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Urban Affairs Committee
February 07, 2017

[LB9 LB455 LB590 LB591]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, February 7, 2017, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB9, LB455, LB590, and LB591. Senators present: Justin Wayne, Chairperson; Matt Hansen, Vice Chairperson; Sue Crawford; Sara Howard; Tyson Larson; Dan Quick; and Merv Riepe. Senators absent: None.

SENATOR WAYNE: Good afternoon and welcome to the Urban Affairs Committee. My name is Senator Justin Wayne, I represent Legislative District 13 in north Omaha and northeast Douglas County. I serve as the Chair of Urban Affairs Committee. We will start off having members of the committee introduce themselves, starting with my right, Senator Riepe.

SENATOR RIEPE: Merv Riepe, Legislative District 12: which is Omaha, Millard, and Ralston.

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

SENATOR QUICK: Dan Quick, Grand Island, District 35.

SENATOR CRAWFORD: Good afternoon. Senator Sue Crawford, District 45: which is eastern Sarpy, Bellevue, and Offutt.

ANDREW NORTHWALL: Andrew Northwall, committee clerk.

SENATOR WAYNE: Thank you. All who will be assisting us are our committee pages: Brianne Hellstrom from Simi Valley, California, who is studying political science at the University of Nebraska-Lincoln; and Sarah Wearne from Topeka, Kansas, who is still deciding what major she wants to have. This afternoon we will be hearing four bills and we will be taking them in the order listed outside of the room. On each of the tables in the back you will find a blue testifier sheet. If you are planning to testify today, please fill one out and hand it to Andrew when you come up. This will also make sure that we keep accurate recording of the hearing. Please note that Senator Howard also joined us. Senator Howard, we did self-introductions so.

SENATOR HOWARD: I'm Senator Sara Howard, I represent District 9 in midtown Omaha.

SENATOR WAYNE: Please note that if you wish to have your position listed on a committee statement for a particular bill, you must testify in that position during the bill's hearing. If you do

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not wish to testify, but you would like to record your position on the bill, please fill out the pink sheet in the back room. We would ask you that if you have any handouts please bring 10 copies and give them to the page. If you need additional copies, the page will make sure that we make additional copies. Testimony for each bill will begin with the introducer's opening statement. After the opening statement, we will hear from supporters of the bill, then we'll hear from those who are in opposition, followed by those speaking in a neutral capacity. The introducer of the bill will be given the opportunity to make a closing statement if he or she wishes to do so. We ask that you begin all your testimony by giving us your first and last name. Please spell both for the record. We will be using the four-minute light system. When you begin your testimony the light will turn green, the yellow light will be your one-minute warning, and then the red light comes on and we'll ask you to wrap up your final thoughts. I remind you...I remind everyone, including senators, please turn off your cellphones or put them on vibrate. With that, we will begin today's hearing with LB9. Welcome, Senator Krist. And, Senator Krist, I do have to run over to the Education hearing for a quick testimony and I'll be right back. Thank you.

SENATOR KRIST: (Exhibit 2) Senator Wayne, Chairman Wayne, and members of the Urban Affairs Committee, it's good to be back here. This is where I kind of started out and nice to make a full round. For the record, my name is Bob Krist, B-o-b K-r-i-s-t, and I represent the 10th Legislative District in northwest Omaha, along with some north-central portions of Douglas County and includes the city of Bennington. I appear before you today in introduction and support of LB9. And what a trip it's been. I'm handing out to you my full testimony, which I will not read. You can certainly absorb it at your leisure. I'm going to hit the highlights of the bill. I'm also handing out to you a very detailed chronology of the trip, the journey that LB...whatever, radon has taken over the last few years. The journey started in 2013, and for some of us, a little earlier. This bill would establish the creation of the Radon Resistant New Construction Task Force. So let me tell you in my own words where this is going. As legislators sometimes do, particularly young, bold legislators like I was, we want to tell people what to do and how to do it. Well, sometimes that doesn't work. I tried to let the building industry and the Department of Health and Human Services let them know how serious I was about the health and safety risk of radon. I believe that radon, in today's environment, although less dramatic, has the same effect as our ignorance and our reluctance to change the way that we used asbestos in the late '30s and early '40s. The task force will develop minimum standards for radon-resistant new construction and recommended standards for the Governor, the Health and Human Services Committee, and the Urban Affairs Committee for the Nebraska Legislature. In this way, the report going out, actually the task force, is both created and it has an end date. And that end date is May 19 of...help me out, legal counsel, 2019, I think...2018. So we begin it and we end it and we give them a task in between. That task in between is to identify the health risk, if there is any. This is kind of like a \$1 million study to see if I have any fillings in my teeth. I know I have fillings in my teeth, but I'm going to spend the \$1 million anyway, just to prove that I do. That's a little sarcasm, and you're just going to have to put up with that today. Radon is an odorless, colorless,

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tasteless gas, it occurs naturally as radioactive and created by uranium decaying in the soil and it causes cancer. You're going to hear people come up here that say that this is all magic and wizardry, and I think not. I think the science will prove that there is a concern here. How much concern depends on where you live in the state. We are one of the top three states emitting radon in the United States. Not so much in the Grand Island area because it has a very high water table and it's sandy soil. But when you get into areas like the north eastern part of the state of Nebraska, where you have hard clay, uranium concentrations stay in and it eventually comes up to the surface. And if you built a structure over that surface, then it collects within that structure. What this is about is mitigation. There is passive and there is active mitigation. When I built my house three years ago, I did approximately...I don't want to tell the appraisers how big it is, but approximately 3,500 square feet and I had to have...and I felt it mitigated. It cost me \$820 for an aggressive, active radon system. That's new construction. It costs a little bit more if you want to be active and very aggressive if the structure is already up, but not that much more. I think you'll hear people behind me talk to that or about that. LB9 adopts the Radon Resistant New Construction Act. This sets up a task force and the issue of radon will be discussed by those health care officials. So let me take you to the actual legislation. Page 3, Line 20, Section 4, "The task force shall consist of the chief medical officer of the Division of Public Health of the Department of Health and Human Services as designated in Section 81-3115 or his or her designee." Now, I've heard some feedback, as of last summer, CEO Phillips made it pretty clear she didn't necessarily want her chief medical officer to chair this task force. And you'll notice that the language in this line says "or his or her designee." I feel very strongly that the department needs to stay involved. And rewind back to 2011, 2012, 2013, I specifically asked then chief medical officer, who will remain nameless, if he would pick up this issue as a matter of health and public safety. It's "not on his radar," "not his priority." So at that point, this legislation, or its predecessors, became necessary. This is why I feel very strongly that someone in the department should stay involved, if not the chief medical officer, who has written you a letter telling you that he doesn't want to do it. I think he's still acting, we haven't confirmed him yet, right? [LB9]

SENATOR HOWARD: We have not confirmed him yet. [LB9]

SENATOR KRIST: Okay. Just for the record, I want to make sure. Okay. It also includes three representatives of the home builders; a representative from the home inspectors; two representatives from the commercial construction industry, one with big construction, and one with small to medium construction; a representative from Nebraska realtors; a representative from the respiratory disease; representative of cancer research; representative from the League of Nebraska Municipalities; three community public health representatives; a professional engineer under specific guidelines in Section 81-3422, which is structural; an architect, as defined in Section 81-34-4; and a representative with expertise in residential or commercial building codes. These are the people that we have been meeting with, the team of people I've been meeting with

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over the last four years to get to the point we are. So for me to simply say, no, I don't want this, or I don't want to refer to the legislation in terms of the chief medical officer I think would have been inappropriate on my part. The task force...and then Page 4, Line 18, "The task force shall develop minimum standards for radon-resistant new construction and shall recommend such minimum standards to the Governor, to the Health and Human Services Committee of the Legislature, and to the Urban Affairs Committee of the Legislature." So those reports come back out for action. It would still potentially require one of you after this comes back out to put new legislation in to enact it in some fashion or form because we're not telling them again what to do, we're asking them to give us a definition of what that health and safety risk mitigation would be. I'm sorry...and then I misquoted, "The task force shall provide," this is on Page 5, Line 9, item (4), "The task force shall provide its recommendations by April 15, 2018. The task force and this section terminate on May 1, 2018." Again, I will allow you at your leisure to go through my formal testimony. It's repetitive, and some of you have heard this in prior years. But more importantly, your time line, the detailed time line in terms of why this legislation has taken this long to get to this point. But again, to capsulize in a summary, I think that, rather than telling people what to do or offering them an opportunity to identify the health risk and then to mitigate the issue. And I'd be happy to answer any questions. [LB9]

SENATOR HANSEN: Thank you, Senator Krist. Are there questions from the committee? Seeing none, will you be staying to close? [LB9]

SENATOR KRIST: Absolutely, thank you. [LB9]

SENATOR HANSEN: Great. All right, you've heard the opening on LB9, so we will now move to proponent testimony. We'll take the first person testifying in support. When you're ready. [LB9]

SHAVONNA LAUSTERER: (Exhibit 3) Okay. Good afternoon, committee members. My name is Shavonna Lausterer, that's S-h-a-v-o-n-n-a, last name L-a-u-s-t-e-r-e-r, and I'm the health director for the Sarpy/Cass Health Department. And today I'm testifying on behalf of Friends of Public Health, our organization representing the local health departments. Public health has long recognized radon as the leading cause of lung cancer in nonsmokers. It has also been proven that low to moderate concentrations of radon are usually responsible for these cancers. Nebraska has a very high prevalence of radon in homes. One out of every two radon tests conducted in the state is elevated. Homes with an annual average radon level at or about 4 picocuries per liter should be mitigated to reduce radon levels. And to kind of put that in context for you, in Sarpy County our levels are 7.6 picocuries per liter and in Cass County they're registering around 11.5. In Nebraska, 15 of the local public health departments are providing testing kits, education, or ensuring that radon testing is available in the rural areas. Statewide there have been 73,280

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homes tested for radon. Of those, 59 percent, or 43,565, have test results suggesting mitigation based on the EPA recommendations. We support LB9, viewing it as a step to address a serious health threat that impacts many Nebraskans. While it doesn't address problems in older homes, it will provide safe environments for new homeowners and dwellers. We further applaud the presence of public health on the task force, since we have been boots on the ground with recognition of this preventable disease for many years. Thank you for this opportunity to share information on radon prevention. And what's been handed out is my testimony, along with a map of the health departments that have radon programs and the point of contacts for your districts. Thank you. [LB9]

SENATOR HANSEN: Thank you. Are there any questions from the committee? Senator Riepe. [LB9]

SENATOR RIEPE: Thank you. I appreciate you coming here today, I know that this has been something that Senator Krist has been pursuing for quite some time. And congratulations to your endurance. One of the questions, it says on the New Construction Act, is that in part because newer homes are more, if I may say, more tightly constructed so that they may not ventilate if you will like older homes? [LB9]

SHAVONNA LAUSTERER: Well, no. Someone will testify as well, but with the new homes...with the older homes, the mitigation is usually a pipe coming out the side of the home. Whereas if you can do, as new construction is being built, there are other mitigation efforts you can do while it's being constructed. So the caulking, putting the gravel down at the base of the foundation, putting the pipe to run inside the home between the walls and up through the attic so that if you do detect radon you can turn on the fan and it goes out through the top versus now in older homes where you can't get to the foundation. You certainly can't put anything between the walls, so what you'll typically see is a kind of a PVC pipe that will come out the side of the home in a location that might not be as cosmetically pleasing. But if you do it while it's being built, there's more chances of those mitigation factors to go in from the beginning. [LB9]

SENATOR RIEPE: Okay, thank you. Thank you, Chairman. [LB9]

SENATOR HANSEN: Thank you, Senator. Any further questions? [LB9]

SHAVONNA LAUSTERER: Thank you. [LB9]

SENATOR HANSEN: Seeing none, thank you for your testimony. All right, we'll take our next proponent for LB9. [LB9]

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DEBBIE KALINA: (Exhibit 4) Good afternoon. My name is Debbie Kalina, that's D-e-b-b-i-e K-a-l-i-n-a, and I am here as a proponent of LB9. I would like to thank Senator Krist for his progressive work on promoting awareness of the dangers of exposure to radon gas, especially for promoting this bill regarding radon-resistant new construction. This is currently an area where legislative changes can be made that will directly affect the health of Nebraskans and future Nebraskans, as well as improve the quality of the final product new home buyers receive. I have been the owner of a radon mitigation business licensed by the Nebraska DHHS since 2006. As a business owner, when I am making important decisions I will pursue input from my advisers, professionals I call on who are experts in their field. This could be my accountant, it could be my computer consultant, or it could be my attorney. Even when I go get my hair cut I trust a licensed professional to do the best job. I may not know much about accounting, computers, the law, or even hair, however, I do have over 17 years of experience as a radon mitigation specialist licensed by the Nebraska Department of Health and Human Services. I also have over 10 years of experience owning and managing a radon mitigation business, which is licensed by the Nebraska DHHS. During this time, I also served on the National Board of Directors for the American Association of Radon Scientists and Technologists, an organization that sets the standard for the radon industry nationwide. The Nebraska Department of Health and Human Services currently shows that there are 93 licensed radon mitigation specialists and 52 licensed radon mitigation companies. As I mentioned above, I thank you, Senator Krist, for your efforts regarding radon through your work on this bill. However, I would respectfully like to point out that the licensed radon mitigation specialists and companies who have been, and are currently, following the laws of the state of Nebraska have been overlooked in this bill. My recommendations would be that in reviewing LB9 I saw several sections where I would recommend that changes be made. In Section 4(1), at least one radon mitigation specialist be added to the Radon Resistant Task Force. Currently, there is no mention of anyone with any experience in radon mitigation being a part of that task force. That the following, Section 4(3)(i), that the following changes be made in accordance with the current Nebraska DHH regulations. And that reads that, "A requirement that the installation of an active radon mitigation system only be performed by a building contractor or his or her subcontractors or by a licensed (sic) radon mitigation specialist." My recommendation would be to strike "by a building contractor or his or her subcontractors or by" because right now in the state it is a requirement that the licensed radon mitigation specialist install an active radon mitigation system. And in Section 4(3)(ii), that the following change be made. It currently reads, "A requirement that the installation of radon-resistant new construction only be performed by a building contractor or his or her subcontractors or by a radon mitigation specialist." And my recommendation is to take out the "building contractor or his or her subcontractors." I'd like to note that currently the DHHS regulations do not require a licensed mitigation specialist to install radon-resistant new construction measures. The regulations do require that anyone who activates a radon system or adds a fan must be licensed. The difficulty with allowing nonlicensed individuals to install radon

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system piping is that this creates situations where unusable, passive, or radon-resistant systems are installed. [LB9]

SENATOR HANSEN: Ms. Kalina, you've hit your red light. So if you could very kind of quickly summarize the rest of your testimony and we'll be up for questions. [LB9]

DEBBIE KALINA: Okay. My point here is that we run across systems that have been installed that are not usable because of the way that they're installed. They may not have enough clearance in the attic to add a fan, they may not be installed properly. We've seen them installed with a trap that would clog with water, moisture, that would make the piping unusable, or where we've seen where piping was not properly supported. We have to support it every six feet horizontally and every eight feet vertically, and if we see that it's not properly supported where we can see it, then wherever it is behind walls it's probably not supported properly either. And that's not something that can be fixed. And when we're asked to come and activate a radon system that was installed by somebody else, we're taking on that responsibility and saying that this is a radon mitigation system that was installed properly and is going to work properly. And that just...you don't let electricians or anybody run wiring and then call in the electrician to connect it. They aren't going to do that. So that I think is my biggest point. And I would like to thank you for the opportunity to comment on LB9. [LB9]

SENATOR HANSEN: Great. Well, hold on just a second, we'll see if there's questions from the committee. [LB9]

DEBBIE KALINA: Oh, sure. [LB9]

SENATOR HANSEN: Senator Riepe. [LB9]

SENATOR RIEPE: Chairman Hansen, thank you. My question would be, on a bad installation it seems to me that the liability goes back to the contractor. If I have a contractor building my house, any subcontractor I expect him to come up with someone, license or not, that knows how to do the job. So at the same time in this state that we're trying to reduce some of the barriers to entry to various positions, this seems contrary to that. [LB9]

DEBBIE KALINA: Well, I am just going by my experience and what I've seen. And if it's not installed properly, then typically what we have seen is if we have to go back and redo a system to make it right then we're going to have to charge somebody more money to make it right. And we've even seen situations where we've had to completely abandon what was done by the builder's plumber say. And the plumbers know everything they need to know about plumbing,

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but they may not necessarily know what they need to know about radon mitigation and how to install a system so that it doesn't get choked off with water and that it will work properly. [LB9]

SENATOR RIEPE: Is it unfair for me to assume that I can't rely on my general contractor to be accountable for every aspect of the project? [LB9]

DEBBIE KALINA: Well, I think you general contractor usually are going to be looking for the best price. You know, they may have their superintendent install the piping, whatever is going to be cost-effective to them. And right now there are no regulations, you know, right now you have to be licensed to install an active radon mitigation system. Well, what I don't understand is why you have to be licensed to install an active radon mitigation system but you don't have to be licensed to install a passive radon mitigation system that later is supposed to be able to be activated to become an active radon mitigation system. And it doesn't make sense to me that that basic foundation of the radon mitigation system doesn't have to be installed by somebody that knows what they're doing. [LB9]

SENATOR RIEPE: In general, I'm in favor of the concept. It's the complexity of the process that's... [LB9]

DEBBIE KALINA: Right. And I'm in favor of the bill, and I don't want to come across...like I said, I just have some tweaks that I...and I don't really know how it all works either, but those are my thoughts. [LB9]

SENATOR RIEPE: Another question that I have, what percentage of the contractors of new construction currently voluntarily participate and when building a new house do the radon? [LB9]

DEBBIE KALINA: I am not...I don't have a number. And maybe some of the people from... [LB9]

SENATOR RIEPE: Is it high or low? Do you have that number? [LB9]

DEBBIE KALINA: I'd say it's probably approaching 50 percent, you know? [LB9]

SENATOR RIEPE: So it's still let the buyer beware? [LB9]

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DEBBIE KALINA: I would say so, yeah. And I think it depends on the builder too. We have some builders that we work with that put them in every home. And we have some builders that put an active system in every home. So it kind of depends on the builder. [LB9]

SENATOR RIEPE: Are you proposing that we mandate that it be put in every home in new construction? [LB9]

DEBBIE KALINA: In new construction? Well, I think that's what this bill is saying. [LB9]

SENATOR RIEPE: I just wondered whether you... [LB9]

DEBBIE KALINA: And yes, I would say that it would make the most sense because it's a cost-effective time to do it. And one of the things that cannot be done after the fact is the gravel layer. If you truly follow the building code that is being proposed, my understanding anyway, is that there be a four-inch layer of granular material placed underneath the concrete slab in the basement. And that helps facilitate the movement of the soil gases and helps us collect it and reduce the radon that way. So that's something that cannot be added after the fact. Another thing about radon-resistant new construction is that when...in order for it to work optimally, the piping needs to be installed as straight vertically as possible. And that way the stack effect, that cool air, let's say 55 degree air that's in the soil, as it enters that pipe and it goes through conditioned air space, that pipe is going through the conditioned air space, it's going to warm that air, and just the natural convection or stack effect is going to cause the system to work. Studies I've seen have said that a passive system that's installed that way can work as much as 50 percent of the time. But, you know, in the real world, it's not always possible to install that pipe straight up vertically, you may have to put some jogs in it. And in that case, then a fan may be needed. But it does give that possibility that a fan wouldn't be needed. [LB9]

SENATOR RIEPE: Okay, thank you. [LB9]

DEBBIE KALINA: Thank you. [LB9]

SENATOR HANSEN: Thank you, Senator Riepe. Are there any other questions? Seeing none, thank you for coming down. [LB9]

DEBBIE KALINA: Thank you. [LB9]

SENATOR HANSEN: We will invite our next proponent up and I will turn it back over to Chairman Wayne. [LB9]

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SENATOR WAYNE: Welcome to the Urban Affairs Committee. [LB9]

DON WISNIESKI: (Exhibit 5) Good afternoon, folks. My name is Don Wisnieski, D-o-n W-i-s-n-i-e-s-k-i. I am the immediate past president for the Nebraska State Home Builders Association, representing five associations across the state. And I'm also a builder/contractor in Norfolk, Nebraska. The Nebraska State Home Builders Association has been working for some time with Senator Krist's office regarding this bill. We appreciate the time and effort that has been given to this bill, and to Senator Krist for his efforts over the past...I forget how many years. As a matter of bringing the record up to date, our association has been in support of this bill and we want to testify today that we are still in support of this important bill. That basically concludes my statement for today. [LB9]

SENATOR WAYNE: Any questions from the committee members? Seeing none, thank you for coming down today. [LB9]

DON WISNIESKI: Thank you. [LB9]

SENATOR WAYNE: Any other proponents? Any other proponents? Seeing none, we'll move to opponents. Any opponents? [LB9]

ALLEN STEINER: (Exhibit 6) Hello. I live two miles south of Waverly, Nebraska, and my name is Allen Steiner, A-l-l-e-n S-t-e-i-n-e-r. I am a family utilitarian. Hopefully I am here today to help you discover the truth in this matter. The Environmental Protection--whether you need it or not--Agency observed something similar to this. A whole bunch of miners exposed to 1,000 units of radiation over a course of as little as one year had contracted lung cancer. And then the EPA assumed that anyone exposed to the same 1,000 units, whether over a period of 1 year or a period of 50 years, would have an equal chance of contracting lung cancer, albeit as much as 49 years later. This is akin to saying that since a person died of alcohol poisoning after drinking 50 shots of their favorite liquor in one day that another person who drinks 1 shot of the same liquor every day for a period of 50 days will have an equally high chance of dying of alcohol poisoning. And yet, that ridiculous assumption by the EPA is why we are all here today. Even though the EPA itself admits in highly technical, scientific, easy for the layperson to miss the meaning of language, that none of the radon studies that specifically look at the effects of low levels of radon, let's say the below 20 microcuries...or I'm sorry, picocuries per liter, on lung cancer incidents indicate a need for concern. In order to make an informed decision, please take time to read what forensic industrial hygienist Caoimhin Connell, that's Caoimhin Connell, has written on this subject. He has a highly analytical mind and a way of being able to communicate hard to understand technicalities to the layperson's level of thinking. Plus, either than standing up for his conclusions, he seems to be quite objective and not the least concerned with being politically

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correct. I will always respect the right of my fellow citizens to build or buy a new home with radon mitigation. All I ask today is that my fellow citizens do not take away my right to build or buy a new home without radon mitigation. One hundred years ago some traveling salespersons would scare people into buying lightning rod protection systems for their homes. Many homeowners purchased these systems, hoping to protect their homes. Why do we not see many lightning rods today? Well, perhaps the truth eventually prevailed. Should LB9 become law, it would be very prudent to have someone on the Radon Mitigation Task Force who, like me, has a perspective that radon mitigation is rarely needed. As it is currently written, the entire task force would be made up of individuals who stand to gain by this law's passing. There would be no check mechanism protecting the truth. Thank you for being here. [LB9]

SENATOR WAYNE: Any questions from the committee? Seeing none, thank you for coming today. Any other opponents? Any other opponents? Now moving to neutral testifiers. Are there any neutral testifiers? Welcome to your Urban Affairs Committee. [LB9]

JERRY STANDERFORD: Good afternoon, Chairman Wayne, members of the committee. My name is Jerry Standerford, J-e-r-r-y S-t-a-n-d-e-r-f-o-r-d. I'm a home builder from Omaha, Nebraska. I manage two companies there: Sherwood Homes and Lane Building Corporation; we've been in business for nearly 50 years in Omaha. We build about 80 houses every year. I'm also here on behalf of the Metropolitan Omaha Builders Association and the Eastern Nebraska Development Corporation, which represents a group of builders and developers in eastern Nebraska. I'm here to testify in a neutral position today, but I did want to bring a little bit of attention to the fact that the testimony I heard earlier that the lady asked for a member of a licensed radon installer to be on the committee and also that the...but more so the idea that we would have to as a contractor use a licensed radon mitigation specialist to install radon-resistant construction. Radon-resistant construction doesn't only include the pipe through the attic. It also includes, if you go to the chapter in the code, it includes the gravel under the floor, it includes the poly, it includes the ceiling of the slab, and on an on. In my mind, it would be cost-prohibitive and really not make very much sense that we would hire a licensed radon mitigation specialist to put four inches of gravel on that floor before the concrete guy pours his slab. Many cases in many places that is already done by the concrete contractor and it's done in a very cost-effective way. What it boils down to in my mind is not whether we treat this radon or not. You have to know that in Omaha, and I don't know about Lincoln, but every contract that's written on a Board of Realtors contract in Omaha, which the majority of the builders there use, the buyer is given the option to test for radon or not. They can check the box whether they want a radon test or not. Our company, we mitigate radon using a licensed radon mitigation specialist, we never do the pipe ahead of time. We don't do the radon-resistant construction. When that house is complete and it tests more than 4 PCI, we have a contractor come in, put that system in, and we guarantee that to be below 4 PCI. We have never had a house in all the years we've been doing this that we couldn't get to below 4 PCI. It's very common that they come in between 1 and 2. The other part

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of that, and I heard the young lady from the Health Department talk about putting the pipes on the outside of the houses. We've been doing this for years and we have yet to ever put a pipe on the outside of the house. There is always a way in new construction when the house is complete to put that pipe in that house, put the fan in the attic where you don't hear it, put the pipe out the top just like a regular plumbing vent. I know that often the cheap way and the easy way is to get it out the side, and it's pretty ugly. And a lot of subdivisions, of course, are still against that. But I would just ask you that to really consider that a builder needs all the latitude that you can afford him in being able to mitigate this radon. I would also encourage that the committee, and I hope to be on that committee, but if I'm not, I would encourage the committee to consider a passive radon system, even radon-resistant. If I sell you a house and tell you that it has a passive radon system or it has radon-resistant construction, my fear is that you're not going to test the house. I already have half my buyers who don't ask to have that house tested. Now, if I'm going to tell them that that has radon-resistant construction, I'm going to guess that percentage is going to go way down. And we know that a passive system, I mean, there's a lot of studies out there, I think I heard the number, it reduces it as much as 50 percent. There's a study from the, I believe it's the University of Kansas, that says that a radon passive system will reduce the amount of radon that's...from as much as 60 percent. So if we start out at a 20 and you're going to reduce it 60 percent, you're still a long way from the 4 PCI that the EPA in the past has always said you need to be. But that buyer is going to move into that house thinking he has a radon-resistant system. And my thought is that in the future, he will never test that house because it had radon-resistant, as opposed to testing the house and has a mechanical system that does remove it. And I think Senator Krist is right on when he talks about \$825. Our average cost to install that system and test it and have it complete is about \$850 a house. Thank you. [LB9]

SENATOR WAYNE: Thank you. Any questions from the committee? Senator Riepe. [LB9]

SENATOR RIEPE: Thank you, Chairman Wayne. I guess my question would be to you is the need for an oversight committee, I mean, isn't that why God created trial attorneys? [LB9]

JERRY STANDERFORD: There you go, that could be. [LB9]

SENATOR RIEPE: Sort of keep people in line, if you will. [LB9]

JERRY STANDERFORD: I thought the committee was just set up to make a recommendation, it was not oversight. [LB9]

SENATOR WAYNE: Any other questions from the committee? Seeing none, thank you for coming today. Any other people to testify in the neutral? [LB9]

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JAY DAVIS: Good afternoon, Chairman Wayne, members of the committee. [LB9]

SENATOR WAYNE: Welcome back. [LB9]

JAY DAVIS: Thank you. Jay, J-a-y, Davis, D-a-v-i-s, I am the assistant planning director and superintendent of the permits and inspection division for the city of Omaha. I'm not going to go lengthy because there's a couple things I just want to point out that currently the State Building Code. You're going to see a lot of me today, I'm sorry about that. But the current State Building Code already requires passive installation...or installation of a passive system. Most homes constructed today that are required to have a drain tile system put in into a sump pit, sump pump, that's a start to that system. That's one way that we take water away, but it can also be used as part of a passive system. The other thing that sort of bothers me just a little bit, in some things that were said, that the older homes in particular are at just as much risk as a new one. New one we can control that; and you're correct, Senator Riepe, I would believe that the builder would be responsible for that. But the bottom line is on the older houses when they go in to do that installation, 90 percent of the time what they'll do is they'll drill a hole in the floor, drop a pipe down it, and they call it a system even with a fan on it. Well, if you think the theory of how this works, it's still going to let that gas be trapped, unless it has something around the outside to do that. I can tell you from personal experience an \$850 system does not tear up my floor and put down gravel and pipe. So if we can do this through the building codes, make the builders do what they're supposed to do and work within the system, I think it's already in place. However, Senator Krist is correct, it does need to be addressed in areas where building codes are not necessarily enforced. That's in your outstate areas: Grand Island. Fortunately, in Grand Island, Hastings, that area is actually pretty lucky because they are sand. In fact, sand allows it to migrate away. But our clay areas in north...or eastern Nebraska, some northern Nebraska, and some very far western Nebraska, certainly that needs to be looked at during new construction. Again, we go back to how does that get enforced. So you need, if you're going to make the rules, and the committee is going to make the rules, task force is going to make the rules, they need to be understood that there's a number of ways to do that. And while I appreciate the licensed mitigation contractors, I just want to make sure that we're not getting too far out of line on how we're trying to handle this across the state. So I said I would be brief. I'm done. [LB9]

SENATOR WAYNE: Any questions from the committee? Senator Crawford. [LB9]

SENATOR CRAWFORD: Thank you. Thank you, Senator Wayne. And thank you, Mr. Davis. So just to clarify, the requirements that you see that the task force is going to discuss, in terms of those that are laid out in the bill, are those all requirements that are currently in your understanding in the State Building Code? [LB9]

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JAY DAVIS: Right. They actually came into the 2009 adoption of the International Residential Code. And in 2012 they expanded that section a little further. And actually, to answer your question, Senator, with regards to our houses getting tighter, yes, that's a huge problem. And each year our energy code requires our houses to get a little bit more tighter. And when that happens, the air doesn't move within a house until we start to have air exchange methods. And that becomes costly and that's a conversation for a different environment. But yes, the older homes, believe it or not, windows leaked. And I remember growing up, I don't think I had many colds or flu and now I have colds and allergies. Yeah, I mean, it's just a difference. [LB9]

SENATOR WAYNE: Any other questions from the committee? Senator Crawford? Seeing none, thank you for coming down today. [LB9]

JAY DAVIS: Thank you. [LB9]

SENATOR WAYNE: See you in a little bit. [LB9]

JAY DAVIS: Yes. [LB9]

SENATOR WAYNE: Any other neutral testifiers? Seeing none, Senator Krist. [LB9]

SENATOR KRIST: Thank you, Chairman Wayne and members of the committee. A couple of things. From Ms. Kalina from legal counsel, those things have been discussed in the past, in terms of representation on that board. I am not unwilling to talk about representation again if the committee sees fit to try to change the complement of the committee. This was just the over the years it was the agreed upon membership that would give an optimistic and an even and fair balance to looking at the process. I think you've heard a couple of times and I think it's at the crux of some of these issues you, and again, legal counsel needs to verify this for you, you are not required to be a licensed radon mitigation person to install a passive system in the home. I don't intend for that to be an additional burden on a home builder, as long as those criteria are understood in terms of building a house. Senator Riepe, if I could, just something that you addressed, when I built my house I talked to a general contractor, we decided on the plans, we had an engineer come in and look at it. And after everything was said and done, I said I want an active system in my house, so I know the active part of it, the pipes, the ventilation system has to be installed by a licensed mitigation system expert. I knew that because I already started this drill in this many years of going through this process, but I want you to do everything that the active person would want you to do in terms of installation. So the subbase, the gravel, the pipes, the trap of the gas system, and the ventilation of that system were incorporated in. And I agree with, wholeheartedly agree, with Mr. Steiner. I don't think you want...if you can carve out the money and save money and still do it correctly. So my general contractor and his subs did what was

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instructed of them to do much cheaper than it would have if I had just said, okay, licensed guy, come in and do your thing. So I don't think we're being cost-prohibitive in doing that and I believe that this task force will be able to drill down on some of those things and make it easier and more efficient and more economical. Definitions in code. You're so lucky to have Mr. Davis back here, I can remember him from years ago on other testimonies. It is true that the codes are enforced some places, not all places. And some people don't know the possibility of having some of these mitigation systems in place. I think what you have to do is look at trying to sell a house and realize what's involved in the inspection process. When they come in and do the standard tests for termite and radon and look at some of those after-market mitigation systems that are slapped on...I'm sorry, they're put on. I know they're put on professionally. But some of those aren't as professional as Mr. Standerford would have alluded to. And I do appreciate the fact also, and I want to be clear, this is not something that the committee needs to understand. This is not something you can go out and put a meter in the middle of the field and say that's a really high rate. You have to have a capture point and that's why the builder is talking about building the building and then testing and then putting a mitigation system in. And I do understand how you would do that after the building would actually be finished. So once again, as I have in the past, that I've put it in the committee's hands to do with it as you will. I think they're between legal counsel and you there still may be a couple of tweaks to make to this product. But it's the best I can do in six years. It's all yours. [LB9]

SENATOR WAYNE: I just want to make it clear for the record because of the way that some of the testimony went it seemed like this was forever, but this is a task force to provide recommendations with a date certain. [LB9]

SENATOR KRIST: Yes. It's...I think I read it off for the record. I think the date certain for the report is the 1st of April, 2018, and then the disappearing act is the 1st of May, 2018. [LB9]

SENATOR WAYNE: Thank you, Senator. [LB9]

SENATOR KRIST: Thank you. [LB9]

SENATOR WAYNE: (Exhibit 1) And we did receive neutral testimony...or a letter of neutral support from the Department of Health and Human Services, which was already addressed a couple of times by Senator Krist. Just want to make sure that was in the record. And that will close the hearing on LB9. Thank you for coming today. [LB9]

SENATOR KRIST: Thank you for your courtesy. [LB9]

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SENATOR WAYNE: Next up, we'll be opening the hearing on LB455, Senator Quick. [LB455]

SENATOR QUICK: Thank you, Chairman Wayne. And thank you, members of the committee, I'm here to introduce LB455. LB455 would amend the State Electrical Act to update the...I'm sorry, I forgot to state my name and spell it. Dan Quick, D-a-n Q-u-i-c-k. LB455 would amend the State Electrical Act to update the State Electrical Code to the 2017 edition of the National Electrical Code. The current State Electrical Code is the 2014 edition of the National Electrical Code. So it's pretty simple. I guess if you have any questions for me, there's some testifiers coming behind me that can answer any questions that you have. [LB455]

SENATOR WAYNE: Any questions from the committee? Senator Riepe. [LB455]

SENATOR RIEPE: Senator Wayne, I have a quick one. Why is it that these wouldn't just automatically update? [LB455]

SENATOR QUICK: No, that I don't think I can...I have the answer for that. [LB455]

SENATOR RIEPE: Does your legislation define that it will be updated annually or as the new codes are introduced that it's automatically...so that we aren't back here every couple of years or whatever? [LB455]

SENATOR QUICK: And that I...maybe they could speak to that further. [LB455]

SENATOR RIEPE: Okay. [LB455]

SENATOR WAYNE: I can answer that. And it would be an unconstitutional delegation of authority because many of these codes deal with certain regulations. And per our constitution and per the statutes, we have to review them and make sure and take an affirmative vote of whether we want to allow other political subdivisions in our own areas to adopt the rules. [LB455]

SENATOR RIEPE: That's why you're chairman, thank you. [LB455]

SENATOR WAYNE: Actually, I got it from legal counsel. He just... [LB455]

SENATOR RIEPE: Well, you sounded good. [LB455]

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SENATOR WAYNE: I can repeat things very well. Any other questions? Senator Crawford. [LB455]

SENATOR CRAWFORD: Thank you, Chairman Wayne. And thank you, Senator Quick. So is someone coming behind you to explain any key differences between the codes? [LB455]

SENATOR QUICK: Yeah. [LB455]

SENATOR CRAWFORD: All right, thanks. [LB455]

SENATOR WAYNE: Any other questions from the committee? Thank you. Will you hang around for your closing? [LB455]

SENATOR QUICK: Yes, I will. [LB455]

SENATOR WAYNE: All right, we'll start with proponents. [LB455]

KEVIN BOOKER: (Exhibits 1, 2) Mr. Chairman, committee members, my name is Kevin, K-e-v-i-n, Booker, B-o-o-k-e-r. I'm the executive director of the Nebraska State Electrical Division. The Nebraska Electrical Division has an oversight board that oversees us. Just to give you a real quick background on the purpose and intent of the National Electrical Code, the very beginning of it says the purpose of it is for practical safeguarding. One of the other issues to that is also 90.4, which covers enforcement, local enforcement, and insurance inspectors. So every three years, as you say, we come back and we look at adopting the most current edition of the National Electrical Code. The National Electrical Code is a publication of the National Fire Prevention Association, NFPA 70. I'll give you a brief background on some of the issues that we found after the 2014 code was adopted, and they were remedied by our national...our electrical board. One of these is a section dealing with the receptacle for electrical service areas. This was adopted in the National Electrical Code adoption of the 2014 code, and after the adoption it was brought to the attention by irrigation installers that one of the requirements to that was the fact that it required an electrical receptacle adjacent to each electrical service. Most irrigation equipment operates at 277/480 volts. In order to put that 110 volt receptacle it would have required a step down transformer, which would have been cost-prohibitive. So this went to the electrical board, who agreed that it was not the cost to do it. The one change that we do see in the 2017 code that we are looking to adopt today is there is an exception 2 to the 2017 code which excludes electrically driven irrigation machinery. So what our board automatically did three years ago, the National Electrical Code today has recognized the fact that that was cost-prohibitive. I did hand out a list of the top 10 changes to the electrical code. There's a number of changes to it, most of

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which are word definitions and that type. It gives you a real quick overview, one of the changes was readily accessible and dealing with the electrical panel. Since most of you that have walked down the hallway of a hotel and motel and you've seen the electrical panel in the middle of the hallway. Well, in the middle of the night, kids like to go out and play with the circuit breakers, which making that be readily accessible in the 2014 code didn't make a whole lot of sense for the safety aspect of the guest. So one of the things that you see in number one is they added the term "other than keys." So somebody there at that facility has the key that can open up that electrical panel, they did add that to the electrical code. Another one is the connections. If you think of your electrical connection and the torquing of your conductors, compared to those of you that have ever worked on your car, we all know the head of your car has to be properly torqued or you're going, you know, warp the head of your vehicle. Same thing applies to electrical conductors. If you over-tighten them, you're going to break the strains of the conductors, which could cause a risk. If you underdo them, you're also going to have a loose connection. So the one thing that we see in here is that also. And I said I'm going to get close on time. Somebody jump down to the bottom of it. Another one that was added was tamper-resistant receptacles in medical facilities, gymnasiums, or other places where children are likely to attend. We did see a number of changes through this, starting in residential, then schools, then daycares, and now we're seeing it here also. The other one is you look at a room like you have here today, in a large meeting room, it does have the requirement they have receptacles. So if you all had your laptops here today, you must be running extension cords to connect all of those laptops together. We do recognize the authority of local jurisdictions to be able to supersede and be more stringent than the National Electrical Code, which we do have a number of local jurisdictions that do exercise that. I think most of these are pretty much self-explanatory. Like I say, if anybody has any questions, I'm here. I understand you are also looking at the adoption of I codes later on. The International Residential Code, which is an International Code Council publication, also incorporates part of the electrical code. It does extend certain parts of it, but that is not enforced by our office. Thank you. [LB455]

SENATOR WAYNE: Thank you. Any questions from the committee? Senator Crawford. [LB455]

SENATOR CRAWFORD: Thank you, Chairman Wayne. And thank you for being here. I wonder if you could just help us understand the extent of some of the new rules. And I'll pick on the meeting rooms rule. So it says, require receptacle outlets for meeting rooms in commercial occupancies. So what does that mean for any hotel that has meeting rooms? Is it a certain number per likely occupant or what does it look like? [LB455]

KEVIN BOOKER: It is, it's based off the square footage. I don't have that exact number in front of me right now today, but it is off of the square footage and that they'd have to want one for every I believe...and I could be wrong, like I think it was like every 100 square foot or

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something. And it's just enough so in meeting rooms, and this does not include existing, this is only new construction, just for the fact that we are not going to be seeing all these outlet strips and cords strung throughout the facility. [LB455]

SENATOR CRAWFORD: Thank you. [LB455]

SENATOR WAYNE: Any other questions from the committee? Seeing none, thank you for coming down today. [LB455]

KEVIN BOOKER: Thank you. [LB455]

SENATOR WAYNE: Any other proponents? Any other proponents? Seeing none, we'll move to opponents. Any opponents? Moving to the neutral testifiers. Any neutral testifiers? Let's not all get up at once. You may close. You waive your closing? Senator Quick waives his closing, and I do not have any letters for the record. We will be closing hearing LB455 and I will be opening the hearing on LB591. Senator Crawford. [LB455]

SENATOR CRAWFORD: Thank you. Good afternoon, Chairman Wayne and fellow members of the Urban Affairs Committee. My name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th Legislative District of Bellevue, Offutt, and eastern Sarpy County. And I'm honored to be here today to introduce LB591 for your consideration. In Nebraska, with the exception of the State Fire Marshal, with the Nebraska Energy Office, and the State Electrical Division, the role of code enforcement falls on political subdivisions. Although some municipalities have rigorous code enforcement, not all do, and not all municipalities that have code enforcement choose to enforce the Nebraska Energy Code. Furthermore, some Nebraskans live outside of local jurisdictions with code enforcement and therefore do not have the protection of local code enforcement to enforce codes related to our Nebraska Energy Code. LB591 provides a tool to provide additional leverage for local code enforcement and a mechanism for enforcing the Nebraska Energy Code in those jurisdictions that do not enforce it locally. LB591 is the result of interim studies heard by the Urban Affairs Committee during the past two sessions. Both LR174, which I introduced in 2015, and LR490, which I introduced in 2016, took an in-depth look at the building code and energy enforcement in our state. During the two studies, we heard stories from homeowners whose homes were not built to code or the Nebraska Energy Code. We also heard about challenges of code enforcement in smaller municipalities. Some of these homeowners live in jurisdictions that either do not have code enforcement or that choose not to enforce the Nebraska Energy Code. In this situation, the homeowner can file a complaint with the Nebraska Energy office, who could issue a small fine to the contractor if they fail to respond to the Energy Office's notice. The Energy Office cannot however force the contractor to bring the home or building into compliance. At that point, the only option these homeowners had was to take on

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expensive legal action against the contractor. Even if the contractor was found guilty and further fined or forced to fix the situation, nothing would prevent those contractors from continuing to build for other families. LB591 is a result of conversations through the interim studies and hearings and meetings with home builders, the Department of Labor, the Nebraska Energy Office, various code officials, and homeowners to try to create a mechanism to supplement our existing local code enforcement and further protect homeowners in our state while simultaneously ensuring fairness for contractors, protecting local control of code enforcement, and eliminating the state's role. LB591 builds on our existing State Contractor Registration Act and our existing local code enforcement mechanism. If a contractor fails to comply with applicable building codes and the complainant has taken reasonable steps to obtain compliance with applicable building codes through local officials, LB591 provides a mechanism for the Department of Labor to revoke a contractor's registration. LB591 allows individuals to file a complaint with the Department of Labor. When filing the complaint with the Department, the complainant must submit signed substantiation of a building code violation from a building inspector, a code official, the State Energy Office, or a certified building official credentialed by the International Code Council. I worked with representatives of home builders to narrow this list of individuals authorized to sign this substantiated evidence in order to maintain the integrity of the local code enforcement processes that already exist, and to ensure complaints are legitimate ones that were not able to be resolved through these existing processes. This substantiated evidence from local code enforcement or the Nebraska Energy Office will allow the Department of Labor to determine when a contractor willfully failed to bring a building or buildings into compliance with applicable state and local building codes or the Nebraska Energy Code. Requiring the substantiated evidence ensures that the Department of Labor is not responsible for inspecting homes or buildings to confirm code violations. If the Department of Labor needs further information to determine whether or not violations took place, LB591 provides permissive language that allows the Department to conduct interviews by correspondence, telephone conversations, or review of materials submitted to the Department. If it is determined that the contractor did in fact willfully fail to comply with applicable building codes, the contractor will be pulled from the registry if they do not take the necessary actions to correct those violations within the time frame determined by the commissioner. From our conversations it's clear that the overwhelming majority of builders build sound homes and our local code enforcement where it exists usually works very well to protect our homeowners. The mechanism created by LB591 provides protections for Nebraskans who happen to fall into a gap in our system and provides extra leverage in our local code enforcement where it may be needed. Although this mechanism provides for revocation as a last resort, the hope is that the leverage of potential revocation would allow resolutions of most cases and revocation would be very rare. LB591 can create leverage to alleviate compliance issues before a situation escalates to revocation. LB591 provides homeowners and the Nebraska Energy Office with more leverage than a small fine when bringing a building into compliance. It also creates a greater sense of urgency for contractors to bring their projects into compliance, since being pulled off the registry

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may affect the number of clients who are willing to work with them and affects their...would make them subject to 5 percent withholdings on payments made to other contractors and subcontractors who are not registered in the database. If a contractor's registration has been revoked, it can be reinstated by the LB591 when the contractor provides substantiated findings from the appropriate code officials to the Department of Labor that all necessary corrective actions have been taken and the building or buildings have been brought into compliance with state and local building codes and the Nebraska Energy Code. LB591 creates a mechanism to address a current gap in our state's building and energy code enforcement that were discussed in our interim study work. It is important to note that the process provided by LB591 again is to be used as a last resort, after reasonable steps have been taken to obtain compliance with applicable building and local codes through local code officials. LB591 also requires substantiated evidence from authorized code officials to be included with every complaint and allows the Department to use these existing investigative procedures to ensure that enforcement is also fair to the contractors. Following my testimony, you will hear from a couple of Nebraska homeowners who have been adversely affected by these gaps in our system that LB591 is trying to address. And I appreciate the committee's attention to this issue. I'm happy to answer any questions you may have now, and I will be here for closing if you would like ask questions after you hear other testimony. [LB591]

SENATOR WAYNE: Senator Riepe. [LB591]

SENATOR RIEPE: Chairman Wayne, thank you very much. Senator Crawford, thank you. I have a question, and I thought I picked up on it, was you talked about some environmental compliance. Is that in there or did I just create that? [LB591]

SENATOR CRAWFORD: It's the energy. The Nebraska Energy Code. [LB591]

SENATOR RIEPE: Energy, not environmental. Okay. [LB591]

SENATOR CRAWFORD: So we have the Energy Code is another place where there are requirements in terms of the standards that homes must have, must be built to. And in places where...we have a State Building Code, but the State Building Code only applies in jurisdictions that adopt local building codes and enforce building codes. However, our State Energy Code has building standards in terms of what homes need to meet. And that is a state code that is enforced in all parts of the state. And where there is in some municipalities the local municipalities chooses to adopt and enforce that code, in other places they choose not to. And then in county, unincorporated areas where there isn't code enforcement, there is no enforcement mechanism for that Nebraska Energy Code other than complaint and the fine that I talked about in testimony. [LB591]

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SENATOR RIEPE: Okay, very good. Thank you. [LB591]

SENATOR WAYNE: Any other questions from the committee? Seeing none, thank you. [LB591]

SENATOR CRAWFORD: Thank you. [LB591]

SENATOR WAYNE: Starting off with proponents. Any proponents? Welcome to Urban Affairs. [LB591]

BRANDI GOLDAPP: (Exhibit 3) Hello. Thank you for allowing me to come today. My name is Brandi, B-r-a-n-d-i, Goldapp, G-o-l-d-a-p-p, I am one of the homeowners Senator Sue Crawford was referring to. And I prepared my whole presentation and actually, Senator Riepe, you made a comment earlier on, and you said you rely on your general contractor. And we hired Brad Brown with Archistructure, and we relied on him to create a home for us that would be compliant with every code that he is responsible to make sure that my home compares to. With the LB591 having a registry, the next person that he would be possibly building for would not have to go through what I have gone through, he would not be listed on that registry. I have provided photos that show all of the gross code violations that this man has done to us. We have a lot line that has our driveway, our gas service, electrical service, water service, cable service, and sprinkler lines that are on the adjacent lot. We have a sewer system that was installed by an unlicensed plumber that dug a hole without a permit and without inspections. I, as a homeowner, should not need to know that my 250 foot run with a 1 percent grade and one clean out valve is not code...it doesn't pass code. We shouldn't need to know those things, but I do now, as my sewer has backed up into my front yard multiple times. We have a broken sewer line. The city of Valley has nothing they can do at this point. I actually spoke with my building inspector today before I came to find out if our city attorney has issued anything to help me get that passed. Nothing has been done. Then we have the energy code. I have pictures that show my insulation wasn't even installed in parts of my home. Some of my insulation was installed upside down. Once again, I should not need to know how insulation is installed. I should not need to know what building gaps are. I should not need to know these things, that's what I hired a reliable contractor for. But there is no spot in the way the codes are written that allows them to be enforced to protect myself and other home builders...homeowners from one of the largest, most emotional investments that most of us will ever make. What this has done to us now is we've gone to our city, to no avail. The state has been wonderful in working with us, but still are getting nothing done. It has now been turned over to the Attorney General, which we are praying will get somewhere, so we can have a home that has an occupancy. The city of Valley is allowing us to live there with a temporary occupancy at this time. We have...we can't sell our home, if we wanted to move. I've been there for over two years. I can't sell it, I don't have an occupancy. The expenses are astronomical, between my utility bills,

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between the band-aids we're trying to find for our home, and attorney fees that we are now starting to accumulate because we are trying to figure out what can do with our home. For the consumer, the LB591 would allow us something for us to go to to pull a contractor who does not...the majority of the builders are amazing in this jurisdiction, they're wonderful. We got a bad apple and he should not be allowed to continue to build without notification to other potential clients. Thank you so much for your time and I would be happy to answer any questions anyone would have. [LB591]

SENATOR WAYNE: Senator Riepe. [LB591]

SENATOR RIEPE: Thank you, Senator Wayne. Sounds to me like you got a rascal as a contractor. [LB591]

BRANDI GOLDAPP: It has not been fun. [LB591]

SENATOR RIEPE: But do you believe with alternate codes that he would not have been a rascal and a scoundrel and a bad contractor? [LB591]

BRANDI GOLDAPP: I believe with proper code enforcement it would have been different. When you hire an unlicensed plumber to dig a hole and lay a major sewer line...once again, my sewer crosses over the top of my water, which is not legal, without proper sleeving. You know, there's so many codes that are there, but there's no way to enforce them. [LB591]

SENATOR RIEPE: Were there code inspections? [LB591]

BRANDI GOLDAPP: He didn't pull a permit. So because there was no permit pulled, then there was no inspection done. And then when the permit...he had another contractor pull the permit, Outback Construction is who put in my sewer. [LB591]

SENATOR RIEPE: And do you have a good lawyer? [LB591]

BRANDI GOLDAPP: Well, we hope so. But it's not fun. I shouldn't have to sue, I just want my home. [LB591]

SENATOR RIEPE: I agree, thank you. [LB591]

BRANDI GOLDAPP: Thank you. [LB591]

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SENATOR WAYNE: Any other questions? Thank you for coming today. [LB591]

BRANDI GOLDAPP: Thank you. [LB591]

SENATOR WAYNE: Any other proponents? [LB591]

CAROL AVOK: Good afternoon. [LB591]

SENATOR WAYNE: Welcome. [LB591]

CAROL AVOK: My name is Carol Avok, C-a-r-o-l A-v-o-k. I'm pretty much going to speak to you from my heart. I, along with my husband, built a house in Madison, Nebraska. It's outside Madison city limits, it's also outside Norfolk city limits. When we picked out our builder, he had over 23 years of experience in building. We read the contract, it stated that the contractor shall comply with all building and sanitary laws and all state, county, and municipal laws, rules, ordinances, and regulations. I guess we had good faith that really was going to occur, and we found out that wasn't the case. I guess I should say I have dealt with so many things. Not only did I have to have the stress of losing my husband during this, everything that happened...the stress is crazy. And I'm trying to get someone to fix this situation because the contractor has continually tried to shove things under the rug, put band-aids on, like the other gal mentioned. I don't know how exactly I came across the Energy Committee, I guess I kept Googling, calling people, asking questions to try to get some help. Suing? Yes, that's an option. But I guess when you only have one income and you make \$14.33 an hour, that doesn't go very far. Lynn has been a Godsend at the Energy Office. I myself hired someone to come out and inspect the house. He did find some things, he found the dryer vent going through the cold air return, found that the basement wasn't insulated at all, several other issues. Some got fixed, others did not. When they came out, when the insulation company came out, I kind of talked to the gentleman and asked exactly how much were they going to fix, because the attic was so poorly insulated, according to what my contract said I was supposed to get. And I don't know how to measure that. He said that they were only supposed to fix the path that it took to fix the broken pipe of where the water had come in. And I said, really? So I talked to him and I just happened to drop Lynn Chamberlin's name, that's all it took. All of a sudden the guys came back out of the truck, they were putting all kinds of insulation upstairs. I don't have time to tell you everything that's gone with my house. I told everyone in the first speech. I touched on a lot of it. I would just like to see other people get some protection, some help. I thought too I had hired a reliable builder. The newest thing, and I have shared this with Lynn, I had condensation in my house. I shared that with my contractor. He said, well, what's the humidity level in your house? I said, it ranges. After I bought a gauge, because he didn't believe me, it ranges from 29 to at one point I think it was 35 or 36. It has

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stayed around 31. Since then, I've had frost in my house. Inside my house. Not built very well. Horribly disappointed. Questions? [LB591]

SENATOR WAYNE: Any questions from the committee? Seeing none, thank you for coming down today. [LB591]

CAROL AVOK: Okay. I have shared all e-mails with Lynn, she has pictures of the frost. [LB591]

SENATOR WAYNE: Thank you for your testimony. [LB591]

CAROL AVOK: Thanks. [LB591]

SENATOR WAYNE: Any other proponents? Any proponents? Seeing none, we'll move to opponents. Any opponents? [LB591]

FRED HOPPE: My name is Fred Hoppe, F-r-e-d-d H-o-p-p-e. I'm here on behalf of the Nebraska Realtors Association, and the Nebraska Realtors Association is opposed to LB591, particularly because LB591 turns the Labor Department into a code administration activity. We believe it's going to increase the cost of housing and affect the availability housing in greater Nebraska in particular. I am sympathetic with someone that gets a house that doesn't meet code or isn't appropriately built. There are concerns, though, with how codes are interpreted. And from the last testimony, there are also concerns about whether the code would address all the issues that were raised by the complainant. Furthermore, the Energy Office can affect and can enforce its own code, the Energy Code, it's got a fining system. Code requirements are not black and white. If there is going to be any kind of an action regarding code enforcement, it needs to be in terms of material code violations, not code violations. But some states have may have it for builders in terms of class action suits because of a couple missed nails in a drywall piece regimently (sic). So it needs to be in terms of material code violations if there is any enforcement at all. But really, the dealing with code enforcement should go into the code area, it shouldn't turn the Labor Department into a code enforcement activity. That would require training for officers, it would require employment of many more officers. And this particular act, I believe it's intended not to deal where there are no codes designed, but it's not clear whether that's actual or not. I'm not sure whether there's an attempt in LB591 to enact the State Building Code for places where there isn't a local code enacted, and that needs to be clarified. If there's going to be code enforcement, there needs to be a code in place in the area that's important. Furthermore, there should be a time limit on any complaints in this area, particularly with regard to code enforcement. If there was an action pending, it could inhibit the sale of that property, could be problematic for putting the property on the market. In short, the Nebraska Realtors Association

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is opposed to LB591. I think it will put a burden on housing in greater Nebraska, as well as in Omaha and Lincoln, and would ask you to vote against it. Thank you. [LB591]

SENATOR WAYNE: Thank you for coming today. [LB591]

FRED HOPPE: Any questions? [LB591]

SENATOR WAYNE: Any questions from the committee? Seeing none, thank you for coming today. Any other opponents? Welcome back to your Urban Affairs Committee. [LB591]

JAY DAVIS: Thank you. My name is Jay Davis, J-a-y D-a-v-i-s, assistant planning director for the city of Omaha. I'm kind of in an ugly position right now because, well, just like the code, I have to decide where it fits best. The intent of the bill originally was that we had some mechanism to go after contractors in a number of different ways. I don't entirely object to the bill, obviously, but in the case of Omaha and Bellevue, for example, we have our own licensing program that requires contractors to undergo both a test from the International Code Council and also continuing education through our departments to continue to maintain that license. The one problem...or the two problems, actually, that come in here are number one, a registration really doesn't do anything. I have contractors working in Omaha all the time that don't even have registrations. And if they do, they pull it out and say they do, in fact, we find out they don't. But the bigger problem, and I've said this probably way too many times, involves the lack of enforcement outstate. Once you get out of the jurisdictions who have building code officials, and even some of those can be iffy at times, myself probably I can get a little wishy-washy at times, the problem is that there has to be a way for it to be uniformly enforced. Now the State Energy Office, that's correct, they do have the ability to enforce it, they just don't have the personnel to do it. Obviously, in this current budget system, I don't think that's going to be a possibility to add more staff to that. But there has to be some other protections for the homeowner as well. Most of those come by way of complaint to the Attorney General's Office. Yes, unfortunately, most of them involve legal counsel. But the worst part is there's a lot of things that are being told to people that are code violations, which in fact may not be a code violation. The most important thing to take away from here today is that the building codes are a minimum standard. The International Energy Conservation Code is a minimum standard. All these things are designed to be built with the most minimum of cost and designed in such a way that a person can have reasonable expectation of health, comfort, and safety. Now, in the case of Brandi, I'm well aware of their project. If that was built in our jurisdiction, the contractor would have already lost his license for what he did. That's part of our system, we have the ability to pull that, and most of the things that were done were egregious enough to allow that to happen. If you're outstate or someplace that doesn't have contractor licensing, that's not going to help anybody. And the other issue then comes down to, and I only say this more as a personal thing, but building officials in a

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lot of states are required to be registered with the state and have certifications to do that. I, for one, would not be against that at all, because I think that gives the building official a different level of understanding of what their rights and responsibilities are. Because not everybody has grown up in this business, so to speak. So with that being said, I will answer any other questions you have. Like I said, as far as the city of Omaha goes, we're kind of neutral. If the bill did go forward, we would probably like to see it with exempting us and any city who actually has a licensing program for contractors, versus registration. We could support that, that's why I said I'm kind of in a six-in-one, half-dozen-in-another position. So, happy to answer any questions. [LB591]

SENATOR WAYNE: Any questions from the committee? Seeing none, thank you for coming down. [LB591]

JAY DAVIS: (Inaudible). [LB591]

SENATOR WAYNE: Any other opponents? [LB591]

DON WISNIESKI: (Exhibit 4) Good to see you all again. My name is Don Wisnieski, D-o-n W-i-s-n-i-e-s-k-i, I am the immediate past president for the Nebraska State Home Builders Association and a builder in Norfolk, Nebraska. The Nebraska State Home Builders Association has been in contact with Senator Crawford's office and attended the hearing when it was an item...when the item was a study. It was then decided to go forward as a bill. After having conversations with the Senator's office and offering suggestions and solutions, the bill that has been submitted does not exempt cities, towns, and municipalities that already have code enforcement and inspections in place, and we feel that this would mean another layer of regulation and enforcement and additional time and costs. Therefore, our association cannot support the bill in its current form and must take a position of opposing LB591. We would like to at least keep in mind 25 percent of a house built today is regulation related. We're very conscious on additional enforcement, codes, inspections, and so on and so forth that would add layers of regulation and enforcement. So we do appreciate the time that we were involved with in trying to find middle ground on this. I would answer any questions if there are any. [LB591]

SENATOR WAYNE: Thank you for coming out today. Any questions from the committee? Seeing none, thank you for coming. [LB591]

DON WISNIESKI: Thank you. [LB591]

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SENATOR WAYNE: Any other opponents? Welcome back to your Urban Affairs Committee. [LB591]

JERRY STANDERFORD: Chairman Wayne, members of the committee, Jerry Standerford, J-e-r-r-y S-t-a-n-d-e-r-f-o-r-d, here again on behalf of the Metropolitan Omaha Builders Association, Eastern Nebraska Development Corporation, the two companies that I manage: Sherwood Homes and Lane Building Corporation. As someone who has been involved in the codes all of his life, I've been on every code review committee in Omaha since the inception of the IRC back in 2000. I'm a licensed contractor in the city of Omaha and did push for contractor registration at the time it was there. We do oppose this, this particular LB591. The contractor registration bill was never intended to be a tool of enforcement for the code. It serves its purpose well in identifying as insurance who is working in the state, their declaration as far as sales tax and so on. But it was never intended to be a tool of the code enforcement. Of all the entities that are required to register as a contractor in the state of Nebraska, this bill only affects the homeowners...or the home builders, I'm sorry. It doesn't affect the sewer guys, it doesn't affect the bridge builders, the paving contract guys. It only affects us, the home builders. I spent all my life building houses. I think our companies do a great job, I don't know anything else. So when I hear Brandi talk about her contractor and the experience she had, or the lady by Norfolk, we all cringe. Anybody that's been in this business for a lot of years cringes when you hear something like that. However, we feel that this bill can turn into a real witch hunt for contractors. This bill isn't just about the energy code, it's about the building code. It's about the building code that says you're in violation if your riser on the stairs is seven and thirteen-sixteenths, rather than seven and twelve-sixteenths. That's a violation. We often have violations, I'll be the first to admit. I do more training in my companies of my superintendents and my subcontractors I believe than any home builder in Omaha. We still have red tags, we have red tags every day. At the same time, we still...we also contest some of our red tags because we do feel we're very versed in the code, as opposed to what Jay would tell you. And I would agree with him, we're probably the most knowledgeable building inspectors in the state of Nebraska are in Omaha, Nebraska. But they still don't know every little aspect of the code. So for an unlimited time, for a homeowner to be able to bring in a building inspector, certified or not, and make a claim to the state that I have a code violation out there is absurd to us. Again, we empathize, and I don't know the real answer other than training, continuing education, those kind of things, to maybe guys who aren't well-versed in the code as well as maybe we are in the Omaha jurisdictions. But again, we think it's a problem and we can't see how it can turn into anything that is useful or will serve the industry well. That concludes my testimony, if you have questions of me. [LB591]

SENATOR WAYNE: Any questions from the committee? Do you think...I have a question for you. And obviously you didn't see the pictures that we saw, but do you think, based off of your experience, nothing new may be needed but more enforcement of the regular code that we already have? [LB591]

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JERRY STANDERFORD: Makes sense to me. You know, those codes are revised every three years. And the International Code Council, the smartest thing they ever did was when they started putting the year on the code, rather than a revision. Because now every time the ISO comes and says, look, you're three years out of date, we get more regulations and we get more codes. There's nothing wrong with the code. [LB591]

SENATOR WAYNE: So I'm going to ask you a hypothetical then. What do we hypothetically do, or what should we do...I guess it isn't hypothetical...what should we do to areas, because I'm a licensed general contractor, so I passed the code, I understand that, but not all jurisdictions have that enforcement. So what type of enforcement mechanism should we as a state be exploring in your opinion to areas that don't have like we have in Omaha. [LB591]

JERRY STANDERFORD: Sorry, I don't know the answer to that. [LB591]

SENATOR WAYNE: That's okay. That's a good answer. [LB591]

JERRY STANDERFORD: It's a really hard question. I understand the complexity of it. But at the same time, you know, to me in Omaha with builder licensing, and I know nobody likes to hear builder licensing. But we kicked that thing around for how many years in Omaha. Nobody likes to hear that, but I have to tell you that I think it made my competition a lot more competitive. I felt like I always knew the code, and I knew what I could do and what I couldn't do and what I was required to do, and maybe some of my competitors were doing more than they had to. But the builder licensing made every contractor in Omaha much smarter and knew what was at least expected. I would venture a guess that there are many contractors outside of the metropolitan areas that have no idea what version of the building code they're even on at this time. [LB591]

SENATOR WAYNE: Probably. Thank you, any questions? Thank you for coming down again today. Any other opponents? [LB591]

GREG SCHWINN: Good afternoon. My name is Greg Schwinn, G-r-e-g S-c-h-w-i-n-n, I am a home builder from Lincoln, Nebraska. I'm also representing the Lincoln Home Builders Association, and we are opposed to this bill as it stands. I don't really know all that much about the bill. I will tell you, though, I actually have a bachelor's degree in political science from UNL, and so I kind of dabble in this sort of a little bit. I started my building company, like Jerry, I've been my whole life I've been into the building. As soon as I graduated from college, I started in this industry. In the mid '90s, Governor Nelson asked me to be on an Affordable Housing Trust Fund Committee, where we brought a great deal of people together. We created some goals for what we wanted to see in the Affordable Housing Trust Fund. The bill passed, we all got to go to

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the Governor's office and sign it. Then the bill was passed on to the Department of Economic Development, the rules were written, and it looked nothing like what we had decided we wanted to do. I have that same fear here. And if any of you guys, I know none of you were involved in that because of term limits, but if you were to go back and take a look at what's happened to the Affordable Trust Fund over the years and how it's been twisted and turned, you'll understand that what turned out to be good intentions is far from where it is today. So for that very reason, I'm opposed to it. Home Builders Association are opposed to it because we just don't think the Department of Labor is the place to do this. We don't think they have the expertise, they don't need to add the expertise. You guys are all facing budget problems, do you need to add more people to the Department of Labor? Do you even have the money to add those folks? So for a myriad of reasons, we're opposed to it, and I'd answer any questions for you all. [LB591]

SENATOR WAYNE: Any questions from the committee? Thank you for coming down today. [LB591]

GREG SCHWINN: Thank you, gentlemen and lady. [LB591]

SENATOR WAYNE: Any other opponents? Any other opponents? Moving on to neutral testifiers, any neutral testifiers? Any neutral testifiers? Somebody walked in, so I wanted to give them a chance. Senator Crawford, you may close. [LB591]

SENATOR CRAWFORD: Thank you. Thank you, committee members, for your attention. And I thank Brandi Goldapp and Carol Avok, our homeowners, for coming to Lincoln again to share their story. And I appreciate they've shared it a couple of times because they shared their story at the interim hearing as well. And so I appreciate their time and attention to share their stories with you so you can see some of the concerns that happen in some cases. And really, you know, our discussions in the interim study and in crafting this bill are discussions about how to tackle this issue. I mean, it's a challenging, complex one, because we do want to protect local control. Yet, on the other hand, recognize that there are concerns wanting to make sure that we have enforcement of codes in our state and make sure that there are mechanisms in our state that work well for our homeowners. Meanwhile, again, not wanting to interfere with providing quality housing and affordable housing as well. So it is a challenging situation and I think in the testimony you've heard, you know, some issues, to make sure that we address in however we move forward. Including, you know, addressing material code violations and being attentive to that issue. And I will say for the record, just to be clear, the intent was not to enforce...was not to change the existing landscape in terms of the enforcement of the State Building Code. The State Building Code is enforced in municipalities that choose to adopt it and enforce it and in other parts of the state and in state buildings. And in other parts of the state, it is not. In other parts of the state, the main building code that is a state code is the Energy Office code. And as noted, the

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Energy Office can respond to complaints and may fine, but as we heard in our interim hearing, a small fine is a small price to pay then to go on and not address the situation. And so you can pay the fine and that doesn't help in the situation to really get the problem addressed. So it is also the case that we heard about the contractor licensing, and that was interesting to hear how that works in Omaha, in the metro area. That was one of the ideas that was also discussed in concern about moving that far. And so what were mechanisms that we could do to try to provide some leverage for existing enforcement mechanisms without going all the way to a state contractor licensure or some other mechanism. And that's really where the idea of seeing if it could build on our contract registry came about, was trying to find some mechanism to provide leverage without adding a new level of licensure or state agency involvement in some other new, different way. So I appreciate your attention and good questions. And I appreciate the suggestions and concerns that the opponents have raised as well. It gives us a lot for us to consider as we decide what we can do and how we can move forward. And I'm happy to answer any additional questions or new questions you may have at this time. [LB591]

SENATOR WAYNE: Any additional questions from the committee? Nope? Well, thank you. [LB591]

SENATOR CRAWFORD: Thank you. [LB591]

SENATOR WAYNE: (Exhibits 1, 2) I do want to read in...or at least make sure we're on the record for neutral support. The Nebraska Energy Office and also the Nebraska Associated General Contractors Nebraska Building Chapter both sent in neutral testimony. [LB591]

SENATOR CRAWFORD: So I should have mentioned you should also have in your packet an amendment, I believe for no...okay, sorry. So I will provide that to committee members, thank you. [LB591]

SENATOR WAYNE: Thank you. That will close the hearing on LB591. Now we will move to LB590, Senator Crawford. [LB591]

SENATOR CRAWFORD: Thank you. Good afternoon, Chairman Wayne and members of the Urban Affairs Committee. My name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th Legislative District of Bellevue, Offutt, and eastern Sarpy County. I'm honored to be here today to introduce LB590 for your consideration. LB590 would amend the state building code to bring occupancy classification related to in-home daycares and in-home care into alignment with current childcare regulations promulgated by the Department of Health and Human Services. During the interim, my office heard from multiple local building officials that current DHHS regulations on in-home daycares were in conflict with occupancy requirements in the state

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building code. LB590 is a result of those conversations with various political subdivisions and the Department of Health and Human Services' child licensing division and the State Fire Marshal. And it works to address the relevant conflicts between the state building code and the DHHS regulations. LB590 makes the requirements for in-home daycares in our state clear and consistent. The state building code, which is made up of select provisions in the 2012 International Building Code, was adopted by reference in 2015 through LB540. It's important to note that the state building code only applies to state-owned buildings and buildings in political subdivisions that choose to adopt the state building code. LB590 would amend the applicable sections of state building code to change occupancy classifications. This includes Sections 305.2.3 and 310.5.1 of the 2012 IBC. Both of these sections categorize facilities for having five or fewer occupancies as a residential occupancy. That's in the building code. As a result, facilities having more than five occupants would have to be classified at a different level of occupancy. And those alternative levels of occupancy, set out by the IBC, such as educational, commercial, or institutional occupancy, generally impose more restrictive code requirements on facilities. More restrictive codes could include fire sprinklers and other restrictions. These requirements would put new strict burdens on licensed in-home daycare providers across Nebraska that could put many of these invaluable providers at risk. The bill shifts that line to 12 or fewer persons in our building code. The current childcare regulations promulgated by the Department of Health and Human Services provide that in-home daycares may maintain a residential classification if they provide care to 12 or fewer children. LB590 changes the residential classification requirement for in-home daycares in our state building code from 5 or fewer children to 12 or fewer children in order to align the building code in our state with our existing DHHS home daycare regulations. The other change in LB590 simply clarifies the ability of state agencies to adopt, promulgate, or enforce rules and regulations in conflict with the state building code when specifically authorized by statute to do so. Per Nebraska Revised Statute Section 71-6405, "No state agency may adopt, promulgate, or enforce any rule or regulation in conflict with the state building code unless...specifically authorized by statute to adopt or enforce a building or construction code other than the state building code." LB590 adds language to further clarify that a state agency cannot only adopt or enforce rules in violation of the state code when authorized by statute to do so, but also enforce rules and regulations that may be in conflict when authorized. This allows the Legislature to decide when a change or exception should be made in how a specific department enforces the state code through their rules and regulations without having to change the state building code statute itself. This issue came to my attention, the issue of the daycares, came to my attention because the Omaha and Bellevue code officials noticed the challenge that these new provisions would create in their communities. I have drafted an emergency clause to make sure that we clarify this issue as quickly as possible and I urge the committee to adopt the emergency clause and move LB590 to General File. [LB590]

SENATOR WAYNE: With that are there any questions for Senator Crawford? Seeing none...
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SENATOR CRAWFORD: All right, thank you. [LB590]

SENATOR WAYNE: We'll start with opponent...I mean, proponent, sorry. Proponents. [LB590]

JAY DAVIS: Yes, it's me again. [LB590]

SENATOR WAYNE: Welcome back. (Inaudible) all day. [LB590]

JAY DAVIS: I know. My name is Jay, J-a-y, Davis, D-a-v-i-s, assistant planning director of permits and inspections, city of Omaha. We helped with this bill because one of the things that we ran into suddenly was with the adoption of 2012 codes is that if you had more than five children in a daycare facility on a residential property that kicked you to a commercial variation. In other words, it went to an institutional or educational. What happened is that started to roll in storm shelter requirements, started to roll in fire sprinkler requirements, and I don't need to tell you the pushback was immediate and painful. So in talking to the city of Bellevue as well, they also support this. We sat down and said, okay, how could we do this to make it legal, so that we could let the state continue with their current classifications of daycare and still keep us within the realm of what the code allowed us to do. This will help us, keeping in mind that zoning jurisdiction will probably have a little bit more to say about it as far as the restricted numbers go, but at least this gives DHHS the ability to work in our jurisdiction as well as outstate and not put a hindrance on a homeowner who has to put in a fire sprinkler system and/or a storm shelter at this case. So we support it, and I'm happy to answer any questions for you. [LB590]

SENATOR WAYNE: Questions from the committee? So I have a question I guess. So over the last two years now, many in-home daycares, and particularly north Omaha, were closed over coding issues where can no longer be grandfathered in because somebody else would take over the daycare and then they have to go through the inspection and need a sprinkler system and nobody has \$15,000 to put in so they virtually shut down their daycare. Somewhere around one-third of the north Omaha home daycares were closed over the last two, two-and-a-half years. How would this address some of that problem? [LB590]

JAY DAVIS: Well, it would help them as well because there's also a conflict with the life safety code or the fire code that if we do this, they're going to change theirs to match it as well. And the reason we're doing that is, I'm well-aware of a number of those daycares that closed, that we can't take those facilities away. They're very necessary, no matter where they are in the state. But in the areas in Omaha where the most need is, we certainly can't take them away because of what I would call a glitch in the code. I mean, we obviously want as few of people in there as we can have, but at the same time we want to make it so that if you have more people, you know, now putting in a smoke detection system, which is basically your hard-wire smoke detector, is a lot

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less expensive than putting in a fire sprinkler. So and that afford us a different level of protection that we didn't have to begin with. [LB590]

SENATOR WAYNE: So this change would definitely help those who are...I guess and I still get calls about that when I go community places, people still bring up this issue. So I can point to Senator Crawford's bill saying she did something about it and... [LB590]

JAY DAVIS: Yes. [LB590]

SENATOR WAYNE: ...they can call her? Okay, great. [LB590]

JAY DAVIS: They tend to call me in the end though. Yeah, and it does, it helps us in a number of situations. Now the one that we still have problems with are people who get an old commercial building and they want to put in a home daycare. We have a lot of misunderstanding on that, because if you don't reside in it, then technically it's not a residence, it's not a home. So we have to fight that one through a little bit. We're going to probably make some amendments to our ordinance to address that as well. Yeah, it's kind of a Catch-22 for us, we're putting people out of business. And that's certainly not what we want to do so. [LB590]

SENATOR WAYNE: I appreciate it, thank you. Any other questions? Thank you for coming down today. [LB590]

JAY DAVIS: Yeah, sure. You bet. [LB590]

SENATOR WAYNE: You can start that drive back now. Any other proponents? Any other proponents? Seeing none, opponents? Any opponents? Anyone testifying in the neutral capacity? Testifying as a neutral? With that, Senator Crawford. Senator Crawford, you can close. [LB590]

SENATOR CRAWFORD: Thank you, committee members, I appreciate your time and attention to this matter. LB590 will ensure that licensed in-home daycares that provide much-needed care, especially in our rural, underserved communities, can continue to do so under appropriate residential classification. And I appreciate your attention to this issue, we're trying to catch this early. And so and we talked to Omaha and Bellevue when they came to us with this issue early and so trying to make sure we get the code changed quickly, before other cities are rolling out and changing their enforcement and start to decided to enforce these stricter restrictions on in-home daycares. And so that's I think why you don't have a lot of people who are here that are alarmed or concerned about this yet, because we're trying to catch it before it becomes a problem and get the change made in our state code. [LB590]

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SENATOR WAYNE: (Exhibit 1) Any questions for Senator Crawford? Thank you. We do have one neutral letter of support...neutral letter of support, yeah. It's been a long day. One neutral letter from the State Fire Marshal, so we recognize that as a testimony in the neutral capacity. [LB590]

SENATOR CRAWFORD: Thank you. [LB590]

SENATOR WAYNE: So thank you again, and that closes the hearing on LB590. We'll go ahead, once the room clears, to exec real quick. [LB590]