

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee March 9, 2023

DeBOER: Good afternoon and welcome to Judiciary Committee. My name is Senator Wendy DeBoer. I represent the 10th Legislative District in northwest Omaha and I serve as Vice Chair of the Judiciary Committee. We will start off by having members of the committee and staff introduce themselves. We'll start on my right with Senator Ibach.

IBACH: Thank you very much. Senator Teresa Ibach, District 44, which is eight counties in southwest Nebraska.

MEGAN KIELTY: Megan Kielty, legal counsel.

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

HOLDCROFT: Rick Holdcroft, District 36, west and south Sarpy County.

DeKAY: Barry DeKay, District 40: Holt, Knox, Cedar, Antelope, northern part of Pierce, and most of Dixon County.

DeBOER: Also assisting us today are our committee ca-- pages-- not cages, pages-- Logan Brtek from Norfolk, who is a political science and criminology major at UNL, and Isabel Kolb from Omaha, who is a political science and pre-law major at UNL. This afternoon, we will be hearing five bills and we'll be taking them up with the order listed outside of the room. On the tables in the side of the room, you will find blue testifier sheets. And if you are planning to testify today, please fill one out and hand it into the pages when you come up. This will help us keep an accurate record of the hearing. If you do not wish to testify but would like to record your presence at the hearing, please fill out the gold sheet also on the side of the room. I will note that the Legislature's policy that all letters for the records must be received by the committee by noon the day prior to the hearing. Any handout submitted by testifiers will also be included as part of the record as exhibits. We would ask if you have any handouts that you please bring ten copies and give them to the pages. If you need additional copies, the pages will be able to help you to provide them. Testimony for each bill will begin with the introducer's opening statement. After the opening statement we will hear from any supporter of the bills, 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 the closing statements that they would like to make if they wish to do so. We ask that you begin your testimony please by giving us first your first and last name and please also spell them for the record. Today, we're going to be using the three-minute light system. When you begin your testimony, the

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light on the table will turn green. The yellow light is your one-minute warning. And when the red light comes on, we'll ask you to wrap up your final thoughts. And by wrap up your final thoughts, I mean finish the sentence you're on. We're pretty much a stickler in here that the red light comes on that's, that's the end. Because otherwise we'll be here until 9-- oh, we'll still be here till 9:00 at night. I'd like to remind everyone, including senators, to please turn off your cell phones or put them on vibrate. And with that, we will begin today's hearing with LB438 and Senator Conrad from the Fighting 46.

CONRAD: Yeah. Thank you. Thank you. Vice Chair-- well-- good afternoon, Vice Chair DeBoer, members of the committee. My name is Danielle Conrad. It's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d, and, yes, here on behalf of the Fighting 46th Legislative District of north Lincoln to introduce LB438. LB438 was brought by-- brought to me by one of my favorite law professors and don't tell the others, but I had the opportunity to learn from Senator-- Professor Lenich when I was a student at the University of Nebraska College of Law and a member of the national moot court team for the University of Nebraska College of Law which he coached. Senator-- or, senator-- maybe one day, hopefully-- Professor Lenich literally wrote the book on civil procedure for Nebraska and is not only a statewide but national expert on these matters. This measure is specifically related to technical cleanups and harmonizations regarding two really important subjects about attorney's fees, both on appeal and to specialized practices or third-party practice. So attorney's fees can only be awarded if there is a uniform course or-- of procedure-- or if there is a statutory authorization. Currently, there's about 200 different statutes that authorize the award of attorney's fees on a statutorily-created claim. Current statutes use general wording such as "the court may award attorney's fees to the prevailing party" or "the prevailing party may recover attorney's fees." The wording is sufficiently clear to authorize trial courts to award attorney's fees to prevailing parties, but it is unclear whether or not the authorization extends to the appellate courts as well. LB438 provides the clarity that is currently missing by authorizing courts to award the attorney's fees on appeal if the statute that creates the claim authorizes the award of attorney's fees and does not specifically address awards on appeal. This bill builds upon existing statutory authorizations and instead of amending the statutes one by one it also does not affect the handful of statutes that currently include provisions on appeal, because the bill states that it does not apply to statutes that specifically address attorney's fees on appeal. I turn your attention to Sections 2

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and 3, which is the rewrite of the statutes on third-party practice, which is necessary because the statutes are currently difficult to read and understand. The key update is to section 25-331, which was adopted in 1967 and which tracked the federal rule of procedure in effect at the time. The federal rule has since been rewritten to make it clearer and easier to understand. Thus, LB438 incorporates the changes in wording and organization that have been made into the federal rule. It also combines into one statute all of the provisions that currently govern third-party practice so it's easier to find the relevant provisions. We believe LB438 is primarily a technical cleanup bill that will make Nebraska law easier to utilize for all stakeholders. I would be happy to answer any questions and happy to defer questions to the experts that are coming behind me today. I also have another bill up before Health and Human Services so I may be, be running back and forth but would be happy to answer your questions now and, of course, work with all stakeholders on the issue at any time. All right.

DeBOER: Any questions? Thank you. Any questions?

CONRAD: Thank you so much.

DeBOER: I don't see any.

CONRAD: Good luck with civil procedure day.

DeBOER: I love civil procedure day. It's the best day. Professor Lenich, welcome.

JOHN LENICH: Thank you, Senator DeBoer. Good afternoon, Senators. My name is John, J-o-h-n, Lenich, L-e-n-i-c-h. I taught civil procedure at the UNL College of Law for a number of years before I retired recently. I did prepare a letter for the committee that summarizes why I think LB438 should be enacted and also includes one minor suggested change in wording. The bill, as Senator Conrad indicated, has two parts. The first part is designed to eliminate the ambiguity in the statutes that currently authorize courts to award attorney's fees by making it clear that the authorization includes awards on appeal. Now the general rule in civil cases is that the parties pay their own attorney's fees, but there are a number of statutes that are often called fee-shifting statutes and allow the winning party to recover its attorney's fees from the losing party. For example, a victim of sex trafficking can recover its attorney's fees under the Human Trafficking Victims Civil Remedy Act. So, too, can a tenant recover under the Residential Landlord Tenant Act if the landlord engages in

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unl-- abusive access. A homeowner who sues a seller for failing to provide an accurate description of the, of the condition of the property as required by statute can recover attorney's fees, or a person who sues under the Fair Housing Act to seek redress for housing discrimination, to name just a few. Now the primary reason why these statutes are there is to create an incentive for people to enforce their statutorily-created rights, an incentive that's necessary oftentimes because the damages are small in comparison to the cost of litigation. And that incentive is important when it comes to appeals as well, because it encourages parties to defend a will, win at trial, or challenge a loss. Now the other part of the bill, Sections 2 and 3, deals with the specialized procedure called third-party practice or impleader, and our statutes could use some help. The key provision is section 25-331, subpart (1), which is one long paragraph with ten sentences and 307 words. It's a bit intimidating. What the bill basically does is break the statute down into bite-sized pieces and use clearer language while making two minor substantive changes. If any of you have any questions about the bill, I'd be, I'd be glad to do my best to try and answer them for you.

DeBOER: Thank you, Professor Lenich. Are there any questions? You dazzled us with your knowledge. I don't see any.

JOHN LENICH: Thank you, Senators.

DeBOER: Thank you. Next proponent. We will switch to opposition to the bill. Is there anyone who would like to speak in the neutral capacity? There have been no letters for the record. Senator Conrad, you're welcome to close. I think that's a waive. Senator Conrad waives clothing-- closing. That will end our hearing on LB438. Senator McKinney is going to take over as we move to bill, LB466--

McKINNEY: Thank you.

DeBOER: --which-- we're going to take a two minute break while we re-situate.

[BREAK]

DeBOER: OK. Hello, members of the Judiciary Committee. My name is Wendy DeBoer, W-e-n-d-y D-e-B-o-e-r, and I represent the 10th Legislative District in northwest Omaha. I'm here today to introduce LB466. LB466 is a bill to require that it in any case involving service of a garnishment or a continuing lien against wages where the directors-- where the debtor's employer is a corporation, such

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corporate employer may only receive service of process at the corporate employer's registered agent. Currently, under Nebraska law when an employer is served a garnishment interrogatory for an employer the employer has a ten-day window to furnish answers to those interrogatories. If the interrogatories are not received by the court and file-stamped within ten days of service, the employer can become liable for the underlying judgment, so for someone else's debt. This ten-day deadline is an anomaly when viewed in context with our neighboring states. South Dakota, Iowa, Kansas, Missouri, and Wyoming all allow garnishees 30 days to respond to interrogatories. Additionally, the garnishment summons is often sent to the location where the debtor is employed. So like an individual gas station or something like that, not the employer's registered agent which handles such matters. Given Nebraska's tight turnaround time and the difficulty of compliance several years ago, Nebraska changed the law for financial institutions. Just like the financial institutions, corporations have one headquarters with multiple subsidiary locations across the state. Financial institutions received this carve-out so no one branch receives a garnishment summons. So no, so no individual branch receives the garnishment summons; the summons goes to the institution's registered agent. LB466, therefore, simply states that, like a financial institution, a garnishment summons may only be served upon a corporation's registered agent, information which is publicly available. LB466 is simply an attempt to level the playing field for businesses trying to do the right thing who, because of minor statutory missteps, are threatened with liability for debt which is not theirs. Thank you for your time. I'm happy to answer any questions that you may have on this bill. I will say that there is apparently going to be some objection and I'd really like for everybody to figure out what the, the right path for this bill is then because it's not particularly difficult and because we've been working on it for five years now. And I'm really tired of bringing this bill every year so I think this is the year when we need to get it figured out. But I will answer any questions if anyone has any.

GEIST: I do. Senator-- you're--

McKINNEY: Oh, Senator DeBoer, sorry. Senator Geist.

GEIST: I'm just curious, does this apply to a nonprofit?

DeBOER: I think it would just be corporations. So if they're not filed as a corporation, I don't think so.

GEIST: OK. Thank you.

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McKINNEY: All right, thank you. Any other questions? Seeing none, thank you, Senator DeBoer. Are there any proponents?

ANSLEY FELLERS: Thank you, Senator McKinney and members of the Judiciary Committee. My name is Ansley Fellers, A-n-s-l-e-y F-e-l-l-e-r-s. I'm here today on behalf of the Nebraska Grocery Industry Association, Nebraska Hospitality Association, and Nebraska Retail Federation, testifying in support of LB466, Senator DeBoer's bill, which would simply treat corporations like financial institutions by requiring garnishment summons service on the registered agent as opposed to the location where the debtor is employed. Thank you to Senator DeBoer for so thoroughly vetting this issue and once again carrying the bill. As she stated in her opening, employers in Nebraska are provided a short ten-day window to answer wage garnishment interrogatories, a deadline inconsistent with policies in all our neighboring states. If interrogatories are not received by the court and file-stamped within ten days, the employer can be held liable for the underlying judgment, meaning they are on the hook for debt owed by one of their current or former employees, as well as attorney fees. This ten-day turnaround becomes especially problematic when interrogatories are, by current law, served on a retail location where a debtor is employed. The documents have to make their way to and be processed by someone at the headquarters or the registered agent. Another example we've presented previously was the possibility of a court clerk receiving an interrogatory response on day nine of ten. If for whatever reason the response is not uploaded to the docket until day 11, an attorney representing a collection agency could recognize this deadline has passed and initiate default proceedings. In either of these instances, the employer would likely have to hire legal counsel to resist default proceedings and persuade the court that the responses were filed timely, or convince the court they were acting in good faith and should not be held liable for the judgment. This bill is intended to be very limited in scope. If a judgment against a debtor includes a bank garnishment or if a debtor has not taken steps to pay the judgment, the creditor can request an order-- a court order directing the bank to freeze funds on an account. In many simple wage garnishment proceedings like we're talking about here, bank accounts are not frozen. Previous iterations of this legislation actually attempted to extend the ten-day deadline to more closely mirror other states. We took into consideration the opposition, so did Senator DeBoer, and this version simply extends to corporations the courtesy the Legislature saw fit to extend to financial institutions. Opponents to this legislation contend that garnishment service on an employee's employment location or branch,

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like Senator DeBoer stated, is not proper service but there will be at least one testifying behind me who could describe to the committee actual circumstances where this type of service is taking place and companies are still being held liable for debt which is not theirs. This is a real problem and we believe LB466 represents a really simple, reasonable solution. With that, I'd ask the committee to advance LB466 and would be happy to answer any questions.

McKINNEY: Are there any questions from the committee?

GEIST: I do have one more.

McKINNEY: Senator Geist.

GEIST: Does this happen very often?

ANSLEY FELLERS: I think you'll hear from the person behind me who represents clients in these matters that it does happen a lot more than perhaps the opponents of this bill would suggest.

GEIST: OK. Thank you.

ANSLEY FELLERS: Thanks.

GEIST: That's all.

McKINNEY: All right. Thank you.

ANSLEY FELLERS: Thank you.

McKINNEY: Any other questions? No? Thank you.

ANSLEY FELLERS: Thank you.

McKINNEY: Are there any other proponents?

MICHAELLE BAUMERT: Good afternoon, my name is Michaelle Baumert, M-i-c-h-a-e-l-l-e-- my parents spelled it wrong, sorry about that-- Baumert, B-a-u-m-e-r-t. I represent Casey's retail company. Casey's has about 150 locations in Nebraska right now, and this does happen rather frequently. There is no other mechanism in the law where somebody buys a big screen TV and they say, oh, you're responsible for paying it. I'll give you ten-days notice. I'm going to send it to some far-flung location, one of your 150 locations across the state. I'm going to send it to some clerk there who doesn't know what to do with it. Even if it's the location where the employee worked, they'll probably see, oh, Mary Smith, she doesn't work here anymore. Why don't

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I just put it underneath the, the desk and think about it later? That ten-day window is extremely short and, as we heard, is not common in our neighboring states and tends to-- and then the employer is behind the eight ball. So you have a, a low-ranking employee who has no idea what to do with service of process. I would argue the employees at my client's locations are much less equipped than a banking employee at some branch bank who is used to receiving notifications from the court, service of process, different things like that. We're talking the person that stands behind the desk that sells you your gas or your, you know, lottery ticket or whatever, and they're supposed to know what to do with this in such a quick turnaround time. I will say that when I started out my career I did some insurance defense and so part of our jobs was doing garnishments, doing collections work, and we would do a happy dance whenever the employer failed to return the garnishment interrogatories within ten days, it was the easiest way to stick somebody else with the debt that they didn't owe that we would get paid, that we knew had the money to do it. This is absolutely unfair to employers. It's high time that we did something about it. The banking lobby already got this changed five years ago and, frankly, I would argue that they were in less of a position to need it than the grocers of, of Nebraska or retail stores like ours.

McKINNEY: All right.

MICHAELLE BAUMERT: Does anybody have any questions?

McKINNEY: Thank you. Are there any questions? Senator Geist.

GEIST: I do have another one. I'm sorry.

MICHAELLE BAUMERT: OK.

GEIST: So-- and this might be a dumb question but I've asked them before-- so does the envelope say time sensitive or anything like that? Could it? Just so those that--

MICHAELLE BAUMERT: The envelope, I think, is just an envelope--

GEIST: OK.

MICHAELLE BAUMERT: --and it usually has just, like, Casey's retail store on the outside of it. I'm not as familiar with the envelope because when I usually get it is when we have the hearing to tag my employer with a \$10,000 judgment that was against one of their employees that doesn't even work there anymore.

GEIST: Yeah.

MICHAELLE BAUMERT: So it's, it's a pleading, you know, and pleadings can be kind of weird copies and they don't necessarily pop out. And what you'll see is it's General Service Bureau or something like that against Mary Smith. And they're like, well, Mary Smith, Mary Smith hasn't worked here in three months, why would I worry about this?

GEIST: Yeah.

MICHAELLE BAUMERT: And they stick it underneath a desk someplace; they don't send it to the corporate department. We try our best to educate these folks, but there's a lot of stuff coming at them. You know, there's, there's all kinds of things that our clerks have to learn. And we have, you know, turnover, things like that. And who knows when the mail is going to show up and how we're going to make it happen. It's just-- the, the folks that are going to come behind me are going to say that this isn't necessary. This isn't needed. There isn't anybody that practices garnishment defense law. I do it because my employers have it come up from time to time. So there isn't, you know, somebody is going to be able to say, broad-based, this is how many cases like this happen. I do know that there are a lot of cases that happen for my clients that we have to defend, that my partners have the same thing happen for their clients as well. One of my partners had a case that went all the way to the Supreme Court last year trying to tag his employer with \$1 million in liability because of the way that the garnishment interrogatories were filled out didn't include the 401k, which of course the creditor couldn't touch anyway. That went all the way to the Supreme Court. This is absolutely unfair. There is no other way to do this. If you fail to answer a regular service of process then a motion has to be filed in state court, you get 30 days to fail to answer it, then a motion has to be filed. There's no other way to tag a third party for somebody else's debt other than this.

GEIST: So, well, you said that the bankers answered this a few years ago.

MICHAELLE BAUMERT: Yes.

GEIST: What is the, the time span that they changed the ten days to?

MICHAELLE BAUMERT: Well, I'd love it if we could talk about changing the time span.

GEIST: OK.

MICHAELLE BAUMERT: That's not even what we're talking about.

GEIST: OK.

MICHAELLE BAUMERT: So the banking changes--

GEIST: I just thought that's what you said.

MICHAELLE BAUMERT: --were, were sort of about the service.

GEIST: OK.

MICHAELLE BAUMERT: So they got it changed a few years ago to say that they'll-- I think it's the, the banking agencies, I'm not really sure-- they have to say you can only serve this branch bank.

GEIST: OK.

MICHAELLE BAUMERT: You can't serve any of--

GEIST: You can't serve the whole--

MICHAELLE BAUMERT: --our locations throughout the state.

GEIST: OK.

MICHAELLE BAUMERT: And that's kind of all we're asking for here. Don't just serve us, you know, at any random location or even the location where the person worked because that doesn't necessarily mean they still work there anymore. We won't know what it is. We're just asking for the opportunity to answer within those ten days.

GEIST: OK.

MICHAELLE BAUMERT: So.

GEIST: Thank you.

McKINNEY: All right. Thank you. Are there any other questions? Thank you for your testimony. Are there any other proponents? Are there any opponents?

TESSA STEVENS: Good afternoon, members of the Judiciary Committee. My name is Tessa Stevens, T-e-s-s-a S-t-e-v-e-n-s. I'm an attorney in Grand Island, Nebraska, and I've worked in compliance and collections for 15 years. I am here today on behalf of the Nebraska Collectors Association in opposition to LB466. So as you heard, they are seeking

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to limit the way a garnishment can be served upon an employer who is a corporate entity. It does not say just corporation, it does a corporate entity, and namely requiring the service of a garnishment be only on a registered agent. They're saying that this is needed because garnishments aren't being served correctly. They're not saying that they're following the proper garnishment statutes or the service statutes and it's not working, they're saying they're not serving it correctly already, therefore subjecting them to liability. However, I hope by the end of my testimony today the committee will agree that this change is not needed. The proponents have a defense to garnishee liability actions. They've not actually been found liable in these cases where service is not proper and LB466 is unduly restrictive. It doesn't fix the problem and I do not believe all corporate entities want to service upon a registered agency. So first of all, they are complaining that creditors are serving garnishments incorrectly. Again, when service is incorrect then liability is not an issue. It's defensible. They would not be subject to liability for serving property and-- or improperly and, honestly, a phone call, if I received a phone call that I served a garnishee liability action to the wrong place, it would be withdrawn. We wouldn't go forward with anything like that. When we met with them last session, it, it was not the proponent who testified, but Casey's did tell us they've never, they've never had liability in these actions. They've always been able to talk to whoever filed it. They didn't want to have to deal with that filing. But, you know, that happens. So currently, garnishments are served in a way, the same way that you can serve civil process or serve a lawsuit on a corporation. This includes to an officer, director, registered agent, or an employee at the headquarters. But it's not allowed to serve a garni-- or an employee at a gas station. That would be improper service. I do want the committee to know that last month we served a garnishment on a registered agent for an LLC in Nebraska, and I received this email: he said-- he is from a Nebraska attorney-- he said today I received a summons and garnishment on behalf of my client. My question is, why did you send this to me? All you have to do is look at the Secretary of State website where you'll find their name and address. This is an inconvenience for me and a waste of time. We bill by the hour, not the percentage. I can hardly bill my client for the time it takes to receive and pass along your papers. If this is a problem in your company's back office, you may need to train some people on how to look up addresses. Please be more courteous to your fellow attorneys and please do not use my office as an agent to receive process unless you have no other choice. I see my time's up, but I'm happy--

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McKINNEY: Thank you. Are there any questions from the committee?
Senator Geist.

GEIST: I don't mean to draw this out, but I am trying to understand
and I'm not an attorney and I don't do all this so--

TESSA STEVENS: Sure.

GEIST: --just ask. So when you talk about serving incorrectly, are you
saying that if serving incorrectly is not going to the right location
or not going to the individual at that location? What is incorrect?

TESSA STEVENS: I think the answer is probably it depends. But in the
case of, like, a branch gas station, right now the statute allows you
to serve a corporation to the headquarters, to an officer, a director,
the registered agent. And it has a few other options, probably nobody
at the actual branch gas station. So in that case, not only are they
serving the wrong person, they're also sending it to the wrong
location.

GEIST: So to your point, if that happens and you get a phone call you
withdraw that--

TESSA STEVENS: Right. I wouldn't ever file it if I knew I served it at
the wrong location. But if that happened, I didn't realize it wasn't a
proper service, they bring that to my attention, I would withdraw that
hearing.

GEIST: So what, so what would be proper is if an employee worked at a
branch gas station, you would serve the parent company of that or
the--

TESSA STEVENS: I would serve Casey's headquarters.

GEIST: OK.

TESSA STEVENS: And honestly, I, I use the registered agent. That is
one of the options. It's just so restrictive to limit it only to a
registered agent. Because for an example, the, the LLC is a small
business, they don't want to pay their lawyer who is their registered
agent to have to deal with these papers.

GEIST: OK.

TESSA STEVENS: So they can call me up and say, hey, will you serve our
garnishments at this location? Sure. We do that. Casey's could do that

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also, ask whoever the offender is can, can these be sent to this location? You know, I would also say in this day and age ten days might not seem that long, but a little employee training, right, a person could fax that document to the corporate headquarters, email it. It is sent by certified mail so someone has to sign for it. It doesn't say on the outside, you know, like you were asking, but it's certified mail so it's--

GEIST: But it's-- so it has a signature--

TESSA STEVENS: Yes.

GEIST: --attached to it?

TESSA STEVENS: And so then we know that--

GEIST: OK.

TESSA STEVENS: --it's important.

GEIST: So you would-- someone receiving it would know that this is more important than junk mail?

TESSA STEVENS: Regular mail. Yes.

GEIST: OK. So then the agent that you're talking about is typically their attorney?

TESSA STEVENS: I don't know in, in big corporations.

GEIST: Right.

TESSA STEVENS: I know small LLCs, like when my husband set up an LLC for his trucking company, the attorney that established the LLC listed themselves as a registered agent.

GEIST: OK.

TESSA STEVENS: So then that person would get these papers, bill him to pass it along to him when it could just be sent to him directly.

GEIST: OK. Sorry. I know you all know what you're talking about, but I just need--

TESSA STEVENS: No.

GEIST: --to understand. So thank you. That's all.

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McKINNEY: All right. Are there any other questions? No? Thank you for your testimony.

TESSA STEVENS: Thank you.

McKINNEY: Are there any opponents? Anyone here to speak in the neutral? Senator DeBoer, you're welcome to come up and close. And for the record, there were no letters on the online comments. Thank you.

DeBOER: So here's the thing-- thank you, Senator McKinney-- here's the thing, I wouldn't bring this bill year after year if it weren't a problem. So some people aren't having problems with it, but the people who asked me to bring this bill continue to have problems with it. It does continue to be a problem with them. They do continue to have people that are-- they're having to pay the debt for, so I would ask that this get worked out. I will attempt to work with folks again. As for the registered agent who doesn't want to receive service, that's literally what a registered agent is for. That's literally the job of the registered agent so that one I-- that one is a little hard to swallow. But we'll try and work this out and I won't bring it another year, so we'll figure it out this year and-- one way or another. That's my--

McKINNEY: All right. Any questions? No? Thank you, Senator DeBoer. And that will end the hearing for LB466 and next up is LB668 and Senator DeBoer will take over.

DeBOER: Welcome.

LANCE BRAUN: Hello. It's-- I'm, I'm on behalf of Senator Aguilar, so.

DeBOER: Yes. Lance Braun, is that your name?

LANCE BRAUN: Yes. Yes, ma'am.

DeBOER: Lance, please, whenever you are ready, you may begin.

LANCE BRAUN: Thank you. Members of the Judiciary Committee, my name is Lance Braun. That's spelled L-a-n-c-e B-r-a-u-n, and I am the legislative aide for State Senator Ray Aguilar. Senator Aguilar represents District 35, which makes up parts of Grand Island and Hall county. I am here today to introduce LB668. The bill proposes to authorize mental health professionals and certified licensed independent mental health practitioners to begin the process of taking persons into emergency protective custody. LB668 was brought to our office by the city of Omaha and the Omaha Police Department. The bill

is intended to improve interactions for those that have mental illness. Currently, for individuals who have reached a state of being a danger to themselves or others, a call is made to law enforcement. These individuals may be suffering from one or more mental health illnesses. Undoubtedly, there is a sound public policy behind that interaction as these can be dangerous situations. However, that is not the case for every situation. As policymakers, we should attempt to avoid a criminalization of this situation and allow for a smarter solution in certain mental health scenarios. Oftentimes, there is an individual who is suffering from mental illness and a concerned citizen or loved one will call law enforcement to handle the situation. Currently, only sworn peace officers are allowed to begin this process of emergency protective custody. It is a major concern that having a police officer arrive at an already stressful situation, handcuff and place the individual in a secure vehicle and then transport that individual to a medical facility or jail could create an even more traumatic situation for that person. An experience like this often only exacerbates the illness from which these individuals suffer. Ultimately, these individuals are ill. They are not criminals. It makes sense to treat them as such by allowing someone who is trained in mental health and understands mental illness to initiate the emergency protective custody in certain situations. A second reason for this bill is the overreliance on law enforcement in our criminal justice system to handle our mental health issues. Our law enforcement officers are to be commended, but they should not be the first line of defense in many of these instances. Based on an Omaha World-Herald editorial, Omaha police officers filled out 1,193 emergency protective custody forms from September of 2014 to August of 2015. I understand this number is dated, but it adds perspective. Mental health issues are not going away and the negative effect of events happening here in Nebraska and around the world will only cause this number of cases to increase. Emergency protective custody calls are a very time-consuming process and a drain on our limited resources, which are already spread extremely thin. LB668 would allow mental health professionals to take these individuals into custody and seek the necessary protections for these individuals. It should be stressed that this bill is merely providing the authority for mental health professionals and certified licensed independent mental health practitioners to initiate emergency protective custody. It is not mandating additional responsibility for them. There are many of these professionals and practitioners who truly want to help. It should also be stressed that LB668 is not eliminating the role for law enforcement in these situations. In practice, I believe this will apply to a narrow subset of instances. If we can improve the process in just a

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few cases, then this effort is worth pursuing. This is an issue involving the liberty and rights of individuals in our communities. Proponents of this bill do not take that lightly. The intention here is to help these individuals who endure mental illness and end up in that situation. Mental health professionals know that no call is going to be handled exactly the same way. However, if there is an option for some of these people to be treated differently and not like a criminal, we can utilize the knowledge and experience of mental health professionals and practitioners to avoid certain situations. LB668 provides this option. LB668 is an important bill that could provide better results and outcomes for victims of mental illness, while at the same time it could eliminate some of the current workload and burden being placed on law enforcement. On behalf of Senator Aguilar and the many proponents, we would appreciate your support of this important bill. Thank you.

McKINNEY: Thank you. Are there-- oh. [LAUGHTER]

DeBOER: That's all right. That's all right. Are there any questions from the committee? Thank you very much.

LANCE BRAUN: Thank you.

DeBOER: Also, we don't ask questions. Yes. Thank you. All right. First proponent. Welcome.

ANNE BUETTNER: Welcome. Oh, good afternoon, all of you. Anne Buettner, A-n-n-e B-u-e-t-t-n-e-r. I am the legislative chair for the Nebraska Association for Marriage and Family Therapy. We have licensed independent mental health practitioners and, and we are primarily mental health clinicians. We specialize in family therapy. And I'm here to speak for the group and to let you know why you should advance LB668. In Nebraska, the discipline of licensed independent mental health practitioners-- we, we call it LIMHP to, to be brief-- OK-- we can diagnose-- according to the statutes, we can diagnose and treat major mental disorders which pertains directly to the mentally ill and dangerous population. Twelve years ago in 2011, the law has already passed that LIMHP, this discipline, eligible to sit on the mental health commitment boards. So a word about licensed independent mental health practitioners, we are different from the licensed mental health practitioner; it's the "I", the independent, that makes-- that word that makes the difference. There are 2,721 of us licensed in Nebraska as of February 2023. So we have vigorous and high standards in order to become such LIMHP. So we are already qualified, but to gild the lily in this LB668 there is a proposed certificate training added to

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it that if any LIMHP wants to do EPC, they also have to undergo this certificate training, so on. Now to clarify, this bill does not, does not add restrictive measures. It just adds more workforce. It operates on the same principle, the recovery-oriented system of care proposed in the statutes of the Mental Health Commitment Act is, is the same. It makes sense that at a mental health crisis, where there is a potential of EPC or not, there is a qualified mental health professional at the entry point at the front line oftentimes, of course, with a law enforcement officer to do the initial assessment. Now let's look at the need. I think I'm running out of time. There are 93 counties and 90 of them are considered as rural. And the federal government as well as DHHS locally decided that 95 percent have behavioral health profession shortage. Why? Because one-fifth of the counties--

DeBOER: Ma'am--

ANNE BUETTNER: --have no mental health professionals. Sorry.

DeBOER: Ma'am, your time. Sorry.

ANNE BUETTNER: Yeah, right. So--

DeBOER: Are there, are there questions? Senator Geist.

GEIST: Yes. Thank you for this. Thank you for your testimony. I like the creativity of it. I, I have been reading some of the letters that have come in and I'm curious about transporting and how comfortable you as a licensed mental health therapist would be-- or professional-- doing the transport of someone who is having a mental health episode?

ANNE BUETTNER: OK. In practice, in practice, it is not the licensed independent mental health practitioner doing a transportation.

GEIST: OK.

ANNE BUETTNER: It is the law enforcement doing the transportation.

GEIST: So this is a dual--

ANNE BUETTNER: Yes.

GEIST: --role you would show up with law--

ANNE BUETTNER: Right.

GEIST: --enforcement?

ANNE BUETTNER: Right. And, and even though the language is like taking into custody, some say wrestling the subject into the ground and so on, no, that's just a figure of speech. What the mental health professional does is to execute a certificate prescribed and provided by DHHS, allege that the subject is deemed mentally ill and dangerous.

GEIST: OK.

ANNE BUETTNER: It is the mental health professional's opinion, or the officers' opinion, or both.

GEIST: OK.

ANNE BUETTNER: And then based on that, the subject is, you know, eligible for EPC.

GEIST: Does there have to be agreement between the law enforcement officer and the mental health professional or does that mental-- would you have the--

ANNE BUETTNER: The, the final--

GEIST: --you would have the authority over the law enforcement officer to make that decision?

ANNE BUETTNER: It is a law enforcement call.

GEIST: OK.

ANNE BUETTNER: And as a matter of fact, this is all spelled out in the, in the Mental Health Act reference manual.

GEIST: OK.

ANNE BUETTNER: The law, law enforcement has to have the OK with the, the county attorney's office--

GEIST: OK.

ANNE BUETTNER: --and so on.

GEIST: OK. So this doesn't supersede that authority?

ANNE BUETTNER: No. No.

GEIST: OK.

ANNE BUETTNER: No.

GEIST: OK. Thank you.

ANNE BUETTNER: But, but they do need an opinion from a mental health professional.

GEIST: OK. So one more question. So does this simply streamline that process where you're giving the opinion in the field versus giving the opinion at the hospital or in custody--

ANNE BUETTNER: OK.

GEIST: --or at the jail?

ANNE BUETTNER: And this is very important to clarify that and I'm glad you asked the question because there's no way I can squeeze into the three minutes. No way. It's, it's very easy to confuse the EPC process with the commitment process. The EPC, the emergency protective custody, is only at the entry point. After the person has been committed, the law says that within 36 hours, that usually is a hospital, has to evaluate the person, the subject, and decide whether or not the person is still mentally ill and dangerous. And if-- even if the person is, if the person is willing to have voluntary treatment it's always going for the least restrictive, then it can be voluntary. But if the person is unwilling, then there will be a petition and within so many days or so only allowed by the law go in front of the mental health commitment board. And involuntary commitment only happens after the mental health commitment, commitment board proceedings. So all this is after EPC; EPC is only the emergency at the entry point.

GEIST: OK. OK. Thank you.

DeBOER: Thank you, Senator Geist. Other questions? Senator Holdcroft.

HOLDCROFT: Thank you, Vice Chair DeBoer. I still need some-- it's still pretty foggy to me how this--

ANNE BUETTNER: Sure.

HOLDCROFT: --is all going to-- and I don't know if we need to get down in all the details, but-- police officer shows up; we have an out-of-control individual, what does the police officer do at that time if he thinks there's a, a mental ill-- a mental health situation? I mean, does he-- how does-- what does he do? I mean, does he--

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ANNE BUETTNER: So, so say somebody who is saying that I'm going to shoot myself or I'm going to shoot somebody, making that kind of declaration. So the police officer, more often than not, you know, my-- even in their manual they would say that, you know, best is to call for a mental health professional to do assessment if the, if the situation is under control, of course.

HOLDCROFT: In the field.

ANNE BUETTNER: Yeah.

HOLDCROFT: I mean, actually, there at the scene.

ANNE BUETTNER: Yeah, right. Or, you know, in a safe place. And so then go from there to decide whether or not EPC is necessary.

HOLDCROFT: And EPC again would be?

ANNE BUETTNER: Emergency protective custody.

HOLDCROFT: OK.

ANNE BUETTNER: That person will be, will be, will be, will be taken into custody by the police.

HOLDCROFT: But would they take him back to the, you know, jail-- a, a, a cell? Or do they go to the hospital? Or is that a--

ANNE BUETTNER: Go usually-- usually go to the hospital. And here, according to the law, each-- you are, you are aware that DHHS Division of Behavioral Health and they are six regions--

HOLDCROFT: Yeah, yeah.

ANNE BUETTNER: --regions-- six regions and so on. And then they have contract with different facilities, inpatient facilities and so on. So if beds are not available with one facility then there's another facility. So they are contractual agreements so, so we'll send to those inpatient facility where, within 36 hours-- this is very, very much in the law the 36 hours, has to receive a full evaluation--

HOLDCROFT: OK.

ANNE BUETTNER: --and, and go from there. And then the mental health board, commitment board would come into the picture.

HOLDCROFT: OK. Thank you.

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DeBOER: Thank you, Senator Holdcroft. Other questions? I don't see any. Thank you so much for being here.

ANNE BUETTNER: You're welcome.

DeBOER: Next proponent.

LINDSAY KROLL: Good afternoon, members of the Judiciary Committee. My name is Lindsay Kroll, L-i-n-d-s-a-y K-r-o-l-l. I am representing the Omaha Police Department. I am the mental health coordinator and a licensed independent mental health practitioner with over 16 years of experience working in the mental health and criminal justice field in three different states. As a mental health professional, we want to provide the most effective, accessible, low or no barrier support and treatment in the least restrictive settings to those we serve. And our ability to do that effectively is impacted by the limitation of not being recognized as a mental health professional in state statute and being allowed those professional abilities to best serve our clients. Currently, mental health professionals are required to have law enforcement with these types of situations forcing law enforcement and contact decision-making efforts for those in a mental health crisis. In an era where we're trying to create more non-law-enforcement responses to meet the needs of those in a mental health crisis with effort such as 9-8-8 and mobile crisis only team considerations, we must create alternative options aside from law enforcement for individuals to receive required interventions for their safety to determine the necessity of involuntary care to treat their level of mental health needs. The law enforcement officers are not mental health professionals, yet they're put in a position to act as one. This is counterintuitive, and they are at times a necessity but there are other alternatives. Many other states have benefited from including master's level clinicians as a mental health professional and the management of people who use violence towards third parties or themselves, as this is common practice in other states. Often utilizing alternative transportation options to include EMS to assist, this allows us to facilitate getting help before getting arrested. Law enforcement does not want to deal with non-criminal issues, and by expanding the certification we can get care quicker before things get worse. In an effort to, to continue to destigmatize and decriminalize mental illness, the Omaha Police Department is committed to improving mental health access and trying to alleviate potential dangerous situations. We've successfully implemented our co-responder program, in which we have licensed mental health professionals helping officers in the community responding to crisis. In 2022, OPD enacted 1,489 emergency protective custody placements. The co-responders responded

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to 1,179 calls in the community, resulting in only 121 EPC placements, demonstrating an 89 percent diversion rate when you have a licensed mental health professional on scene with law enforcement allowing individuals to receive the accurate care they need. We see the traumatic impact of unnecessary hospitalizations and the disruption that causes for people. Allowing this certification will free up space in the emergency departments, decrease bed utilization, allow alternatives other than law enforcement. Counterarguments to this effort include transportation, custody, and creating barriers for people to reveal challenges to their providers due to that temporary ability to take custody. It's an old way of thinking, as current state statutes already allow for mental health professionals such as psychologists and psychiatrists in an outpatient setting to temporarily take custody of patients for those reasons. Transportation, transportation--

DeBOER: Ma'am.

LINDSAY KROLL: Oh.

DeBOER: Sorry.

LINDSAY KROLL: Thank you. That's OK.

DeBOER: Are there questions for this testifier? Senator Holdcroft has one.

HOLDCROFT: I'm just interested in more detail about how it all works. So you mentioned some figures there about the calls and responses. It sounds like you have a system already in place for that type. The Omaha Police Department does anyway. So how quickly do these folks respond to a situation like that?

LINDSAY KROLL: Our co-responders respond alongside law enforcement, so immediately to the 9-1-1 calls. So it's not a secondary response. They're there alongside them to give that better assessment of the mental health needs and the need for higher acute care for folks.

HOLDCROFT: OK.

LINDSAY KROLL: Other counties across the state have access to mobile crisis response, which is more of a secondary response to do that. In my experience, I've seen that kind of conflict between law enforcement and mental health professionals because currently it's law enforcement is the only entity that can determine that risk based on mental illness and they don't always have that training to do that. So when

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mental health professionals are there we can do a lot more safety planning and means restrictions and other alternative options to keep people safe in the community without that additional disruption.

HOLDCROFT: OK. Thank you.

LINDSAY KROLL: Yep.

DeBOER: Other questions? I don't see any. Thank you so much.

LINDSAY KROLL: Thank you.

DeBOER: Next proponent. If you want to-- if you're going to testify, you can kind of gather up in the front row and that way makes it a little easier.

MARCIA WEST: Good afternoon, members of the Judiciary Committee. Hello, my name is Captain Marcia West. It's M-a-r-c-i-a W-e-s-t. I'm here on behalf of the Omaha Police Department. I currently oversee the behavior health and wellness unit. I'm here today to voice our support for the passing of LB668. Every day, law enforcement officers are tasked with additional responsibilities amid less staffing. Calls for service are constantly increasing and the number of officers available to respond is steadily decreasing. A large number of those calls for service are regarding people who have a mental health crisis. Since 2006, over 500 Omaha police officers have attended a 40-hour course called Crisis Intervention Team Training, which has taught skills on how to better respond and interact with those who are suffering from a mental illness. Although officers may respond in a calm and nonthreatening way, just their mere presence can inadvertently escalate a situation when a person is in a mental health crisis. By allowing mental health practitioners to be able to take an individual into emergency protective custody when they recognize the need, it may prevent the person from progressing into a full-blown crisis where police officers are needed to respond. Mental illness is not a criminal issue. It's a medical issue. But the individual involved doesn't always see it that way. Since it is OPD policy when we are transporting a person for EPC, they have to be thoroughly searched, handcuffed, and placed in the rear of a cruiser. Currently, law enforcement is forced to be the only entity to determine safety risk based on mental illness. They are forced to be the mental health expert. Mental health professionals have the training, expertise, and knowledge of a consumer's history to assess an individual's needs in a timelier manner before an incident becomes a criminal matter. Therefore, they should have the legal right to place someone in

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emergency protective custody. Ultimately, this would decrease the number of unnecessary escalations resulting in arrests. Law enforcement will continue to be available to assist-- I'm sorry-- with custody and transportation while relying on the medical health experts' decisions.

DeBOER: Thank you. Are there questions for this testifier? I don't see any right now.

GEIST: I have one, just real quick.

DON HANSEN: Oh, Senator Geist has one.

GEIST: Yeah, of course. I'm curious if-- I, I hear about this happening in Omaha and being very effective in Omaha. I'm curious about it-- its effectiveness, or its ability to be as effective across the state, maybe in a more rural setting. And I know a previous testifier said something about a mobile crisis unit. Does that diminish its effectiveness when, when the mental health professional can't accompany the officer to the scene?

MARCIA WEST: So you're saying if they're not able to respond with the officer?

GEIST: Yes.

MARCIA WEST: I think it, it does because it-- when people are going through the crisis, when they see an officer arrive, they see the uniform, the badge, the, you know, the gun belt, and it just instantly upsets them. When the mental health practitioner can come and just wear, you know, regular street clothes, talk to them like a regular person, it calms them down. And I know you mentioned Omaha that we haven't-- but I know of other counties they're starting to expand their programs also, and they're also coordinating with different mental health practitioners in their areas as well.

GEIST: So if, if, let's say, in Imperial, for-- this just allows this to happen, doesn't mandate this to happen, correct?

MARCIA WEST: Correct.

GEIST: OK. OK, thank--

MARCIA WEST: It's just a different route that would be available.

GEIST: OK. Thank you.

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DeBOER: Yes, Senator Holdcroft.

HOLDCROFT: Thank you, Vice Chair DeBoer. Just for timeline, and I think probably most of this comes about because of the Zachary Bear Heels incident back in 2017, how much of this of what you're describing has-- I mean, how far does it go back? I mean, was this in place when-- in 2017?

MARCIA WEST: The-- sorry, the officers going through the training, the Crisis Intervention Team Training, they did have that at that time. We did not have the co-responders to respond with the officers. That's just something more recent, I'd say, in the last-- well, I'm sorry, I guess in 2017, that was towards the beginning of the program.

HOLDCROFT: OK. Thank you.

DeBOER: Other questions? Thank you so much for being here. Next proponent.

LINDA VERMOOTEN: Good afternoon, Senators. My name is Dr. Linda Vermooten, L-i-n-d-a V-e-r-m-o-o-t-e-n. And I want to come and speak as a proponent for this bill because I am that mental health practitioner. I'm supposed to be an independent, except when it comes to my having a person that I believe is of harm to themselves or to somebody else. I do not have the ability to protect them in that moment. I have to call a police officer and I'm glad I got to follow the previous person because they're saying these officers are trained. I would like to put a question mark. They have 40 hours. I have six years. So if you put those two side by each, I'm not allowed to say to my client, OK, I believe that you are a danger to yourself. Let's take you down. Let's get you the help that you need. I have a relationship built with that client, that client knows me. They trust me. They know that I have their best interests at heart. They know that I'm not going to go away when they get discharged from the hospital. And if I have to cause-- call the police officer, immediately their anxiety goes up. They start acting out, they get difficult because obviously nobody wants to be searched, nobody wants to be handcuffed and put in the back of a police car especially when they are in a time of crisis. And, you know, I have had to call police officers before, I think that puts everybody in danger. And I'm, I'm saying, OK, I have to, I have to yield to what the police officer says. They ask him a simple question, are you suicidal? The clients know how this game is played so they say no. So then the officer says, oh, I don't need to take them down. I'm like, well, wait a minute. I have been following them for months or weeks at a time, I know what they've been saying to me

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in my office. And just before you got there, they used those very words, but because you ask them, and they know that that means they get taken to the hospital, they now say no. So you may as well say I'm not an independent practitioner, physician, psychiatrist. They can take them. They can have them committed. They can say, yes, they have to be admitted; they need to go to the hospital; they need to be seen because they are in danger and we have to protect that individual. We have to protect other people around them. But as an independent person, now you don't have that. So I think this bill would go a long way to advancing that. You asked about the, the transportation. Some I would not want to transport because it would be a risk to myself, but more than that to the client. If I put a suicidal person in my vehicle, I have now provided them with a, with a means and opportunity. We're going down the road, and let's say 35, 40 miles an hour, all they have to do is jump out in front of the car and boom. Then I became an accessory to them ending their own life. Now they put me at risk and they put the other people at risk. So there are times I would not want to transport, but there are other times that I, I would not foresee a problem with that as an independent practitioner because, you know-- but if the officer takes them most often I'm not allowed to go down. I'm not even allowed to be involved when they get to the hospital. So you remove the person they know, the person they trust, the person that could have a very calming influence on them by not allowing that. And I think this bill goes a long way to helping that client and keep them safe and keep the other people around them safe as well and that they're not in danger. Thank you for your time.

DeBOER: Thank you. Questions? Senator Geist?

GEIST: No.

DeBOER: OK.

GEIST: Very well explained.

DeBOER: Next proponent.

BRIDGET BESSE: Hello, Vice Chair DeBoer and members of the Judiciary Committee. My name is Bridget Besse. I'm a current 2L-- oh, B-r-i-d-g-e-t B-e-s-s-e. I'm a current 2L at the University Nebraska College of Law, and I'm not acting on behalf of the university, but I want to note that I am associated with the Center on Children, Families, and the Law as part of my externship experience. For time purposes, I want to save my language-- vague language concerns for my written testimony. So I am a proponent for what this bill is trying to

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accomplish. And to create a standard for mental health practitioners and law enforcement officers to handle various mental health crises and prevent tragic deaths like Elijah McClain's. Increasing accountability, credibility, and support to mental health professionals and police officers who work closely with individuals who are at or close to their breaking point is vital to our ever-growing anxious society. However, I have additional concerns regarding the practicality of this bill due to the language's ambiguity, and I'll pose them as questions before the committee: (1) How should the Legislature establish this as a legitimate service provided to the public? As it stands, the certification is just granted, but this concerns me as any PDF or ID card could be easily fabricated. (2) How do we ensure that the certified individuals have the most up-to-date information regarding mental health crises? Should there be an annual certification and how does that cut against "administrability"? (3) As already stated, does the mental health professional put an individual suffering from a mental health crisis in their personal car to transport to a mental health facility? And what type of liability does this expose the professional to? In response to these questions, I propose the following amendments to answer them: (1) I propose that DHHS creates a statewide certification process given the requirements in the bill and creates a database of certified individuals. It may be best to create a state version of 9-8-8 for mental health crises to take the pressure off law enforcement and to assist coordination across the state. In western Nebraska, they don't need more things to do. They need more, more resources and less responsibility. With a statewide crisis hotline database, there could be one call center to designate various professionals across the state to assist and address the crisis. In this way, small-town police officers who have limited training, to no fault of their own, aren't tasked with the additional burdens of taking on mental health crises if there are more indivi-- qualified individuals in the area to do so. (2) I think that it should be left to DHHS-- DHHS's judgment, but to note for the record. And (3), I think that has been already stated. So I want to follow to my conclusion that education and awareness of mental health crises is critical to nurturing our society, especially for the younger generations like me who struggle so much more with mental health than any previous generation. Thank you so much for your time today. I'm happy to answer any questions you may have for me.

DeBOER: Thank you for your testimony. Is there any questions from the committee? I don't see any. Thank you so much. Next proponent. Anyone

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else who would like to testify in favor of the bill? Then we'll move to opponents. Welcome.

TONY GREEN: Good afternoon, Senator DeBoer and members of the Judiciary Committee. My name is Tony Green, T-o-n-y G-r-e-e-n, and I am the interim director for the Division of Behavioral Health with HHS, the Department of Health and Human Services, here to testify in opposition of LB668. The Division of Behavioral Health is invested in a safe, effective, and recovery-oriented emergency protective custody process for people experiencing mental health crisis. LB668 proposes a training and certification process to certain licensed individuals to take persons into protective custody or EPC. The bill not only identifies licensed and independent mental health practitioners, but also includes the terms mental health practitioner and mental health professional, which could include any person licensed to practice medicine and surgery, including physicians, counselors, psychologists or advanced practice registered nurses or APRNs with psychiatric certifications. The broad nature of the language considerably impacts the breadth of individuals who may carry out this authority. LB668 appears to authorize the LIMHPs to take an individual into custody and transport that person to the appropriate facility. LB668 offers no guidance regarding how to accomplish this process while promoting patient, provider, and public safety. The lack of clear language regarding detention and transportation of an individual with mental illness raises questions about reimbursement, where the person should be taken, and the protection of the individual's civil rights. The DHHS Division of Public Health oversees our licensure functions and regulations. Some states have statutes for mental health professionals to take folks into emergency protective holds. Most of these states have addressed the activity in the scope of practice statutes or regulations. A clinician having the ability to complete an involuntary emergency protective custody hold outside of a state licensure process impacts other areas such as liability, patient protections, and the ability to file a complaint to the licensure board about the misuse of emergency protective custody holds. And I'll have the written testimony there, I know I'm running out of time, so. While clinicians who work in a co-responder model that you've heard may be adept at determining when an EPC is necessary, the language does not restrict this mode of intervention to only clinicians working in a co-responder model with law enforcement or in a mobile crisis response setting. Rather, it's open to any mental health practitioner, including those in private practices or facilities. The Division of Behavioral Health, our regional partners across the state, and other stakeholders continually work to strengthen services across Nebraska that encourage

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the needed treatment and early intervention. We stand united in that we want to decriminalize a behavioral health crisis, but we believe through some of the existing efforts of 9-8-8, emergency mobile crisis response, I think we must move forward thoughtfully and with clarity to protect the individual rights and promote safety. With that, I'll try to answer any questions.

DeBOER: Thank you. Are there any questions? Senator Geist.

GEIST: I'm sorry.

TONY GREEN: Just getting ready--

GEIST: I know, you just thought--

TONY GREEN: You're fine.

GEIST: --you were going to get away. I just want to ask if-- I understand that this could be a scope of practice issue, but in essence in the, in the concept do you find agreement?

TONY GREEN: I think what we find is that there are in the existing processes of being able to bring out mobile crisis response. And I would, I would agree that we need to work on expanding and increasing that capacity across the state where you can, and law enforcement would have the opportunity to have clinicians come on-site. I think what's unclear with this is even when the clinician would determine that the, the person has met the statutory requirement to be EPC, that they're a danger to themselves or others. As I understand from what I hear, you're still requiring law enforcement to come and do their part to transport to a facility to, to enact that emergency protective custody. But yes, I mean, I think we, we agree that folks need to receive the support from mental health practitioners and law enforcement. Absolutely.

GEIST: OK. Thank you.

DeBOER: Thank you, Senator Geist. Other questions? Thank you for being here.

TONY GREEN: You're welcome.

DeBOER: Next opponent. Is there anyone else who would like to testify in opposition to this bill? Is there anyone who would like to testify in the neutral capacity? While Senator-- oh, Senator Aguilar will waive closing. There are six letters of, of-- for the record: one in

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support, four in opposition, one in neutral. And that will end our hearing on LB668 and begin our hearing on LB643 with Senator Brewer. Welcome to your Judiciary Committee, Senator Brewer.

BREWER: Thank you. I was just playing tag with your Chairman who happens to be presenting in my committee so in your committee presenting in his. All right, you're being and-- handed out AM766. It's to address some of the concerns that the bankers had. The League agrees with it. These are changes that just kind of make the bill user-friendly. All right. With that, thank you Chairperson DeBoer and members of the Judiciary Committee. I'm Senator Tom Brewer. For the record, that's T-o-m B-r-e-w-e-r. I represent 11 counties of the 43rd Legislative District in western Nebraska and I am here today to introduce LB643. I'm introducing this bill on behalf of the city of Chadron. They contacted me about a concern that they were having with abandoned mobile homes. Chadron has several mobile home parks in various states of decay. Some of the landlords are saddled with abandoned trailers that are many years old and are frustrated and the current laws were working against them having a solution. Currently, the law is confusing and time-consuming when it comes to removing these abandoned trailer houses from the property of the landowners. The bill clarifies and speeds up the process of declaring a mobile home to be abandoned. The city of Chadron asked their city attorney to research the issue. We found the process used in South Dakota very promising, and that is the base that we used to build LB643. And under LB643, the landlord can take possession of an abandoned mobile home upon the issuance of a writ of possession. The landlord is then allowed to notify the tenant of the mobile home being-- intent-- the intent to sell it. The landlord can also-- also needs to provide notice to the county treasurer if it is intent to sell the home. The county provides information on the delinquent taxes owed on the abandoned mobile home. After the landlord provides notice to the newspaper, he or she will be allowed to sell the abandoned trailer home. The bill outlines how this process of sale needs to be accomplished. I will be followed by the League of Municipalities who helped to draft this bill and they can provide maybe more of the nuts and bolts of it. The abandoned mobile homes that they're trying to deal with are a challenge for them especially as they're trying to do community development and fix some of the housing issues they had with more permanent fixed structures. So as they brought this to me, we looked at options. This was the one that gave us the ability to address that issue that they were struggling with in Chadron, but I believe the, the same challenge is out there for other communities also. So with that, I will take any questions that you have on LB643.

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DeBOER: Thank you, Senator Brewer. Any questions for Senator Brewer?
Senator DeKay.

DeKAY: Thank you. Are most of these mobile homes up there-- or, maybe you don't know the answer and somebody else will-- are most of these mobile homes, are they for salvage or are they to be resold to live in or are they going to be scrapped for scrap iron-- metal?

BREWER: No, those-- that, that's a great question-- the ones that I saw had been abandoned for a number of years and I think we're at the point that between the roof leaking and mice and other issues that I believe their options were probably to actually physically remove it and it would probably be destroyed at the city dump or something like that. Because there, there just wasn't a way to salvage them, they had been abandoned that long. But they couldn't come to a resolution on how to change the ownership so they could physically do anything with it. So it just continued to degrade, it was a-- not just an eyesore but it was a safety issue for kids and, and fire and everything else.

DeBOER: Thank you, Senator DeKay. I don't see--

DeKAY: Thank you.

DeBOER: --other questions so, Senator Brewer, you're going to stick around?

BREWER: I'll stick around.

DeBOER: OK. First proponent, please. Welcome.

CHRISTY ABRAHAM: Thank you, Senator DeBoer and members of the Judiciary 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 first want to thank Senator Brewer for introducing this bill. He did a great job of outlining for you sort of the background. The city of Chadron was in contact with us and went through our League legislative process saying, you know, they have all these concerns with these abandoned mobile homes and what can we do? When we started having that conversation, it turns out that a lot of other municipalities are struggling with it as well. It's not just the city of Chadron so the League said we would be happy to support a bill if Chadron got it introduced and here we are. As Senator Brewer mentioned, I think Chadron is looking for a way to sort of speed up this process of taking care of their abandoned mobile homes and also to minimize the involvement of local and state governments. The current process is that if a mobile home is abandoned and it doesn't

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have any license plates and it's worth less than \$500, it actually vests with the local government or the state. If it doesn't mean that criteria, then there is sort of a more lengthy process that has to go through either the state or the local government to declare it to be abandoned and then the local municipality is the one who has to deal with it. So what Chadron was looking for is less of a process where the municipality dealt with the abandoned mobile homes and more that the landlord or the one who actually owns the land on which the mobile home sits sort of can take control of that situation and take care of the problem itself. Senator Brewer sort of explained the process that the landlord needs to go through in order to be able to get the mobile home sold or disposed of. As I mentioned, this is important for the city of Chadron and for other municipalities. I understand that NACO may have some language that is going to make the bill better and strengthen the bill. The League is very open to working with Senator Brewer and this committee and NACO on making this bill stronger. And I also wanted to add that the League does not have any problems with the amendments that the Nebraska bankers brought forward. So with that, I'm, I'm happy to answer any questions.

DeBOER: Thank you. Senator Holdcroft.

HOLDCROFT: Thank you, Vice Chair DeBoer. So the bill goes into a great amount of detail of the process to be taken once a determination that the, the home has been abandoned.

CHRISTY ABRAHAM: Right.

HOLDCROFT: But who makes the determination that it has actually been abandoned?

CHRISTY ABRAHAM: Yeah, that's a great question. So in the bill a landlord isn't able to start the process of this until they have gone through the process, through the court, of getting a writ of possession. And so that's a court process that has to be gone through where the court determines that this has been abandoned and that the landowner can then take possession of it.

HOLDCROFT: OK.

DeBOER: Senator DeKay.

DeKAY: So if, if there's nobody there to take care of it, if it's abandoned, it's been sitting there for years in disrepair and it's OK this goes through to get rid of that dwelling, who, who is in charge of cleaning it up or get-- removing it from a property?

CHRISTY ABRAHAM: Right. That's a great question. And right now, it's the city, county, or state sort of depending on where that mobile home is located. That's, that's who needs to go through the process of taking care of this. Under this bill, it puts that burden on the landowner itself, the person who owns that property, which I think in some ways makes sense because they're the ones who are most anxious to get rid of that problem, problem mobile home and then hopefully move someone else in who, who has a mobile home that's not abandoned.

DeKAY: So if the landowner doesn't want anything to do with it, hasn't been-- I'm not going to say uncooperative, but just isn't dealing with it and it goes back to the landowner and the city, state, or county cleans it up, gets rid of it, is the landowner then charged for the, charged of cleaning it up? Or who pays for the cleanup process?

CHRISTY ABRAHAM: No, right now under current law the-- and, of course, I'm [INAUDIBLE] municipalities, but the-- if it's, if it's within the corporate boundaries of a municipality, then the municipality takes title and control of that and then they are in charge of disposing it, selling it, whatever they need to do. And unfortunately for a lot of municipalities these are costs that sometimes they don't, they don't have the funds to do and that's why I think they sit there not being taken care of.

DeKAY: Thank you.

CHRISTY ABRAHAM: You're welcome.

DeBOER: Thank you, Senator DeKay. Other questions? Thank you for being here.

CHRISTY ABRAHAM: Thank you.

DeBOER: Next proponent. Welcome.

PAUL ELOFSON: Thank you. Good afternoon, Vice Chair DeBoer and committee. My name is Paul Elofson, P-a-u-l E-l-o-f-s-o-n. I'm an attorney from Omaha with the Fitzgerald Schorr firm. I'm here on behalf of the Nebraska Manufactured Housing Association. We come to support the bill. We believe it may be a solution for abandoned mobile homes and, and a means by which the landlords and park owners can address the issues that come up with abandoned homes and move towards cleaning up their parks. We are going to be in opposition to LB8, which also has some similar type of procedures for selling abandoned homes. And we're in opposition to that, but we're in support of LB643. I will say that I'm a little-- and I'm just coming to this recently,

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but I think there may be a definitional issue that I wish to bring to Mr.-- Senator Brewer's attention and, and the other proponents that it talks about a writ of possession. That may be a term of art that comes from South Dakota, I'm not sure. The bill does refer to the Nebraska forcible entry and detainer statutes, which specifically exclude this-- the procedures that are under the Nebraska Manufactured-- or Mobile Home Landlord Tenant Act and the regular Landlord Tenant Act and so I think this is a solution, but I think there may be some clarification that's needed. Other than that, I'm open to questions.

DeBOER: Thank you. Are there questions for this testifier? Don't see any. Thank you.

PAUL ELOFSON: Thank you.

DeBOER: Next proponent. Is there anyone else who would like to testify in favor of this bill? Then we'll switch to opponents. Is there anyone who would like to testify in opposition to this bill? Welcome.

KASEY OGLE: Thank you, Vice Chair DeBoer and members of the committee. My name is Kasey Ogle, K-a-s-e-y O-g-l-e, and I'm a senior staff attorney at Nebraska Appleseed for Collective Impact Lincoln. I'm here today on behalf of Collective Impact Lincoln in opposition to LB643. Collective Impact Lincoln advocates for better housing quality, more affordable housing, and fair rental practices for low-paid Lincolnites. And we oppose LB643 because it unfairly impinges on a mobile home owner's property rights. The current scheme for abandoned mobile homes is, is cumbersome, and the result is that what happens in reality is wholly outside of the law. First, there's little guidance for when a mobile home should be considered abandoned. And that means that landlords can and do claim a mobile home as abandoned often immediately after evicting a mobile home owner. And because there's currently no scheme or cumbersome scheme for the treatment of abandoned mobile homes, landlords sell the mobile home for a profit. This creates an incentive for landlords to evict mobile home owners in order to claim the mobile home as abandoned and then turn it and sell it for a profit. LB643 essentially codifies this sort of lawless reality that can be mobile home lot renting. It legalizes landlords' behavior and erases the owner's property rights in the mobile home and places additional burdens on political subdivisions. Under LB643, a landlord can claim a mobile home as abandoned 30 days after evicting the owner. The owner then must provide notice to the-- the landlord must provide notice to the owner, any lienholders, and the county treasurer of the landlord's intention to sell the mobile home and then the county treasurer must respond with written notice of any

delinquent taxes owed on the mobile home. The landlord can then sell the mobile home and distribute the proceeds to themselves, then to the county treasurer for any delinquent taxes, to themselves once again, to any lienholders, and then the remaining proceeds to the landlord once more. The owner's property interest in the mobile home is entirely extinguished and the owner receives nothing even if they were current on taxes and owned their home free of any encumbrances. While there clearly needs to be more guidance around the treatment of abandoned mobile homes and we appreciate Senator Brewer's bill is trying to solve that problem, LB643 does not provide the structure that's needed. Rather, we believe that LB8 creates a fairer, a fairer, cleaner scheme for abandoned mobile homes. It gives the mobile home owner and any lienholders more time and notice before a landlord is able to claim the mobile home and sell it. And this additional time is needed because mobile homes are expensive to move and sometimes-- which can sometimes cost thousands of dollars. And LB8 also allows the mobile home owner and any lienholders the right to challenge the landlord's right to sell the mobile home. And for these reasons, I urge you to-- we oppose LB643.

DeBOER: OK. Senator Geist.

GEIST: OK, I, I just need a clarification of terms, and I probably should have asked this early on but you're the lucky winner.

KASEY OGLE: That's all right.

GEIST: OK, so the landowner-- so are we-- we're looking at a mobile home park,--

KASEY OGLE: Yes.

GEIST: --potentially, so the landlord owns the land,--

KASEY OGLE: That's true.

GEIST: --the owner owns the mobile home.

KASEY OGLE: That's correct.

GEIST: OK. So in, in your third paragraph you're concerned that the landowner evicts the owner, does that happen? I mean, if you own the trailer, the mobile home, does the landlord have the right to kick you out of your owned property?

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KASEY OGLE: Yes. Yeah, because the mobile home owner rents the land on which the mobile home sits.

GEIST: So your, your mobile home doesn't go with you, you leave the mobile home?

KASEY OGLE: The ideal, I think, is that you would be able to take the mobile home with you. But often mobile, mobile homes are very expensive to move, can cost thousands of dollars to relocate, especially if they're older mobile homes it could be cost prohibitive, really. So it can be that the mobile home owner is evicted and unable to remove the mobile home with them and that happens quite often because it's so expensive.

GEIST: And that was my next question, does-- how often does that actually happen? So--

KASEY OGLE: Yeah.

GEIST: --you answered that. OK. Thank you.

KASEY OGLE: Yeah.

DeBOER: Senator DeKay.

DeKAY: I appreciate your testimony today. My question is, and I've seen it in the rural sector a lot-- in fact, in one of the communities that Senator Brewer represents, what happens if you have a mobile home that has been sitting there for years unoccupied? The landowner fails to deal with it-- actually, the landowner owns the land and the mobile home, fails to deal with it, the roof is blowing off, it's an eyesore, there's trees blowing on top of it. And it's an eyesore, too, if you're trying to attract business or people to the community. I mean, that's, that's a question that we need to answer, is how, how do you dispose of something like that in an expedient way, in a lawful way so to help with appearances of the community that you're trying to attract people to?

KASEY OGLE: Absolutely, Senator. I am less familiar, admittedly, with situations in which mobile homes sit as abandoned for several years. What we hear of often is that a mobile home owner will be evicted and then the landlord will reclaim that mobile home as abandoned and sell it. So I-- I'm, I'm less familiar of-- with that situation in particular, and am unsure how best to deal with that, except to say that both this, this bill LB643 and LB8 both provide some structure for when the landowner is allowed to call to claim that mobile home as

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their own property. And that puts some responsibility on the landowner and also gives them the authority and power to either dispose of the mobile home or, or do whatever needs to be done.

DeKAY: I mean, out in the rural sector where I live we don't have a lot of mobile home parks; there's a lot of mobile homes. And in most cases when people decide they're moving, relocating, whatever, it's a lot cheaper for them, for them just to walk away from it and then, then it's somebody else's problem to clean up the mess after the fact. And, and a lot of these have been sitting there vacant and idle and an eyesore for a number of years. That's the problem I struggle with. So thank you.

KASEY OGLE: Thank you.

DeBOER: Any other questions? Thank you for being here.

KASEY OGLE: Thank you.

DeBOER: Next opponent. Anyone else who would like to testify in opposition to this bill? Is there anyone who would like to testify in the neutral capacity?

BOB HALLSTROM: Vice Chairman DeBoer, members of the committee, my name is Bob Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today as registered lobbyist for the Nebraska Bankers Association in a neutral capacity on LB643. As introduced, the bill would have had an adverse impact, or has an adverse impact, on the priority of an existing lien upon the sale of a mobile home or a manufactured home. We appreciate Senator Brewer and his staff and the League's willingness and responsiveness to the amendments that we have proposed that Senator Brewer submitted to the committee for consideration and would encourage you to, to adopt those amendments. Basically, what they do-- and, Senator DeKay, there are situations where those abandoned homes become an eyesore, they're left there and not intended to be removed. But there are also-- and the bill does address situations where that home may be sold and there may be proceeds that we believe in some form or fashion should accrue to, to the benefit of an existing lienholder. What we've done with regard to the amendment, the proposal under the bill as introduced indicated that the expenses of sale would be recovered first by the landlord; second, county taxes; third, unpaid rent to the landlord; and fourth, to the lienholder. We have simply flip-flopped items three and four so that the existing lien would have priority over that unpaid rent, still leaving the expenses of sale to be returned to the, to the landlord. And then, secondly,

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for the taxes to be taken care of before the lienholder steps in. So with that, we would encourage the adoption of the amendment and be happy to address any questions.

DeBOER: Thank you. Questions? Senator DeKay.

DeKAY: Just a quick one. I appreciate your bringing this today. Basically, you know, like I said earlier, where in my neck of the woods where I'm from a lot of these are already been abandoned long enough that, that they're subject to tax sales for paid back taxes on them and it is yours to do whatever you want to. So that's all-- that's my concern is they've been there long enough that they're-- nobody could live in them, rats couldn't live in them and feel safe there. So that's where I'm at.

BOB HALLSTROM: Yeah, and, and I think, Senator, just-- I'm, I'm not well-versed in municipal law, but I, I do believe currently that the city does have the ability under nuisance statutes and the like to go in and, and take care of those. But obviously then the burden of that cost falls upon the city. They may have a lien back against the property, but it may not be worth much to the city in terms of their ability to recover or recoup their, their cost.

DeKAY: Thank you.

BOB HALLSTROM: Thank you.

DeBOER: Thank you, Senator DeKay. Other questions? Thank you for being here.

BOB HALLSTROM: Thank you, Senator.

DeBOER: Is there anyone else who would like to neutral?

CANDACE MEREDITH: Good afternoon. My name is Candace Meredith, C-a-n-d-a-c-e M-e-r-e-d-i-t-h, and I am the deputy director of the Nebraska Association of County Officials, otherwise known as NACO. And I'm here today in a neutral position on LB643. We do appreciate Senator Brewer bringing this issue forward. The counties are definitely impacted by these abandoned mobile homes as well. Mobile homes are classified as real property for taxation purposes. However, the process of delinquent tax collection is, is a little bit different. A delinquent mobile home tax collection follows the person on the mobile home, not the actual parcel, therefore, unpaid delinquent taxes will go through what's called a distress warrant process. So then that will go through the sheriff's office for

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potential up to a seizure of the mobile home. But again, as we're talking about, there's an extreme expense here that we have to deal with. Our comments will focus on the technical aspects of the process in Section 8 when an abandoned mobile home has not sold and the landlord wants to dispose of it-- obtaining a certificate of title for disposal from the county treasurer. County treasurers typically cannot issue a certificate of title without documentation such as a prior title, a manufacturer certificate of origin or death certificate or court order. The Department of Motor Vehicles can issue a bonded certificate of title in limited circumstances when an applicant can't provide that documentation is willing to provide a bond of one and a half times the value that vehicle. The bill only requires written notice from the landlord before the county treasurer issues a certificate of title for dispos-- disposal. Counties would prefer to have more assurances that their involvement in the transfer of property is only administrative, not a decision-making title. Perhaps this could be resolved with a DMV standardized form that includes a signed affidavit by the landlord. That way, if there's a problem with the ownership, the burden is on the purchaser to resolve it because the treasurer's role is only administrative. Regardless of who is issued the certificate of title for disposal, we would also suggest clarifying the certificate of title type and requiring a title fee at minimum for the time spent and potentially liability of the issuer. We also suggest following existing permitting processes for moving abandoned mobile homes. Section 77-3708 states that mobile homes cannot be moved without first obtaining the movement permit that is required for the movement of oversize vehicles. Finally, Article VIII, Section 4 of the Nebraska Constitution prohibits the release of taxes. The bill allows landlords to seek a tax abatement from the county board. A court might find that unconstitutional. But again, we are happy to work with the League and Senator Brewer to help with some of these technical issues that we're seeing and I'll be happy to answer any questions.

DeBOER: Thank you. Questions? Thank you for being here.

CANDACE MEREDITH: Thank you.

DeBOER: Next neutral testifier. As Senator Brewer comes up for his closing, I'll let you know that for the record there were two letters, and both in opposition.

BREWER: All right. I got to tell you that I really didn't expect there to be much pushback on this because it seemed like such a simple task. I mean, I toured the mobile parks in question. These are owned by the

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person managing the mobile parks. The property isn't an issue. The issue is a mobile home that has been left abandoned for a number of years and they can't put another home there. They can't collect any payment for it. It has degraded to the point it's unusable and now it's become a safety issue. So that's why this issue was brought to me. It's not that we're trying to steal anyone's home. I guess for a moment-- and, and I thought that working with the League of Municipalities was the right way to go to understand the needs and how to craft the bill. So I guess some of the issues that have been brought up, I'm a little challenged by but-- I mean, we can, we can talk about how to get to where it's perfect, but understand that that's where I came from with the concept behind the bill. In the case of Chadron, they have low-income housing they'd like to build. They can't because it can't clear the property to be able to build anything else there. So again, I'm a little bit surprised at some who came in oppose-- opposition because if what you're trying to do is to address the problem and that improves your ability to have housing, safe housing and folks don't want to do that, I don't know, I don't know where to go with this but I understand the problem and what generated the need for the bill in the first place. I'll take any questions.

DeBOER: Senator DeKay.

DeKAY: Out in Chadron, and probably in a lot of rural areas, I'm sure you will agree with me that housing is a problem and to be able to clean up situations in mobile home parks and be able to put new dwellings there not only help alleviate some of the housing problems but it also helps in a way of economic development for smaller communities. Would you agree with that?

BREWER: I would. And, you know, when you have some that are allowed to degrade to a certain point it, it reduces the value of any homes in the vicinity, you have issues with raccoons, rats, whatever, which is not a thing that is beneficial to the community. And so this is really an effort by, in this case, a small town to figure out how to find a solution so they can better facilitate the needs of those that need housing.

DeBOER: Other questions? Thank you, Senator Brewer.

BREWER: Thank you.

DeBOER: That will end our hearing on LB643 and open our hearing on LB8. Welcome.

ALEX MAYCHER: Hello. Good afternoon, Vice Chair DeBoer and members of the Judiciary Committee. My name is Alex Maycher, spelled A-l-e-x M-a-y-c-h-e-r, and I am the legislative aide for Senator Carol Blood, who represents District 3, which is the western half of Bellevue and eastern Papillion. She expresses her apologies for not being able to present this bill in person. LB8 will level the playing field for mobile home tenants regarding their rights while residing in mobile home parks. Mobile home tenants are an often-ignored constituency and experience various forms of discrimination from landlords. Examples include stacking up small fines for innocuous violations like having grill covers or even arguing with the landlord. More serious financial discrimination occurs when tenants are evicted. Landlords often will garner these liens on residents' trailers. Then landlords can turn around and sell those trailers and collect proceeds from their-- for their own profit. Mobile home tenants tend to be financially vulnerable and cannot just pick up and move without reasonable notice. There are some predatory landlords, many of whom are out-of-state investors, equity companies who can prey on their tenants' precarious financial position. LB8 improves a mobile home tenant's housing rights and puts in guardrails to make sure that rental agreements and eviction protocols are within reasonable limits. LB8 isn't an attack on the property owners where the mobile homes are parked, but it is an attempt to strike a reasonable compromise allowing tenants and landowners to pursue affordable litigation costs when they go to court. This is why we added some provisions. First, the landlord should provide tenants with at least three months to comply with a new or amended rule after the 60-day notice period. Also, within the three-month grace period, any violation of the new or amended rule shall result in a warning only. Also, a new rule adopted after the execution of the tenants' initial rental agreement that imposes a reoccurring financial obligation on a tenant would not be enforceable on that tenant. So many constituencies in several states and districts have mobile home tenants, and many experience discrimination and face financial and emotional stress as a result. The handout is a recent instance at Maplewood Estates in northwest Omaha in 2020, which was a stark example of landlord overreach. In 2020, in the midst of the pandemic, many of the 400 tenants received notice that they must take-- make various repairs to their homes, varying from temporary steps, replacing siding, and, in one instance, replacing a whole carport. So if they did not comply within that 30-day period, they were to be evicted right before the Christmas holiday. Many tenants in Maplewood Estates, as in many trailer parks across Nebraska, live on fixed incomes or are retired, relying on Social Security and do not have the income to make sudden repairs within a short notice. So let's

be clear it isn't because they're unwilling to do these repairs, it's because a reasonable option was not given to them to complete these repairs. So the practice of large out-of-state equity companies buying up mobile home parks has also been a rising concern for mobile home tenants in recent years. Rents are raised on these lower income residents and a lack of investment is being made on upkeep of these parks, leading to like sewage backups and poorly maintained roads. This is accompanied with aggressive eviction tactics as mentioned earlier. It typically costs thousands of dollars to move a mobile home and tenants cannot just up and leave when receiving eviction notices as you could in a house or in an apartment. Some landowners with this tactic are able to seize mobile home trailers as they are aware tenants have difficulty moving them and profit further. The pandemic exacerbated this problem as mobile home tenants became more financially vulnerable with heavy job losses and loss of income. So the goal of LB8 is to allow tenants to have basic rights in regards to selling their trailers and keeping their revenue, prevent retaliatory conduct from landlords, and reasonably allow notification for eviction for overdue rent. LB8 does not intend to strip power away from landlords, but it does even the playing field for tenants who are often in socioeconomically vulnerable positions. If tenants are to be evicted, they should at least have the rights to the proceeds from their own trailers if they have to be sold and cannot be moved, as that is their personal equity that they worked hard to keep prior to eviction. So let's be honest, when Nebraskans fall behind on their property taxes, regardless of the amount, the county treasurer will offer up outstanding liens to private bidders every March. Meanwhile, property developers are allowed a conditional use permit even if they are delinquent in their property taxes. So this, as you can see, is a dual system, one for the wealthy and another for the socioeconomically disadvantaged. Repair requests from landlords that are not feasible or doable within the timetable demanded should not be used as an excuse to evict tenants either. Retaliatory and predatory behavior by landlords needs to be regulated at a time where the pandemic and inflation has left many mobile home tenants living paycheck to paycheck and at the mercy of landlords. So being from Bellevue, we have often seen practices such as this after natural disasters like floods where families are challenged with trying to figure out insurance, temporary housing, and more. We don't want to prevent property owners from generating income, but it shouldn't be done in a way that is only to benefit a property owner, especially those from out of state that tend to be predatory. So we have received several requests to amend the language, such as switching out the word "tenant" and replacing it with "lienholder." That's problematic

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because the lienholders may very well be the predatory out-of-state people who take advantage of people in a crisis. So we just want everyone who has contacted our office this week to know that we are willing to continue to find a compromise and come back to this committee before the bill is discussed in your next Executive Session. So we see a problem and we need to figure out how we can best help the tenants while tweaking the language to protect other stakeholders in the process. So we are willing to do this with the cooperation of those who reached out to our office this week. So I thank you for the opportunity to share LB8 with your committee.

DeBOER: Thank you. We do not ask questions of staff members so you're off the hook.

ALEX MAYCHER: Thank you, Senator.

DeBOER: And we will take our first proponent. If you're going to testify, you might as well come a little ways to the front.

KASEY OGLE: Hello again, Senator DeBoer, members of the committee. My name's Kasey Ogle. That's K-a-s-e-y O-g-l-e. I'm a senior staff attorney at Nebraska Appleseed for Collective Impact Lincoln. Nebraska Appleseed is a nonprofit organization that fights for justice and opportunity for all Nebraskans. Collective Impact Lincoln is a partnership between Nebraska Appleseed and Civic Nebraska that works with residents of six Lincoln neighborhoods to build community, develop neighborhood leaders, and take action on policy that's responsive to their needs. And I'm here today on behalf of Collective Impact Lincoln in support of LB8. Collective Impact Lincoln advocates for better housing quality, more affordable housing, and fair rental practices for low-paid Lincolniters, and we support LB8 because it protects mobile home owners from predatory lot renting practices. LB8 makes a number of important changes to the Mobile Home Landlord Tenant Act. First, LB8 clarifies the law so that either party, whether tenant or landowner, can obtain reasonable attorney fees and other litigation costs when they have to go to court to vindicate their rights. Next, this bill defines what is a reasonable mobile home park rule or regulation and gives tenants time to come into compliance with any new valid rules or regulations. This bill also protects a mobile home owner's right to sell their mobile home by providing that the landowner can only reject a prospective tenant when it's reasonable. And in addition, LB8 limits the instances in which the owner of a mobile home park can terminate a tenancy with a mobile home owner, including by ensuring that the tenants are more protected from retaliatory conduct after exercising their rights. Finally, this bill

creates a scheme for the treatment of abandoned mobile homes. First, the bill explains when a mobile home is considered abandoned. And second, it details a process by which the landowner can claim a lien against the mobile home in instances where the mobile home does-- or where the mobile home does not have any other secured interests, the landowner can then sell the mobile home to satisfy their lien and give any excess profits to the mobile home owner. Mobile home owners are uniquely vulnerable to exploitation from landowners because they own their home but not the land on which it sits. Other renters generally have no ownership interest in their housing situation, and other homeowners generally own both their home and the land under it. Currently, the Mobile Home Landlord Tenant Act codifies a huge imbalance of power in the landowner's favor and LB8 helps to even the scale. So for those reasons, I would urge you to advance LB8. Thank you very much.

DeBOER: Thank you. Are there questions?

DeKAY: Can I?

DeBOER: Yes. Senator DeKay.

DeKAY: The difference between this bill and the one we heard prior to this is, is number one in a mobile home park, the mobile home owner has the mobile home there and they're renting the pad or the pod that it's on and, and, and then the other part of the deal-- of the difference is, is that-- the difference would be the other one uses the word "abandoned" a lot more and this one uses a "tenant," which means to me that that person is actually living in that dwelling on that pad at this time and, and they could be forced to evict for whatever reasons.

KASEY OGLE: I think there-- the difference between this bill and the previous one is there are a lot of things that happened kind of in the, the first bit of the bill that aren't touched by the previous bill, LB643, I think. And the, the sort of back half of this bill also covers situations in which mobile homes are abandoned. And I believe it, it-- that both bills cover instances in which the mobile home is owned by someone other than the landowner. So I believe they both touch on those.

DeKAY: But this one actually deals more with people that are tenants and tenants being used a lot in this language that they're actually living in it and they're being forced out of that is what you're trying to protect in this case or--

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KASEY OGLE: I think that's right. I think the aim of both bills might be slightly different in that the abandoned mobile home scheme in LB8 is designed to get at those instances where someone is living in the mobile home and then has-- is evicted for some reason. And it seems that the-- a large reason for the previous bill was when mobile homes have been abandoned for a long time and how do you, how do you deal with that instance? In, in both bills-- sorry, if I may, Senator-- the-- there-- when a landowner is able to claim the mobile home is abandoned is triggered by, by, by an eviction. So in both bills-- in the previous bill, when there's a writ of possession, the landowner is able to claim the mobile home as abandoned for themselves and go through the process there and in this bill it's, it's similar.

DeKAY: OK. Thank you.

KASEY OGLE: Thank you, Senator.

DeBOER: Thank you, Senator DeKay. Other questions? Don't see any. Thank you for being here.

KASEY OGLE: Thank you.

DeBOER: Next proponent.

SCOTT MERTZ: Thank you. Good afternoon, committee. My name is Scott Mertz, S-c-o-t-t M-e-r-t-z, director of Legal Aid of Nebraska's Housing Justice Project and I have experience representing low-income tenants for over 13 years. I have valuable experience both collectively with-- individually and collectively with my Housing Justice Project in representing low-income owners of mobile homes across the state. I'd like to thank you for this opportunity to speak in support of LB8. And I'd also want to thank Senator Blood for introducing this bill and inviting Legal Aid of Nebraska to testify today. LB8 would have a significant positive impact on mobile home owners in Nebraska. LB8 ensures fairness for all owners of mobile homes, ensures that mobile home owners are free from retaliation, that they are not caught off guard by any policy or rule changes, that they are not evicted from their homes-- homes that they themselves own-- without good cause and without the risk of losing the equity in those homes. For far too long, owners of mobile homes in Nebraska have been saddled with the obligations and risks of a tenancy while also owning their home. They have to pay rent, but they are still responsible for the maintenance and upkeep of those homes. They are under the threat of eviction, but once evicted they often cannot take their homes with them. The mobile home owner is at risk of homelessness just like any

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other tenant, but also at risk of losing the equity in their own property. Recently, Legal Aid of Nebraska-- excuse me, had a client, this was a 74-year-old woman who resided in the same mobile home park for nearly 30 years. That client paid her rent on time and abided by park rules, but the park still sought to end her tenancy and did file to evict her. Legal Aid of Nebraska had to go to district court in order to delay the eviction proceedings so that this woman would have the opportunity just to sell her mobile home-- again, this is her property-- before she could be removed from the lot and the mobile home taken from her by the landlord. Even after she agreed to move and sell that home, the park repeatedly and unreasonably blocked prospective buyers from purchasing the mobile home. This is a woman who paid her rent every single month and continued to pay her rent still, still during the pendency of the case, even as she was forced to leave her residence for over 30 years or nearly 30 years. I see the light up; I do want to indicate again, Legal Aid of Nebraska supports the passage of LB8 but I do want to leave time for any questions.

DeBOER: OK. Questions? Senator DeKay.

DeKAY: Sorry.

DeBOER: No.

DeKAY: Just a quick question. How does a landowner, the landowner-- what's the process he goes through to block them so that the, so that the potential buyer can't get with the landowner-- or the trailer-- mobile home owner?

SCOTT MERTZ: Certainly. Yeah, again, there's a lot of leeway, a lot of just vagueness and confusion as the law is currently written with respect to how you do an in-park sale. This is a sale where you own a mobile home, but the potential buyer would have to lease from and live on a property owned by somebody else, the third party in this case, the owner of a mobile home park. So they are-- they have somebody who has an interest and who is living in the mobile home park and they have the ability to deny that sale going through, deny leasing to a prospective buyer. Again, this bill doesn't change the fact that any potential buyer would, would have to lease from and live in a potential mobile home park but provides a lot of guidance and fairness as to how that process would work and lays out the specific reasons by which that, that sale could be denied.

DeKAY: Thank you.

DeBOER: Any other questions? Thank you for being here.

SCOTT MERTZ: Thank you.

DeBOER: Next proponent.

SCOUT RICHTERS: Good afternoon. Scout Richters, S-c-o-u-t R-i-c-h-t-e-r-s, here on behalf of the ACLU of Nebraska in support of LB8. The overarching goal of the ACLU with respect to housing justice is to end barriers to fair housing and ensure fair housing opportunities for women with a particular focus on women of color, women with minor children, and survivors of domestic violence because these groups disproportionately face barriers to fair housing opportunities. As you heard, LB8 adds a variety of protections for mobile home renters. This includes clarifying the effect of notices of rule changes on tenants, ensuring that tenants with disabilities and other protected characteristics aren't discriminated against, that tenants cannot be subjected to new reoccurring financial obligations that were not contemplated in their initial agreements, and also clarifies provisions with respect to in-park sales. From the ACLU perspective, the most important protection in LB8 outlines the reasons a tenant can be evicted such that tenants are not subjected to an eviction through no fault of their own or without cause. Evictions can have devastating implications to families and really have a domino effect on multiple aspect-- aspects of someone's life, including their job, health, children's education, and future housing opportunities. Everyone should have access to safe and stable housing and LB8 ensures that those renting in mobile home parks are afforded protections that better safeguard their rights. And for those reasons, we urge the committee to advance this bill.

DeBOER: Thank you. Questions? Thanks for being here.

SCOUT RICHTERS: Thank you.

DeBOER: Next proponent. Anyone else who would like to testify in favor of this bill? Let's move to opponents. Sir, we can't have you using any props or showing us any pictures. It doesn't matter, we can't do it. Sorry. We've had to get real strict on it.

DON HANSEN: Can you pass it around?

DeBOER: Only if you have enough copies for everyone which it doesn't look like it.

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DON HANSEN: I-- I'm sorry, did not realize you had to do that. It's kind of significant in that you asked some--

DeBOER: Why don't we, why don't we get you to sit down--

DON HANSEN: OK. Sure.

DeBOER: --and give us your name and spell it for us.

DON HANSEN: OK. Don Hansen, D-o-n H-a-n-s-e-n, Don Hansen. I'm here with the Nebraska Manufactured Housing Association. LB643 and LB8 are very, very similar as the proponents have explained. However, there's key, key differences. We as a manufactured housing community of owners, which I represent up to-- you know, I've had up to 1,000 various lots in the community-- in the communities and we have sold since the 1960s, when my father started the business, thousands of mobile homes. The homes sold in the 19-- early 1970s, with which there was a million a year sold, were designed to last 30 years. If we don't do the LB643, the problem we have today is going to be much, much worse five or ten years from now. There's going to be abandoned mobile homes everywhere because they weren't designed to last that long. That's what these pictures are going to show. The difference between the manufactured homes or the mobile homes in 1970, they were metal sides and metal roof. You've all seen them, very-- the abandoned ones with the roof ripped off. They were like the Model Ts of mobile homes. Today, we have a Tesla. You're comparing a Model T to a Tesla. The new manufactured homes are the economical way for people to live today, and they look like a conventional home. They're built in a factory. They have a shingle roof, concrete or vinyl siding, and they're designed to last 100 years versus the ones in the 1970s weren't. What they've done with this LB8 is they've doubled down from LB1222 from last year. They never came and talked to us and tried to work through with the Association. They're trying to push this bill through and not tell the full truth of what's going on. Maplewood Estates, he mentioned that mobile home park in Omaha, where they changed the rules and made the people clean up their houses. Why did Maplewood Estates do that? They had had a fire in one of those older homes and somebody had died because they they, they didn't take-- what happens is people can't afford the mobile home, their furnace goes bad and they get those little heaters, those little \$60 heaters, it taxes the aluminum wiring and the home burns up and-- with the people and there's no way to-- there's no egress windows. Our new homes are almost fireproof with the codes that government put in in 1977 makes them so much better quality. So it's unsafe, LB8 is unsafe, forcing people-- forcing us owners to keep the homes in the community is not the way to

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go. We need to-- in our community, we had 138 spaces. Of the 138, 90 of the 50-year-old ones have been moved out and we put in the newer homes that will last, again, a long, long time. There's been no problems, no news stories, nobody complained. That's the way it has to be throughout the state, and that's the way the Association has worked to make it nice for everybody.

DeBOER: Thank you for your testimony. Senator Geist.

GEIST: I will ask one this time. So what is the difference in affordability? There has to be a, a rent diff-- or a affordability difference. So if you have to move someone off of land because of, of an old-style mobile home, is the affordability of, of that-- which I assume is very much less expensive than a newer style-- does that kind of price someone out of being able to relocate there?

DON HANSEN: No. As they had indicated, they said that it costs thousands of dollars to move the home. If the home is movable, which most all them are-- I've moved thousands and thousands of homes over the years, from the older ones to the newer ones, we've moved lots of them. If it can be moved, if it's not abandoned, if it's not uninhabitable, that's where they get to the point of being uninhabitable. Most other communities will move them because they need, they need to have fill-- be filled out. The rural communities, the little mobile home parks, where they only have maybe 20 or 30 in Wahoo and they just need the spaces filled, we end up moving the older ones to those communities. What we do, we don't evict the people, it's just that we say it's their home, however, when they go to the, to the nursing home or whatever-- because lots of people lived in our homes for 30 or 40 years, just like, just like they, they were mentioning-- when they go to the nursing home, we don't allow that home to be resold. It's still their home. We help them to resell it. They can sell it to one of these other communities in, in the rural areas and move it to Wahoo or, or Beatrice or where they-- they move into a lot of the smaller communities. But-- and, and the communities will help them with the move because they want to get that, that rent if it's, if it's usable. But again, if it's 55 years old and designed to last 30 years, it's just not safe. Aluminum wiring, very cold in the winter. I've lived in the home. I don't know if any of the folks at ACLU or Scott or Alex, they've ever lived in a mobile home. I have. And the ones in the 1970s were very cold. The ones today, just like a conventional.

GEIST: Thank you.

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DeBOER: Anyone-- Senator DeKay.

DeKAY: So if I understood you right, you're saying if a person's living there, you're not going to evict them out of that home. If they become where they need to move to a, a different facility or a different spot, at that point that's when you say you're going to come in and sell-- you know, let them or somebody is going to sell the home, move it off and put a newer-style home on that spot. I was, I was just curious, you know, like when you-- the value of those homes can't be a lot, is it? I mean, when they're 30, 40, 50 years old there's not a lot of value left in them. But I guess the, the only thing I would-- and I see where you coming from with-- if it's sitting idle and-- but having somebody live there, I, you know, I, I don't go into people's homes and see, you know, if, if they're using a sun heater or whatever to warm the place. So if they're living there, that's where I, you know, I would have a little struggle with telling them, you know, say we're, we're going to move you out and sell the home or you could sell the home, you can have the proceeds of it, but we've got to have something else here. That's where the struggle lies with that. But if they're uninhabitable-- or not uninhabitable, but if they've left and went to a different facility or something that's where it would--

DON HANSEN: Absolutely right. If the home is not habitable and it's not safe, that's where we kind of draw the line. And again, we've done it 90 times ourselves, and this is throughout. We've got another representative here that owns a mobile home park, too. He's done a similar thing. We are not preying on people as been discussed. If the people do not pay and they move out and they leave the home, we're left with the, with the home. A lot of times it's uninhabitable after they've left. It's filled with-- I've got pictures of it-- filled with junk that people leave and if they've just got hoarding problems, this type of thing, so it makes, makes it difficult to make those decisions. But we're here to help people have a long-term place to live that's affordable. And actually our homes are the most affordable in that, you think about it, most of the people pay cash. So they pay cash so they're only paying for the amount of money, the allotment on the land, which is very affordable, and they can live on their Social Security. So it works pretty effectively for folks to live affordable.

DeBOER: Thank you, Senator DeKay. Other questions? I'll ask you one, sir.

DON HANSEN: Oh, sure.

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DeBOER: So if they're not safe in your home, your complex, why are they safe in the rural areas? So you say they, they sell them to those rural areas but you said they weren't safe there, why are they safe in the rural areas?

DON HANSEN: No, no-- I'm not, I'm not suggesting that they're any less unsafe. There's no question. They need to be managed in that their furnace needs to be working. They cannot-- we don't recommend putting any space heaters in those homes. But no, you're correct, you're thinking, well, we'll take that risk and pass it on to somebody else. If their-- if the furnaces are working and the homes have been remodeled, there's money that has to be spent on them. And the average that we're spending on the homes once the people move out-- any, any folks move out, we buy them back or other people buy them-- it's about \$10,000. So it's, it's a large amount that needs to be spent for putting in a new furnace, new water heater, new air conditioner, insulation, better windows. That's the type of things we do to make them safer, but we can't-- as the bill was out, I think, in the paper yesterday that they were going to replace-- suggested replacing all the lead water lines in buildings. That cost thousands and thousands of dollars. Conceivably, you could replace all the wiring in the homes, too, all the aluminum wiring and go to copper wiring, but that's-- it just costs too much. It's-- that's over-- it's-- that's too much. So I'd ask you not to vote for LB8 here. It's just, it's just not safe and it's not a good decision for the people that are living in the homes.

DeBOER: So what part is not safe? I'm trying to, I'm trying to understand it. So you're saying the home is not safe so they have to sell it to Wahoo--

DON HANSEN: Um-hum.

DeBOER: --but I don't want Wahoo to have an unsafe home either. So if the home is safe in Wahoo, why is it not safe in Omaha?

DON HANSEN: It's not as much even the home, it's also the people that live in the home. If they don't have any money-- I, I just had one just this week. I found out they lived in our community for 15 years, nicest people in the world, had not had a furnace working for four years. How do you live in a home without a furnace working for four years? They had had space heaters, but they had copper wiring. They were the newer home and now got that fixed. If it was the other type of home-- we are, we are very cognizant of the fact if the gas gets shut off on the older homes, that can be a problem. The difference on

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safety-- and I don't want to be going in a circle here-- the difference on safety for the Wahoo is they have to make sure it has a working furnace and have to make sure it has a working water heater, that the, the, the electric lines are not overtaxed. That's where the, the fires can come from and has to have--

DeBOER: So they can't--

DON HANSEN: --money to spend out. The people can't spend the money.

DeBOER: So they can't spend the money. I'm just-- I'm trying to-- I'm, I'm trying--

DON HANSEN: Well, they can spend the money, but they don't have the money.

DeBOER: They don't have the money to spend it. OK. So if a person then has to sell the mobile home off of your lot because you're evicting them for nonpayment or because you don't want the old ones there--

DON HANSEN: I haven't-- I've never done either one.

DeBOER: OK. So someone else is doing that or--

DON HANSEN: I, I-- again--

DeBOER: I'm, I'm just trying to--

DON HANSEN: --the amount of the stories that they were saying were from the Internet. It wasn't even in Nebraska that they were saying.

DeBOER: It was in my district.

DON HANSEN: What's that?

DeBOER: Maplewood Estates is in my district.

DON HANSEN: Oh, go ahead. Who was? What?

DeBOER: Maplewood Estates is in my district.

DON HANSEN: No, what they said about Maplewood Estates was right, but as far as they were saying, people were, were getting money, then-- and then taking the home and the people-- have the people evicted out and then reselling the home over and over again. That, that was a story on the Internet, too. But Maplewood Estates, I lived in Maplewood Estates, I'm very familiar.

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DeBOER: OK. So maybe I didn't hear this right.

DON HANSEN: I'm sorry.

DeBOER: No, no, no, it's me. There's, like, a million things happening right now in my head. So if somebody wants to-- for whatever reason they have to move away, maybe they go to the, the retirement home, and now they have a mobile home that they would like to sell but you would like to have a more updated mobile home in that slot, so they have to find a way to move the mobile home somewhere else. Is that right?

DON HANSEN: That's correct if you want to move the mobile home off. But what we do, what Maplewood Estates does-- number one, they bring it up to, quote unquote, community standards.

DeBOER: OK.

DON HANSEN: Is the skirting OK? Are the doors falling off? Are the windows intact? Is the furnace working? And again, they have to-- there's money that has to be spent. They either can make the, make the investment in the home and then it's resold and, of course, they get all the money for their home that they sell the home for. And that's-- there's not been examples of other people taking that money. That's, that's not the case. But the money has to be invested in the home to bring it up to community standards.

DeBOER: So what's, so what's the problem with the LB8 then? specifically, what's the, what's the problem with the mechanism then?

DON HANSEN: The mechanism there is what they've done throughout, throughout that-- the bill, they've taken it out that they're not giving people the option to move-- to have the houses moved out. They want the houses to stay. They don't want-- or the, the mobile homes, the trailers to stay. At some particular point, a home that was built in 1970 and was designed to last 30 years, that would be '70-- that would be 2000. It's 2023. It's, it's way past its lifespan. It's not going to, it's, it's not going to last. It has to be upgraded. And you don't force anybody to do that, they have the option to sell it. But as you're saying, most people don't sell it. They abandon them in all actuality. Get down to the reality, people abandon them, they're suggesting that there's tons of money to be made there. No, people leave. They just leave the homes. We're faced with, with moving them out-- and actually, you don't move them out, you have to pick them up with backhoes and put them in dumpsters. That's how we have to do it. And there's no salvage value because there's too much insulation,

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there's too much other things that are connected. So that's how it has to be done.

DeBOER: OK.

DeKAY: Quick question.

DeBOER: Senator DeKay.

DeKAY: When-- on this you talked about, like, if you were going to relocate to, say, Wahoo or wherever and you said it had to have a working water heater, working furnace, and you mentioned aluminum wiring. If it was going to be moved to Wahoo, would it have to have the copper wire, you know, to be used in a different community? I'm not picking on Wahoo or anything but--

DON HANSEN: I, I shouldn't have said Wahoo. I'm sorry. I'm going to get calls and calls.

DeKAY: --but would it have to-- would the wiring-- would-- to say it simply, would the wiring have to be copper to be up to code to be able to use it in a different facility or not or does that wiring--

DON HANSEN: It's, it's-- no, it would not have to per any laws that are available right now. No, it would not have to. Would it be best to do the copper wiring? Correct. But mostly what has happened is when you tax aluminum wiring. So if you put in four space heaters on 110 outlets in your home, those outlets are going to-- if you ever had a space heater, and I think many of us had, and the outlet gets all burnt looking, that's because it's been taxed and that's where, where the problem can, can occur.

DeKAY: Thank you.

DeBOER: Thank you. I don't see any more questions.

DON HANSEN: Thank you very much. Appreciate it.

DeBOER: All right. We'll have our next opponent.

WAYNE: Welcome to your Judiciary. Sorry, my hearing in Government and Appropriations took a little longer than I thought.

PAUL ELOFSON: Thank you. Good afternoon, Senator Wayne, committee. Again, my name is Paul Elofson, P-a-u-l E-l-o-f-s-o-n. Again, I'm from the Fitzgerald Schorr firm. And I'm here also representing the

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Nebraska Manufactured Housing community. That association has been around since 1948. Mr. Hansen and his family have been in the mobile home business since, I think, the '60s. You're going to hear from Mr. Hipple, whose family has been involved in the mobile home business since the early '50s. These people wish to honor their tenants, and do honor their tenants, and wish to have wonderful parks and great places for them to live. Mobile home communities are unique. People often own their home and then rent the lot. Some, some rent both a home and a lot. And so having a disagreeable and misbehaving neighbor is "problematical." LB8 does its level best to make it difficult to make the parks a good place to live. It honors the difficult, mean, disparaging tenants. It, it takes away from the landlords the discretion that they have to try and solve problems with their problem tenants and also honor their good tenants. There's numerous issues with the bill. Let me give an example. If you want to change a rule, right now the statute says 60-days notice. Well, that obviously gives the tenants 60 days and that rule is going to change and get their act together and make the change. As proposed by LB8, the rule only becomes effective after 60-days notice, and then it's an additional three months to comply, five months to comply. Mr. Hipple is going to tell a story about one of his tenants. Five months of that misbehaving tenant would not have been tolerable. Another issue: the language is vague. It talks about you cannot impose a reoccurring financial obligation other than if it changes the term of the lease. Well, I'm not exactly sure what that definition will be deemed to be, but if there's a rent increase, obviously we're expect-- experiencing inflation. Inflation visits upon both landlords and tenants. If the rent increase is appropriate, does that statute say the landlord cannot raise rents? Another issue. Well, we've had quite a bit discussion about upgrading the park. Mr. Hansen and Mr. Hipple spent time trying to make their communities better by improving the housing stock of the parks.

WAYNE: Thank you for your testimony. Any questions from the committee? Seeing none, is there any other points you might want to make real quick, like, real, real quick?

PAUL ELOFSON: I believe the statute is vague. It has numerous issues. It honors the problem tenants and not the good tenants. Thank you.

WAYNE: Thank you. Any other questions? Seeing none, thank you for being here. Next opponent.

STEPHEN HIPPLE: Hello, everyone. My name is Stephen Hipple. I'm on the board of directors for the Nebraska Manufactured Housing Association.

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I've done this all my life. I've lived in a mobile home since 1948. My dad built one of the first manufactured housing communities in Lincoln. I'm opposed to the bill for some very, very simple reasons. 98 percent of my tenants are excellent tenants; 2 percent, they're not.

WAYNE: Can you spell your name for the record?

STEPHEN HIPPLE: My name is Stephen, S-t-e-p-h-e-n, last name Hipple, H-i-p-p-l-e. I'm sorry.

WAYNE: No problem. Go ahead, sir.

STEPHEN HIPPLE: And then-- so I have 2 percent of the people that are bad. Now we, we had an incident-- everyone who rents a lot has their own private parking spot for two vehicles. The neighbor moved in, the bad tenant parked his car in the neighbor's parking spot. According to this bill, I have to give the bad tenant 30 days to correct the problem so he can continue to park there for 30 days. What happens to my good tenant? Where is he going to park his car? We had another incident a little over a year ago. We had a tenant move in. We don't allow commercial operations in the park; it's a residential community. He came in with a big flatbed truck and he loaded-- unloaded axles in his yard. Then he unloaded axles in the neighbor's yard, and he started cutting them into pieces. And I went over and I asked him what are you doing? He says, well, I shorten these axles and then I, and then I sell them or I lengthen the axles and then I sell them. I said we can't run a commercial business in the park, he says I'm not running a commercial business. We ended up going to court. We finally got him out after all that time. But what do I do about the tenant where he was there for 60 days cutting up axles in his yard? And then after the judge told him that he needed to leave he says I'm not going to leave until the sheriff shows up. So anyway, I said, well, they're coming tomorrow and he moved out the next morning. But those are the issues that-- it's the issue, is that I need the ability to protect the good tenant, the 98 percent of the good ones against the bad ones. And it-- at-- one more point, reason for denial of rent. In here it says that if we deny somebody rent-- there's only two things you have to do to live in my manufactured: agree to the, agree to the rules, then you have to run-- I run criminal background checks on everyone and then I also run credit checks on everyone. Am I done?

DeBOER: Yes. Thank you so much. Are there questions, though? Yes, Senator Geist.

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GEIST: Would you just sum up your last point, please? Did you finish--

STEPHEN HIPPLE: Oh, OK.

GEIST: --the, the things that you wanted to say?

STEPHEN HIPPLE: Regarding the denial of rent. This says that if I deny somebody rent, I have to give them a reason. We always do that. We give it to them in writing. We give them a copy of their credit report and we tell them who the credit agency was and the phone number to contact. It also says that I have to tell the seller why I denied them. I don't even know if that's legal. Do I have the right to tell the, the seller that the person had bad credit? I don't think I do, and we wouldn't do that.

GEIST: Thank you.

STEPHEN HIPPLE: Any--

DeBOER: Other questions? Senator DeKay.

DeKAY: Just a quick--

DeBOER: Yeah.

DeKAY: In a mobile home park do you have different rental rates for the size of the mobile home or the area of the park that it's in or not?

STEPHEN HIPPLE: We don't. The, the rate is the same for everyone.

DeKAY: All right. Thank you.

STEPHEN HIPPLE: Yeah.

DeBOER: Any other questions? Don't see any.

STEPHEN HIPPLE: I'll tell you one more thing. I think in ten years I've evicted three tenants--

GEIST: OK.

STEPHEN HIPPLE: --ever.

DeBOER: Thank you.

STEPHEN HIPPLE: Thank you.

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DeBOER: Next opponent.

BOB HALLSTROM: Vice Chair DeBoer, members of the Judiciary Committee, my name is Bob Hallstrom, H-a-l-l-s-t-r-o-m, and I appear before you today as registered lobbyist for the Nebraska Bankers Association in opposition to LB8. Similar to LB643, our concerns are the bill as introduced adversely impacts the priority of existing lienholders upon the sale of a mobile or manufactured home. I do want to make it clear for the record that we are not getting involved in the fray between the supporters and the opponents of the bill. We take no position with regard to the tenants' rights changes that are contained within the bill or, in general, the method for declaring a mobile home to be deemed abandoned or the process for selling a mobile home, taking possession of, disposing of, or obtaining a certificate of title. We have submitted amendments to Senator Blood. We appreciate the willingness of Senator Blood and her staff to take a look and consider the changes that we're proposing. And just to give the committee a flavor for what we're interested in, we do believe that there should be a specific definition of mobile homes similar to that contained within LB643. We believe that there should be an exclusion for manufactured homes that are subject to an affidavit of a fixture. The distinction being if you are subject to an affidavit of a fixture you're treated as real property and that's different than those for which a certificate of title and lien notation for transfer and, and lien rights are put together. The bill also, under our amendments, would provide greater rights of notice for the lienholders to protect their interest in those cases where there is value to the mobile home that may be sold so that they can attend the sale and protect their interest. There are also provisions that grant a superior lien for unpaid rent and we would like as is currently the case for that landlord lien that, that is created here to take subject to a prior perfected interest in the mobile home. And with that, I'd be happy to address any questions that the committee may have.

DeBOER: Senator Wayne.

WAYNE: I had to run down to Appropriations. Can you repeat what you just said? No, I'm joking. Don't worry about it.

BOB HALLSTROM: I'd be happy to.

DeBOER: Are there other questions? I have one for you.

BOB HALLSTROM: Yes.

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DeBOER: If we did a similar thing where we reordered the lien like we did with the last one, would that fix this problem as well? Is there a way to fix the, the lienholder--

BOB HALLSTROM: Senator, the, the bills are probably drafted differently enough that they may not quite mesh. The other one talks specifically about expenses of sale, county treasurer taxes that may be due. This one doesn't get into that detail.

DeBOER: All right.

BOB HALLSTROM: It simply creates a landlord's lien that has a superior statutory ranking, if you will. And we would like to say it's fine if they have a landlord's lien under these circumstances if they jump through the hoops, but it should remain subject to that prior perfected lienholder's interest. There's also some provisions that if we repossess the mobile home and we take possession but choose to leave it there and have it rented to someone else rather than having to move it, that we also take on the burden of having to pay unpaid rent of at least three months, which doesn't make much sense to us either. But we've got, we've got those issues addressed in our, in our amendments that we've submitted to Senator Blood for her consideration.

DeBOER: OK. Thank you. Are there questions? I don't see any.

BOB HALLSTROM: Thank you.

DeBOER: Thank you for being here. We're on opponents.

WAYNE: Any other opponents? Anybody in the neutral capacity? Welcome.

CANDACE MEREDITH: Good afternoon. My name is Candace Meredith, C-a-n-d-a-c-e M-e-r-e-d-i-t-h, and I am the deputy director of the Nebraska Association of County Officials, also known as NACO, and here today in neutral position on LB8. Thank you to Senator Blood for bringing the issue forward. We would like to see an amendment to be sure that the title application process includes an affirmation or an affidavit by the landlord that they have compiled-- that they complied with the statutory requirements. An affirmation is already on a standard title application documents, but the applica-- this application process is new and different. The bill should give the DMV the authority to create an application form, and presumably it could be handled that way. If not, we would like to add statutory language that is stronger than being in, quote, satisfied with the genuineness of the application of supporting documents. Again, as I mentioned

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before, the county treasurer's role should be administrative and rather not decision-making. So happy to answer any questions.

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

CANDACE MEREDITH: Thank you.

WAYNE: And any other neutral testimony? Seeing none, we had seven letters for the record: six in support and one in opposition. And that will close the hearing on LB8 and today's hearings.