

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Urban Affairs Committee February 23, 2021  
Rough Draft

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**WAYNE:** [RECORDER MALFUNCTION] Urban Affairs Committee. My name is Senator Justin Wayne. I represent Legislative District 13, which is north Omaha and northeast Douglas County, and I serve as the Chair of Urban Affairs. We will start off having members of the committee and staff do self-introduction, starting with my right, Senator Briese.

**BRIESE:** Tom Briese, District 41.

**HUNT:** I'm Megan Hunt. I represent District 8 in midtown Omaha.

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

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

**LOWE:** John Lowe, District 37: Kearney, Gibbon, and Shelton.

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

**WAYNE:** Also assisting the committee will be 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 and psychology major at UNL. Due to ongoing COVID pandemic, the Legislature has adopted safety protocols to apply at all hearings, which are posted outside. Due to social distancing requirements, seating requirements are limited in the hearing room. We ask you into the room when necessary to attend the bill that your hearing in progress. Bills will be taken up on the order posted outside of the hearing room, and the list will be updated after each identified bill is currently being heard. The committee will pause to allow people to exit the room. We request that everyone utilize the same entrance, exits and, exits and-- entrance and exit doors to the hearing room. We request that you wear a mask and face covering while in the hearing room. Testifiers may remove their masks during the testimony to assist committee members and transcribers in clearing-- clearly hearing and understanding the testimony. Pages will sanitize the front of the table and chair between testifiers. In the event that the hearing room, hearing room reaches seating capacity, or near capacity, the entrance to the door will be monitored by the Sergeant at Arms. Please limit your handouts if you have them. This morning we will be hearing three bills. We will take them up in the order listed outside the room. On the table near the entrance, you will find the blue test--

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testifier sheet. If you are planning on testifying today, please fill out one of those in hand to Angenita when you come up. This will make sure that we keep accurate records. Please note if you wish to have your position listed on the committee statement for a particular bill, you must identify that position-- 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 the bill, please fill out the gold sheet at the entrance. Also, I would note is the policy of the Legislature that letters of the record must be received by the committee by noon the day prior to the hearing. Any handout submitted by the testifiers will be included as part of the exhibits. Testimony for each bill will begin with the introducer's opening statement. After the opening statement, you will hear from supporters of the bill. Then you'll hear those in opposition to the bill, followed by neutral capacity. Then you will have the speaker-- introducer of the bill give a closing statement. We ask that you begin your testimony by first spelling and saying your last-- first and last name. We will be using the four light-- four-minute light system today. When your testimony begins, it'll be green. At the one-minute mark, it'll be yellow. And at the red light, we ask you to wrap up your final thoughts. I remind you, including the senators and everyone in this room, please turn off your cell phones or put them on vibrate. With that, we will begin today's hearing with LB446. Welcome, Senator Matt Hansen, to your Urban Affairs Committee.

**M. HANSEN:** Thank you and good morning. Good morning, Chairman Wayne and fellow members of the Urban Affairs Committee. My name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent LD 26 in northeast Lincoln. I'm here today to introduce LB446, a bill that as introduced would adopt the Nebraska Housing Index and Financing Investment System Act. A quick background. At the end of last session, I introduced LR434, an interim study in the Urban Affairs Committee to examine the availability and affordability of housing across Nebraska. Specifically, I wanted to follow up on the 2019 report, Growing the Good Life, a Blueprint Nebraska report prepared by a team of housing experts whose main finding was that the state had 30 to 50,000 unit deficient affordable housing units. This report concluded that Nebraska's main housing problem has three dimensions: low production, lack of affordability, and an inability to preserve affordability over time. The goal of LR434 was to follow up to see if we had made any

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progress in the area, and if not, what barriers exist for moving forward. My office put together a virtual stakeholder meeting in lieu of an interim hearing with a number of different housing experts. Those attending included nonprofit advocates, housing developers, and real estate attorneys, including several persons who were part of the original Blueprint report. At this meeting, I asked what specific policy changes at the state level would be helpful to their ongoing work to address the state's lack of affordable housing. The number one thing that came up was the continued lack of statewide coordination and planning, despite improved collaboration among housing stakeholders in recent years. Relatedly, several also brought up the need for a statewide database to better keep track of housing data and outcomes across the state, as well as track the various state and federal incentives-- excuse me, as well as to track the various state and federal incentives available for housing development. Following these meetings, I drafted LB446. The overall goal of this bill is to give the Nebraska Investment Finance Authority, or NIFA, more capacity and authority to coordinate statewide housing efforts and to better achieve the goals laid out in the Blueprint report. Since the introduction, I've continued to work with NIFA and provided the committee with AM86, which is a result of that work. That AM is a white copy of the original LB446, but it preserves the main components of the bill but gives NIFA more flexibility in its implementation. It also puts these sections in the NIFA statutes rather than creating a new act entirely. The bill in the AM both provide for three things. One, a statewide database under NIFA to track current housing metrics in state and federal incentives available to develop, rehabilitate, and maintain housing stock across the state. Two, increase capacity for NIFA to support developers, communities and others in better understanding the complex system of public incentives and investments available for housing development projects. And three, the ability to employ the staff needed to achieve these goals. Under both the bill and the AM, it would also task NIFA with submitting a report to the Urban Affairs and Banking Committee every two years that provides a summary of the housing metrics and areas of recommended focus for future housing, investment, and resource allocation. I would like to thank all of those who were involved in helping to shape this legislation, including NIFA, whose executive director will be here to testify today. With that, I'll close and be happy to take any questions.

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

**BRIESE:** Thank you, Chairman Wayne. Thank you for bringing this, Senator Hansen.

**M. HANSEN:** Yep.

**BRIESE:** With the amendment-- in light of the amendment, how accurate do we think that the fiscal note is then? What does that do to the fiscal note? Any guess on that?

**M. HANSEN:** Yes. So at the end of the day, there will be some costs. And I know NIFA is-- we're assigning new duties and responsibilities so there will be some costs. NIFA currently already has the ability to kind of monetize and do some cash-based things. And it's my understanding that they felt they could do that within their kind of current framework and that potentially they would monetize this database in some way if they needed to.

**BRIESE:** So would the fiscal note be somewhat less maybe with, with the amendment?

**M. HANSEN:** I'm going to defer to maybe NIFA when they come up.

**BRIESE:** Perfect. Thanks.

**M. HANSEN:** Absolutely. It takes away-- I will say it does take away the statutory requirement to hire and create a new position.

**BRIESE:** Right.

**M. HANSEN:** So, so that would be one of the main changes potentially.

**BRIESE:** OK. Thanks.

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

**M. HANSEN:** Thank you.

**WAYNE:** First, we'll start with proponents. Any proponents?

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**SHANNON HARNER:** Good morning. My name is Shannon Harner, S-h-a-n-n-o-n H-a-r-n-e-r, and I'm the executive director of the Nebraska Investment Finance Authority, also referred to as NIFA. Good morning, Senator Wayne and Urban Affairs Committee. I'm happy to be here today. As you just heard from Senator Hansen, NIFA is supportive of this bill for the following reasons. Affordable housing is a primary focus of NIFA as the state's Housing Finance Agency. And in addition, we are already directed through our statutes to provide technical assistance as well as policy information to stakeholders in relation to housing. What this bill would do is broaden our, our both authority and mandate to include housing across the state, not just housing needs that are low and moderate income. I do agree that one of the challenges that we have in the state, as noted by the Blueprint report and, and by the working group with Senator Hansen, really is the coordination of, of data and information. There are many different organizations that work on housing. It has not been a, a terribly coordinated effort. And what that means is we aren't being as efficient as we might be in creating results and in leveraging the funds and the programs together and creating some type of a, a system where we're getting shared information from those other partners, as well as being able to provide that information back out with certain amounts of assessment. In other words, being able to say back to this committee, here are what the shortfalls are, you know, in this two-year period, and here is what we think may need addressing in order to help create more housing and more affordable housing in the state would be helpful. Development, rehabilitation, and expansion of housing that's affordable throughout Nebraska is a really important goal. And that's fundamental to improving sustaining community health as well as economic development. Aligning the housing policy across the entire state while explicitly utilizing NIFA as a centralized resource to facilitate and assist nonprofits, counties, municipalities, builders, and developers should create opportunities and efficiencies that produce better results overall. So NIFA believes that LB446, as amended, supports our existing mission and goals and we are in favor of this bill.

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

**BRIESE:** Thank you, Chairman Wayne. And thank you for your testimony here today. Has your estimate of the cost of this bill changed in light of the amendment?

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**SHANNON HARNER:** The-- because we aren't being required to hire a specific person, I think that the cost would, would be reduced by around \$96,000.

**BRIESE:** OK. OK, very good, thank you.

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

**LOWE:** Thank you, Chairman Wayne. And thank you, Miss Harner, for being here. Affordable housing, contractors need to make money when they build things. And with the housing costs the way they are, how is this going to make affordable housing if, if our prices are, are not there? If they can't build a house for under \$220,000, which we heard the other day, how do we create \$110,000 house, \$120,000 house?

**SHANNON HARNER:** This is a great question and it, it is one of the, the critical things that we're trying to figure out. There are, there are a variety of ways to attack this problem. Some of them include utilizing more programs together to create the capital stack for those developers to be able to use all the programs that they can to help get their costs down. Some of it may include utilizing tax increment financing in order to get costs down on infrastructure for those builders. So the lots ultimately aren't as expensive. There-- there are several different ways to do it. There's also people are looking right now at some manufactured housing as, as options. We have several really great manufactured home companies here right in Nebraska that can help provide additional products that are affordable as well. It's-- the scope of the problem is huge as you note, and it's going to take all of the above different strategies in order to try to solve it.

**LOWE:** Even a, a premanufactured home--

**SHANNON HARNER:** Yes.

**LOWE:** --can be quite expensive. A minimum of \$65,000 just for the house. And then you add foundations and concrete and plumbing and, and hookups and land. Even, even a small premanufactured house is still well over \$170,000 by the time it's set.

**SHANNON HARNER:** You're, you're absolutely right at this, at this time, Senator. And these are problems that NIFA gets up every day and tries

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to, tries to think through. There are some types of programs that, that could be implemented. Some other states do different things. South Dakota has the governor's program that, that helps produce housing at very affordable rates using their inmates. You know, there are a variety of things that could happen. We aren't doing them right now, but we see the scope of the problem.

**LOWE:** All right. Thank you very much.

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

**SHANNON HARNER:** My pleasure.

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

**KATHRYN MESNER:** Thank you. I see I need to be a little taller. My name is Kathryn Mesner, K-a-t-h-r-y-n M-e-s-n-e-r. I'm an attorney and I'm president of Mesner Development Company from Central City, Nebraska. I'm also the former chairperson of the Housing Industry Council for Blueprint Nebraska. My written testimony that I've submitted has more detail to it, and it addresses some of the things Senator Lowe just asked about. But I really want to make two points. Well, actually, three at this point. One is that communities do need help in identifying their specific housing needs, all communities across the state. And my second point, Nebraska's housing resources need to be better coordinated and responsive to those identified needs of the communities. I think I would have preferred the language of the original bill that was offered because I think that there is some good in identifying a specific person responsible for the things that we're putting into LB446. But I will-- I guess I'll leave that final decision up to the Legislature and to NIFA. Our company has developed affordable housing across Nebraska and Kansas for the past 30 years. And the communities we visit all know they have a problem, they don't-- a housing problem, they don't always know why. They seldom know what to do about it and often don't even really know where to start. It doesn't seem to matter whether it's homeownership or rental housing. The problems that are associated with housing production is long. And since those problems can be quite different from one point in the state to another, there's no one-size-fits-all solution. I think LB446 is a great first step in helping communities identify

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their unique challenges. And the data collected could and I believe should paint a more detailed picture of specific housing needs almost in every neighborhood of Nebraska. This will help our leaders respond better, set better housing priorities, and access more appropriate housing production resources. My second point deals with our housing agencies and Blueprint's goal to improve the state's housing production through a coordinated effort to adapt and modernize the many programs that we currently have. We literally have dozens of agencies in the state that are working hard on housing, but there's not a lot of coordination going on between them. And often these agencies are working so hard on their day-to-day tasks that they really don't have time to step back and think about how to make their housing efforts more coordinated, responsive, and efficient. I think that if we put the authority to gather and analyze housing data within-- from all other agencies within one agency, we can help the Legislature and the agencies themselves see what they're doing right and what they could be doing better. Our agencies can learn a lot from one another and from agencies and programs around the country. But we need a single office that has the authority, the time, and the mission to study and stimulate more collaboration and coordination between our own housing organizations. So I support LB446 because I think it'll encourage housing production with a more-- with more coordination and responsiveness.

**WAYNE:** Thank you. Any questions from the-- Senator Briese.

**BRIESE:** Thank you, Chair Wayne. Thanks for your testimony here today.

**KATHRYN MESNER:** Sure.

**BRIESE:** Are there any homes for sale currently in Central City?

**KATHRYN MESNER:** There are some homes for sale in Central City.

**BRIESE:** How many?

**KATHRYN MESNER:** Actually, Central City has done a great job of developing subdivisions and building new homes. And we've done it in a variety of ways with local homebuilders' clubs and with using-- actually using utility funds to help build out subdivisions. But Central City is kind of an unusual place. I can tell you, a couple of



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years-- a couple summers ago, Cliff and I visited Crete, Nebraska. And I think Crete has about 3,000 people commuting into town to work every day. They had seven houses on the housing market in Crete. So figuring out a way to produce homes in-- especially in smaller communities and in these community centers that we have across the state that are-- that where we have large employers is particularly different-- difficult. We have affordability problems because the costs of new housing has out-- has outpaced local wages. We have appraisal problems in communities that haven't had new housing in the past.

**BRIESE:** The reason I asked, I come from the Albion area and if you look on Zillow, look up Albion, and there, there may be one house left for sale. I'm not sure it might, or it might be zero.

**KATHRYN MESNER:** Um-hum.

**BRIESE:** That's a community of 1,600 people.

**KATHRYN MESNER:** Right.

**BRIESE:** What's this bill going to do about that or what, what direction would this bill take us that would help the housing shortage in communities like Albion?

**KATHRYN MESNER:** Well, one of the things that I think it does is that we don't have enough data about what's causing the housing, the housing problem in Albion or, you know, in Neligh, or any place else. We don't have enough understanding of the community itself in terms of, you know, what is that, is, is the community well organized to develop housing? Do they have a, do they have a strategy themselves for investing in housing? That's some of the, that's some of the data we need to be collecting, not just a count of the housing or the kinds of housing, not, not a count of rooftops, but a count of capacity also. And then we can help those communities develop more, more capacity. Sometimes we go into a community and one of the big things that is causing problems in developing housing is they're zoning restrictions. You asked about more affordable housing. We have to work more density into a lot of areas in order to make it profitable for builders to go in and build houses that they can make some money off, off of. And so, you know, there are a series of, of different things that the communities themselves can do through subdivision

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development, through density and zoning rules, through perhaps rebates on some of their utility taps, those sorts of things that we can do to help buy down housing. And then the state organizations have different kinds of programs for different levels of income, including, you know, the workforce housing has been fabulous in terms of developing housing in smaller areas across the state. And we hope the new workforce housing in Lincoln will stimulate the same sort of thing. Sometimes we just need to buy down the cost a bit for our consumers in order to get the housing for our state. And so this is the sort of thing, this is the sort of research and data that we can pull together and then pull our, pull our agencies together and look and see, you know, who can handle this kind of housing best? You know, can we adapt this program to this need?

**BRIESE:** OK.

**KATHRYN MESNER:** That's the sort of work we need to do here.

**BRIESE:** OK. Thank you for that.

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

**KATHRYN MESNER:** OK.

**WAYNE:** So just so I'm clear, for the record, I believe you, you brought, you had a written letter too?

**KATHRYN MESNER:** I did submit a written, written--

**WAYNE:** So we'll use your testimony, your live testimony as your testimony.

**KATHRYN MESNER:** That's fine.

**WAYNE:** OK, thank you. Next proponent. Except for you, I mean, you've been banned for like five years now. Welcome to your Urban Affairs Committee.

**TIMOTHY KENNY:** Thank you, Mr. Chairman. Thank you, members of the committee. And thank you for your hard work over the last couple of years on the things you've been doing to modernize our housing

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resources. My name is Timothy Kenny, T-i-m-o-t-h-y K-e-n-n-y, and I live in District 2, 21902 A Street, south of Eagle, Nebraska in Cass County. I appear today in an individual capacity, meaning I'm a proponent without a portfolio, but happy to do so. I have previously served in the Housing Finance Program administrator capacity for the Nebraska Investment Finance Authority, where I was executive director from 1994 through 2020. I'm also the recently-- recent chairman of the Affordable Housing Group for the National Association of Home Builders. I grew up in the home building industry, so I have a great affiliation with that group too. We have a, a national affordable housing group and I was honored to be the chair of that this year. Our mission at NIFA was to provide ownership and rental housing finance opportunities for low- and moderate-income Nebraskans. I speak as a proponent of LB446, in which summary I believe is intended to support the continued development of all kinds of housing and investment in housing by creating a collaborative system to provide data on current housing needs in funding and incentives. The housing problem we're trying to address in Nebraska, as defined by the rate of housing production, affordability and tenure, and that is the length of time that the housing remains well maintained and affordable for occupancy. To that end, LB446, if it moves the agencies and departments of the state, those with housing resources to participate in the compilation of a database and index and evaluation of the program-- programs will be a new and important tool in our state's efforts to address a housing shortage, as you've heard, which is estimated to be somewhere between 25,000 and 50,000 units. I filed some comments yesterday, but I suggest-- and where I suggested some new language, but I learned recently that AM86 has been proposed, which has incorporated those concepts into the conversation. And I also support AM86. I would like to offer one illustration, though, about why we need LB446 as amended to address the housing issues in Nebraska. I previously attached an exhibit to that testimony I submitted yesterday, and it's a list of the various housing resource providers who provide funds or regulate housing resources in our state. I stopped at 36 or 37 because that's how much room I had on the page. But for federal programs, this incomplete list shows about 17 federal offices that allocate or regulate housing resources and offer programs. The rules for the programs are available to every citizen, but the resources are generally channeled through an intermediary such as a state agency or office. And further, each of those resources has rules and

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regulations, often conflicting, which create barriers to their effective use. In both cases, there's little coordination between and among the allocating entities to facilitate the best use of those restricted resources. The listing and reporting of all the programs used and unused in one place would better enable matching of programs to needs. This effort, enabled by LB446, if successful, could result in a shared data system deployed with modern shared data technology like distributed ledgers to enable not only more rapid collection of data, but also a more efficient maintenance of the database by the participating agencies. A shared database would also enable real-time communication of information between and among participating authorities, which is especially helpful in situations like disaster recovery scenarios like we had in March of 2019. So to conclude, public policy governing the use and monetization of public resources to produce housing should focus on this issue-- these issues of production, affordability and tenure of use for an occupancy. With the information expected to be derived from the collection of data under LB446, we will as a state be able to better measure progress toward those goals. Thank you.

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

**TIMOTHY KENNY:** Thank you.

**WAYNE:** Next proponent.

**LYNN REX:** Senator Wayne, members of the committee, my name was Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We're here today in strong support of this bill, testifying to the green copy of the bill. I've not seen the amendment. I went online to see if I could find it. I don't see it there. So I'm testifying only as it applies to the green copy. We think it's extremely important to have a more coordinated effort when it comes to affordable housing. And I agree with comments made that one size does not fit all. The issues are different across the state. You heard last week, I believe it was from Brian Newton, the city administrator of Fremont, who indicated 50 percent of the folks working in Fremont live in Omaha. And that's because they don't have housing, and so-- enough housing, at least, enough affordable housing in Fremont. So these issues do vary. It's important as we look at how we can have a

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coordinated effort to also understand the importance of keeping the integrity of neighborhoods, because I think zoning plays an important role here. That's not to say there can't be more done to create incentives for developers. But at the end of the day, you also want to make sure you don't have an uprising of a municipality because people are having their neighborhoods basically not kept, kept intact, if you will. I mean, there's some real importance there to having the integrity of the neighborhood itself in the municipality. But there's a balance. And I think that that can be struck. This is really important. And again, I wish that it was actually the green copy because I think that having an individual identified and providing the resources for NIFA, I don't know if the amendment basically takes the resources out or not. But, but in any event, we strongly support this measure. We think it's important. We appreciate the hard work that this committee has done in the issue of affordable housing. You may remember that it was what, three or four years ago, the Nebraska Bankers Association went across the state and identified the top priority in the state, and affordable housing came out on top. So with that, I'm happy to respond to any questions that you might have.

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

**LYNN REX:** Thank you very much.

**WAYNE:** Next proponent. Any opponents? Anyone testifying in the neutral capacity? Seeing none, Senator Hansen. We have some written testimony in proponent: Justin Brady, Nebraska Realtors Association, Home Builders Association of Lincoln, and Metro Omaha Builders Association; Bruce Bohrer, B-o-h-r-e-r, Lincoln Chamber of Commerce; and National Association of Social Workers Nebraska Chapter in support. Senator Hansen.

**M. HANSEN:** Thank you, Chairman Wayne. And thank you, members of the committee. So broadly, and I appreciate all the testifiers and these are many of the people we worked with in developing the bill. So I think, I think some of the testimony you heard was kind of on, on the point of the key issues to the problem. That currently in Nebraska, we have a number of state agencies and a number of federal programs, frankly, dozens of them all doing some component of some bit of housing. And we've seen and one of the things that I think the, the

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study and this information will show is that some of those programs are overutilized. Maybe not overutilized isn't the right term, but, you know, are-- have a wait list, are being, you know, turning people away for lack of funds, and some are being underutilized and just sitting there. And part of the reason for that is there's not necessarily a clear listing and clear database, a clear system for that. You know, as you know, we in the state of Nebraska don't have a state version of, of the federal Housing and Urban Development. We don't have a State Department of Housing. We don't have a focus on that. We have a variety of different state agencies that all do their bits and the parts, you know, economic development does some, NIFA does some. I think HHS does some. It's kind of all over the board. So it brings up the scenario of you want to build a new, new construction, you want to build some new housing. Oh, one of the key ways to make it affordable is to use one of these federal programs or state programs to basically buy down the cost or buy down the cost to the first homebuyer, you know, the first renter. But if you're not adept, you're not savvy, you're not retaining legal counsel, you don't necessarily have a complete understanding of all of these different systems because we've effectively hidden them in various state and federal departments. That's my goal with LB446 is to get more to the point of we have a-- in the green copy, we literally had a named point person. In the amendment, we still have kind of the intentional department and intentional system that, hey, I want to build, you know, six new houses in my hometown. I want to do it as a project. I want to see what kind of options I have for financing, what options I have for affordability. You know, here's the point person I call at the state level to get that ball rolling. And I think that's why you see so many of the-- I know they submitted written testimony, but so many of the industry was in support. So I think at the end of the day, that would help them as well. With that, I will close and be happy to take any questions.

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

**M. HANSEN:** Thank you.

**WAYNE:** And that will close the hearing on LB446. Next, we have Senator Hunt with LB131. Welcome to your Urban Affairs Committee.

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**HUNT:** Thank you, Chairman Wayne and members of the committee. I'm Senator Megan Hunt, M-e-g-a-n H-u-n-t, and I represent District 8 in midtown Omaha. Today, I'm here to present LB131. This bill is a simple harmonization bill and a technical cleanup bill to our municipal ordinance statutes that corrects an inconsistency and prevents us from having to amend additional statutes in the future. In 2019, the Legislature passed LB865, which prohibited all municipalities from suspending the requirement that a city or village-- that city or village ordinances be publicly read on three different days for any ordinance related to annexing or redistricting. That is, there's a provision that allows city or village boards or councils to vote to suspend the three-day reading requirement for most all ordinances. But this bill changed the law to say that the requirement cannot be suspended if they're dealing with redistricting or annexation. Essentially, the current statute says that they can suspend the three-day reading requirement for everything except annexation or redistricting. The need for this bill was brought to my attention by committee staff. What LB131 does is add a catchall provision to the language codified by LB865 about annexation or redistricting to add "or as otherwise provided by law." That way, if we pass any other bills in the future that affect this, that it will be caught up into that provision, which is the intention of it in the first place. This would encompass any other reason that the Legislature has or may in the future to add to the list of topics for which the three-day reading requirement cannot be suspended. In reviewing the municipal ordinance statutes for clean up, committee staff found at least one other section of statute, which was 15-222, related to franchise agreements by cities of the primary class, which says that the three-day reading requirement can't be waived. So this section, and probably others we haven't caught, are at odds with the section of law that this bill would amend. So we correct for this problem by saying, "or as otherwise provided by law." This is a commonsense catchall phrase that we use all the time for harmonization of laws that get passed. So without LB131, every time the Legislature wants to pass a bill dealing with waiving the three-day reading requirement, we would have to come back and amend this section of statute. If we pass this bill, we're not adding anything substantive or changing the current exceptions to which types of ordinance can and cannot have the requirement waived. We're just accounting for any other instances of statute that are at odds with the section and providing for

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harmonization for any other future statute that might conflict. With LB131, we're saying if there are other sections out there that specifically prohibit the waiver of three readings, then that's OK. Again, this bill was brought to me by committee staff as a necessary technical clean up, and I'd be happy to try to answer any questions.

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

**HUNT:** Thank you.

**WAYNE:** We'll start with proponents. Any proponents? Welcome to your Urban Affairs.

**LYNN REX:** Senator Wayne, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We appreciate committee counsel and Senator Hunt bringing this bill forward. I think it is necessary for clarification because there are a couple of other statutes possibly that may come into play. So this just makes it clear what the intent of the Legislature is and to make sure that folks are in compliance. With that, thanks to Senator Hunt and thanks to Trevor Fitzgerald. Appreciate it. Be happy to respond to any questions that you might have.

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

**LYNN REX:** Thank you.

**WAYNE:** Any other proponents? Any opponents? Anybody testifying in the neutral? Seeing none, Senator Hunt waives closing. There are no letters of support, opposition or neutral. That closes the hearing on LB131. Next, we have LB647. Senator Flood's staff will introduce the bill.

**JESSE FERGUSON:** Good morning, Chairman Wayne and members of the committee. My name is Jesse Ferguson, spelled J-e-s-s-e F-e-r-g-u-s-o-n. I'm Senator Flood's legislative aide and I'm here on his behalf to introduce LB647. Before I begin, he wants the committee to know that he wishes he could have come here to open on the bill, but he is still in another hearing that was also scheduled for this



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morning. I would also like to provide the committee with a letter of support from Andy Colvin, the Norfolk City Administrator. For decades, state services in cities like Norfolk have been in multiple buildings spread throughout a community of 25,000 people. There are multiple leases and separate staff that tie together almost every executive branch function. Cities like Norfolk are interested in leasing back to the state of Nebraska a facility that could house multiple agencies. Imagine the Department of Health and Human Services located next to workforce development and just around the corner from the fingerprint services of the Nebraska State Patrol. Although there is nothing specifically planned for Norfolk, officials there would like the flexibility to lease back the state-- to lease the state space that would allow Norfolk to provide a solution. The simple change here for allowing a city to bond \$5 million increase of \$3 million from the current \$2 million is allowing acquisitions to consist of more than one-- also allowing acquisitions to consist of more than one building, provides the flexibility to the current amount, which has not been changed since the 1970s. Thank you for your time.

**HUNT:** Thank you, Mr. Ferguson. Any questions from the committee? Oh, I guess we don't ask questions of staff, so thanks for introduction. Any proponents for LB647? Welcome to your Urban Affairs Committee.

**LYNN REX:** Thank you. Senator Blood, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We really appreciate this bill being introduced by Senator Flood. Norfolk is one of several cities, and this, this is a bill that applies to cities in the first class, a Chapter 16 city. But it's important because the state of Nebraska works with municipalities across the state, especially in first-class cities, but even some second-class in order to house various state agencies. And this is anticipating what might be happening in Norfolk in terms of collaboration of various state entities that might need to have more than one building and also basically making sure that we increase from \$2 million to \$5 million the amount that can be used. So with that, happy to respond to any questions you might have. We note that the current statute as allowed here requires a vote of the people for any bond issuance. With that, I'm happy to respond to any questions you might have.

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**HUNT:** Thank you, Miss Rex. Any questions from the committee? Seeing none, appreciate your testimony today.

**LYNN REX:** Thank you very much. Appreciate it.

**HUNT:** Any other proponents for LB647? Any opponents? Anyone wishing to testify in the neutral capacity? Seeing none, we have no letters for the record on LB647 and no written testimony. And that will conclude our hearing on LB647, and conclude our hearings for the morning.

**HUNT:** Hello, everybody. Good afternoon and welcome to the Urban Affairs Committee. My name is Senator Megan Hunt and I represent the 8th District in midtown Omaha. I serve as Vice Chair of the Urban Affairs Committee. And today I will be chairing this afternoon's hearing because Senator Wayne is introducing a bill in another committee. We will start off by having members of the committee do self-introductions starting on my right with Senator Blood.

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

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

**M. HANSEN:** Matt Hansen, representing 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 committee pages, Noah Boger from Omaha, who is a political science major at UNL, and Caroline Hilgert from Omaha, who is a political science 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. We ask that you only enter the hearing room when it is necessary for you to attend the bill 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 everybody utilize the identified

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doors for exit and entrance. Those are marked. And we request that you wear a mask or a 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 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. But I don't think that will be a problem today. And we ask that you please limit, or if possible, eliminate handouts. This afternoon we will be hearing three bills and will be taking them in the order listed outside the 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 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 if you do have any handouts that you please bring ten copies and you 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 introducer's opening statement. After the opening statement, we will hear from supporters of the bill, then from those in opposition, followed by those who wish to testify in a neutral capacity. Then the introducer of the bill will be given the opportunity to make a closing statement if they wish to do so. We ask that you please start your testimony by giving your first and last name and also please spell it for the record. We will be using a four-minute light system today. When you begin your testimony, the light will turn green. The yellow light is your one-minute warning. And when the red light comes on, I will ask you to wrap up your final thoughts. I would also remind everyone, including senators, to please turn off anything you have that could make noise. With that, Senator Arch, would you like to introduce yourself?

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**ARCH:** Thank you, I'm John Arch, District 14, which is Papillion La Vista and Sarpy County.

**HUNT:** With that, we'll begin today's hearing with LB555 introduced by Senator Matt Hansen.

**M. HANSEN:** Thank you. Good afternoon, Vice Chair Hunt and fellow members of the Urban Affairs Committee. My name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. I'm here today to introduce LB555, which would change reporting requirements under the Municipal Density and Missing Middle Housing Act. Just as a reminder, last year we passed LB866, which adopted the Missing Middle Housing Act and the Middle Income Workforce Housing Investment Act. LB866 created several requirements for cities and LB8-- LB555 updates and adds clarification to one new reporting requirement. As a reminder, one component of LB866 required that on or before July 1, 2021 and every two years thereafter. Each city of the metropolitan class, city of the primary class, and city of the first class with a population over 20,000, must submit a report to the Urban Affairs Committee regarding its current efforts to address the availability of and incentives for affordable housing. Under LB555, cities would have to include the percentage of residential areas in the city that have been designated substandard or blighted or extremely blighted in a biennial report to the committee. This is important because of the passage of the constitutional amendment last year, allowing for the additional TIF projects in extremely blighted areas. Adding this data to an already required report will give the Urban Affairs Committee helpful information in monitoring this new tool's impact in residential housing. With that, I will close, and be happy to take any questions.

**HUNT:** Thank you, Senator Hansen. Are there any questions from the committee? Seeing none, thanks for your opening.

**ARCH:** I, I have one.

**HUNT:** Oh, I'm sorry. Senator Arch.

**ARCH:** Is this, is this information difficult to retrieve?

**M. HANSEN:** No, I don't believe so.

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**ARCH:** So--

**M. HANSEN:** They're already required under statute. As you remember from other bills, there's a cap on the amount of land that can be designated for some of these. And so my understanding is this is something the planning departments would already track.

**ARCH:** So they're already, they're already capturing it, it's a matter of reporting it.

**M. HANSEN:** Yeah. So this is just kind of making sure every city does the same report each time.

**ARCH:** Thank you.

**HUNT:** Thank you, Senator Arch. Thanks, Senator Hansen. We can take the first proponent for LB555. Any proponents? Seeing none, we can take the first opponent to LB555. Seeing none, anyone here wishing to testify in the neutral capacity? Seeing none, Senator Hansen, do you wish to close? He waives closing. We have no written testimony for LB555, and we have two letters for the record. We have a letter of support from the AARP Nebraska, and a letter of support from Collective Impact Lincoln. And with that, we will continue to LB556. Senator Hansen.

**M. HANSEN:** Thank you. Good afternoon again, Vice Chair Hunt and fellow members of the Urban Affairs Committee. My name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. I'm here today to introduce LB556, which would confirm the city's ability to include any additional requirements in a redevelopment contract or redevelopment plan or redevelopment project. This could be used to ensure that such a project or plan complies with the city's comprehensive development plan, the city's affordable housing action plan, city zoning regulations, or any other reasonable planning requirements or goals established by the city. Adding this language would provide clear authorities to cities to place additional requirements on developers as part of a TIF project, which, amongst other things, they could give the authority to require the TIF developers designate a certain percentage of units as affordable housing if they so chose. This has been something cities have expressed the desire to do, but also noted that they were unsure if

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they had clear statutory authority. I believe that we should confirm this authority for cities by adopting LB556. With that, I'll close, and happy to answer any questions.

**HUNT:** Thank you, Senator Hansen. Senator Blood.

**BLOOD:** Thank you, Vice Chair Hunt. Senator Hansen, that was one of the things and you kind of touched down on it, is they already have this ability. Why do we need to put it into statute?

**M. HANSEN:** Not every city attorney agrees with that position.

**BLOOD:** Well, then they're just maybe wrong.

**M. HANSEN:** Sure. [LAUGHTER] I don't, I don't-- sorry, I don't, I don't--

**BLOOD:** I mean, that's something--

**M. HANSEN:** It, it would ease--

**BLOOD:** I mean, that's the thing that confuses me is that, like, I'm always for making sure that, that statute is clear.

**M. HANSEN:** Yeah.

**BLOOD:** And I understand sometimes we also put things in statute to make sure that all municipalities understand that--

**M. HANSEN:** Right.

**BLOOD:** --they have the ability to do it. But I'm not seeing that it doesn't already say that.

**M. HANSEN:** I will tell you that adopting this language is important for some cities and would ease the heartburn of some city planners and some city attorneys.

**BLOOD:** Can't they just hire new attorneys? Just saying.

**M. HANSEN:** Sure.

**BLOOD:** All right. Thank you.

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**HUNT:** Any other questions from the committee? Senator Arch.

**ARCH:** Thank you. Are we back to the Dillon Rule again? I mean, if, if we don't give explicit authority, there would be some attorneys that would say then I don't have the authority.

**M. HANSEN:** Yeah, I, I think kind of broadly, that's kind of what we're getting at. Obviously, different cities, some are you have a couple [INAUDIBLE] charter cities and some other that aren't. So you have different kind of statutory authorities applying to different classes of cities as well. So you got that layer.

**ARCH:** Thank you.

**HUNT:** Any other questions? Seeing none, thank you--

**M. HANSEN:** Thank you.

**HUNT:** --for your opening. Any proponents for LB556? Welcome to your Urban Affairs Committee.

**JACK CHELOHA:** Thank you. Good afternoon, Senator Hunt and members of the Urban Affairs Committee. My name is Jack Cheloha. That's spelled J-a-c-k C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha and I want to testify in support of LB556 this afternoon. And I want to thank Senator Hansen for introducing the bill and this committee for hearing it today. The city of Omaha is supportive of the effort by the Legislature to specifically allow municipalities to include in their redevelopment agreements, certain provisions related to compliance with its master plan, affordable housing plan, or other similar comprehensive plans that may apply to a particular redevelopment project. Although we believe the right to contract between parties affords us this right in general, we take this bill as clear direction from the Legislature that we should work to memorialize compliance with these plans in our redevelopment agreements. This bill further the city of Omaha's efforts here, but also clarifies for all communities across the state. And with that, once again, I'll thank Senator Hansen and thank this committee for this hearing today and ask for your support of LB556.

**HUNT:** Thank you, Mr. Cheloha. Senator Blood.

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**BLOOD:** Thank you, Vice Chair Hunt. All right. Are you an attorney?

**JACK CHELOHA:** I am. Yes.

**BLOOD:** Well, that's the problem. So the question I have for you, what's the difference between "may" and "shall" in, in-- when it comes to legislation?

**JACK CHELOHA:** All right, "may" is permissive and "shall" indicates an action must happen.

**BLOOD:** So why does the bill say "may" instead of "shall?"

**JACK CHELOHA:** That's-- boy, that's a good question and we'll have to wait for Senator Hansen on closing, maybe to answer that, but a--

**BLOOD:** Were you one of the municipalities that requested this?

**JACK CHELOHA:** As I-- I'm not specifically aware of that. I know that there was some disagreement amongst Omaha city attorneys whether we had the authority. So we thought the bill would be helpful. It may be belts and suspenders but--

**BLOOD:** So some thought that the statute already allowed you do it and others thought the statute didn't. Correct?

**JACK CHELOHA:** You're right.

**BLOOD:** All right.

**JACK CHELOHA:** Sorry. So this will clear it up I think.

**BLOOD:** By giving you the same options that you already had.

**JACK CHELOHA:** Well, that's something that, that the committee will have to consider, I guess.

**BLOOD:** Sorry, you were the first one up. I'm sorry to put you on the spot.

**JACK CHELOHA:** Let me look at the-- let me go back and look at the language here.



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**BLOOD:** So I'm looking at page 4.

**JACK CHELOHA:** Right.

**BLOOD:** I'm looking at line 14.

**JACK CHELOHA:** Yep, "may include." Well, I think, I think the reason why it's "may" instead of "shall" is it, it just depends. A lot of these agreements are still very specific, if you will. And, you know, some of the redevelopment agreements may be all commercial. So then, so then obviously our housing element wouldn't come into play there. And then some, I think it depends upon the type of redevelopment of the neighborhood to, to, you know, you want to fit again within whatever the flavor and the makeup of that community is. And so whether or not, you know, we want to dictate too many things is still something we have to come to terms with, with the redevelopment people seeking the contract. Because in the end, I mean, it's, it's up to them to make the project go forward. I mean, it's--

**BLOOD:** Doesn't, doesn't this pertain to your comprehensive plan, which is your right as a municipality to, to implement and to request that people comply with the, the comprehensive plan? Isn't that already the job of the city and the city council?

**JACK CHELOHA:** Technically, yes.

**BLOOD:** Planning.

**JACK CHELOHA:** I mean, that-- right. They, they do that and they implement it, and that's our local governance and local guidance, etcetera. But yet at the same time, you still want to be able to have a meeting of the minds to have a contract. I mean, that's--

**BLOOD:** Which--

**JACK CHELOHA:** --that might be legalese to you, but I think, I think it's still important to make it "may" as opposed to "shall."

**BLOOD:** All right. I'm, I'm still not convinced, but I appreciate your--

**JACK CHELOHA:** OK.

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**BLOOD:** --you sharing your opinion.

**JACK CHELOHA:** OK.

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

**JACK CHELOHA:** Thank you.

**HUNT:** Any other proponents for LB556? Welcome to your Urban Affairs Committee.

**CHRISTY ABRAHAM:** Thank you, Vice Chair Hunt 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. And we just want to add our support to this bill. One of the things the League really likes about this bill is that it is permissive. It says that cities can add these provisions if they deem it necessary. Some cities may not. You'll hear me testify on the next bill. I was looking at the 2020 Department of Revenue TIF report. And there are communities with less than 100 people that do TIF. And my guess is in those communities, they may not have the need for these provisions in their TIF redevelopment contract, but larger, more sophisticated cities probably would. I thought the letter you received from the city council members of Omaha was very persuasive when it says, you know, we would really like to have explicit authority to say we want to have an affordable housing component as part of our TIF contract. And this language explicitly allows that. And I just want to make a small pitch for the dear city attorneys out there in the world. Some of them, I think, do take Dillon's Rule very seriously. And if there is an expressed explicit authority from municipality to do something, they don't feel that they do. Other city attorneys take a more broad approach to that. So we understand that city attorneys may have had different opinions on this, but we're glad for the clarification and glad that it's explicit. And I want to thank Senator Hansen for introducing it. Thank you, Senator.

**HUNT:** Thank you, Miss Abraham. Senator Blood.

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**BLOOD:** Thank you, Vice Chair Hunt. And thank you for coming today because now I have somebody from the municipal level that I can talk to you.

**CHRISTY ABRAHAM:** Sure.

**BLOOD:** So in a very brief sentence, explain to me, and I already know the answer, but I want to get this on record. What is a city's comprehensive development plan? What does it do?

**CHRISTY ABRAHAM:** I think that's-- and, and as you-- boy, I'm not going to be brief, Senator Blood. OK, let me try to be brief. You are correct that part of what a municipality needs to do before they even start TIF, is to have a comprehensive plan. So certainly that's going to be their first step before they even do a TIF. And that is just sort of a general plan of their community about what they sort of want their community to look like.

**BLOOD:** And even if they're not planning on doing TIF, they usually have a comprehensive plan.

**CHRISTY ABRAHAM:** Most do, yes.

**BLOOD:** Right.

**CHRISTY ABRAHAM:** That is correct. Yes.

**BLOOD:** Just wanted to make sure that that's clear.

**CHRISTY ABRAHAM:** Sorry, not brief, but--

**BLOOD:** No, that's all right.

**CHRISTY ABRAHAM:** --yes, there it is.

**BLOOD:** So, so I'm still-- I still-- I keep reading this and, and I understand what the concern is and I clearly understand Dillon's Rule, but I don't understand the confusion that certain attorney-- city attorneys are having. When you, when you create your, your comprehensive plan, you, you set the guidelines of what your expectations are when you work with the people and what you will allow

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and not allow. Would you say that that's an accurate short description?

**CHRISTY ABRAHAM:** I think that's a fair statement, Senator Blood.

**BLOOD:** So if they look into their city's comprehensive plan and then they look at the existing state statute, why are they coming up with the fact that they feel that they may not have the ability to do what this says they "may" do?

**CHRISTY ABRAHAM:** And I think-- again, as Mr. Cheloha mentioned, I think the "may" for me, this is written perfectly because it gives cities the authority to require the developers to do something. So permissive on cities, mandatory for the developers. Yay.

**BLOOD:** Which they can, which they can do through the comprehensive plan already.

**CHRISTY ABRAHAM:** And I think in-- I go back to the, the City Council of Omaha's letter, I, I do think that this does give them a little bit of clear authority to say to a redeveloper, look, we need you to include affordable housing because it's in our affordable housing plan and we now have explicit authority in statute to say it has to be part of your redevelopment contract. This gives us the, the authority to do it. I know, I, I feel bad I can't convince you.

**BLOOD:** They already have that authority. That's the part that you-- and I, and I hear what you're saying. And I understand why it's important. I just-- yeah, I don't understand that, but that's fine.

**CHRISTY ABRAHAM:** No, and I am not offended that I can't convince you, Senator Blood. I will, I will point out that in line 6 of this bill, you'll see that this was some language that was added recently: A redevelopment contract for a redevelopment plan that includes the division of taxes may include a provision requiring that these taxes be paid on time. So, again, I think (6) may have been based on number (5). That's a permissive authority to let these redevelopment contracts say, hey, you have to pay your taxes on time. OK.

**BLOOD:** And, and I've been at meaning it's like people have to pay their taxes on time already, so. All right. I appreciate your honesty. Thank you.

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**CHRISTY ABRAHAM:** Thank you.

**HUNT:** Thank you, Senator Blood. Senator Lowe.

**LOWE:** Thank you, Vice Chair Hunt. And thank you, Christy, for coming and testifying today. So you'll have a, a, a TIF area that the city's created and you have a developer that wants to go in there and develop the land and so-- and for housing purposes. So now he has to put in affordable housing that he may not make a profit on?

**CHRISTY ABRAHAM:** Well, and I think that's as you know, Senator Lowe, as you sat through so many TIF hearings, TIF is there to obviously help the redeveloper make their bottom line work so they can do these projects that may not be affordable without TIF. So we've-- all redevelopers, they're going to have to make that analysis of whether or not this project is affordable for them. And I guess there is a possibility that if the city said, we need-- Senator Lowe, I'm going to make up numbers, 5 percent of your project to be affordable housing. If those-- that number crunching doesn't work for that redeveloper, I guess it's possible that that project may not work for them.

**LOWE:** So this land may never get-- may never get developed.

**CHRISTY ABRAHAM:** And I think, again, that's why we're so glad the language is permissive, because a city may decide, OK, we're not going to put that requirement in for your contract if it really isn't going to be feasible for you to do it. They have that authority to say, you know, we're going to go ahead with the project without that requirement to be in it. And again, that's why we really like the "may" because it really gives the cities the discretion to decide that.

**LOWE:** All right, thank you.

**CHRISTY ABRAHAM:** You're welcome.

**HUNT:** So the "may" is giving cities discretion.

**CHRISTY ABRAHAM:** Yes.

**HUNT:** To be clear.

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**CHRISTY ABRAHAM:** Yes, that's exactly right. So a city could put these provisions in the redevelopment contract. But they're not required to.

**HUNT:** There are cities that would like to, but there's some legal unclarity about if they can do that or not. And this will help clear that up. But it won't require a city to do anything.

**CHRISTY ABRAHAM:** Senator Hunt, you have put that much better than I did and more succinctly. Yes, that.

**HUNT:** OK, thank you. Any other questions from the committee? OK,--

**CHRISTY ABRAHAM:** Thank you so much.

**HUNT:** --thank you, Christy. Any other proponents for LB556? Seeing none, are there any opponents? Anyone wishing to testify in the neutral capacity? Seeing none, Senator Hansen.

**M. HANSEN:** All right. Thank you to all the testifiers and thank you to all the committee members. And thank you to Vice Chair Hunt. I'm going to try and throw some more legalese at you in the intent of making it clear. All right. So there's a legal maxim of statutory interpretation, and I appreciate Miss Abraham bringing it up. It's called *expressio unius est exclusio alterius*, which basically means if the Legislature includes one thing, it implies they meant to exclude the other things. And so the existence of subsection (5) that Miss Abraham brought up, where we give one special thing you can put in a contract, by listing off that thing, we imply-- it's not an outright ban, but we imply that we intended to ban the other things. And I think that is some of the interpretation we're going on. Of course, other interpretations of that, say, a, a city has inherent contract powers, can include extra provisions of the contract. Nobody's requiring the city council to vote a certain way. Nobody's requiring a certain project to be approved or disapproved. So I think putting it down on paper would just make it 100 percent clear from the outset. As you heard, would help a lot of people in the League and in cities across. Similarly, again, this is permissive language. This is something that they can do. And, and to your extent, you know, it's we could as a Legislature, to your point, Senator Lowe, you know, we could introduce a bill that says you could only do TIF for affordable housing. That's not what we're doing here. We're saying cities get to

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look at their comprehensive plan. They get a look at their affordable housing plan. And if they want to add a requirement or negotiate something with the developer, they can. The developer is always free to say no. They can't be forced to build something. They can't be forced to accept TIF. But if they're kind of getting the special benefit, the special program, you know, the cities do have the ability to set their own standards on it. And that's what we're just trying to clarify here. With that, I'll close and be happy to take any questions if there are any.

**HUNT:** Thank you, Senator Hansen. Senator Blood.

**BLOOD:** Thank you, Vice Chair Hunt. True or false, do they or do they not have that ability to do so now?

**M. HANSEN:** I would say in my interpretation, true, they have that ability to do so now.

**BLOOD:** But you'd like to codify it?

**M. HANSEN:** Yes.

**BLOOD:** Thank you.

**HUNT:** Thank you. Any other questions? Seeing none,--

**M. HANSEN:** Thank you.

**HUNT:** --thank you. We have some letters for the record on LB556. We have a letter of support from inCOMMON Community Development, a letter of support from Kate-- Katie Twit, a letter of support from Omaha City Council members Chris Jerram, Vinny Palermo, Pete Festersen and Ben Gray, a letter of support from Dennis Walsh and a letter of support from Brian Smith. So five letters of support. And then we also have submitted written testimony, three letters in support from Matt Schaefer, Eastern Nebraska Development Counsel/Nebraska Association of Commercial Property Owners, a proponent, Anna Graff, Renters Together, and another proponent, Isabel Salas, with the South of Downtown Community Development Organization, and no letters of opposition. We'll close the hearing on LB653 [SIC] and just stand at ease for a minute while we wait for Senator Wayne.

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**TREVOR FITZGERALD:** Senator Wayne is opening on his second bill in Education and should be here momentarily.

**HUNT:** OK.

[BREAK]

**HUNT:** Start back up with our last bill of a day, LB653 with Senator Wayne. Whenever you're ready. Thanks for being here.

**WAYNE:** Thank you. My name-- 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. I apologize. I have a hearing going on in Education. I had just opened and came here, so. Some of the committees are aware one of my priorities since joining the Legislature has been to improve local and state procurement processes, specifically the effort to achieve equity in contracting. That's something I believe that if we as state officials can improve our contracting process to make sure it's fair for everyone, it better serves the community. Some of the members also might be aware that I introduced a bill earlier this week called LB652, which is very similar to this bill. LB653 is designed to encourage municipalities to use tax increment-- who use tax increment financing to use TIF dollars to contract with historically underutilized businesses, which I refer to as HUBs. The basic idea is that these are blighted areas. These are often poverty areas. In order to break the cycle of this cycle of poverty, one of the ways we can do that is help create jobs in the area from these local projects. I truly believe that 80 to 90 percent of our social issues go away if people have good paying jobs. And that's what this bill is intended to do. These TIF projects, which would obviously had taxes that exceed \$200,000, would be required to establish goals. It's not a mandate, it is just goals for HUB to be used in the construction and the services for this project. Because again, TIF is mostly involve private developers, engaging contractors and subcontractors are very difficult for small businesses, particularly ones in these blighted, designated blighted areas. So this would be some kind of requirement just saying go out and try to establish goals and try to work with these individuals. Procurement is one of the most powerful tools that we have as a local government. And so, again, if we can figure out how to engage small minority-owned



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businesses to play important role in developing these projects, particularly in these substandard and blighted areas, it would raise-- it would create job creation. It would raise the minimum wages around, and it would elevate the living standard. The concept of HUB is not new. There are states that have it, such as Texas has one, but Texas uses race specifically. Obviously, Article 1, Section 30 of our Nebraska Constitution does not allow us to use race specifically. But again, we're talking about blighted areas. So the more we can encourage small businesses from these blighted areas to participate in this process, the better we all are. I know this works because it's been done in other states. In Atlanta, in particular, when the Atlanta airport was built, Mayor Maynard Jackson held up the federal project for almost a year. He said weeds would grow on the one-way before cement was poured because he wanted a designation of about 30 percent to go to local and minority-owned businesses. They ended up settling on about 23 percent. But if you look at Atlanta, as far as minority businesses, they are the diamond in the sky, kind of the top of the cities where it comes to minority businesses. And that can all be traced back to 1979 to 1983 of this fight over this \$500 million project that was a federal project. So when local governments and governments decide that we want to help the local community, not through social handouts and social programs, but through job creation, the only way we can do that is through our procurement process so we can find local businesses who can do it for a reasonable price and who can hire local people. If you think about what's going on with TIF in Omaha, we heard a project about \$80 million in TIF going before the city council for the Crossroads. You look at projects that include the UNMC Center where private developers around there are using TIF, around Midtown, using TIF to grow their areas. We're saying that they should at least try and have some goals. And I think when the city council looks back on future projects, it gives them a tool to say, did you set goals and how did you reach those goals for future TIF projects. Again, I think it's about being right with our tax dollars and growing the local businesses. And with that, I'll answer any questions.

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

**LOWE:** Thank you, Senator Hunt. So this has nothing to do with race, it just has to do with size of business?

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**WAYNE:** Yes. So its size of business and what we call economic redevelopment areas. So it'll be poverty areas that we've, we've already defined in statute, so we're looking for businesses in those areas that are under the NAICS code. So like construction, it's like under \$26 million because they're such a big industry. But for like other service providers, it could be under \$500,000. So we're looking for those small businesses in those poverty areas. It has nothing to do with race.

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

**WAYNE:** And there's a net-- sorry, there also is a net worth requirement. So you can't be a-- you can't have, like, \$10 million and consider yourself, you know, at poverty unless your employees are 51 percent from the area. So that tries to prevent people just having a headquarters in a poverty area to get contracts.

**HUNT:** Senator Arch.

**ARCH:** So that raised a question in my mind. So where do these businesses have to be located?

**WAYNE:** In ERA, economic redevelopment area, so in poverty areas. But--

**ARCH:** So use, use Crossroads as an example. I mean, obviously, it's not in the project area.

**WAYNE:** Right, it's not in the project area. But we would be talking about there's about 20 census tracks in Omaha so that we would try to--

**ARCH:** Any of those.

**WAYNE:** Yeah, any of those.

**ARCH:** OK.

**WAYNE:** We're just trying to get people out of poverty. And if we're using-- and if people are using TIF and TIF supposed to be an area that is blighted, then we should try to hire people and businesses from blighted areas.

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**HUNT:** Thank you. Any other questions? Senator Lowe.

**LOWE:** Thank you. And was this for metropolitan and primary class or was this across the board?

**WAYNE:** Across the board.

**LOWE:** Across the board. So someplace like Kearney may have to hire companies from Omaha.

**WAYNE:** No, I mean-- well, that would be part of like why it's just goals, like we don't have like a requirement. So, so, yeah, theoretically, we probably have to tweak that if it got on the floor to make it however. But the idea was almost every municipality could label something that is substandard and blighted. So the theory would hold the same. We may have to broaden the definition of what a HUB is but to substandard and blighted based off of class. But this is more of a conceptual idea. I know what I have in Government is solid and but how Bill Drafting works, I wanted one in Urban Affairs, just to be blunt about it. And again, and maybe Omaha, Lincoln issue, because I don't know how, I have to go back and look at where everybody's using TIF and how that works. But it's more of a concept in this committee.

**LOWE:** Thank you.

**HUNT:** Senator Blood.

**BLOOD:** Thank you, Vice Chair Hunt. Senator Wayne, say that the planets align and this bill gets passed out of committee. If we were to make an amendment to set the maximum dollar amount prior to putting this bill out, what were you thinking?

**WAYNE:** What do you mean maximum dollar amount?

**BLOOD:** So right now, there's no maximum dollar amount that's within the body of the bill.

**WAYNE:** OK.

**BLOOD:** So it talks about historically underutilized business in Section 3. So what would be the maximum dollar amount that we would set?

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**WAYNE:** That they have to use a HUB or that the overall project has to be? [INAUDIBLE]

**BLOOD:** I'm going to read this. It's actually under technical comment, so I don't even have to rewrite it. The definition of historically underutilized business in Section 3 of the bill contains a maximum dollar amount for average annual gross receipts that is undefined.

**WAYNE:** No. So that-- so it would be defined based off of your code of what your business is. So what we try to do is take the code and say 20-- well, what the city of Omaha did in their program. And actually what they do everywhere is they take the maximum of your code, which construction is like \$260 million or something like that, and it's 25 percent of that. So as long as your gross revenues are under \$26 million, you would qualify. Is that what you're asking? I'm confused on what you're asking, and maybe because my head really right now is in Education right now. But I'm sorry. I'm try-- I'm trying. But--

**BLOOD:** You know what,--

**WAYNE:** I kind of got worked up over--

**BLOOD:** --this is something we can discuss in Exec.

**WAYNE:** OK. I got worked up over in Education, so. We're dealing with net option enrollment, so.

**HUNT:** Thank you, Senator.

**WAYNE:** Sorry, I'm just being blunt.

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

**WAYNE:** Thank you. I will waive closing too.

**HUNT:** OK, thanks. Next, we can hear the first proponent for LB653. Any proponents? Anybody wishing to oppose LB653? Any opposition? Seeing none, anyone wishing to testify in the neutral capacity? Welcome to your Urban Affairs Committee.

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**DAN MARVIN:** Thank you, Senator Blood. My name is Dan Marvin, D-a-n M-a-r-v-i-n, and I'm here on behalf of the city of Lincoln. We're going to speak in a neutral capacity on this. The city supports the intent of this legislation and that city's developers and others should be mindful and supportive of views like utilizing historically underutilized businesses. This fits in line with the city of Lincoln's focus on equity and all policies and programs that we work on. With that said, our preference is always to be able to take these steps locally and with the input of Lincoln residents, businesses, and city council members. We also understand that the bill is simply requiring cities to set goals related to HUB businesses within TIF agreements. These TIF agreements are complex and for good reason, but each new statutory requirement does add a level of complexity to these agreements. Earlier, when the pandemic first started, the mayor created an economic development task force that focused on issues of equity and inclusion. We launched two things that came out of that. Recently, we've allocated a half million dollars over to, over to the Lincoln Littles program to help people who are struggling to be able to work and to be able to pay for daycare, to be able to apply for funds in that regard. And we just passed yesterday, a micro purchase program, I think captures kind of the intent of what this bill is trying to do. But I think it's important to understand that we are reviewing with city law and our procurement team and some of the provisions of LB653 or the goals that will be required to set may be in conflict with the language in our city charter that requires bids to be awarded to the lowest responsible and responsive bidder. If the committee and Senator Wayne move forward with this bill, we would like to be included in the discussion and try to work through this particular issue. And what I'm speaking to in particular is our charter requires on amounts of over \$50,000 to be allocated towards lowest responsible and responsive bidder. I'd be happy to answer any questions.

**HUNT:** Thank you for your testimony, Mr. Marvin. Any questions from the committee? Seeing none, appreciate you being here today. Next neutral testifier for LB653. Welcome back.

**CHRISTY ABRAHAM:** Thank you, Vice-- oh, excuse me, masks are not my friend. Thank you, Vice Chair Hunt 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. I represent the League of Nebraska municipalities, and we also are here

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in a neutral capacity. We want to echo some of the same things that Mr. Marvin just said. We really think this is a great concept and we hope our municipalities out there are taking these considerations into account when they are doing TIF projects. I did want to-- I know I previewed in my last testimony the Department of Revenue gives the Legislature a report every year on TIF. And I'm not to embarrassed to tell you I got a little weepy eyed when I read this TIF report. There are a lot of communities out there, some under a population of 100 that are out there doing TIF. And I just love that all of these little communities are out there really trying to improve their community, whether it's building a new Dollar General or whatever it is that they're bringing to the community of Carleton has 91 people and they did a TIF project. Our concern about LB653 is there are some mandates in it. I appreciate that they are only goals. They need to add some things to the report. But the definition of what a HUB is, is two pages long in your bill. This is going to take some of our less sophisticated communities. They're going to be a bit bewildered by it. And so I just, I just wanted to mention that I know a lot of us think about TIF in Kearney and Omaha and Albion and Papillion and La Vista. But when you have little Snyder, population 200, doing a TIF project, it's just another added burden that they're going to have to do in an already very complex TIF law. So that is our testimony today. And I'm happy to answer any questions you might have.

**HUNT:** Thank you, Miss Abraham. Any questions from the committee? Seeing none, thanks for your testimony.

**CHRISTY ABRAHAM:** Thank you.

**HUNT:** Next neutral testifier for LB653. Seeing none, we have no letters for the record, and we have no written testimony. Oh, I'm sorry. We do have submitted written testimony from Matt Schaefer with the Nebraska Association of Commercial Property Owners. And that's a letter in opposition. And that's the only letter we have. So with that, I'll close the hearing on LB653, and close our hearings for the day.