much, Mr. Kinning. Any questions from the committee? Senator Blood.

BLOOD: Thank you, Vice Chair Hunt. Thank you for your testimony. You said that it's your understanding that there were issues with the code, but you didn't say what those issues were.

MATT KINNING: Some of it was how we were doing-- I know they were looking through some amendments for, I believe, GFCI on the outside of the home. They just had some sticking points. I was not provided with exact information on what those were, my apologies.

BLOOD: Fair enough. But isn't that common, I mean, it's been mixed. I used to be on a city council. It seems from my experience that-- but those tend to be fluid and isn't there always something going on with those? They're being amended, updated.

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MATT KINNING: I just sat through-- we just updated in Lincoln. I'm going to talk from a Lincoln point-- standpoint. We just did the energy code. We just did the international building code. No, we didn't have any of those. We normally wait till the third. About every three years these things-- code books come out and so we would readdress them then.

BLOOD: Right.

MATT KINNING: It is weird to hear that-- that we're already looking for amendments before a majority of states have even adopted it.

BLOOD: It's weird, but it's happened, right?

MATT KINNING: Uh-huh.

BLOOD: All right. Thank you.

HUNT: Thank you, Senator Lowe.

LOWE: Thank you, Vice Chair, and thank you for being here today, Mr. Kinning. How-- you know, we've updated the codes several times and each time we update those codes, has it made the housing safer?

MATT KINNING: I think at any time, yeah. I mean, in the past, when we've done codes and I guess maybe that should have been an ask for me, we are allowed-- a lot of them are written that local municipalities can deviate from that code if they have the resources to do it. So some place like Lincoln or Omaha, we can put together a panel of individuals and take out stuff that doesn't quite fit the way we do things in our market to make sure we're building the most cost effective, energy efficient, safest houses in-- in Lincoln, in Omaha, wherever we may be at. So at the-- at the very least, if this was to go through, I would ask for an amendment to be able to have local municipalities make some edits to it.

LOWE: When-- when you build a house, you want that house to be safe.

MATT KINNING: Uh-huh.

LOWE: So even if there wasn't a code, you would still build a safe house.

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MATT KINNING: Exactly. And I mean, that just goes in when we hear of or we don't know where the panel is at on the inside of the house, when we're building brand new houses, LES makes us put that panel as close to where the meter is at on the house on the inside of the house. So I can go inside and look where the meter is out on the outside of the house and know that it's either downstairs or more than likely in the garage or upstairs. I can pinpoint it pretty darn close on new. Old-- old-- older homes, it's tougher. I'll give you that. That's-- that is true. But-- but because of codes and because of smart code advancements, those things have gone away on the new houses that we build today.

LOWE: All right. Thank you.

MATT KINNING: Thank you very much for your time.

HUNT: Any other questions? Seeing none, thank you for your testimony today. Any other opponents to LB467? Welcome.

PATRICK CAHALANE: Good afternoon. My name is Patrick Cahalane, P-a-t-r-i-c-k C-a-h-a-l-a-n-e. I work for a company called Legacy Homes. We build homes in Omaha and are at Lincoln. The biggest thing for us right now is, we're not saying that we don't want to build a safe home at all. We do take the safety of our customers very seriously. But some of these I do believe, they're not putting all the costs in there for us. I've talked to the vendors that we use and the costs for us are going to be significantly higher than what I've heard stated today. I was-- I was told today between 1,500 to 2,000 on the homes that we build. So I've also looked at some of the other things with the surge protector, which is-- that does wear out over time. So as that wears out, does-- is the homeowner required to have that replaced at their cost later? So, or do they just let it go and not get it replaced? So right now where we're at in homebuilding is there's been such an increase in lumber costs across the board that we've tried to increase the price of our house to absorb that and we can't. So every time that we take the price of that house up, just as was stated before, we do price people out of that house. So that's a-- the biggest issue for us. We do try to build the safest house we can. Most of the time, if we have an issue that is not on our plan, our electricians will bring it to us and say, you need to change this. Here's what we think you need to have in that house. We go back and we

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change our plan. We do take everything that the professionals tell us. Whether it's good or bad for us financially, we do listen to them just to make sure that we are building a safe house for our homeowners. With the shut off, the external shut off, I do agree that it is a good idea for the safety of the firefighters. But with the times that we live in right now, I scared myself by-- I lock-- I lost a key to a lock and I had a die grinder, put a wheel on it and was shocked at how fast I could take that lock off. So anyone can get it. You can get a cordless grinder anywhere, go out and spend \$2 on a wheel and it's basically a key to the city. So what's to say if-- your neighbor gets pissed off in the middle of the night and you're gone, in the middle of winter he comes over cuts that lock off and shut your power off. You're out of town, your house freezes, you come back, your house is completely destroyed. So there are issues with that. Pass the time-- that's kind of just, you know what if a kid gets out there and they could go down a block and in the span of a half hour, cut all those locks off and shut all that power off. So that-- those are the issues that-- that I'm looking at, so. I'll take your questions.

HUNT: Thank you for your testimony. Any questions from committee?
Senator Blood.

BLOOD: Thank you, Vice Chair Hunt. Thank you for your testimony. So one of the things that I always see, be it for pro or opposition, is we always hear worst case scenarios somebody doesn't like something. So can you give me examples maybe in other states where they've done this, that it's been an issue with the vandals or its been an issue with neighbors? Is that something that we have documented somewhere?

PATRICK CAHALANE: I personally can't give you those cases.

BLOOD: OK. Have you ever heard of anything like that?

PATRICK CAHALANE: I've never really heard of the shutoffs on the exterior of a house. So this is something that's been brought up to us. And basically, if it was my house, that would be my first concern that anyone could come up and shut my power off at any time.

BLOOD: I-- I-- I mean, I-- I-- I hear your concerns. I mean, I-- I just don't know how watch-- I mean, I'm not saying your illogical or anything--

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PATRICK CAHALANE: No, not at all.

BLOOD: --but based on what I see for vandalism and mean neighbors and yeah, I don't know that would be at the top of people's list and-- and I just wonder if that's a concern that we can somehow document--

PATRICK CAHALANE: Well, it's hard to say what any neighbor will do. I just saw--

BLOOD: Right. I mean--

PATRICK CAHALANE: I just saw in the newspaper yesterday that two people were shot because they threw snow on a neighbor's yard. So did anybody see that coming? So, I mean, you can't control what any person does. I mean--

BLOOD: No, I mean, but that-- you can say--

PATRICK CAHALANE: Exactly. But I mean it's--

BLOOD: You could also say you build a brick wall and somebody is mad and that brick is going to be thrown through a window.

PATRICK CAHALANE: Exactly, but everything we're talking right now is all hypothetical.

BLOOD: Right. So. All right, I really appreciate you sharing your testimony.

PATRICK CAHALANE: Thank you,

HUNT: Senator Lowe.

LOWE: Well, thank you, Vice Chair, and thank you for coming today. You stated that the cost would be 1,500 to \$2,000.

PATRICK CAHALANE: It is what I was quoted from our--

LOWE: Is that to you or is that to your customer?

PATRICK CAHALANE: That's the quote I was given. I asked what our cost would be.

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LOWE: Your cost.

PATRICK CAHALANE: Yes.

LOWE: So, you--

PATRICK CAHALANE: And it's going to vary from house to house.

LOWE: --you would end up charging it to the customer.

PATRICK CAHALANE: We have to pass that on. The-- what-- what I explained with the lumber cost, we lost between 14 to \$19,000 a house depending on the house package that we built. We raised our houses to try to recover some of that and we still couldn't. Try to be competitive in the market, so we're taking a hit on that. So if we get any more, we-- we have to take a hit on all those because we can't add those to the price. It would be a different story if every home builder raised their house price. If they don't, then that puts us out of the market of trying to sell our products.

LOWE: Thank you very much.

HUNT: Any other questions? Seeing none, thank you, Mr. Cahalane. Any other opponents to LB467? Seeing none, is anyone here to testify in the neutral capacity? Seeing none, Senator Bostar, you're invited to close.

BOSTAR: Thank you, Vice Chair Hunt, and members of the Urban Affairs Committee. And thank you to everyone who added to the discussion today. I'd also like to take a second to thank Senator McDonnell for cosponsoring the legislation. And I'll be brief just to say that I think it's important to emphasize that this bill is about protecting life, preventing serious injury and protecting property. And with that, I would encourage you to advance LB467.

HUNT: Thank you, Senator Bostar. Any questions from the committee?

BOSTAR: Thank you very much.

HUNT: Seeing none. We have no letters for the record for LB467, but we have one written testimony in support from Angela Amack, representing the Nebraska Professional Firefighters Association. And that will

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close our hearing on LB467. OK, we're just going to-- we're just going to stand ease for a minute.

[BREAK]

HUNT: Senator Wayne is on his way for LB220. He has another bill in another committee at the same time. So he's going to come open on his bill here and then return to the other committee. Welcome, Senator Wayne.

WAYNE: We're already here.

HUNT: You're invited to open on LB2220-- or LB220.

WAYNE: Good afternoon, Chair-- Vice Chair Hunt and members of the Urban Affairs Committee. I'm breathing hard because I sprinted down here. 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. LB220 should be fairly familiar to returning committee members, it makes simple changes to require state agencies to comply with local building codes. To the extent that such codes may exceed or meet standards of the state building code, this bill will not require-- or will not impact either the electrical code or the state fire code, both of which are enforced statewide by the State Electrical Division and the State Fire Marshal. Currently, state agencies are only required to comply with the state building code, even if the political subdivisions have adopted a code that is stricter than the state code. This issue first came up to my attention several years ago when talking to local code officials in Omaha who get regular calls on state-owned buildings who are unable to address the building's safety concerns because of a lack of a jurisdiction. Particularly, UNO. There was a fire at UNO. It was a different building code and had it followed city code, they believe that it wouldn't have spread as fast as it did. But because state code was two or three years behind and they couldn't enforce it when it was built, there was nothing they can do. So there are three primary reasons that I believe we should require state agencies to follow local building codes. First, local political subdivisions generally employ inspectors to ensure compliance with their building codes. In the case of state buildings, only inspectors in many cases are done by the agency itself so it has no third party to check to see if the building is actually

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safe. We entrust our state agencies to comply with the codes without someone else looking for the build-- looking at the building to make sure there's not a problem. This is essentially the fox guarding the henhouse. Second, the current state statute potentially gives an unfair advantage to state buildings over building-- over buildings being built in different political subdivisions, as well as the private sector. When a county, school or any other political subdivision builds a new building in Omaha, they have to follow the Omaha code, which is often stricter than the state code. If the state building code is not as strict as the local code, many people see this as an advantage of getting around the cost of constructions, i.e. the UNMC Med Center and cancer center was another big issue in Omaha regarding state code versus local code. It was two different codes. It became confusing whether the plumbing code had to meet certain things, and so it just causes problems. Third, not requiring state building code to meet the local code goes against the principal control-- principle idea that we share in this body of local control. Allowing the state agency to do whatever they want, regardless of local control, is a foul to what this committee has tried to achieve over the last four years. I've introduced similar bills twice in the past five-- few years, 2019 and 2018. LB220 contains key changes since the bill I first introduced. First, LB220 clearly identifies that in no way would the bill apply to projects that are already in progress. So if you recall, last year and the year before, I had a fiscal note of like a billion dollars because they said it would have to go back and retrofit everything that we're doing currently in this building, which was not the case. So that was a huge issue. So this bill will start January 1, 2020 [SIC], and would fall after that. Furthermore, for state-owned buildings that are built in phases, this bill provided the building shall only be deemed constructed or repaired at the date that it first start. And this was a project, I believe out in Kearney they built some housing or something over a couple of years and they had projected to build more. So the university gave me a high fiscal note and we're saying, no, if you start in one phase, as long as it's part of a phase, it will be the same. Second, LB20-- LB220 provides that any fees related to enforcement of local building codes on the state-owned building will be treated similarly to the political subdivision are treated. For example, if Lincoln Public Schools builds a new building in the City of Lincoln, inspection fees are negotiable between the city and the school district and cannot exceed the actual

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expense incurred by the city. LB220 provides similar. Very briefly, I'd like to discuss the fiscal note. It appears that some agencies still have not read the bill, which is why I'm introducing a bill next year to say that you have to come testify if you actually read the bill or not, if you're an agency. As already noted, LB220 does not apply to projects which have already begun. This specifically does not apply to new phases of projects that are already in the first page. The Fiscal Office correctly identified LB220 would not apply to the Capitol HVAC project, HVAC project, yet the department of administration is still complain-- still says it does, which the bill clearly doesn't. Both DAS and the university estimate across the board increases based off of fees charged by local government compliance. Yet again, the bill says it can't exceed the actual costs. Particularly for a larger multimillion dollar project, it is unlikely that the actual expenses to the city would approach 3 percent of the cost of the project, which DAS estimates across it altogether. And with that, I will answer any questions.

HUNT: Thank you, Senator Wayne. Any questions from the committee?
Senator Lowe.

LOWE: Thank you, Vice Chair. And thank you, Senator Wayne, for visiting your committee. Glad to have you back.

WAYNE: I didn't know Transportation was going to ask so many questions.

LOWE: It's a good exercise program we have on around here.

WAYNE: Yeah.

LOWE: The state of Nebraska owns lots of buildings in Nebraska, some may be an outhouse.

WAYNE: Correct.

LOWE: It may have one light bulb in it. Will they have to comply with all the electrical codes then?

WAYNE: So yes and no, and I'm not trying to dodge your question. The issue is, so to-- in order to have to meet--

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LOWE: I can get that answer later on by somebody testifying.

WAYNE: No, but, but I'll tell you the, the answer is because I'm a general contractor in the state of Nebraska, so I don't have to follow the local building code unless there is significant remodel to a point that would trigger the code. So in your situation of light bulbs and minor repairs, no. But if it's a new major construction project or if it's a significant renovation that was deemed structural, because usually it triggers at the structural level or you're getting a new occupancy requirement. So if you went from teaching one class and now you're going to do lectures of 50 classes, you may have to get a new occupancy. At that point that could trigger it to the local building code. But it has to be a major renovation. If it's not a major renovation, then you would be grandfathered in underneath any, any code. So I don't think that's necessarily true. The issue is, for example, the Capitol and adequate parking. There's no way the Capitol would be built today with the, the not-- the least amount of parking that it has now. And so this is one example that we are doing a major renovation project. They don't have to file local code. And so there's no talk at all with the city of Lincoln about parking, which isn't fair. I'm not saying there should be additional. But if the University of Nebraska can build housing to a different code, they catch on fire and it spreads and the local people get called, they're like, sorry, can't do nothing. That's what we're trying to address, not, not the light bulbs or the minor repairs.

LOWE: Thank you.

HUNT: Thank you, Senator Lowe. Any other questions? Seeing none, I'll release you back to Transportation.

WAYNE: And out of respect for the committee, I won't be here for closing, so we can talk at exec. But the bill that was supposed to come here is in Transportation, so I'm fighting for it.

HUNT: All right.

LOWE: Sorry about that.

HUNT: Thank you, Senator Wayne. Before we bring up proponents for LB220, I need to correct the record. The previous bill that we just

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heard from Senator Bostar, LB467. We also had a letter in opposition from Justin Brady representing the Nebraska Realtors Association. It was written testimony, which some would call a letter, but we are not technically calling letters. Words written on a page. OK, so we can take proponents now for LB220. Any proponents? Any opponents to LB220? Welcome, sir.

DOUG HANSON: Good afternoon, Vice Chair Hunt and members of the committee. My name is Doug Hanson, that's D-o-u-g H-a-n-s-o-n, administrator for the State Building Division with the Department of Administrative Services. I am here today to testify in opposition to LB2220. LB220 would require all state agencies, boards and commissions, including state colleges and the university to comply with local building and construction codes when the local code meets or exceeds the standards of the state building code. Passage of LB220 would have a tremendous impact on the state and result in higher construction costs. There would be additional costs and time required to apply local building and construction codes. Construction costs would increase to cover costs associated with permit fees, inspections and regulations imposed by local governments. Design and construction costs could also increase due to local code requirements that exceed the state building code, such as the requirement to have a brick facade, specific landscaping, material selections or other local requirements. Local government permit fees are typically assessed a base fee plus a factored dollar amount in relation to the cost of the project. In addition to building permit fees, each construction project or-- there are plan reviews and building code inspections by local building code officials. Local code officials typically inspect foundations, framing, plumbing, HVAC, electrical and final inspections prior to occupancy. For each type of inspection, these are assessed by local government, which would add permit inspections-- would add to the cost of the construction. These reviews and inspect, inspections are duplicative of efforts that the state already uses for state projects. Permit and inspection fees imposed by local governments vary widely, with some municipalities imposing very high building permit and inspection fees, while some do not impose any. There are approximately 530 municipalities in 93 county, counties in Nebraska determined-- and determining an accurate cost estimate is-- for LB220 is difficult, if not impossible. For guidance, RSMeans building construction cost data, which is an industry standard, estimates a fee

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range, or a range of a half a percent to 2 percent for permit permits. Local government and permit inspection fees could range from 2 to 4 percent for state of Nebraska projects. The fee depends on the size, complexity and cost of each project. The Task Force of Building Renewal estimates that imposing local government building permit and inspection fees could add an average of 3 percent to each project, or \$645,000 in FY '21-22 and \$710,000 for FY '22-23. The Capitol Commission does not routinely administer projects that would be affected by this potential change in legislation. However, the OCC is currently in the process, as we know, of administrate-- administering the largest renovation of the Capitol's nearly 100-year history. Using the remaining construction-specific project costs of \$24 million, OC, OCC estimates LB220 would result in an increase of \$720-- or \$720,000. The project would also incur additional design costs over the life of the project to address potential local code changes. These additional costs cannot be determined at this time without knowing what local code changes might be implemented. The State Building Division is already governed by, in its construction projects by numerous building codes pursuant to state statute. These codes include the state building code, International Building Code, the International Energy Conservation Code, Uniform Plumbing Code, the National Electrical Code and National Fire Prevention Association code and other building codes. The State Building Division estimates that imposing local government building permit and inspection fees could add approximately \$21,000 each fiscal year, which these are identified in our fiscal note. LB220 provides for the negotiation of fees between state and agencies and counties, cities and villages. The addition of multiple local building codes will require a research, review and negotiations of each project's plans to verify compliance, thereby increasing each project's time line as well as additional internal staff time. State Building is currently working on over 30 major projects and estimates that one FTE would be required if comparable projects are in the future. This would be for a professional architect with substantial construction and local building code compliance. The annual cost would be approximately \$102,000 in FY '21-22 and \$104,000 in '22-23. Finally--

HUNT: Could I ask you to wrap up your thoughts, sir?

DOUG HANSON: OK, will do. Finally, in-state projects would be delayed due to permit reviews and negotiating with local building officials

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over local interpretations and application, which leads to construction slowdowns and potential change orders. If the delay over an approval of a permit application interpretation of a local rule or the unavailability of local inspector, it will add days, weeks or months to each project as well as extra costs. Consequently, if LB220 is passed, the number of state projects will be reduced which could be completed in one year. Under the current and successful state building code, these additional and unneeded cost delays and bureaucracy are currently being avoided. And I'd be happy to answer your questions. Thank you.

HUNT: Thank you so much for wrapping up. Any other-- any questions from the committee? Senator Arch.

ARCH: Thank you. So you, you already operate under codes, correct?

DOUG HANSON: Correct.

ARCH: Correct. So how do you, how do you update those codes? What's your process for determining what code you operate under?

DOUG HANSON: What is passed by the Legislature right now. We just heard provisions for the National Electrical Code being updated, for example.

ARCH: So that would apply--

DOUG HANSON: So that would apply.

ARCH: That would apply to you.

DOUG HANSON: Right. Correct.

ARCH: And then inspection, how do you handle inspection then?

DOUG HANSON: We do have third parties. We, we the plans and are generally designed for projects over \$705,000, for example, require an architect engineering firm or to design those. So as part of their construction administration process, they're the designer of record for that project. So they're the third party that goes out and inspects those, those issues where there's foundations, electrical, HVAC, ready for occupancy. So that architectural architect, licensed

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architect or engineer is required to go out and perform that inspection as part of their construction administration services.

ARCH: Thank you.

HUNT: Thank you, Senator Arch. Any other questions from committee? Senator Lowe.

LOWE: Thank you, Vice Chair. And Doug, good to see you again.

DOUG HANSON: Good to see you, Senator.

LOWE: Thanks for being here. So you already follow all the codes?

DOUG HANSON: All the state building codes required, correct.

LOWE: And whenever you make repairs or things like that. So how will this change what you're doing now?

DOUG HANSON: Any new capital construction project, of course, that would require the state agency, not just State Building Division, Corrections, universities, state colleges, Game and Parks, any state agency then to go in and apply for that permit and to go through that negotiation process with that municipality. Then the permit would be granted after some negotiation, according to the bill. But that municipality then would have a fee imposed for that process. Every inspection would have fees imposed. And I mentioned just a few of those inspections, I didn't mention them all. But so every time they would come out and do their inspection, that would be an added cost and delay to the project. If that, if that local inspector were not available for some time, that will, as it does now with, with building private commercial projects, for example. So that would impact, that would slow down projects as well.

LOWE: So even a building in rural Nebraska, you would have to have that done and--

DOUG HANSON: If, if-- yes, that would, if that would-- that municipality or that county would have those local requirements, then yes, that would have to be done and have to be signed off on. Now, some municipalities are pretty small, so they may have to hire

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someone, an architectural firm to enforce that as well if they already don't have a code enforcement arm set up.

LOWE: So this would be a cost to the county to do that?

DOUG HANSON: Which would then be passed--

LOWE: Transferred on.

DOUG HANSON: Which would be passed on to the county or the municipality, it would be passed on to the state. Correct.

LOWE: All right. Thank you.

DOUG HANSON: Yes.

HUNT: Senator Arch.

DOUG HANSON: Yes, Senator.

ARCH: When you say negotiation, you're, you're not just referring to negotiation of the permit fees, correct? You're, you're talking you're talking about when you get into some of these codes and the application to your construction project there is some latitude on the part of, of whoever is issuing the permit to interpret and say, no, you, you must do this to fulfill that code requirement. Am I correct on that understanding?

DOUG HANSON: I'm just looking at the language of LB220 that allows for the negotiation of that. Some municipalities might say there's no negotiation. We will not-- why would we pass on the cost of this project to the taxpayers of the local municipality, that cost is going to be passed on to the state.

ARCH: I would only say that my experience with construction projects when going to seek permit is that there's con-- there is considerable discussion on the interpretation of, of a code. And if not completed and if negotiation is not successful, if not completed, according to the municipality's interpretation, no permit is issued.

DOUG HANSON: No permit or perhaps no occupancy allowed.

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ARCH: Right. So pretty much you need to do what that, what that--

DOUG HANSON: Yeah.

ARCH: -- municipality interprets. And they're, most of the time they're reasonable in that interpretation.

DOUG HANSON: Yes.

ARCH: But, but there is some discussion in that, in that process.

DOUG HANSON: Yeah. Again, the bill would allow for that, would allow for that.

ARCH: Right. But under the authority of the municipality.

DOUG HANSON: Yes, because the state, because that would-- if, if the state is required to meet or exceed the local building codes, that would be correct.

ARCH: Thank you.

HUNT: Thank you, Senator Arch. Any other questions? Seeing none, Mr. Hanson, thanks for your testimony.

DOUG HANSON: Appreciate your time.

HUNT: Next opponent for LB220. Welcome to your Urban Affairs Committee.

MOE JAMSHIDI: Good afternoon, Vice Chair Senator Hunt and members of the Urban Affairs Committee. My name is Moe Jamshidi, spelled M-o-e J-a-m-s-h-i-d-i, I am the deputy director for operations and currently the acting director for the Nebraska Department of Transportation. I'm here before you to testify in opposition to the LB220. Nebraska law requires the state agencies to comply with the state building code when designing and constructing a state building located anywhere in Nebraska. The state building code is a comprehensive and uniform document developed over the years that is intended to lead to construction of well-designed, cost-effective, energy-efficient and safety building. Nebraska law does not currently require state agencies to comply with the local building codes. LB220 seeks to

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change Nebraska law to require state agencies to comply with local building codes while retaining the requirement for the state to also comply with, with the state code. I thought I would-- it was important for me to make you aware of the impact of LB220. NDOT builds many types of buildings in its maintenance yards across the state. Over the years, we have refined the building types to cost-effectively fit our needs. These buildings range from the Lincoln central complex, hangars and terminals, district offices and maintenance buildings all across the state, to equipment sheds that hold our-- house our big plows and equipment, to our fabric structures that house our salt storage, to weight stations and rest areas. Each serve a different purpose. In all, we operate over 600 buildings and over 160 locations across the state. Why should we build equipment shed that holds plows in Lincoln differently than we do in the Scottsbluff? The bill would increase the cost for the NDOT to design and construct in building throughout the state. Additional design costs would include the cost to research the applicable local codes, identify all the differences between the state and local codes, coordinate and negotiate with the local jurisdictions to order, in order to obtain the building permit. Additional construction costs include the addition of features required by the local jurisdiction but not by the state building code. They also include the costs for supervision and inspection by the local entities' building codes administration. These codes would apply to each or new buildings in each different jurisdictions where we construct a building throughout the state. This bill will result in delay to the design and construction of NDOT's buildings to accomplish the work previously detailed. Delays cost money. LB220 creates uncertainties by requiring the state to comply with both the state building code and the applicable local building codes without identifying how the conflict between the two codes can be resolved. Finally, LB220 may lift the authority-- may shift the authority of the DOT over the design and construction of its building to the local authority. This shift could affect the decisions regarding the location of the building, the type of building, the design features of the building, and even whether or not the building is built. If the NDOT and local authorities cannot agree on a solution to an-- become in an impasse, NDOT would incur costs to relocate the building outside the jurisdictions or local entity. This move would require the DOT to acquire additional property and may result in building being moved to a different municipality or county. In all the years that we've been

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following the current process, we have not encountered any safety issues and we feel that LB220 is a solution looking for a problem. Thank you for your time and I'll be happy to answer any questions.

HUNT: Thank you so much for your testimony, Mr. Jamshidi. Any questions from the committee? Senator Lowe.

LOWE: Thank you very much and thank you for being here today. Welcome to the position.

MOE JAMSHIDI: Thank you.

LOWE: So you want to build a building in your yards across Nebraska. You can't have one design because in each municipality or each location, they may have to vary because of this. So that adds more cost to your construction and your design, is that correct?

MOE JAMSHIDI: That's correct, Senator. We have, through the years, identified really good practices to, to standardize the way our-- we function out across the state, doing the same thing we do on eight different districts. We've built these buildings basically in the same manner so we can utilize these buildings regardless of where they are to the, to fit our needs. And if we have to go to one community, all of a sudden they have one need, for example, just the fascia. We don't like this size, we like the other one, that will change the entire design. We have to go basically start from scratch.

LOWE: So cost to architecture and everything else--

MOE JAMSHIDI: Increases. That's correct.

LOWE: Thank you very much.

HUNT: Thank you, Senator Lowe. Any other questions from the committee? Seeing none, thank you, Director Jamshidi--

MOE JAMSHIDI: Thank you.

HUNT: --for being here today. Next opponent for LB220. Seeing none, are there any neutral testifiers for LB220? Seeing none, we have a letter of support from the Associated General Contractors, Nebraska Building Chapter. And we have written testimony in support submitted

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from Sara Kay, who represents the American Institute of Architects Nebraska Chapter. Senator Wayne has chosen to waive closing on LB220, but he is introducing the next bill. So we'll stand at ease for five minutes or so and wait for him to come.

[BREAK]

HUNT: And welcome to Urban Affairs Committee. You're invited to open on LB553.

WAYNE: I-- I do apologize. Thank you. I thought-- doesn't matter. Good afternoon, Vice Chair 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 many committee members will no doubt recall that one of my priorities two years ago was LB85. We sought to address the rental housing needs in Omaha by creating an inspection program for the City of Omaha. Well, ultimately, the city adopted its own riddel-- rental inspection ordinance without a need to pass LB85. Many of the issues that led to the bill's introduction will continue to-- will continue to persist until the city's inspection program is fully implemented. In talking to tenants in the community and school districts and housing agencies, one of the most concerning issues that we discovered was the presence of bedbugs. LB553 would adopt a Bedbug Detection and Treatment Act, and it's based off of legislation that was recently passed by our neighboring state in Colorado. Under the bill, landlords of residential dwelling units located within the city of the metropolitan class would be required to inspect for bedbugs upon written or electronic notice of the presence of bedbugs by tenant. Within 96 hours, a landlord would have to-- would have cause-- would have-- would have to cause an inspection to be performed by a qualified inspector. If the inspection of the unit confirms the presence of bedbugs, the landlord would also required to cause an inspection to be performed on all contiguous dwelling units. In addition to the requiring inspection and treatment of bedbugs, LB553 would also prohibit the landlord from offering the unit to rent until the landlord reasonably knows or suspects it doesn't have any bedbugs, or if it does, they can't rent it. Committee members will recall, I did introduce a similar bill last session. Several groups have contacted my office and asked why the bill is limited to cities and metropolitan class, why it is not tied to the Landlord Tenant Act. I

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am open to all those approaches and am willing to work with anybody to solve this issue. There are a couple of testifiers behind me who will testify to the importance of this issue from a technical standpoint. I will tell you that it is becoming a health issue within Omaha Public Schools. It is-- with the COVID obviously it didn't happen a lot because school was not in session, but prior to COVID in last year, bedbugs were increasingly becoming an issue similar to those whom I have-- have kids who experienced the lice issue where they sent home notes, and you have to figure it out for yourself. But the difference between bedbugs and lice is oftentimes lice is just confined to your home. Bedbugs can move around, particularly through apartment units, and spread quickly and enormously exponentially. So we're trying to do is figure out a way to make sure that doesn't happen. It is becoming a public health issue. And similarly, we always bring bills in this committee to try to deal with issues that are becoming health issues in the urban area. And with that, I will answer any questions.

HUNT: Thank you, Senator Wayne. Any questions from the committee?
Senator Lowe.

LOWE: Thanks, Vice Chair, and thanks, Justin, for bringing the bill.
Who pays for this thing?

WAYNE: So the landlord would. The idea behind the Colorado bill, and so far it's working really well in Colorado, was they have a lot of big housing units. As more affordable housing gets pushed in Colorado, they tend to build vertical. So what will happen is, bedbug infestation will start and the landlord will usually hire somebody who's not qualified, that's how the bill came about in Colorado and they saw a major infestation. There was a recent-- recent news article that I'll send out to the committee for Omaha ranks in the top 50 of that issue. And so we are trying to address that issue. But it would be the landlord like they normally would for any other bedbug.

LOWE: What happens if you have a tenant that is lonely and just wants company so she reports a bedbug infestation about every other month because she likes the inspector that's coming to visit-- or he likes?

WAYNE: And I wasn't going to smile, but that's not far off. I know-- I know a situation where--

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LOWE: I have a tenant that likes people to come and visit.

WAYNE: I have gotten calls from people where they do like to call the owner to have conversations. I think we can-- we could put an amendment to limit the-- I mean, limit something like that. The thing about bedbugs is once they're determined not to be there and there's an expert behind me, they typically don't show up the next day. So if you're getting multiple calls in a month, we can put that as grounds for termination, which would tie it to the Landlord Tenant Act, which is-- which is fine. I'm open to that idea.

HUNT: Thank you, Senator Lowe. Senator Arch.

ARCH: Thank you, Senator Hunt. Do we do this for any other pest, insect, varmint?

WAYNE: Yes, there are, I think, some state regulations around who can apply stuff to certain things. There have always been bills around-- there's a big bill around lead-- lead-based paint and trying-- and actually went before your committee a couple of years ago. I introduced it. But typically local jurisdictions kind of get on board, but like with LB85, sometimes the state has to put pressure on them and do what we would deem is best for their constituents.

ARCH: But we don't single out cockroaches separate, you know, so I guess my question is, are-- do the landlords already have an obligation in this area? I mean, not specific to bedbugs, but just living conditions.

WAYNE: They do. The difference with bedbugs is the public health concern of-- by the nature of what they take in blood and everything like that, by the nature of spreading diseases is the issue. That's why we narrowed it to just bedbugs. There's a different element when it comes to bedbugs.

ARCH: Thank you.

HUNT: Thank you, Senator Arch. Any other questions? Seeing none, thanks for opening. We can hear the first proponent for LB553. Welcome to Urban Affairs Committee.

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CARL BRAUN: Thank you, Co-chairman Hunt, Senators of the Urban Affairs Committee. Thank you for having me here today. A couple of good points were introduced and one is who can do this treatment and do we do it for other--

HUNT: Can I have you spell your name?

CARL BRAUN: What's that?

HUNT: Can I have you state and spell your name?

CARL BRAUN: I'm sorry. My name is Carl Braun, C-a-r-l B-r-a-u-n. I am both the owner of the Quality Pest Control in Omaha and president of the Nebraska State Pest Control Association, or NSPCA.

HUNT: Thank you.

CARL BRAUN: What I was going to say about the other pests and-- and the health issues and those are-- that's something that can take up way more time than we have here, but I'll be happy to take those questions at the end. In any event, we're here to provide testimony on behalf of LB553 regarding professional bedbug management in Nebraska. NSPCA supports LB553 as it acknowledges professional pest control companies as a private sector solution to Nebraska's bedbug problem and is a win-win for both tenants and landlords. The Landlord Tenant Pest Management professional policy model that has been enacted by three states, Colorado, Connecticut and Maine and cities around the country has proven to reduce the prevalence of bedbug infestations. Additionally, this policy model is endorsed-- endorsed by experts and entomologists around the country. Once thought to be practically eradicated in the U.S. we've seen a resurgence of bedbug infestations in recent years. In fact, a recent survey from the National Pest Management Association found that 99.6 percent of all professional pest management companies have fielded calls for bedbug infestations. Since I was just here last year and this bill was first introduced, the situation has worsened in Omaha. We've moved up five spots. We're number 30 now. We like to be number one in Nebraska, but this is not one of those areas that we like to be number one in. We're up to number 30 as the top bedbug cities in American rankings by NSPCA member company at Portland. Bedbugs are prevalent-- are a prevalent problem in multiple dwelling housing. They can spread from unit to

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unit with relative ease and speed. It is nearly impossible to attribute where bedbugs come from and who is responsible and the people who are living with bedbugs through no fault of their own. Bedbugs are not a personal problem, rather they are a societal problem. Currently, the laws of most states encourage actions that can contribute to the spread of bedbugs. The state of Nebraska must proactively ensure that our existing legal structures do not incentivize-- incentivize the further spread of bedbugs. When landlords dispute liability and tenants lack-- and tenants lack affordable and effective pest control options, infestations are left untreated. Additionally, when tenants fear liability for pest control costs, they are less likely to report infestations and are likely to use ineffective self- treatment methods. These behaviors hurt the interests of both parties. As-- as professional bedbug management is the most effective and least costly when pest management professionals identify and treat infestations early before bedbugs spread. The impact extends well beyond the landlord and the tenant. Such behaviors also risk-- such behaviors also increase the risk of infestation in the community. These proactive policies are a win-win for both tenants and landlords, tenants when because they are legally protected and permitted to come forward about a potential bedbug infestation without fear of retribution or eviction. Additionally, knowledgeable and trained-- licensed and trained pest management professionals inspecting and treating for bedbugs is the best way to ensure that infestations in their home is sufficiently addressed. Landlords win because their property values are protected, reducing the likelihood of negative reviews and complaining by about bedbug infestations. Bedbugs are not spreading to adjacent apartments, and it reduces the cost of addressing the problems early in a proactive manner. Last but not least, the state of Nebraska wins because we would-- enact an effective solution into law with no fiscal impact on state budgets. LB553 stems from adherence to bedbug pest management practices that are based on science and biology, prescribing duties for landlords, tenants, pest management professionals and in most circumstances, requiring landlords to hire professional pest management professionals. As we are the most effective at safely eradicating bedbugs, we believe that LB553, as great as it is, but could be improved by extending its reach to cities beyond the metropolitan class. Bedbugs are an incredibly complex insect, and to treat and eradicate. The unique hiding behavior of bugs and their

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ability to feed undetected require much more extensive control measures than cockroaches and other pests found indoors. in addition to eradicating bedbugs, it's very labor intensive, often requiring movement of furniture, hours of laundering and breaking apart furniture.

HUNT: Sir, could I have you wrap up your testimony.

CARL BRAUN: OK, very good. To make a long story short, implementing the expertise of licensed pest control companies is the most feasible and reliable answer to curbing bedbug infestations within the buildings. In addition, tenants would not fear eviction and other ramifications when they notify landlords of infestation in a timely manner and cooperate and landlords would be responsible for employing professionals for inspections and treatment. Every party wins in this situation. The tenant gets relief from bugs. Landlord saves money by squashing the problem early and preventing further spread. And the people of Nebraska win by fewer bugs and spread among public transport, schools, offices, apartments, etcetera. NSPCA urges you to pass LB553 and fight back against bedbugs.

HUNT: OK.

CARL BRAUN: Sorry.

HUNT: I forgive you.

CARL BRAUN: Well, questions.

HUNT: Any questions from the committee? Senator Lowe.

LOWE: Thank you, Vice Chair, and thank you for being here today, Mr. Braun. How effective are the over-the-counter products you can buy fighting bedbugs?

CARL BRAUN: Well, that's a very good question. When dealing with the bedbugs it's more about understanding their nature and their biology. You know, it's anybody can get lucky. You or I could go up and hit a 100-mile an hour fastball once, but generally speaking, we're going to strike out. And it's not so much the product, but how it's used. It's the knowledge of your enemy. You know, it's the knowledge of the bedbug, its behavior, its biology and that's why-- that's why trained

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licensed professionals are more effective at it. In addition to that, people that use the over-the-counter measures and this is documented, I mean, they tend to way over apply. And there are now cases of toxic reaction to these misused-- improperly used materials. So it's not a recommended procedure. That answer your question?

LOWE: Yes. Thank you.

HUNT: Thank you, Senator Lowe. Any other questions? Senator Briese.

BRIESE: Thank you, Vice Chairman Hunt, and thanks for your testimony here today, sir. You operate a company, Pest Control Company.

CARL BRAUN: I do.

BRIESE: Yes. Do you charge for inspection?

CARL BRAUN: In our case, we sometimes do. In most cases we do.

BRIESE: OK.

CARL BRAUN: And the reason why is it's very labor intensive and can take a couple of hours. Some-- go ahead.

BRIESE: What would a typical fee be for an inspection of a two room-- two-bedroom apartment?

CARL BRAUN: A typical fee for a bedroom inspection is \$89. If bed-- if bedbugs are found, that's just applied to the cost of mitigation.

BRIESE: So what would that cost be, typically?

CARL BRAUN: Lots of moving part, it's hard to say. It could be anywhere from 900 up to a couple of thousand, maybe more. I can't speak for other-- other pest control firms. A lot of it depends on the level of infestation, the number of beds that are impacted and just the general clutter in the house, and if I may, one small example. If you have a thousand square foot apartment and the only furniture there is a recliner and an upside down bucket and a TV that has bedbugs, that's a whole different case than that same apartment that has four bunk beds and piles of laundry and a couch and so, there's again, lots of moving parts to my--

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BRIESE: But possibly nine hundred to a thousand per--

CARL BRAUN: Nine hundred to even-- even up to a couple of thousand or more.

BRIESE: OK, very good. Thank you.

CARL BRAUN: Yeah.

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

CARL BRAUN: Thank you for having me. And sorry that I ran over.

HUNT: Next proponent for LB553. Seeing none, we can move on to opponents of LB553. Welcome to Urban Affairs Committee.

LYNN FISHER: Good afternoon, Senator Hunt, and members of the committee. My name is Lynn Fisher, L-y-n-n F-i-s-h-e-r, and I'm here today to represent the Nebraska Association of Realtors and the Lincoln Real Estate Owners and Managers Association, which is a member of SPOA, which is the Statewide Property Owners Association. So we represent several thousands of property owners, landlords, real estate investors in Nebraska. We are opposed to LB553 because the cost of treatment for bedbug infestation should be borne by the tenant who brought them into the dwelling. Bedbugs enter dwellings on people and their belongings. Landlords and property owners do not bring bedbugs into their properties. When property owners become aware of bedbug infestations, they do have the responsible-- the responsibility to oversee the treatment and removal of these pests, which we-- and I'm a landlord, of course --which we do. However, the cost of treatment and removal is the responsibility of that tenant who brought them in. Treatment professionals are, in most cases, able to pinpoint the source of the infestation. The owner can work with the tenant to be reimbursed for the expenses. Tenants should report bedbugs and be responsible to keep them from spreading. If tenants do not report an original infestation and the infestation spreads to other units, it can be harder to determine the original unit from which the infestation started. In the case where the source cannot be determined, then the owner, of course, will bear the cost. So not reporting an infestation on the part of the tenant could cause the

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owners-- the owners to bear the expense of treatment. And in our experience, that treatment cost can run anywhere from 300 to \$2,500 or more. And this bill would necessarily increase rents and work against the goal of more affordable housing in Nebraska. And by the way, and I have a lot of respect for Senator Wayne. We've met and spoken a lot about landlord tenant issues. Bedbugs are not a disease vector. And we could have asked our expert here, but to my knowledge, they do not transport disease. So in terms of health, they're certainly bad and we don't want them and our tenants don't want them, nobody wants bedbugs, but they do not spread disease. You know, if a tenant knows that-- if this bill passes that they don't bear the cost of treatment, I think it would be problematic and that they would have no incentive to be careful. And I'm going to make this short and be happy to answer any questions about my experience being a landlord over almost three decades. So I'll be happy to answer any questions and tell you about some of our experiences, if you'd like to hear-- hear anything. So I'll answer questions.

HUNT: Thank you for your testimony. Senator Blood.

BLOOD: Thank you, Vice Chair Hunt, and thank you for your testimony. So if I'm a property owner, I own apartments and I have an exterminator come, is that a business expense that I can write off?

LYNN FISHER: Sure. Anything-- anything that's related to-- related to our business is a write off. On one hand, it doesn't necessarily mean you're going to make a profit at the end of the year. But-- but yeah, we can apply all expenses towards-- towards our cost and pay taxes on any profit that we make, if any.

BLOOD: And then how do you-- I mean, I've researched bedbugs a lot because they freak me out.

LYNN FISHER: They do me too.

BLOOD: Yeah. So how do you-- how do you even know, though, that that particular person brought those bedbugs in?

LYNN FISHER: OK.

BLOOD: Because that seems like a really hard thing to track.

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LYNN FISHER: It really is not. Most times and the expert can-- can attest to this, most times you can tell if-- unless they're not reported at all for a long period of time, where they've then spread out amongst a lot of different apartments, and I've never had that situation. We always are able to-- to get ahold of the situation and get it treated and get rid of them in short order. But it's almost always easy to tell that this particular apartment has the most infestation and maybe there's two or three here, they're next door if they've spread that far. Sometimes we're able to catch them before they even spread beyond the confines of that particular dwelling. But I've never-- fortunately never had one get so bad that we couldn't see what the original source was.

BLOOD: And is it the way they get rid of them in the apartments usually it has to do with like heat more than chemicals and--

LYNN FISHER: Where-- our people are able to treat chemically. We've only had to use heat one time, but even with chemical treatments and then it's the low end of the cost scale for us--

BLOOD: Right.

LYNN FISHER: --it can be-- it can run into, you know, a thousand or more dollars, but heat usually runs 2,000 or 3,000 even more.

BLOOD: I'm curious, is there any kind of guarantees when-- when the exterminator comes in and sprays the bedbugs and yet seems like such a hard issue to take care of.

LYNN FISHER: No, no, I've never-- I've never been given a guarantee but we use people that we trust that have done a good job for us. And it's a rare occasion when they're not able to-- or I should say this way. It's a rare occasion when they-- they reappear at a later time. And that could be just bringing them in anew with a new tenant.

BLOOD: Thank you.

HUNT: Thank you. Senator Lowe.

LOWE: Thank you, Vice Chair, and thank you for being here today. Say you have a complex of 10 or 12 units and two of these units end up having bedbugs because they spread.

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LYNN FISHER: Sure.

LOWE: How do you recoup your costs?

LYNN FISHER: If we can't determine who brought them in, we just eat it.

LOWE: Just eat it. You don't eventually raise your rent to recoup your costs or--

LYNN FISHER: Well, if it's a one time incident, you know, we try not to, of course. In the big scheme of things, you know, maybe we can-- maybe we can absorb it in that one particular instance. I would tell you this, if this bill passes, we'll have no choice but to necessarily factor in all these expenses. If -- if in fact, Lincoln becomes a metropolitan city and I don't know when that will happen, but it could. But in Omaha, certainly a landlord in Omaha will have to figure in those additional expenses and raise rents accordingly.

LOWE: Thank you.

HUNT: Thank you, Senator Lowe. Any other questions? Senator Brieese.

BRIESE: Thank you, Vice Chairman Hunt. Thanks for your testimony here today. Does a typical apartment rental agreement obligate the tenant for the cost of eradicating bedbugs in other units, if you can answer that.

LYNN FISHER: Ours does. We have a-- we have a bedbug addendum to our lease that lays out responsibilities for reporting and for expensive treatment and those-- those sorts of things.

BRIESE: Even as per other units.

LYNN FISHER: Oh, yes. Yeah, yeah.

BRIESE: Have you ever tried to obligate a tenant to--

LYNN FISHER: Absolutely.

BRIESE: --pay for the radication of the whole building or--

LYNN FISHER: We have, yes.

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BRIESE: OK. OK. OK, thank you.

HUNT: Senator Lowe.

LOWE: Thank you. We don't have anything for brown recluse or cockroaches or anything like that, do we?

LYNN FISHER: In terms of the--

LOWE: Well, I'm assuming a brown recluse is a little worse than a bedbug.

LYNN FISHER: It could be, yeah.

LOWE: And I know in Kearney that a lot of our basements have brown recluse in them.

LYNN FISHER: Right.

LOWE: And I'm sure it's the same across the state, but we don't force you to go in and take care of an area that the tenants aren't in.

LYNN FISHER: Well, ethically, we do, and we want to protect our tenants, of course, their safety. So, I mean, I would address that and not-- of course, that's not something I would pin on a tenant, a brown recluse. I'm sure it comes in from outdoors, essentially, unlike bedbugs.

LOWE: Yeah. All right, thank you, Mr. Fisher.

HUNT: Thank you, Senator Lowe. Any other questions from the committee? Thank you, Mr. Fisher, for being here today.

LYNN FISHER: Thank you very much.

HUNT: Next opponent for LB553. Welcome.

RYAN NORMAN: Thanks. Good afternoon, Vice Chair Hunt, and members of the Urban Affairs Committee. My name is Ryan Norman, R-y-a-n N-o-r-m-a-n. I'm an attorney at Hamilton Norman Law Firm here in Lincoln. I represent apartment owners and apartment managers. I'm also a member of the Legislative Committee at the Apartment Association Nebraska, and I'm here on the association's behalf to testify in

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opposition to LB553. In general, the association does not oppose the intent of this act and we would actually love to support it because nobody hates bedbugs more than landlords. However, there's many specific areas of the act that are concerning to the association, and I want to go through some of those in detail, starting with the most concerning section and that's the section that the previous testifier touched on. But Section 4, paragraph 4 holds the landlord liable for all costs associated with an inspection and a treatment of bedbugs. Obviously, bedbugs are generally brought into the dwelling by a tenant or someone else. The landlord is rarely the person that brings the bedbugs into a dwelling, unless, of course, the dwelling had-- had bedbugs prior to the tenant moving in, it makes no logical sense that the landlord would be responsible for the cost of inspection and/or termination of the bedbugs. There should instead be language in this bill stating that the tenant is responsible for all costs associated for the inspection and treatment of an infestation and any damage incurred if the infestation spreads to other units, if the tenant was in fact responsible for the infestation. Holding the landlord responsible in such situations isn't logical, nor is it fair. There are some other sections of the bill which are also concerning, most notably Section 3, paragraph 1, notes that a tenant must promptly notify landlord when there's a reasonable suspicion of bedbugs. There's a lot of our requirements all over this bill, but this section doesn't have one for some reason. We think that's pretty vague. We would ask that the bill be changed to 24 hour notice to the landlord upon the tenant seeing bedbugs. That's reasonable. Section 4, paragraph 2 is unnecessary. There's no basis for tenant to contact the local health department if a qualified inspector shows that the unit doesn't contain bedbugs. Section 4, paragraph 3 requires that the inspector provide a report of their determination within 24 hours. Again, this is a little vague. Does that mean 24 hours from the time of initial inspection? Does it mean 24 hours from the time of determination of bedbugs? I'm not an expert, but I don't know if a determination within 24 hours is possible within time of the initial inspection. I don't know, but that's a vague section. Section 5, paragraph 1(a) says the tenant must be given 48 hours notice of the inspection or a treatment of bedbugs. The Nebraska Uniform Residential Landlord Tenant Act allows a landlord to give a tenant a 24 hours notice to enter a unit for maintenance. Time is of an essence with bedbugs, so it doesn't really make sense to give an additional 24

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hours notice on top of the normal notice given in the Landlord Tenant Act. And finally, Section 7, paragraph 2, there should be language clarifying that a landlord is not prevented from issuing a 14/30 day notice for a lease violation or a 5-day notice to vacate for engaging in conduct that affects the health and safety of others in accordance with the Nebraska Uniform Residential Landlord Tenant Act to the tenant for refusing to cooperate with an inspection or treatment. Such notices are standard practice when a tenant engages in conduct like not allowing treatment of bedbugs, which threatens the health of other tenants or staff of an apartment complex. We would love to support this bill, but unless substant-- substantive changes are made to the bill, we urge the committee on behalf of the Apartment Association to oppose LB553. We would-- we would absolutely be willing to sit down with Senator Wayne and discuss our problems with this bill and hopefully come to some conclusions, but at the moment, we're in opposition. Thank you for your time and I'd be happy to answer any questions that you have.

HUNT: Thank you, Mr. Norman. Any questions from the committee? Um, how-- how do you know if a tenant brought the bedbugs in? How do you know it wasn't a maintenance person or a plumber or somebody else?

RYAN NORMAN: Sure. And again, I'm not a bedbug expert, but my understanding is it's just like anything else, you've got to look at the evidence and make a determination. And-- and when you're trying to hold somebody liable for that, it's going to be a fact finder like a judge that makes that determination. But you can use evidence like, again, my understanding is how old the bedbugs are in a unit. You know, you can use testimony of people. I think the previous testifier talked about that a little bit. I'm not a bed bug expert, but if you can determine that the tenant brought the bedbugs in, it doesn't make sense to hold that the landlord liable for that. Hopefully that answers your question.

HUNT: Senator Briese.

BRIESE: Thank you, Vice Chairman Hunt. Thanks for your testimony here today. Does the Uniform Act require some willful knowing conduct on the part of the tenant before the tenant can be held liable for an infestation reaching throughout the building or in a different unit?

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RYAN NORMAN: So, currently under the Uniform Landlord Tenant Act, it doesn't specify with bedbug infestation. It just says, you know, that if there's damage to an apartment unit that you can hold the-- the "damagee," if you will, liable for that damage. So you would have to prove that the damage was caused by the tenant. In this case, you'd have to prove that the infestation was caused by the tenant,

BRIESE: Even unwittingly.

RYAN NORMAN: Correct. If it was negligent, that would be the same. Yes, under the current act.

BRIESE: OK, thank you.

HUNT: Any other questions from the committee? Senator Hansen.

M. HANSEN: Thank you, Vice Chair Hunt, and I'm just following up. Can you walk me through the logic of using the 5-day notice in response to a bedbug infestation?

RYAN NORMAN: Sure. I want to be specific about that and I'm hopeful my testimony was. A 5-day notice would only be used in cases where somebody denies access, for example, to treat a bedbug problem. So it's-- it's when they're causing health and safety concerns for other people in the apartment. I would love to say that never happens, but it does. I had a case actually just-- just conclude where that was the exact issue in the case. So tenant had an infestation, wouldn't allow treatment and so that was the issue in the case. So that's-- that's what I'm talking about when using a 5-day notice.

M. HANSEN: OK. Thank you.

RYAN NORMAN: Yep.

HUNT: Thank you, Senator Hansen. Any other questions? Seeing none, thank you for your testimony today, Mr. Norman.

RYAN NORMAN: Thank you.

HUNT: Any other opponents for LB553? Seeing none. Anyone here wishing to testify in a neutral capacity? Seeing none. Senator Wayne just waived closing and so we do have a letter-- we have three letters, one

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in support from Mitchell Allen, one in opposition from Douglas County Health Department, and then a neutral letter from the National Association of Social Workers Nebraska Chapter on LB553. And that will close our hearing on LB553 and close our hearing for today.