

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

BOSN: Good afternoon, everyone. Welcome to your Judiciary Committee. I am Senator Carolyn Bosn from Lincoln, which is District 25, southeast Lincoln and Lancaster County. I serve as the chair of this committee. The committee will take up bills, will likely take up bills in the order posted, sometimes we have to be a little flexible. This is a public hearing and it's your opportunity to be part of the legislative process and express your position on the proposed legislation before us. If you are planning to testify today, please fill out one of the green testifier sheets that are on the table at the back of the room. Be sure to print clearly and fill it out completely. When it is your turn to come forward to testify, give the testifier sheet to the page or to the committee clerk. If you do not wish to testify but would like to indicate your position on a bill, there are also yellow sign-in sheets on the back table for each bill. These sheets will be included as an exhibit in the official hearing record. When you come up to testify, please speak clearly into the microphone telling us your name and spelling your first and last name to ensure that we get an accurate record. We will begin each hearing today with the introducer's opening statement, followed by proponents of the bill, then opponents, and finally by anyone wishing to speak in the neutral capacity. We will finish with the closing statement by the introducer if they wish to give one. We will be using a 3-minute light system for all testifiers. When you begin your testimony, the light on the table will be green. When the light comes yellow, you will have 1 minute remaining. And when the light turns red, it indicates you need to wrap up your final thought and stop. Questions from the committee may follow. Also, committee members may come and go during the hearing, which has nothing to do with the importance of the bills being heard. It is just part of the process as senators may have bills to introduce in other committees. A few final items. If you have handouts or copies of your testimony, please bring up at least 12 copies and give them to the page. Please silence or turn off your cell phones. Verbal outbursts or applause are not permitted in the hearing room, and such behavior may be cause for you to be asked to leave the hearing. Finally, committee procedures for all committees state that written position comments on a bill must be included-- in order to be included in the record must be submitted by 8 a.m. the day of the hearing. The only acceptable method of submission is via the Legislature's website at nebraskalegislature.gov. Written position letters will be included in the official hearing record, but only those testifying in person before the committee will be included on the committee statement. Also, you may submit a position comment for the record or testify in

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person, but not both. I will now have the committee members with us today introduce themselves, starting with my far left.

STORM: Good afternoon, I'm Jared Storm, District 23, which is all of Saunders, all of Colfax, and most of Butler County.

STORER: Good afternoon. Tanya Storer, District 43: Dawes, Sheridan, Cherry, Rock, Brown, Keya Paha, Boyd, Garfield, Loup, and Custer and Blaine.

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

DeBOER: Good afternoon, everyone, my name is Wendy DeBoer. I represent District 10 in beautiful northwest Omaha.

McKINNEY: Good afternoon, I am Terrell McKinney. I represent District 11 in north Omaha.

ROUNTREE: Good afternoon, I'm Victor Rountree and I represent District 3 in Bellevue and Papillion.

BOSN: Thank you. Also assisting the committee today to our left-- to my left, excuse me, is the legal counsel, Denny Vaggalis. And to my far right is our committee clerk, Laurie Vollertsen. Our pages for the committee today are Ellie Locke, Alberto Donis, and Ayden Topping. All are UNL students. Also, just in anticipation so that we can kind of keep other bill introducers notified, can I see a show of hands, how many individuals are anticipating testifying on our first bill, which is LB235? I see 10 hands. OK. So approximately 10 introducers [SIC]. And with that, Senator Conrad, you are welcome to open.

CONRAD: Thank you so much. Thank you, Chair Bosn. Thank you, members of the committee. My name is Danielle Conrad, D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. I represent Legislative District 46 in north Lincoln. I'm here today to introduce LB235. LB235 amends the Uniform Residential Landlord and Tenant Act and relates to a trial for possession indicating it shall be held not less than 10 days, but not more than 14 days after the issuance of a summons unless a judge should find that additional time is granted pursuant to a court order. This measure harmonizes Nebraska Revised Statute 76-1446 with 76-1443 and relates to LB320, which was passed by this Legislature in 2021. So just to paint a picture for the committee, I understand that courts are already utilizing this discretion in some instances. And so this measure is meant to bring uniformity to that current process. Providing a bit of extra time can also address practical considerations such as scheduling matters that may arise amongst the

parties or other extraordinary circumstances if a judge indeed finds good cause for allowing such. This is very similar to a measure I brought last biennium, LB545 in 2023, yet it differs in some key regards. And where it differs was in regard to the really good feedback that the property owners and landlords presented in regards to the measure I brought forward then, specifically where they indicated they may need to move more quickly if there was a situation where there were true, true threats present impacting other residents, impacting the landlord or the landlords' agents. And so as you know from this process, it's very clarifying and very illuminating to have all parties present different ideas. And that helps us to get a better proposal before the committee. And that's exactly why I incorporated this feedback this year. So not to bore you to tears, but the uniform law that governs our landlord-tenant relations was adopted in 1974. It has had over 100 modifications at that time and many modifications since. In general, at its essence, the Uniform Residential Landlord and Tenant Act was meant to provide a clear and expedited process within civil practice to help all parties address any conflicts that may have come up in regards the landlord-tenant relationship or terms of the lease. So the other thing that I wanted just to make sure to be clear is that evictions can happen for a lot of different reasons. We most frequently think about them in regards to nonpayment of rent or perhaps breaking terms of the lease. And most times the parties are able to sort that out on their own rather amicably. If they find a lease violation or a nonpayment, the parties say, OK, we're going to separate from this agreement and, and go our separate ways. In some rare instances, they're not able to find that kind of agreement. And so they do have to avail themselves to a court process, perhaps, because perhaps one party is uncooperative or perhaps there are real issues at play as to whether or not the terms of the lease were broken or other matters that may be an actual valid defense to eviction. And so that's just something that I, I wanted to lift up as well. And then I'm happy to answer any questions for the committee and I will probably waive my closing just because I know you had a really, really long night last night and you've got a full agenda today and for the rest of the week. So much respect to Judiciary Committee enthusiasts for their good work on so many important issues. But I, I, I did just want to maybe set the table a little bit because I've had the chance to be a part of and observe a lot of what we call colloquially landlord-tenant days in the Judiciary Committee, and they can be pretty fraught and they can be pretty highly charged and pretty emotional. And you wouldn't think maybe at first blush that that would be the case for all the different controversial and complex issues you have before this committee. But I, I, I have noticed that trend. And I

think it's because we have, you know, all stakeholders that are really passionate about housing issues. And I think that's where a lot of the emotion comes from. And I think it's important that we not paint with too broad of brush here. There are so many really fantastic landlords and property owners in my community and all across Nebraska that have a right to utilize their private property to make a profit. And that provide a critical, critical component to a good quality of life, and that's access to safe and affordable housing. And we have a lot of residents who decide not to become homeowners for a bunch of different reasons, sometimes budgetary, sometimes lifestyle related. And in many, many instances, these relationships are mutually beneficial. But, of course, there are some instances where good relations and good judgment sometimes breaks down. And that's why we have court processes in place to help us to resolve those differences when they do arise. And I, I think it's really important to remember as well that when somebody breaks a lease or somebody is not paying their rent, landlords have a right to protect their property interest and their business interest. And in instances when the landlord is not keeping up their end of the bargain, tenants may have a legitimate issue to bring forward and need to have a venue in order to do that. But we also are thoughtful about judicial efficiency and, and clogging up the courts and all of those kinds of pieces. So the last piece I will leave in regards to kind of setting the table on the big picture is maybe asking the committee and all stakeholders to maybe take-- maybe zoom out for a minute before we get into the technical aspects of the measures that are before us. But I think everybody in Nebraska can agree that we have real needs when it comes to housing. It impacts our workforce. It impacts our quality of life. It is not an issue that is unique to urban Nebraska. It is present in rural Nebraska as well. And we know that some of the pressures that are inhibiting our ability to ensure good access to quality housing, whether that's homeowners or rental, comes with high property taxes, comes with inflation, comes with low wages, comes without a strong and viable safety net when folks temporarily fall on hard times or are experiencing long-term disabilities or illnesses. So there's a lot of much, much larger societal issues at play that come into bear on the bills that you're going to hear today in relation to the landlord-tenant relationship and how that works out in court processes. And I do think even if we're not able to find a lot of agreement on changes to civil practice on some of these measures, I do think there is a lot of common ground between each of us in this Legislature and our stakeholders that are here today to figure out how to get real property tax relief, to help out our property owners or when they pass that on to the, to the tenants as well to figure out how to get good quality jobs so that

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Judiciary Committee January 30, 2025

families aren't struggling to pay the rent. And then finally, I just think it's, it's really, really important to note that I frequently have been asked to bring forward issues like this as an attorney on civil practice matters. So that is one lens that I'm bringing it forward. And it's also just very important to my district. When you look at the districts as a glance and, of course, you don't need to look at the book from legislative research to know your own district, but it does provide a lot of illuminating statistics. My district usually is tied or we go back and forth, one and two, in terms of Senator McKinney's district for having the highest percentage of renters in the state. And I have a high student population in my, in my area in north Lincoln and there are some other factors that go into that. But I know that these issues are important to my constituents as well, and I bring them forward in good faith. So I'm happy to answer questions and I put a lot on the table, but I'll leave it there.

BOSN: Well done. Any questions from the committee? I just have a-- can I ask

CONRAD: Yes.

BOSN: --just a clarification?

CONRAD: Yes, please.

BOSN: If I'm understanding this, it is-- and I'm not trying to over simply,--

CONRAD: No, please.

BOSN: --but sometimes that's helpful. It allows the court to grant more time but doesn't require them to.

CONRAD: Yes, that's my intent, Senator.

BOSN: And it basically says instead of not more than 10 days, it's not less than 10 days,--

CONRAD: That's right.

BOSN: --but it could still be the 10th day.

CONRAD: That's right.

BOSN: OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

CONRAD: Yes. And just for your reference, Senator, if you look at also 76-1443, that also provides a specific provision for when and how a court can grant a continuance when they do find good cause. And so this would harmonize with that existing provision. That is the intent.

BOSN: Thank you.

CONRAD: Yes.

BOSN: Any questions? Thank you for being here.

CONRAD: Thank you.

BOSN: First proponent. Good afternoon.

SCOTT MERTZ: Good afternoon. Thank you. My name is Scott Mertz, that's S-c-o-t-t M-e-r-t-z. I'm director of Legal Aid of Nebraska's Housing Justice Project, and with over 15 years' experience representing low-income tenants here in Nebraska. And I thank you for the opportunity to appear before the committee today in support of LB235. Wish to thank Senator Conrad, specifically, for introducing the bill and for inviting-- excuse me-- Legal Aid of Nebraska to testify. I want to talk-- just jump to some parts of my written remarks here relating to just on-the-ground experience. You know, at Legal Aid of Nebraska, we are actually representing tenants every single day all across the state of Nebraska, people who are actually impacted by these landlord-tenant laws. And Senator Conrad made reference to some of the impact that this could have. We had an example where there's a single mother. She was late to her hearing. It was scheduled for 9 a.m., she showed up at 9:25 a.m. This was a woman who had a developmentally disabled child who was experiencing a meltdown. So she was still going to court and still made it to court, but just late. The eviction order was entered in her absence and that writ of restitution had already been issued by the court. By the law as written currently, that woman could have been evicted later that day, literally removed from her home. Because of our intervention, we were able to stop, at least delay that process. But if LB235 had been in place, there would have been more time-- excuse me-- for that family to at least make some arrangements for, for her son before the actual displacement from the house without the intervention of legal counsel. Also, Senator Conrad made reference to when we talk about evictions, a lot of time the thought goes right to nonpayment of rent. These are people who have not paid their rent, adding more time to the process, more time before the writ can be executed on a house. These are people who are getting free time in the house. This is not always the case

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Judiciary Committee January 30, 2025

and we do not have tiered levels of justice or any discrepancies or discretion for how these tenants are treated. We recently had a call from an individual in her mid-sixties. She lived in rural Nebraska. She had been at the same house-- thank you very much-- for over 30 years. She called us because she had been summoned to court to leave that home of over 30 years, not because she was behind on rent or anything that was done by her, but because the house had been sold after probate. There have been new owners. New owners didn't want to rent anymore. They wanted to get in, renovate, just not have her there anymore. This is a woman who had 30 years of belongings in her home, notwithstanding the fact that she had done nothing wrong. There was still an order entered against her and that writ of restitution still went out that very same day so that she could be removed from her property. She, by law, only had the hours between court and when law enforcement could come down and change the locks on her house in order to, effectually, move her life, her belongings out of that, out of that home. Again, this is a commonsense change to think that this is not anything that is impeding the actual eviction process from going forward itself. There would still be evictions. There would still be orders of restitution. It's simply affording people a little more time. It's a modest, yet crucial procedural protection that will help reduce homelessness and prevent abrupt displacement. I thank you for the opportunity to speak, and I'm happy to answer any questions.

BOSN: Thank you. Any questions from the committee? Senator Hallstrom.

HALLSTROM: Can you provide some more clarity on the, on the timeline? You said she only had hours. Does a writ of restitution normally give some period of time before the sheriff goes out?

SCOTT MERTZ: So this gets right to the heart of the bill. As is, the law states that the writ will be executed-- want to have it exactly right-- not more than 10 days after issuance. So by the law as is, there is nothing stopping the writ going out from that county court clerk's office to a sheriff. And the sheriff can actually effectuate that change of lock, the removal of the person that same day. This is sometimes threatened by legal counsel that if we want to contest or have a trial, that's fine. If we lose, they're going to make sure the sheriff comes out and changes the locks that day unless we want to come to the table and make an agreement to move out, say, 3 or 4 days from there.

HALLSTROM: And you, and you find that to happen routinely?

SCOTT MERTZ: That happens quite often. I mean, in Douglas County, where most of the evictions for us that are happening, you've got dozens of writs going out the courthouse every single day. And, and so law enforcement is really on a continuum just ensuring that they are servicing or serving these risks just as soon as they, they get them. Certain courts and law enforcement agencies across the state do exercise discretion. Senator Conrad referenced that. But there's just nothing in the law that mandates that, that would really just be up to the goodwill--

HALLSTROM: I think in rural Nebraska, I think--

SCOTT MERTZ: Yeah.

HALLSTROM: --we go at a slower pace with regard to the law enforcement.

SCOTT MERTZ: Right.

HALLSTROM: Thank you.

BOSN: Any other questions? Thank-- oh, Senator Rountree.

ROUNTREE: Thank you, Madam Chair. Yes, for the young lady that had the special needs child and that situation 25 minutes late to court when they were executing, what, what was the outcome of that? I probably heard you but I'm not going to make that [INAUDIBLE].

SCOTT MERTZ: Oh, yes, I might have gone through [INAUDIBLE]. I needed the water to help me out. But because we intervened after the order had been signed and the writ had been issued, our attorneys were able to get the writ recalled--

ROUNTREE: OK.

SCOTT MERTZ: --so that that which had been issued by the court was then returned to the court and not out for the sheriff to enforce.

ROUNTREE: But if you weren't able to get it recalled, she could have been evicted on the same day.

SCOTT MERTZ: Yes, she was, as a matter of law, evicted. It was simply a matter of the execution of the writ that had not happened yet, and that we just prevented that from going forward that same day.

ROUNTREE: OK. Thank you.

BOSN: Thank you for being here.

SCOTT MERTZ: Thank you.

BOSN: Next proponent. Good afternoon.

RACHEL TOMLINSON DICK: Good afternoon. My name is Rachel Tomlinson Dick, R-a-c-h-e-l T-o-m-l-i-n-s-o-n D-i-c-k. I'm a licensed attorney and serve as the director of the Housing Justice Clinic at the University of Nebraska College of Law. I'm testifying today in support of LB235 in my personal capacity as a legal practitioner with expertise in landlord-tenant law, and experiencing represented-- and experience representing tenants facing eviction. So the change that LB235 would effectuate would ensure that in most cases there are a minimum of 10 days between the entry of an eviction judgment and the family being removed from their home. I think this is important for several reasons. First, it will mean that tenants who wish to challenge a wrongful eviction judgment can meaningfully access the rights that they already have in theory under state law. Second, it will allow vulnerable tenants some amount of predictability during an incredibly difficult time. And, third, it will allow tenants the chance to secure replacement housing and safely remove their personal property before the eviction actually occurs and they're removed from the home. Tenants who have had an eviction judgment entered against them do technically have a right to file a motion to alter or amend the judgment within 10 days of the entry of judgment or to appeal the judgment as in other civil actions. Exercising these rights and obtaining truly meaningful relief is profoundly difficult for tenants when they can be and often are removed from their home the same day that the judgment is entered against them. This is particularly true in light of recent Nebraska Supreme Court decisions that held an appeal from an eviction action is moot and subject to dismissal if the tenant vacates or is removed from the rental property. Under current Nebraska law, which only places a cap on the amount of time a tenant may have before an eviction is carried out, tenants lack much-needed predictability. Tenants with an eviction judgment entered regularly reach out to ask how much time before I'm kicked out and tenants experience understandable distress when there is not a clear answer to that question. This change would mean that families in incredibly challenging situations could at least have some clarity about their time frame instead of trying to assess and gather their most important belongings knowing that the sheriff or constable could arrive at any moment to remove them. Relocating your entire life on short notice is extremely difficult. However, the current state of the housing market makes it even more challenging. At last measure in 2022, half of all

renter households were cost burdened that meaning they spent more than 30% of their income on housing. Furthermore, Nebraska's in a midst of a severe housing shortage, which is well-documented. Low-income Nebraskans have been hit the hardest, with only 38 available units for every 100 households within that income bracket. This means that securing replacement housing simply takes more time than it once did. So allowing tenants a little bit more time following a judgment to move benefits tenants, but it also means that landlords are returned their rental properties without as many personal property items and in better condition, which saves them money and what it would cost to remove and store the personal property and also allows them to turn around and re-rent the units more quickly. It would also help prevent some of the broader societal costs associated with homelessness, which evictions have been demonstrated to cause. I would be happy to answer any questions the committee has at this time. Thank you for your time.

BOSN: Thank you. Any questions of this testifier? Senator Hallstrom.

HALLSTROM: Do you have any data on how frequently landlords seek damages? You have your writ of restitution to recover possession, any data on how frequently landlords seek recovery of unpaid rent or other damages?

RACHEL TOMLINSON DICK: I don't have any data specifically on that and it is a bit difficult to track because often those are pled and then sought in the same, the same legal action as the eviction, but just tried separately at a later date. But in a lot of situations, landlords will then just send the tenants a bill and then if it's not paid within that period, then send it directly to collections. So there's not really a great way to measure it holistically.

HALLSTROM: From my experience, there would be a lot of times the landlords don't see recovery of that because they may not have a good likelihood of recovery, which I think is why as we're looking at this we need to balance the need of the landlords to get in quickly versus the interest that you're promoting.

RACHEL TOMLINSON DICK: I think there are definitely competing interests at play and, and finding a good balance of those interests is important. You know, I think where we have it now is, is very harmful to tenants and operating in great favor of landlords. And I, I think it would be reasonable for the needle to move a little bit. A lot of other states allow 10 days or more for between the issuance of judgment and when the writ can be executed and landlords are still profitable and able to operate in those jurisdictions as well. So I

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Judiciary Committee January 30, 2025

think there is, there is evidence that this is a reasonable and workable solution for, for all parties involved.

HALLSTROM: Thank you.

RACHEL TOMLINSON DICK: Thank you.

BOSN: As a follow up to that, can you tell me what most states, what the average number of days is if you know?

RACHEL TOMLINSON DICK: So it varies quite a bit. I don't have the numbers in front of me right at this moment of, of each state. I believe there are about 15 states total that, including Nebraska, that have a, you know, zero as the, the minimum time frame. And then, you know, all other states allow somewhere between 1 and up to 14 days mandated between when judgment is entered and the, the writ can be, can be executed. I believe somewhere between 15 and 17 states do require at least, at least 7 days.

BOSN: Thank you. That's helpful. Any other questions in light of that? Thank you for being here.

RACHEL TOMLINSON DICK: Thank you.

BOSN: Next proponent. Good afternoon.

CLARICE DOMBECK: Good afternoon, Chair Bosn and members of the committee. My name is Clarice Dombeck, and I'm the senior campaign organizer for the Redress Movement. My testimony is going to be very short. What I have to offer today is that the Redress Movement supports this bill because it would offer minimal protection to renters facing displacement and help prevent homelessness.

BOSN: Before you get started, can I have you spell your first and last name for our record?

CLARICE DOMBECK: Sorry, I forgot.

BOSN: That's OK.

CLARICE DOMBECK: C-l-a-r-i-c-e D-o-m-b-e-c-k

BOSN: Thank you.

CLARICE DOMBECK: And that was all that I had. I can repeat it if you'd like.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

BOSN: Any questions for that testifier? All right. Next proponent.
Good afternoon.

SUMMER LEWIS: Good afternoon. My name is Summer Lewis, and that's S-u-m-m-e-r L-e-w-i-s, and I'm a housing crisis engagement specialist with Together Omaha serving our community at the Housing Stability Clinic on Leavenworth Street. My perspective on housing issues is informed by both professional experience and lived experience. I enjoyed a career with Seldin Company and affordable housing property management operations for 5 years, and I have also personally experienced homelessness for 4 months following an eviction. I'm here today to express my strong support for LB235, which proposes modifications to trial procedures for actions of possession, specifically addressing the timeline of the eviction process. This bill offers much-needed clarity. Eviction is a difficult situation for everyone involved. For landlords, it represents financial loss, including rent debt, vacancy, turnover costs, and staff time. Unclear timelines for regaining possession and beginning the property disposal process, complicate planning for new tenants impacting leasing and vendor scheduling. For tenants, eviction is a crisis, especially for those lacking resources. The current lack of clarity and seemingly arbitrary time limits exac-- exac-- excuse me, the confusion and panic. Tenants may simply need a short time to catch up on rent or to arrange their move and clean, storage, and alternative housing. Often rushed evictions force tenants into suboptimal housing situations with unexpected costs and fees. Eviction is a traumatic event with significant consequences. It can lead to anxiety, depression, and other long-term psychological issues, as well as physical health problems, food insecurity, and academic challenges for children. Clarifying the eviction process and timeline as LB235 proposes, allows both landlords and families to plan more effectively. Landlords can better prepare their properties, and families facing eviction have a more realistic timeframe to explore options and mitigate the disruption. This clarity reduces unnecessary pressure and benefits all parties. Therefore, I urge the committee to support LB235 and vote to advance this important legislation. Thank you for your time and I'm open to any questions you might have.

BOSN: Thank you very much for sharing your story. Are there any questions from the committee? Seeing none, thank you very much for being here.

SUMMER LEWIS: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

BOSN: Next proponent. Then we'll move onto opponents. Are there anyone wishing to testify in opposition to this bill?

LYNN FISHER: Good afternoon.

BOSN: Good afternoon.

LYNN FISHER: My name is Lynn Fisher, L-y-n-n F-i-s-h-e-r, and I represent the Statewide Property Owners Association, which is a coalition of housing provider associations from Lincoln, Omaha, and Gage County. And we represent those folks that provide affordable housing as well as all the providers across the state. Before I read my prepared statement, I just have to refute strongly a couple of statements that have been made by the proponents. There's no such thing as a surprise eviction or a short notice type of an eviction. The process involves many steps and a lot of time, and tenants are absolutely fully aware of the consequences. And the time has been, in some cases, months, if not certainly weeks before the point of an issuance of a writ of restitution. And so it's, it's just a, a silly concept. In Lincoln, I can only speak for the court in Lincoln, and I know the, the service processors, the constables here in town. It's never happened that I can-- know based on what I've been told by the constables for a, a writ of restitution to be issued and, and executed on the same day. It just doesn't happen. It's impossible. They have a process. They have to be sent the writ by the court. They have to go out and post notice on the door. They have to make an affidavit out that they did those things and then they have to make arrangements for the property owner to change the locks. We have to make an appointment for that and they have to be available. Several days at the very least. If there was some kind of an urgent matter that the, the judge would allow us to have a quicker process, it might be 3 or 4 days, but generally it's the beginning of the next week after a weekend has transpired, because oftentimes the, the tenant will ask for and we will agree to at least the weekend for them to make arrangements for them to move their things out. So I know that takes up most of my, my time here, but it's just-- the reason that we have the laws that we currently have is to expedite the process. And it's certainly not the case that tenants are surprised. It just, just doesn't happen. I'll let my, my other folks in my organization speak to some more of the details. But happy, happy, happy to answer any questions, if you have any, because I've been through court many, many times.

BOSN: Any questions? Senator DeBoer.

DeBOER: Thank you. Thanks for being here. Good to see you again.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

LYNN FISHER: Yeah, good to see you.

DeBOER: So am I understanding you right that you're saying it typically takes 3 or 4 days.

LYNN FISHER: Minimum.

DeBOER: Minimum.

LYNN FISHER: Oftentimes, it's the next week.

DeBOER: So if this bill said the execution of the writ shall be 3 days after-- no, no sooner than 3 days after.

LYNN FISHER: Well, from a practical standpoint that wouldn't change what happens now.

DeBOER: So you all would be OK with that, you think? I mean, would you personally as a landlord?

LYNN FISHER: I-- my-- I would personally, I can't speak for the groups unless we had a discussion about it.

DeBOER: Yeah. Yeah. Yeah.

LYNN FISHER: Yeah.

DeBOER: OK. Well, that's interesting information to know. So it's the, it's the 10 days that's too much. Somewhere between 3 days and 10 days might be the sweet spot?

LYNN FISHER: Well, to, specifically, about waiting 3 days, it already happens. I wouldn't object to that. But certainly it should happen within 10 days, as currently the law says.

DeBOER: OK. Thank you.

BOSN: Can I just follow up on that? Oh, I'm sorry. I didn't see your hand. Go ahead, Senator Rountree.

ROUNTREE: Thank you, ma'am. So I just want to come back to the one point that our previous testifier testified to.

LYNN FISHER: Sure.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

ROUNTREE: So for the young lady that got to court at 9:20 and that writ was going out, so there is no way that she could have been evicted that day. Is that what you're saying?

LYNN FISHER: If, if it was in Lincoln, I would agree with that, that it wouldn't happen the same day for sure.

ROUNTREE: OK.

BOSN: So I want to make sure we're not conflating the term here. So the writ is executed by the judge.

LYNN FISHER: It's issued by the judge--

BOSN: OK, not executed. I'm sorry.

LYNN FISHER: --and executed by the constable--

BOSN: OK. So--

LYNN FISHER: --in Lincoln.

BOSN: It is issued by the judge, let's just say for my example here on a Monday, OK, issued on a Monday, and the judge passes that on, gets to the sheriff's desk. It's been issued. Does your 10-day clock start that day under current law?

LYNN FISHER: I think it starts from the day it's, it's issued. Yes.

LYNN FISHER: OK. So what you're saying is, at least in Lincoln, they are never being--

DeBOER: Executed.

BOSN: --executed with notice on the door, all the things that you listed on Monday?

LYNN FISHER: Right. It, it, it--

BOSN: Not even on Tuesday?

LYNN FISHER: --couldn't happen based on the rules of the court--

BOSN: OK.

LYNN FISHER: --to the constable.

BOSN: And what is the rule to the court?

LYNN FISHER: That they have to go out and post-- first of all, they wouldn't get it till the next day. They, they-- you know, those, those are sent out by-- I'm not sure-- we just had a meeting with the constable and he explained the process, and so they get it usually within a day or two. It's not the same day. Then they have to go out, they have to post notice on the door and they have to send back to the court an affidavit that they did that. Then they have to make arrangements with us as the owner to get the lock changed, get a locksmith or be prepared to do it ourselves. So then we would make an appointment within a day or two at the most. It could happen by the end of that week. The court-- eviction court is usually on Tuesday, Wednesday or Thursday, and so the practical matter is it's usually the weekend after the writ is issued before it's executed.

BOSN: OK.

LYNN FISHER: And it could be, it could be the Tuesday or Wednesday of the next week. But usually not on Monday, because most people are just getting their week put together from Monday. So from a practical, practical standpoint, it's, it's several days.

BOSN: Thank you. Any additional questions? Senator Rountree.

ROUNTREE: And this would be my last one.

BOSN: OK.

ROUNTREE: So, so when that notice is posted on the door, does it say to evacuate or vacate immediately or does it give a time frame?

LYNN FISHER: It gives a time frame.

ROUNTREE: And what, what is that normal time frame so that if it's on my door, what is the timeframe that I'm aware of?

LYNN FISHER: Well, I think the constable gives them at least 2 or 3 days because, again, they have to contact us and they don't-- they can't make it happen that quickly. So unless the judge agrees to some expedited process, which is very, very rare, I'm not-- I've never experienced one. It's, it's usually 2, 3, 4 days.

ROUNTREE: OK. Thank you.

BOSN: Thank you for being here.

LYNN FISHER: Sure. Thank you very much.

BOSN: Next opponent.

NATHAN HAUGEN: Nathan Haugen, N-a-t-h-a-n H-a-u-g-e-n, and I'll be testifying today on behalf of the Metropolitan Omaha Property Owners Association or MOPOA. And I'd like to start by introducing MOPOA and our association to help frame my testimony today. As president of MOPOA, I'm testifying on behalf of our hundreds of members representing thousands of units. At MOPOA, we are in the people business. Without people, there would be no one to rent our homes. Our members operate various types of properties, but my testimony will be focused on majority of our members who own small multifamily and single-family rentals. MOPOA opposes LB235. By the time we start our eviction process, the relationship with our tenant has likely soured. Oftentimes, the rent has not been paid or the house is not in the same condition with which I rented it. Many times, both are true. Likely the tenant will not continue to pay rent throughout the eviction process. Meanwhile, I'm wondering what all will need to be fixed inside the house when I can't get inside to see the condition. And that's a huge question mark. What will it cost? Labor, materials, time. All that costs money to cover the mortgage costs while I'm fixing up the property. Eviction is something we never desire as property owners. It's only out of necessity. Evictions are not a surprise to the tenant. A tenant has time to move-- start the move-out process. And one thing with some of the comments, again, I'll echo Mr. Fisher's comment that some of the stories that were left out on the day of eviction is that there's a long time that comes up prior to the actual date of eviction. You heard from some folks testifying that it was all about the day of eviction. There's many days, weeks, and months that lead up to that where intervention could have been very much possible. In my experience, when a tenant is paying the rent, a normal move out, they only take a couple of days typically because they understand that time is money and they don't want to pay for the utilities, the rent, and the mowing the lawn at two properties. They make it happen fast. So I don't understand the time of the moving timeline of a lot of these and please reject LB235. Thank you for your time, Madam Chairwoman and the Judiciary Committee. Do you have any questions?

BOSN: Thank you. Any questions for this testifier? I don't see any. Thank you very much for being here.

NATHAN HAUGEN: Thank you.

BOSN: Next opponent. Good afternoon.

TARA HOLTERHAUS: Good afternoon. Tara Holterhaus, T-a-r-a H-o-l-t-e-r-h-a-u-s. I'm a partner at the law firm Spencer Fein, and I'm here on behalf of the Apartment Association of Nebraska, the Nebraska Association of Commercial Property Owners, and as a practitioner representing the multifamily housing industry every day. Together, these groups have over 95 owners and management companies, over 436 apartment communities in our state, and more than 67,000 apartment units. This bill would not only affect the property owners' delay in receiving their property back, but the cost of, of that delay is significant. And when we think about that cost, the median rent in this state costs approximately \$42 per day, with over 10,000 eviction cases filed in the year in this state. So calculating that cost, every day there's a delay in receiving that property back to the property owner, that is costing property owners and landlords \$400,000 per day. So a timeline of a 10-day delay in receiving that property back is very significant to the property owner. And just to echo some of the prior thoughts, there's no surprise eviction. By the time we get to the hearing on eviction, there is several steps in the process. The notice has been issued, that notice has expired. There's oftentimes at least a few days in delay by the time that eviction is filed with the court. Then we have the 10- to 14-day window of the hearing. And then once we get to the hearing, if a tenant appears at court, the reality is that landlords and property managers are already working with tenants to provide additional times to vacate the unit. And I routinely-- and I think this is where some of the testimony can be a little different, because depending on the county that we're appearing in the process for executing the writ of restitution varies significantly. And so I routinely appear in Douglas County, Sarpy County, Dodge, Washington, Cass, Dakota, and in Iowa. And so I do have that unique perspective of offering what our surrounding states are kind of doing in this process. And it's-- there's no delay on that issuance of the writ. And to clarify on the writ, you know, procedure, the 10-day window starts at the time the plaintiff requests the writ after the hearing. So if the plaintiff requests the writ immediately, that 10-day window will start immediately. However, if the plaintiff does not request the writ for 3 to 4 days, then that 10-day window to execute the writ does not start until the 3 to 4 days later. And so when we talk about that, landlords are already providing additional time if a tenant is coming to court requesting it. It is really in the rare circumstance that there is, you know, other issues, violence, property damage. And I see I'm out of time. I'm happy to answer other

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

questions. But the cost here, I think, is very significant to landlords if they're required to wait that additional time.

BOSN: Thank you. Any questions for this testifier? Senator Hallstrom.

HALLSTROM: I'm reading the statute. You said it's from the time of the request. An order for restitution is entered, the court declares forfeiture of the rental agreement, and at the request of the plaintiff issues the writ of restitution, which is to be served 10 days from the issuance rather than [INAUDIBLE].

TARA HOLTERHAUS: That's right. And it must be executed within 10 days of the issuance, and it's not issued until it's requested by the landlord.

HALLSTROM: Right, but maybe I misunderstood. I can't request-- I can't start the time clock simply by making the request, the writ still has to be issued.

TARA HOLTERHAUS: That's correct.

HALLSTROM: OK. Thank you. And we focused on the, on the last part of that. With regard to the trial, 10 to 14 days, it currently says, unless additional time is granted pursuant to the court order. Would you see that as requiring the parties to go back into court again pursuant to a request for an order--

TARA HOLTERHAUS: Yes.

HALLSTROM: --or would that just be discretionary in that?

TARA HOLTERHAUS: Well, I want to make sure I understand your question. As it currently stands with the law currently, a judge can with-- upon good cause shall continue original trial date on a 10- to 14-day hearing. So that 10- to 14-day window is when the initial hearing must be set. And if a-- if there's a request for a continuance and the judge finds that there is good cause, they can continue it already at their discretion,--

HALLSTROM: And that's where I was--

TARA HOLTERHAUS: --and it frequently is.

HALLSTROM: Yeah, that's where I was heading but that's already the law.

TARA HOLTERHAUS: Yes, that is already the law. There, there is a requirement that the judge find that there be good cause. But I will say in the counties that I practice, especially Sarpy County, the judges are frequently going to make a continuance for at least 1 week if there's a request by a tenant. And it, it really is judge dependent and county dependent. But if there's a valid request for a continuance, then it's routinely granted.

HALLSTROM: And do you have an opinion then as to how adding the language, unless additional time is granted pursuant to the court order, how would that work differently from requesting a continuance-- granting a continuance for good cause shall?

TARA HOLTERHAUS: I don't think that that amendment to the language necessarily does anything that the law isn't already doing. The, the request for a continuance would be a court-ordered, you know, continuance. So it's, it's similar to what is already happening with the law.

HALLSTROM: OK. Thank you.

BOSN: Thank you. Any other questions? Thank you for being here. Next opponent.

RYAN NORMAN: Good afternoon, members of the Judiciary Committee. My name is Ryan Norman, and it's R-y-a-n N-o-r-m-a-n. I testified on landlord-tenant day last year and misspelled my name. So I'm already doing better than last year. I'm an attorney. I represent rental property owners and managers in Lincoln. I'm also the head of the legislative committee for the Apartment Association of Nebraska. I'm not going to give you all their stats because Tara just did that. I wasn't going to-- I wasn't actually intending to, to testify on this bill, but I'm doing so because I have a really good grasp of the timeline in Lincoln. I basically did about, and, and I always cringe when I tell people this because usually I get big eyeballs, but I did about 600 eviction cases last year in Lancaster County and I only did them in Lancaster County. So I can speak about the process here. I, I also just passed out a story for you and I wanted to, to give you this because I think it gives a good overview of all of the issues that we're facing today. And I think we forget about this when we're looking at these issues because we do hear a lot of really hard stories of tenants that are going through bad things. And we don't often hear stories of tenants that have great experiences with Nebraska landlords in here. And this was a, a study done by Forbes. They released an article on it. It was updated here just a couple of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

weeks ago. And it, it, it looked at the, the-- it, it looked at 21 key metrics and ranked the top 90 or 95 most popular-- populous cities in the United States on how friendly they are to tenants. Number one on that list was Lincoln. Number two on that list was Omaha. And I think that really speaks to how well landlords are doing in this state. And I think we need to remember that. Lincoln, I believe, was-- had the-- let's see, Omaha had the 15th lowest median rent prices in the country, Lincoln had the 5th lowest. And you have to remember, all of this is on the back of the fact that in Nebraska we have the 8th highest property tax rate and the 3rd highest insurance rates in the country. So remember, as we do this, how well landlords are doing in providing affordable housing in our state. On this bill, I can tell you in Lincoln, the way this works, and I'm going to try to be quick because I see my yellow light is on. Vast majority of cases are nonpayment cases. You have to give a 7-day notice on those, hearing then get scheduled, and usually you miss rent, you have a certain amount of time you talk to the landlord. It's usually 5, 6 days before they give a 7-day notice. Then there's a 7-day notice for nonpayment of rent that says vacate or pay. If you don't vacate or pay, then a hearing gets set, it's 10 to 14 days by law. So the, the quickest that most of these get to court is 28 days. That's the absolute fastest. Usually it's far longer than that. Most landlords don't-- I mean, I shouldn't say most, a lot of landlords don't file an eviction when you only miss one rent payment. So some of these cases don't get there for, for many, many days after somebody misses a rent payment. OK? After-- we're only talking about-- sorry, I know my light's on, I'll going to be real quick. We're only talking about cases here where an eviction is actually ordered. OK? At that point, what happens is judge says here you can get a writ. I have to go back to my office and file a, a writ of restitution with the court. The constable doesn't get that until the end of the day that the hearing was. So hearing that people are evicted the same day as a hearing, that can't happen in Lincoln, there's no way to do it. It's literally impossible. I can tell you that the apartment association would have no problem with this if it was 3 days. Fine, because they don't get served within 3 days now. I have a big problem with there not being a top level on this. Like, right now it's 10 days because if it's more than that, if a judge feels like a tenant should get 60 days, they can do that. And we have a problem with that, obviously, because the point of this is to make the process quick. OK? Any questions about any of that?

BOSN: Any questions? Thank you for being here.

RYAN NORMAN: Thank you, all. Appreciate it.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

BOSN: Next opponent.

KRISTY LAMB: Good afternoon, thank you for your time. My name is Kristy Lamb, K-r-i-s-t-y, Lamb, L-a-m-b. I am here representing NP Dodge Management Company. We-- and I'm also a member of the Institute of Real Estate Management, as well as a board of the, the local apartment association. NP Dodge represents approximately 4,500 apartment communities between Lincoln, Omaha, and Iowa as well. I am here today and in opposition of LB235. I'm going to pivot on my testimony a little bit just in light of, of prior testimony. I would-- I am in agreement with a couple of my colleagues and where that 3-day window, it wouldn't necessarily affect any of our current operations. In the 25 years that I've been acting as a landlord in some capacity, I've never seen a writ of restitution being able to be executed on the same day. I would probably say the soonest I've ever seen it, even in situations where we had rare circumstances where an individual was potentially creating imminent harm to others and/or property, the soonest we were able to get a writ filed was, was 3 business days and that's actual [INAUDIBLE]. So something like that we, we wouldn't have any problem with. Again, I'm going to reiterate the kind of-- a typical timeline for an eviction. Again, most often is nonpayment of rent. The 7-day notice, almost all landlords give a 5-day grace period. So 5 days into the start of any given month, that 7-day notice for nonpayment was extended to 7 days from 3 days, I think within the last 5 years or so. But that has already been extended once. And then once that's up, again, the absolute soonest that you're probably going to get a trial date is 28 days. About a fourth of our portfolio is dedicated to low-income, affordable housing, and those properties are subject to the Cares Act. So the soonest that we could file on any of those properties is 30 days. So by the time there's a court hearing, you're looking at about 6 to 8 weeks minimum before we would have a court date associated with that [INAUDIBLE] of nonpayment of rent. So the residents, they, they know, they know in 30 to 60 days there is something-- an opportunity for them. And then there's many times either for the resident in advance of the court hearing or during the court hearings are asking for reasonable extensions. And, truly, most good landlords are, are being-- are willing to grant those extensions. Again, as long as there's not a situation where we're fearful of imminent harm to other good residents on the community or property damage as well. So for those reasons, I'd just like your consideration that, at a minimum, an amendment to this proposed bill maybe having more of a 3-day grace period to have it more reasonable. All of my motivations as I come to testify is always to find what's a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

reasonableness factor for both landlords and tenants so that we can continue to promote quality, affordable housing in Nebraska.

BOSN: Thank you.

KRISTY LAMB: Thank you for your time.

BOSN: Any questions? Next opponent.

STEPHEN HIPPLE: Well, hello, everyone. My name's Stephen Hipple. That's spelled with a ph-- S-t-e-p-h-e-n, Hipple, H-i-p-p-l-e, and I'm the president of the Nebraska Manufactured Housing Association. We are in opposition to this bill. It's going to foist delays on landlords. It allows for tenants to secure continuances. And it also, by statute, mandates that unless there is an extraordinary reason, a writ of restitution, it may not be executed on a date of less than 10 days after its issuance. So, in other words, more delay, more expenses to landlords as, typically, the sheriff attempts to bring restitution to the landlord by notifying the tenant on one visit and then following up with a second. And this, of course, would delay even the start of that process for 10 days. Now, I know it's been presented by the proponents of this, this bill that all of a sudden a landlord is just going to notify a tenant immediately and tell them they have to vacate the premises. That's not the way it works. A landlord like us, like most landlords, if rent is due on the 1st, and the tenant doesn't have to-- they have to pay it by the 2nd, but most landlords will give a tenant 7 days leeway. A lot of times 15 days leeway. So in our case, we give a tenant 15 days to pay the rent. If they don't pay it, we give them a 7-day notice. Now we're up to 21 days. If they don't pay it by then, now we have to file with the court for a writ of restitution. And that could be another 14 days before that's served and you get a court date. So it could be as long as 5 weeks before you even get into court. So the tenant knows what's going to happen because they've been given notice that they are delinquent on their rent or that they have violated one of the rules of the property. And they-- therefore, they have plenty of time to vacate. Does anybody have any questions?

BOSN: Senator Rountree.

ROUNTREE: Thank you, ma'am. Yes, sir, before you issue that writ as you're going down the road, this has been a build up, how many missed payments do you accept or what is proper for you before you issue that-- start the eviction process, 2 months, 3 months, 1 month?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

STEPHEN HIPPLE: We notify the tenant after 15 days.

ROUNTREE: So first-- so he could just miss this month, you got February the 1st coming up, I might miss February the 1st.

STEPHEN HIPPLE: Yes.

ROUNTREE: You say I know it's due by 7 days, I got that period. But on day 15 of February, if I haven't paid my rent, then it's going to start an eviction process or--

STEPHEN HIPPLE: No. What starts then, then I notify them that they have not paid their rent.

ROUNTREE: OK.

STEPHEN HIPPLE: And by the landlord-tenant law, they have 7 days to bring the, the rent to me. So it's 21 days--

ROUNTREE: 21 days.

STEPHEN HIPPLE: --in our case.

ROUNTREE: OK.

BOSN: Can I just ask, there's been some testifiers before you who talked about the potential for not less than 3, but not more than 10-day middle ground agreement, and is that something you'd be open to discussing as well so that we can avoid those--

STEPHEN HIPPLE: I have no problem with the 3 days.

BOSN: OK. OK. Thank you.

STEPHEN HIPPLE: All right. Thank you.

BOSN: Any other questions in light of that? Next opponent. Good afternoon.

SCOTT HOFFMAN: Hi. My name is Scott Hoffman, S-c-o-t-t- H-o-f-f-m-a-n. Senators, actually, some of the previous opponents brought this up because they hadn't mentioned it, but I haven't done an eviction for probably 7 years. And one would say, well, why are you still here? Because most of my tenants move out within that 7 days. Now, I was against 3, 3 days when it was and it went to 5 days because you had to wait for the mailing. But most tenants, you know, you have to look at the root cause of the problem of why they're not paying the rent and

whether they're going to be able to go to another landlord. And that's why they're sticking around. Maybe they lost their job, health problems. What am I supposed to do? Inevitably, they're going to have to move. So-- but to expound on what he said-- expand on what he said, the, the 7 days, and then you have to contact your attorney to set it up. And that's not going to happen spontaneously, especially if it happens on a weekend. So then you're looking at the 9th or the 10th and it's no less than 10 or 14. And most of the courts are going to require 14 days. So you're already 21 days in and then you've got the writ and then you've got continuations and you're already in the next month, you're out of rent. Now, I can tell you in the 40 years I've been a landlord, and I've done a handful of evictions, most of the time that 7 days is enough. You negotiate with the tenant, you don't want to go to court. I mean, in Lancaster County, it's kind of ridiculous. I mean, I was down there with my 94-year-old mother at the DMV involved in a car accident and I'm getting off on the second floor and it's like we get mobbed by college students. Are you a tenant or a landlord? And it's like, get the heck out of here. Of course, it was something else. I didn't use heck, it was something else. But the problem here is you've got tenants being represented for free and we landlords are paying our attorney to basically, you know, get our property back. And so I don't know, I don't know why that can even be done like that. I mean, the future attorneys of America are using us as guinea pigs, why we're paying our attorneys trying to get our property back. And I can tell you for a fact, when I get the property back, they're leaving and they're not going to clean the property up. And sometimes you get stuck with a water bill. And, you know, the last one I had, she moved within 7 days. We had nice oak floors and she just dragged her furniture across the floor and gouged it, put holes in my walls, everything. You're not going to be able to re-rent that property immediately after the tenant vacates. It's going to take about a month or two. And we're not even talking the cost of building materials and labor. Most of it I'm doing myself, I've had to evolve as a landlord now to a framer because you can't find anybody to work anymore. It's \$50, \$75, \$100 an hour and building materials have literally doubled in the last 5 years. We're, we're even deal-- and I want to thank all you senators for the tax break we got on our property values. But our property values escalated another 30, 40, \$50,000. Everybody knows 2%. So that's another \$1,000 so we're going to pass it on to our tenants, you know, another \$100 a month to try to raise rent. So but I just want to tell you my experiences as a landlord that mostly within the 7 days, tenants generally pack up and move because it's inevitable. And that's, that's the best cause of action, so. Anyway, that's it, so.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

BOSN: Thank you very much. Any questions for this testifier? Thank you for being here.

SCOTT HOFFMAN: You bet. Thank you.

BOSN: Next opponent. Anyone wishing to testify in the neutral capacity? And since you stayed, are you going to come-- oh, you're still waiving. All right. While we are getting ready for our next hearing, I will note on LB235, we had 10 proponent comments, 58 opponent comments, and no neutral comments submitted for the record. And that will conclude LB235. Thank you for being here. Next up, we have LB223 and Senator Guereca's initial appearance before us.

DeBOER: Yeah.

BOSN: Welcome.

HOLDCROFT: We're an hour ahead of schedule.

BOSN: I aim to please. While we're getting started and switching the room, can I see a show of hands of how many individuals are here for LB223? OK. So in the interest of time, if someone has said what you're going to say, you can say that, you don't have to read the whole thing again because that was over a dozen hands. So that those of you who are watching us online and are wondering, there were over a dozen hands there, so. And do you know, are you planning to stay to close? I know you have another commitment.

GUERECA: I will try.

BOSN: OK. All right. Senator Guereca, thank you for being here.

GUERECA: Good afternoon. And apologies, I have a bit of a cold. So good afternoon, Chairwoman Bosn, members of the Judiciary Committee. My name is Dunixi Guereca. That's spelled D-u-n-i-x-i G-u-e-r-e-c-a. I represent Legislative District 7, the communities of downtown and south Omaha in the Nebraska Legislature. Simply put, LB223 will prohibit discrimination based on source of income under the Fair Housing Act. Source of income is defined in the bill to include income from Social Security, child support, foster care subsidies, alimony, veterans benefits, and any other form of federal, state, or local public general assistance or housing assistance. Source of income discrimination is primarily seen with Housing Choice Vouchers, commonly referred to as Section 8. Now, I'll give a brief background of Section 8 just to make sure we're on the same page of what it is and how it works. Section 8 is the federal government's major program

to assist very low-income families, the elderly and the disabled, to afford dignified, safe, and sanitary housing in the private market. Participants find their own housing in the private market after receiving a voucher from the local public housing agency. The agency uses federal funds for the vouchers to pay landlords directly the portion of the rent that the voucher covers on behalf of the participating family. If you are eligible for a voucher, the process is generally as follows: you apply, go through a background check, and then are interviewed and placed on a wait-list. Once you receive the voucher, you have 60 days to find a place to live that accepts Section 8. If you find a place, a portion of your rent is covered by that voucher and is paid directly to the landlord and the tenant is responsible for paying the remainder of the rent on time each month to the landlord. A couple of additional notes that I think are important for the context of this bill. First, Section 8 is public assistance, but it's different than programs like SNAP and like Medicaid. In those programs, if you're eligible, you get the benefit. But for Section 8, there are a limited number of vouchers available, and the number of, the number of [INAUDIBLE] doesn't come close to meeting its need. I'll give an example that highlights the need just in the Omaha area. In September of 2019, the Omaha Housing Authority opened its Section 8 voucher list for one day to accept 1,000 applicants. They received roughly 10,000 calls on that day. Now, I want to take a moment to acknowledge upfront some of the pushback that we'll likely receive in this hearing. First, I want to reinforce that even though landlords would no longer be able to hold a, quote, no Section 8 policy, they would still be able to run their business as usual. Landlords can still use the regular screening criteria, including rental and tenant history, criminal background checks, looking at a credit score, and that income, you know, three times the income to cover the rent. We're not forcing them to accept the tenant if they hold the voucher. We're merely opening up possible-- housing possibilities for families that do hold a voucher and preventing them from being disqualified solely on the fact that they have a Section 8 income to cover part of their rent. Second, landlords can still charge their regular rents and security deposits. Another tick in the pro column is that rent payments for the vouchers are reliable and the voucher holder is incentivized to maintain that unit and pay their rent on time. That incentive comes from a long wait-list that is years' long. The Omaha Housing Authority on its website says it's between 6 months and 2 years to receive a voucher. So that's, that's the incentive. If they damage the rental unit, if they don't pay on time, if they don't pay on time or they're evicted, they lose, they lose it. The third argument we often hear against banning source of income discrimination

is that landlords find the paperwork an essential process for a federal program like Section 8 onerous and not worth their time. I'm not here to say the program is written perfectly, and I certainly don't know the ins and outs of the process like a landlord would. But I would submit that the reason for the inspections is to ensure that the units are safe for tenants. And I don't think legislators could or should be persuaded that safety measures should be forgone when public tax dollars and the welfare of families are involved. But just as we acknowledge some of the concerns from landlords and others, it is critical that we address the reasons for LB223, answer the question about why it's necessary to prohibit housing based discrimination on source of income. I talked earlier about a few of those reasons: the long process, the wait-list, the number of families needing this voucher assistance far exceed the availability. Those are the process reasons, but there's a much more larger symptomatic and institutional reasons that are at play and relevant to context here as well. In 2015, HUD published a new rule on affirmatively furthering fair housing that requires housing agencies to, quote, take meaningful actions that address significant disparities in housing needs and increase opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming radically and ethnically concentrated areas of poverty into areas of opportunity and fostering and maintaining compliance with civil rights and fair housing laws. To accomplish this, housing authorities must conduct a fair assessment of housing to better understand local and regional housing issues, set priorities and goals based on that analysis, and increase accountability for fair housing guidelines and planning processes. Specifically, HUD's FHA rules include, quote, the policy of overcoming patterns of segregation and denial of access to opportunity that is part of this nation's history. I want to talk about the fair housing assessment and for the Omaha area now, because the picture that is-- that it paints is particularly bleak. The report acknowledges that the role of decades-long redlining practices played into shaping Omaha into a city divided by race and ethnicity. These were federally supported segregation practices that ended in 1968 with the Fair Housing Act. But the effects still remain. Minority populations are still concentrated in the northeast and southeast Omaha. And communities west of 72nd Street have some areas where over 90% of the residents are white. Source of income discrimination, which is what we're trying to eliminate here in LB223 is identified specifically as a contributing factor of segregation and notably also as a barrier to housing for the disabled community. Now, consider how all of these things work together and have led us to where we are right now. Federally sanctioned redlining policies led to segregated

communities that still exist today in north and in south Omaha, where poverty is much, much higher and which only-- and they're, they're the areas that really only have public housing available. Parents are living in neighborhoods that are furthest from major employers, which is a mismatch between unemployed and underemployed residents in corridors of employment. In a nutshell, that's what intergenerational poverty is. And the state of Nebraska is perpetuating-- perpetuating it by allowing discrimination in housing based on source of income. There's so much research out there that shows the effect of living in high-opportunity areas and the impact it could have on children's achievement, lifetime earnings, and the likelihood they end up involved in the criminal justice system. Preventing discrimination based on source of income will provide opportunities for mobility and the ability to relocate families that have these vouchers. We have the opportunity here to do something really great, make a long-lasting impact on lives of future generations and for our communities as a whole. Last thing on LB223, I promise. Some context about the source of the income discrimination bans and the impact they've had across the country. So far, 17 states, including some of our neighbors, Oklahoma and North Dakota, as well as over 85 counties and cities, have enabled laws that prohibit landlords from refusing to rent to vouchers based solely on their source of income. These laws cover about 1 in 3 voucher holders across the country. A recent report from the Center on Budget and Policy Priorities expounded on two major outcomes. First, the voucher holder in these areas with voucher nondiscrimination protections are about twice as likely to succeed in using that voucher to lease a unit. And, second, in some areas with nondiscrimination protections, voucher holders are able to live in lower poverty neighborhoods than before protections were adopted, leading to desegregation and access to much more opportunities. So what we see nationally is that source of income nondiscrimination laws can address the needs and concerns of both communities and landlords. Landlords can still use the regular screening practices, looking at the history of the tenant, can still charge regular security deposits and rents, and are assured payments of rent each month. Tenants have more housing options and therefore, therefore succeed actually using their voucher and communities become less segregated and open for more educational and employment opportunities for the working families that currently lack access to them. With that, I would like to thank the committee for hearing me on this issue, and I'm happy to answer any questions.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

BOSN: Thank you very much for being here. Any questions from the committee? It sounds like this is really an issue of a lack of housing options.

GUERECA: Yes.

HOLDCROFT: There was a question.

STORM: He has a question.

BOSN: Oh, I'm sorry.

HALLSTROM: Go ahead.

BOSN: I didn't see you. I apologize.

HALLSTROM: No, finish, finish, please.

BOSN: Is that fair to say?

GUERECA: Yes.

BOSN: I mean, you wouldn't be bringing this bill if there were 15 open apartment buildings in the areas that currently don't have housing.

GUERECA: Correct.

BOSN: And that's unfortunate because I think we need more options for that.

GUERECA: I agree.

BOSN: Senator Hallstrom.

HALLSTROM: Thank you. Just one technical question.

GUERECA: Sure.

HALLSTROM: Section 4 uses the term "lawful source of income." And subsection (4) says "Any other form of lawful income." Doesn't any other lawful form of income swallow up any source of lawful income?

GUERECA: What section?

HALLSTROM: Section 4.

GUERECA: Section 4.

HALLSTROM: For the circular in nature.

GUERECA: Oh, here we go. I--

HALLSTROM: It seems like a [INAUDIBLE].

GUERECA: It seems like a, like a-- yeah. I'll, I'll, I'll look into it and get an answer to you.

HALLSTROM: And the other, the other comment that I had for clarification, during your testimony, you used the word "solely" based upon, and I'm looking at Section 7, I don't know if there's another provision of law, but I don't see that the requirement for discrimination is solely based upon one of the protected classes.

GUERECA: Well, I mean, if you solely discriminate-- you know, discriminate based on, on race, it's still a factor. And, and what I, what I, what I mean by that is you, you can't deny the housing based on the source of income, right?

HALLSTROM: Yeah. And, and--

GUERECA: But you could still use any of the other tools that landlords use to screen a, a potential tenant.

HALLSTROM: Yeah. My only interest is there's a difference between being able to prove up on a civil cause of action based solely on something as opposed to simply being discriminatory in nature. And, and I don't know whether that's the standard or not.

GUERECA: Can you repeat that? Sorry.

HALLSTROM: Well, in your testimony, you said it's based solely on and I'm not sure that's what the statute, what the statute says. And we are creating a new cause of action for discrimination.

GUERECA: So I have some experts that are coming up behind me. They might be able to clarify. If not, I'll get you an answer by the time I come up again.

HALLSTROM: Super. Thank you.

GUERECA: Thanks.

BOSN: Thank you very much.

GUERECA: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

BOSN: Our first proponent.

ERIN FEICHTINGER: I like the upgrade in committee room.

BOSN: Me too.

ERIN FEICHTINGER: Yeah, it's nice, better chairs.

BOSN: They are. You're going to be sitting in them a lot.

ERIN FEICHTINGER: Oh, great. Chairperson Bosn, members of the Judiciary Committee, my name is Erin Feichtinger, E-r-i-n F-e-i-c-h-t-i-n-g-e-r, and I'm the policy director for the Women's Fund of Omaha. Nationally, over 3 million women and girls benefit from federal housing assistance. Women had 77% of households that are served by HUD's rental assistance programs. And we also know that 1 in-- only 1 in 4 households who would otherwise be eligible for housing assistance are receiving it. This low number is in part due to the inability of folks to access-- to use their vouchers effectively by finding landlords that will rent to them or just finding available apartments at all. Source of income discrimination does not just apply to those with Housing Choice Vouchers, that's Section 8. It also applies to women with disabilities who-- or anybody with disabilities who receive supplemental security income and for whom the gender wage gap is even greater. There is currently no U.S. housing market in which a person living solely on SSI can afford safe, decent, and accessible housing without some form of rental assistance. The lawful sources of income in LB223 also includes housing assistance, specifically for veterans. The Department of Veterans Affairs found that while overall veteran homelessness decreased between 2020 and 2023, homelessness among female veterans actually increased by nearly 24%. And the number of unsheltered female veterans nearly 48% in that same period. As Senator Guereca pointed out, opponents of this bill, and we've heard this bill a lot, to those who are new, this is not the first time we've had this debate, they have testified that the paperwork is too onerous, and I sympathize with that, habitability requirements are too bothersome. We've also heard that people who receive housing assistance are just not good tenants because they're poor and have nothing to lose. And we would argue that, honestly, the benefits that are accrued back to society, to communities, from the housing stability of families and folks finding their, their feet far outweigh a problem with paperwork. And paperwork is something we can sort out. We would argue that far from being bad tenants with nothing to lose, tenants who have worked really hard to seek out these forms of assistance have maybe worked harder than most to provide for their

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

family's long-term economic stability and set them on the right path. Passing LB223 will not ruin landlords in the affordable housing market because, again, it does not mandate that landlords rent to folks with assistance, just that that can't be the reason that you deny someone. Same goes with banks who would be evaluating potential mortgage holders. You still have all the same screening tools. So really, passing LB223 will give Nebraska families the chance to succeed with the tools that they have available to them and the chance to find better for themselves and their families. And we would, once again, urge this committee's support of LB223. Part of me wanted to say per my last email, but I did not. So please, I'm happy to answer any questions that you might have to the best of my ability.

BOSN: Any questions? Thank you for being here.

ERIN FEICHTINGER: Yeah, sure.

BOSN: Appreciate it. Next proponent. Welcome back.

CLARICE DOMBECK: Thank you. Good afternoon again. Clarice Dombeck, C-l-a-r-i-c-e D-o-m-b-e-c-k. And, again, I am the senior campaign organizer with the Redress Movement. And I forgot to mention last time who we are. So the Redress Movement is a nonprofit organization that partners with communities across the country to address and remediate racial segregation. We work to repair the harm that federal government, the state of Nebraska, local governments, and many in the real estate industry cause through intentional efforts to discriminate against black people and people of color. One of the many results of these efforts, of those efforts that-- of those efforts is that today subsidized housing, including Housing Choice Vouchers, are disproportionately located in segregated low-income neighborhoods. Every day that we don't have source of income protections like LB223 in place, we are reinforcing that segregation because in areas without these laws, 70-80% of landlords openly discriminate against voucher holders. LB223 would simply help voucher holders access any neighborhood they can afford, just like anyone else. Antidiscrimination laws like this are also remarkably mainstream. Nearly 60% of all households with vouchers live in jurisdictions with these types of protections, including North Dakota, Oklahoma, Utah, and Colorado. There remains plenty of successful and profitable landlords in all of those states. So any landlord suggesting to you that this would somehow break their business model is being somewhat disingenuous. I hope you will support this important antidiscrimination measure so that we can become more integrated and-- so we can become a more integrated and fairer state. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

BOSN: Thank you. Just a second. Any questions from the committee? All right. Never mind. Thank you for being here.

CLARICE DOMBECK: Thanks.

BOSN: Next proponent. Good afternoon.

SARAH O'NEILL: Good afternoon, Chairperson Bosn and members of the Judiciary Committee. My name is Sarah O'Neill, S-a-r-a-h O-'-N-e-i-l-l. I'm a staff attorney with the Legal Aid of Nebraska Housing Justice Project. Thank you for providing me with the opportunity to appear before the committee in support of LB223. And thank you to Senator Guereca for introducing this bill and inviting Legal Aid of Nebraska to testify. Representing tenants every day, I see firsthand that a major issue in our state is the limited supply of affordable housing and ever-increasing housing cost burdens. When tenants spend more than 30% of their income on housing, they are cost burdened by that and, therefore, at greater risk of eviction and homelessness. As of 2022, 44.8% of renters are cost burdened, 22% of children reside in cost-burdened households, and of the low-income households in our state, alarmingly, 55% of children reside in households with a high-cost burden. Federal Section 8 Housing Choice Vouchers provide some relief to cost-burdened tenants renting from private landlords. However, the relief provided by Section 8 vouchers is frustrated by the burdens tenants face trying to find and secure housing that will accept this lawful source of income. As Senator Guereca already explained, tenants who wish to utilize Section 8 vouchers go through an extensive application process and are often subjected to lengthy wait-lists before even receiving a voucher. Once a tenant has a voucher, they are subjected to further rules that they must abide by in order to use and keep that voucher. The duty of landlords accepting Section 8 vouchers, on the other hand, is much more minimal. The burden really does rest on the tenant to obtain and then maintain that voucher. Despite this, landlords often cite to rules and regulations related to pre-move in, inspection and paperwork as too onerous a burden for them, though it is notable that they must provide habitable and safe housing that meets applicable housing codes under the Nebraska Uniform Landlord and Tenant Act anyway. Such arguments regarding the inspections are not made because of an undue burden, but I would argue rather to evade the costs of bringing their rental units to an appropriate level of habitability. Nebraskans deserve the right to live in quality, quality, affordable housing and without the constant threat of eviction looming because of the burden of high rental costs. LB223 ensures that any person who can afford to pay the rent and comply with a lease agreement will have equal access

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

to rental housing in Nebraska. Legal, Legal, Legal Aid supports LB223 and thanks you for this opportunity to testify in support. I'm happy to answer any questions that the committee may have.

BOSN: Thank you. Any questions? Thank you for this. I know you didn't get through all of it, but I appreciate the information to review. Thank you. Next proponent.

LEE HEFLEBOWER: Hello, my name is Lee Heflebower, L-e-e H-e-f-l-e-b-o-w-e-r, and I represent the Nebraska Coalition to End Sexual and Domestic Violence. The Coalition's network of 20 programs collectively serves all 93 counties in Nebraska, and they're the primary service providers for domestic and sexual violence survivors. I'm here to testify as a proponent of LB223 and support the prohibition of housing discrimination based on source of income. Intimate partner violence is prevalent across Nebraska and our nation. Our Nebraska network program answered over 36,000 crisis calls last year and provided in-person support to over 11,000 victims. The rates of victimization statewide are similar across both rural counties and urban counties. Many domestic violence survivors and their children lose their housing when they escape abuse and often face significant challenges in accessing affordable housing. Housing subsidies, such as rent and deposit programs or housing vouchers, are essential resources for survivors seeking safety. Abusers often use tactics of economic abuse in addition to violence to control their partners. And these tactics include interfering with and controlling a survivor's employment, access to economic resources, and ability to establish good credit. This can leave survivors with difficulties in regaining financial stability and a lower household income after they leave the abuse. As a result, domestic violence is a leading cause of homelessness nationally and across Nebraska. Survivors of domestic violence must often make a distinct choice between remaining in an abusive relationship or becoming homeless because of a lack of affordable housing. Accessing safe housing is important for survivors and their children to regain stability and heal from the trauma they've experienced. Some survivors only need short-term financial assistance, such as a first month's rent and deposit, and some may need additional assistance, such as an ongoing subsidized housing program. However, when survivors' applications for rental units are denied specifically due to their source of income, that discrimination puts them at increased risk of continued violence and homelessness. Within our Nebraska network of domestic violence service providers, source of income discrimination is consistently voiced as a key barrier for survivors in rebuilding their lives. Adopting LB223 would support them in moving forward in safety. The Nebraska Coalition

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

to End Sexual and Domestic Violence recognize the importance of removing barriers to safe, stable housing for survivors and their children. And we support LB223 and we thank you for your time and consideration.

BOSN: Thank you very much for being here and the work that you do. Any questions from the committee? Seeing none, thank you. Next proponent. Good afternoon.

KASEY OGLE: Hello. Chairperson Bosn and members of the Judiciary Committee, my name is Kasey Ogle, K-a-s-e-y O-g-l-e, and I'm a senior staff attorney at Nebraska Appleaseed for Collective Impact Lincoln. Collective Impact Lincoln is a partnership between Nebraska Appleaseed and Civic Nebraska that works with residents of 6 Lincoln neighborhoods to build community, develop neighborhood leaders, and take action on policy that is responsive to their needs. I'm here today on behalf of Collective Impact Lincoln in support of LB223. We support LB223 because it ensures that those who rely on housing vouchers or other forms of rental assistance are able to use that money to pay rent. LB223 would prevent landlords from discriminating against tenants on the basis of any legal source of income, including housing vouchers. Across the U.S., residents wait an average of 1.5 years for their vouchers, and once they receive it, they have 60 days to find housing that will accept it. We know residents who have either been unable to use their housing voucher because they could not find a landlord that would accept the voucher or who only managed to find housing after struggling to find a landlord that would accept it. Nationally, at least 20% of voucher recipients are unable to use them because so few landlords accept vouchers as a form of payment and voucher success rates in Lincoln are currently running at about 74%, so approximately 26% of voucher recipients in Lincoln are unsuccessful in finding housing that will accept their voucher. LB223 helps voucher recipients to be able to successfully use their voucher. Studies show that housing voucher recipients are 12% more likely to use their voucher in a jurisdiction with a law like LB223 than in a jurisdiction without such a law which cuts the voucher failure rate in half. You will likely hear from those opposed to this bill that it will force them to comply with Housing Choice Voucher Program inspection requirements. But that is not the case. This bill prohibits landlords from refusing to rent to a tenant because they would use a voucher to help them pay their rent. But it does not require landlords to ensure that their units comply with inspection requirements. If a unit fails the inspection required by the Section 8 Program, landlords will have the opportunity to fix the problems. And if they do not, then the housing authority would not authorize the tenant to rent a substandard

unit using a federal subsidy. While it would be in the landlord's interest to ensure that the unit meets basic quality standards, this bill does not force compliance. The inspection required by the Housing Choice Voucher Program ensures that a federally subsidized rental unit meets basic housing quality standards outlined by the federal government. And these are simple requirements outlined broadly in the federal register and in a housing authority's administrative plan to ensure rental units are safe to live in. You may hear that the housing quality standards are difficult to navigate and ensure that a unit passes on first inspection. But inspection standards are available for landlords to review. And the most common inspection problem, as reported by the Lincoln Housing Authority, is a problem with a smoke alarm. These are basic health and safety standards to which every tenant is entitled. And for these reasons, we urge you to advance LB223. Thank you very much.

BOSN: Thank you. Any questions? Senator Storer.

STORER: Thank you, Chairman Bosn. I-- and thank you for coming today. I, I have some, I guess, kind of high-level questions just to sort of start wrapping my-- as I listen to more of the testimony, it generally generates more questions.

KASEY OGLE: Sure.

STORER: So when, when a tenant applies, you know, finds an apartment that they want to fill out an application for, is there generally, specifically, somewhere where they have to indicate that they are applying using a voucher?

KASEY OGLE: I, I don't know the answer to that, honestly. I think it would depend on each, each landlord and what their application process looks like.

STORER: So, so I'm just trying to understand the basis for is there, is there specific data or instances where we know someone has been denied because they're using a voucher?

KASEY OGLE: I don't know if we have anything that tracks that where someone's applied and then later been told that they aren't-- they won't be considered because they're using a voucher. We do know that lots of landlords advertise straight up that they won't accept Housing Choice Vouchers, no Section 8 required. And so it's, it's often in their advertisements that they won't, won't work with it.

STORER: OK. That's helpful.

KASEY OGLE: Yeah.

STORER: And one last question, I guess. So when, when a tenant is paying with the voucher, does that go directly to the landlord or are they receiving those dollars and then they, in turn, have to use them to pay for rent?

KASEY OGLE: The, the payment goes through to the landlord, it doesn't-- it's on behalf of the tenant but it goes to-- straight to the landlord.

STORER: And do you know if there's any-- I mean, sometimes with, with various government programs there's always a delay. Is that-- do you think that's a concern for landlords or is it--

KASEY OGLE: I think in an initial lease there might be some paperwork that needs to get done to ensure that. But my understanding is that the payments are routine and show up at the same time every month after you, you get enrolled.

STORER: OK. I'm just trying to understand sort of where the-- yeah.

KASEY OGLE: Sure.

STORER: Thank you.

KASEY OGLE: Yeah. Thank you.

STORER: Appreciate it.

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

KASEY OGLE: Thank you.

BOSN: Yeah. Next proponent. Good afternoon.

DYLAN SEVERINO: Good afternoon. Chairwoman Bosn and the Judiciary Committee, my name is Dylan Severino, D-y-l-a-n S-e-v-e-r-i-n-o. I'm policy counsel at the ACLU of Nebraska and I'm here in support of LB223. And before I start my testimony, just while it's fresh in my mind, I'll take a stab at Senator Storer's questions here. About the application, I'm not sure if there's a question on applications about Housing Choice Vouchers, but landlords who rent and accept Housing Choice Vouchers have to pass an inspection. So it's a question from the get-go. I don't know if it's on the application or something, but typically if a tenant is going to be using Section 8, they'll say,

hey, do you accept vouchers on the phone or when they're looking to apply for, for housing? There is some-- I don't know if there's any in Nebraska specifically, but a 2018 Urban Institute study found that landlords nationwide often refuse to accept vouchers, in Fort Worth, 78% of landlords just outright refused to take vouchers; in L.A., 76%; in Philadelphia, 67%. Obviously, larger cities don't know exactly what it is in Nebraska, but it's not none because I have in my testimony here, there was a Flatwater Free Press article released just middle of last year about Housing Choice Vouchers in Lincoln, in particular. The family that was center of that article was denied over 20 times. You have 90 days to use a voucher in Lincoln. Only about one-- excuse me, about two-thirds of people are able to use it. One-third of people, it just goes away. They wait for on average, a year and a half, 2 years, and they never get to use it because so many landlords just refuse to accept it. Again, one, one family, in particular, I believe it was a mother with 4 or 5 children. Family status discrimination that includes children. How many children you have is illegal under the Fair Housing Act. It's not illegal, though, to, to turn somebody away for vouchers. So it's a, a way to avoid that. I have a very quick testimony here and I'll get to the rest of it. The Fair Housing Act makes it illegal to discriminate against a person on the basis of race, color, religion, sex, disability, familial status, or national origin. HUD's most recent study on racial discrimination in housing from 2012 shows that the discrimination against racial minorities is still prevalent in America. However, the Fair Housing Act does not make it illegal to discriminate based on source of income, such as Section 8. Recipients of, of, of Housing Choice Vouchers or Section 8 nationwide, almost 50% are black, almost 20% are Latina. That makes it easy as a screen to legally turn away a majority of people that you would otherwise, you know, some landlords might want to turn away based on racial discrimination. Again, the Flatwater Free Press article covered this specifically in Lincoln with a family who was turned away 20 times. And, of course, the problem isn't only just limited to racial discrimination and Housing Choice Vouchers. I can add more onto that if anybody would like.

BOSN: If you want to wrap up your thought, you're fine.

DYLAN SEVERINO: Sure. Just very shortly. Family status discrimination is illegal, yet landlords can turn away a family based on income derived from child support or from foster care subsidies. Disability discrimination is illegal, yet landlords can turn away people based on disability payments. For the good it will do for helping Nebraskans get housing and avoid invidious discrimination, ACLU of Nebraska supports LB223.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

BOSN: Any questions? Senator Storer.

STORER: Thank you, Chairman. So to follow up a little bit on--

DYLAN SEVERINO: Yeah.

STORER: --on the questions and thank you for--

DYLAN SEVERINO: Of course.

STORER: --for addressing some of those. I'm still-- so is there-- and I'm sure we're going to hear from some landlords here in, in a little bit that may be able to address those questions as well. But do you, do you think that there's a reluctance to accept those-- because from the flip side would be guaranteed, guaranteed payment--

DYLAN SEVERINO: Sure.

STORER: --right, if it's coming directly to the landlords.

DYLAN SEVERINO: Yeah. And another thing to add on to, usually, from what I've heard, is that the, the government usually pays rent like a week early, even, you know, before it's due, so.

STORER: So, so what is your-- is it-- because it's a government program, is there, is there a lot of-- you said-- I heard there's an inspection process and the paperwork and just all of the burden on the landlord in order to get to the point of accepting that voucher.

DYLAN SEVERINO: Yeah, the inspection is just to make sure that you're up to code. So if you're not up to housing code, you know, the point of Section 8 is to give people clean, safe, affordable housing. They, they won't pay for anything that's not up to code. The inspection is just to make sure that you're up to code.

STORER: And if a landlord was inspected and found to be not up to code, is there some sort of immediate penalty?

DYLAN SEVERINO: Section 8 won't pay for it.

STORER: They just aren't accepted, but then is there some reporting or something where the landlord falls into noncompliance in some other way?

DYLAN SEVERINO: Not that I know of.

STORER: OK. OK. Thank you.

DYLAN SEVERINO: Of course.

BOSN: Any other-- Senator McKinney.

McKINNEY: Thank you, Chair Bosn. Thank you for your testimony. Have you heard of any situations or things where landlords or property management groups will post things-- when they post vacancies, they'll post don't accept Section 8?

DYLAN SEVERINO: I guess. I haven't looked for it, but, yes, in, in articles that I've read I've seen that. Yeah, you know certain landlords or, or rental companies or something will just straight out say, yeah, no vouchers accepted, no Section 8 accepted.

McKINNEY: In your research or in your work, have you seen that certain areas of communities don't have any properties that accept Section 8?

DYLAN SEVERINO: Just as for specific sections of the state or something?

McKINNEY: Of, like, certain-- let's say, like, in Lincoln, are there some areas in Lincoln where there might not be no Section 8 housing?

DYLAN SEVERINO: It's not something that I've come up with. I don't know that there's necessarily, like, a localized area where, where a group wouldn't accept it.

McKINNEY: Or maybe just to kind of clear it up.

DYLAN SEVERINO: Sure.

McKINNEY: Maybe a lower percentage of Section 8 housing versus another area where there might be a higher population of Section 8 housing.

DYLAN SEVERINO: Yeah, I want to answer your question. I haven't seen any sort of maps or data. The one thing that I'll say is that since, you know, you have to meet code to rent out to Section 8, if they are particularly impoverished or dilapidated areas, I would suppose that they would be less likely and less able to rent out using Section 8 vouchers.

McKINNEY: All right. Thank you.

DYLAN SEVERINO: Of course.

BOSN: Senator Hallstrom.

HALLSTROM: If I heard you correctly, if 70% of the recipients of vouchers are racial minorities, is there not a current argument that you're discriminating without having to add source of income? Would that've been--

DYLAN SEVERINO: It's a good question. Certainly, the free housing-- free housing-- Fair Housing Act is very strong. There is a disparate impact arguments for, for this. But as for Section 8, it would be-- I could foresee it. In fact, it's probably even happened, although I don't know if there's a case that I can think of. It would be fact specific, though, right? Because you can just outright say-- in fact, a lot of times what happens is somebody will ask on the phone, do you accept vouchers? And the landlord will just click, hang up. No more questions after that. So after that, if there was something else that indicated that really it was like racial discrimination and HUD could bring a case to prove that, I think that would play out in court. There's definitely disparate impact lawsuits for housing.

HALLSTROM: But it would be more direct if you have source of income.

DYLAN SEVERINO: Yes, it's-- if, if there's nothing else to indicate that it's anything besides source of income, because right now, source of income discrimination isn't illegal. If, if the landlord-- if they just said do you accept-- if you call up somebody and say, hey, do you accept, do you accept vouchers and they hang up or they just say no or something, there's nothing else to go on. There's nothing to say, oh, I thought that person was black and I didn't want to rent out to them or something. Right? There's, there's no way to bring a case on, on anything without any sort of fact. So in, in reality, yeah, it might actually be racial discrimination. And I think that could play out if there was, was a fact scenario that really showed, OK, they clearly were using this as a screen and, and that's not allowed under disparate impact. Therefore, it's legal. But as of right now, if there's nothing else pointing towards it, you can just say we don't accept vouchers. That's it.

HALLSTROM: Thank you.

DYLAN SEVERINO: Of course.

BOSN: I just have a question.

DYLAN SEVERINO: Yeah.

BOSN: You said 90 days, the testifier before you gave us a handout, which you didn't have the benefit of reading,--

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Judiciary Committee January 30, 2025

DYLAN SEVERINO: Yes.

BOSN: --but says 6 months and she said 60 days. So we have a wide variety of how long from if I get my voucher on January 1,--

DYLAN SEVERINO: Yeah.

BOSN: --when does it expire?

DYLAN SEVERINO: My understanding, and the only one that I-- I hope the only one that I said and the only one that I know was Lincoln and I, and I thought that was 90 days.

BOSN: Oh, can it vary by community?

DYLAN SEVERINO: I think so.

BOSN: Oh, I'm seeing heads nod, so OK. So perhaps it is different in different communities?

DYLAN SEVERINO: Yeah. And I don't know the facts for other ones. I'm sorry.

BOSN: Oh, that's OK.

DYLAN SEVERINO: I came unprepared on that point.

BOSN: OK. Thank you. Any other questions? Senator Rountree.

ROUNTREE: Thank you, Chair. Yes, sir, I'm looking at that article you're talking about and following you as you've been testifying here and it states here that last year, 37% of Section 8 vouchers, this is about Lincoln, 232 out of 626 awarded in Lincoln they expired before the person found housing. That's what the Lincoln Housing Authority shows. And basically all those other items that have been discussed here are all wrapped up in this article when it deals with any type of racial discrimination, this type of income, and also deals with our veterans income. And all of these are wrapped in here. So if anyone had an opportunity to go out to read it, it's a very good article. I can pin it and post it out to our committee, so. OK. Thank you, sir.

DYLAN SEVERINO: No. Thank you.

BOSN: Thank you for being here.

DYLAN SEVERINO: Of course. Thank you.

BOSN: Next proponent. Good afternoon.

SCOTT JACKSON: Good afternoon, Senators. My name is Scott Jackson. That's S-c-o-t-t J-a-c-k-s-o-n. I am a program coordinator for Heartland Family Service. We provide housing assistance to folks in the Omaha and Council Bluffs area. I wanted to address a few of the questions that were brought up. Typically-- so we operate through HUD funds through the federal government. So if we have a client that is applying for housing, they have to go through the traditional application process, whatever that may be for a landlord. And then if they are approved, we have an in-house inspector that does a HQS inspection, which is just basically looking at making sure that all of the, all the appliances work properly. There's running water, there's heat, and making sure that the apartment or unit is fit for living. And after that point, once the inspection passes, then we will schedule the lease signing and then we can-- we will pay first month's rent and deposit upfront, upfront. And then if the client doesn't have income, we will pay their rent ongoing. If they do have income, they'll pay 30% of their gross annual income towards the rent. So that's kind of how most of the assistance programs that receive federal funding work, they have to have an inspection process. I also wanted to, to address some of the questions about how can we tell if there's any discrimination going on by not taking Housing Choice Vouchers or Section 8? There's a lot of landlords that won't, won't advertise that. But then there are some that will and they'll come out and say, no, we're going to work with Section 8. But we know that generally, that's a big, a big issue. A lot of landlords and the-- that we work with or we try to work with won't flat out accept our, our clients because where they're getting their, their money, whether it's through us completely or they're getting that income through their Social Security because a lot of our folks are on disability. So I did want to talk about that. I also wanted to talk about how the inspection process is really important because it gives not only tenants a place to live that's safe and clean, but also it helps landlords ensure that we're marketing and putting out a good product for the community. So I think that's-- it goes both ways on that for sure. And, again, in our program we have an initial inspection at the time of the lease, once-- we have an initial inspection and then we'll do a lease signing if it passes, and then we do an annual inspection. So we're going in there with case managers to make sure that these units are staying clean and up to date. And we'll work with clients to make sure that, oh, I see you have a hole in the wall, let's talk to your landlord about that. Let's mitigate that. So a lot of the-- some of these issues can arise because there's not good communication

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

between the landlord, landlord and the tenant because there's a power dynamic. So that's one thing I also wanted to talk about. And, lastly, I think this bill is really important because it will help get folks into housing. We all know there's a housing shortage. By passing this bill, it will really benefit folks, not just in the Omaha metro but across the state. Thank you. Any questions?

BOSN: Any questions for this testifier? Senator Hallstrom.

HALLSTROM: Yes, Mr. Jackson, just looking through your testimony here, your written testimony, you have a line in here that says landlords and property owners also incorporate income guidelines requiring individuals to have three times the rent for a monthly income, and you suggest that that's an example of income discrimination. Is the ability to pay different than the source of income?

SCOTT JACKSON: That's a good question. I would say-- I would argue that just because an individual is not able to work, that can't obtain said three times a month-- the three times the rent income shouldn't disqualify them for the chance to housing just because they're on-- receiving SSI or disability or whatever the case may be.

HALLSTROM: And if you go to a lender and capacity and ability to repay is pretty important.

SCOTT JACKSON: Correct.

HALLSTROM: So you're suggesting that would be a form of discrimination?

DYLAN SEVERINO: I, I, I think there is an argument that could be made.

HALLSTROM: OK. Thank you.

BOSN: Thank you for being here.

SCOTT JACKSON: Thank you very much.

BOSN: Next proponent. Next, we'll move onto opponents. Are there any opponents on LB223?

LYNN FISHER: Hello again.

BOSN: Hello again.

LYNN FISHER: My name is still Lynn Fisher, L-y-n-n F-i-s-h-e-r. And, again, I-- I'm going to let my prepared testimony speak for itself as

I'm going to answer questions or rebut information that's been presented so far. If I could, please? What the proponents haven't, haven't told you, the other part of the story is that in Lincoln and Omaha, 100% of Section 8 vouchers are utilized each month. They use them all. No one-- no Section 8 voucher goes unused. What the difference is that some people have a Section 8 voucher and they go and find a, a, a landlord who wants to take their application and for whatever reason the application is not approved and, therefore, they must go to another housing provider to try and find someone who will accept their application. If they are not successful in getting their application accepted within that 90-day period, at least in Lincoln, then they turn it back in and the next person in line for a voucher gets it, and then they go out and try to find a place and utilize that voucher. 100% of them are used every month. So there's no reason to be concerned that they're not being used. We still in our company, and I'm just speaking, I'm here on behalf of the Statewide Property Owners Association, but my personal company, the one that I work with, every month we have units that are, that are friendly to Section 8, we'll accept them that go unrented. So at the end of the month, we have vacant units that are sitting there that someone with a voucher could use. So I'm suggesting that there is no shortage of property owners who accept vouchers. It's just a matter of connecting. And they have 90 days to find this. And I know that we advertise with the Lincoln Housing Authority. And so there's something else going on. And I don't think it's the fact that the vouchers aren't being accepted everywhere because we have those units available. Regarding inspections, of course, we don't mind inspections. Any good property owner is going to have a, a, a good well-maintained property. Those that we have in Lincoln that are licensed are inspected annually. It's, it's the time. It's the cost. It's the hassle of having additional inspections made by the housing authority who administers Section 8. There's a study that, that is worth reading by Judge Glock, and I don't remember his first name, and the conclusion of the study, and it studies all the different studies. It's a study of studies about source of income. The conclusion is that there's no significant difference in the communities where you have source of income law than anywhere else. And the rate of poverty or the utilization of Section 8 vouchers does not change. So that's really important to know. The-- again, the company that I represent individually as a, as a housing provider, we have a mix of owners who we manage properties for, some accept vouchers, some don't. It's a voluntary program. I'd be happy to answer any other questions that you have.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

BOSN: Any questions of this testifier? Oh, sorry. Senator McKinney, sorry about that.

McKINNEY: Thank you. Oh, you're all right. Thank you for your testimony. So you said 100% of the vouchers are used in Lincoln and Omaha. Where did you get that data from?

LYNN FISHER: From the Lincoln Housing Authority.

McKINNEY: So--

LYNN FISHER: As a matter of fact, one of the proponents and I discussed this at a debate recently, and that was, was the concurrence that those, those utilization rates are, are what we find in Lincoln and Omaha.

McKINNEY: Can you give me the data from Lincoln and Omaha?

LYNN FISHER: I can send it to you.

McKINNEY: Thank you.

LYNN FISHER: Sure. Absolutely.

McKINNEY: All right. You said some houses, some houses that would be Section 8 eligible go unrented. Maybe if some-- somebody might be asked for three times the rent, possibly. Have you looked into the reason why?

LYNN FISHER: Why the ones that we have that go unrented?

McKINNEY: Yeah.

LYNN FISHER: Well, we don't have enough applications or we haven't approved an application to that point.

McKINNEY: OK. All right, then I'm going through your-- your written testimony says-- you wrote in the second paragraph, this bill discriminates against tenants who don't seek assistance programs and work to provide that all resources for housing. So if somebody's disabled, they can't work, so should we not provide assistance to disabled individuals?

LYNN FISHER: Absolutely, you should. And a matter of fact, we accept their disability income and don't deny that. That-- we, we just-- we look at--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

McKINNEY: But your, but your testimony doesn't differentiate from that. But I'll move on. Then you said if this passed, it would allow for people who are marginally qualified to get housing.

LYNN FISHER: Well, they still have to meet the application requirements.

McKINNEY: OK. Then it says some owners would raise their rents above Section 8 guidelines to not qualify for the program. So are you saying some owners would basically, if passed, do redlining in 2025?

LYNN FISHER: Not at all. What they would--

McKINNEY: That's what, that's what you're saying.

LYNN FISHER: Well, can I answer the question?

McKINNEY: OK.

LYNN FISHER: What, what they're, what they're going to do, if this passes, is they're going to look at the Section 8 requirements and they're going to determine whether or not they should raise the rent in order to accommodate for the additional costs.

McKINNEY: But this doesn't say they will look at whether they should. You said some owners will raise their rents above Section 8 guidelines to not qualify for the program. In your written testimony--

LYNN FISHER: Yeah, and that's true. I'm, I'm not denying that, that there will be some people that don't want to have the government in their business.

McKINNEY: OK.

LYNN FISHER: They will say in order to avoid taking Section 8 vouchers, they will raise their rents above the requirement or the, the top amount allowed by the Lincoln Housing Authority.

McKINNEY: So it's not fair to say that some owners in the Statewide Property Owners Association will participate in redlining if this bill passes?

LYNN FISHER: I disagree with the premise of your question. I think that's unfair. Redlining and discrimination is not in the consideration of any of our members and never will be.

McKINNEY: That's what I read. But thank you.

LYNN FISHER: Thank you.

BOSN: Any other questions for this testifier? Thank you for being here.

LYNN FISHER: Thank you.

BOSN: Next opponent.

RYAN NORMAN: Good afternoon again, members of the Judiciary Committee. My name is Ryan Norman, R-y-a-n N-o-r-m-a-n. I am an attorney in Lincoln and I'm the chair of the Apartment Association Nebraska Legislative Committee. I'm here to testify in opposition to LB223. I'm going to let others talk about the public policy parts of the problems with this bill. I'm going to focus on a specific legal issue that I believe makes this bill unconstitutional. I provided the committee with a New York case which found in late 2023 that the New York lawmaking source of income a protected class as it relates to housing unconstitutional based on Fourth Amendment concerns against unreasonable search and seizure. This is because, as the court in that case ruled, making source of income a protected class compels landlords to participate in the Section 8 housing program, which is voluntary under the federal law, thereby impermissibly requiring landlords to waive their rights under the Fourth Amendment of the United States Constitution. A landlord cannot accept a Section 8 housing voucher as payment for rent without agreeing to participate in Section 8 by entering into a housing assistance payment contract with the public housing agency. That HAP contract, as it's known, must be in the form required by the Department of Housing and Urban Development and requires a participating landlord to consent to inspection of the unit and premises at such time as the housing authority determines necessary and to provide the public housing agency, the Department of Housing and Urban Development, and the Comptroller General of the United States, full and free access to the contract unit and the premises and to all accounts and other records of the owner that are relevant to the HAP contract, which includes, quote, access to any computers, equipment, or facilities containing such records. Thus, by requiring landlords to accept Section 8 vouchers, source of income antidiscrimination statutes compel landlords to consent to warrantless searches of their properties and records in violation of the Fourth Amendment. This New York case has opened the door to lawsuits in other jurisdictions, including one that was just filed in November of 2024 in Kansas City, which challenged their new local ordinance on this very issue. And there will be other lawsuits based on Fourth Amendment concerns on this issue wherever

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

this bill exists. Simply put, this bill is likely unconstitutional. It violates property owners' Fourth Amendment rights and passage of this bill here or at the city level, where there are similar efforts, especially in Lincoln, to add source of income as a protected class will lead to court challenges on the constitutionality of the law. I, therefore, urge the committee, on behalf of the Apartment Association of Nebraska, to oppose LB223. Thank you for your time and I'd be happy to answer your questions.

BOSN: Any questions from the committee? Thank you for being here.

RYAN NORMAN: Thank you.

BOSN: Next opponent.

KRISTY LAMB: Good afternoon, committee. Thank you again for your time. My name is Kristy Lamb, K-r-i-s-t-y, Lamb, L-a-m-b. I'm here in opposition of LB223, strong opposition to it. While the intent in the bill may be to expanding housing opportunities, there are some real-world impacts in a fundamental infringement on the property owners' rights, in addition to imposition of excessive regulatory burdens and deterrent to the private sector to participate in the rental market. As I mentioned earlier-- in my earlier testimony about a quarter of the portfolio that I oversee, which is about 4,500 units, is dedicated to affordable housing. So all of those properties participate with one of-- I believe we work with 7 or 8 public housing authorities presently, and there's certainly a need for public housing authorities and the services that they provide those residents. And if I-- I wish I could say that all public housing authorities were created equally. At the end of the day, they're just not, they're just not managed equal-- equally and as efficiently. And, unfortunately, one of the largest housing providers in Nebraska is one of the more difficult ones to work with. There was a lot of reference to guaranteed payment in prior testimonies, and that's just not the case. I can cite one month last year between two fairly small properties. We were missing \$40,000 in public housing assistance funds between those two properties. And if they didn't have other resources, that type of situation would put those properties in a very difficult position to not be able to meet the minimum requirements for their utility expenses, mortgages, and things of that nature. That amount that I think it took us over 6 months and it was basically a data entry. It was an-- was a number on an ACH that was misentered and it took over 6 months for us to correct that issue and get the \$40,000 back from the housing authority. That excluded, on any given day, we're about 6 to 9 months late in receiving annual rent increases from the housing

authority. So we're receiving payments at some properties, but they're at a rate less than the reasonable rent increase that they've approved, but haven't been able to implement those actual increases over that 6 to 9 month period of time. So I guess what I would offer-- and I guess I'm going to, I'm going to digress just a little bit in that a lot of the types of lawful income that are, that are in Section 4: Social Security, child support, foster care subsidies, alimony, veterans benefits, we're OK with all of those, those types of incomes. Those are very reasonable clear sources of income. It's this contractual obligation, I'm not an attorney, but I have a hard time wrapping my head around the idea that a lawful source of income can force a private property owner to enter into a third-party contract with another entity and be forced into every regulation associated with that contract. And that's exactly what this bill is proposing, specifically the language on page 5 on line 2 where it talks about "because of any requirement of any federal, state, or local public general assistance or housing assistance program," any requirement whatsoever. And some of these programs require the execution of that third-party contract. And there's no recourse on the part of the landlord or the property owner when there's disputes. So what I would offer it would be better-- how do we make it voluntary participation, but more efficient, reliable, so there's mutual benefit for both parties. Have there be guaranteed on-time payments with accountability for the public housing authority when those payments are made, eliminate unnecessarily delays by allowing immediate occupancy when a unit does pass inspection. Because right now, some of the housing authorities will restrict what day a resident can move in to the 1st or the 15th of the month. So then they're still not in a qualified housing unit and the owner is eating that rent for an additional 14 to 30 days, depending on the situation of when they can move in, provide liability protections for landlords dealing with program-related disputes when an individual that's on a, a voucher is a current resident in a unit, and they fail an inspection, even if that section is specifically related to something that the tenant did, there's no recourse on the tenant other than the, the landlord giving them, like, a notice of a, of a lease violation. But the housing authority could hold that rent and it's never recoverable. Once it's lost, it's lost forever. And but, yet, they can still maintain their occupancy. There's no recourse for that landlord onto the rent in order to recover those, those housing payments that they've already lost. And then we'd just like to simplify the lease requirements so the landlords don't have to navigate so much excess red tape in order to accommodate these individuals that are on these housing-- Section 8 housing programs. The issue is not the landlord or the tenants. These

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

tenants deserve quality, affordable housing, but we have to figure out a way to, to unbreak the system that's public housing.

BOSN: Thank you. Any questions for this testifier? Senator McKinney.

McKINNEY: Thank you. And thank you for your testimony. What do you consider affordable housing?

KRISTY LAMB: What do I consider affordable housing?

McKINNEY: Yes.

KRISTY LAMB: So the, the properties that are in my particular portfolio, they're dedicated to affordable housing. Most of them are low-income tax credit communities, and so they have income caps based on the particular program requirement that the property was constructed under because it was constructed specifically for the use of affordable housing. So there's income restrictions based on familial size. So it's the, the amount of total income that, that, that resident can make that's audited by the IRS, but that the total income that that family can make raises based on the number of family members in the household. And all of those properties will always participate in public housing assistance programs. And then we do have some private clients that don't participate in low-income housing initiatives, but still allow for the acceptance of, of public housing-- public vouchers, Section 8 vouchers.

McKINNEY: All right. So out-- outside of the low-income stuff, what do you consider affordable housing?

KRISTY LAMB: I think there was a lot of conversations about, like, three times, having someone to make three times the rent. Most of our portfolio is, I would say, Class D type apartment communities built in the '60s and '70s. So our qualification generally looks at we just want to make sure can they afford to pay their rent, can they reasonably afford to pay their rent on a regular basis and meet the basic terms of, of their, of their rental agreement? So a lot of in our cases, maybe 60, 60% income to rent ratio is pretty common.

McKINNEY: I would ask this question to the room, but I'm not going to do it. But how many people, honestly speaking, make three times the rent, the rent?

KRISTY LAMB: Oh, it's-- I mean, that's just--

McKINNEY: Realistically.

KRISTY LAMB: --way outside our, our qualification standards.

McKINNEY: Like, I was going to say show of hands for the room.

KRISTY LAMB: Like I said, 60% income to rent is, is probably more common with, with the particular class of properties that we manage.

McKINNEY: I just always thought that was odd that, like, landlords and property management groups ask that. Because I was, like, that's not realistic. People do save up and eventually pay it, but is asking somebody who-- our state minimum wage just went up. Just say, let's say somebody's going to work every day and only making minimum wage, are they really making three times the rent? But moving on to my other question, you could still-- like, just-- all this bill is saying you can't deny them based because of their source of income. But could they still be denied?

KRISTY LAMB: Yes, they could.

McKINNEY: OK. So it's not forcing anybody into any contracts.

KRISTY LAMB: It, it, it is if they qualify under normal terms. The next step would be for them to engage in that third-party contract.

McKINNEY: But that's because the landlord is willing to opt in to the Section 8 program. Right?

KRISTY LAMB: No. This would say if they qualify under all other nondiscriminatory means and they have a housing voucher, the landlord would have to accept that housing voucher and enter into that third-party contract.

McKINNEY: It does?

KRISTY LAMB: Yes, that is my understanding of the bill as it's written.

McKINNEY: But they could still be denied?

KRISTY LAMB: For other nondiscriminatory reasons, they could, yes.

McKINNEY: So I, I, I read it differently. But we've got our opinions. But I don't think it forces anybody to any forcible contracts. I think it's just saying give everybody a fair chance at housing. Just-- but, thank you.

KRISTY LAMB: I, I guess I don't know how I, how I can tell an individual that they're not able to move in if they--if we utilize their Section 8 voucher as a portion of their income when they're qualifying, and they qualify under other nondiscriminatory means. And so they're approved to move in, but the only way they can afford that apartment is with their voucher. So the only way that we can then move forward with their rental agreement is to, is to execute the contract with the public housing authority.

McKINNEY: But you still could deny them for other things. Correct?

KRISTY LAMB: But there is no other reason to deny them.

McKINNEY: But you're-- as a landlord or property management group, when you seek out Section 8 or, or you're taking in people who are on the program, you're opting into the program, right?

KRISTY LAMB: In this-- currently voluntarily. Yes.

McKINNEY: Yes.

KRISTY LAMB: All the time.

McKINNEY: So--

KRISTY LAMB: But in this case, it would, it would become, it would become "unvoluntary."

McKINNEY: How when you're already opting into-- I, I, I guess we got a difference of opinion.

KRISTY LAMB: We, we do manage for, like, a couple clients that, that have opted out of the program.

McKINNEY: Yeah.

KRISTY LAMB: Yes.

McKINNEY: That's all I'm saying.

KRISTY LAMB: And they wouldn't continue to be able to do so.

McKINNEY: Thank you.

KRISTY LAMB: Um-hum.

BOSN: Thank you for being here.

KRISTY LAMB: Thank you.

BOSN: Next opponent. Good afternoon.

SONI ALBERTSON: Good afternoon. Thank you. I'm Soni Albertson, S-o-n-i, Albertson, A-l-b-e-r-t-s-o-n. I am a representative of NP Dodge Management company in the-- in IREM, which is Institute of Real Estate Management. Just to kind of fill in, I think we haven't talked about inspections. I think inspections was one of the, the concerns. I think from a landlord position, I think it's not necessarily the inspection. I think it's the inconsistency of the inspection. I think a lot of people were mentioning things in the apartment and, and all of that. I don't think anybody is opposed or any landlord is opposed to obviously safe housing. But I definitely have had some experience in inconsistency in inspections. I've actually had a property fail an inspection due to two vehicles having expired plates. Nothing wrong with the unit, but they declared that that was hazardous to their housing. However, down the street, different inspector in a different location that may-- definitely had expired plates in, in the parking lot, that unit did pass. So I think the frustration on the inspection part is just the inconsistency. And if we could-- you know, if the housing authority could have some sort of consistency through all the inspectors, it would definitely help in that sense. And that's pretty much all I have. I do want to say I have definitely available units that take vouchers in Lincoln and Omaha if anybody knows anybody. Thank you.

BOSN: Thank you for your testimony. Any questions? Senator McKinney.

McKINNEY: Thank you. Well, one question. Are you forced, are you forced to have the inspections?

SONI ALBERTSON: If, if we are participating in the program, we are forced to have inspections. Yes.

McKINNEY: But if you don't want to participate in the program or you don't want to have the inspections, you don't have to participate in the program, right?

SONI ALBERTSON: Correct. But we have, we have inspections with the city.

McKINNEY: Because you want to participate in the program.

SONI ALBERTSON: The city has inspections on all apartments.

McKINNEY: Well, the city is different. Yeah. But I'm saying if you, if you don't want to go through the process, that means you don't want to go through the program.

SONI ALBERTSON: Correct.

McKINNEY: All right. Thank you.

SONI ALBERTSON: Yes. Thank you.

BOSN: Thank you. Next opponent. Good afternoon.

MEGAN MONK: Good afternoon. My name is Megan, M-e-g-a-n, Monk, M-o-n-k. I am the in-house attorney for Seldin, LLC. Seldin is a property management company. We are based in Omaha and we provide property management services in Nebraska and 11 additional states. I'm here today to testify in opposition to LB223. Requiring all landlords to accept housing vouchers will cause compliance issues, ultimately dissuading individuals from becoming or continuing as landlords, and contributing to the housing shortage we currently have in Nebraska. Landlords not already familiar with compliance requirements for accepting housing vouchers will have difficulty understanding compliance requirements. This will be especially negatively affecting small landlords, but it will also negatively affect larger landlords with companies like Seldin, LLC. At Seldin, LLC, we have an entire compliance department dedicated to low-income housing compliance. I think there's been a mischaracterization by prior testimony today that this is just a small amount of paperwork. That is not correct. It is incredibly complex to comply with the federal requirements to have housing vouchers. That's why we have to have an entire department dedicated to this. It is very difficult work. And not only is it hard, do we have a department dedicated to it, it is very hard to find individuals with that experience because there are so few people that are well-versed in the type of documentation you have to constantly fill out to remain in compliance with federal housing documentation. We really have trouble keeping people in that department because there is so few people nationwide. We have to find people in all states to work for us to do this type of work. It is so complex. That would be a very hard burden to put on landlords that are not already versed in this sort of work. Additionally, the housing authorities are already working at or near capacity, especially in Lincoln and Omaha. If we were to require that all landlords take housing vouchers, that is going to cause additional work on the housing authority and that will also cause an issue with keeping in compliance. That's because the housing authorities also assist landlords and they provide education

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

and help facilitate the proper use of the housing vouchers. And this is going to create even more of a burden on them.

BOSN: Thank you. Any questions for this testifier? Senator McKinney.

McKINNEY: Thank you. So I guess-- you said it would be burdensome for your company if you're required to do this. But from my understanding, a lot of these developments that your, your, your company is managing is based around TIF, low-income housing funds. So the developments are-- were-- in, in order for those developments to be pulled off, you needed to opt into these type of programs. So without--

MEGAN MONK: Sure.

McKINNEY: --no-- but without TIF funding and low, low-income tax credits, you wouldn't even-- those developments wouldn't be. So to say it's burdensome--

MEGAN MONK: So--

McKINNEY: --takes out the conversation that, that development and that 150-unit apartment complex wouldn't be standing up without, without the tax credits.

MEGAN MONK: Well, that's actually not totally true. So at Seldin, for example, we manage both affordable properties, which would be things like Section 8 and low-income housing tax credit. And we manage conventional. Conventional properties would not have received those funds. And those landlords that we manage for would not have been privy to those funds. So that actually would be a mischaracterization overall.

McKINNEY: But I'm not just-- maybe not conventional, but you do manage properties that have received those type of funds.

MEGAN MONK: Yes, we do. But what I'm saying, it would create a burden for my company because our already stretched thin compliance department would then start have to providing those services for the conventional properties as well. And we cannot keep up with what we have for the affordable at this time.

McKINNEY: And then you mentioned the housing authorities. So you're saying it will create a more burden on the housing authorities if they actually utilize all of the vouchers that they put out there every year. What's the point of them, for example, if they have 200 vouchers that they try to throw out every year? And I'm throwing out a

hypothetical estimate. I, I really don't know how many, but I'm saying 200. If they have 200 that they're saying to their communities, hey, we have 200 vouchers for housing and people apply, they don't use all 200, why, why would they throw those out there if they didn't want those to be used?

MEGAN MONK: So, again,--

McKINNEY: I'm, I'm lost.

MEGAN MONK: --my point was from the landlord perspective. So the housing authority, they both give the vouchers, but they also provide advice to landlords. So right now, when you have the companies like Seldin who are managing the properties that are specified for, like, Section 8 or low-income housing tax credit, that's one source of landlords that the housing authority has to communicate with. If you start requiring that all landlords have to have-- have to take Section 8, then now you're putting more of a burden on the housing authority because they have multiple landlords that they're going to have to constantly communicate with regarding these types of questions.

McKINNEY: I guess what I'm saying-- what I'm trying to communicate is why-- if, if, if they didn't already assume the consequences of the burden by putting out to the public, we have 200 vouchers, I, I guess--

MEGAN MONK: But I guess the point I'm making is that it's creating extra work for the housing authority. Because in your scenario, there's 200 vouchers. Well, let's say that Seldin manages a property that's already classified as low income that has 200 units and we have all those people at the one property, that is one landlord that the housing authority is communicating with. Now, let's say that you have the 200 vouchers, but you have 50 different landlords that are all absorbing those people. That's 50 different people that the housing authority is now having to communicate with. That is creating quite a bit of work on the housing authority.

McKINNEY: But if they were properly managed-- if the housing authorities were properly managed, you would assume the risk of saying to the public, we have 200 vouchers, apply. You could have 1 landlord, you could have 50, or you could have 200, putting out 200, putting out a request, putting out a, a, a notice that we have 200 vouchers, you're assuming the risk of you could have 1 or 200.

MEGAN MONK: But I think you're--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

McKINNEY: I don't, I, I don't understand the burden argument.

MEGAN MONK: I think you're not understanding my argument of the compliance burden here on landlords is that these documents are so difficult and staying in compliance with the federal requirements are so difficult that we often go to the housing authority for guidance, and the housing authority is great at providing that guidance. But it's really putting a lot on the housing authority to have them have to communicate the same thing to 50 different landlords. Whereas, if you're communicating it to 1 landlord who's well versed in low-income housing,--

McKINNEY: But that's their problem.

MEGAN MONK: --it just makes it easy.

McKINNEY: They assume that risk when they put out that notice for 200 vouchers.

MEGAN MONK: I would disagree. I think that we're-- we really want to, like, help as many people as possible. And by making it more complex, that's just not helping anyone.

McKINNEY: I mean, we, we could go all day,

MEGAN MONK: Yeah.

McKINNEY: --but I'm, I'm just saying, if you put out a notice that you have 200 vouchers, you assume the risk that you might end up dealing with 200 landlords.

MEGAN MONK: Yes, if you-- which is why I am in opposition to this law, because we should have the landlords that are already comfortable and experienced with the housing authority and experienced with the complex compliance working to get the people with the vouchers into appropriate housing.

McKINNEY: I'm going to let you go. Thank you.

BOSN: Any other questions? Senator Hallstrom.

HALLSTROM: Are you simply saying you prefer for it to remain voluntary?

MEGAN MONK: Yes.

HALLSTROM: Thank you.

BOSN: Thank you for being here.

MEGAN MONK: Thank you.

BOSN: Next opponent. Welcome back.

SCOTT HOFFMAN: Oh, you'll be ready to hear this. Scott Hoffman, S-c-o-t-t H-o-f-f-m-a-n. You can consider me probably an expert on testimony on this for about the last 5 years. Two of the senators are here, Senator DeBoer, Senator McKinney. Senator Guereca, ironically, has taken over for Tony Vargas, continuing his bill to, to push this income assistance. And to answer your, Senator Hallstrom, this is appropriate. Thank you, Senator McKinney, for putting that on notice. This is not discrimination. OK? The point that we had a problem, this was in the bill years, a couple of years ago. Senator Vargas put in there about a \$50,000 retainer to pay for damages. Everybody here, federal housing used to pay for damages. They no longer do. I'm looking at the endgame. I do not accept housing and that is a reason why. So until you can get that program, and I may have to talk to this attorney about here because I'll be the first one if this passes in Lincoln. I cannot accept housing based on somebody that is needing assistance with their rent. And then the other thing that's really quite silly require them 3 times the rent. I require 2.5. So if the rent is \$1,000, they need to make \$2,500 a month. Well, if you're making that amount of money, you shouldn't have to be on housing. I mean, it's real simple. So why have that in one of the requirements of how much income you need to be to qualify for housing. It's usually-- I don't know, you can't spend more than 60% of your income. I'm-- in this one, it would have been 40%. But the fact of the matter is housing-- taking vouchers, Section 8 is a program that I, as a landlord, do not want to participate in because mostly the people who may be on housing may not be making enough money to pay for the damages when they move out if it does occur. People that I do rent to and as I mentioned earlier, I said I've never had any evictions. I've never had any problems in the last 7 years because all the people who rent for me pay the rent on time. I got some people to pay me cash and don't even ask for a receipt because we get along. I consider my tenants also friends, OK, so I don't have any problems with that. But if I start taking housing and somebody comes in and, you know, they're, they're doing something they're not supposed to be doing and they're damaging my property, which, again, we're talking about the yearly inspections where somebody might have done the damage themselves and they expect the landlord to fix it. I ain't going to do that. I'm not going to do that. OK, they damaged it, they can fix it. Inspections can also involve peeling paint. They do an inspection and

they find lead in it. And I'll say, well, that's abatement, that could cost tens of thousands of dollars. Well, we can't-- gee, thanks for the disclosure, now I know I got lead-based paint. OK, so there's certain hurdles that you have to do to qualify to accept the income housing voucher. But the biggest issue here is, it is not discrimination. It is not discrimination. It is a program like Senator McKinney alluded to. So that's, that's the biggest-- if you start getting-- where we're covering damages. And I'm all in, I'm all in, he'll testify for you right now because that's what I will do in court if I have to fight this legally. I am not accepting housing if you're not going to pay for damages. Now, they used to, but they no longer do. And with the current administration, and we saw on the news last night how they're cutting federal programs, who knows how they'll be able to cut into this program. We don't know. We don't know that at all. So I got the red light. I'll take any questions.

BOSN: Thank you. Any questions for this testifier? Senator McKinney.

SCOTT HOFFMAN: I expected one from you, but go ahead.

McKINNEY: Thank you. Thank you. So does everybody that rents from you pay a security deposit?

SCOTT HOFFMAN: Yes.

McKINNEY: No matter what? Even if they're, let's say, if they're-- if they have a Section 8 voucher, would they pay the security deposit?

SCOTT HOFFMAN: Well, I don't accept Section 8.

McKINNEY: If you did?

SCOTT HOFFMAN: And they would have to. Well, by law, you can charge up to one month's rent.

McKINNEY: OK.

SCOTT HOFFMAN: So, yeah.

McKINNEY: So has everybody that you-- that, that's rented from you just not had any damages?

SCOTT HOFFMAN: There has been some where I have returned the damages deposit, yes, in full. But this is because I did thorough background checks because of the previous landlords. Sometimes we'll actually go over to the house to see how they live, and not just for that, just to

see they don't have any infestation because we don't want that brought over to our property. So I have done that. Yes.

McKINNEY: Went to their houses?

SCOTT HOFFMAN: Oh, yeah, yeah. We want to make sure-- I'll tell you, I was here, here one time, Senator, testifying and this guy applied for one of my properties and he gave me the address he lived in and I said OK. And so he-- then he said, well, we can't go over there. We found out that he had been evicted. He no longer lives at that residence, but he lied on his application and said he wasn't evicted. These are reasons why I do what I do, but I'm not as big as some landlords. OK? Some other landlords have more property than me. But, again, I'm getting back to the endgame. If people need assistance on their rent, and it may be a single mother that can't work because she's got to take care of her children, how is she going to pay me for damages when she moves out? I think the fed should pay for it. You paid for the rent, why don't you pay for the damages? They used to do it, Senator. They quit doing it. And there's a good reason why, because it was too costly. And then the state wanted to set up a \$50,000 retainer. I said, what a joke, this is silly, \$50,000. You're talking about damages across the state of Nebraska, it could be in the millions. \$50,000. And but I know Senator Vargas put that on it because he knew consistently every year, as I've testified before you that, oh, Scott's going to come up there and say something about housing not paying it, and now it's, now it's not on the bill.

McKINNEY: Well--

SCOTT HOFFMAN: What happened to it? It was taken off. Why isn't it on the bill anymore?

McKINNEY: Well, Scott--

SCOTT HOFFMAN: Yeah, tell me. Tell me, Senator.

McKINNEY: I'm not sure. I haven't talked to Senator Guereca about it. But I do think telling someone that-- oh, I'm going to ask a question because I'm not supposed to elaborate a lot.

SCOTT HOFFMAN: Well, you're doing a good job today, but go ahead.

McKINNEY: I'm trying. Yeah, I know. But have you ever rented to Section 8?

SCOTT HOFFMAN: No.

McKINNEY: No?

SCOTT HOFFMAN: My sister was on Section 8 years ago. She's no longer with me, but she moved back from Utah. But it was my sister and, yes, she qualified for it because she recently got divorced and she had several kids. She lived in one of my houses, but that was the only time I did it because it was kin. So, yeah.

McKINNEY: So are you, so are you speaking from a sense of fear, because it doesn't seem like you're speaking from a sense of experience?

SCOTT HOFFMAN: I'm speaking in sense of what I've heard from other landlords who have rented to housing who no longer do. I've heard some real horror stories. They rented to housing, the people moved out, they tried to sue them, they don't have any money, and they're stuck with the damages. But the people who I rent to currently right now do make 2.5 times the rent. They have good rental history. I'm not talking about one has got a better job than the other, but they all have-- do good jobs and I know have recourse, OK, after if they do, do damages.

McKINNEY: So are you, are you making the assumption that everybody that is on Section 8 or has a voucher just doesn't go to work or, you know, because for example-- no, no, for example, my mom, when I was coming up, we were on Section 8.

SCOTT HOFFMAN: I know you were.

McKINNEY: My mom-- you know I was?

SCOTT HOFFMAN: No, I know because you've mentioned it. Yes.

McKINNEY: OK.

SCOTT HOFFMAN: Yeah.

McKINNEY: All right. Well, I was. But she went to work every day, worked her butt off.

SCOTT HOFFMAN: Right.

McKINNEY: And, you know, we survived, but that don't-- like, I feel like you're, you're coming off as, like, these people just don't care about life. They're going to destroy your prop-- property. It, it-- it's giving me-- but you've never rented a section, section-- like,

somebody on a voucher before, but you have all this negative stuff to say.

SCOTT HOFFMAN: But I've also never done any evictions hardly over the course of 40 years, Senator. I've done it for 40 years. And getting back to Senator Hallstrom's comment about the amount of income, because somebody said, well, and then he even mentioned it, that Senator Guereca said, as long as they make three times the rent. I mean, rents right now, \$1,000, barely give you a one-bedroom apartment. We're talking about making \$3,000, \$4,000. If you're making that kind of money, money, you shouldn't even be on housing. OK, because my tenants currently are not on housing and they're making that. OK? So that's, that's my question. I'm talking about the endgame. I'm talking about what can I attach when these people move out if they're unable-- if they needed help to pay on the rent and they may or may not be working or making a lot of money or, in your case, maybe somebody is working a minimum job and they do several thousand dollars worth of damage and one month's rent is not going to cover that damage. OK? There's no way. My average-- I can tell you from experience on damages when tenants move out, ones that I had problems with, \$3,000 to \$5,000 average. Yes, between painting, replacing carpet, walls, doors, windows, lost rent. The, the list goes on and on.

McKINNEY: So you're admitting that your, your process over the last 40 years has not been foolproof?

SCOTT HOFFMAN: Well, I think it has. I think it has.

McKINNEY: Not, not, not with what you just stated.

SCOTT HOFFMAN: The last, the last 2 people I mentioned, I did the 7 days on, they left, but they did damages and 1, I-- 1 involved with their-- wife was getting separated from husband, this was a couple of years ago, they moved out. I hate to say it but I had to bring my exterminator in, he's one of the best exterminators. I said-- had to exterminate-- let me finish. He had to exterminate the place, it took me 3 months to clean that up. I took it to small claims court, which we'll talk later, jury by trial. We took it to small claims court. We worked with her, she made payments, and she ended up paying me. She ended up paying for the damages they did. So-- but that's, that's, that's what I'm talking about as far as being able to attach something at the endgame if indeed they move out. And I think it should be a voluntary program. That's all I'm asking. It's a program that I don't

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

want it into and it's not discrimination. It's a program which you alluded to. Thank you.

McKINNEY: I think it's discrimination.

SCOTT HOFFMAN: I don't. You said it was a program.

McKINNEY: It still could be discrimination.

SCOTT HOFFMAN: It's, it's-- no, it's not, it's not, it's not, not in the current fair housing law, so. You're trying to make it that way.

McKINNEY: It, it, it still could be. Thank you.

SCOTT HOFFMAN: All right. Any other questions?

BOSN: Any other questions for this testifier? Seeing none, thank you for being here.

SCOTT HOFFMAN: All right.

BOSN: Next opponent.

JOSEPHINE LITWINOWICZ: I just want to ask permission if I can speak in the pro of this bill because I was in the other-- I had to wait in line to get into the other committee. Is it possible?

BOSN: There-- it is. But why don't I have you wait till we're done with our opponents just since some of those folks have been. But I'll give you a-- when we call up-- before we call up our neutral testifiers. How about that?

JOSEPHINE LITWINOWICZ: Thank you.

BOSN: You bet.

KORBY GILBERTSON: Good afternoon, Chairwoman Bosn, members of the committee. For the record, my name is Korby Gilbertson. It's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as a registered lobbyist on behalf of the Nebraska Realtors Association and the Home Builders Association of Lincoln, Metro Omaha Builders Association Coalition in opposition to this legislation. Our opposition comes from a slightly different slant than everything you've heard earlier today, and I think this is important from the standpoint of Senator McKinney's questions, because I think there's a confusion as to whether or not this affects people who choose to opt into a governmental program or if it affects everyone. If you look at page 6,

Section 7, this creates-- it is now considered discrimination if you do not accept a lawful source of income. So it doesn't matter if you choose to participate in Section 8, you have to accept a lawful source of income. And where this comes into play for other issues, especially selling your home is, I'll give you an example. If someone has a home and they need to sell it, they can't afford to put a new roof on it, they know that there's some problems with their furnace and they disclose all of this and they want to sell it to someone for less money, knowing full well that they can't afford to fix it, this bill would keep them from doing so if they would receive a bona fide offer from someone who has a VA loan. So the VA loan process requires that you have two different appraisals. It-- minimum property requirements require electrical, heating, cooling systems all be operational, that a roof will last for the foreseeable future, clean and continuous water supply so there's a question on whether or not if you have well water and you have to have a lot of water treatment that would work, that it has to be free of lead-based paint or remediation has to take place before you can sell the property. There are about 10 other things on that list. I won't bore you with all of them, but that is the concern of the home-- of the realtors and the home builders, is that this not only affects people that are trying to rent property, but it affects anyone who might actually be the people you're trying to protect with this bill, it keeps them from being able to sell their house for a cash sale or to the buyer of choice. Because if someone makes a bona fide offer, you cannot say, sorry, I'm not accepting VA loans. So with that, I'd be happy to answer any questions.

BOSN: Thank you. Any questions for this testifier? Thanks for being here.

KORBY GILBERTSON: Thank you.

BOSN: Next opponent.

TARA HOLTERHAUS: Good afternoon again. Tara Holterhaus, T-a-r-a H-o-l-t-e-r-h-a-u-s. I'm not going to reiterate everything that you've already heard. I want to make our opposition known to this bill on behalf of the Apartment Association of Nebraska and the Nebraska Association of Commercial Property Owners. Ultimately, as the law stands currently, this is a voluntary program. Participant-- participation to receive Section 8 Housing Choice Vouchers is voluntary by private landlords and they can choose to participate or not, and it should remain that way. And I just want to reiterate Seldin's comments that these laws are very complex. When you do choose to participate in the programs, it's a complex set of rules and it's

not something that you can sort of dabble in and have, you know, one tenant where you receive the voucher and, and on a, on a basis where you don't know what those rules are, it's going to require a ton of education on behalf of all of the property managers with the off chance that they have one voucher holder at their property. It's a very complex set of rules that it really should remain voluntary. And I, I will just leave it at that. I'm happy to answer any questions and just would ask the committee to oppose this bill.

BOSN: Thank you. Any questions? Thank you for being here. Next opponent.

DENNIS TIERNEY: Good afternoon. My name is Dennis, D-e-n-n-i-s, Tierney, T-i-e-r-n-e-y. Senators, LB223 creates another protected class of individual that's based on source of income. There's no such nationally recognized class of individual. This is a bad precedent and opens the door for anyone else to apply to the Legislature to have themselves declared as a protected class based on what they think of their unique circumstances of victimhood. This bill would result in discrimination claims being laid against landlords who discern that a prospective tenant is a poor risk due to an unstable source of income. This is akin to telling a bank or a car dealer that they have to give a loan to an individual without considering their ability to repay the loan. Specifically, this law forces landlords to accept voucher program individuals or risk being sued for discrimination. It is an attempt to force private landlords to work with the dysfunctional Omaha Housing Authority. Many landlords do not want to work with them because of significant problems they have encountered with OHA. And many have said they would rather quit offering rentals than being forced to work with OHA. At a time when affordable housing is in very short supply, you should not encourage landlords to quit the business. Last session, the Legislature passed a bill that reformed OHA's eviction process, this year is a bill to force OHA to more effectively treat bedbugs in their own buildings, and they have a class action lawsuit against them because of bedbugs. They are obviously very poor landlords themselves, so why would you force-- try to force private landlords to deal with OHA? Many landlords that I know are happy to deal with Douglas County Housing, but they're loathe to work with OHA. If you want more landlords to take vouchers-- voucher tenants, you need to overhaul OHA, not punish private landlords because of OHA's problems. Now, one of the proponents mentioned disparate impact as a possibility with this, this law. And, in fact, one of the two previous iterations of this law in, in 2021, Chairman Lathrop, at that time, asked the fair housing people if this law passes and you find a landlord that has no Section 8, can you sue them for disparate impact

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

proving they're discriminating? The fair housing people said yes. So there is a possibility of disparate impact on landlords who, who don't take Section 8 just because they don't have Section 8 they can be sued for disparate impact. Senators, I urge you to reject LB223.

BOSN: Thank you. Any questions for this testifier? Seeing none-- oh, Senator McKinney.

McKINNEY: Thank you. Thank you and thank you for your testimony. I guess you've had some experience dealing with OHA. From, from your perspective, what do you think needs to be done to, you know, make some changes as far as the Omaha Housing Authority?

DENNIS TIERNEY: They seem to be somewhat incompetent. I think they need to, to increase their level of competence. A, a specific case, I, I know a landlord very well who had 8 houses that he had under the OHA program. OHA contacted him and said, hey, we overpaid you \$500. And so until we get this resolved, we're not going to pay you anything on, on your, on your 8 houses-- on 8 houses. He went back and forth with them over several months. And after, after 4 months, OHA said, oh, our bad. I guess it was, it was a mistake on our part. We didn't overpay you that \$500. In the meantime, he lost 4 months of rent. Frankly, they're, they're incompetent.

McKINNEY: Did they repay it?

DENNIS TIERNEY: No. He never got the money. He lost 4 months of rent while OHA was twiddling their thumbs. You know, you need to reform OHA, not force landlords to work with a dysfunctional organization.

McKINNEY: Have you dealt with their inspectors?

DENNIS TIERNEY: I don't manage my properties.

McKINNEY: Oh, OK.

DENNIS TIERNEY: I have management companies that manage my properties. Seldin is one of them. And we've had-- we certainly have had inspections. I've had Section 8 tenants. We've had, we've had Douglas County Housing Authority that's been good to work with. The people really good to work with is in southwest Iowa. I mean, we, we use them for our Council Bluffs and, and Carter Lake properties. OHA is very dysfunctional.

McKINNEY: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

DeBOER: Thank you, Senator McKinney. Are there other questions for this testifier? I don't see any. Thank you--

DENNIS TIERNEY: Thank you.

DeBOER: --so much for being here. We'll take our next opponent.

DAVE ULFERTS: Good afternoon. I'm Dave Ulferts, D-a-v-e U-l-f-e-r-t-s, and appreciate your time this afternoon. It's a complex issue. I was going to start with a joke which was I thought I was underpaid as a landlord. But you might all beat that, but anyway. I'm a landlord, have been for 15 years. I have another job and have worked that other job at the same time. So I'm in the trenches. I am a person who has property. OK? I hire people. I rent. I, I do it all. I've got about 30-some units. At my peak, I was at 65. Why did I decrease my number of units? Because I couldn't handle Section 8 Omaha Housing Authority. So I agree with everything that has been said here. The last person just said it perfectly. Fix OHA. Fix OHA, you will solve all these people over here just, just like landlords. I get it, been dealing with it for 15 years. Where we share a common theme is let's have more affordable housing. But you can't have affordable housing if your processes are backwards, you're on hold for 42 minutes. Imagine the bureaucracy of a government agency. That's, that's what you're asking us to deal with. It's not acceptable. Pass this rule, not a threat, I'll sell every one of my properties and I'm out. Won't do it. That's how much OHA is a cluster. It's-- it just is. It's bureaucratic. You can't get a hold of anybody. No one has an answer. And they're not, they're not helpful. I mean, it, it kind of is that simple. There are solutions out there. What I feel like this process is doing is just moving chairs on the Titanic. I mean, I really do feel we have a housing crisis and it is going to get worse. Property taxes at one of my units up 50%, \$24,000 a year to \$36,000, it's \$2,000 a month went to three. It's going to happen again. It just is. My property taxes went up 35%. So we have a housing crisis. What we're doing here is not strategic in helping solve the problem. So I would encourage you to-- I thought your last question was brilliant. How do we help OHA get better? Because they need to. Because we have a lot of people in need. And as someone who rented to Section 8 houses, probably a half dozen, you know, it's 80% are fantastic, 20% cause most of the problem. I'd probably say the same is true for landlords. 80-- 90% of landlords are, we want good people. We want take care of our houses and pay rent. But it's the 10 or 20% that are causing all of this, in my opinion. So with that, I'll take questions.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

DeBOER: Thank you. Are there any questions for this testifier? I don't see any today. Thank you so much for being here. We'll take our next opponent. Good afternoon.

NATHAN HAUGEN: Nathan Haugen, N-a-t-h-a-n H-a-u-g-e-n, and I'm here to testify on behalf of MOPOA, Metropolitan Omaha Property Owners Association. It's amazing how a lot of our last few testimonies are exactly the same here. MOPOA is opposed to LB223 due to issues with the housing authorities. Requiring property owners to work with Section 8 increases costs and adds additional headaches to ownership of rental property. It seems a lot like a stick, and I'd, I'd prefer a carrot. And if Section 8 were an attractive alternative, this wouldn't be an issue. Please reject LB223. I'll return my time.

DeBOER: Thank you. Are there questions for this testifier? Senator McKinney.

McKINNEY: Thank you. Sorry. What is MOPOA's suggestion to, to better improve relationships with the housing authorities or what are your, your suggestions that may improve the housing authorities operations?

NATHAN HAUGEN: Yeah.

McKINNEY: Since, since the-- this is kind of odd. This is the first year I've heard landlords come in here and say that OHA is bad, which I'm, I'm happy for because we all agree, but what are your suggestions?

NATHAN HAUGEN: Yeah, that's a pretty deep question. That is going to take a lot more time than we have today to answer. But I, I am in direct contact with their liaison now. They did create a position as a liaison as of January of last year. Her name is Peggie Casper. Very nice lady. I just saw her a few weeks ago and continue to keep in contact with her and try to make any recommendations I can as president of MOPOA to absolutely improve relations with them. But it, it's a government agency. I work for the government at Offutt Air Force Base myself. Dealing with government is difficult at best. So requiring us to work with Section 8, I think is, is untenable.

McKINNEY: But how do we solve-- like, for instance, I know I've seen it, I think other people might attest to this as well. I've seen an increase of, of homelessness in the community and how do-- I don't know how we solve this problem if we have things like this where we have all these vouchers out here and, and they're not being utilized because they can't be utilized, we have a housing shortage and with a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

housing shortage, people with vouchers are restricted to where they can even attempt to seek housing. So I just only can imagine more homelessness in the future because of this. So you're saying no to this and they all are saying no to this, but there is definitely an increase in homelessness, especially in my district that I'm seeing. And I know a part of this is, is probably this and some other things as well, the, the developments downtown and they're pushing them from downtown. But we could talk about that later. But if you're saying no to this, what is the solution? Because I don't think people when they're, when they're calling and looking for homes should be hung up on because they ask, hey, do you, do, do you accept vouchers and are getting hung up on and getting cussed out. They're, they're, they're on line and they're looking at rent.com or wherever they're looking and saying don't accept Section 8 vouchers, don't accept Section 8 vouchers because I've seen it. So I-- that's, that's what I'm not understanding.

NATHAN HAUGEN: A few folks that testified before me saying they have properties available and looking for the phone calls with regards to Section 8, you know, so I'm not really sure on, on some of those facts. But, yeah, how do you fix affordability in housing is to add supply. As I was sitting here, I got a text, actually a phone call from my real-- my insurance agent, across the board increases of 40% for all properties February 15, just got the message, breaking news, about 15 minutes ago, 40%.

McKINNEY: That means we're going to see more people on the streets.

NATHAN HAUGEN: Housing affordability, got to add supply. It's supply and demand.

McKINNEY: All right. Thank you.

NATHAN HAUGEN: Thank you, Senator.

BOSN: Any other questions for this testifier? Seeing none, thank you.

NATHAN HAUGEN: Thank you.

BOSN: Next opponent.

ANNE SHEFFIELD: Anne Sheffield, A-n-n-e S-h-e-f-f-i-e-l-d. I am against LB223. I'll try and make this brief. I've been in the industry for over 20 years. I do work for a major residential company for the last 11 years. We do have a couple facilities that do take housing vouchers. My concern is I don't want to come from a place of fear like

Senator McKennedy has-- McKinney has stated. But, you know, I really feel like this is making the landlords take the brunt of all of this when it is-- it feels like it's a program issue. Things that could help change that would be beneficial of, like, looking at your-- at HUD. Who's still in their program? Who left that program? Having open-- open-door conversations, seeing what that feedback is. It sounds like the paperwork is a big deal. So what can you do to make that better? Layman's terms, talk in seventh-grade level. You know something where that-- those landlords can really step in and understand what they're agreeing to. We do have calls that come in. I work in the office. So as a, a manager of a community where people do ask, do you take housing vouchers or do you take vouchers? And they're very broad. We never want to assume HUD housing voucher. We usually ask a lot of questions. Well, what is it that you have? Because we do allow assistance and it just depends. We are not at a lot of our properties in the program for HUD, but at the same time, I usually would pull up the people that I-- or the resident-- residential areas that I know that take housing and I'll give them their phone numbers. I'll share that. HUD housing, I know in Lincoln they give them a list of apartment communities that do accept housing. A lot of them do have waits. I will agree to that. You know, we try and work with them versus against them, especially when looking for your income. We do 2.5% or 2.5 times the rent amount. And what-- and that's gross. So we look at the big picture, like, let's say, do you have savings? Do you have a 401K? Do you have a pension? You know, what's your Social Security? We try and look at the big picture to try and get them in as, as best we can. So, ultimately, just that open-door conversation. HUD and OHA would be great assets to ask. Here's the feedback. What can, what can you guys bring to the table to make people want to do this? Because as landlords, we want to house people. We don't want them to be on the streets. But at the same time, we need to make it more of a win-win for everyone versus it feeling like our fingers are being pulled back required to join this program. That's all I have.

BOSN: Thank you. Any questions for this testifier? Thank you for being here. Next opponent. Next-- come on up. We'll take our proponent out of order and then we'll move on to neutral testifiers if there's anyone who wants to make their way up to the front of the room.

JOSEPHINE LITWINOWICZ: I appreciate your [INAUDIBLE]--

BOSN: No problem.

JOSEPHINE LITWINOWICZ: --because I have a lot of experience with stuff like this.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

BOSN: Could you start by stating and spell your first last name for the record?

JOSEPHINE LITWINOWICZ: Yes. My name is Josephine Litwinowicz, J-o-s-e-p-h-i-n-e L-i-t-w-i-n-o-w-i-c-z. I'll spare the danger of Trump removal, but I will say I was kind of promised that we'd fix this. OK, I have a lot to say. For example, let's start by-- I met a couple while I was on, on the bus and they were going to charge their cell phones at Westgate Mall. And so this is maybe something that-- I have a lot, but this is important. And so I worked with them and they had a voucher that expires, right? I had that, too, when I was homeless once when I tried to protect somebody with schizophrenia that they targeted. And they actually got me out on a technicality because I got an alarm system that-- and I needed permission from a doctor and I was a couple of days late. And I, I never missed a month's rent. I never had in my life. Just a little anecdote. But so I was trying to help these people and it was near the end of-- and I was actually-- I was told I was on the top 5 list for housing commissioner. You know, and I was on the, the advisory board for the Lincoln Housing Authority. And I, I can build a habitat house. I've renovated. And I know the problems of landlords because I've seen it. In New Orleans, I know just exactly how hard it can be and we got to incentivize. You see, I didn't have always good credit because I had MS, but I never missed a bill in my life. I'm going to ramble, I guess. But I support this bill. We need more, we need more homes. And, and people, I know it's a risk so we have to-- I don't even have the ideas. But it would be nice if, if we didn't discriminate. Like, when I was homeless and I got out of the hospital, it was a miracle, literally a miracle. I had a badass person from TASC and her name was Chris [PHONETIC], you know, Lutheran Housing Authority. And, and, and she, she had to call every-- I finally got a place without a waiting list because I wouldn't have gotten it. And it was a miracle. And so I happened to get a great apartment just by the-- just luck. Anyway, so I was helping these-- and, and I finally-- they needed a birth certificate. The husband or the partner needed a birth certificate from Texas. And so I ended up calling and I got some tips from the Lincoln Housing Authority. If you want this information, I forget if it was this or another piece that was necessary that would be temporarily good enough. He said you can't ask for the purpose of housing. You could request it, but if you ask for the purpose of housing, they will deny you. Anyway, it came just in time and it was sent to the city mission where they had their mailing address and it never showed. And I got a promise because it was only a few days, it was-- and so boom, there goes their voucher. And then they are back on the street. And as far as-- and I know the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

problems, I, I know people that have had cement put in their P-Traps, you know, I mean, you name it. And so I understand each, each point validly so I-- but I am in-- for this because we have such a-- anyway, that's it. And if anybody wants to talk to me later about stuff, be my guest, because I'm more familiar than you might imagine. Thanks a lot for letting me speak.

BOSN: Absolutely. Before you go, are there any questions for this testifier? Seeing none, thank you for being here.

JOSEPHINE LITWINOWICZ: Thank you.

BOSN: Next, we'll move on to neutral testifiers. Are there any individuals wishing to testify in the neutral capacity? Thank you for being here.

PAULA GARDNER: Good afternoon. I hopefully will make this brief. My name is Paula Gardner. P-a-u-l-a G-a-r-d-n-e-r. I'm the executive director of the Nebraska Equal Opportunity Commission. I'm here today to speak in a neutral capacity on LB223 and to answer any questions I can with regard to this legislation. This bill adds a protected class under the statutes over which the NEOC has jurisdiction. While it's difficult to know how many additional investigations passage of this bill could result in, we would do our best to absorb the additional work. As this is not a basis currently covered under federal law, we would not receive any federal reimbursement from HUD for these investigations where this is the only basis identified. However, having a state law more expansive than federal law does not affect our substantial equivalency with HUD. And it would be our hope that through our education outreach functions, that we could educate respondents on this to help prevent any potential discrimination from occurring. I would like to note, though, that this bill, in its current form, is also making an amendment to the public accommodations statute. That's on page 3, line 8. And it's-- so it's adding SOI as a protected class for public accommodation. We can certainly investigate that. I don't know if that was the intention. And I have been in communication with the senator's office about this. If there's any questions, I'd be happy to answer them.

BOSN: Any questions for this testifier? Senator DeBoer.

DeBOER: Can you speak to the disparate impact issue?

PAULA GARDNER: I was not the person who spoke in 2021. I spoke in 2023 about it. Disparate impact is not a very well-developed theory of

discrimination under housing law the way that it is under employment law. So what you look at with disparate impact is if something, a policy or a practice is neutral on its face, if it ultimately has a disparate impact on a protected class and therefore could be considered discriminatory. So I'm going to take it in the context of employment because that's where it's a little bit more developed. So if you use criminal convictions there could be a disparate impact if that's what you're using in a hiring decision because of how many more convictions there may be for somebody in a protected class. But there's disagreement, I think, in the courts about disparate impact relative to housing. And it would be my guess that that's going to be something that will be addressed with the current administration.

DeBOER: So a, a, a finding of just you don't accept this one kind of-- or you don't happen to have any Section 8 recipients in your dwelling unit, it seems to me that would be a hard sell to even try and make a disparate impact argument.

PAULA GARDNER: I, I agree, because you would have to show that-- you would have to know if the other applicants even had-- I mean, if you don't have anybody coming to you with Section 8, then you-- you know, what can you do about it? It's not, it's not your fault. It's not going to be an issue of disparate impact, I guess, as, as I would look at it.

DeBOER: OK.

PAULA GARDNER: I mean-- but again, it's-- you have a facially neutral policy, but it has a disparate impact on a protected class.

DeBOER: OK. Thank you for pointing that out.

BOSN: Senator Hallstrom.

HALLSTROM: Real quickly, on your fiscal note.

PAULA GARDNER: Um-hum.

HALLSTROM: It's kind of an usual fiscal note in that are you suggesting that you don't believe there'll be very many claims or you don't have any--

PAULA GARDNER: We have no way of knowing. So in the fiscal note, it's like, you know, potentially moving forward, there could be. But at this time, we don't know and--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

HALLSTROM: So if we, so if we pass the law and we have no fiscal note, it's OK to pass the law, but we may have to pay for it later?

PAULA GARDNER: It's possible if there's like this overwhelming amount of cases that we get, again, that we don't get the federal funding for. So the way, the way our work sharing agreement works with HUD is that if a person files a charge with our agency and it's something that's covered under federal law, HUD defers to us to do the investigation and then they pay us for that work that we've done.

HALLSTROM: And is there any estimate as to what a per case charge would be?

PAULA GARDNER: Right now, we're reimbursed \$3,200 for our HUD investigations, but it probably costs us more to do that just with staffing time.

HALLSTROM: If we wanted to estimate how many cases we thought would be brought under this law, we'd take it times at least \$3,200 that you're not getting reimbursed?

PAULA GARDNER: At least. Yes.

HALLSTROM: OK. Thank you.

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

PAULA GARDNER: Thank you.

BOSN: Any other individuals wishing to testify in the neutral capacity? All right. While Senator Guereca is coming up for his close, I will note for the record, there were 44 proponent comments, 56 opponent comments, and 2 neutral comments submitted for this hearing. Thank you, Senator Guereca.

GUERECA: All right. So, clearly, this is a very complicated and important issue. But I want to find a way in this Legislature to make sure that the folks who are using the assistance, that we're paying for, can actually use that assistance. To Senator Bosn's point, we have an affordability housing crisis across this state, and it's going to take some time to build enough units to take care of all of Nebraskans. But I want us to keep working and find a way forward. And I look forward to working with this committee this session and in future sessions to find that path, because it matters to the people in my district. And that's why I'm here. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

BOSN: Thank you. Any questions for Senator Guereca? Thank you for being here. Oh, I'm sorry, did you have your hand raised?

HALLSTROM: I'll talk to senator afterwards.

BOSN: OK. I didn't see-- sorry. That concludes our hearing on LB223. And we will next move to LB101 with Senator Dungan.

DUNGAN: I thought you were taking a break. I thought you were going to take a break.

BOSN: We don't have time for breaks here,--

DUNGAN: OK. Wow.

BOSN: --we go till 9 p.m.

DeBOER: We don't have breaks.

BOSN: But you already know that in Judiciary.

DUNGAN: Good afternoon, Chair Bosn and members of the Judiciary Committee. I am Senator George Dungan, G-e-o-r-g-e D-u-n-g-a-n. I represent Legislative District 26 in northeast Lincoln. And today I'm introducing LB101. LB101 is a bill addressing a respondent's right to a trial by jury under the Uniform Residential Landlord and Tenant Act. The catalyst for this legislation is a concurring opinion from the Supreme Court of Nebraska in the case of NP Dodge Management Company v. Holcomb, found at 314 Neb. 748, 2023. I-- which are the pages of which I just handed you. I would like to read Justice Papik's opening paragraph briefly from that concurring opinion. Quote: I agree with the majority opinion that this case is moot and therefore this appeal should be dismissed. That said, I believe Holcomb has identified a potential constitutional problem with the provision of Nebraska's Uniform Residential Landlord and Tenant Act, the NURLTA, requiring that actions for possession be tried solely to the court. I write separately to highlight why I believe the bench trial provision may rest on constitutionally fragile ground. I'm not going to read the entire opinion to you, obviously, I think that would be a little bit boring. But I would encourage all of you when you get a chance to read the entirety of that concurrence, it's not long. It's actually written, I think, in very plain language, and it does a very good job of going through the constitutionality question of whether or not you can have or should be able to have a jury trial for an eviction. Under Article I, Section 6 of the Nebraska Constitution: the right to trial by jury shall be inviolate. Historically, Nebraska courts have held

that this applies to all legal claims. Additionally, the courts have recognized that an action to recover possession or real property is in fact a legal claim, meaning that individuals have a constitutional right to a trial by jury in eviction proceedings. This bill allows defendants the right to a trial by jury under the Uniform Residential Landlord and Tenant Act. This bill does this by making several changes to the current statute. This bill would amend this section to read that rental agreements cannot include provisions requiring individuals to waive their rights under the Uniform Residential Landlord and Tenant Act. This bill strikes language stating that eviction hearings are to be tried without a jury. It would allow either party to demand a trial by jury. And if neither party demands that the court would try the action without a jury, the defendant may request a trial by jury on the day of or before the defendant's first court appearance. Landlords shall include a demand for trial by jury in the complaint for restitution, which they file with the district or the county court. If the jury trial extends beyond the initial trial date as determined by the court, the court may require the tenant to deposit rental payments to the clerk of the court as they accrue during the pendency of the suit. There have been requests, and I anticipate you'll hear requests here today, that allow plaintiffs to be awarded reasonable attorney fees if the jury finds in favor of the landlord and if the tenant's violation of the lease is found to have been voluntary. I, I believe this already exists in statute and it would be needlessly redundant to include in the statute as well. But if we need to clarify that, in fact, attorneys' fees can be recovered, then I'm happy to put that in there. We have worked over the last year and the interim with landlords, county judges, and the representatives over the last few years. I'm still open to amendments to get this vital legislation across the finish line. This bill is not your classic tenant versus landlord issue, but instead a serious constitutional issue. What would happen if there was a Supreme Court ruling saying that what we are doing right now is unconstitutional? If we're in the middle of a legislative session, we'd have to fix it quickly and it could be pretty bad for us if we weren't in session and had to call a special session to address such a problem. We need to address this issue as soon as we can, and I urge the committee to consider this in a timely manner. Colleagues, I will just deviate briefly from my written statement to say if you've been on this committee before, you've heard this. We talked about this last year. It came out of this committee 8-0. It does come from this constitutional question. I understand that this is commonly called landlord-tenant day. Right? We have a lot of these landlord-tenant issues. I, with this bill, am seeking to reach consensus and seeking to address a problem that I

think is very serious. If the Nebraska Supreme Court heard a case where they ultimately reached the, the issue of whether or not our current statute is constitutional or not and they found it unconstitutional, it could be a disaster. One of two things could happen. They could find our entire landlord-tenant, the Residential Tenant Act, unconstitutional and strike the entire thing, which would leave no recourse for action for evictions and residential cases. Or they could find that that statute is severable, meaning they could cross out part of it and leave the rest of it. If they cross out the part that says you're not allowed to have a jury trial, it would render the rest of that statute chaotic because then you'd have to have jury trials, but under the same parameters that it currently requires you to have bench trials, meaning you'd see jury trials needing to be set within 10 to 14 days. So the reason I go into that detail is just to say this is trying to address a real problem. And I've gone, I think, as far as I possibly can in talking with a lot of the folks who I think are going to oppose this here today. I'm still happy to continue those conversations. I've been in pretty deep conversations with the county court judges to talk about the logistics of this, to say what works, what doesn't. I've talked with representatives of landlords to say, what can we do to make this as fair as possible? I do not want this to be a one-sided process. I want this to work for everybody, and I want the court system to continue to function in such a way that it doesn't grind things to a halt or needlessly drag out cases. I think when I introduced this bill for the first time last year, it did not include a provision saying that if the case is continued, the court can order that the tenant pay rent essentially per month for that continuance. I did that in an effort to make sure that we're not going to get these cases dragged out into perpetuity and see landlords not made whole. I've included that in this bill. So this is already including some of the compromise amendments that we started with previously last year during those conversations. Previously, when this bill hit the floor for the new members of this committee, it was ultimately combined with a very different bill. And there was a number of conversations we had about that. This bill did not come to the floor in this version or by itself. So, again, it did come out of the committee 8-0. I want to continue addressing the concerns of all of the parties, but I really do think we need to act because if this goes to the Supreme Court and they reach a conclusion about this, it could be a problem. I would also just point out in this concurring opinion, it's written by Justice Papik. It was joined by our now Chief Justice Funk. So he agreed, at least with this concurring opinion when it came out. I just think that's worth pointing out. Happy to answer any questions. I know

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

you've already had a long day, but I will try to answer as many as I can.

BOSN: Thank you. Any questions? Senator Storer.

STORER: Thank you, Chairman Bosn. And welcome. I guess, I'm going to have some kind of basic questions. I am not an attorney, so I'm coming at this from a layman's perspective. But on, on the requirement, I, I appreciate the concept of the requirement for the tenant to make a deposit if a trial were to extend basically beyond that original date and this would kind of go on longer than it should. My question is, can you walk me through the process what if the tenant doesn't put down any earnest money or the deposit for those [INAUDIBLE]?

DUNGAN: I, I think what's contemplated by this is the continuance would not be granted. So I want to make-- kind of-- let me clarify this process and take a step back even further to kind of explain some big picture stuff. I, when writing this language, tried to allow local jurisdictions to kind of come up with their own local court rules because what works in Douglas County may not work in Cherry County, right? Every jurisdiction is going to be different. I sought to not be overly prescriptive with this language because I wanted local jurisdictions to be able to do what works for them. That being said, we have to put certain guardrails in place. And in my conversations with the county court judges, that's one of the things they've talked with me about, is putting some additional guardrails in the statute with regards to when that money should be paid, how much money should be paid, how it's distributed? So we're working on getting language about that right now. The way this is contemplated is I don't think that you can require somebody to pay money to exercise their constitutional right. Right? So if somebody is like I have a constitutional right to a jury trial, I don't think we can say, sure, you can do that, but only if you can pay me 750 bucks. That's kind of problematic. That being said, if they ask for a jury trial and it's set for a jury trial and then, for whatever reason, that tenant or their attorney, if they have one, says I want to continue this, I think at that point it would be acceptable for the court to say, OK, we can continue this down the road, but only if you can pay that additional rent that you owe. And then that would be held by the county court. And then at the end of the case, distributed to the landlord. So that is sort of trying to balance these two notions of I don't think we can make you pay money up front to do this, but we're going to say you do have to put some money up if you're going to drag this out because we want that landlord to be made whole. And so that's kind of what that contemplates. In the event that they ask for a

continuance and the landlord objects and says, Judge, I don't want to do this. And the judge says, okay, we can continue this, but only if you can pay this 750 bucks. And tenant says, I can't, sorry. I would envision at that point the judge saying continuance not granted. We're going to have a jury trial today.

STORER: OK.

DUNGAN: And that happens in a lot of cases where I've showed up for a jury trial and other attorneys show up, ask for a continuance for whatever reason. Sometimes it's granted. Other times, judge says, sorry, you're going forward today, we're doing this.

STORER: Thank you. That's helpful. And, and a follow-up question to that would be, in the event that, that this became law, the tenant gets their jury trial, is found that indeed the landlord had grounds to evict them and this was 2 or more, 2, 3, 4 months, what is the remedy then for the landlord to be made whole for those 1, 2, 3, 4 months worth of, of rent that was not paid?

DUNGAN: Well, like I said, I think that the-- that-- it depends on how long it takes for this to be set. Right? And so if there are multiple months that go by and it's the first setting of that jury trial, I, I don't think this would allow the landlord to demand payment of that. But the, the remedy would be the eviction. Right? There's no punitive damages that come out of this. The remedy, because the only question before the court in an eviction action is the recovery of the premises. It's the actual getting back of the land. And so I don't necessarily think that there would be some punitive damages attached to that. But, again, if it's continued past that original setting, then they can ask that money be paid so the landlord can be made whole for that period of time. My hope is that the majority of these would go relatively quickly. I understand there's a concern about the courts getting bogged down. Again, I'm working with some of the county court judges to come up with some potentially creative solutions to try to speed these things up. And I would also just indicate in my experience and I think if you talk to any attorney who practices in trial work, they would tell you that there are a number of things that can be set for jury trial. A very small fraction of those actually go to jury trial. So I would envision that a lot of these are resolved in the way that cases are currently resolved, where something maybe is set for a contested hearing, but then something gets worked out by the parties and they can figure out the resolution. So, again, there's a lot of logistics that I think would have to be worked out on the local level, but I'm confident we could do that. And if I also may just add, if it

is in fact a constitutional right, which I believe it is, and I believe our court says it is, we have to figure the rest of this out. And so I would also just point out the law that removed the right to a jury trial, I forgot to say this in my initial opening, didn't pass until 1995. So up until 1995, you actually were permitted to have a jury trial in these kind of cases, an analysis from a 2022 study of all of the different landlord-tenant statutes across the country puts us as 1 of 8 that explicitly ban it. So we are in the minority by doing what we currently do. And this seeks to restore the statute, as I think it was originally contemplated. It's not some novel idea, so we can work out the logistics, but I do think it's necessary we do so.

STORER: Thank you.

BOSN: Senator DeBoer followed by Senator Hallstrom.

DeBOER: Thank you. So what now-- I, I know you practice in Lancaster still. What's the kind of, like, timeline for how long a, a jury trial gets set out right now?

DUNGAN: It depends on the kind of case you're talking about. I certainly think that what we are contemplating here would be a different form of that court or it's not going to be completely analogous to criminal court where I practice, nor is it going to be analogous to some of the civil cases that you see in district court here in Lancaster County or wherever. I think it's going to be its own sort of beast. There are people coming up after me, I hope, who are much better experts in this subject matter, and I think they're going to be able to lay out both the current process and procedure with how these eviction actions proceed and also possibly what that could mean in the event that a jury trial is requested. Usually, if I could speak in broad strokes, what happens is there's what's called the jury term. So there's not just juries on call all the time. For maybe 2 weeks a month, a large pool of people receive notice that they could potentially serve in a jury. And you'll have judges say, OK, these 2 weeks are my jury term and everything that's set for a jury trial in that month kind of can be called up during those 2 weeks or so, depending on what court you're talking about. Like I said, trying to come up with some potentially creative solutions that could maybe operate more in the function of a grand jury or things like that for jurisdictions that are incredibly busy like Douglas County, but working on that right now. So that's kind of the, the broad strokes of how a jury term would work.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

DeBOER: But it still wouldn't be like several months. It would be within the month. Is that kind of typically how it works?

DUNGAN: I think that would be the hope, right? I mean, I think that when you talk to our friends in Douglas County, they're concerned about the massive amount of cases that exist, which I acknowledge. There's a number of these cases. I'm not, you know, being Pollyannish about that. But I do think that with the proper resources and with the proper logistics in place, these things could happen much quicker than I think some of the opponents of this have concerns about.

DeBOER: Do you anticipate that most tenants who participate in, you know, who are, who are recipients of an eviction notice would request a jury trial?

DUNGAN: I don't. I don't, no. I mean, I, I don't. No, I think that, you know, you can talk to any of the experts that are behind me, the majority of these don't actually go to contested hearings. Right? A lot of these are being worked out between the parties to figure out getting a little bit more time to vacate the premises or getting a little bit more time to pay. So I don't think that the vast majority of things are going to go to trial, even if they're set for a trial I think they can be worked out in the interim.

DeBOER: And--

DUNGAN: That's the answer to your question, yes.

DeBOER: --and you said that you believe that there's already attorneys' fees that would be awarded under the law, but you would be willing to add more explicit language awarding attorneys' fees. So that would sort of operate-- the attorneys' fees would operate as a sort of disincentive to ask for a jury trial if you knew that you're just not going to win, right?

DUNGAN: It could, yeah. We actually included that language last year and were ultimately told you don't need that. So we took it out. But I'm more than happy to ensure that attorneys' fees are covered. And, again, in my continued conversations with some of the representatives for landlords, that's one of the things they've indicated is important to them. And I'm happy to try to include that along with, you know, listening to some of the other requests. We just have to balance the requests with ensuring that we're preserving the constitutional right.

DeBOER: OK. Thank you.

BOSN: Senator Hallstrom.

HALLSTROM: Your amendments that you mentioned, the willingness would all be procedural in nature-- in nature because you, you either have a statutory-- constitutional right to a jury trial or not?

DUNGAN: Correct. Yes, I believe you, you either have the right or you don't. And I believe that they do. And then I'm happy to try to put more guardrails in place for the process, because I acknowledge that landlord-tenant law is different than a lot of other things. That's why we have the landlord-tenant statutes. And I operate in a criminal context on a regular basis in my professional career. And so that's how I think of a lot of these things. I understand technically it's not criminal in nature, it's civil in nature. But these are also not exactly like other civil matters either, because they often have to happen in an expedited manner. And the whole reason we have these landlord-tenant statutes is to accomplish these things in an expedited manner. So I think we can continue to work towards that goal, but I think we have to do so in a way that honors the constitutional right as is laid out in that concurring opinion.

HALLSTROM: Thank you.

BOSN: Any other questions? I just have one. You said there's 8 states that currently ban jury trials. If this is truly unconstitutional, do you know, if you know, how they're getting around that?

DUNGAN: Well, it depends on-- I have a couple of answers to that, if I may. So it's unconstitutional if you read the opinion or the concurring opinion under the Nebraska State Constitution. So it pertains to the way that we in Nebraska look at whether or not something has a jury-- has the right to jury trial. And Justice Papik does a great job of laying it all out in the opinion. But essentially what you do is you look back to see whether or not a right to jury trial existed when we ratified our Constitution here in Nebraska. So it's a state level analysis. I would say the U.S. Supreme Court, I think in the 1970s, I'd have to go back, but it's also included in that opinion. The U.S. Supreme Court found that the Washington, D.C. landlord-tenant statutes were unconstitutional for their deprivation of a jury trial right as well. But it did that analysis, I believe, under the Seventh Amendment, which doesn't apply to the states. So it's a nonbinding opinion, but the U.S. Supreme Court has said that this kind of thing is unconstitutional as well. There's a litany of states that have found that same thing. I don't have all of them memorized off the top of my head. I think there's maybe one state

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

Supreme Court that has disagreed with that. But the vast majority of state supreme courts that have had to reach this determination have found similarly that a legal action is entitled to a right to a jury trial, which is what this is in this case as well.

BOSN: Thank you. Any other questions in light of that? Thanks for being here. Will you stay to close?

DUNGAN: Yes.

BOSN: I forgot to ask before we got started how many testifiers there are on this bill just so we can let the next bill member know. OK, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11. OK. So there's about a dozen testifiers on this. And so we will start with our first proponent. To the extent you're just going to repeat what somebody before you said, maybe you could just say I really agreed with the comments of, you know, so and so in the interest of time. Thank you for being here.

KASEY OGLE: Thank you.

BOSN: Welcome back.

KASEY OGLE: Thank you very much. Chairperson Bosn and members of the Judiciary Committee, again, 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 support of LB101. We support LB101 because it reaffirms an essential constitutional right of litigants in eviction court. Article I, Section 6 of the Nebraska Constitution states that: the right of a trial by jury shall remain inviolate. The Nebraska Supreme Court has explained that this constitutional provision preserves the right to a jury trial as it existed at common law and under statutes in force when the Nebraska Constitution was adopted in 1875. Because at common law, legal claims were tried to a jury and equitable claims were tried by a court, the Nebraska Supreme Court has traditionally denied jury trials in equitable actions and provided jury trials as a matter of right and legal actions. And statutory provisions in place at the time the Nebraska Constitution was adopted provided parties to actions for possession of real property the right to a trial by jury. Additionally, actions for the possession of real property are legal actions. Therefore, by whichever test you use, litigants in actions for the possession of real property, such as an eviction action pursuant to the Nebraska Uniform Residential Landlord and Tenant Act are guaranteed a right to trial by jury by the Nebraska Constitution. Until 1995, all litigants in eviction actions were provided this

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

right. And then in 1995, the Legislature passed LB52, which amended Nebraska Revised Statute 76-1446 to say that actions for possession of real property pursuant, pursuant to NURLTA shall be tried by the court without a jury. For nearly 3 decades, this statute has stripped litigants of their constitutional right to a trial by jury. The Nebraska Supreme Court was recently asked to declare the bench trial provision of NURLTA unconstitutional for these reasons. And while the court found the case before it to be moot and therefore declined to pass on the constitutionality of the bench trial provision, a concurrence by Judge Papik urged the Legislature to consider the constitutionality of and reassess the NURLTA's bench trial provision. So with LB101, the Legislature has the opportunity to correct this grave constitutional error. And for these reasons, we urge you to advance LB101.

BOSN: Thank you. Any questions for this testifier? Seeing none, thank you for being here.

KASEY OGLE: Thank you.

BOSN: Next proponent.

SCOTT MERTZ: Thank you. Thank you, Chairperson Bosn, members of the 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. I want to thank you for the opportunity to appear before this committee today and offer our support of LB101. I also want to thank Senator Dungan for introducing LB101 and inviting Legal Aid to testify today. So at Legal Aid of Nebraska, we provide statewide free legal services. And our priority at Housing Justice Project is to provide representation to the low-income housing needs. And in 2024, we took over 4,600 requests for assistance. We provided some level of service in 3,687 housing cases. And it was in one such housing case, one eviction defense that, in our collaboration, with my predecessor at the podium from Nebraska Appleseed, we did appeal the eviction all the way to the Nebraska Supreme Court in the case of NP Dodge v. Holcomb. And while the senator and the previous testifiers talked a bit about the concurring opinion in Holcomb and how it's pretty explicitly in detail laid out why there is a constitutional right to trial by jury, even in the eviction context. I would like to elaborate on a point Senator Dungan made, which is that this matter is not going to necessarily go away, that the Supreme Court, three justices who did sign that concurring opinion suggested they would not necessarily find the issue is moot a second time. At Legal Aid of Nebraska, our housing attorneys are continuing to raise the constitutional issue of right to trial by jury

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

in cases all across the state. And we have yet to reach the Nebraska Supreme Court again with the exact same issue. We are going to continue to file appeals whenever it is possible until this matter is addressed by the Nebraska Supreme Court or the bench trial provision in our Uniform Landlord and Tenant Act is addressed by the Legislature, just as it was suggested by the three justices in the concurring opinion. So it's just not going away. We agree with those justices. We agree with the proposal here by Senator Dungan. We support LB101 and thank you for the opportunity. I am happy to answer any questions that you might have.

BOSN: Senator DeBoer.

DeBOER: Thank you. OK, so let me see if I can--

SCOTT MERTZ: Yes.

DeBOER: --do this slowly for my 25-year-old law degree that I haven't used as much lately as I should in the area of equity and distinctions with law and equity. So a proceeding for eviction is a proceeding in law, is that right?

SCOTT MERTZ: That is correct. And that is me just citing for both an argument for the Supreme Court and the Supreme Court's opinion in Holcomb.

DeBOER: OK. And it's not a special proceeding.

SCOTT MERTZ: No, it is a special-- it's a proceeding that's still civil in nature and legal in nature.

DeBOER: OK. So the difference in our constitution is if you have an-- if you have an action in equity, no jury trial is no right to jury trial. If you have an action, an action in law, there's a right to a jury trial. Is that right?

SCOTT MERTZ: Jones-- yes.

DeBOER: OK. So then there appears if, if, if an action for eviction is an action in law, that it's a pretty straightforward question that this is, in fact, an action with the right to jury trial. Am I missing something there?

SCOTT MERTZ: Well, problem is the statute that--

DeBOER: Sure.

SCOTT MERTZ: --was amended back in 1995. The problem then was the lack of this being addressed by our highest court until 2 years ago. There was simply not an action-- a question that was posed before highest court.

DeBOER: So that's my next-- my next question is why has no one brought-- in the intervening years, why did no one bring a case to address the right to jury trial?

SCOTT MERTZ: I can, I can speak very firsthand to that. The short answer is because it is quite difficult and even in this instance of us bringing it successfully to, you know, actually getting the case all the way before the Nebraska Supreme Court, we did not get a question answered by the Nebraska Supreme Court because we did not have a tenant that remained housed for all of that period of time. The over 1 year from period of initial filing and all the way to arguing the case before the Nebraska Supreme Court. It was because that tenant was not able to remain in the same place, remain in the same address that was that issue that the majority opinion found the issue moot.

DeBOER: Well, that's the, the piece that I wanted to get at. How do you ever, how do you ever get around the mootness?

SCOTT MERTZ: Couple of things. One, we do have a statutory mechanism to pay rent as we go throughout the appellate process. That's just difficult because of the length of the appellate process where we have-- at Legal Aid of Nebraska had appeals that were pending and we had tenants remain housed during the course of the appeal, but only for so many months, not all the way toward an actual decision or an argument before the, the highest court. Second, there are exceptions to mootness, which are also laid out in the Holcomb opinion. And one such exception lays out for the public interest that if there's a question that's going to have an impact beyond just the particulars of a specific case, but that issue must evade, continually evade judicial review. And the majority in Holcomb did not think necessarily that this would continuously evade judicial review. That is the, at least, analysis given by the majority opinion. But then, as the concurring opinion said, not-- I'm paraphrasing a bit what exactly what Justice Papik said in the concurring opinion, but they would not necessarily continue to hold that-- well, here, I'll, I'll quote directly so I'm not butchering his words: If future cases demonstrate that the issue does in fact inherently evade review, I would be open to addressing this issue under the public interest exception. Namely a statement that if this comes up again, we would look at it perhaps under the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

exception to the mootness doctrine if they did not avail themselves of in this specific case.

DeBOER: OK. Thank you.

BOSN: Any other questions for this testifier? Thank you for being here.

SCOTT MERTZ: Thank you.

BOSN: Next proponent. Welcome back.

DYLAN SEVERINO: Thank you. All right. Good afternoon, Chairwoman Bosn and the Judiciary Committee. My name is Dylan Severino, D-y-l-a-n S-e-v-e-r-i-n-o, and I'm policy counsel of the ACLU of Nebraska here in support of LB101. Instead of talking about the legal issue, which I think has been discussed really well just before me, I'll skip over that. I want to just touch on some of the policy ramifications of some of this as well. We took the position-- we filed an amicus brief in NP Dodge v. Holcomb, which does cover our, our legal positions if anybody gets an itch after reading the concurrence to go read some more. But it also covers some policy stuff at the end. And I want to touch on some of that. I'll quote from the amicus brief, though, just really quickly: Low-income tenants who are displaced are generally forced into substandard housing in poorer and high-crime neighborhoods. Evictions cause psychological trauma, increase the likelihood of suicide, increase emergency room usage, decrease credit access, and lead to homelessness. This problem is especially traumatizing for children impacting their emotional, social, and physical well-being and increasing the likelihood of lead poisoning, food insecurity, and issues with academic performance. We know that evictions have a slew of adverse effects on families, including poor health outcomes, as I just mentioned. But at the end of the day, people who have not suffered from housing instability won't understand that feeling of futility that comes along with impending eviction. And it's rare that a judge has ever been in that position for a bench trial, for example. And as this housing crisis continues, it becomes more and more important that events leading up to an eviction are judged by a jury of one's peers who are much more likely than a judge to understand the emotional and experiential context of impending eviction. Given the immense stakes of eviction, coupled with the legal reasons that are presented in the amicus brief, the concurrence that have already been stated before me, Nebraska law should include a right to jury trial. This change in the law would make sense from both the legal and policy perspective. For the good it will do in helping

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

vulnerable Nebraskans get a fair trial, we offer our full support for LB101. Thank you and I'd be happy to answer any questions.

BOSN: Thank you. Any questions for this testifier? Thank you for being here.

DYLAN SEVERINO: Thank you.

BOSN: Next proponent. Now we'll move to opponents. First opponent.

RYAN NORMAN: Good afternoon again, members of the Judiciary Committee. My name is Ryan Norman, R-y-a-n N-o-r-m-a-n. I am an attorney and the chair of the Apartment Association of Nebraska Legislative Committee. I'm here to testify in opposition to LB101. As argued by the Attorney General's Office in their brief to the Supreme Court in NP Dodge Management v. Holcomb, I believe that the right to-- the right of trial by jury, a common law never existed in summary proceedings, that the eviction cases in Nebraska are clearly summary proceedings, which means no right to jury trial exists. I would ask all of you to do the additional reading of going and reading that, that Attorney General amicus brief that was filed in the case. I would also ask you to seek Attorney-- an Attorney General Opinion on whether or not, you know, a jury trial right exists. I would also note that only 3 of the 7 Nebraska Supreme Court members concurred in the opinion stating otherwise. And because this is a-- would overturn a current law based on a constitutional question, it does require a supermajority of justices. So 5 justices would have to agree with that, which based on that opinion, the numbers aren't there. With that said, while there's a real argument to be had about whether jury trials are constitutionally protected and there's probably going to be some other testimony from other people that will have that, what I really want you to take from my testimony is even if you believe that tenants have a constitutional right to a jury trial in eviction cases, you don't have to vote for this particular bill to make that happen. I've, I've been encouraged, Senator Dungan has expressed the wish to sit down with my group and talk about changes to this bill that might make it tenable. In its current form, it's just not. There's no guardrails, there's no max amount of time one of these could take. There's no-- what would happen currently, I believe, is that a tenant would ask for a jury trial in every case, or it would be used as a club to get more time for them to vacate in every case. And meaning we won't, we won't settle this case unless you give us more time than you want to give us, because we'll just ask for a jury trial. What that'll have-- what will happen really is we will ask for summary judgment on every case, because 99% of these cases don't have a defense. Right? It's, you

didn't pay. We can prove you didn't pay. Here's all our evidence. The judge will grant summary judgment. So the number of these cases that actually go to jury trial, I don't believe will be very many. I agree with Senator Dungan on that, but I do think it will be used-- the other problem with this is a tenant can ask for a jury trial and vacate the day before the jury trial and then the question is moot and we have to dismiss the case. So there's no protection up until the day of the jury trial, meaning a tenant can, can make this go on for months on end, vacate the day before that jury trial, and then the question is moot. We have to dismiss. So whether there's a right to ask for attorneys' fees or not, we can't get the attorneys' fees when that happens. Right? So there's a lot of concerns, in my opinion, with the way this is drafted. What I would like to see in the bill really is a summary judgment proceeding that is quicker, that doesn't allow or that doesn't require all of the summary judgment proceeding stuff that a normally-- normal summary judgment proceeding requires. But it still requires us to prove up everything that a summary judgment proceeding would require for a judge to make the decision in the summary judgment motion. That could be done in 10 to 14 days at the normal hearing, possibly, if we asked for summary judgment at the start of the case. That's an idea. There's-- I have other ideas. I'm happy to sit down with Senator Dungan and talk about those. I'm also happy to take questions. Thank you.

BOSN: Well, let's see if there's any questions from the committee quick.

RYAN NORMAN: Sure.

BOSN: Are there any questions? I guess, I, I just want to follow up. So if we did the summary judgment proposal that you sort of briefly--

RYAN NORMAN: Right.

BOSN: --outlined, are you suggesting then that if the court didn't entertain that summary judgment motion, that then the tenant would have the right to have a--

RYAN NORMAN: Just like--

BOSN: --jury trial?

RYAN NORMAN: --just like any other jury trial case or any other civil case in Nebraska, you request a jury trial and parties can file for summary judgment. And they basically have to show that there's-- that the facts speak for themselves. There's no way that a jury can look at

the case and find differently than what one-- the party motion for summary judgment is claiming. Here, that would happen most of the time, in my opinion, because most of the cases we're talking about are nonpayment cases. You know, one party is going to present evidence that the nonpayment happened. I don't think that the defense in most of those cases is going to be, no, I paid. Maybe in some of them it will and those cases will continue to go on if they have a legitimate defense to that jury trial. But most of them won't. And so if we can condense a normal summary judgment proceeding, which usually takes a lot more than 14 days and requires more of us like a briefing schedule and all that, these are so simple, I don't think you would need to do briefs, for example. That's just an idea. There are other ideas that we can come up with to make this bill better that are not going to clog the court system, that are not going to unnecessarily extend out eviction cases, because that's not good for anybody. I mean, it's not, it's not good for the tenant who's going to rack up all kinds of continued rent during that time that they're never going to be able to get out of. And it's not good for landlords for obvious reasons. We've talked about how much each day of an eviction action costs landlords. And so I just think I-- if the, the prevailing view of this is, that this is a right under the, the constitution, which I don't agree with, but if that's the prevailing view, there's got to be some-- something put into place in this bill that makes it easier to get to the correct legal decision quicker than what the way this is drafted is going to be. Because right now, I mean, jury trials take a long time. We got to impanel a jury. There's discovery that can happen. And so the way this is drafted, I, I-- there's no end date in sight for it. And, again, there was 10,000 evictions filed in Nebraska last year almost, 9,700 and something. So we're not talking about 100 cases in Nebraska. We're talking about a lot of cases. And the vast majority of those were filed in, in Lincoln and Omaha, but they were filed all over the state. And so this should matter to senators from smaller counties because those places have fewer opportunities to impanel juries. It's going to take even longer for people to get a, a jury trial on this stuff. And, again, the tenant can then vacate the day before the jury trial and this question is moot. And so I just think the way this bill is drafted, it's going to encourage bad actors. Not all tenants are bad actors, but there are some that are going to take advantage of these laws to simply extend the process with no-- and, by the way, we're going to talk about a bill that then if we had to dismiss the case, the record would be wiped clean. So then not only would-- I mean, another landlord down the line wouldn't even know that there was an eviction action that happened that got dismissed, right, because of the Clean Slate Act that we're going to talk about later. So there's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

just a lot of things in this bill that we need to, to work out if this is the-- if this is going to get passed.

BOSN: So I guess my-- and I don't practice in civil law--

RYAN NORMAN: Sure.

BOSN: --so I, I will full disclosure. But what you're saying is that there is the right for summary judgment because it's a civil action.

RYAN NORMAN: Any, any civil case, you can file for summary judgment. And basically what that means is the judge then looks at all the evidence and he says based on the law, there's, there's no way that based on the evidence that we have that a, that a jury can look at the law in the case and find any other way based on the evidence and the law. And the, the judge can rule that in favor of the party that brings that summary judgment action.

BOSN: OK. And I understand that. My, my question is, if that's already in place and what you're saying is, if we did that, then you wouldn't mind a jury trial. But that's already in place and I guess I'm not understanding your opposition.

RYAN NORMAN: Well, what I-- the current--

BOSN: Let me finish my question.

RYAN NORMAN: Yeah. Sorry.

BOSN: Then I guess I'm not understanding your opposition because if the summary judgment alleviates some of your concerns and you wouldn't mind a jury trial and the summary judgment is undeniably already there, then what is your opposition to the jury trial?

RYAN NORMAN: Currently, summary judgment proceedings are not quick. OK? They get set out. They-- you have to provide an index of evidence. You have to provide-- there's a briefing schedule. So both parties have to brief-- meaning write a brief, and then the other party gets a chance to respond to that brief. And then the initial party gets a chance to do another brief. And it takes a lot of time. So what I'm asking for is we can put something in this bill that makes summary, summary judgment hearings quicker in these cases, for example, that's just one example of an idea that I've had that would, that would alleviate the jury trial concern because they would still have a right to a jury trial. And if the judge rules, well, hey, there's, there's legitimate fact questions in this case, your summary judgment motion

is denied. We will move on to the jury trial. Right? So it, it's still going to allow for a jury trial, but it would put in place something that we could do. I mean, you could do a summary judgment motion in 14 days, just not under the current summary judgment motion of rules, if that makes sense.

BOSN: It does.

RYAN NORMAN: OK.

BOSN: And I appreciate that.

RYAN NORMAN: Yeah. Thank you.

BOSN: Any other questions in light of that? Thank you for being here.

RYAN NORMAN: Thank you.

BOSN: Next opponent.

LYNN FISHER: Hello again.

BOSN: Welcome back.

LYNN FISHER: Yeah. Lynn Fisher, L-y-n-n F-i-s-h-e-r, representing the Statewide Property Owners Association. I'm going to skip all the stuff that's already been covered. We have a legal advisor to tell us that the part of an eviction where the judge orders possession of the property be returned to the owner is an equitable action. And they say that this doesn't require the right to a jury trial. I think that's already been discussed, but that's our position. And we would love to see the Supreme Court see a case where that is determined one way or the other, and then we can know which way to go. But the problem is that regardless, the delays, the attorney fees, the lost rents will definitely-- whatever the, whatever the outcome of this whole proceeding is, the rents will go up. I mean, there's just no way around it. The costs will be incurred by-- because of the delays. And then, of course, it'll also cause property-- rental property owners to raise and increase their requirements on application approval in an attempt to try and avoid getting to the point of having an eviction. So those are the two main, main issues. And just a reminder that in an eviction proceeding, who's the victim? It isn't the tenant. We're there because the tenant didn't pay the rent, did damage to the property, you know, was not a good neighbor to their neighbors. Those are the reasons that we're there. And to take that one step further, if there are minors or other people that are victimized by the process

who are living in that unit, again, the, the perpetrator of that victimhood is the responsible adult who signed that contract, that lease contract, who violated it. And so they're the ones that should be held accountable and not the property owner. I'll be happy to answer any questions.

BOSN: Thank you. Any questions for this testifier? Senator McKinney.

McKINNEY: Thank you. And thank you. So your-- here-- my question is, in the eviction process, are there ever-- in your experience, has there ever been situations where somebody was evicted or sought to be evicted and they proved that they should not be evicted by reason of, let's say, a property manager misplaced a check or something or a payment or things like that where they paid their rent, but for whatever reason it's not showing up and they're like, hold up, I paid my rent and a property manager mishandled a payment or something and they got evicted or, or a property management group is seeking an eviction because, because of no payment. But they're arguing I, I paid then-- has that ever happened?

LYNN FISHER: Well, it hasn't happened to me personally.

McKINNEY: But have you heard of situations?

LYNN FISHER: Well, here's what I do know. Since the Tenant Assistance Project has been in place with the volunteer attorneys, there, there have been many, I'll call them, instances of technicalities that have caused a delay in the process or caused the eviction to be settled in some way rather than, you know, end up with a writ of restitution. But in terms of somebody on the, the owner's side or the landlord side actually being found to be wrong, I'm sure it's happened. I, I don't have any personal experience with anything like that.

McKINNEY: So would it be fair to say in a possible jury trial, it wouldn't be a slam dunk for you to plaintiff-- you the plaintiff to always win?

LYNN FISHER: Well, I, I don't think anything is always 100%.

McKINNEY: All right. That's all I wanted to hear.

LYNN FISHER: Sure.

McKINNEY: Thank you.

BOSN: Any-- Senator Storer.

STORER: Sorry. Thank you.

BOSN: You're fine.

STORER: This is maybe completely off base, but on the flip side, under, under the way this, under this pretense in the, in the Supreme Court's opinion, would a landlord have the right to a jury trial for damages to a tenant?

LYNN FISHER: I think so. I think that's my understanding.

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

LYNN FISHER: Thank you.

BOSN: Next opponent. Welcome back.

TARA HOLTERHAUS: Good evening. Tara Holterhaus, T-a-r-a H-o-l-t-e-r-h-a-u-s. Members of the committee, I first want to nerd out a little bit on the legal side of this and then talk more functionally and practically how this looks in effect. We've heard some distinction between an equitable claim and a legal claim, and those are the two types of claims that we have in our legal system. The way that you determine what a claim is, equitable versus legal is to look at the relief that's requested. So a legal claim requests monetary damages. So to Senator Storer's point for, for damages, that would be a legal claim. Legal claims are entitled to a right to a jury trial. An equitable claim is a claim that makes a request for nonmonetary damages, such as, in this case, possession of the property. So when there's just a cause of action for possession of the premises, our position is, and I'm here on behalf of the Apartment Association and the Commercial Property Owners Association as well as a practitioner who sees this stuff every day in court, our position is that the restitution of premises claim alone is an equitable claim that is not entitled to a jury trial under the constitution. There's also the second layer of an eviction action is a summary proceeding. It's a special proceeding, which means that it is meant to resolve quickly. It's meant to resolve without a jury. And it's meant to have the evidence presented to a court. There are plenty of types of summary proceedings that we, we know about. It's eviction proceedings, small claims proceedings. Those are summary proceedings tried to a judge, never a jury, even when there's damages requested. A request for a temporary injunction is a summary proceeding. There is no jury that determines whether an injunction should be ordered. A request for a restraining order or a protection order, those are summary

proceedings that do not get tried to a jury simply because they need to happen quickly and effectively. And just like in an eviction case, it would, it would be to determine equitable relief, nonmonetary relief, which is supposed to be tried and heard to a court. Functionally, there's, there's a lot of problems with the bill as drafted. And I think we only get to the functionality and the practicality of this all if we decide that a jury trial is a constitutional right. And, again, I, I disagree on that point. And along with my late colleague, Gene Eckel, we were on the other side of that Holcomb case where we argued this, and I would urge the committee to seek an advisory opinion or discuss with the Attorney General's Office, because we don't think that this is a constitutional right in these sorts of cases. But if we get past that and we decide that there is functionally that the bill as drafted is not practical, there would need to be severe, in my mind, amendments to this bill to make it practical and functional in specifically Douglas County, where I practice and I'm in court 5 days per week on these types of cases. So when we talk about how can a court-- and I've discussed with our, our judges in Douglas County, they are not prepared for this. So with all due respect to Senator Dungan, there are judges that don't feel equipped to handle this. I know I'm out of time. I'm happy to answer questions. But the, the court system is not equipped. I know some of the groups that I'm involved with where we're-- I think we have valuable insight to provide on amendments that could be made that would benefit everybody. And I never had an opportunity to provide any comments on that. I would be happy to. I think it would be very beneficial to see how this could work much better.

BOSN: Senator DeBoer.

DeBOER: Thank you. First, I will say that it's very exciting to have you here because I practiced for Spencer Fane in Kansas City 25 years ago, and I have not ever had a Spencer "Fanite" here before us.

TARA HOLTERHAUS: Most people don't know that we have an Omaha office, but we do, so.

DeBOER: They didn't back then.

TARA HOLTERHAUS: Yeah.

DeBOER: So I'm looking at the, at the concurring opinion there in Nebraska-- in NP Dodge Management and there's quite a list of cases that says quite clearly that: our cases, both ancient and recent, have recognized that an action to recover possession of real property is

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

legal, not equitable in nature. And then they list going back to 1830 and they say just 2 years ago we observed that an action for restitution of premises bought-- brought under NURLTA is an action at law that's from Dreesen Enters v. Dreesen. So I, I understand the position that generally speaking, like, maybe in a law school level, you might say something like, well, if the remedy sought a specific performance or something like that, that it would be an action in equity. But I don't know how to sort of--

TARA HOLTERHAUS: Yeah.

DeBOER: I don't know how to--

TARA HOLTERHAUS: Well--

DeBOER: --put that together with--

TARA HOLTERHAUS: Yeah.

DeBOER: --with these cases.

TARA HOLTERHAUS: The concurring opinion is joined by three of the justices.

DeBOER: I get that. But--

TARA HOLTERHAUS: Right.

DeBOER: --but these are cases that were decided. So he's, he's referencing cases that are not concurring opinions but, but are the opinion.

TARA HOLTERHAUS: Sure. And I know in that case there was a lot of reliance on outside states because we were looking at other states and how they handled this. And I can tell you that I practice in Iowa as well and there is no right to a jury trial in a forcible entry and detainer action in Iowa either because the only relief sought is restoring the premises.

DeBOER: But these--

TARA HOLTERHAUS: Now I will say--

DeBOER: --these are Nebraska cases. I mean, these aren't Iowa cases.

TARA HOLTERHAUS: Sure.

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Judiciary Committee January 30, 2025

DeBOER: You're referring to the 2 years. I mean, this one is from 2021 so it's 3 years now, 4 years now.

TARA HOLTERHAUS: And I, I think it's important because some attorneys do bring their eviction actions with a second cause of action that include a legal claim. And, and so I think it's important to highlight that we're only talking about that first claim. And, again, I, I know that those justices said that and then there's case law that says that when you're returning the premises, that is equitable relief. And I think that that's where it would be beneficial to hear the Attorney General's Office weigh in on that, because I, I disagree that returning property to its rightful owner upon a breach of a lease would not-- would, would fall under a legal monetary relief that, that a jury is to decide.

DeBOER: I mean, I understand the, you know, the Attorney General might have an opinion. But I mean, if, if the Supreme Court is telling us this, I mean, the Supreme Court always has to trump the Attorney General's Opinion when they've decided a case.

TARA HOLTERHAUS: Yeah.

DeBOER: All right. Thank you.

TARA HOLTERHAUS: Yeah, we didn't get a chance to respond to that concurring opinion, unfortunately. I, I would have loved to and kind of weighed in on that a little bit, but yeah.

DeBOER: OK. Thank you very much. Very excited to have you here.

BOSN: Senator Hallstrom.

HALLSTROM: Senator Dungan listed a list of horri-- horrors that could occur if something happened. We might have to be brought back in to special session if the right to a jury trial-- or the lack of a right to jury trial was ruled unconstitutional. Can we put into statute to avoid all of that stuff that, that the recovery of possession is a legal rather than-- or an equitable rather than a legal right?

TARA HOLTERHAUS: That's a good question. I don't know that the Legislature-- well, that-- that's a good question. I, I think that if you did put in the statutory scheme that it was an equitable right versus a legal right, that itself is, you know, an app-- an appealable issue. So I'm not sure that that really gets us to the same place. However, since we were here last year and since the Holcomb case,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

we've not encountered this issue. So, it's, it's not come up again. We haven't encountered the chaos that would be if the court did decide this. Again, we have a minority of the justices, only three justices that joined in that opinion, and so I don't think it's as, as impending as maybe it sounds.

HALLSTROM: OK. Thank you.

BOSN: Any other questions? Senator McKinney.

McKINNEY: Thank you. And thank you. So prior to 1995, when all litigants had access to this right, how did the courts operate? Was it-- how did they function?

TARA HOLTERHAUS: That's a great question. I, I was not practicing prior to then, so I, I don't know. I can speak to how we function now. And I can, can say that since then, the Uniform Residential Landlord Tenant Act has been sort of overhauled, and it's, it's provided for a summary proceeding, which is to keep it quick. It is to keep it within the 10-14 day so that the property owner has an efficient remedy to receiving that property back. So I think with the overhaul of the Landlord Tenant Act and its-- the intended effect of keeping it to be a summary proceeding, I don't know that it would have functioned with a jury trial.

McKINNEY: But I guess, I-- I've asked that question also because we're in 2025, which would make that about 30 years ago. Our courts were less modern than they are today, which in my opinion would mean-- maybe I'm wrong, maybe I'm right-- that we should be able to function a lot better in 2025 than in 1994, as far as something like this. So I-- to say it, it, it wouldn't be practical or the courts couldn't function, I-- I'm listening and I'm hearing you, but I would have to see more evidence to just go on the-- it, it-- the courts couldn't function or it wouldn't be practical for courts to provide people the right.

TARA HOLTERHAUS: Well-- and I'll speak on the functionality and the practicality of this. Because in reality, I don't think that there will be 9,670 jury trials if, if this is enacted. I don't think that's the case. In regular civil practice, a jury trial-- I mean, it's very rare these days. It will be used as a club. And as Ryan said, it will be used to force landlords to sort of buy them out and just agree to a longer time in order to settle the case. Now in terms of functionality, you know, courts are obviously equipped to handle a jury trial. They, they impanel juries all the time. But when-- and I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

am ready for the large eyeballs to appear at me-- I filed 200 cases this month. So how do we accommodate a situation-- and that's just my office in Douglas County. So how do we accommodate a situation where we have potentially 30-35 in one week request-- raising their hand and asking for a jury trial. And so in Douglas County alone, where, right now, they're short-staffed two judges and there's discussion of maybe not, you know, replacing some of them, I mean, we have a lack of resources with espec-- especially Douglas County, to be prepared for this situation.

McKINNEY: I think, I think when you say that, honestly, I just think that's a bigger question for society, in the fact that 200 cases are being filed. I think that's a bigger question for society, how we claim to be the greatest country in the world and we got 200 people in our communities being evicted. But that's neither here or there. But I'll--

TARA HOLTERHAUS: I agree. It's a bigger question.

McKINNEY: I'll, I'll, I'll, I'll leave it alone then.

TARA HOLTERHAUS: And I'll refer to the Forbes article that you guys all got, where Omaha and Lincoln are actually doing a great job nationwide, in terms of providing good housing for tenants. And it's a much, much larger issue in terms of, you know, of those 200, do we go to court on all of them? Absolutely not. I would say more than one-third are dismissed before the court date even happens. So there's a lot more going on with it. But it's a-- there's a-- going to be an efficiency problem, with how do you keep it timely and short and, and returning a property to an owner who, who owns the property and is entitled to that property back while, while still allowing a jury trial when there--

McKINNEY: But--

TARA HOLTERHAUS: --could be--

McKINNEY: But shouldn't--

TARA HOLTERHAUS: --dozens of requests.

McKINNEY: --the tenant be able to make the claim to say, hold on, in the case of a situation where they feel like they're being wronged as far as eviction-- say, hold on. I want to argue against this and state my defense. Because if I have this eviction on my record, it's going to be harder for me to rent anywhere. It, it-- that, that eviction--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

because people are going to argue later and say people shouldn't have evictions cleaned. So I'm, I'm just say-- so--

TARA HOLTERHAUS: Yes. They should. They sh-- every tenant has a right to raise a defense to a judge and not a jury. Yes.

McKINNEY: I think they should have, have a jury.

TARA HOLTERHAUS: And-- right. And so that's where this legal argument comes in. And I like--

McKINNEY: Yeah. All right.

TARA HOLTERHAUS: You, you know, we're going to disagree on that part. But yes, every tenant can still raise their hand and present a defense. It's just a matter of who is hearing that defense and making a decision.

McKINNEY: Thank you.

BOSN: Any other questions for this testifier? It's OK. Ask your question. Now or never. Senator Storer.

STORER: OK. And this, this may just expose my ignorance on the legalities of this, but that's OK. So the, so the leg-- the legality-- the legal versus the equitable, if I'm-- were these cases that were cited a case where the, where the-- a tenant cannot claim possession of real property they don't own. Correct? They can claim, they can claim damages for possession of-- real versus personal. They can claim damage-- or they can claim on personal property, if they were locked out of their apartment--

TARA HOLTERHAUS: Sure.

STORER: --and they can't get to their personal property. Correct?

TARA HOLTERHAUS: So the real question here is who has a right to the property. And a tenant has a right to occupy property if they have a lease agreement that is still valid and in effect. Right? And so--

STORER: But if the, but if the lease-- and I'm sorry to interrupt, but if the lease agreement included payment and payment was not made--

TARA HOLTERHAUS: Yes.

STORER: --then the contract is void. Right?

TARA HOLTERHAUS: So that's, that's where it comes in, where after that seven-day notice to pay rent, if the rent is not paid in full within seven days, the lease is terminated.

STORER: Right.

TARA HOLTERHAUS: And so at that point, our position is that at that point in time, they do not have a right to occupy the property. And so it's really just a question for the court of returning that property and, and removing the tenant so that the landlord can have the property back. So there-- the only right that a tenant has--

STORER: Well, the one who has-- who needs to recover their real property would be the landlord who owns the property.

TARA HOLTERHAUS: OK. So then there's a whole separate Uniform Disposition of Personal Property Act, which would allow a tenant the right to reclaim their abandoned property after removal from the property. So--

STORER: Personal property, not real property.

TARA HOLTERHAUS: Correct. Personal property from the prop-- so there's already a entirely separate statutory scheme that allows a tenant to gather their personal property after an eviction has completed.

STORER: Separate from what we're--

TARA HOLTERHAUS: Correct.

STORER: Thank you.

TARA HOLTERHAUS: Yes.

BOSN: Senator DeBoer.

DeBOER: Thank you. You're doing a great job, so I thought I'd ask you a few more questions. There-- you, I understand, practice a lot in the eviction court, is that right?

TARA HOLTERHAUS: Yes.

DeBOER: So there are defenses to evictions, right?

TARA HOLTERHAUS: Yes.

DeBOER: Can you talk about a few of those?

TARA HOLTERHAUS: For instance, a, a defense with respect to the notice. So the notice has to state certain things. It has to be served in a certain way. It has to either be personally delivered to the tenant or first-class mail and posted to the door to ensure that the tenant received the seven-day notice. There are certain defenses like a waiver. So if a landlord accepts rent money after that seven-day notice period, even if it's just a partial payment, they have waived their right to proceed with eviction after that point in time. So even if they accepted \$50 on a \$200 balance, they have to start all over. You don't get to keep proceeding by accepting a partial payment.

DeBOER: And are there other instances like a defense that the landlord had failed to live up to their end of the obligation under the lease?

TARA HOLTERHAUS: Technically, yes. But it requires the tenant to have performed in a certain way prior to the court date, so it's not as easy to raise at court, unless you have already served the tenant-- or served the landlord with a 14/30-day notice to remedy any lease violations and deposited your rent money in an escrow account with the court. So yes, in, in theory, but most of the time by the time we get to court, that's not a valid legal defense because those prior steps weren't taken.

DeBOER: Sure. But they certainly could be.

TARA HOLTERHAUS: Yes. They exist.

DeBOER: So there's a number of defenses that could happen. So when we have a-- an action for return of the property-- now I can't say it right now.

TARA HOLTERHAUS: Yeah. Restitution. Yes.

DeBOER: Restitution. Thank you. Couldn't think of that word. There is still a legal matter to be issued, which is the court is going to determine whether or not any of those defenses are appropriate. Right? That's what the-- that's why you don't-- that's why you have to have an action before the court. It's that action so that the court determines there's no-- they had a lease agreement, they didn't, you know, they didn't follow their side of the lease agreement, and they have no defenses. Right? That's what-- that's the question.

TARA HOLTERHAUS: So those are all questions of fact that need to be decided. But I would not argue that they are legal, because the--

DeBOER: That's fine.

TARA HOLTERHAUS: --relief. Yes.

DeBOER: Well, we'll put that on the back burner for a second.

TARA HOLTERHAUS: Sure. Sure.

DeBOER: But the point is, is that the question is not just moot, not every time you file an eviction. It's not just-- that's not just the end of it.

TARA HOLTERHAUS: Correct.

DeBOER: There is a question to happen in a proceeding that [INAUDIBLE].

TARA HOLTERHAUS: Yes. And I would say it's not frequent, but we do have bench trials on these. And they happen that day of the first scheduled hearing, within 10-14 days. So it's not uncommon that there would be a bench trial over service of the notice deficiency or a waiver argument or whatever other argument is brought. It's just our position that the judge can hear that and make that decision and not a jury.

DeBOER: Right. I think I was sort of trying to get at some of the questions that Senator Storer was asking about what exactly we're looking at here because we're getting in a-- we're in a position where there is an open, open question of fact. Until you've had either a bench or a jury trial, there's an open question of fact, or unless if you're in a, a, a situation where there's a summary judgment. So.

TARA HOLTERHAUS: Yes. In terms-- I mean, there are some cases that would not resolve on summary judgment because there's a question of fact. The vast majority of these.

DeBOER: Sure.

TARA HOLTERHAUS: --likely could resolve on summary judgment. And we would love to see an expedited summary judgment procedure if, if the bill were going to be considered.

DeBOER: I was just going to ask you that and you preempted my thoughts. So thank you very much.

BOSN: Any other questions for this testifier? Thank you for being here. Next opponent.

KRISTY LAMB: Good afternoon, again.

BOSN: Welcome back.

KRISTY LAMB: Thank you. Again, my name is Kristy Lamb, K-r-i-s-t-y L-a-m-b. I'm representing myself, but also NP Dodge Management Company. Regrettably, I'm intimately familiar with the NP Dodge v. Holcomb case, and was present for when that case was initiated. I am still opposing this particular bill, LB101. I'm going to rely heavily on my predecessors' testimony, both Tara Holterhaus and Ryan, from a legal standpoint. That's certainly not my particular area's expertise as a, as a landlord. But I do-- I appreciate the opportunity, if a bill of this nature would move forward, to sit down with Senator Dungan and, and talk about the true functionality of the bill as it would move forward. We certainly need some additional guardrails in place to-- in order to continue both that-- the due process that's critical for tenants on a regular basis, but also make sure we have measures in place that aren't putting undue burdens on the court system, landlords, and the vast majority of the other responsible tenants that are trying to maintain their housing in a, in a safe and, and fair way at the properties. A couple of those guardrails have been mentioned, but I guess I'll just put my, my 2 cents in again on that expedited summary judgment. If a tenant moves forward and they would like a jury trial, but they fail to provide any sort of value-- legal grounds for that, then moving forward with the expedited summary judgment would be one way. And having that language in here would be one way that we could potentially move forward with such legislation. I believe the bill, as it's written now, uses the word may, that a judge may ask someone to make rental payments into an escrow account. And, and so that leaves that door open. That's not necessarily a requirement when a judge may ask for those escrow payments, versus making that part-- or just change that word may so that it's just an automatic requirement. And that way, the landlord is potentially made whole. Those rent payments are being put in escrow, and so they'll be made whole at the conclusion of this, especially when these particular jury trial situations could be pushed out months on end. With the case of Holcomb v. NP Dodge, that was over a 12-month period of time for that legislation to, to kind of [INAUDIBLE]. I think it was almost closer to 2 years, but certainly over a 12-month period of time. And then, again, just asking for legal fees, having that language added back into the bill as it would stand so that there was just more clear cut expectations as it relates to that.

DeBOER: OK. Thank you so much. Are there questions for this testifier? Senator McKinney.

KRISTY LAMB: Certainly.

McKINNEY: Thank you. And thank you. Is your primary opposition just time?

KRISTY LAMB: I would say time, from the, from the expedited summary judgment standpoint. And then also, just making sure that there's safeguards in place to make sure that this isn't being used just to arbitrarily delay those hearings. I believe it was Ryan that mentioned if it gets pushed out 5 months, but then it's, it's dismissed, and there's no-- there's literally no recourse from a landlord in order to recoup any of their rents that they're losing during that period of time. So it's, it's time, but also the lack of landlord recourse to recoup the rents that they're losing during the period of time that's, that's lapsing.

McKINNEY: I guess, what incentive would a tenant have to keep the rent?

KRISTY LAMB: The-- maintain their housing without paying rent.

McKINNEY: But at the end of the day, they still got that hanging over their head. So I don't-- I guess I don't see the incentive.

KRISTY LAMB: It unfortunately happens more often than, than we, we would like to probably see.

McKINNEY: OK. Dang. I had another question for you. You keep mentioning summary judgment, and every landlord or somebody representing property owners keep mentioning summary judgment. Then on other hand-- the other side is wanting jury trial. So I guess if, if, if the tenants want right to jury trial and you want summary judgment, I guess, where's the disconnect?

KRISTY LAMB: I'm-- in, in my particular place, I'm asking for a consideration of summary judgment when if the tenant fails to provide any valid legal grounds to move forward with a jury trial. So as long as they have a valid legal argument to move forward with the legal trial, then I'm asking for an automatic expedited summary judgment.

McKINNEY: What would you describe as a valid legal argument for a jury trial?

KRISTY LAMB: Could be any number of the, the, the reasons that you prompted earlier, and some of your questions, or the examples that Tara provided to the committee, as well.

McKINNEY: Can you give me examples?

KRISTY LAMB: If, if they feel that the landlord failed to properly provide proper notice, you know, per current legislation, if there-- if they had evidence to support that a rent payment was mishandled, that, that could certainly apply. We, we just need some sort of valid argument. Because oftentimes, you get like 90% of evictions is related to nonpayment of rent. And a judge will ask, did you pay rent or, or no? And they could say, no, I didn't pay rent, but I still want a jury trial. And there's, there's really no argument on whether or not that contract-- that contractual agreement has been breached at that point.

McKINNEY: All right. Thank you.

KRISTY LAMB: Is that fair? Thank you so much.

McKINNEY: No problem.

DeBOER: Let's see if there are any other questions. Any other questions? Thank you for being here.

KRISTY LAMB: Thank you. Appreciate your time.

DeBOER: Next opponent.

SCOTT HOFFMAN: Scott Hoffman, S-c-o-t-t H-o-f-f-m-a-n. I'm going to start this-- my testimony as a satire here, and, and-- because I don't claim to be an attorney. But: Your honor, I have an opening statement. Ladies and gentlemen of the jury, I have-- I'm representing my client today, because they are-- they don't have any work. They haven't been working for several months. And now the plaintiff, the landlord, has decided to evict him. I have no other further statements, your honor. OK, let's break for recess. I'll be back in an hour for lunch. Come on, Senators. This, this, this is not criminal. This is not somebody being accused of murder. This isn't Perry Mason. OK? I'm, I'm giving you the laymen terms on it. I don't know why we have to go to jury trial. The same people that are representing county court, judges, are the ones-- the same ones that do small claims, which is mediation. I'd rather be dealing with mediation than having to deal with somebody, you know, taking time off work to hear about somebody-- there's only three subject matters here. Is the tenant paying the rent? Is a tenant following the lease? Did the landlord get a 14/30, which we mentioned earlier? I mean, there's nothing much more to discuss than this. And now, we're going to-- who's going to pay for this? And one attorney mentioned, you know, when you go through an eviction and a tenant really wants to have a jury trial, I mean, he's jerking you're around.

He's sticking in your property, and he's going to see how long it's going to take for him to get out. And then just before the thing goes to trial, yeah, he's going to dismiss it. And you're not going to get your attorney fees. That's exactly how it's going to happen, and you know it. I don't claim to be an attorney, but sometimes I have a little bit more ingenuity than most. Most of you are attorneys in here. It's ridiculous. Let's just have a jury trial take up all this time when you don't even own the property. I own the property. You're the tenant. You're not paying the rent. You have to leave. It's inevitable. It's all about delay, delay, delay. Senator Dugan [SIC], you lost. You, you won your, your district by just a few hundred votes. Most of my rental property is in your district. I can promise you, you know, when you bring bills like this, I'm understanding why that this was so close. So that-- that's my opinion. I have the right, because that's where my property is at, and it's in his district. And I'm supposed to hire, hire an attorney to go through, to go through a jury trial, when there's only three subject matters involved? This, this is ridiculous. So, you know, basically, that's in a nutshell, I got nothing further to say. Go ahead.

BOSN: Any questions for this testifier? Senator McKinney.

SCOTT HOFFMAN: Yeah. Go ahead.

McKINNEY: All right. My first question, does every eviction deal with lack of payment, yes or no?

SCOTT HOFFMAN: No. But you heard most of the testifiers say it does.

McKINNEY: But-- yes or no?

SCOTT HOFFMAN: In all my, in all my experience in eviction, it was nonpayment of rent. Yes, all mine that I experienced. But that's why you have a 14/30, Senator. If the, if the, if the, if the, if the landlord's not doing what he's supposed to do, he has entitled-- be delivered a 14/30 just as much as the land-- tenant has it to give it to the landlords, the landlord has to the tenant. It's described there. That's it.

McKINNEY: Yeah. And I've talked to tenants who say landlords still don't follow those type of things, but that's neither here or there. My last thing is, what are you scared of?

SCOTT HOFFMAN: I'm not scared of any of it. I'm just telling you guys the truth. That's why I've been out of the courtroom for, for, for seven years because I deal with my tenants directly. We're, we're not

sitting there, a bunch of mongers going down there-- get this person out of my property. He's not paying the rent. We're talking to people. You're talking about-- we're texting them, say, hey, are you going to pay the rent? You know, and we're doing all that.

McKINNEY: But you said you haven't, but you said you haven't been there, so why are you saying "we're?"

SCOTT HOFFMAN: I have been there. I have been in eviction court. And it was ugly.

McKINNEY: You said you haven't been there in the last seven years.

SCOTT HOFFMAN: But it's getting uglier. It's getting uglier. Let, let, let, let me mention here. You had Mertz up talking about, oh, we represent low-income people for evictions. No, we don't. They're catching everybody that comes off the elevator on the second floor down at the county building. Are you a tenant or a landlord? And then they sit there and they go in and they try to find something that's really minuscule and just continue it. They talk about-- we don't have evictions. Yeah, that's because I'm sitting here as a landlord, geez, I want my property back. You know, get this person out of my property. Well, Scott, you're going to have to wait about a week or two until we figure this out. What for? They're not paying me the rent. It's my house. OK? You don't own it. I got property taxes to pay, some of the highest in the nation. I've got people I can't even find to work. Building materials have doubled. I can guarantee you when I go into that house, they're going to leave the place a mess. This is a laymen explanation, Senators, about what's going on. I don't assume that any of you own rental property. Maybe you've never had to deal with it. But I'm telling you, with the tenants I've got right now-- getting back to the-- being forced to take housing. I don't want to participate in it. I'm doing just fine. And I have been doing it for 40 years, and yes, I'm looking to get out of it eventually. But yeah. Go ahead, Senator. Just go ahead.

McKINNEY: I'm just confused because on one hand, you say you don't have these problems. You don't go to eviction court because you don't need to. And then you say you're there.

SCOTT HOFFMAN: Well--

McKINNEY: Are you there just to see what's going on?

SCOTT HOFFMAN: No, no, Senator.

McKINNEY: I'm, I'm lost.

SCOTT HOFFMAN: No, Senator. I have colleagues that I hear from this all the time. They say, hey, Scott, you're good at this. I'm pissed off. I mean, I'm simply pissed off about how-- what I heard about all these-- do-- you got to do this, you got to do summary and everything else. It's ridiculous. For eviction court. There's only three subject matters. This isn't-- like I said, this isn't Perry Mason. OK? We're, we're not talking about people being convicted of a crime, crime, or a criminal, where there's going to have to be all kinds of what we would recall preponderance of the evidence. There's nothing there. You're either not paying the rent or you're not following the terms of the lease. Get out. That's it.

BOSN: All right.

SCOTT HOFFMAN: I have nothing further to say.

McKINNEY: All right.

BOSN: Any other questions for this testifier? Thank you for being here. Next testifier. Welcome back.

KORBY GILBERTSON: Good evening, Chairwoman Bosn, members of the committee. My name is Korby Gilbertson. It's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today on behalf of the Nebraska Realtors Association and the Homebuilders Association of Lincoln/Metro Omaha Builders Association Coalition in opposition to LB101. I won't repeat what some of the, some of the opponents said, but I would say that the realtors share some of the same concerns and-- as do the homebuilders, who both have members that participate in building management, that this type of legislation could just cause unjustifiable delays. And obviously, you deal with the bad actors on both sides when you're looking at making legislation, so it's not the good actors that we're dealing with and so we have to look at what potentially can go wrong. I do want to thank Senator Dungan for being willing to sit down with us last session. The Realtors did take a position last session of opposing the bill, except for if we could find a way to make sure that the property owners are made whole somehow, between attorney's fees, making sure that rent is held. Because there are times when it happens that the rent never gets paid and those landlords are then out. The time delay then keeps them from letting the property to another tenant. So that's the concerns that they have. And as always, we're more than happy to continue working with Senator Dungan if something can be worked out.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

BOSN: Thank you. Any questions for this testifier? Seeing none, thank you for being here.

KORBY GILBERTSON: Thank you.

BOSN: Next opponent. Welcome back.

NATHAN HAUGEN: Nathan Haugen, N-a-t-h-a-n H-a-u-g-e-n, and on behalf of MOPOA, I'd like to continue our introduction. Statistically speaking, in the U.S., 94% of single-family homes are owned by small to medium mom and pop property owners. Again, 94%. That's a huge amount of the supply side of this equation. Laws which harm our business has a direct impact on our future viability. If we have to sell our rental homes due to onerous legislation, supply of quality rental homes will drop significantly. Coupled with market forces causing rising demand will lead to even more affordability issues with even faster than normal rent prices increases, leading to an even worse situation regarding unaffordable housing for our tenants. We heard earlier, I believe, a gentleman had 65 rentals and he sold over half of it, and now he's down to 30, I believe is what he mentioned. That doesn't help the, the supply side of the equation. MOPOA opposes LB101, as it will dramatically increase our costs, holding costs as the tenant isn't paying rent, likely not taking the best care of the property while we wait for the eviction jury trial, sending legal costs through the roof. I did speak to a lawyer that I know. Eviction, currently, as it stand, runs about \$500 just for the basic, standard eviction. He, he is-- in his opinion, it would be a 10X to go to a jury trial. So that's just a huge burden that our small mom and pop property owners just cannot afford. And as the largest supplier of single-family rentals, it will have a huge negative impact on us. This will pass through to negatively impact tenants, especially the good tenants. So that-- that's the big thing I want to try to present here, is that the-- it's definitely going to hurt the good tenants, as well. So.

BOSN: Appreciate that. Senator DeBoer.

DeBOER: If we can find an expedited way to do this, right, if there's a way to make this happen-- I understand when you consulted with the jur-- or with the attorney, he said it's a lot more to charge-- to-- for a jury trial. That's a different question. It's a valid question. Let's take that aside for a second. And let's say we come up with an expedited way to handle these issues. Would you be OK with it then? Because my understanding is that your objection is the length of time it would take for a jury trial. So if we could make them happen on the

same basic timeline, the-- in the most cases that the bench trial goes to, would you be less objectionable to that?

NATHAN HAUGEN: I'm not a lawyer and I don't play one on TV, but I, I, I, I am definitely not for more government overreach that causes more expense. Because the more that it costs me, I have to then pass those costs on to--

DeBOER: Sure.

NATHAN HAUGEN: --good tenants. And that just [INAUDIBLE] increase the issue of afford-- affordable housing.

DeBOER: Let me ask the question another way. Is the cost to you the increased time that you think that this jury trial will, will last?

NATHAN HAUGEN: Yeah, increased time, increased lawyer costs, increase in, in all of that. And then, they're not paying rent, so how can they possibly afford any of these other things once we did get a judgment, you know, against them for, for the moneys. It's just not going to happen.

DeBOER: OK. Thank you.

NATHAN HAUGEN: We still won't see it.

BOSN: Thank you for being here.

NATHAN HAUGEN: Thank you, ma'am.

BOSN: Next opponent. Welcome.

DENNIS TIERNEY: Welcome. Thank you. My name is Dennis, D-e-n-n-i-s, Tierney, T-i-e-r-n-e-y. Senators, LB101 changes the way evictions have occurred in the state of Nebraska for three decades. The Landlord Tenant Act provides for an expedited trial process for residential evictions. According to the Nebraska Administrative Office of Courts and Probation's eviction proceedings biannual data report for the period January 1, '24 to, to June 30 of '24, there were 4,668 evictions filed in the state of Nebraska. 2,599 of these cases resulted in a writ of restit-- restitution, 932 by default. If you double this number to get a whole year of filings, you'll get roughly 9,336 filings. If this bill passes, you'll get a tremendous num-- increase in the burden of jury cases in the courts. Tenants will understand that their eviction will be delayed by many months to get to a jury trial, so they will be able to stay in the dwelling many--

for many months, without paying rent unless ordered to by a judge. It's not mandatory that they pay rent while waiting for trial, but it's up to the judge's discretion. Why would a tenant not ask for a jury trial? In doing so, they get to stay in a dwelling for many months rent free. The effect of this law is it will drastically increase the legal and operating cost to a landlord to evict a tenant. And for many landlords, it'll force them out of business. You'll drive out of business those mom and pop landlords that supply affordable housing, and the landlord population will shift to big business landlords who have deeper pockets to with-- withstand the high legal costs of doing business in Nebraska. Many of these big business companies are out-of-state and will more likely raise rents to pay for the high legal cost to do business. This bill will assure that we have less affordable housing in this, in this state. I might one-- add one bit of common sense to the idea that the landlord's legal costs can be sent back to the, to the, to the landlord if a judgment is found that the, that the tenant has to leave. Does anybody really think that if a, if a lan-- if the tenant isn't paying the rent, that they're going to pay the landlord's legal bills? You think that's really going to happen? It's not going to happen, no matter what a senator says about you can get legal costs repaid. It's not going to happen. The tenant isn't going to pay it. Senator, this bill does a disservice to tenants and landlords, and I urge you to reject it. Thank you.

BOSN: Thank you for your testimony. Any questions of this testifier? Thank you for being here. Next opponent. Anyone wishing to testify in the neutral capacity? All right. While Senator Dungan makes his way up here to close, I will note for the record that this bill had 27 proponent comments submitted, 59 opponent comments, and no neutral comments. Thank you, Senator Dungan.

DUNGAN: Thank you, Chair Bosn and members of the Judiciary Committee. I think this has been a very spirited conversation. I really do appreciate the opportunity to have this, this bill before you again. I, I don't, don't want to take too much of your time, but I do want to respond to a couple of the notions that were brought up during the testimony, just to make sure it's clear on the record. First of all, we've talked a lot about the opinion. And I know that there was one of the opponents who was talking to you about the fact that only three justices had joined in the concurring opinion. I want to be very clear. This is a concurring opinion. This is not whether they've joined in the majority or the minority. A concurring opinion, for those who aren't as familiar, is essentially when one of the justices on the Supreme Court says yes, and. They say, I agree with the major decision, but also, I want to make an additional point. It is not

incumbent upon the other justices to join in on that. In fact, it is-- and I will say to the other attorneys that are here, you probably would agree it's very rare for our court to have concurring opinions like this. This does not happen often. So the existence of the concurring opinion is in and of itself novel, and the fact that it's not just one justice expressing his opinions, but rather others saying, I agree with that so much, I'm willing to sign on. The absence of other justices signing on does not mean they disagree with it. It just means that they didn't feel it was their-- they didn't want to sign on to this necessarily right now. So I, I just want to point out the fact that this exists as a concurring opinion is, is important. We've gone down a really, I think, interesting and probably very educational road discussing what is equitable and what is legal in nature. That's a very complicated issue, and I can tell you that law students probably study this for weeks, if not months. And so I think we've had a lot of really good explanations. If I could try to oversimplify it even a bit more, something that is legal in nature is where you get something. Right? Monetary damages was brought up by that, that testifier. But it's not just monetary damages. Chattels, aka property, also counts as something where you get something at the end of the case. Absolutely correct. You look at the remedy to determine whether it's equitable or legal. If the remedy of a case is the obtaining of something, it is usually going to be an issue of law or a legal action. Equitable, rather, is where they can use something like an injunction, or it's usually a contract dispute. It's, it's some result or remedy that is not you literally winning something like damages. But I just want to be very clear. Damages do not always mean monetary. They can be things like property or chattels. Our-- as Senator DeBoer, I think, pointed out and I think this is very important, our Supreme Court has time and time again said that an action to recover possession of real property, real property is legal, not equitable. This is not some novel, crazy idea that Justice Papik came up in a concurring-- came up with in a concurring opinion. It's been cited in a 1930 case, a 1906 case, a 9-- an 1899 case, an 1897 case, an 1872 case, and then finally reiterated, yet again, in 2021, where they specifically say, quote, an action for restitution of premises brought under the Nebraska Uniform Residential Tenant Act is an action at law. That is settled case law. So this notion that this is, in fact, equitable, I simply disagree with. I understand that was the argument being made by one of the parties in this case. And Justice Papik is saying, I disagree with you because it is settled law here in Nebraska that it is legal in nature. If it is legal in nature and if you were entitled to a jury trial back in the 1800s, you get that now, too, is what he's saying the analysis says. So I don't think

we as a body need to make a determination as to whether or not you are entitled to a jury trial. I understand it's inconvenient. And I-- and I'm being genuine when I say I'm really sympathetic to that. And we've met, and we've talked, and I understand all of the problems that go into implementing this law. That's why this is the second crack at it. That's why I have continued to talk with folks about that, very interested to continue the conversations as they pertain to perhaps an expedited summary judgment. I want to see what that looks like. I already have a meeting on the books to talk with some of our friends in the room who oppose this about some of those ideas, so I am more than open to trying to find a way to make this work. But I would venture to say understandable, but the inconvenience that this then provides some individuals is not a good enough reason not to do this. It's our job to do the hard work. It's our job to figure out how to make this work. And I want to be as open as possible to some of those ideas, so I will continue to do so. But I am very happy to continue the conversations, and I think we've had a good con-- good discussion here today. But this is something we have to do, and I just want to make sure we do it the right way. Happy to answer any final questions you all might have.

BOSN: Any questions?

HALLSTROM: So you're lukewarm to my suggestion?

DUNGAN: Senator Hallstrom, was your suggestion that we simply define it in statute as equitable?

HALLSTROM: Yes. And, and more seriously, can-- could we do that?

DUNGAN: My honest answer is I, I don't believe so. No. I think when courts analyze whether or not something is equitable in nature or legal in nature, they look to the effect, not simply the statutes as they are laid out. Specifically cited at one point in time, they say, we look for-- trying to find the actual statutory language here-- in analyzing whether the Nebraska Constitution protects the right to a jury trial in a particular proceeding, our court considers not the statutory enactment as a whole, but rather the essential character of the specific cause of action upon which the plaintiff brings suit, as well as the remedy or relief the plaintiff seeks. So the ultimate question is what is the effect, not necessarily if we say something. I think a good analogy would be like-- that would be trying to say that a penalty for a criminal case is not a penalty. The court looks at whether or not it acts as a penalty, not whether we say it's a penalty. So, unfortunately, I don't think it'd be as simple as that.

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Judiciary Committee January 30, 2025

But I am open, again, to some of these conversations we've had about finding ways to make this work for all the parties involved.

HALLSTROM: Thank you.

BOSN: Senator Storer.

STORER: Thank you. I'm going to probably wade into a little, a little deeper water here. But on-- so on the equitable-- the issue of equitable, you said, if I, if I heard you correctly, that that-- an example would be contract law. Breach of contract?

DUNGAN: Essentially, yes. And I, I don't want to go too far down a rabbit hole in that because I'm not an expert in all of that. But yes, an equitable relief is something that's not damages, something that would be like an injunction or--

STORER: And, and legal is when you get something back that--

DUNGAN: Generally speaking.

STORER: --or returned to you that was yours, right?

DUNGAN: Generally speaking.

STORER: And is it possible at all to craft this in such a way that there are very specific provisions for a jury trial? Because if it's-- if, if, if it's very clear that a tenant didn't pay, they broke their contract, that's contract law. That's a-- that's breach of contract. If there was some exception as to why they were being evicted outside of breach of contract-- do you see where I'm going with this?

DUNGAN: I understand what you're saying. I think the issue at hand here, though, is what is the remedy being sought under the Landlord Tenant Act? And so, as I was kind of getting at earlier, the issue that is being addressed by that act is the restitution of the property. That is the ultimate goal. The goal of--

STORER: But if, but if they lost it due to breach of contract, then that's equitable.

DUNGAN: I would disagree with you. No, the ultimate what we're, what we're analyzing, what we're trying to look at here is the remedy. So what is the outcome of the action that we're seeking to have? And that outcome is whether or not they get the-- they actually can get the restitution of the property or not. And that's what I'm saying the

court has said time and time again. Because the result being sought is a reclamation of that property, that's what makes it legal. Just because you're talking about the breach of contract doesn't necessarily make it equitable in nature. It's the remedy being sought. And I'm happy to have this conversation with you in a little bit more detail. But, you know, for example, a, a, a breach of contract could result in money damages, right, in which case that-- just because you breached a contract doesn't mean it's not legal in nature. So you're not looking at the cause of the action. You're looking at the remedy being sought in executing the action, if that makes sense. We're looking for the end result, not why it happened.

STORER: It does. This one just gets a lot more unique from the standpoint of because of the breach of contract, they, they don't have possession of property they didn't own. Like, they lost their right to possess the property because they broke their contract. I mean, this is where, to me, it gets--

DUNGAN: And yeah. And I'm happy to sit down and, and have a, I guess a deeper conversation with that-- about that with you. I, I don't want to make it more confusing than it needs to be and I'm worried that I'm going to do that by trying to come up with additional examples. But I do think that, again, this is settled law. And this is, this is not, again, just in this case. So whether or not this is legal in nature or equitable in nature has been determined time and time and time again by the Nebraska Supreme Court. So whether we like that or not or want to argue differently, our courts have said that is how we analyze it. And that's kind of what the first part of this concurring opinion gets at, is that's no longer a question to even be determined.

BOSN: Thank you very much for being here.

DUNGAN: Thank you.

BOSN: Next, we will take up LB185, with Senator Dover. Can I see a show of hands of how many individuals are here to testify regarding LB185? One, two, three, four, five, six. OK. Good evening, Senator Dover.

DOVER: Good evening, Chairwoman Bosn. And, and good, good evening, committee members. I'm gonna do my best just to get you guys out of here so I'm not-- you can read my opening statements. I'm just going to probably pick like just two paragraphs quickly here. As currently written, statute requires that a landlord's notice to a tenant is delivered by hand or mailed to the tenant where they wish to receive

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

communication, or their last-known place of residence. There is no current provision for electronic notification, so they're relying on the mail. I don't think I need to go on about the reliability of the mail. And my bill simply allows for a tenant to opt in or-- and opt out, opt in, opt out, whatever they want to, to use electronic notification. This bill was up last year. And had a person not walked in and, and opposed the bill, and said I would be OK with this bill if it allowed people-- a tenant to opt in and opt out, I would be OK. But since it doesn't, I oppose this bill-- and then walked out, and no longer was it consent agenda bill. Right. So this is a consent agenda bill. I don't, I don't believe there's any opposition today. In conversation with the Women's Fund of Omaha, we have agreed to make some changes to the bill. It clarifies that there will be no-- there will not be any conditions or consequences to a tenant who withdraws consent for electric-- electronic notification. It removes wording that implies there could be conditions or consequences for withdrawing consent if-- consent if they had agreed to it in the lease agreement. And it makes the above changes throughout the bill whenever necessary. That's really, that's really it. Sorry it's-- sorry I had to, I had to kind give-- bring a complex bill to you guys, you know, compared--

BOSN: That's all right. Any questions?

DOVER: --compared to the last one.

STORER: Very anticlimactic.

BOSN: Any questions for Senator Dover? Are you saying to close?

DOVER: No, I'm not.

BOSN: Fair enough.

DOVER: So I'll waive my closing, and I'm off to my 6:00 appointment.

BOSN: Thank you. First proponent.

DOVER: Thank you.

LYNN FISHER: Well, good evening again. Lynn Fisher, L-y-n-n F-i-s-h-e-r, representing the Statewide Property Owners Association. We at the Statewide Property Owners Association are in support of LB185. We want to thank Senator Dover for introducing this bill on our behalf. And we are the affordable rental housing providers in Nebraska. We've surveyed our members and other rental housing providers and tenants. Everyone agrees it would be very helpful for

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

all notices provided for the Landlord Tenant Act to be allowed to be voluntarily done electronically. We're now in the 21st century and first-class mail is not a good option for a lot of people. Postal service is very unreliable. And for most of our younger tenants, they don't even use the postal service. We understand that the changed language in this bill is the same as the language already in, in law related to the insurance industry here in Nebraska. So we believe it would work just as well for our industry. So please advance the bill, and I'll be happy to answer any questions.

BOSN: Thank you. Any questions? Senator McKinney.

McKINNEY: Thank you. I guess my only question, how will you know they actually received it?

LYNN FISHER: On a-- on an email-- yeah. On an email, we can ask for a confirmation.

McKINNEY: Yeah, that's, that's what I was wondering. Are you going to like when you send the email, will you send like a receive--

LYNN FISHER: Yeah, a receipt.

McKINNEY: Receipt, receipt, receipt or something like that.

LYNN FISHER: Yeah.

McKINNEY: That's all I was wondering.

LYNN FISHER: Yeah, which we'll keep and print off--

McKINNEY: OK.

LYNN FISHER: --and put in their file.

McKINNEY: All right. That's all I was wondering.

BOSN: Senator Rountree.

ROUNTREE: Thank you, Chair. Sir, on that email, we talked about the read receipt, but what if it goes into the junk mail? A lot of times when people get junk mail, they might just go in and arbitrarily try to clean up the whole box, and then that communication is lost at that point.

LYNN FISHER: Yeah. I think in the wording of-- and I know it's a long bill, but I believe that's addressed in the language I believe.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

BOSN: Any other questions? Senator Storm.

STORM: Thank you. We only-- just email that we're talking about? Any other reform?

LYNN FISHER: I think it could be email or text.

STORM: Text.

LYNN FISHER: And whatever is agreed to by both the tenant and the housing provider.

BOSN: Thank you for your testimony.

LYNN FISHER: Thank you.

BOSN: Next proponent. Welcome back.

TARA HOLTERHAUS: Good evening. Tara Holterhaus, T-a-r-a H-o-l-t-e-r-h-a-u-s. I am happy to be on a proponent side of one of these bills, but I am going to urge the committee to review the bill to see if-- and I, I would love to speak with the senator who introduced it as well, to see what sort of amendments can be made. This is a 15-page bill, and a lot of the people that I'm working with have hundreds of units. And so, managing who has opted in versus opted out to receive a specific email notice, the way this is currently written, I don't see it actually being used, because everybody's just going to mail the notice. Because it will be far too difficult to track who's opted in, who's opted out, whether somebody who initially opted in has now opted out, whether they've read the email, whether they've, you know, complied with whatever other requirements are in here. So I think it's a great bill in theory. We're in a world of technological advancements that, you know, should go far beyond just the Postal Service. So I think this is a necessary bill. I think it would be used in a modified form. And I would like to discuss what sort of amendments we could, you know, come up with that would make it more able to be implemented and used seamlessly. Somebody said earlier, you know, seventh grade terms and, you know, layman's terms and just keeping things, I think, short and sweet is often far better than, you know, going into the details of-- and I understand the details are necessary sometimes. But in this case, 15 pages makes it very difficult to figure out what actually is going to be required. And I think it's far too difficult as written. So we would ask that the committee support this bill, but taken into consideration some amendments that can be made with respect to the opt in/opt out procedure and making that a little bit more streamlined. And I think

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

that's, that's all I've got. If anybody has any questions, I'd be happy to answer them.

BOSN: Have you reached out to Senator Dover's office?

TARA HOLTERHAUS: I have not yet. But we, we do have a, a group of lobbyists here that we're working on getting a meeting together to discuss potential amendments.

BOSN: That would be good. OK. Any other questions for this testifier? Sorry I jumped the gun there. Thank you for being here.

TARA HOLTERHAUS: Thank you.

BOSN: Next proponent.

KRISTY LAMB: Hi. Good evening, again. Kristy Lamb, K-r-i-s-t-y L-a-m-b. My testimony would mirror Tara's almost, almost explicitly, so I won't go into a lot of detail. There's- I guess I'd maybe give one example of, of some of the language that's in the bill. I think there's a provision that the landlord or the tenant would have to keep track to see if two electronic notices were rejected within a 30-day period of time. We just-- like when we're worried about the 40% increase in, in insurance, investing more money in technology that will provide the type of oversight that this bill would require probably isn't going to be on the top of a landlord's priority list, and certainly wouldn't want to create a scenario where they're increasing rents even more for, for technology of that nature as it sits today. But simplified language that could be as simple as if an electronic notice is sent out and we don't receive a delivery receipt for that individual, that that, that that landlord would be obligated to default back to those normal processes and send it out first-class mail. Something almost as simple as that, and that way you're not tracking-- spending additional funds on greater technology in order to, to track it. And it could create-- it could be problematic for the tenant as well, if they are being asked to have the same side of tracking. If a notice they send to their landlord has been received versus rejected and-- or has it been not opened, you know, twice within a 30-day period of time, that's probably not something that's going to be top of mind for most tenants. So it could create some unintended unfavorable consequences for them, as well.

BOSN: Thank you. Any questions? Thank you for being here. Next proponent

KRISTY LAMB: Thank you. Appreciate your time.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

BOSN: You bet. Welcome back.

KORBY GILBERTSON: Thank you. Good evening. For the record, my name is Korby Gilbertson. It's K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as the registered lobbyist on behalf of the Nebraska Realtors Association and the Home Builders Association of Lincoln/Metro Omaha Builders Association Coalition in support of LB185. I helped draft this legislation because I was also involved in the passage of the legislation that was done for the insurance industry. And the reason why it-- I-- I alw-- I always agree that if we could have a bill that's one page long, that would be great. Unfortunately, you have to change several different sections because there are several different sections affected by this. So the reason that it's 15 pages is because you can't just change 5 different sections in law with one sentence. So I realize it's long, but that is a necessity when you're trying to draft legislation. And I want to thank Senator Dover for introducing this again. It has worked wonders for the insurance industry. And I think that folks that want to opt into this system will see the same results. So I'd be happy to take any questions.

BOSN: Questions for this testifier? Thank you for being here.

KORBY GILBERTSON: Thank you.

BOSN: Next proponent.

DENNIS TIERNEY: Good evening.

BOSN: Welcome back.

DENNIS TIERNEY: Thank you. My name is Dennis, D-e-n-n-i-s, Tierney, T-i-e-r-n-e-y. Senators, as a landlord, I support LB185. This legislation is needed to bring the Landlord Tenant Act into the 21st century. It's common knowledge that regular mail communication is relatively slow, hence the term snail mail, and sometimes unreliable in its delivery. Communication between landlords and tenants, tenants and management companies and tenants have been largely electronic for some time now. Online signatures for contracts and leases have been legal for several decades, and most management companies and self-managing landlords have their tenants sign leases online. Many, many tenants have their rent paid by ACH from their bank accounts. For most management companies and self-managing landlords, any work order from the tenant or for repairs is submitted by text or other electronic communication. The management companies I've talked to have stated that this act would significantly improve their workflow and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

efficiency. It's only fitting then, that the option for electronic notification be codified into the Landlord Tenant Act. Please support LB185.

BOSN: Thank you. Any questions for this testifier? Thanks for being here.

DENNIS TIERNEY: Thank you.

BOSN: Next proponent.

NATHAN HAUGEN: Nathan Haugen, N-a-t-h-a-n H-a-u-g-e-n, testifying on behalf of more MOPOA. Efficient and timely communication is important in any relationship. The tenant and property owner relationship is no different. On June 30, 2000, former President Clinton signed the electronic signature for Global and National Commerce Act. By signing this legislation, I could then enter into a contract via electronic signature, such as buying a house which is full of legal disclosures and transactions. But that was docu-signed like 25 years ago. So, MOPOA supports electronic communication. We ask that you codify this between tenants and property owners, and we ask you to support LB185.

BOSN: Thank you. Any questions? Thank you for being here. Next proponent. Any opponents? Those wishing to testify in the neutral capacity? While she's making her way up, I will just note for the record, there were 50 proponent comments submitted, 2 opponent comments submitted, and no neutral comments submitted.

ERIN FEICHTINGER: Except for me. Well, I'm here.

BOSN: On the record.

ERIN FEICHTINGER: With all of you, together.

BOSN: Thank you. Thank you for that clarification.

ERIN FEICHTINGER: Sorry. Chair Bosn, members of the Judiciary Committee, once again, my name is Erin Feichtinger, E-r-i-n F-e-i-c-h-t-i-n-g-e-r. I'm the policy director for the Women's Fund of Omaha. I want to thank Senator Dover for working with us over this session and the last on this bill, with the amendment in front of you that he's talked about. We have no issues with this bill or its contents. And going back to what Senator Conrad said at the start, it is possible for us to work together, to move forward together on these issues, to make commonsense changes to our landlord-tenant statutes, to bring us into the 21st century, reflective of the moment when we

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

bring the temperature down in this room and in these debates, and think intentionally about the problem in front of us and how we can work together to fix it. And this bill in its, in its amended form is an example of being able to reach a balance on these issues. And so, just wanted to put that on the record that we have no issue with this. And thank you for your time, and being here all night.

BOSN: Got to ask, why are you neutral then, and not proponent?

ERIN FEICHTINGER: Yeah, that's a great question. How about I, I can be both, be in the middle, but just wanted-- really, I-- when I talked to Senator Dover, I had just been asked to come up and say that we, on the record, had no issues with this bill.

BOSN: OK.

ERIN FEICHTINGER: So, I just wanted to make that clear.

BOSN: Thanks for being here.

ERIN FEICHTINGER: No problem.

BOSN: Any other neutral testifiers? All right. That concludes our hearing on LB185. We are going to take a very short recess because all of us have been here for 5 hours. So we're going to break for-- we will start again at 6:45. That's 15 minutes.

[BREAK]

BOSN: Senator McKinney, Are you ready?

McKINNEY: Yeah.

BOSN: All right. And, Laurie, are you ready? All right. Senator McKinney, you may proceed.

McKINNEY: Thank you, Chair Bosn. Good evening, members of the-- Chair Bosn and members of the Judiciary Committee. My name is Terrell McKinney, T-e-r-r-e-l-l M-c-K-i-n-n-e-y, and I represent District 11, which is in north Omaha, and I'm here to urge your support for LB92, the Residential Tenant Clean Slate Act. This bill represents a critical step in addressing the long-term consequences of eviction records, which can perpetuate housing instability and economic hardship for countless individuals and families in our state. An eviction, whether justified or not, often leaves a mark on an individual's record, even when cases are dismissed or tenants are

evicted due to extraord-- extraordinary circumstances, such as job loss, illness or the COVID-19 pandemic. These records remain publicly accessible. Landlords and other entities frequently use them to not-- to deny housing, perpetuating cycles of poverty and instability. This disproportionately impacts our most vulnerable populations, including single mothers, elderly tenants, and low-income families. The stigma of an eviction record is not merely a barrier to housing. It is a barrier to opportunity. How can we expect Nebraskans to rebuild their lives when they are denied a fair chance of stable housing? LB92 provides a sensible, compassionate solution to this injustice. LB92 establishes the framework for clean slate relief, allowing certain eviction records to be sealed under specific circumstances. This process ensures that 1) dismissed cases or cases where judgments are reversed or vacated do not unfairly penalize tenants; 2) records related to evictions during extraordinary periods such as the COVID-19 pandemic can be sealed to account for unique hardships; 3) tenants are provided a pathway to clear their record after re-- after a reasonable period, offering them a second chance to secure housing and rebuild their lives. This bill does not absolve tenants from their obligations. Rather, it balances accountability with fairness and humanity. By sealing records under defined criteria, LB92 protects tenants from discrimination while maintaining landlord-- landlords' ability to access relevant and timely information. Passing LB92 would yield significant benefits for Nebraska for, for multiple reasons: 1) Economic stability. Housing stability is foundational to economic growth. Families with stable housing are better able to maintain employment, support their children's education, and contribute to their communities. 2) Reduce homelessness. By removing unnecessary barriers to housing, LB92 helps prevent homelessness, which imposes substantial social and economic costs on our state. 3) Community Equity. This bill ensures that Nebraskans are judged based on their present actions and capabilities, not on circumstances that may no longer reflect their situation. 4) Administrative efficiency. LB92 includes provisions for a straightforward petition and relief from process, minimizing the administrative burden on courts while, while maximizing the impact for effective tenants. Now, I will address some of the concerns of the people behind me. 1) Transparency for landlords. Some worry that sealing eviction records will make it harder for landlords to evaluate potential tenants. But this bill doesn't erase all records, only those specific conditions, like cases that were dismissed, reversed or related to the COVID-19 pandemic. This ensures landlords can still access relevant information, up-to-date information while giving people a chance to move on from past situations that no longer reflect who they are. Landlords already

use multiple tools to screen tenants like credit checks, references, and employment history. Eviction records alone do not tell the whole story. LB92 lets tenants explain their circumstances without being unfairly judged for things in their past. 2) Concerns for small property owners. I understand that small landlords are worried about financial risks, but this bill doesn't stop landlords from evicting tenants who break rules or don't pay rent. What it does is allow tenants who have worked to improve their situations to have certain past convictions sealed, giving them a second chance at stable housing. Plus, when they are stuck in unstable housing situation, it creates bigger costs for everyone, like shelters and public services. And we're in a budget shortfall and we're going to be cutting a lot of public services this year. This bill helps create more stability, which makes it easier for tenants to become renters. 3) Tenant accountability. There is a concern that this bill lets tenants off the hook. That's not true. LB92 has clear guidelines for sealing records and tenants have to meet those, those requirements to qualify. People who have, who have turned their lives around can get a fresh start, but those who haven't are still held accountable under current laws. 4) Rising rents and stricter rules. Some fear landlords might respond to this bill by increasing rents or tightening tenant screening. While that's a valid concern, this bill actually broadens the pool for reliable renters by giving people a chance to rebuild their rental history. When tenants have a sta-- when, when tenants have stable housing, they're more likely to stay long-term, reducing tone-- turnover and cost for landlords. In the end, that's a win for both the landlords and the tenants. As legislators, we have a responsibility to create an environment where all Nebraskans can thrive. LB92 is not just about sealing records. It's about restoring dignity, opportunity and hope who-- to those who need it the most. By passing this bill, we can create a fairer and more equitable housing system. And I'd be-- I would be remiss not to mention that LB175, which was similar to this bill-- actually, almost identical-- I think it's identical-- was passed out of this committee 8-0 last year. With that, I'll take any questions. Thank you.

BOSN: Any questions from the committee? I have just a couple of questions. So in your testimony, you said that this bill would allow landlords-- or allow tenants who have previously been evicted to put some context around their previous invict-- con-- evictions. My concern is, is that I don't think under this bill, landlords could even ask about a previous convict-- I think it would preclude them from asking.

McKINNEY: Under specific situations. Yeah.

BOSN: So there's no context to them. There's you can't ask, period. Do you understand what I'm saying? So context is I can ask you, have you ever been evicted? And you could say yes, but my circumstances were, and then you would explain it, right? But if this bill passes, I can not even ask you. You don't have the opportunity to put the context around it. It's-- you can't ask. Do you see what I'm saying? Because, I mean, I think some of the reasons for last year's were it was-- there was a-- it was the first time only that it had ever happened and it had to have been dismissed, is my recollection from last year's amendment that we talked about, was that you could only have one clean slate. And it had to be either dismissed or resolved amicably between the-- because you're right. There are times where I'm 10 days late, but I pay it. And you say, well, yeah, I'll-- if you have now the ability to continue paying, I still have the unit open and I'd still like to have you stay there. So you say you can stay. So we worked it out. Should that be on my record forever? I think we can agree no, but this bill is different than that in those regards. Are you-- I guess, my very long question. Are you open to those conversations?

McKINNEY: I'm open to finding whatever pathway possible to move this bill forward, so yes.

BOSN: Any other questions in light of my long question? Thank you.

McKINNEY: No problem.

BOSN: First proponent.

ERIN FEICHTINGER: Chairperson Bosn and members of the Judiciary Committee, once again, my very long name is Erin Feichtinger, E-r-i-n F-e-i-c-h-t-i-n-g-e-r. I'm the policy director for the Women's Fund of Omaha. I'm not sure if this has been brought up today, but just to give you a sense of like, the scope of what we're talking about and why we keep bringing these bills, eviction filings have risen incredibly in the last couple of years. Between 2016 and 2019, there was an average statewide eviction filings of like 6,200 a year. In 2020-2021, that number dropped because we had overlapping moratoriums that limited the types of evictions that could go forward. In 2022, that number jumped up to 8,650. In 2023, it was 10,989, and in 2024 it was 9,725. So a little dip, but we're well above where we used to be pre-COVID. There's a lot of data in my testimony and I'll just let you all read that. A couple of things to highlight in our interest in it, the number-- women are overrepresented in eviction court, both nationwide-- they're evicted at higher rates than their male counterparts. They're also overrepresented in Douglas County eviction

court, which represents the most evictions in the state, eviction filings. The number of unsheltered women and girls experiencing homelessness continues to increase, putting them at particularly-- in more vulnerable to not only the impacts of homelessness, but also to some stuff that a testifier behind me will testify to, but it puts them at higher risk of sexual assault. It puts them at higher risk of other violence. Women and girls also make up 58% of individuals and families with children who are experiencing homelessness. And women had nearly 90% of families currently in homeless shelters. And these striking numbers, given what we see in eviction court, are in part a result of the long-term destruction caused by an eviction record. And we can help prevent homelessness, as Senator McKinney said, and promote housing stability by passing LB92 out of committee. And just like Senator McKinney said, just giving folks a chance. They've turned their lives around. They've moved on. And in letting them move past that helps them get housing for themselves and their families. And we know that that's true. So any way that we can move this bill forward, we'd love to have that conversation. I appreciate your time, and I'm happy to answer any questions that you might have.

BOSN: Thank you. Any questions from the committee? Seeing none, thank you for being here. Next proponent. Welcome back.

RACHEL TOMLINSON DICK: Thank you. I am also back with my long name. Thank you for having me. My name is Rachel Tomlinson Dick, R-a-c-h-e-l T-o-m-l-i-n-s-o-n D-i-c-k. Again, I'm a licensed attorney and serve as the director of the Housing Justice Clinic at the University of Nebraska College of Law. I'm testifying today in my personal capacity as a legal practitioner with expertise in landlord-tenant matters. LB92 is important because current legal mechanisms are wholly insufficient to provide relief to tenants who have had an eviction filed or an eviction judgment entered against them in error. It is also important because the collateral consequences of a mere eviction filing can be profoundly harmful to residential tenants. Currently, under Nebraska law, challenging an erroneous eviction judgment is nearly impossible for most residential tenants. In order to an appeal-- to appeal an eviction, a tenant must perfect the appeal before the writ of restitution is executed. Otherwise, it will be moot, which was discussed earlier. And in order to do that, the tenant has to, at the very least, file five separate filings with the court, which I have set out in my testimony that I've given you. Further, regardless of whether a judgment is ultimately entered or is later overturned, there are currently no viable mechanisms under Nebraska law to remove eviction filings from public view, and the mere presence of a prior eviction filing can be detrimental to tenants. Landlords

are increasingly relying on tenant screening reports created by unregulated consumer reporting companies. It is common for these reports to contain errors, particularly because they often capture and report data for eviction filings rather than eviction judgments. Anecdotally, I've worked with multiple tenants whose eviction cases were ultimately dismissed but have later had applications to new properties rejected because a tenant screening report showed that they had been judicially evicted. As those clients' experiences illustrate, many landlords automatically reject rental applications based on these reports, denying prospective tenants any opportunity to directly correct or explain a report's contents. Prospective renters do have a right under federal law to get a copy of these tenant re-- screening reports and to be told when an adverse decision was made based on their contents. However, landlords are only required to tell them after the denial has occurred, meaning that even if the tenant is ultimately successful in challenging the, the contents of the screening report later directly with the screening company, they've already been denied housing because of that error. Additionally, as the Consumer Finance Financial Protection Bureau, Bureau has noted, landlords frequently fail to make this required disclosure to rejected applicants in the first place, and the process of disputing inaccurate information with screening companies is often needlessly complex and ultimately ineffective. This mean that-- means that tenants who have had evictions brought against them in error or in violation of state or federal law can win their cases, then still struggle to obtain rental housing for years afterward. This is particularly concerning because of the well-documented affordable housing crisis in Nebraska and the fact that historically marginalized communities are disproportionately impacted. For example, data from the Tenant Assistance Project in Lancaster County reveals that black or African American individuals make up about 24% of the eviction defense clients at court, while making up less than 5% of Lancaster County's population. I would be happy to answer any questions that the committee has for me at this time.

BOSN: Any questions for this testifier? Senator Hallstrom.

HALLSTROM: With regard to the named defendant who's a minor child, would that only apply if they were emancipated? Would it be unusual for a minor child to have a lease agreement?

RACHEL TOMLINSON DICK: So, so there have been instances in which-- that I've personally witnessed out of helping tenants at eviction court, where errantly, a minor child has been named as a defendant. Of course, a minor child who is not emancipated cannot sign a lease

agreement until they're 18. But these were children like 13, 10-year-old children. And because there's not currently a clear legal mechanism to seal eviction court records, they ran the risk of then eventually having this errant filing impact their ability to, to access housing in the future.

HALLSTROM: OK. And, and then your comment there that the bill says a named defendant was a minor.

RACHEL TOMLINSON DICK: Mm-hmm.

HALLSTROM: Doesn't it have to be the individual who's trying to get the petition or the, the purging of the, of the records?

RACHEL TOMLINSON DICK: So in, in--

HALLSTROM: If I-- if I'm named as a defendant and my minor child is named as a defendant, the mere fact that there was a minor defendant in there has nothing to do with me.

RACHEL TOMLINSON DICK: Of course. But again, there's not a mechanism to just remove the minor child from the, from the court record and then have that not be accessible. And so, you know, it's not lawful to name a minor child as a defendant in an eviction action. And so, the, the plaintiff in that situation, then, if the record was, was sealed in that instance, they would have the option of, of refiling the action or of working out some sort of stipulated settlement agreement with the defendants to resolve the dispute and then have the action sealed following that.

HALLSTROM: And if I was properly evicted, the mere fact that there was somebody else that was a minor child named, why would that give me the right to, to seal that record?

RACHEL TOMLINSON DICK: Yeah.

HALLSTROM: And I was properly evicted.

RACHEL TOMLINSON DICK: So I, I, I, I understand that you are thinking of it from the, from the angle of like a codefendant. However, the, the plaintiff in, in the way that they brought that action was violating, was violating rules of law, of civil procedure. And so in order to protect the minor child from the harms of that, you know, there might be the collateral, you know, consequence of this other, this other codefendant who is not a minor child having that record sealed. But that is the only, that is the only viable way to protect

the minor child. And again, the plaintiff in this instance did not-- they violated the, the rules of law and pleading in civil procedure in naming that minor child as, as a defendant in the action.

HALLSTROM: I, I may just be reading that too deeply. So.

BOSN: Any other questions? I, I have some questions sort of in that same vein.

RACHEL TOMLINSON DICK: Sure.

BOSN: Because I, I see it as-- can you tell me how many cases have you ever seen where a minor child is also listed?

RACHEL TOMLINSON DICK: I have seen three total. It's not a frequent thing, but there are currently no real mechanisms under Nebraska law to get those records sealed to prevent harm to the minor child.

BOSN: And I guess I see that as a totally separate issue than what this bill is being proposed to-- because what you're saying is it's not legal to list them anyway, right?

RACHEL TOMLINSON DICK: Certainly. But just because something is not legal doesn't mean you have access to get a record sealed. There needs to be a statutory provision that allows for court records to be sealed in order for a court to, to do that, unless there's a stipulation of the parties.

BOSN: And I guess my question is, if it's not legal to do--

RACHEL TOMLINSON DICK: Mm-hmm.

BOSN: --then by virtue of how is it not legal, but there is, is-- how do you, how do you do it then?

RACHEL TOMLINSON DICK: So, I mean, there are, there are lots of, of ways in which pleadings can be, can be filed with the court containing errors that are not compliant with applicable law. And so, there's not necessarily like a box that you have to check to say, like, I have verified that every named defendant in this action is, is not a minor and is actually a correct defendant in this action. And so, you know, errors happen. However, for that to negatively impact again, a, a minor child in violation of, of law is, is not proper. And currently, again, there's no actual mechanism to protect that minor child's interests and have, have the court records sealed within Nebraska statute currently.

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Judiciary Committee January 30, 2025

BOSN: OK. So I, I guess-- and I understand everything you said there.

RACHEL TOMLINSON DICK: Yeah.

BOSN: I see that as not clean slate related because they weren't legally able to be sued in the first place. And so I guess to me, that may need to be addressed irregardless-- which isn't a word-- regardless--

RACHEL TOMLINSON DICK: Yeah.

BOSN: --of this, of this piece of legislation. Because the same could then be said for any time there are multiple Carolyn Bosns. Let's say there's-- let's say my name is John Smith. There's probably more than one. So are you saying that the, the ten-- the landlords are going to deny every John Smith because one had an eviction in the past? No, there has to be some mechanism by which you are proving that it was even legal to evict you in the first place. Right?

RACHEL TOMLINSON DICK: Well, I mean, I think that--

BOSN: Because otherwise, you could just say no, I have never been the subject of a-- of an eviction.

RACHEL TOMLINSON DICK: So I think one of the main issues is these are not based on like, tenant questionnaires, necessarily. These are based on like tenant screening reports that are prepared by third-party companies based on like the name of the applicant, without any opportunity for the tenant to submit or qualify information on those. And so, it's not just that within the application, the landlord is requiring the applicant to say, yes, I've been evicted, no, I haven't been evicted and then have a conversation about that. Most landlords now are requiring tenants to pay a fee, which is then used to purchase one of these tenant screening reports, which basically just like comb through court data and pull it, usually based on an algorithm without any actual like, human oversight. There are some, some publications by the con-- Consumer Financial Protection Bureau that I've quoted in my testimony that are, are in the, the footnotes that provide really excellent information about these reports and how frequently they contain just incorrect information and how harmful they can be to tenants. And so I, I definitely encourage the committee to, to take an opportunity to review those, those documents, because I think they really help kind of illustrate a lot of the, the issues that are underlying the need for this bill.

BOSN: Senator Hallstrom.

HALLSTROM: With regard to the three years, is there anything magical about three years or you just felt that was a sufficient period of time to not, not go back in for?

RACHEL TOMLINSON DICK: Yeah, I'm, I'm-- I believe the drafters of this bill just thought that that was a sufficient time. I mean, I think as a, as a proponent of this bill, I also agree that that's a, a reasonable amount of time. I think a lot of us can say we're in a very different position in our lives than we were three years ago. And if a, if a tenant has, you know, restored their, restored their, their record, has not faced any other judicial evictions, it makes sense that they should be able to access clean slate relief. And, you know, again, this won't stop the landlord from looking at other things like a credit score, you know, if they have any current like, collections cases filed against them. It just, it just removes the, the stain of that eviction from their record. And again, a lot of these screening services are not even grabbing eviction judgments. They're just grabbing the fact that an eviction action was filed. And so even if it was filed errantly or illegally, it can still be penalizing a tenant for, for years in the future.

HALLSTROM: Thank you.

BOSN: Any other questions for-- Senator DeBoer.

DeBOER: So with the minor child piece--

RACHEL TOMLINSON DICK: Mm-hmm.

DeBOER: Let's see if I can clean that up, in my mind and perhaps the committee's. What you're saying is that because these third-party verifier people will have the name and possibly the address of the person--

RACHEL TOMLINSON DICK: Yeah.

DeBOER: --and since the person really did live there, they can see, see that it's that John Smith and not a different John Smith.

RACHEL TOMLINSON DICK: Certainly. So say that the-- a, a 14-year-old child was incorrectly added as a codefendant in an eviction action and say even that there was never a judgment entered. It was just-- it was dismissed for some reason. Right. So in 4 years, when that child is 18 and can enter into a lease agreement, it's entirely possible if not probable that one of these tenant background reports would pull that. And an eviction filing having been brought with their name 4 years

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

ago, when they were a minor child, would be disqualifying in an application to, to rent. So.

DeBOER: So, so is there something that we can do with the inaccuracies of these third-party-- because it seems like one of the big problems is that these third-party reporting folks, for lack of a better term, are, are saying people were evicted when they were just filed, so that's an inaccuracy, are putting in minor children when that's illegal to do and therefore, it's an inaccuracy. So is there something that we could do to, to work against that, that, that could-- perhaps require higher standards or some sort of liability if they incorrectly report?

RACHEL TOMLINSON DICK: I would love to see something like that. You know, I think at--

DeBOER: Because--

RACHEL TOMLINSON DICK: --the federal level would be particularly salient, but at the state level, as well. Because there's a lot of-- there are a lot of regulations and requirement around, you know, say, credit reports, but with the tenant screening reports, they're not regulated in the same way. And that is a, a big concern.

DeBOER: I imagine these landlords would like to have accurate information that they're getting reported from-- I assume they pay a fee for this.

RACHEL TOMLINSON DICK: Well, they charge tenants for that.

DeBOER: Oh, they charge the ten-- well, pass it along.

RACHEL TOMLINSON DICK: Typically, yes. Yes.

DeBOER: The landlords pay it. I think they would probably like to get-- have a quality product that is not full of erroneous material.

RACHEL TOMLINSON DICK: Absolutely.

DeBOER: OK.

HALLSTROM: I'll, I'll take one more run at this. When you-- you keep referring back and maybe I'm not being clear enough, you keep referring back to the minor child, whether they were lawfully included or not as being the one that's seeking the relief. My question is, if I and my 14-year-old child are both named in an eviction petition and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

I was evicted properly, the language in the statute seems to allow me to say ah-ha. Since my minor child was named, I can get that sealed and I can get something that I was properly evicted for that the landlord ought to know about, sealed.

RACHEL TOMLINSON DICK: Yeah, I understand the concern. And at the end of the day, there's not really a, a, a good way-- there's not a mechanism to seal only part of the record that contains the minor child's name. This comes up in other contexts. So like, say, a complaint contains full, unredacted like, personal or financial information. Regardless of the merits of the claim, a, a defendant can move to have that sealed because it is unlawful for, for a complaint to contain that information. And so, this isn't a fully unique, unique feature. This exists in, in other contexts, as well.

HALLSTROM: Right, but that would be the minor child upon reaching the age of majority, asking for that to be done. I'm explaining where the, the parent is.

RACHEL TOMLINSON DICK: Yeah. No, it would be something that would-- could be done as well, by the parent as a next of friends, like immediately.

HALLSTROM: OK.

RACHEL TOMLINSON DICK: And again, I mean, this is not a frequent occurrence, but it is something that does occur. And I think we can all agree that having minor children have eviction judgments entered against them is something that we would like to, we would like to avoid. And if there is the collateral consequence of maybe one or two people who were rightfully evicted, having that one record clear, you know, I think that that's a, that's a balance that this committee will have to make to determine what, what is, what is the proper outcome.

HALLSTROM: And, and I don't--

RACHEL TOMLINSON DICK: But I would argue that for the, for the minor child, it is probably more important to preserve that record for them than to maybe have this, this one, this one thing that could show up for a parent codefendant, hidden from view.

HALLSTROM: And I don't know whether that was where Senator Bosn was. It seems to me that that ought to be a separate right or entitlement for the minor and not allowing the parent to--

RACHEL TOMLINSON DICK: Well, it would be--

HALLSTROM: --take use of this. Because we've just said if there's a minor named, he can go seal it.

RACHEL TOMLINSON DICK: So I just-- just to reiterate. It would be so if a minor cannot sue or be sued in their own name in most contexts, and so when a minor has a legal claim, it's brought by their parent or guardian as, as next friend to the minor child. So a parent or guardian like, brings that on behalf of the minor child, so that would be what would be happening in this context. It would be on behalf of the minor child. It could be a codefendant named parent. It could be a different parent or guardian who was not part of the suit. But I, I think-- I, I see the issue that you're getting at. It's just that there's not a mechanism to just seal part of a, part of a suit. Right? It's still going to show up in the, the court system, which is public record. You can't just like seal one defendant from a case. The only way to actually make it so that it is not going to appear in the public record is to just seal the whole case.

HALLSTROM: Or perhaps you don't allow it to be sealed under this particular law. There would be, there would be some other basis.

RACHEL TOMLINSON DICK: Certainly. If, if-- yeah. If the committee--

HALLSTROM: Thank you.

RACHEL TOMLINSON DICK: --sees fit to make a, a different law based on this or to split that off from this, this particular bill, I think that'd be a reasonable approach, as well.

HALLSTROM: Thank you.

BOSN: Thank you for being here.

RACHEL TOMLINSON DICK: Thank you.

BOSN: Next proponent. Good after-- eve-- there's much good evening. Sorry.

ALAN DUGGER: Good evening. Good evening. I know we've all been here together through a very long day, so I'll try to keep my remarks fairly brief. Senator Bosn, members of the committee, my name's Alan Dugger, A-l-a-n D-u-g-g-e-r. I'm an attorney at Legal Aid of Nebraska's Housing Justice Project. Before my time at Legal Aid, I taught eviction defense and landlord-tenant law at Nebraska Law's Housing Justice Clinic. And I've also served as the managing attorney on the Tenant Assistance Project. I've defended low-income Nebraskans

from form eviction for my entire legal career. Thank you for allowing me to speak here today in support of LB92. I also want to thank Senator McKinney for invite-- for, for bringing this bill, and Senator Dungan for inviting Legal Aid to testify. One of the most significant barriers our clients face in securing housing is a rental history tainted by eviction filings. I-- other proponents have more eloquently than I, than I think I can say discussed, you know, sort of the issue-- the-- sort of the-- how-- that these filings remain on a record kind of in perpetuity, through third-party screening applications landlord use. And these, and these, and these-- and again, these are kind of without context. Many tenants that Legal Aid works are sued for eviction but are never actually evicted. In some cases, tenants assert a legal defense and the case gets dismissed or have a valid counterclaim that results in dismissal. Most times-- through those kinds of cases we see end in settlement agreement. As I think other opponents have already stated, these agreements are usually to pay the amount due by cert-- by a set time frame or vacate by an agreed upon time frame. Yet despite tenants compliance, you know, these filings still remain on their records. And we talked a little bit already about these third-party filings. But I would also point out for the committee that over my legal career, I've spoken to landlord attorneys who advise their landlords, you know, in lieu of these third parties, just to check JUSTICE, just to check for a filing. Unless landlords are reviewing these filings, whether it's through a third party or personally, are specifically knowledgeable, they might not be able to discern between cases that are settled, you know, settled because a tenant won their case or because they resolved the issue at bar and stayed on the property or vacated, and those that ended in an eviction judgment, you know, meritorious evictions. As a result, many of our clients with dismissed cases who prevail are often denied housing opportunities just because of an eviction filing. I also want to highlight that mistaken eviction filings also occur. For example, I recently represented a client who had an eviction case filed against her for breaching her lease. However, she moved out of the property over a year ago prior and never received notice of the suit. She only found out about it through Legal Aid's outreach efforts. After discussing the issue, the landlord amicably agreed to dismiss. But even though both parties acted in good faith, the filing remains on her record and can negatively impact her ability to rent in the future. While this mistake was caught, there are likely many others that go unnoticed, continuing to harm tenants unfairly. Nebraska already allows individuals to set aside certain criminal records, recognizing that folks deserve a fair chance to move forward. Every year, Legal Aid helps, helps folks do so. LB-- Nebraskans should

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

be given an equally fair chance in housing. Tenants shouldn't face lifelong consequences for an eviction case that was dismissed or settled. LB92 helps provide tenants with that fair chance, and in [INAUDIBLE]-- I see I'm out of time. I appreciate your time here, and Legal Aid supports passage of LB92. I'd be happy to answer any questions, if any.

BOSN: Any questions for this testifier? I just have a couple.

ALAN DUGGER: Of course.

BOSN: So what are the time frames for set asides for legal cases, if you know?

ALAN DUGGER: I, I, I don't know offhand, Senator, but I'd be happy to follow up with you if you'd like.

BOSN: OK. I guess part of the struggle and I, I think realistically is these are private businesses that want to run their business and are wanting to run it the way they want. And we're trying to figure out how we can best balance that with making sure that individuals are housed, but also making sure that I'm not telling-- because what you're asking us or what this piece of legislation is asking us is to tell landlords how to run their business and that they can't decide what's best for their own business. And I understand those are competing things. But what our job is, is to say, we think this outweighs this or this doesn't outweigh this. And so, understanding where those time frames are or what those qualifications are is, is what the struggle is here, as I'm sure you probably understand. But maybe having some background of, well, the landlord can't find out about your criminal case after this many years is, is likely to be very persuasive because it's already in law. And some of the struggles with juveniles having their-- being sued, I think is-- quite frankly, I think that's frightening, because I don't think we should be doing that to kids. And it sounds like they were accidents. But if they're accidents, we should be sealing them instantaneously and refiling, as she said, refiling them correctly. Right. We'd, we'd dismissed anything else for, you know, improper filings. We dismiss things all the time for improper filings. So I think those are separate issues maybe than what this bill is trying to accomplish.

ALAN DUGGER: So I, I, I have two responses. Thank you for that question. I have two responses. As far as, as record sealing for juveniles goes and as, as Professor Tomlinson Dick stated, I don't know that there's a mechanism, at least right now in JUSTICE, to seal

just one name from that case, right? So if you are going to offer that relief as a method, it's gotta, gotta be the whole case. As far as whether or not the court should simply dismiss a case filed improvidently, I, I think we all agree on that point. You know, if this case is brought and a minor is named and that is-- and that's violative of the law, then the case should be dismissed. And I've seen personally those cases can be dismissed. Of course, oftentimes the landlord will, will frequently move to, move to try and strike the name or voluntarily dismiss. I don't think anybody really here wants to evict a minor child. But the problem is, you know, that filing is still going to remain in JUSTICE. This bill attempts to kind of solve an issue, at least, on that port, and I'm sensitive to these concerns about, you know, is the parent going to get, going to get the benefit of a bargain assigned to the minor? I mean, one, we're kind of attempting to, to resolve something that may be more of an IT issue than a legal issue, fundamentally. Secondly, I mean, I'm not a criminal lawyer, might be out over my skis here, but, you know, when in criminal law, let's say you're filing a motion to suppress because evidence was gained through an unconstitutional search and seizure. And it's granted. And it causes a criminal defendant to prevail in their case. Right. Well, I think fundamentally, constitutionally why that's fair is in the absence of an abject-- in the absence of concrete penalties you can put on the state, right, it is a penalty that, that incentivizes state-to-state to do the right thing from the start, to make sure that searches are fair-- searches are fair and lawful, that the process is followed correctly. I would submit, Senator, that, you know, this might be an unintended effect of the bill, it might be a knock-on effect, but I think that is a knock-on effect of the bill. Right. You have this provision, so a landlord understands, well, if I'm going to file this and I'm concerned that I might that, that I might, that I might have to object to a motion to vacate, I had better, I had better do my due diligence to make sure that everybody I'm filing is a-- is somebody who can contract with this lease and is not a minor. I, I think that's laudable. And as far as the-- so the overall concern about the time frame, you know, Senator, I, I can't comment on the exact-- on how and why the Drafters-- where the Drafters landed where they did on the three years. But I will tell you that in my experience defending these cases-- I've defended over 300 tenants from eviction in my very short career, admittedly. And when you talk to these tenants, you know, the vast majority of these cases are for nonpayment of rent. And usually, how it goes is you say, what's going on your case. They'll admit they're behind in the rent. Most folks generally do. And you ask them why-- you ask them the key question, why are you behind on your rent?

The vast majority of the time, you'll get one of three responses: I lost my job. I had a personal injury. I had a death in the family. You know, the vast majority of eviction cases are, are folks who are going through a rough patch in their lives. They're not about folks who are, who are habitually untruthful or who are just trying to take advantage of a landlord. Those folks may exist, and I have no comment on if they do or not, but the vast majority of cases are simply folks going through a rough patch. So while three years might seem like an arbitrary distinction and maybe it is, maybe I can't convince you it is or isn't. I, I think that it, at least, is fair to state that three years for-- three years from the time that I lost my job, I got evicted, I might be in a better spot. I might not be, I might not be the same rent risk before. But the problem back [INAUDIBLE] testimony is, if there's no mechanism to seal filings and landlords access these filings, what they don't see is why I was a rent risk then, but I'm not a rent risk now. They see a filing, they act on the filing. Because admittedly, you know, whether or not we're going through these third-party applications or whether or not a landlord's looking at JUSTICE, that is the information they have available to them.

BOSN: I think that's a perfect explanation. Thank you for your answer. Senator DeBoer.

DeBOER: Can you tell me-- I'm-- can you tell me what are the reasons why a judgment might be vacated in an eviction case?

ALAN DUGGER: Great question. So a, a common mechanism, at least in eviction cases in Omaha-- and Lincoln is a little bit different-- is that whenever you enter a settlement to pay money or to vacate, the landlord will, will often-- will usually say I want him to confess judgment now. I'm going to hold on to the writ. I'm not going to execute it. But I will-- I, I will-- I retain the right to execute it if they don't do what we agreed upon. But if they do this, then, then we'll agree that I will dismiss the action against them. That is at least, you know-- I-- I'm not a landlord attorney. There are, there are ones here who could explain it-- who could explain their perspective better than maybe I could. But my understanding, working with landlord attorneys over the years, is that this saves them their clients' money and time. If there is-- if there-- if a tenant doesn't pay or doesn't vacate the property, it's very easy to simply petition the judge. We need to get this registered and executed. The judge does so, and then you have a very quick turn around to actual eviction.

DeBOER: I think I--

ALAN DUGGER: Whereas-- sorry.

DeBOER: I think I remember this. This is a specific-- you practice in Lancaster?

ALAN DUGGER: I practice in Omaha now, but I did practice in Lancaster. Yes, Senator DeBoer.

DeBOER: I think this is a Lancaster-Omaha thing, how the-- the mechanism that they use for doing it.

ALAN DUGGER: Can I speak on that a little bit?

DeBOER: Yeah, please.

ALAN DUGGER: That's only sort of tangentially related to my-- LB92, but I can explain that a little bit, actually. So in, in Lancaster County, most of the tenant advocate-- most of the landlord advocates will agree to not take judgment, but they'll agree-- the, the parties will agree together that they can get judgment later on issuance of an affidavit by the landlord, simply stating that the tenant didn't do X, Y, and Z. I would like judgment. That is a process that I, I personally prefer ending-- entering into these agreements, because it is-- it protects-- it's more protective of my tenant client. It is not something every landlord attorney wants to do. It is not something that in Omaha you see happen a whole lot. I, I won't opine on-- I don't want to opine here on why. It is a bit of a difference, but I will say that writ not-- the judgment, writ not to execute, then vacating happens in Omaha and in more rural jurisdictions, as well. So I would, I would, I would caution the committee against taking how Lincoln operates as to be fairly emblematic.

DeBOER: That's what I was going to say. This is one of those things where there are differences in different jurisdictions in Nebraska. OK. So that explains the vacated judgments portion. The reversed, what, what sort of situations in whit-- have you seen in which a, a judgment is reversed for eviction?

ALAN DUGGER: Usually it is if, is if a tenant is evicted unlawfully. And I say unlawful. That's kind of a, that's kind of a, a loaded term, but I, I don't mean it that way-- can sometimes happen when a tenant is misnamed-- when a tenant is misnamed in a suit or filings. It can happen when a tenant shows up late for their hearing, but has a meritorious defense. There are a few instances where both myself and a number of tenant attorneys have assisted clients who are-- who showed

up to court late, have been evicted, but have had-- but have won a meritorious defense. I--

DeBOER: So how does, how does that even work in terms of procedure? Because once, once they're evicted, the-- what's the mechanism for getting back into court?

ALAN DUGGER: Usually, usually a, a motion to vacate the judgment, a motion to vacate the judgment and, and stay the writ.

DeBOER: OK.

ALAN DUGGER: That usually suffices for getting into court. But I will admit, Senator, it can be a race against time.

DeBOER: OK. All right. So [INAUDIBLE], defendant, three years. OK. That's it. Thank you.

BOSN: Any other questions for this testifier? Thank you very much for being here. Next proponent. Welcome back.

LEE HEFLEBOWER: Thank you. Hello. I'm Lee Heflebower, L-e-e H-e-f-l-e-b-o-w-e-r. I'm with the-- I'm the domestic violence and economic justice specialist at the Nebraska Coalition to End Sexual and Domestic Violence. Thank you for giving me time to speak today. I'm here as-- to testify as a proponent of LB92 and support the adoption of the Residential Tenant Clean Slate Act on behalf of our coalition and the 20 network programs across the state that serve survivors of domestic violence, sexual assault, and human trafficking. LB92 is critical in providing statewide support for people experiencing or fleeing violence who are in need of safe housing. Domestic violence is a leading cause of homelessness for survivors and their children across Nebraska and nationally. The tactics that abusers use as a means to control and intimidate their partners can increase the risk of eviction, including creating disturbances, damaging property, and limiting sur-- limiting survivors' access to financial resources. Survivors are often shut out of the housing market and their rental application is denied due to past evictions, leading to long-term housing instability and unsafe housing options. Affordable safe housing is critical for survivors and their children to achieve economic stability and healing from the trauma they've experienced. LB92 includes an important provision for domestic violence survivors. Currently, under Nebraska's Residential Landlord and Tenant Act, property owners have the right to terminate a rental agreement with five days' notice to the tenant and file suit for

possession when violence or other behavior that threatens the health and safety of other tenants has occurred. And in cases of domestic violence, that statute does include a provision for survivors in those circumstances to be excluded from the action. So if I'm a, a survivor, my partner has broken the door down and assaulted me in the apartment. The police are called. I'm not then also going to be put at risk of eviction simply because I've been victimized on the property. LB92 would allow survivors with evictions to petition for clean state-- clean slate relief at any time, if the judgment granting the writ of restitution was in violation of that statute. Adopting the Residential Tenant Clean Slate Act would support survivors in moving forward with lives free from violence and escaping cycles of homelessness. Sealing records for evictions which occurred as a result of their experience as a victim of domestic violence would eliminate that long, lingering, lingering effect of the abuse that they had suffered. The Nebraska Coalition to End Sexual and Domestic Violence recognizes the importance of removing barriers to housing for survivors and their children and supports adoption of the Residential Tenant Clean Slate Act, as provided for in LB92. Thank you for your time and consideration.

BOSN: Thank you for your testimony. Any questions for this testifier? Seeing none, thank you for being here. Next proponent.

CLARICE DOMBECK: Good evening, Chair Bosn and members of the committee. Again, my name is Clarice Dombeck, C-l-a-r-i-c-e D-o-m-b-e-c-k. I'm the senior campaign organizer for the Redress Movement. And the Redress Movement is a nonprofit that partners with communities across the country to address and remediate racial segregation. We work to repair the harm that the local gov-- the federal government, the state of Nebraska, local governments and many in the real estate industry caused through intentional efforts to discriminate against black people and other people of color. To give you one local example of the impact of these policies, between 1950 and 1960, there were 25,000 new homes built in Omaha. But because of redlining and racially restrictive covenants, only 50 were occupied by African Americans. These policies created multiple generations of my ancestors who were forced to remain renters. And we've never bothered to repair that harm, which is why even today, in 2025, only 32% of black Omahans are homeowners, compared to 63% of their white counterparts. The very least we can do now is bring some stability and fairness to renting in our state so that households who rent are less vulnerable to displacement and discrimination, and can actually save towards down payments to become homeowners. Keeping old and inaccurate eviction records of peoples-- off of people's consumers reports is an

excellent way to do this and should be a quick win. The number one thing landlords need to know when screening tenants is whether they have a consistent source of income, whether or not they were laid off during a once-in-a-lifetime global pandemic, or whether a previous landlord lost an eviction case against them should have absolutely no bearing on their ability to secure housing. So I ask to you, to support LB92 and begin to repair the harms of our past and create a more stable and equitable future for everyone. Thank you.

BOSN: Thank you for your testimony. Any questions for this testifier? Thank you for being here. Next proponent. Welcome.

COURTNEY NUNES: Hi there. My name is Courtney Nunes. That's C-o-u-r-t-n-e-y, last name N-u-n-e-s. I am here-- I work for Together Omaha. We're a nonprofit in Omaha as well as Council Bluffs. We focus on housing and food advocacy. So I actually work at the Housing Stability Clinic. I want to start off-- I just want to explain what we do and how it impacts my clients with these evictions. So I work at the Housing Stability Clinic. Right now, what we're doing is we're funding-- ERA funding for folks who are past due on rent, as well as folks who are looking for new housing. So I'm here today to sup-- to, to voice my strong support for LB92, because a lot of the folks who we serve at Together who have evictions, it's hard for them to find housing, and it's hard for us to find housing for them. In return, the places that they are having to live in-- I'm not sure if you guys are familiar with City View. It is a apartment complex that's located off of 604 South 22nd Street in Omaha. These folks don't have locks on their doors. These folks are having intruders coming into their spaces. And we find at Together that a lot of folks that have evictions on their record-- I'm sorry. I'm so nervous. I think I'm going to stick to my--

BOSN: You're doing just fine. Go ahead.

COURTNEY NUNES: OK. Thank you. So what I'm getting at is far too long, Nebraskans have faced eviction, often due to temporary financial hardship, medical emergencies, and unforeseen crises. And I think that we all know that because of the pandemic, I think that all of us have suffered in some sort of way, whether it be financially, medically or mentally. And it really-- this legislation is particularly important in today's tight housing climate because regardless of the eviction outcome, whether it's a filing or a actual eviction, these people are punished for a lifetime. And I think that with what's happened in, in the pandemic, we are feeling the impacts of that. So I do feel like it's important for there to be some sort of leeway for these renters,

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Judiciary Committee January 30, 2025

especially those who have barriers in front of them, like folks who are only on SSI, SSDI, and then they have an eviction on top of it. I feel like it would help with the increased homelessness that's going on and just help rebuild our communities. So because of that, I just respectfully urge the committee to support LB92 and give Nebraska renters a fair chance at a fresh start. Thank you for your time and consideration. I just want to note I was very nervous, so I, I would love to have a conversation with any of you who are open. The Housing Stability Clinic is a great tool and resource and I just feel like a lot of valuable data is coming from it that would be powerful to support future legislation and funding to try and repair the crises that are going on in Omaha, particularly. So.

BOSN: Thank you. You did a great job testifying--

COURTNEY NUNES: Thank you. It's my first time.

BOSN: --so don't worry about that. Are there any questions from the committee members? If you have contact information, you're welcome to give it to one of the pages here and we can get some of that information from you.

COURTNEY NUNES: OK. I have business cards.

BOSN: Perfect. Those will work great. Awesome.

COURTNEY NUNES: Thank you.

BOSN: Thank you for being here. Next proponent. Welcome back.

KASEY OGLE: Thank you very much. Chairperson Bosn--oh, sorry. Chairperson Bosn and members of the Judiciary Committee, again, 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. And I, in the interest of keeping things brief, just want to say that I agree with the previous proponents of this bill and we would urge you to support and advance LB92. And yeah. That's-- and you have my written testimony, as well.

BOSN: Appreciate your brevity.

KASEY OGLE: Yeah.

BOSN: Questions from the committee? Senator DeBoer.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

DeBOER: Thank you. I, I do have another question for another one of the lawyers. So I assume you know the basic outlines of what happened during this period of March 13, 2020 and June 30, 2021. Enter the COVID years in terms of evictions. There was a stay of eviction during that time, isn't that right? There was some kind of moratorium on evictions?

KASEY OGLE: There were various moratoriums, moratoria. Yes. There were.

DeBOER: Moratoria? Yeah.

KASEY OGLE: Yes. Some of them only covered instances other than-- or I shouldn't say only-- covered other instances besides non-- well-- and it covered nonpayment. So there were other, other ways, other claims of eviction, claims for eviction--

DeBOER: So--

KASEY OGLE: --besides nonpayment.

DeBOER: So this is the question I have, is precisely that.

KASEY OGLE: Yeah.

DeBOER: So the evictions for nonpayment of rent were barred. I don't know how to make moratorium into a verb. So they were barred so that the evictions that happened during that time would have been for things like destruction of property or--

KASEY OGLE: Yes.

DeBOER: --violence or something like that. Is that right?

KASEY OGLE: Yes. One thing that we did see during the moratorium periods was that if nonpayment-- if, if an eviction would otherwise be delayed for nonpayment, they could also be evicted for the end of the term, end of the lease. So it might-- it would often happen where a tenant might have fallen behind on their rent for some reason or other, and then they couldn't be evicted for nonpayment. Instead, their lease term would end and they would be evicted at the end of that lease term, often on--

DeBOER: They would not renew, and then--

KASEY OGLE: --month-to-month. Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

DeBOER: OK. So I guess my question here is, if we're going to do a clean slate that involves just that period of time, I wonder if we might be catching more of those evictions for criminal behavior, evictions for, you know, having done something to the property, et cetera, rather than the nonpayment of rent ones. And I'm wondering if that's what the, the sort of logic of putting those within this particular bill would be. And I just-- I didn't know if you could speak to that issue.

KASEY OGLE: I think, I think the concern was that there might have been other pretextual reasons for eviction filings. So this one would-- so that tenants could, could have been evicted for other pretextual reasons aside from nonpayment, which was barred. So I think that's the--

DeBOER: OK.

KASEY OGLE: --the thinking.

DeBOER: I was just curious about the logic of that, because it struck me as sort of not fitting with the rest of the bill. Thank you.

KASEY OGLE: Yeah.

BOSN: In that same vein--

KASEY OGLE: Yeah.

BOSN: I went to law school because I'm not good at math. But under the section that says three years, we are past three years from any point in time covered under that subsection.

KASEY OGLE: Yes.

BOSN: So is that even--

KASEY OGLE: I, I think the difference-- and I'm, I'm not entirely sure, but I imagine the difference is that, that subsection specifically referencing the COVID-19 pandemic would be automatically sealed, whereas in all other cases--

BOSN: You have to petition for it.

KASEY OGLE: --you would have to petition the court.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

BOSN: That is probably the difference. You're probably right, and I didn't read far enough to get that. But I was, as you can understand, very confused that--

KASEY OGLE: Absolutely.

BOSN: --21 plus 3 is not 25.

KASEY OGLE: Absolutely. Yes.

BOSN: All right. Thank you.

KASEY OGLE: Thank you very much.

BOSN: Any other questions? Sorry. OK. Thank you, now.

KASEY OGLE: Thank you.

BOSN: Next proponent.

DYLAN SEVERINO: I made a mistake on my script. I wrote good afternoon. Good evening, Chairwoman Bosn and the Judiciary Committee. My name is Dylan Severino, D-y-l-a-n S-e-v-e-r-i-n-o. I'm policy counsel at the ACLU of Nebraska, here in support of LB92. I think everything that I have written has probably already been said before. So there are some-- couple things I wanted to touch on. One thing made me wonder if I'm not reading this right, but a lot of those questions about, well, what about-- isn't it unfair that, you know, certain, certain people who are evicted might be able to get their, their records sealed? It doesn't seem like this person should be affected or not. But if I'm reading this right, and unless I'm totally wrong, under Section 4, subsection (1), a tenant may petition the trial court for clean slate relief for everything following it. And then in addition, in section-- now I'm all lost-- Section 4 (3) (a), a petition under the section shall be filed in the trial court. Notice shall be served upon all other persons who were parties to the eviction proceeding. Within 30 days after receipt of the notice, any such party may file objections to the petition. So it's a hearing where everybody's going to get a chance to say what happened during the eviction proceeding. And it's a, it's a chance at clean slate relief in front of a judge. So any considerations of some people who might have, you know, been, you know, during the moratorium, during COVID or something and were evicted for violent relief, they'd get a chance in front of a judge to explain that, and have a chance for it to get sealed. So I was, I was wondering if I was misunderstanding that. But I think that-- if I'm not mistaken, that's how it works. And maybe the other thing I wanted

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

to mention is just as we're thinking about three years and what that number might mean for second chances, I'll just point out another analogy is that for the Board of Pardons, three years is the requisite time to go before you can have your-- a misdemeanor pardoned, which is a crime, and an eviction isn't. So I guess that's a consideration for what this three years means, and, and for second chances. I have no idea if that was the reasoning behind three years, but just a, just a food for thought as something comparable. I'd love to talk way more about anything else, but some of the stuff that I said in let's say, the hearing for LB101 about, you know, what an eviction means for a person in our amicus brief in NP Dodge v. Holcomb would cover that as well. So I thought I'd, I'd cover this instead maybe. And we are in support of LB92, and I'd be happy to answer any questions.

BOSN: Just for-- oh, go ahead.

DeBOER: So just to speak to your objection piece, that objection piece would require a previous landlord, though, to actively file the objection. And it sort of puts the burden of proof on them to bring forward the objection. I mean, obviously the--

DYLAN SEVERINO: And they'll be notified.

DeBOER: Sure. But I mean, that would explain why maybe somebody who doesn't want to go back to--

DYLAN SEVERINO: Fair, fair enough.

DeBOER: OK.

BOSN: And I guess to follow up on that, if the previous testifier was correct, then the first section is automatically no petition needed and the second half is the three years can be filed. So one of you is right and one of you is wrong, and I don't even care which one it is. I just think we all want to make sure we're on the same sheet of music.

DYLAN SEVERINO: Sure. Sure. So we're talking about subsection (1) of Section 4. A tenant may petition the trial court for clean slate relief if an eviction proceeding make it to trial--

BOSN: Right. And I think--

DYLAN SEVERINO: --at any time if-- and then--

BOSN: --my question to that testifier was is that COVID-19, the, the time year listed was the more than three years. And her point was those you don't even have to petition for, they're automatically done.

DYLAN SEVERINO: OK.

BOSN: And the ones that if you want it and it wasn't during COVID, but it was more than three years ago, you would have to petition the court for. And so, maybe she's wrong and you're right, but that's where our questioning came from when we were asking her those questions.

DYLAN SEVERINO: No, that's fair. I'm actually not even following, so I won't even-- I won't take a crack.

DeBOER: We're thinking that some of the cau-- we're thinking that some of the causes--

DYLAN SEVERINO: Yeah.

DeBOER: --of relief under this bill are automatically--

DYLAN SEVERINO: Sure.

DeBOER: --applied and some of them require that, that, that prompt this.

DYLAN SEVERINO: The three years then would be redundant for the purposes of COVID, because [INAUDIBLE].

DeBOER: We're not actually sure of that, but it's--

DYLAN SEVERINO: Sure.

DeBOER: --late at night, so we're just positing things at this point.

BOSN: Well, it says--

DYLAN SEVERINO: I, I think it's been--

BOSN: --at any time, under Section 4(1). You can bring it at any time, even if it's been three years.

DYLAN SEVERINO: I, I, I see. And then-- and of course, COVID's been longer than three years. Yeah. I see what you mean. Yeah.

BOSN: Senator Hallstrom.

HALLSTROM: Does it, does it make sense that except for the emergency COVID type of justification, everything else really didn't result in a eviction properly being granted, or it's been reversed. Under the three-year petition, you're taking things where you were actually evicted--

DYLAN SEVERINO: Sure.

HALLSTROM: --or found to have been evicted properly, but we're going to let you wipe that slate clean as long as it's been three years in the past.

DYLAN SEVERINO: Yeah, there will, there will be a hearing, right? And the--

HALLSTROM: That's, that's--

DYLAN SEVERINO: --every party who's involved in it will get a chance, too.

HALLSTROM: That, that seems to me to be the difference. He still has to petition in both cases.

DYLAN SEVERINO: Right.

HALLSTROM: One of them is for specific reasons. It's either emergency, COVID or things that weren't ultimately found to have been proper evictions. The other one says you were found to have been properly evicted, but as long as three years have run, we're going to let you clean the slate.

DYLAN SEVERINO: Yes. Yes. OK. I think we're all on the same page. I apologize. It, it has been a long day and, and I, I got lost there for a second, but yes. So everything under subsection (1) would be immediate, then everything under subsection (2) would be after three years, no matter what kind of eviction it was. But it will still be the same kind of court proceeding, as I understand it. So it's-- no-- you know-- yeah. It'll be in front of a judge and determined of -- the facts of the situation.

HALLSTROM: Would you agree, though, that the parties who are going to be noticed are, for the most part, my assumption would be not very likely to show up. But what does your former landlord care if something gets overturned? It's the ones that are going to be dealing with you in the future that may or may not have an interest in, in what's being--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

DYLAN SEVERINO: That seems a reasonable assumption. I don't know any data on it. And, and to be honest, I, I don't know that I have a, a great opinion on how many landlords would show up for that side. Yeah.

BOSN: Any other questions for this witness? Thank you for being here.

DYLAN SEVERINO: Thank you.

BOSN: Yeah. Next proponent. We'll move to opponents. Welcome back.

TARA HOLTERHAUS: Hello, again. Tara Holterhaus, T-a-r-a H-o-l-t-e-r-h-a-u-s, here on behalf of the Apartment Association of Nebraska, the Nebraska Association of Commercial Property Owners, and as a attorney representing multifamily housing, property managers, and owners. First, I just kind of want to debunk some of this prior concern over a minor child and all of those sort of things that came up. There is already a mechanism to vacate a judgment from your record in any civil case. It's Nebraska Revised Statute 25-2001. In any case, you can vacate a judgment from your record if there's any sort of error, newly discovered evidence, and specifically, at subsection (4)(d), for erroneous proceedings against an infant or a person of unsound mind who wasn't capable of signing a contract. So these mechanisms already exist in our statutory scheme. We don't need anything new to kind of do that now. And the reality is that landlords are not naming minor children in their eviction proceedings. Now, I'm not devoid of thinking that mistakes aren't being made or that they can't be made, because I'm sure that that happens. But we're not naming minor children in cases for eviction. We also don't name guarantors on a lease agreement, because they're not in possession of the property. Now, they might get named on the damages portion of a collections action, but the only people that are being named are the adults who signed a lease agreement and are in possession of the property. Now, in a rare circumstance where there's adults in the premises that are residing there but don't have a right to be there under the lease, they might get named as all other occupants or all parties in possession, but we're not naming minor children and, and erroneously, you know, trying to put this on a, a minor's record. So just to kind of clear that up, but ultimately, this is, this is a consumer issue and a lending issue. So landlords are, I mean, for all intents and purposes, lenders to consumers to stay at that property for a set period of time prescribed by the lease agreement. And they're entitled to a full picture of what that lender's history looks like when they come into their property and certify that they have, you know, two and a half times the rent or three times the rent in certain circumstances. So this is a consumer issue. This also doesn't

affect a tenant for a lifetime as, as you may have heard. It's run very similar to a consumer report. So after seven years, it's likely going to fall off and never be seen again when you're running those screening reports. And, and so this is simply just allowing a landlord as, as a lender and a, and a property provider to a tenant to see that full picture of that tenant's history. And the data shows that even when landlords require two and a half times their rent or three times the rent, there are 10,000 cases for eviction. So it's not that it's, it's the one-off tenant that couldn't afford the rent that month. People are still signing leases that they're-- it's resulting in that heavy of a volume where people can't afford the rent that they income qualify for. And so a landlord is entitled to see that big picture when they're screening applicants. And I see I'm out of time, so I-- I'm happy to answer any questions, especially about the process for vacating the judgments and how we kind of do that in Douglas County.

BOSN: Thank you. Senator DeBoer.

DeBOER: Thank you. Good evening, again.

TARA HOLTERHAUS: Good evening.

DeBOER: So first, can I ask you about these third-party verifiers that you were talking about? You say that, that you think that the eviction falls off after seven years. Do you have any--

TARA HOLTERHAUS: My, my understanding of the consumer reports, when-- well, you have two layers of the consumer report-- reports that are run by a landlord. And I know that there are others that are going to testify that are going to have better knowledge on that.

DeBOER: Then I'll, I'll ask--

TARA HOLTERHAUS: But my understanding is that they get the financial reporting like a credit report.

DeBOER: Sure.

TARA HOLTERHAUS: And then they get a tenant screening report, which would include any prior eviction. So there would be two separate reports. But my understanding of them is that after seven years-- or it's typical that after seven years, they're no longer flagging or being sent as, as-- on, on their screening report.

DeBOER: OK. I'll ask, I'll ask some of my questions about these reporting agencies of other folks. But if you would like to explain

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Judiciary Committee January 30, 2025

this vacate the judgment process that Omaha goes through, since you offered.

TARA HOLTERHAUS: Yes. In, in Douglas County, typically, landlords are working with tenants. When a tenant shows up at court for an eviction hearing, we are working with them. We talk with them. It is only in the rare case where there is other considerations, like criminal activity, property damage, illegal drugs, that we are saying, no, we're not working with you at all. But most of the time, we are working with the tenant to either get a payment plan put in place-- and it's a court-ordered payment plan. So we're asking the court to enter judgment that day with a stipulation that there's not going to be a writ of restitution that issues if the payment plan is met. And if the payment plan is not met, then the writ of restitution is filed and executed. So it's only executed if the payment plan is not met. If the payment plan is met, we will vacate the judgment. So it's already being removed from the record. The same goes for if, let's say we're not willing to work out a payment plan, but instead we'll, we'll be willing to give you 10 days to vacate or 2 weeks to vacate the premises, so you have time to pack and find other alternatives. The same thing goes if, if they turn in their keys within two weeks, we vacate the judgment so it doesn't show on their record. If they don't turn in their keys, then the writ would issue and it stays on their record. So we are kind of putting that back on the tenant to comply with whatever agreement we're coming up with. But ultimately, then, it-- it's up, it's up to them to comply with that.

DeBOER: OK.

BOSN: Senator Hallstrom.

HALLSTROM: Sounds like a confession of judgment type of situation.

TARA HOLTERHAUS: It is.

HALLSTROM: And, and I understand that getting it purged completely is, is maybe better, but in, in a sort of sense, getting a confession of judgment and then the record reflecting that you complied with what you needed to do is evidence of your reliability today, as well.

TARA HOLTERHAUS: Yes, that's correct. We-- it's a confession of judgment in the sense that they're acknowledging the judgment that day. And then if they comply, it'll be removed from their record. So.

HALLSTROM: A judgment will still be on the record. Then it would-- it would be--

TARA HOLTERHAUS: It will not be. If they comply with the agreement that we make in court, we vacate the judgment off--

HALLSTROM: OK. Thank you.

TARA HOLTERHAUS: --their record and we dismiss the complaint, so that it's-- it, it shows as a dismissal.

HALLSTROM: Thank you.

BOSN: Any other questions for this testifier? Thank you for being here.

TARA HOLTERHAUS: Thank you.

BOSN: Next opponent.

LYNN FISHER: Last time.

BOSN: Me, too.

LYNN FISHER: So Lynn Fisher, L-y-n-n F-i-s-h-e-r, still representing the Statewide Property Owners Association. And again, I'm going to just-- I've turned in my testimony, but I'm going to answer questions and clear up a few things if I could. Number one, somehow there's, you know, kind of the impression that we are trying to find ways not to approve applications. And that's not true. We want to approve applications. We want to help people. We want to put people in our places, get them rented. That's what we're all about. And so, we want to, in every case, try to approve an application. Fair housing laws teach us, and we abide by fair housing laws, that we have to be fair and treat everyone equally. So we set a-- we have a set of criteria for approving applications. And to be fair, we have to not make exceptions. We have to stick to those criteria. And that's one of the handcuffs that we have and-- when we have someone we'd love to help them out, but they don't meet our criteria so we have to unfortunately say, you know, sorry, we can't help you. And the same thing goes for, you know, somebody who, whether they're, whether they're in a protected class or not, we just have to treat everybody equally, in which we, we try to do. In our evaluation of applications, we do seek context. I know that was a, a term that was used here, and we do seek context about someone's financial history. We want to see everything. We want to see everything we can possibly know about someone's financial background. And we're looking for context so that we can help them, and try to approve them, and squeeze them into our criteria, and get them in a place so we can get the rent and they can

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

get housed. But we have to have that information. When we ask a prospective tenant if they have ever been evicted or filed for bankruptcy, we, we, we want to know when that happened. And if it was 6 or 7 years ago, that fact is a very minor consideration, and we look for good financial responsibility since then. And then we're likely to approve them because, again, we see context. So that's kind of how it all works and we're looking for ways to make it happen. We're trying to work with people. So-- and, and I want to address one other thing that Senator Kinney [SIC] mentioned, and, and it has to do with this. Evictions are easy to avoid. I work with the RentWise program, and it-- for over 15 years, helping tenants to learn all these things and how to be able to navigate the system. And avoiding an eviction is so simple. You just communicate with the housing provider and you work out a settlement. It's just that easy. If someone does lose their job, they've been injured, or they, or they have a death in the family, we're sorry for them and we want to help them. And we'll work with them on-- any way we can. But if they simply cannot pay, then they need to work out a way that they can exit the lease and cut off the damages for them and for us. And we try to do that. And they can simply negotiate that and not end up in court. I'll be happy to answer any questions.

BOSN: Thank you. Senator DeBoer.

DeBOER: Hi. Thank you for being here.

LYNN FISHER: It's late.

DeBOER: Yeah. You keep saying "we." And I wanted to know who the "we" refers to.

LYNN FISHER: Our members. Our members and other housing providers that follow fair housing laws and, and have to abide by the rules.

DeBOER: Let me push back just gently.

LYNN FISHER: Sure.

DeBOER: I, I don't-- I mean, I think you can speak for what you believe is generally what happens. But, you know, you can't speak for everyone that they do this or--

LYNN FISHER: Of course.

DeBOER: OK.

LYNN FISHER: Of course, there are exceptions to everything. Remember earlier in the evening, when we found out that Lincoln's number one in, in the-- a best place to rent, and Omaha's number two? So I would, I would say that Nebraska landlords do a really good job.

DeBOER: Well, I was looking at the factors that they used to consider there, and it was based on price per square foot and things like that. It had nothing to do with anything but like, basically, the cost, the unemployment rate in the city, those sorts of things. So I, I, I think you're all swell.

LYNN FISHER: OK.

DeBOER: Because I've met you, and I have had very nice times renting in Nebraska. But I, I do think that we have to be careful that not everyone is as scrupulous as you are, sir.

LYNN FISHER: Well, just like, just like it's only 1 or 2% of tenants--

DeBOER: Correct.

LYNN FISHER: --who end up in eviction court, there's 1 or 2% of landlords who are not doing a good job.

DeBOER: Yeah, I agree.

BOSN: Any other questions for this testifier? I appreciate the last tidbit in your testimony about 35% of the cost of residential property is not you or the land-- or the tenants' responsibility--

LYNN FISHER: It's the government.

BOSN: --it's our government. We're here to help. Thank you.

LYNN FISHER: Thank you.

BOSN: Next opponent.

KRISTY LAMB: Good evening, committee. Last time, I promise. For today, at least. Again, my name is Kristy Lamb, K-r-i-s-t-y L-a-m-b. I'm here representing NP Dodge Management Company and the Institute of Real Estate Management. If you've probably figured out by now, I'm generally not in favor of any legislation that removes basic accountability for both either a landlord or a tenant, and especially in this particular case, with LB92. I just think it's overly broad in its application because it doesn't consider the nature of the eviction

act within that three-year period of time. Eviction judgments, in particular, are one of the few fact-based indicators that landlords have access to that can assess-- assess whether a prospective tenant has historically been able to fill their rental obligations. Eviction history is much less subjective and removes maybe some of landlord-- like, landlords' tenancies for bias from that decision-making process. So I do think it's an important indicator. More than happy to entertain discussions about whether filings are visible within those, within those consumer reports and dismissals and things of that nature. But if it's truly gone all the way through to, to judgment, then, then it really did happen and it's, it's something that occurred, you know, that it's unfavorably affecting their rental history. Most computer screening/reporting agencies, I will agree, limit that history to 7 to 10 years. That the one that we use in particular cuts off at seven years. So we have zero visibility to any credit, eviction history and or criminal for that matter, history in excess of seven years when we're making, when we're making our decision-making processes. By eliminating eviction history, responsible tenants, I'm fearful, will stake stricter income qualifications by landlords, because they're going to look for ways to mitigate increased financial risk that may effectively reduce housing opportunities to prospective tenants who might have otherwise qualified under current standard risk assessments, both from a low-income housing and even conventional. So every time we [INAUDIBLE] take out that qualification standard, it just makes it harder and harder for people to make it through the door. Mortgage lenders also consider eviction history when assessing a borrower's financial reliability. Removing this data could lead to stricter lending requirements and fewer financial opportunities for first-time homebuyers and/or maybe some small and pop landers [SIC] that are seeking new investment opportunities for rental housing. I'm a big, big believer in education. My predecessor mentioned the RentWise program. I'm a certified instructor for that program. So at a minimum, I guess I would ask that that application process, if this would-- did go through, that there has to be some onus on that tenant to show have I been able to have positive rental history since my last eviction, or have I completed some sort of resident education like the RentWise program that helps them educate them on what's a-- what's-- what are good budgeting practices? How do I maintain a safe household? How do I communicate effectively with my neighbors and my landlords if I'm having some issues? And then it also educates them on both resident and landlord responsibilities, as well. So that's a great recourse. And I think it would give-- allow some, again, some buy-in, some onus, some responsibilities, where it's just not on the burden of the

landlord that probably isn't going to be inclined to spend additional legal fees on a, on a prior eviction. But it, it lease-- it, it puts responsibility in the hands of, of that tenant, who is looking for that second chance to show that, yes, I, I have a good recommendation from one of my landlords since that last eviction, and I've gone through some steps, from an educational standpoint, to show that I can maintain my household and be a good neighbor.

BOSN: Thank you. Senator DeBoer.

DeBOER: Sorry. Let me ask you this. Do you have a problem with having dismissed, dismissed eviction cases sort of taken off people's records--

KRISTY LAMB: I don't.

DeBOER: Or reversal or vacated judgments?

KRISTY LAMB: I don't.

DeBOER: Maybe the COVID years piece, OK?

KRISTY LAMB: COVID, only a little bit, just because, again, some of the evictions that did occur during that time were not related to nonpayment of rent. They, they could be related to something else. But again, we're looking to minimize risk to, to the, the good tenants that we house at our communities, as well.

DeBOER: OK. So the, the main sort of crux of your objection is the three-year piece. Is that fair?

KRISTY LAMB: The three-year piece, and I don't know what is included in that application process. So is it-- they just file an application for the consideration because it's three years, but there's, there's no responsibility on a resident to say, look, I have a letter of recommendation from one of my landlords to say I've now maintained positive rental history. Because just because there was an eviction doesn't necessarily they've been able to main positive rental history and/or an education piece, some-- something in there so that that burden isn't solely falling on the landlord to then, again, spend other, other efforts and legal fees to the process. So, you know, can the resident show that, yes, I've, I've made these changes, you know, and I, I, I qualify for that second chance.

DeBOER: OK. Thank you.

BOSN: Thank you for your-- oh, I'm sorry. I didn't see you. Sorry.

ROUNTREE: That's OK. It's a low hand, so [INAUDIBLE].

BOSN: No, no. You're good. You're fine. Senator Rountree.

ROUNTREE: Thank you, ma'am. It may be the question that was just asked, but-- so I, I made an application today. You ran the record. It came back, I have a eviction on my record. Is there any communication or am I automatically denied at that point, once we see the eviction on my record within the time frame?

KRISTY LAMB: So for our qualification standards, it, it does depend if it's a judgment or if it, again, if it's been something that was filed but then dismissed. So filings and dismissals don't necessarily negatively impact an application as a-- in a, in a judgment for eviction. So we have time periods built into our qualification standards. We have slightly different qualification standards for our affordable housing communities, where if an eviction is, I believe it's two years, it's an automatic-- it is an automatic denial for a judgment on an eviction that's two years or less in our affordable housing. And we use a seven-year rule for our conventional.

BOSN: Now any further questions? Sorry about that. Thank you for being here.

KRISTY LAMB: Mm-hmm. Thank you.

BOSN: Next opponent.

MEGAN MONK: Good evening. My name is Megan, M-e-g-a-n, Monk, M-o-n-k. I am the in-house attorney for Seldin, LLC, and I am testifying in opposition to LB92. I agree with quite a few of the things that my previous testifiers have said, so I'm going to instead jump into something else, to point out how this law could actually negatively impact a landlord's ability to provide their duty to other tenants for safe and sanitary housing. This would especially apply to landlords who are of multifamily housing like Seldin, LLC manages. What I'd like to explain about this is that while the majority of evictions are for nonpayment of rent, there are also evictions for things like violent acts that occur on the property or extreme sanitation violations, for example, extreme hoarding. These cause issues for other residents. We don't want to have a situation where we don't know the history of someone who's been evicted, if they perhaps were evicted for violence or extreme hoarding and then went through the clean slate process. We would have no way to properly vet them and know if they had those

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 30, 2025

risks. That does, again, create a risk for our other residents, because we have a duty to provide a safe and sanitary place for them as well. I would also like to add that I do think this law, while I'm also against it, another part that I'm against it is that there's no accountability on the residents in this law. I think that we would need to have something where there would be some sort of educational piece so that someone doesn't keep doing the same things over and over again, and that does not seem to be addressed in this bill at all. I'm open to any questions.

BOSN: Any questions for this testifier? Senator DeBoer.

DeBOER: Real quick. So you don't have a problem with the dismissed eviction cases? Would you be OK with them?

MEGAN MONK: So I would caution that, depending on what it was dismissed for, because sometimes we will dismiss as part of an agreement to get someone to move out. And so that does make me nervous, the way it is written in the bill.

DeBOER: OK. Reversed or vacated judgments?

MEGAN MONK: I still think it would-- there would be beneficial-- there would be benefit to knowing that, but that doesn't bother me as much as the dismissed. Because again, sometimes a dismissal is part of an agreement, which could have involved violence or something like extreme hoarding.

DeBOER: Oh, OK. All right. Thank you.

BOSN: Any other questions for this testifier? Thank you for being here.

MEGAN MONK: Thank you.

BOSN: Next opponent. Welcome back.

SONI ALBERTSON: Hi. Soni Albertson, S-o-n-i, last name Albertson, A-l-b-e-r-t-s-o-n. I represent NP Dodge Company and IREM. And I'm just kind of following up with everyone else. I don't have a lot to add. I do oppose LB92. I think there were some questions about some violence against women. I think some people testified against that. There are properties out there that are restricted under VAWA, and it does give the opportunity for women to-- we actually have several forms and all kinds of things they get to fill out. They can take it to other people that are helping them get housing to dispute credit, to dispute

evictions, so there are some laws that are in place for that. I think one of the other things not mentioned about this is it, it doesn't really have a limit. Is-- you know, every three years does somebody just get to file all their evictions off? I think that kind of-- I don't know. I think there should be some sort of limitation on how many times or in so many years or, or something like that. That's all I have. I'll take any questions.

BOSN: Any questions? Thank you for your testimony. Next opponent. Welcome.

DON HANSEN: It's been how many hours? 8 hours? 7 hours? I'm Don Hansen, D-o-n H-a-n-s-e-n, Don Hansen. We have-- my brothers and I have had, over the years-- who have been doing this for 50 years, managed and owned about a thousand manufactured housing, mobile home blocks. So that's kind of our experience. I've done it day-to-day, again, for 50 years. So we've experienced evictions. We've-- for the most part, though, I'd have to say we've experienced good people. So we've had a lot, a lot of good people. But the key to that good people is getting a relationship with them, so when they come in that we talk to them about what their past history and so on is. I've really appreciated Senator McKinney's bill here. His heart is great. Very, very-- his desire is to try to help the folks get started where they might have had trouble in the past. While I appreciate that, this bill here is totally wrong. It actually doesn't benefit people. It hurts people. It hurts, actually, everybody. Think about all the good residents it hurts because you're not vetting that person as, as much as you would normally because of this bill. Think about, again, us, the landlords. And most of all, I'm really concerned-- think about the tenants that this is supposed to give them a clean slate, and how they're affected. We purchased one of our communities 24 years ago. Nice community. Needed some work. One week after we purchased that community, an alleged drug dealer opened the door and got shot in the face. Right in the face. Devastated. Hurt us. We're thinking, oh no, what's going to happen to our community? What's going to happen? We were able to get a present danger/violence eviction against that person in just a few days and the home was moved out, even though they didn't do the shooting. They were the one shot. And so that established our whole history with that community, in going from a place with drug dealers to a place now we have mostly 55-plus. It's changed completely. According to this bill here, we wouldn't have been, been able to even ask about that eviction and why that person was evicted. So that person could have stayed in the community and been living next to a 55-year-old, nice person, and they didn't realize that there might be an alleged drug dealer that had been shot,

shot before. As far as the people that this bill is written about, the tenants there, it says in this part here, if an inquiry is made in the violation of this subsection, the tenant may respond as if the subsection proceeding never occurred. In other words, they're suggesting that it's OK to lie. How in the world can it be to the benefit of anybody over the long-term? I'm not talking maybe short-term. Maybe they'll get, they'll get in if they lie. But over the long-term that this bill is written to promote falsifying, promote lying, that's not good. And that doesn't develop a relationship. We have very, very few people that turn over in our communities because we have a relationship. And that's what the Nebraska Manufactured Housing Association-- which I've been involved with-- job is to really have quality people and change our industry from trailer houses to quality homes, quality affordable homes. And if we don't keep our prices down and keep the legislation limited, we're not going to be affordable anymore. All these costs, all these legal questions that you've had are very costly. How is that going to have affordable housing anymore? So I-- we really need to vote against this, this bill.

BOSN: Thank you for your testimony. Any questions of this testifier? Thank you for being here.

DON HANSEN: Thank you very much.

BOSN: Yes. Next opponent. Welcome back.

NATHAN HAUGEN: Good evening, Nathan Haugen, N-a-t-h-a-n H-a-u-g-e-n, testifying on behalf of MOPOA as the president. We are opposed to LB92. As mom-and-pop property owners, we really just want three things. We want-- our homes --or our properties are the biggest investment by far. And we just want the tenants to take good care of our properties to pay the rent in full, and then to pay it on time. And as a mom-and-pop landlord myself, we're up against a lot. We saw a lot of lawyers on the other side of the table here tonight, funded with a lot of nonprofit money. So that really kind of hits to the heart of us and what we're up against as, as land-- as landlords. And many of us have W-2 jobs. Just like tonight, I had to take the day off-- paid time off to be here. Not to say that you guys aren't borderline free, too, but-- being here. But we want to try very hard to avoid eviction. Because we go to eviction court, that-- we have to take time off of work then to do that. So we try very hard. Eviction costs time, money, anxiety, stress. For these reasons, property owners take prior evictions very seriously. Evictions are something we never want or desire, it's a last resort, and it's only out of necessity.

There's a ton of opportunities and off-ramps way before eviction. So I'd encourage those tenants to take those off-ramps, take those opportunities to, to, to avoid it altogether. Over time, laws, particularly privacy laws, have eroded our ability to assess risk, which is exactly why I'm opposed to this legislation. This is yet another major erosion of our ability to determine who is a serious risk to our properties and our future. Allow the property owner to assess the risks with an open, upfront, transparent conversation so we can bring understanding of the situation. And as, as another layer-- I didn't really plan to talk about this since we're talking about COVID money quite a bit. And government, [INAUDIBLE] through layers of this onion here real fast. But of the seven tenants who I have that received COVID-era money, two moved out prior to eviction. They left the house a terrible mess. Lots of money and time involved with that. One, to this day, pays the rent, but it's always late, ever since the COVID-era money ended. The remaining four are many months behind, many months. So the, the free money-- and it's not just me. I hear other-- as president now, I hear other stories like this. A lot of the tenants are not able to-- lifestyle's changed, their standards of living, you know, increased with that money, and now they can't get back to paying their bills. So I do agree with the other folks. Like I said, I'll-- evictions will go up. There's no doubt. I haven't done any evictions yet with my folks. I'm still continuing to work with them. The one tenant, they've been late for more than two years. I'm still continuing to try to work with them, and they are many months late. I continue to work with them, but that's the, the mom-and-pop landlord. We, we avoid evictions. So when we see an eviction, it's-- it-- I take it very seriously because, you know, I, I don't-- it's not something I take lightly. So, thank you.

BOSN: Thank you for your testimony. Any questions? Thank you for being here.

NATHAN HAUGEN: Thank you.

BOSN: Next opponent.

DENNIS TIERNEY: Good evening. Here to the bitter end.

BOSN: Welcome back.

DENNIS TIERNEY: The name is Dennis, D-e-n-n-i-s, Tierney, T-i-e-r-n-e-y. Senators, LB92, by expunging a tenant's eviction record after three years impairs a landlord's ability to discern whether prospective, prospective tenant is a bad risk. One of the things that

is vital in the rental business to be-- is to be able to determine if a prospective tenant is going to cause a problem in the rental property, either through bad behavior toward other tenants or neighbors, or by not paying the rent. If for some reason they've had a previous eviction, the landlord can discuss the situation with them and always go ahead and rent to them anyway if they think the reason for the prior eviction has cleared up and unlikely to recur. By denying the landlord the knowledge of a prior eviction, you take away their ability to make a reasoned judgment and make them much more likely to demand a high credit score to try to weed out anyone that may have had a prior eviction. This would therefore exclude someone who may have a marginal credit score, but is still a good tenant. If a person declares Chapter 13 bankruptcy, it stays on their credit report for seven years, Chapter 7 bank-- bankruptcy for 10 years. These reports are necessary for banks and car dealerships to determine the risk that someone will default on their loan. Likewise, an eviction history is needed by the landlord to evaluate risk. Why should a landlord's ability to determine risk be valued less than a bank or car dealer? This bill will result in changing landlords' behavior to be more restrictive in their rental practices and make affordable housing less available to tenants. Senators, please reject L-- reject LB192 [SIC]. Thank you.

BOSN: Thank you. Any questions of this testifier?

DENNIS TIERNEY: Thank you.

BOSN: Thank you for being here. Next opponent.

MARY VAGGALIS: Good evening.

BOSN: Good evening. Welcome.

MARY VAGGALIS: Thank you. Chair Bosn, members of the Judiciary Committee, my name is Mary Vaggalis, M-a-r-y V-a-g-g-a-l-i-s, and I'm here today as a registered lobbyist for the Consumer Data Industry Association, or CDIA. CDIA's membership includes the three national consumer reporting agencies, nationwide, regional, and specialized credit bureaus, background check companies, and others. Our members rely on public records, including court records, to accumulate consumer data, which is used by prospective employers, landlords, financial institutions, and other vital service providers. CDIA takes no position on whether the Legislature should or should not provide clean slate relief. Rather, CDIA is opposed to LB92 as introduced, because it does not provide sufficient reporting mechanisms to ensure

businesses that rely on public records have timely and accurate consumer information. Accord-- accordingly CDIA would ask you to amend LB92 in two ways. First, to direct the state court administrator or other court personnel to create a standard format for clean slate relief orders issued in Nebraska. The standard format should require each court to provide sufficient personal, case, record, and time identifiers in their orders, and individual identifiers should be, at a minimum, the individual's first, middle, and last name, any prior names or aliases, including maiden names, their full date of birth, the case number, the criminal history record information remaining part of the public record following issuance of the order, and the date that the public record was modified. Second, LB92 should direct the state court administrator or other court personnel to compile and release monthly a comprehensive list of orders for clean slate relief issued by courts in the state in the prior month. Other states typically make this list available by subscription or XML access. Background checks are often required by employers, landlords, and others. We want individuals who are granted clean slate relief to realize the full benefit of their modified criminal history record information. Providing a centralized and uniform means of accessing clean slate orders is the best way to ensure our members have accurate and up-to-date information when generating consumer product reports. On behalf of CDIA, I urge you to amend LB92 prior to advancing the bill. Thank you for your time, and I will do my best to answer any questions you have.

BOSN: Thank you. Any questions? Senator Hallstrom.

HALLSTROM: Did you make this from whole cloth, or is it someplace else in Nebraska law, or from another state with regard to your amendment?

MARY VAGGALIS: The amendment language is based on other states who have similar clean slate orders. If the committee chooses to advance this legislation, we'd be happy to work with Senator McKinney and the, and the committee, and the court system in Nebraska to determine what the best language is for the type of technology and processes we have here specifically. But there are a number of other states that we can look to, who have similar mechanisms in place as models.

HALLSTROM: Thank you.

BOSN: Thank you for being here.

MARY VAGGALIS: Thank you.

BOSN: Next opponent. Anyone wishing to testify in the neutral capacity? And while Senator McKinney is making his way up, I will note for the record, there were 26 proponent comments, 60 opponent comments, and 1 neutral comment submitted for the record. Senator McKinney.

McKINNEY: Thank you. And thank you to everybody who came to testify today. I mean, I got a list of things. I guess-- I mean, as far as like the conversation about a minor being listed, from my perspective, maybe we could work on the language. But from my perspective, I think-- I hear all the time around here we should do all things to protect minors and protect kids at all costs, and I think we should do that. As far as like the three-year thing, I think it was brought up from a previous testifier about the Board of Pardons that makes people wait three years before they can apply. And I think that applies here. Then, as far as like these landlords back here and their conversation about this, saying that, you know, they should be able to see all this and things like that, I mean, if that's the case and they don't want evictions to be cleared or clean slate relief to happen, one, I hope-- and I would hope that all of them that are here are register-- especially the ones that operate in Omaha, that are registered with the Omaha Rental Registry and they are in compliance. And I'm also-- while I was sitting over there, I was like, OK, maybe we need to do more to make sure that when property owners and landlords have code violations, housing violations, we need to make sure those are more public. So when renters are looking for housing, they can research is this property owner-- has this property owner ever violated any code violations and housing violations? So they can hold landlords and property owners more accountable so we can have fairness, since they want to be fair and accountable. Let's make sure that when they have those code violations that renters and people seeking housing could see that these are bad owners. Consumer, consumer lending issue, about this, because-- which was very interesting that this was brought up because I'm curious to know if the same individual that brought up that consumer lending issue, does she go to Board of Pardons hearings and raise this issue? And I bring this up because I know sometimes when people go to rent a apartment or a house, they ask them, have you ever been convicted of a felony? So do they go to the Board of Pardons hearings when people are seeking pardons and they get a pardon and raise this issue since they want to protect the rights of the owners and things like that. Then they said evictions fall off after seven years. That's not always the case. I've heard of situations where it's been brought up after seven years, so that's not-- that doesn't always hold true. It hurts people. Giving people a second chance is harmful.

I, I, I struggle with that. That's, that's one thing I struggle with. It's, it's harmful to give people a second chance. I, I, I don't understand the logic there, but it's your logic. We're promoting lying. I don't think we're promoting lying. We're giving people a second chance. Prices won't go down if, if we pass this. We don't have affordable housing in the state of Nebraska, and we especially don't have it in my district. I know that for sure. So that's neither here or there. COVID money. You took the COVID money. Why are you complaining about the people now? If you had a problem with the people accessing COVID money, you shouldn't have accepted the money and evicted them during COVID. If you had a problem with them, don't act like you have this humanity in his heart. And then you complain about people that took COVID money in his hearing. If you took the money, you took it. Don't-- then don't come here. Say, the people who took COVID money got all these issues. I bet you didn't turn down the COVID money. It's, it's, it's just wild, the stuff you hear in this committee. And these people just talk about we have these hearts and we're, we're not these bad people. And then, it's, it's just-- I just don't get it. You know, I brought this bill to try to help people. Like, I'm not, I'm not saying we can't work on language and try to find some, some balance within it. Maybe it's something that we can-- you know, some things we can tweak, you know. But I don't think that a bill like this that was voted out of this committee 8-0 is something that's like going to destroy the world, because obviously last year it wasn't going to destroy the world. Maybe it's some things that I might need to try to fix or change. I'm open to it. I'm always open to talking to the committee, working with my colleagues to find solutions, because that's why we're here. But for people to come up here and act like the world is going to end and their jobs are going to be harder and we shouldn't give people second chances, is crazy to me. And I just don't understand it. And I'll close, because I could go all night about why I'm baffled about a lot of the arguments from the opponents here. So-- but I'm, I'm open to any questions you might have. So, thank you.

BOSN: Any questions? Senator Holdcroft.

HOLDCROFT: Yes, Thank you. Thank you, Senator McKinney. You know, we heard from a lot of, a lot of landlords. A lot of landlords came. We didn't have a single tenant. Not a single tenant--

McKINNEY: Well--

HOLDCROFT: --testified today. We did have the Women's Fund of Omaha. We had the Legal Aid. We had Nebraska Coalition. We had Appleseed,

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Judiciary Committee January 30, 2025

nonprofits. Where are they getting their money for this and why didn't they bring in any of their constituents?

McKINNEY: Why don't we have tenants here? I can answer that question probably simply. A lot of tenants are working. A lot of tenants can't take off work, especially from my community. They can't come down to Lincoln and take off the time. I'm not saying all tenants. It's some here in Lincoln that maybe could have made--

HOLDCROFT: I mean, even a half dozen. Even one per organization would have been nice to come in--

McKINNEY: It's, it's, it's--

HOLDCROFT: --and tell their story.

McKINNEY: It's possible. But let's pull that card on every bill from here on out, from every bill-- no, no, seriously. I'm going to say this. On every bill from here on out, in this committee and further committees, when lobbyists and, and advocacy groups come up and I don't see a human face, I'm going to ask that question. Where are the people?

HOLDCROFT: OK.

McKINNEY: Since, since we're pulling--

HOLDCROFT: Because you know what's going to happen?

McKINNEY: --since we're pulling that card.

HOLDCROFT: These same folks are coming back.

McKINNEY: And, and the same folks for other things are coming back.

HOLDCROFT: And again, where's the money coming from? Who is funding these people?

McKINNEY: And I'm going to ask that question on other things, too.

HOLDCROFT: OK. Thank you.

McKINNEY: I will. Thank you.

BOSN: I guess my question was, you heard a couple of the testifiers talk about perhaps having some skin in the game for the tenants as it relates to a RentWise or other type of program. Are you open to that?

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McKINNEY: Yeah, I'm cool with that. And I'm, I'm, I'm also cool with like, you know, if you, if, if you get the clean slate relief once, you know, get it once. Like, I'm, I'm cool with cleaning that up because you only-- you only should-- you only get a pardon once.

BOSN: It's a second chance, not a twelfth chance.

McKINNEY: Like, I'm-- like yeah. Like, I'm cool with cleaning some things up. But to act as if like this is like this wild thing, it's my-- that's what like, I struggle with. Yes.

BOSN: Senator DeBoer.

DeBOER: Another thing, is your intention with the bill to be for tenants who have had evictions based on nonpayment of rent, or do you mean to have evictions based on all the various things? Because what I heard in the testimony in opposition was that there are folks who are especially concerned about evictions that are for reasons other than nonpayment of rent, like violence or hoarding.

McKINNEY: All encompassing, because it's, it's different reasons for evictions. It's not just always nonpayment of rent.

DeBOER: OK.

BOSN: Any other--

HALLSTROM: I imagine it would be hard to discern in any particular case what the, what the reasoning was, going back in time.

DeBOER: Well, they should be pleading with specificity, based on a law I passed a few years ago.

BOSN: OK. Are there any other questions for Senator McKinney? We've now reached that hour. Senator Storer.

STORER: I don't, I don't know if I necessarily have a question. But I guess I just want to sort of make the statement that as I've sat, sat here and listened through and, and certainly do understand what you're trying to achieve and, and people do deserve second chances, but I, but I can't help but ask myself if we're trying to solve a problem that, that doesn't actually exist, based on a variety of situations. If, if things are not seven years-- you're asking for three in this bill, granted. But, but I've heard that after seven years that that is no longer available anyway, due to the records that--

McKINNEY: But--

STORER: --landlords access.

McKINNEY: But I will argue that isn't always true. I know they argue this, but that's not always true.

STORER: And that may be something we can try to get some certainty on before. You know, and with the, with the-- I would, I would have to agree, should a child, a minor, you know, be listed, but I-- I've understood that that actually-- there is a remedy for that, as well. So, so I just want to offer-- my caution is, are we, are we maybe trying to fix something that doesn't necessarily-- isn't necessarily the problem that we think it is, that there may already be some backstops for that?

McKINNEY: No. I wouldn't say that, because I think we, we try to solve a lot of things that there are already backstops for. We have increases in penalties that there are already backstops for, but we do them because we think they're right. So I, I think this is right. Just my opinion, but--

BOSN: Any other questions for Senator McKinney? Thank you for being here.

McKINNEY: No problem.

BOSN: That will conclude-- oh, did I say the number of testifiers-- or comments?

HOLDCROFT: No, you did not.

BOSN: I did? I did. OK. Thank you.