

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

LATHROP: Good afternoon and welcome. OK, good. Welcome to the Judiciary Committee. My name is Steve Lathrop and I represent Legislative District 12 in Omaha, the Ralston, southwest Omaha area. And I am also the chair of this Judiciary Committee. I always start out with a little preamble. I'm hoping that more of my committee members will arrive. Sometimes they're off introducing bills. I know Senator Wayne, for example, is off introducing a bill. So I expect more members to come, and once in a while, they come and go. But in any case, on the tables inside the door, you will find yellow testifier sheets. If you are planning on testifying today, please fill out one of those sheets and hand it to the page when you come up to testify. There's also a white sheet on the table if you do not wish to testify, but would like to record your position on a bill. For future reference, if you are not testifying in person and would like to submit a letter for the official record, all committees have a deadline of 5:00 p.m. the last workday before the hearing. Keep in mind that you may submit a letter for the record or you may testify in person at the hearing, but not both. And only those actually testifying in person at the hearing will be listed on the bill's committee statement. We will begin testimony with the introducer's opening statement, followed by proponents of the bill, then opponents, and finally, anyone speaking in a neutral capacity. We will finish with a closing statement by the introducer if they wish to give one. We utilize an on-deck chair or series of chairs to the left of the testifiers stable. That's in this front row, and they're marked. Please keep the on-deck chairs filled with the next person to testify, to keep the hearing moving along. We ask that you begin your testimony by giving us your first and last name and spell them for the record. If you have any handouts, please bring up at least 12 copies and give them to the page. If you do not have enough copies, the page will make more if you like. If you are submitting testimony on someone else's behalf, you may submit it for the record, but will not be allowed to read it. We will be utilizing a three-minute light system. When you begin your testimony, the light on the table will turn green. The yellow light is your one-minute warning. And when the light turns red, we ask that you wrap up your final thought and stop. As a matter of committee policy, I would remind everyone that the use of cell phones and other electronic devices is not allowed during public hearings. You may see senators using them to take notes or stay in contact with staff. However, at this time, I would ask everyone to look at their cell phones and make sure they're on the silent mode. I'm going to do. Also, verbal outbursts or applause are not permitted in the hearing

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room. Such behavior may be cause for you to be asked to leave the hearing. You may notice committee members coming and going. That has nothing to do with how they regard the importance of the bill under our consideration. But sometimes senators have other bills to introduce in different committees or they may have some meeting or another to attend. And with that, I'm going to ask the members to introduce themselves. And we'll start with Senator DeBoer.

DeBOER: Hi. My name is Wendy DeBoer, I represent District 10, which is Bennington and northwest Omaha.

BRANDT: Tom Brandt, District 32: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties.

PANSING BROOKS: Hi, I'm Patty Pansing Brooks, representing District 28 right here in the heart of Lincoln.

SLAMA: Julie Slama, District 1, which is Otoe, Pawnee, Johnson, Richardson, and Nemaha Counties in southeast Nebraska.

LATHROP: We're assisted today in the committee, as always, by our committee clerk Laurie Vollertsen, who's to my left, and legal counsel Neal Erickson on my right. Our committee pages are Ashton Krebs and Lorenzo Catalano, both students at UNL. And with that, we'll begin our hearing. And we will take up LB883. Senator Hansen, welcome to the Judiciary Committee.

M. HANSEN: Thank you. Good afternoon, Chairman Lathrop and members of the Judiciary Committee. For the record, my name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. I'm here to introduce LB883, a bill that would make changes regarding child support orders. I had a constituent come to me over the interim with an issue she had with the courts and child support enforcement. I will let her tell the committee directly about her experience but will give you a quick summary of what this bill does. When someone fails to pay court-ordered child support, the custodial parent has different avenues they could use to sue to compel compliance. One of those is filing an application for order to show cause, which asks the court to enter an order requiring the person who owes support to appear and show why they have not, why they should not be held in contempt of court for failing to pay child support. You can easily get this application on the Nebraska Judicial Branch website, along with clear instructions on how to fill this out and submit it. And it is a common thing for individuals to handle pro se. However, you must be a party

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Judiciary Committee January 29, 2020

of the case in order to request an order to show cause. And as I learned, if you are a custodial parent and you are not automatically a party to the case. Specifically, if the action for child support was brought on the state on behalf of the parent receiving state assistance, the state is actually the primary party in the case, and the parent who is owed child support is left out of this process. And I believe this is unfair to that parent. My intent here is to, one, make the payee in circumstances, in this circumstance, a party to the case; and two, put notice language in child support orders explaining the payee's ability to request an order to show cause. As I stated, I had a constituent who will testify today about her experience and how the process worked for her. But with that, I will close and take any questions.

LATHROP: OK. Thank you, Senator Hansen. Any questions for the introducer? Seeing none, you will stay to close?

M. HANSEN: Of course.

LATHROP: OK. Very well. We will take prop-- proponent testimony this time. Good afternoon.

LEIGHA WICHELT: Hi. Members of the committee, my name is Leigha Wichelt, L-e-i-g-h-a W-i-c-h-e-l-t, and I'm here testifying in favor of LB883. I recently earned my law degree from the University of Nebraska College of Law and will be practicing family law upon passing the bar exam this spring. I want to start by saying that I'm here today not only because I'm passionate about policy issues pertaining to family law, but because I am a parent who at one time was struggling to collect past-due child support. I am fortunate to have unending family support and legal resources, but even then, it felt impossible to collect on a child support order because it was entered in conjunction with a complaint filed by the state. I called the Child Support Enforcement center for months without success, and when the past-due amount reached nearly \$7,000, I attempted to file an application for show cause. Because I was not a party to the original action, each attempt I made to get in front of the judge was dismissed. It was not until I sought assist-- assistance from counsel and filed an additional motion much later on that I was ever permitted to attempt to collect child support on my own. Once the child support order is entered, custodial parents like myself are blissfully unaware of the legal hoops they will have to jump through in order to get in front of a judge if the non-custodial parent doesn't pay. This is the first problem LB883 will remedy. Adding the custodial parent as a

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Judiciary Committee January 29, 2020

party from the beginning allows for a more efficient way to enforce child support in the future. In addition to saving the court and the county attorneys time and resources by avoiding unnecessary formalities like subsequent motions to join. LB883 will not slow down the process of getting child support orders entered, joining the obligee as a party is proper 100 percent of the time. The custodial parent is a necessary party and motivated to cooperate to get the order entered as quickly as possible. Additionally, the obligee is easily identifiable. They are the same person the county attorney compelled to attend the hearing on threat of losing state aid and the same person who is receiving the state aid, which prompted the filing of the complaint to begin with. With or without this small change in Nebraska law, the county attorney has the obligation to identify the proper obligee to run the child support calculation and to enter the child support order. Finally, the great thing about LB883 is that it costs the taxpayers nothing. In fact, the bill will actually save the state money in the aggregate. As the delinquency of child support rises, so does the need for the parent to continue receiving state aid. Allowing for an easy, efficient way for a parent to take collections into their own hands will take some of the burden off the child, the Child Support Enforcement center and the county attorney's office. A pending application will not limit the county attorney's ability to enforce, nor will it put a stop to any other child support actions that are already being taken by the Child Support Enforcement center. By the time the county attorney's office or the Child Support center acts, the parent has already gone for months without payment. As the law stands, applications for show cause are only functionally available to parties of the original action or those with council. Passing LB883 will greatly improve the lives of parents and ultimately, perhaps most importantly, the children in the state. I'd be happy to take any questions you have.

LATHROP: All right, very good. Any questions for this testifier? I don't see any, but thanks for being here.

LEIGHA WICHELT: Thank you.

LATHROP: We appreciate your testimony. Any other proponents of LB883? Seeing none, anyone here in opposition to the bill?

PATRICK CONDON: Good afternoon, Chairman Lathrop, members of the committee, Judiciary Committee. My name is Patrick Condon, P-a-t-r-i-c-k C-o-n-d-o-n, I am the Lancaster County Attorney. And I'm here on behalf of the Lancaster County Attorney and also on the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

Nebraska County Attorneys Association in opposition of LB883. And real quick, the county, when we enter our appearance on these things, of the obligee in these issues are the children. That's who we are there on the behalf of, to try to collect the support from the non-possessory or the non-custodial parent, parent. The issues that we have with this bill are basically twofold. On Section 3, the custodial parent may not be a party to the action, which you heard from the, from the initial opponent-- proponent testimony. They would need to intervene it at-- to begin with. There are forms on the judicial website to show them how to intervene, so they could do that as it is today and they could intervene. The thing is, is that with a contempt action, the potential for that individual is that they could be, at some point in time, put in jail. So they are going to be given an attorney in that contempt action. So you're going to have somebody who is not an attorney that is-- that may intervene on behalf of the child. And then they're going to get there and attorney is going to be appointed for the non-custodial obligor, and they're not going to know what-- a lot of times they do not know how to proceed from there, and they're kind of stuck. The other thing is, is should they get service on the non-custodial parent and that individual does not show up, then a warrant is issued for their arrest. And then two or three months later, maybe they get arrested on the warrant. Then we need to get back in touch with the, with the possessory or custodial parent to bring them in to proceed with the action. So the fact that, you know, this, there isn't any cost to the state, there is costs to the county because the county is going to be responsible for that individual who is being held or could potentially be held in contempt. And although B, section B-- (b) of Section 3 says all other remedies are available, if an intervening party has filed a contempt action, they may not be able to-- the state may not be able to go forward with their collection procedures. Real quick on 5, the one thing that, that is concerning there is the obligor and obligee are both need to be named. That would include addresses. A lot of these are domestic violence or, in some cases, rape cases. And therefore, we are putting those victims' names and addresses out there. That's something that we try to do to protect, so they are not out there, so they do not get named. Under this bill, those individuals would have to be named. The other issue on this is that you can have somewhat of a shaming of, of the mother. There are occasions where a mother will come in and say, I think the father is father number one, but it could be father number two or father number three. Under this bill, we would need to name all those individuals. As it is now, we name the one that we think it is, not, not any potential obligor, but who we believe it is. And then we

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

proceed with genetic testing to try to establish a support. If that isn't the father, then we move on to the next one. But in this one, the mother would basically be saying to everyone, you know, potentially these are the three fathers of this child. So we are in opposition of LB883, and I would be happy to take any questions.

LATHROP: OK. I want to ask you a quick question.

PATRICK CONDON: Sure.

LATHROP: So if somebody, if somebody has a child--

PATRICK CONDON: Correct.

LATHROP: --and they now want to get public benefits, the state starts paying public benefits. The file ends up on your desk.

PATRICK CONDON: Right.

LATHROP: Now you're going to go after the person thought to be the father to have that person contribute.

PATRICK CONDON: Correct.

LATHROP: You filed this action. In that proceeding, do you sort out visitation?

PATRICK CONDON: That, that is left to, to the, to the courts. I mean, they can, you know, they can ask for that. We can--

LATHROP: But at that point, dad would be joined in the action.

PATRICK CONDON: Right.

LATHROP: And then we can sort. But if that hasn't happened and mom is coming in, does this have the potential to get the court tied up in, in--

PATRICK CONDON: It has--

LATHROP: --visitation disputes?

PATRICK CONDON: Visitation disputes. And that's sometimes what you see. I mean, there's a lot of things the county attorney will try to do prior to finding them in contempt and saying, you know, you now go to jail for 15 days for a contempt action. We tried to do it through

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

automatic withholdings, through license suspensions, through other options that we have available to us. And sometimes, you know, in divorce proceedings, it's a very emotionally charged event and a party may come in and say, I want to go right to the, to the-- in putting them in jail. And that, and that, that doesn't help the kids. And so having the county attorney there, we kind of say, look, this is what we're doing. We're here for the kid, we're trying to establish an order and trying to get the individual to pay.

LATHROP: OK. I don't see any other questions. Thanks for being here today.

PATRICK CONDON: Thank you.

LATHROP: Anyone else here in opposition to LB883? Anyone here in a neutral capacity? Seeing none, Senator Hansen, you may close.

M. HANSEN: Thank you, committee members, and for your time and attention to this issue. We did hear the concerns of the county attorneys before this hearing and ultimately, unfortunately, I regret didn't have enough time to kind of talk with them in any depth. I will say I do understand the point where if paternity hasn't been established and there is an unclear father. I get that component, that it might be naming or unclear who they have to name parties. But for the rest of the opposition testimony, in either case, if the mother or custodial parent, regardless of gender, files first or if they successfully file in to intervene in the case, they would have all of the rights and obligations and potential problems that we would be giving them by, just by making them a party to the case. I'm really struggling to find the time when in which the custodial parent, the obligee, the payee is either unknown or undeserving of being a party to the case. That's just what we're trying to clean up here. But with that, happy to work with the committee counsel, the committee, and all interested stakeholders. Thank you.

LATHROP: I appreciate it. I do not see any questions. Thanks, Senator Hansen.

M. HANSEN: Thank you.

LATHROP: We do not have any letters on this one, so that will close our hearing on LB883. You're not getting out of the chair?

M. HANSEN: No.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

LATHROP: That's because you've got the next one. LB1006, Senator Hansen.

M. HANSEN: Thank you. Good afternoon again, Chairman Lathrop and members of the Judiciary Committee. For the record, my name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. I'm here to introduce LB1006, which changes the number of days to answer a garnishment summons from the current law of 10 days to 30 days. I'm bringing this bill on behalf of the Nebraska Grocery Industry Association. It is my understanding that the current time frame of 10 days to respond to guardianship summons-- garnishment summons places a hardship on retailers across the state. Oftentimes service performed at the local store, which then has to send the notice back to corporate, and can oftentimes make it difficult to get everything turned around within the 10-day limits. It was brought to my attention before the hearing that there's another section of statute that we should also amend to 30 days if we go forward with this bill, and I'd be happy to work with committee counsel to make sure we get that correction and that technical change in the amendment. I will say there will be testifiers following, following behind me who work in this area and have expertise, especially how it impacts retailers across the state. And with that, I'd be happy to answer any questions.

LATHROP: OK? I see no questions.

M. HANSEN: Thank you.

LATHROP: Must have been perfectly clear. First proponent, please. Welcome.

NICK McGRATH: Good afternoon, Chairman Lathrop, members of the committee. My name is Nick McGrath, N-i-c-k M-c-G-r-a-t-h, and I'm an attorney with the law firm, Jackson Lewis in Omaha, Nebraska. I'm testifying in favor of LB1006 on behalf of my client, Casey's General Stores. Currently under Nebraska law, when an employer is served with garnishment interrogatories for a debtor employee, the employer has a 10-day window to furnish answers to those interrogatories. If the interrogatories are not received by the court and file stamped within 10 days of service, the employer can become liable on the underlying judgment. The 10-day deadline is an anomaly when viewed in context with our neighboring states and, in practice, compliance has proven incredibly difficult. The 10-day deadline also creates a strain on judicial resources. Many default proceedings that are initiated as a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

result of missing said deadline could be avoided if the deadline was extended. For instance, imagine a court clerk who receives responses to interrogatories on day 9 out of 10. And for whatever reason, the interrogatories remain on the desk of the clerk or the clerk is busy with other tasks that day and they're not file stamped and uploaded to the docket until day 12. An aggressive attorney on the side of a collection agency could recognize that this deadline has passed and could initiate default proceedings. The employer is in a position where they have to hire outside counsel to resist these default proceedings and ultimately try to persuade the court that the responses were served at-- were filed timely. Another situation for out-of-state employers, and particularly Casey's, would be if, if these interrogatories were served on a Nebraska retail location, say, in North Platte, and then these documents have to be provided to Casey's HR in Des Moines. There's obviously time involved with getting the documents to Des Moines. Des Moines then has to gather the information, respond, and get them to the court. And ultimately, in some circumstances, the debtor who is named in the interrogatories is, is not even an employee at this point. And again, these are circumstances that we've seen come up in our practice. And extending the 10-day deadline would help alleviate some of these issues. By increasing the employer's response time from 10 days to 30 days, LB1006 provides flexibility and forgiveness, and the bill recognizes the impracticality of the 10-day deadline on out-of-state employers in particular. It also would operate to save judicial resources. And for those reasons, I would urge that you advance LB1006. And I'm happy to field any questions.

LATHROP: OK. Senator Brandt.

BRANDT: Thank you, Chairman Lathrop. On the document transfer, can't you just scan that and send it to headquarters?

NICK McGRATH: That is something that can happen. But what, what really, what really we've found to be the problems that we can not submit these documents electronically with the court. And that's really where the time constraint comes in. It has to be received via email and timestamped and uploaded. So that creates a delay. And really, the bigger issue, aside from, you know, getting it from our retail store headquarters, is these, these documents can be served on any employee. So it could be an 18-year-old high school student who's working as a clerk is given these, these garnishment interrogatories, doesn't know what they are, discards them, or puts them on the desk of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

a manager in the back and they, they just go unattended to. Or by the time they realize what they are, a few days have gone past and then compliance with the 10-day deadline is impossible. So that's where the problem comes in from our end.

BRANDT: All right. Thank you.

NICK McGRATH: You bet.

LATHROP: Senator Pansing Brooks.

PANSING BROOKS: Thank you. Thank you for coming, Mr. McGrath. I guess what I'm interested in is once, once they, that there are these interrogatories, aren't the, the accounts frozen basically of the person? And so we're just extending that, that freezing of accounts from 10 days to 30 days? Is that correct?

NICK McGRATH: That's not correct.

PANSING BROOKS: OK.

NICK McGRATH: That's not our understanding. That has to do with the financial institution. So when a bank account is garnished through a bank, the assets are frozen in the bank account. Wages are different. So, frankly, the 20-day extension benefits the debtor. Payroll is not interrupted during that time and, in fact, they're likely receive an additional paycheck that's free of garnishment during that extended period.

PANSING BROOKS: But this, this also would include bank accounts, right?

NICK McGRATH: Not this. This specifically is for responding to interrogatories for employers. It's extending the 10 days.

PANSING BROOKS: I'm just trying to figure out whether the whole statute area. I know you're concerned about--

NICK McGRATH: Well, I understand, but my understanding is that it's two separate proceedings. You would have to petition a court to garnish wages. And it's a separate matter to petition the court to garnish a bank account. So it's two separate, distinct methods of garnishing property.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

PANSING BROOKS: OK. Well, hopefully somebody will clarify. Thank you.

NICK McGRATH: Yeah.

LATHROP: Senator Slama.

SLAMA: Hi. Thank you very much for coming out here today. You're representing Casey's General Stores, correct?

NICK McGRATH: That's right.

SLAMA: Great. Does Casey's General Stores conduct their own garnishments or do they contract that out?

NICK McGRATH: That's a good question, I'm not sure if they, if they contract out or not.

NICK McGRATH: OK. Well, thank you.

LATHROP: I see no other questions. Thank you, Mr. McGrath. Appreciate you being here today.

NICK McGRATH: Thank you.

KATHY SIEFKEN: Good afternoon, Chairman Lathrop and members of the committee. My name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n, and I am the executive director and registered lobbyist for the Nebraska Grocery Industry Association here today in support of LB1006, which deals with garnishments. We would like to thank Senator Hansen for sponsoring this bill. It's a, it's a solution to a problem. And the problem is that the 10 days in today's world isn't enough time. If anyone else uses United States Postal Service like our office does, you will understand that it no longer takes overnight for a letter to get someplace. So on the back end of this service, when our members mail the documents back to the court, the time that it takes for it to go through the Postal Service is part of that 10 days. And as Nick had mentioned, sometimes the judges deal with that and sometimes they just hold hard and fast and it's not viewed as being in the court system until the-- it is, is entered by the people on the other end. Another thing that I'd like to point out is the fact that this isn't a fix for only the big operators in our state. It's also something that's needed for our smaller stores. We've got many, many retailers who have maybe two or three locations. And the same problem arises when the service is made at one point and corporate office that handles it is at another point, and trying to get all of that paperwork went over to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

the place it needs to go, especially if it's not something that these people deal with on a regular basis. So it does cause some frustration on both ends. And then when we've got our single store operators, I have heard from some of our members in that when a garnishment is served during December, that's their busiest time of the year. And frankly, the holiday season is the make-it-or-break-it period of time. And we have a labor shortage in the state of Nebraska. So we actually have store owners that are working 60 hours a week. And when it is during the holiday season, when they are trying to make sure that they come in in the black, and then suddenly they have a 10-day deadline within which they need to answer all of these questions and get back, it interrupts the flow of work and really does impact their bottom line. In response to Senator Brandt's question about can they just scan it to headquarters, grocery stores are not technologically as advanced as many other locations, especially our C stores. They simply don't have the ability to do that at store level. If you have any questions, I'd be happy to answer.

LATHROP: Senator Brandt.

BRANDT: Thank you, Senator Lathrop. Can you describe for me, if I'm an employee of your C store, they send notice to you that they're going to garnish my wages. Is that how it works right now?

KATHY SIEFKEN: They send notice to the employer at the location where the employee works that wages will be garnished. And that paperwork then, the people locally don't have the authority to fill that out, nor the know-how. And then they turn around and send it to corporate office. In many instances, that corporate office is not in the same community.

BRANDT: So then you've got a 10-day window in the state of Nebraska because it takes so long to do what you say. What's the penalty to the business because it's outside the 10-day window?

KATHY SIEFKEN: They run the risk of being held liable for the entire judgment. So if the judgment is \$3,000, the, the employer runs the risk if he misses that deadline of being held liable for that entire debt. And there's a reason for that, it's because you do have to have strong leverage to make sure that people do what they're supposed to do, especially, and I'm going to use child support. It's the only way you're going to get money for those kids is through garnishment, it's very important that the garnishment system works. And so that's why there's such a heavy hammer there. But-- and we don't mind that hammer

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

because everyone needs to do what they need to do to make sure that the child support payments are paid. And we're willing-- and we're not arguing that point. All we're saying is that 10 days is not enough time to turn things in today's world, because even the Postal Service, you mail, mail something from Lincoln to another Lincoln location, sometimes it will take four days to get it just down the street.

BRANDT: But wouldn't the solution be when that employee is hired, that the address given for employment is the corporate office? So that that, that mail goes to where it needs to go right away? All we're talking-- it seems to me what we're discussing here is the mail is going to the wrong slot and now we've got to get that mail over to another state.

KATHY SIEFKEN: I don't think that's an option.

BRANDT: OK. All right.

KATHY SIEFKEN: Because we had talked about maybe one of the solutions would be to also send it to the register, the registered agent, because everyone has a registered agent. But there are problems with that, too, because that ratchets up the attorney fees for our single-store operators. And they only have to be updated every two years. So we looked at other options to try and figure out how to get the notice where it needs to go. And this was our solution.

BRANDT: Right. Thank you.

LATHROP: I've got a question for you, Ms. Siefken. Does, do the stores have an opportunity to e-file or is that only lawyers? So if you have answers to garnishee interrogatories, can you e-file those?

KATHY SIEFKEN: I do not believe that that is an option.

LATHROP: OK. That would certainly cut down on this whole--

KATHY SIEFKEN: Yes, it would.

LATHROP: --headache you've described with the mail.

KATHY SIEFKEN: But we still have the issue with the mail going to the wrong place and getting it to corporate office or over to where it needs to go.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

LATHROP: Yeah, but we just cut four, four days off of the last mail.

KATHY SIEFKEN: That's true.

LATHROP: OK. Well, just a question I had. I don't see any other questions for you. Thanks for being here today.

KATHY SIEFKEN: Thank you.

LATHROP: Anyone else here as a proponent?

JIM OTTO: Senator Lathrop, members of the committee, my name is Jim Otto, that's J-i-m O-t-t-o. I am a registered lobbyist for both the Nebraska Retail Federation and the Nebraska Restaurant Association. And I am here to testify in favor of LB1006 on behalf of both associations. Just a personal note, you don't know how personally satisfying it is for me to actually testify in favor of one of Senator Hansen's bills on behalf of those associations. And I, my only regret is that Senator Chambers isn't here to witness it. So with that, on behalf of both associations, we totally agree with what has already been said. I don't need to repeat it. I do want to mention that there are many Nebraska businesses whether those be retailers or restaurants that do have more than one location. And this becomes a problem for them, too. And I also asked your question, Senator Lathrop of the first testifier, and he said those cannot be sent electronically, they must be sent by mail. With that, I probably can't answer your questions, but I'll try.

LATHROP: Well, I see no point in asking. Thanks, Jim. Anyone else here as a proponent of LB1006? Seeing none, anyone here in opposition? Good afternoon.

JOSH DICKENSON: Well, good afternoon, Chairman Lathrop. Good afternoon, committee. My name is Josh Dickenson, I'm a practicing attorney with the Spencer Fane, LLP, firm in Omaha, Nebraska. I'm here to speak on behalf of the Nebraska Collectors Association, of which I am a member. Your honor, we're here on behalf of the NCA. The NCA represents debt collectors who are licensed and operate in the state of Nebraska. Our members represent many of the small businesses that are out there: plumbers, electricians, doctors, folks that are owed money and need to try to collect that for the goods and services that they provided. We rose in opposition to this because, frankly, we believe that this bill is a solution in search of a problem. The current garnishments statute has worked well in this state-- in this

state for decades without issue. And if anything, I would disagree with several of the previous speakers that would suggest that in today's day and age, it's become more of a problem. In fact, with the advent of the Internet, emails, facsimiles, it is not a difficulty to be able to transmit documents from locations to corporate headquarters. Really, the issue here is not a legislative fix, it's a process fix for these companies who have good processes in place in order to be able to transmit papers that are served upon them to the appropriate folks that need to answer them. And answering them is not a difficult process. And in fact, to answer one question, many of the major employers, and I suspect Casey's among them, outsource many of these functionalities to ADP and other payroll services. Certainly not all of them, but many of the major companies have very specific entities that specialize this and that engage in this particular activity and can respond. Overall, I do want to answer one question that Senator Pansing Brooks asked, which is, does this apply to bank garnishments? And it most certainly does. It's one-- it is the, the garnishment statute applies to both employment and to bank garnishments and this will, in fact, hurt consumers. Predicate of the question is, when a bank receives a garnishment, it in fact has to freeze the amount of the garnishments for the period until it is ultimately adjudicated. If we lengthen the period of time by which this is adjudicated, that is more time in which at least some of the funds of somebody who is already financially distressed will not have access to those funds during this period. So it does, in fact, under certain circumstances, hurt consumers. It-- there is no need for a legislative fix, and it will also be a drain on judicial resources in that there is a requirement for a hearing to be held within a, a statutory period. But if we lengthen the period by which employers are allowed to answer these garnishments, the court may not have all the information it needs in order to adjudicate the matter and we'll have to continue the matter until there actually is, is a response to the interrogatories. So for those reasons, we believe that there is no need to extend the period of time. This is a question of process for, for the employers in the state of Nebraska that we believe is easily within their purview to solve. With that, I'll answer any questions that any of the senators have.

LATHROP: I do have a question for you. Just as a matter of background. So if there is an employee in Douglas County working at a Casey's that owes, has an outstanding judgment, you issue a garnishment, can you

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Judiciary Committee January 29, 2020

serve that across state lines? Can you serve that on the corporate office in Iowa? Or do you have to serve it on the local?

JOSH DICKENSON: We, we-- I'll tell you process then I'll tell you, legality. Legality is, is no, it has to be served in the state of Nebraska. But process, we certainly would, many of our members and what is typical would be to serve at both places. But in order to be legally binding, has to be served in the state of Nebraska.

LATHROP: OK, now the e-filing question. So lawyers can e-file. We'll have a bill pretty soon on e-filing just probate proceedings. But can non-lawyers use the e-filing system?

JOSH DICKENSON: My understanding is that in most counties, no. The-- and that is a, I think, a problem that will be resolved over time. But to my understanding, no, I don't believe that non-lawyers can file, although whether there be processes and procedures for either companies through their in-house legal department or otherwise to be able to e-file, I think that that, again, could be part of the concerns that are trying to be solved here.

LATHROP: OK.

JOSH DICKENSON: But, yeah, that, that's something that's, you know, it's a, it's a process to get the e-filing up and moving and, and having access to everybody.

LATHROP: Very good, I appreciate your testimony. You've answered my questions. And I don't see any others. Thanks for being here today.

JOSH DICKENSON: Thank you.

LATHROP: Anyone else here in opposition to LB1006? Seeing none, anyone here in the neutral capacity?

ROBERT J. HALLSTROM: Chairman Lathrop, members of the committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today as registered lobbyist for the National Federation of Independent Business. I am appearing in a neutral capacity, but I did want to make some comments for the record. I think certainly are certain circumstances in which small businesses, particularly those that are members of NFIB, who are mostly five employees or less, can find themselves in a situation where answering within 10 days can be a problem and a hardship. You have those small employers who have a-- if they have a payroll department, it's one person, it's generally going

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Judiciary Committee January 29, 2020

to be the owner. If the owner finds time to take a vacation or happens to be sick, you can see there are certain circumstances. What I might suggest is perhaps 30 days may be a little bit too long, but an extra 5 days or perhaps some exception for extenuating circumstances might be something that would give businesses an opportunity to avoid the hardship when they find themselves in those positions. A couple of technical issues. As Senator Hansen indicated, I had suggested that 25-1010 as similar provisions. If a change is going to be made, that might be a statute that needs to be opened up as well. Secondly, I think this bill also addresses the 30 days to return the summons. That may not address the problems or the concerns that are issued here. One final thing I might raise for the committee's consideration, 25-1010 has some provisions with regard to financial institutions. I'm not here on behalf of the Bankers Association today, but there is a provision of law that allows a financial institution to designate a headquarters or a location for service of all of the garnishment interrogatories. If it's constitutionally possible, perhaps these out-of-state corporations could be given similar authority so that they would have those interrogatories sent directly to them. I understand there's issues with the summons, but perhaps the garnishment interrogatories could be sent directly to the out-of-state corporation to avoid that interplay between the local headquarters. May not be workable, but it's out there as a solution that worked well for financial institutions.

LATHROP: Thanks, Bob. I see no questions.

ROBERT J. HALLSTROM: Thank you.

LATHROP: Thanks for your input. Anyone else here in a neutral capacity? Seeing none, Senator Hansen to close. The record can reflect that we have no letters for, against, or in a neutral capacity.

M. HANSEN: Perfect. All right, thank you. And thank you, committee members. Thank you, Chairman Lathrop. It was my intent with this legislation to only hit wage garnishments. I understand the section we opened up might have been more inclusive to other garnishment proceedings. In terms of like a financial institution, I view that differently, because that's something that kind of within their normal operation that's a common thing. You know, for some employers, having a wage garnishment might be the first time it's ever happened, might be new. And it's not necessarily their day-to-day operations the same way a financial institution is used to it. Which is why I thought for

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

like a small business, it might be helpful to have a longer deadline. With that, I will close. Be happy to work with stakeholders as always.

LATHROP: OK. We'll look forward to your work product.

M. HANSEN: Thank you.

LATHROP: Thank you. Senator Hansen, next bill will be LB-- that will close our hearing on LB1006 and bring us to LB966 and Senator DeBoer. Good afternoon.

DeBOER: Good afternoon, Chair Lathrop and members of the Judiciary Committee. I am Wendy DeBoer, W-e-n-d-y D-e-B-o-e-r, I represent Legislative District 10, located in northwest Omaha and Bennington. I'm happy to introduce to you this afternoon LB966, which seeks to adopt the Uniform Wills Recognition Act. LB966, was brought to me by members of the Nebraska State Bar Association and practitioners who focus on the areas of real estate, probate, and trust law. Those who practice in this area of the law report that there are, they are continually seeking-- seeing more and more Nebraskans whose assets for purposes of estate planning include real proper, property located in foreign countries. The challenge for a Nebraska attorney assisting such a client is that a will executed under Nebraska law does not always comport with the laws of the foreign country in which the property is located. Thus, handling the transfer of the property after the person, person's death can become burdensome and complicated. This is where LB966 and the Uniform Wills Recognition Act comes in. If Nebraska adopts LB966, a Nebraskan could prepare an international will that complies with the requirements of the Washington convention of 1973. Such a will could then be used to probate property in a foreign country that has signed onto the convention upon the person's death. Eighteen states and the District of Columbia have adopted this uniform act, allowing their residents to do the same. To put it simply, the bill streamlines the process for probate for real estate in certain foreign countries and provides net-- Nebraska estate planning attorneys an additional tool in serving their clients. I also have AM2026, which I can have passed out to the committee. The amendment strikes Section 10 of the bill, which requires the Secretary of State to establish a registry system. Striking this section will remove any cost of implementing the bill. And I understand that most of the states which adopted the uniform law do not implement this section. I'm happy to answer any questions. I know there's a representative, however, from the Bar Association that will testify after me and maybe

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

answer some of your more specific questions as well. Thank you, and I ask for your support in advancing LB966 to General File.

LATHROP: OK, I see no questions. We'll look forward to the testimony. First proponent.

TIM HRUZA: Chairman Lathrop, members of the Judiciary Committee, my name is Tim Hruza, last name spelled H-r-u-z-a, appearing today on behalf of the Nebraska State Bar Association. I apologize that you're getting me. We had a practitioner that was lined up to testify and is not able to be here for the next two bills. We have been hearing, and this, this issue came up this last summer from some estate planning and probate attorneys that are handling estates with what, what seems to be the most recent or most obvious or most likely issue when they've got a cabin or a vacation home or a second home or some sort of real estate interest in Canada. There are a couple that have foreign interests over in Europe and different places, and it's a fairly cumbersome process right now if you have a will that is drafted under Nebraska law and comports with our uniform per Nebraska probate code to get the will probated in a foreign country. So the attorneys practicing in this area found this tool that the Uniform Law Commission has had around since the 1970s. A number of states have enacted it, and I believe a representative of the Uniform Law Commission will testify after me with a-- has a map of what that looks like. But you'll note that most of the states along the northern border of the United States have adopted this act to help with probating those real, real property assets located in Canada, Canada and in other countries. The bill is fairly simple. It provides a tool. It provides a form-type will that would comply with the requirements of the convention so that the will could be probated in a foreign company that has signed on to the treaty. It does not affect existing wills under Nebraska law and it would not affect the profit-- process for how you would establish a will for your other property located in Nebraska. It's a tool for those clients that might need it, and will help simplify things in terms of probating estates in the future. With that, I'm happy to answer any questions you might have. Just to speak to Senator DeBoer's last comment, we've worked things out with the Secretary of State's Office. Section 10 of the bill is an optional provision from the Uniform Code. When we drafted it, we just had, had the code, the Uniform Act, I guess, trans-- transcribed as it would be in this proposed bill. After speaking with attorneys, it's not a necessary provision. That deals with-- that will take away the fiscal note issue and allow, allow for the-- allow us to pass the bill

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

without a fiscal note. So I'm happy to answer any questions you might have.

LATHROP: I see none.

TIM HRUZA: Thank you.

LATHROP: Thank you.

TIM HRUZA: And thank you, Senator DeBoer.

LATHROP: Good afternoon.

STEVE WILLBORN: Mr. Chairman, members of the committee, my name is Steve Willborn, S-t-e-v-e W-i-l-l-b-o-r-n. Many of you know I'm a labor lawyer, I don't know much about probate. So be kind with your questions if you have questions. But I'm here as a member of the Uniform Law Commission to provide some background information on this act. As you know, the Nebraska Uniform Law Commission is our delegation to the National Uniform Law Commission, which is a confederation of all the states to [INAUDIBLE] laws where uniformity and laws appropriate and desirable. Members of the Nebraska commission include Harvey Perlman, Larry Ruth, Joanne Pepperl, Jim O'Connor and John Lenich. So in 1973, the United States signed a convention that would facilitate the international recognition of wills. But the treaty was not self-executing, it had to be implemented through statute. And since probate is the dom-- is in the domain of the states, the State Department worked with the Uniform Law Commission to draft a uniform statute that would implement the treaty, [INAUDIBLE] this act, which was promulgated by the Uniform Law Commission in 1977. And since then, it's been adopted in about 20 states. And you have the enactment map showing which states they were. And I've also distributed like a lot of information about the act. I think the enactment history has been a little disappointing to the State Department. When they enter into a treaty promising to do something, they like to do it a bit more universally than this. But I'd say generally the states seem to enact this only when somebody in the state runs into a problem getting a will recognized, and then it goes to the legislature to fix the problem, which is what Mr. Hruza was mentioning happened here. So this enactment history is unusual for the Uniform Law Commission. Usually when we have a good act, there's a whole bunch of an enactments in the first two to four years and then it slows up. But here, it's just been enacting in no particular time frame. Vermont enacted this last year, Oklahoma and Maryland enacted

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

in the last decade, and a few states enacted in each of the preceding four decades. This act will work in 21 other countries that have ratified the treaty. This is most of the countries that would probably be of interest to Nebraska, including Canada, Australia, Italy, France, and the UK. So this is Uniform Act, I'm here to support it. Be pleased to try to answer any questions you might have.

LATHROP: OK. Thank you, Mr. Willborn. Any questions for this testifier? I see none. Thanks for being here today. Any other proponents wishing to testify on LB966? Anyone here in opposition? Anyone here in a neutral capacity? Seeing none, Senator DeBoer, you make close. She waives close. We have no letters to add to the record, so that will close our hearing on LB966 and bring it to Senator Morfeld and LB895. Good afternoon.

MORFELD: Good afternoon. Chairman Lathrop, members of the Judiciary Committee, for the name-- for the record, my name is Adam Merfeld, and that's A-d-a-m M-o-r-f as in Frank-eld, representing the "Fighting" 46th Legislative District, here today to introduce LB895. I introduced LB895 at the request of the Nebraska State Bar Association and attorneys who practice in the area of real estate, probate, and trust law. LB895 contains three provisions from the most recent version of the Uniform Probate Code that Nebraska attorneys believe will add some clarification on how certain issues might be handled if and when they arise in Nebraska. The bill does three things to clarify how certain assets or situations should be handled under the Nebraska Probate Code. First, it clarifies that a person having more than one line of relationship with a descendant may inherit only one share. Second, it would provide that a parent whose parental rights have been terminated cannot inherit if their child predeceases them. Finally, it would clarify that a will may provide for the passage of both assets owned at death and all assets acquired by the state after the decedent's death. Again, each of these provisions are cleanup provisions that have been adopted in more recent versions of the Uniform Probate Code. LB895 simply seeks to incorporate them into the Nebraska Probate Code. I'm happy to answer any questions that you may have, but note that while I did pass the bar exam, I don't feel competent in this area of law, and I think a few other people behind me don't either. But in any case, just had to throw that out there. I'm happy to assist in any way I can.

LATHROP: Did you say the Bar Association asked you to come?

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Judiciary Committee January 29, 2020

MORFELD: Yeah, they asked me to introduce this. I thought this was the perfect time to--

LATHROP: Before you put the one--

MORFELD: --bring up the bar exam.

LATHROP: That was before you put the bill in to--

MORFELD: Yeah.

LATHROP: --eliminate the bar exam?

MORFELD: We all make decisions that we regret.

LATHROP: Any other questions for this test-- for Senator Morfeld? Seeing none, we'll take proponent testimony on LB895.

TIM HRUZA: Chairman Lathrop, members of the Judiciary Committee, my name is Tim Hruza, last name H-r-u-z-a, appearing today on behalf of the Nebraska State Bar Association in support of LB895. Thanks to Senator Morfeld for introducing the bill. Again, another bill that comes from our real estate, probate, and trust section of the Nebraska State Bar Association. Mr. Bill Lindsay, who is a pretty well-known estate planner and attorney from Omaha, Nebraska, put this bill together. He is currently teaching an estate planning course at Creighton Law School and has been digging into the Uniform Probate Code. Nebraska's Uniform Probate Code, or the Nebraska Probate Code dates back to the 1970s. Over the years, we have modified and updated things, but we have never wholeheartedly adopted the more recent versions of the Uniform Probate Code that the Uniform Law Commission has promulgated. What this bill does is it picks out three things that, that Mr. Lindsay and other members of the Bar Association have identified as being fairly non-controversial, cleanup type things that will help provide guidance in situations that may arise. As Senator Moorfield explained, they're pretty straightforward. If you have any questions, I'm happy to answer them. But we believe that, that this is an opportunity to simply clean up some things. I will tell you that the Bar Association, at the urging of Mr. Lindsay, is intent on putting together a study committee internally to look at Nebraska's Probate Code, as well as the more recent versions of the Uniform Probate Code, and make a decision as to whether we need to look at a more full-scale review of the probate code and a full-scale update, since we haven't done one since the 70s. That effort is underway. It's

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Judiciary Committee January 29, 2020

probably a very long-term process, but adopting these three provisions will start us in that direction and give some clarification for these, these areas of the law. With that, I'm happy to answer any questions you might have, and I ask for your support for LB895.

LATHROP: I see no questions. Thanks for being here.

TIM HRUZA: Thank you.

LATHROP: Good afternoon, once again.

STEVE WILLBORN: Mr. Chairman, members of the committee, thanks for the vote of confidence. I'm still a labor lawyer, and I'm still a member of the Uniform Law Commission. This act, as was mentioned, is an amendment to the Uniform Probate Code.

LATHROP: Steve, can you give us your name and spell your name?

STEVE WILLBORN: I'm sorry. Steve Willborn, S-t-e-v-e W-i-l-l-b-o-r-n.

LATHROP: All right, thank you.

STEVE WILLBORN: I'm sorry. The Uniform Probate Code was promulgated by the Uniform Law Commission in 1969 and enacted by Nebraska in 1974. It's one of our signature products, but it's a somewhat odd one. I haven't reproduced it for you because it's, like I did the Wills Recognition Act, because it's 800 pages long. Covers every aspect of probate and a lot of other things like guardianships and conservatories and non-probate transfers of death. A lot of things. ULC has amended the UPC, Uniform Probate Code, many times, including as recently as 2019. And Nebraska has amended its version of it many times as well. Only about 20 states have been credited and including Nebraska, with adopting the UPC in total. But every state has drawn from it, and it's in every textbook. It's an important product. LB895, as has been mentioned, is a targeted set of amendments that have been identified by the Nebraska State Bar Association as important and useful in Nebraska. Just as some history, Section 2, on succession for a person who inherits two, through two different lines, was added to the UPC in 1975 and amended to use general-- gender-neutral language in 1991. Section 3 was added to UPC in 1991 and amended in 2008. And Section 4 was added to the Uniform Probate Code in 1991. So this reflects the good judgment of the Uniform Law Commission, and we would encourage you to support it.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

LATHROP: Very good. I see no questions. Thank you.

STEVE WILLBORN: Thank you.

LATHROP: Thank you very much for your testimony once again. Anyone else here as a proponent of LB895. Anyone here in opposition? Any testifiers in the neutral capacity? Seeing none, Senator Morfeld waives closing. We do not have any letters to add to the record on this bill. That will close our bill on LB895 and bring us to LB1031.

PANSING BROOKS: OK. Welcome to your Judiciary Committee, Senator Lathrop.

LATHROP: Thank you. Good afternoon, Vice Chair Pansing Brooks and members of the Judiciary Committee. My name is Steve Lathrop, L-a-t-h-r-o-p, and I'm the state senator from District 12, here today to introduce LB1031. I brought LB1031 at the request of the Court Administrator's office. It makes a simple change to allow for informal and formal probate actions to be filed electronically. With this bill, instead of having to provide a hard copy of the will at the moment of filing, we would allow petitioners to e-file as long as they agree to provide a hard copy of the will within 10 days. As you all know, the courts have already made a great deal of progress in expanding the use of the e-filing. This is just another step in that direction. And with that, I would ask for your support of LB1031.

PANSING BROOKS: Thank you, Senator Lathrop. Any questions for Senator Lathrop? Seeing none. Could we have our first proponent? Welcome, Mr. Steel.

COREY STEEL: Thank you, Senator Pansing Brooks. Good afternoon, m name-- members of the Judiciary Committee, my name is Corey Steel, C-o-r-e-y S-t-e-e-l. I am the State Court Administrator for the Judicial Branch, and in-- and I am in support of LB1031. I want to take, I want to take this opportunity to thank Senator Lathrop and his staff for working with us on a few what we call cleanup bills, or allowing the Judicial Branch to continue to provide efficiencies in the work that we do. Senator Lathrop talked about LB1031 increases court efficiency by removing a barrier to electronic filing or e-filing of new probate, probate cases. It is not-- or it does this by eliminating the requirement that the original will must be filed at the same time the case is initiated. I just want to make sure it is clear, the original will must still be produced within 10 days. But now a case can start progressing through the court system without

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

having the original will on day one so we can start the, the work within our system. LB1031 does not mandate e-filing, but does allow for e-filing to be fully implemented for probate cases. As you know, e-filing is not new to the court system. For example, approximately 70 percent of all of our civil cases are electronically filed, but it is not available for all types of cases. LB1031 makes it possible for the Judicial Branch to continue expansion of electronic filing or e-filing in the case, to new probate cases. Thank you for the opportunity to speak with you today, and I'd be happy to answer any questions the committee may have.

PANSING BROOKS: Thank you, Mr. Steel. Any questions for Mr. Steel today? Nope? Thank you very much for coming.

COREY STEEL: Thank you.

PANSING BROOKS: Additional proponents? Welcome, Tim.

TIM HRUZA: Vice Chair Pansing Brooks, members of the Judiciary Committee, my name is Tim Hruza, last name H-r-u-z-a, appearing again on behalf of the Nebraska State Bar Association in support of LB1031. Just wanted to mention that the Nebraska State Bar Association is in support of efforts to improve judicial efficiency in the state of Nebraska. We looked at this bill, lawyers are, are secure in the idea that it does protect as it requires assurances that a lawyer in the initial filing state that they have in their possession an authenticated copy or the original will that they will file within 10 days. The bill is good. We support the court's efforts, and we ask for your advancement of the bill to General File.

PANSING BROOKS: Thank you. Any questions for Mr. Hruza? Seeing none, thank you for coming today.

TIM HRUZA: Thank you.

PANSING BROOKS: Any additional proponents? Proponents? Any opponents? Opponents? Anybody in the neutral? Nobody in the neutral, OK. Senator Lathrop waives and that closes the hearing on LB1031. Thank you. Oh, were there any letters?

LATHROP: Our next bill is LB1020, that's a Senator Vargas bill. And I'm told that he's on his way down here, so we'll give him a couple of seconds to get here. We have moved along at a pretty good pace for-- given the number of bills and the subject matter. So we can understand

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

why Senator Vargas might not have expected to be up this soon. Senator Vargas, you're welcome to join us. We're ready to go.

VARGAS: Thank you.

LATHROP: This will open our hearing on LB1020. Senator Vargas is here. Welcome to the Judiciary Committee. Senator,--

VARGAS: Thank you.

LATHROP: --you may open.

VARGAS: A different room this year. OK. Good afternoon, Chairman Lathrop and members of the Judiciary Committee. My name is Tony Vargas, T-o-n-y V-a-r-g-a-s. I represent District 7, the communities of downtown and south Omaha in the Nebraska Legislature. All right. So put simply, LB1020 will prohibit discrimination based on source of income under the Fair Housing Act. Source of income is defined in this bill to include income from Social Security, child support, foster care subsidies, alimony, veteran's benefits, or any other form of federal, state, or local public general assistance or housing assistance. Source of income discrimination is seen primarily with housing choice vouchers commonly referred to as Section 8. I'm gonna give a really brief background regarding this. Section 8, just so that we're on the same page, Section 8 is a federal government major program for assisting very low-income families, the elderly and the disabled to afford decent, safe, and sanitary housing in the private market. Now participants find their own housing in the private market after receiving a voucher from a local public housing agency. The agency uses these federal funds for the vouchers to pay landlords directly the portion of the rent that the voucher covers only on behalf of the participating family. If you're eligible for a voucher, the process is generally as follows: you apply, you go through a background check, you're interviewed, you're placed on a waitlist. Once you receive the voucher, you have 60 days to find a place to live that accept Section 8. If you find a place to live, the portion of your rent that is covered by the voucher is paid directly to the landlord, and the tenant is responsible for paying the remainder of the rent on time each month to the landlord. Couple of additional notes I think are important, Section 8 is public assistance, but it is different than other programs that we, we think of from public assistance like Medicaid and SNAP. In those programs, if you're eligible, you get the benefits. But for Section 8, there are a limited number of vouchers available and the number available doesn't come

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

close to meeting the existing need. And just so you know, in Appropriations, we are dealing with need. I'll give you an example of the highlights of the need in just the Omaha area since that's the area I represent. In September 2019, the Omaha Housing Authority opened its Section 8 voucher list for one day to accept up to 1,000 applicants. They received roughly 10,000 calls. I want to take a moment to acknowledge upfront some of the pushback that you will likely receive in this hearing. I'd like to be frank. First, I want to reinforce that even though landlords would no longer be able to hold a no Section 8 policy, quote unquote, they would still be able to run their businesses as usual. Landlords can still use their regular screening criteria, including rental and tenant history, background checks and credit history. We're not forcing them to accept any tenant that holds a voucher, we're merely opening up the possibilities, the housing possibilities, for families that do hold vouchers and preventing them from being disqualified solely on the fact that they have Section 8 income to cover part of their rent. Second, landlords can still charge their regular rents. They can still charge the regular security deposits. And another tick in the pro column here is that rent payments from the vouchers are reliable and voucher holders have incentive to maintain their unit and pay rent on time. And remember, there is a waiting list that is years long and the threat of loss of the housing subsidy if they do damage the rental unit, don't pay rent on time, or evicted are severe consequences that those on the list are aware of. The third argument we often hear is against banning source of income discrimination is that landlords find the paperwork and inspection processes of federal programs like Section 8 onerous and not worth their time. I'm not here to say that the program is run perfectly. I don't know of any program that's run perfectly. But what I will say, and I would submit that the reason for the inspections is to ensure that units are safe for tenants. And I don't think legislators could or should be persuaded that basic safety measures should be foregone when there are public tax dollars in the welfare of families involved. But just as we acknowledge some of the concerns from landlords and others, it is critical that we address the reasons for LB1020 and answer questions about why it's necessary to prohibit this type of housing discrimination based on source of income. I talked earlier about a few of these reasons: the long process, the waitlist number of families need the voucher assistance, far exceeding the availability. Those are the process reasons. But there are much larger systemic reasons and institutional reasons that are at play and relevant to the context here. Some of which you might have heard Senator Chambers on the floor talk about or Senator Wayne or myself in

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Judiciary Committee January 29, 2020

some way, shape, or form. In 2015, HUD published a new rule on Affirmatively Furthering Fair Housing that requires housing agencies to, quote unquote, take meaningful actions that address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. To accomplish this, housing authorities must conduct an assessment of fair housing to better understand both their local and regional fair housing issues, to set priorities and goals based on their analysis, and to increase accountability for fair housing guidelines and planning processes. But here's the thing, HUD's AFFH rule includes the following, quote, a policy of overcoming patterns of segregation and the denial of access to opportunity that are part of this nation's history. This fair housing assessment for Omaha area now paints this picture, and it is particularly bleak. The report acknowledges the role that decade-long, redlining practices has been playing in Omaha into a city divided by race and ethnicity. And it's not just our city, it is all over our country. There were federally supported segregation practices that did end in 1968 with the Fair Housing Act, but the effects still remained. Minority populations are still concentrated in northeast and southeast Omaha. I hope that's not the first time you've heard that. OK. Minority population is still concentrated and communities west of 72nd Street have some areas where over 90 percent of the residents are white. Source of income discrimination, which is what we are trying to eliminate here with LB1020 is identified specifically as contributing factor to segregation and notably also as a barrier to housing for the disabled or differently-abled community. The report also talks about disparities in access to opportunity because of the impact of segregation on housing issues, specifically noting that black, Hispanic, and native students have barriers in access to proficient schools due to uneven distribution of resources across school districts in the metro areas and school assignment policies. And the last thing I'll note from this report is the analysis of household demographic and disproportionate housing needs, which show, and this is personal for me, that Hispanic, black, and native households experience the most severe housing issues, meaning that there are incomplete kitchens and plumbing facilities, more than one person per room, and a cost burden greater than 50 percent of the household income. Now consider all these things work together has led us to where we are right now. Federally sanctioned redlining policies led to the segregated communities that are still in existence today,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

where poverty is much, much, much higher and which really are the only areas that have public housing available due to a disparity in resource distribution across school district, school assignment policies, a lack of adequate public transportation. The kids in these communities, our kids are attending schools that are the most under-resourced. The parents are living in neighborhoods that are the furthest from major employers, a mismatch between unemployed and underemployed residents in the corridors in employment. We did pass several different bills on that historically underemployed and impoverished areas, the extremely blighted. In a nutshell, this-- and this is what intergenerational poverty is. And the state of Nebraska is perpetuating it by allowing discrimination and housing based on source of income. There's so much more research out there on the effects of living in higher opportunities, lifetime earnings, the likelihood of ending up in our criminal justice system and, and so many more. What I, what I really want to touch on is the long lasting impact on future generations. But the last thing on LB1020, because I know there's gonna be questions and there's gonna be really great experts behind me that are also gonna talk about this, source of income discrimination bans and the impact they have across the country. So far, 11 states, including middle of the country neighbors like Oklahoma, North Dakota, as well as 50 different cities, have enacted laws that prohibit landlords from refusing to rent to voucher holders based solely on the source of income. These laws cover about one in three voucher holders across the country. And a recent report from the Center on Budget and Policy Priorities expounds on the outcomes. First, that voucher holders in areas with voucher nondiscrimination protections, which is what we're talking about, are about twice as likely to succeed in using their vouchers to lease a unit, twice as likely. And second, in some of these areas with nondiscrimination protections, voucher holders are able to live in areas that tend to then be lower poverty than before the options were put into place. So what we see nationally is that the source of income nondiscrimination laws can address needs and concerns of both communities and landlords. It's happened. We've seen it work. Landlords can still use the regular screening processes for tenants. They could still charge regular security deposit and rents and they are assured payment of rent each month. Tenants have more housing options and therefore more success in actually using these vouchers, communities become less segregated, and more open for educational employment opportunities for working families and people that really need access to them. The last thing I'll say here is I just want to thank you. I know this is a, this is a small change that I think is

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

gonna have a really significant impact. I want you to think about the conversations we have on our existing programs like Medicaid, we have an existing need for it. And every single year we're trying to make sure the dollars that are going out or being used effectively. I'm happy that we have-- we've expanded Medicaid, but more importantly, that we have-- government employees are trying to make sure it is working. We have a program here that people apply for, get on a waiting list, have 60 days to then be able to then find housing options. And if you were to look right now, the number of listings that say we do not accept Section 8 housing vouchers, it will surprise you. And I want you to think about what it's like to be a family, to be a single mother of three, trying to find housing, you have 60 days to try to find it, otherwise you're gonna lose this voucher. And what that's gonna do to the intergenerational poverty impacts that we are trying to solve in this legislative body because we want people to work and be self-sustaining. And this is one solution to try to get around that. Thank you.

LATHROP: Very good. Senator Brandt.

BRANDT: Thank you, Chairman Lathrop. Senator Vargas, thank you for being here today. Help me understand this a little bit. Are you asking that they can't discriminate against Section 8 housing or are you asking that they can't discriminate against the source of income in addition to the voucher?

VARGAS: I'm asking that you can't discriminate based on the source of income. There are many different criteria and tools that an individual that is the landlord may be able to use that I think are fair. There are existing criteria that you already can't use for nondiscrimination. We're just saying it shouldn't matter where the income or the source of income comes if they're able to pay for it. This shouldn't be a disqualifying factor to being able to apply. If they then apply, there's a whole litany of reasons why somebody may or may not then be, you know, a tenant. But not being-- not having-- having this Section 8 housing voucher or having some other type of source of income shouldn't be a reason that you discriminate against them being able to apply.

BRANDT: All right. Thank you.

LATHROP: Senator Pansing Brooks.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

PANSING BROOKS: Thank you. Thank you for bringing this, Mr. Vargas-- or Senator Vargas. I guess I-- so why do you think the main reason that these people do not, not want to allow people with-- is, is it the paperwork to allow, to allow people to apply for Section 8 housing? Is it the paperwork? Is it because they're less reliable? Is it-- what, what seems to be the problem about why they have this blanket? I'm, I'm sure others behind you will talk about that. I'm not trying to-- but it just-- I mean, there are other reasons that you can use to find somebody not able to do this. But I agree that this is the basis of intergenerational poverty and-- or this is a part of that basis. So-- well, anyway I've announced that question, so hopefully people can speak to that when they come up if you don't have a direct answer.

VARGAS: I will let those that may be against this bill speak to that. But I'll say this, we have bills come in front of us and we always hear the perspectives and opinions on why something is good or not. In this instance, I just ask you to consider whether or not we are fully allowing an efficient state or federal program work. And in this instance is-- you know, I'm talking about a federal program. And are we really interrupting or changing some sort of, you know, standard practice that's gonna affect the bottom line? In this instance, I think what we're seeing is the reason why states and municipalities have been going down this route is we have a federal program that people want to be able to get good housing. And it's really hard for them to get housing using this program and why would we discriminate against using this if it is-- it's gonna be funded? They already have had a background check. They had to go through a vetting process to some extent, and then they had to apply, and then they have to be on a waiting list. Why wouldn't we accept that, that income? So you will hear some reasons and I did cite some of them that, you know, some of the reasons they say is it might be onerous, the application process. There's an inspection. I will tell you that the reason why HUD exists is to make sure that all housing in general and specifically most of the programs is meeting a very safe and decent level of housing. And so my hope is that we're not advocating for anything less than, you know, healthy housing. I think it's the conversations you guys had in the rental tenant, you know, inspection conversation. So standards shouldn't be lower than what we're setting in these homes. It's a, it's a very basic standard, so. But I'm sure you will hear some of the, the reasons why. But fundamentally, we should be trying to get these, these vouchers and people into housing. Otherwise, they're going to be homeless or have to be in really unhealthy housing that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

doesn't meet standards and we want to provide more housing opportunities.

PANSING BROOKS: Thank you.

LATHROP: Senator DeBoer.

DeBOER: Thank you, Senator Vargas, for introducing this bill. I-- can you tell me, do you know-- and maybe this is not the best question for you and, and I'll ask someone else, but is there an issue with this where because it's source of income, someone could get random Uncle Sam to-- OK, Sam, let's, let's say Pete-- Uncle Pete to say, yeah, I'll give them \$10,000 and, you know, [INAUDIBLE]-- essentially, can you get around the income requirement by having someone put up a, a sort of faulty, I will give the money kind of a, a letter that then you can't discriminate against and so you have to sort of get around the, the actual act of co-signing?

VARGAS: Um-hum. Yeah, and that's a good question. I'll tell you, different states and ordinances and municipalities have different language. So if there's a concern about really clarifying the source of income so that we are not allowing for a loophole, I am all ears and willing to work on that. But I think we'll-- hopefully, I've, I've communicated the, the fundamental thing that we're trying to address. But that is not the issue we're trying to address. And I don't want to create an unintended consequence so we can work on that.

LATHROP: Senator Slama.

SLAMA: Senator Vargas, thank you very much for bringing this bill. For me, access to housing is a big issue for me as well. I do have a question about the implementation of this bill, however. If, if we were to implement this bill, wouldn't we be requiring that all landlords maintain their rentals up to Section 8 standards? Because wouldn't they be running the risk of turning potential renters away, if their rentals aren't constantly up to those Section 8 standards?

VARGAS: The standards for Section 8, I don't think are high standards. I think they're basic living standards. My hope is that any-- anybody that is renting to somebody is-- has the standards of whatever their, their home that they're renting to somebody is meeting these standards. There will be people that talk about what these standards are and exactly what it looks like. But the reason why this is-- in, in my opinion, it's not perfect, but what is working in other

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

districts is-- in other cities and other municipalities and states is we're not talking about a really high standard, we're talking about basic living standards. It would require anybody, you know, renting to then meet those standards. But what's more important is we're just saying you, you, you cannot discriminate based on that. You don't have to then take a Section 8 housing voucher and then you can't say no to that person. You can say no to that person for a litany of other reasons that have to do with maybe their tenant history, maybe because of employment, maybe because of criminal background. We're just saying you can't say no to allowing them to apply solely and then being in that unit simply because of where their income comes from if it's a housing voucher. So my hope is that we don't have housing that is unhealthy and that meets a basic standard of living.

SLAMA: Thank you, Senator Vargas.

VARGAS: Thank you.

LATHROP: I see no other questions.

VARGAS: Thank you very much.

LATHROP: I assume you'll stick around to close?

VARGAS: I'll stick around.

LATHROP: Very good. And before we start with testimony, can I see by a show of hands how many people are here to testify on this bill? OK. Let's start with proponents. And if you are a proponent or, you know, some of you have come in since I started the hearing today, we have on-deck chairs here. So if you're a proponent, can you move to the front row and we will try to move through the testimony in an, an orderly fashion. And I'll just remind everybody that there's a three-minute light system and we'll ask you to observe that. Good afternoon.

VINCENT LITWINOWICZ: Good afternoon. My name is-- first of all, I have so much to say on this that I am gonna ask for the light to be waived. A lot of it-- you can just ask me to stop at any time because I have a lot of--

LATHROP: We'll give you-- we're gonna have to hold you to the light system and have you start by giving us your name--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

VINCENT LITWINOWICZ: OK.

LATHROP: --please and spelling it.

VINCENT LITWINOWICZ: I think as-- not to be disrespectful, I think I'm granted some leeway. Am I not with a disability? But anyway, because it's, it's a cognitive problem. But my name is Vincent, V-i-n-c-e-n-t, and my last name is L-i-t as in tango -w-i-n-o-w-i-c as in Charlie -z as in Zulu. And I want to start by saying that Senator Slama, in my opinion, there's a lot of housing that will not-- a lot of landowners don't want to be-- OK. I, I, I got to stick-- it's, it's my cognitive. OK.

LATHROP: That's OK, just go ahead and share your thoughts.

VINCENT LITWINOWICZ: I have a lot-- I have, I have-- I can answer wrong. All right, as of-- this is from a standpoint of a person with a disability. For example, I was homeless. It just happened that-- and I couldn't write a statement because it was-- even, even-- OK. I had a hard time finding a place to live when I was homeless briefly. I still had my voucher and, and so I was, for a month or so, I was homeless. And so I had help-- you know, I needed-- I tried places-- this is turning into a disaster, considering what's in my head. But I had a hard time finding a place. I needed help from an organization to help me find a place because the scarcity of, of Section 8 housing, in particular. And I, I just got lucky, just on the off chance this person, you know, put-- was able to help me find a place. And in hindsight, it was located in the Haymarket where it's close to a bus hub. And it's important to have a, a good place to live. And, and, and, and actually, if you can do it in an urban area, if you, if you are there, if you can be next to a bus hub, it gives you lots of freedom. So I want to talk about the-- I wish I would've had time to write about this. Please feel free to ask questions if there's anything in particular. And Senator Pansing Brooks, I think that in my opinion, some people don't want-- it's just a fact because there are relevant problems that are, that are true regarding to having people-- if low income, because I've been in places where some of the people due to mental illness or whatever, they're not wanted there. OK, so in partial answer to the question. And are there any questions?

LATHROP: OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

VINCENT LITWINOWICZ: Would you-- if you want to rephrase your question, I will--

SLAMA: Well, you still have time, so please feel free to continue if you'd like.

VINCENT LITWINOWICZ: Oh, I thought it turned red.

SLAMA: Nope.

LATHROP: Nope, you're on yellow.

VINCENT LITWINOWICZ: OK. So-- and, and, and, and-- I, I didn't anticipate this level of dysfunction here. Anyway, I'm gonna stop now, and if there are any questions, I will answer them.

LATHROP: You know, what I want to do is thank you for coming down.

VINCENT LITWINOWICZ: Uh-huh.

LATHROP: We appreciate, and I think we got the message that you had a period of time where you used this voucher, went out to find a place to live and had difficulty and that you support Senator Vargas' effort.

VINCENT LITWINOWICZ: Right.

LATHROP: Right?

VINCENT LITWINOWICZ: And I, I wouldn't discount the, the, the information that, that, that I could, I think, supply on this. So while Senator Vargas was speaking, I actually, in addition to my email, I wrote down my phone number. So have a good day everybody.

LATHROP: Thank you. We appreciate you being here today. Other proponents? Good afternoon.

TAYLOR HAYES: Good afternoon, Senator Lathrop, members of the committee. My name is Taylor Hayes, T-a-y-l- o-r H-a-y-e-s. I'm a senior certified law student at the University of Nebraska College of Law where I co-lead the Tenants' Rights Project in the Civil Clinic. I'm testifying today in favor of LB1020 as a citizen and not on behalf of the university. I would like to begin today by discussing the national backdrop against which this bill has been proposed. And I'm gonna note that my numbers very slightly from Senator Vargas'. I came

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

on-- counted 15 states plus the District of Columbia that have some form of income discrimination protection in the housing market statewide. This list includes, as Senator Vargas stated, states like Oklahoma, North Dakota, Minnesota, and Utah. The central issue surrounding the laws adopted in these states and what has been proposed in LB1020 is whether a landlord should have the ability to discriminate against the tenant based solely on their source of income. LB1020 would protect a wide range of individuals, individuals including the elderly, the disabled, single parents, and veterans. As these are the individuals who are frequently eligible to receive the forms of income covered by this bill. Discrimination against these individuals is a real problem, a problem that has caught the eye of national organizations that have supported similar legislation in other places. These organizations include the American Bar Association and the Paralyzed Veterans of America. Simply put, housing and housing choices matter. Where someone lives matters. It matters because a parent needs to know that their child can safely walk to school in the morning. It matters because city buses only stop in certain locations. And it matters because in towns across the state there might be only one landlord. And if that one landlord can discriminate against your form of income then you simply can't rent in that town. Failing to adopt LB1020 would result in the continuation of what vulnerable classes of Nebraskans continuing to be discriminated against and being told that their money is no good. Income discrimination protections have been on the books in states around the country for decades, and there's been no reported fallout in the housing markets in these states as a result of these laws. Any fears that this would have a chilling effect on the rental market are simply overstated. I would urge this committee to pass LB1020. And I, and I welcome your questions.

LATHROP: Very good. Thank you, Mr. Hayes. Senator Pansing Brooks.

PANSING BROOKS: Have to take every opportunity to congratulate and welcome a law student. Thank you for coming and, and making the effort and you did a really good job.

TAYLOR HAYES: Thank you.

LATHROP: I see no other questions.

TAYLOR HAYES: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

LATHROP: Thank you for being here. Next proponent. Good afternoon.

SARA RIPS: Good afternoon.

LATHROP: You may proceed.

SARA RIPS: Thank you. My name is Sara Rips, S-a-r-a R-i-p-s. I'm an attorney with Legal Aid of Nebraska. For those who don't know, Legal Aid of Nebraska is a nonprofit law firm designed-- dedicated to providing low-income Nebraskans with quality legal services that they otherwise would not be able to afford. One of the legal services that Legal Aid provides is, is assistance with housing issues. And trust me, it is a significant issue for our clients to, to have access to affordable, safe rental units. In 2019, Legal Aid of Nebraska closed 12,805 cases after providing some level of service to those clients, whether it be advice and counsel, some sort of brief service, or extended representation. In about half of our cases, our clients indicated to us that they rented their housing, 4,833 Legal Aid clients reported to us that they rented from a private landlord. This means that they did not receive rental assistance from any local entities, nor did they receive Section 8 vouchers. In fact, out of all of Legal Aid's 12,805 cases, only 7 percent of our clients or 903 clients received and utilized Section 8 vouchers, which is surprising because the vast majority of our clients are income eligible for vouchers. Of the cases that we had, 88-- of people who rented from a private landlord, 88 percent lived at 125 percent of the federal poverty guidelines, 56 percent had incomes at 100 percent or less than the federal poverty level, and 22 percent had income that was 50 percent or less of the federal poverty level. For a single individual, that's about \$6,000 a year. And this is in the face of the fact that the vast majority of Legal Aid clients are employed or receive disability assistance. Landlords who accept Section 8 vouchers can not receive money from PHAs without first passing an inspection. It is not an onerous inspection. The point of this inspection is to make sure that it is the bare minimum of acceptable housing for a family to live in. In my conversations with directors of PHAs and individuals across the state, I know that renting to someone can, can cause, you know, renting-- when landlords rent to someone who receives a Section 8 voucher and they have a bad experience, they use that as an excuse to be forever burned and turn these people away or they'll say that the, the quality of their unit is downgraded by the stigma of having to rent to people who receive Section 8 vouchers. The law, as it stands, allows landlords to discriminate against people based on their source

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

of income. Landlords can refuse to rent to people on the basis that they receive Section 8 vouchers. May I just finish my sentence?

LATHROP: Sure.

SARA RIPS: Not only can they, do they? I urge you to go to Craigslist and scroll the housing listings. They are littered with warnings that they do not accept Section 8 vouchers. This-- changing this law will make Nebraskans have a more equal and more affordable access to quality housing. I urge you to change the Nebraska Fair Housing Act. Thank you.

LATHROP: Thank you. I do not see any questions. Thank you for what you and Legal Aid do for people in, in need.

SARA RIPS: Thank you, Senator Lathrop. Thank you, members.

LATHROP: Next proponent. You might have had an argument for going first.

ERIN FEICHTINGER: I might have.

LATHROP: Welcome to the Judiciary--

ERIN FEICHTINGER: We'll see if I may get through this.

LATHROP: Yeah.

ERIN FEICHTINGER: We're getting close. Chairman Lathrop, members of the committee, my name is Dr. Erin Feichtinger, E-r-i-n F-e-i-c-h-t-i-n-g-e-r, here representing Together, a social service agency focused on preventing and ending homelessness in the Omaha metro area. One way we do this is through our Horizons program, which provides intensive case management to a number of individuals and families as they transition from homelessness to housing stability. Our experience in this area shows us that finding housing stability when you are living in poverty is incredibly difficult, time consuming, and emotionally exhausting. All of our program participants receive some sort of assistance that should theoretically make their housing search easier. But this is often not the case because of: one, a severe shortage of available, affordable units in our city. And then add on top of that those units that will accept forms of income outside of your traditional pay stub. In order to qualify for any form of government assistance, you have to be below the area median income. You have to be poor, which means you are already struggling to make

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

ends meet. You are already making choices between necessities and you are already devoting a lot of time and effort to keeping yourself and your family afloat. The denial of alternative forms of income impedes our mission at Together and the mission of housing assistance programs like Section 8, whose stated purpose is to, quote, promote freedom of housing choice and spatial deconcentration of very low-income families of all races and ethnic backgrounds. I've attached a series of maps in varying degrees of clarity that show that the majority of publicly assisted housing in Omaha is-- are-- is located in racially and ethnically concentrated areas of poverty with a very high percentage of substandard housing. So if you make it through the entire arduous process of qualifying for housing assistance through something like the Housing Authority, which Senator Vargas described very well, and you want to move to a neighborhood that has good schools, low crime, nice neighbors, the American dream, you want to create an opportunity for yourself and your family, but you want to use your voucher in Omaha, tough luck. So many of our participants instead will accept substandard housing in an area already defined by poverty because every other place in the city has beautiful units but advertises no Section 8. Our participants have described this process as heartbreaking, demoralizing, and hopeless. I've heard it stated several times on the floor of the Legislature that we don't need to be giving handouts. We need to be giving people a hand up. I would argue that something like a Section 8 voucher is in fact a handout-- hand up because its intention is to allow people to participate in the free market. The problem is, in this case, there is not a free market when it comes to housing because the voucher recipient is automatically disqualified from a significant portion of the market for no practical reason other than that they are receiving government assistance. This is what LB1020 is intending to solve, and why we ask for your support. In so doing, you will give thousands of people experiencing housing instability at least the chance to try. If we believe that success and stability starts at home, then let's make sure that people can at least find one. And I'm happy to answer any questions you may have.

LATHROP: Senator Brandt.

BRANDT: Thank you, Dr. Erin, for showing up today. Just a real quick question. So far, we've just talked about Omaha and I, and I realize it's a tremendous problem in Omaha, but do you have any idea statistically how the rest of the state fares on this problem?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

ERIN FEICHTINGER: I don't. And because this hearing came up so quickly, I'm happy to try and track down as much of that information for you as possible.

BRANDT: OK.

ERIN FEICHTINGER: I know there is a Nebraska association of housing authorities that may be able to provide that information as well.

BRANDT: OK. I would appreciate that if you could give us some information.

ERIN FEICHTINGER: For sure. I love emailing you. I do it all the time.

BRANDT: All right. Thank you.

LATHROP: OK. I don't see any other questions. Thanks for being here.

ERIN FEICHTINGER: Thanks.

LATHROP: Next Proponent. Welcome.

ISABEL SALAS: Hi. Thank you, Chair Lathrop and everyone else on the committee. My name is Isabel Salas, I-s-a-b-e-l, last name, Salas, S-a-l-a-s. I'm a community organizer for the South of Downtown Community Development Organization in Lincoln in this very neighborhood. And I'm speaking today in favor of LB1020. So thank you to Senator Vargas for introducing this crucial bill. And thank you all for your time today. South of downtown focuses on two census tracts in Lincoln, 20.01 and 20.02 or from K to A Streets and 9th to 17th Streets. In this area alone, there are 5,000-- over 5,000 people who call this neighborhood home for many reasons. People find their communities here and like to live close to friends or families. People choose the neighborhood because they can walk to work or take the bus or bike in all sorts of weather. But one big reason that people call this neighborhood home is because it is the oldest and most affordable housing stock in the city. Even with this, there are still people who are struggling to find affordable housing for their families. LB1020 would make a huge impact for real people who are struggling to find a landlord that will accept or even talk to them if they have a housing choice voucher. Part of our work is going door-to-door in the neighborhood and asking residents what their lived experience is like in the neighborhood. Once we solidify that people-- that we're there to listen, residents will open up and let us know about their points of pride as well as their struggles. Housing has been a top concern

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

for everyone in the neighborhood. Residents are struggling to jump through all the hoops that are required for applicants for housing vouchers, including taking classes on how to be a good tenant and waiting years on a list. Their access to housing is just halted if they don't find a landlord willing to accept their source of income. At any given time, there are 4,000 households on the Lincoln Housing Authority waiting list. Vouchers are regularly given back because recipients can't find participating landlords. Folks are waiting years on a waiting list just to be turned down by a property owner when they do receive assistance. This problem is real and is felt in the very neighborhood we're sitting in today. On Monday, January 27, I visited a soup kitchen just a couple of blocks south of this building. The Gathering Place, which does great work, is on Goodhue and E Streets and serves a lot of folks who are food insecure. Many of them are dealing with lots of issues, including housing. Included in your handouts are just three stories of the many folks I approached on Monday. Connie is a mother of three. She's currently experiencing homelessness and living in what they refer to as tent city in her community. She had a voucher at one point and even waited three years on the lists for housing. She wasn't able to find a landlord to accept her housing. Richard didn't want to write much on his postcard, but he receives a voucher along with disability benefits, SNAP, and other assistance to make ends meet. He counts himself as a lucky one because he has a landlord that accepts his voucher. He knows that others around him, like Connie, don't have the same kind of luck and thinks that that should be accessible to everyone. And the last postcard I collected was from Christina, who waited three years on the housing list. She's currently living in the Belmont neighborhood on the north side of the city, and she sees her friend's experience housing insecurity, too, and is especially concerned when her kids are involved. It takes too long to call landlord after a landlord to accept your voucher, hearing no, and wondering where your family's gonna sleep at night. So I heard a lot more stories on Monday, but I had a really difficult time getting people to write down their thoughts and commit to writing a postcard because they're asking what good will it do? So experiencing homelessness was and continues to be traumatic for some of our-- so many of our community members. I'm almost done, I promise. And today you have a chance to prove that you're listening to them, validating their lived experiences, and vote to advance LB1020 out of committee. That's all I have.

LATHROP: Thank you. Senator Pansing Brooks.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

PANSING BROOKS: Hi, Miss Salas. I just want to thank you for your work and what you're doing for this whole neighborhood. And it's really important. So thank you very much. Thank you for coming today.

ISABEL SALAS: Thanks.

LATHROP: I see no other questions. Thanks for being here.

ISABEL SALAS: Thank you.

LATHROP: Next proponent.

DENISE DICKESON: Chairman Lathrop and members of the Judiciary Committee, my name is Denise Dickeson, D-e-n-i-s-e D-i-c-k-e-s-o-n. I'm 63 years old and disabled. I'm here today to support LB1020 to make the process of getting housing more fair. I've been on Section 8 housing for 14 years since I moved from Wisconsin to Lincoln. I've lived on the 900 block of D Street for 16 years and I love my neighborhood. My first place was a good starter apartment for me, but it didn't have the amenities I needed, like heat, air conditioning, and insulation. And the landlord was a bully. So I found an apartment across the street. I live in a six-place-- plex with varying styles of apartments. My landlord that I have now is great, accepts my cat, and that's incredibly important for my health and well-being. When I went to housing, they gave me a certain date that I had to be there and there were no exceptions or I'd lose my place. The meeting lasted about an hour and a half, at which point we were awarded our Section 8 vouchers. My home gets inspected every two years or when there's a rent change. My home-- they like to make sure that the landlord is doing the right thing and keeping my home safe. They check all the windows, all the doors, access points, cleanliness, plumbing, etcetera. My landlord and I are in good communication. I'm very clear and responsible with him and never lie to anyone. This really pays off in the long term. It's the communication that makes a lot-- apartment life easy for me with a housing voucher. Housing will pay their part and I pay my part and my landlord gets paid on time. The problem is that I had to talk my landlord-- to my landlord and really convince him that I would be a good tenant. Not everyone has this chance to be even listened to as a prospective tenant, and it's perfectly legal for landlords to refuse someone solely based on their income. Landlords can sometimes get the wrong idea about housing recipients. Housing sometimes gets a bad reputation because the landlords don't take care of their buildings and people take advantage of it. Some recipients aren't responsible with their homes. However, not every place or

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Judiciary Committee January 29, 2020

tenant is like that. I always encourage people like me to not get discouraged when they've been turned down and encourage people to be better than the rumors or the stereotypes of the voucher recipient. Being part of this neighborhood has been really great for me. I shop local, I eat local, I'm involved in the community. I'm disabled and wouldn't be able to take care of a house on my own because of this. Being able to live with the voucher system has made a huge difference in my health, well-being, and my mental health. I don't worry about getting thrown out of my home because I can't afford to pay the whole rent. Being stable in a home is a rare thing for people with my income, which is Social Security disability, and I urge people on housing vouchers to stick with their housing search because it's worth it. This bill would make it much easier for people to find stability like I was able to. Thank you for your time.

LATHROP: Thank you, Miss Dickeson. I see no questions today, but thanks for being here. Any other proponent's? Good afternoon.

KASEY OGLE: Hi. Chairperson Lathrop and members of the Judiciary Committee, my name is Kasey Ogle, K-a-s-e-y O-g-l-e and I'm a staff attorney at Nebraska Appleseed for Collective Impact Lincoln. Nebraska Appleseed is a nonprofit organization that fights for justice and opportunity for all Nebraskans. Collective Impact Lincoln, or CIL, is a partnership between Nebraska Appleseed, Civic Nebraska, and the South of Downtown Community Development Organization that works with residents of six Lincoln neighborhoods to build community, develop neighborhood leaders, and take action on policy that is responsive to their needs. LB1020 is one of those policies. CIL began its work by reaching out to members of the community by knocking on doors and asking residents about their concerns. Through our efforts, we have spoken with nearly 10,000 Lincolniters, and one of the issues that is continually brought to our attention is the need for quality, affordable housing. Unfortunately, this need is not unique to Lincoln, but it's present throughout our state. Nebraska has a shortage of 50,562 affordable and available rental units, which often forces renters to pay more of their income on housing than is affordable. Moreover, 65 percent of very low income renters and 84 percent of extremely low income renters in Nebraska are cost burdened by their situa-- housing situation. Renters are cost burdened if they spend more than 30 percent of their income on housing. LB1020 would help to begin to address Nebraska's housing crisis by preventing landlords from discriminating against tenants on the basis of any legal source of income, including, including housing vouchers. Across the U.S.,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

residents wait an average of one and a half years for their voucher, and once residents receive it, they have six months to find housing that will accept it. We know residents who have either been unable to use their housing voucher because they could not find a landlord who would accept the voucher or residents who only managed to find housing after struggling to find a landlord that would accept the voucher. Nationally, at least 20 percent of voucher recipients are unable to use them because so few landlords accept vouchers as a form of payment, and voucher success rates in Lincoln are currently running at about 74 percent. That is 26 percent of voucher recipients in Lincoln are unsuccessful in finding housing that will accept their voucher. Rental assistance or supplemental sources of income from government programs is essential for several low paid Nebraska renters who rely on them to help make ends meet. However, as the law currently stands, renters can be denied housing because of that assistance. LB1020 helps voucher recipients be able to successfully use their voucher. Studies show that housing voucher recipients are much more likely to successfully use their voucher in a jurisdiction with a law like LB1020 than in a jurisdiction without such a law. By ensuring landlords accept any legal source of income, LB1020 better ensures that those Nebraskans receiving housing vouchers, rental assistance, or other supplemental sources of income are able to find and keep housing. LB1020 amends the Nebraska Fair Housing Act and places the authority of ensuring that landlords accept all lawful forms of income with the Nebraska Equal Opportunity Commission, which has expertise in enforcing other housing rights. Pursuant to the Nebraska Fair Housing Act, if a person were to be turned away for a housing-- housing because of their source of income, they could file a complaint with the NEOC or file a civil action against their landlord.

LATHROP: Very good. Thanks for being here. I don't see any questions for you today,--

KASEY OGLE: Great.

LATHROP: --but we appreciate your information.

KASEY OGLE: Thank you.

LATHROP: Is anyone else here to testify in support of LB1020? Anyone here to testify in opposition? If you are going to testify in opposition, we'll ask you to come up to the front row so we can have the hearing move right along. Good afternoon.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

GENE ECKEL: Good afternoon, Chairman Lathrop, members of the Judiciary Committee. My name is Gene Eckel, that's G-e-n-e E-c-k-e-l. I'm a board member for the Nebraska Association of Commercial Property Owners and the Apartment Association of Nebraska. While both associations do support the Section 8 choice voucher program, we believe LB1020 will result in increased costs to the housing providers and may lead to less affordable housing throughout the state. Our opposition to, to LB1020 is twofold. Number one, we do not believe that was the intent of the federal Fair Housing Act, and we believe that Nebraska should follow that and continue to follow it. When Congress created it, it did create a set of protected classes. But if it intended to, to include in that protected class source of income, they would have done so. The current form of Section 8 program was-- has been around since 1974. And then in 1988, the federal Fair Housing Act was amended to include families and those with disabilities. Again, Congress in 1988 did not choose to include source of income as a protected class, even though it had been around for several years. So we believe that because Congress did not make that as a protected class, we believe that Nebraska should continue to follow that. It should be participative and not mandated. If the landlord wants to choose to be part of the program, they should be allowed to do that, but not mandated to do it. The second part is the administrative costs and, and the, and the administrative burden that comes along with it. A lot of our members say the same thing. The problem is, is the housing authorities. And here's why, the time consumption to process the paperwork for each Section 8 voucher is substantially more and time consuming than it would-- than someone who's not on the Section 8. Here's a reason why, the paperwork under a regular process, someone who doesn't have a Section 8 voucher, one to three days to process it. When it's a Section 8 voucher holder, it takes about three to six weeks. And the reason why is because you have a documentation process, that you have a processing system, you have an inspection, you have the scheduling inspection, and then has to go through approval. So if that process would be streamlined and be a lot quicker, then you wouldn't have landlord saying, I don't want to do this anymore because I had to go through all these hoops and I just plumb for-- you know, give up. The other part is, is that there is delay in funding. So if a landlord is accepting the voucher and then the housing authority isn't paying on time, that creates the cost burden on the landlord because they're waiting around. But they also have to pay the mortgage, overhead expenses, maintenance costs, capital improvements, and they don't have the money coming in to make those payments. So I know my time is almost up, but if there could be some consistency in the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

inspection process, fewer delays in the rental payments, and less difficulty in dealing with the housing association-- housing authorities, then I think there would be a lot more landlords that would participate in this process. Thank you. If there's any questions, I'd be happy to answer them.

LATHROP: I-- Senator Wayne, do you have a question?

WAYNE: Yeah, so you talk about increased costs on inspections, aren't those inspections only done annually?

GENE ECKEL: It-- and I have-- there's people in the industry that can probably answer that better than I can, Senator.

WAYNE: So you do-- do you deal with-- directly with this because I'll wait for them if you don't?

GENE ECKEL: You might as well wait for them because I don't want to misspeak.

WAYNE: OK, that'll work. Thank you.

LATHROP: OK. I don't see--

GENE ECKEL: Thank you, Senator, appreciate it.

LATHROP: --any other questions. Thanks for being here though.

GENE ECKEL: Thank you.

LATHROP: Welcome.

RYAN NORMAN: Good afternoon, members of the Judiciary Committee. My name is Ryan Norman, R-y-a-n N-o-r-m-a-n. I'm an attorney here in Lincoln with Hamilton Norman law firm, and I represent rental property owners and managers here in Lincoln. And I'm, I'm here to testify in opposition to LB1020. One of the common misconceptions regarding Section 8 housing vouchers, which is the main issue that a lot of us have with this bill, is that rental housing owners and operators are intentionally discriminated against Section 8 voucher holders by denying them housing opportunities. This notion is often used to justify adopting these laws at the state and local level, like the one we're discussing today. However, in reality, these owners and operators are making their decisions not based on discrimination, but because of legitimate business reasons. The housing choice voucher

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

program could be a powerful tool to assist families that are in need of housing assistance. And some of my clients participate in the program. And in theory, my clients are in favor of the program and its intended benefits of helping those in need find housing. However, many of my clients also don't participate in the program because of the stringent regulatory requirements and the negative effects that those requirements have on their businesses. Instead, my clients who don't participate in the program focus on providing market rate housing to the communities they serve without contend-- contending with these types of restrictions. Property owners and property management companies here in Nebraska, I think we often turn them into the villains on issues like this, but really they're the ones on the front lines of the fight to maintain and provide quality housing for Nebraskans of all income levels. And unfortunately, this bill undermines the ability of these companies to achieve that goal. Forcing additional regulations on these companies will only serve to weaken the relationship between landlords, tenants, and housing authorities and will eventually drive housing prices up. This bill, though well intended, fundamentally alters and undermines the intent of the housing choice voucher program to be explicitly voluntary that until it recognizes the importance of owner property rights and acknowledges the regulatory compliance burdens on owners who choose to participate. You're gonna hear some of those-- some of the problems with regulations from, from some of the property companies that are here. My time's short, so I just want to highlight a few of those: forced government inspections, forced adherence to housing authority quality standards, forced contract terms and leases, forced rent reasonableness standards based on housing authority appraisals. And then something that Gene talked about, extended periods of vacancy based on waiting for inspections to be completed and paperwork to be approved. Regulations of this type are especially arduous for small business owners and/or people who manage a small number of properties because those owners are neither trained to deal with these regulations and can't weather the financial burden of the regulations. Landlords will be unjustly harmed by forced enrollment in housing voucher programs. It's costly for a landlord to comply with the additional regulations, and this will lead to less housing options for Nebraska, and it'll force landlords to, to compensate by increasing rents. These outcomes for all Nebraskans, especially those seeking quality, affordable housing, so I urge the committee on behalf of my clients to oppose LB1020. Thank you. And I'd be happy to answer any questions that you have.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

LATHROP: Very good. Senator Wayne.

WAYNE: So do you deal directly with HUD and the, and the issues?

RYAN NORMAN: So occasionally I deal with HUD complaints. Some of my clients are actually here and are probably gonna testify and they may be better equipped to answer some of those specific questions that you have. But I-- feel free to ask them and if I can answer them I will.

WAYNE: So is it fair to say all the things you've outlined, you have no firsthand knowledge? Because I really want to ask some questions, but if you can't answer them, then all the things you outlined really don't--

RYAN NORMAN: Feel free to ask your questions and if I can answer them I will.

WAYNE: So then what, what are, what are the regulations that will make it harder to comply with, i.e., the inspections?

RYAN NORMAN: OK. So my understanding is that when, when an apartment gets-- housing choice voucher recipient comes in, wants to rent a unit, landlords have to then take the property off the market. And so until the, the inspections are done, until the paperwork is completed, that unit is then off the market. And so sometimes it takes up to a month, six to eight weeks even for, for that unit to actually start being rented by the Section 8 voucher holder. And so during that time, the property's off the market and the owner's not making any money. And so that's one of the big problems that a lot of my clients have with this.

WAYNE: So what's their average turnaround when somebody leaves and somebody-- a new person comes in?

RYAN NORMAN: Are you talking about a Section 8 person or--

WAYNE: Any person.

RYAN NORMAN: --in a normal situation?

WAYNE: Normal situation.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

RYAN NORMAN: Well, a nor-- I mean, it depends on the apartment unit, but, but often, and there may be people that can speak better to this, but, you know, often that turnaround is fairly quick.

WAYNE: Three to six weeks quick or--

RYAN NORMAN: Oh, absolutely.

WAYNE: So it's the same time frame?

RYAN NORMAN: No, not necessarily, because the-- so it's three to six weeks to turn over the apartment and rent it to somebody new. Once that renter comes in, you're gonna have the additional time frame of, of, you know, going through the housing choice voucher program process. So the turnover doesn't, doesn't lessen based on somebody coming in with the housing choice voucher. Once the tenant comes in and, and applies, then this process starts.

WAYNE: Right.

RYAN NORMAN: So for a normal tenant, that's, that's doing that without a Section 8 housing voucher, that's gonna be three to four days possibly. It, it could be longer based on when they want to move in. But for somebody with a Section 8 voucher, it's gonna be significantly longer than that.

WAYNE: And so the current process-- you're saying right now, if somebody wants to apply or rent, it's a three to six wait-- three to six week wait. We, we, we know that for sure?

RYAN NORMAN: Well, again, there's gonna be plenty people here that can testify to the exact wait that they-- that their companies experience. But that's been my, that's been my experience with this with my clients.

WAYNE: So those aren't-- is that new builds, or is that regular builds?

RYAN NORMAN: That's regular builds.

WAYNE: So you're talking about old builds, reconditioned, you already had them for a while because it couldn't be new builds because new builds are already up to code. Right?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

RYAN NORMAN: Right. Though, I still think that just because they're a new build doesn't mean that they are exempt from a inspection from housing authority.

WAYNE: That's true, you still have to go through an inspection. But it's-- you don't have to worry about any other delays, considering that your new build should be already up to code. So we're talking a three to six week gap is all you're worried about?

RYAN NORMAN: Well, when you say that's all we're worried about, that can be a significant amount of money for a property owner that's turning over a lot of properties. It could also be a significant amount of money for a property owner that rents in a one or two apartments and they base their income on those apartments. And when you're talking about one month where they're not receiving that income, that can be significant for these property owners.

WAYNE: But you would, you would agree that typically this takes longer than a month to get the house or their apartment cleaned, new carpet, new paint, everything else, get people moved in, you, you would agree that a month is probably reasonable wouldn't you?

RYAN NORMAN: Correct. But that process doesn't then-- that process is gonna occur whether or not a Section 8 or, or a normal tenant-- and I keep saying normal tenant, Section 8 tenants are normal tenants. What I mean by that is somebody that's-- that doesn't receive this public funding. That time frame isn't gonna change. But this is gonna be tapped onto the end of that because--

WAYNE: Correct.

RYAN NORMAN: --then you have to have the people come in and get-- go through the approval process.

WAYNE: All right. I'll have some more questions for people who do it on day-to-day. Thank you.

RYAN NORMAN: Yep.

LATHROP: You have questions?

PANSING BROOKS: No, I'm gonna wait for some more people.

LATHROP: I do have one for you. Can you tell us-- and I'll just use Omaha and Lincoln if you know, what's the difference between what

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

Omaha or Lincoln require and HUD requires in terms of an inspection? Do they have-- somebody's talking about the, the inspections and the onerous regulations, what's the difference between the housing code in Omaha versus what HUD would enforce if they did an inspection?

RYAN NORMAN: Again, I don't deal with the inspections on a day-to-day, so that might be a better question for some of the property owners.

LATHROP: All right, maybe somebody can address that. I don't see any other questions for you. Thanks for being here.

RYAN NORMAN: Thank you.

LATHROP: Next opponent.

JOHN CHATELAIN: Good afternoon, Senator Lathrop and members of the committee. John Chatelain, appearing and I'm serving as the president of the Metro Omaha Property Owners Association. We have approximately 1,000 members in our group, and it's estimated that we probably manage 10 to 20,000 rental units in the Omaha area. We also affiliate with a statewide property owners association, and, and that includes other landlord associations in Nebraska. And I'm not just here representing the trade group. I'm also a private practice lawyer and I represent a lot of landlords. And I'm also a landlord myself. I purchased my first rental property in my hometown when I was a sophomore in college, and has been kind of going at it ever since. I've also represented a number of landlords before the Nebraska Equal Opportunity Commission on fair housing complaints. Typically these things come up because there's a disgruntled tenant who has been, has been evicted for nonpayment of rent and there may be other issues. Maybe landlords didn't fix things the way the tenant felt they should or, or that type of thing. But even though my clients have been exonerated unanimously by the Nebraska Equal Opportunity Commission, they have spent thousands of dollars trying to go through the process of a fair housing complaint. They have to pay a lot of money in legal fees and produce a lot of records on all the properties they own. We oppose LB1020 that would amend the Nebraska Fair Housing Act to include the source of income to the other things, because I believe this opens up a whole new bunch of, of, of classes of people that can file claims against the landlords. It's not so much-- it's not as simple as just deciding whether I'm going to accept Section 8 or not. We're opening up new classes of people that can now file fair housing charges. A lot of-- there's been testimony about why people don't want to use Section 8, and I'll cover the points that I don't believe have been touched

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

on. There is the inspection, but the landlord also has to sign the HAP contract. The HAP contract is a number of pages long and the landlord has to agree to certain things. And I've, I've seen OHA freeze the rent when they allege that there is some violation of the HAP contract. And not only on the property that's in question, but all of the landlords' properties. And this has caused some landlords to go out of business because they're not getting any rent. And so they can be very heavy-handed. It's not that people object to Section 8 so much, but I think it's how the landlord assoc-- or the housing authority might treat them. And as I look at this definition in the bill of source of income, it's very broad. It's-- we've been talking mostly about Section 8 today, but there's a lot of other government programs in that definition. I'm not sure what we are giving the green light to if this bill is passed. Am I done?

LATHROP: Yeah,--

JOHN CHATELAIN: I'm happy to quit.

LATHROP: --let's see if there's any questions for you. Senator Morfeld.

JOHN CHATELAIN: OK.

MORFELD: Thank you for coming today. And in other states that have done this-- I think some were listed earlier, is there evidence of a large amount of other discrimination claims that have come up coming out of those jurisdictions? Because you said that there was a fear that this was gonna create a whole nother class, and I'm assuming you mean litigation and liability and all that stuff, is there evidence?

JOHN CHATELAIN: I believe it's-- I believe it will cause more fair housing complaints and more litigation. I don't know what the statistics would be on that. But typically, we see them based on race, disability, nation of origin, gender, that type of thing. And it's very easy to file a fair housing complaint.

MORFELD: Well, thankfully it is.

JOHN CHATELAIN: And there's no threshold to doing it.

MORFELD: Yeah, no, I'm glad it is easy. The-- but you made the assertion that you were concerned about it. Do you have any evidence

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

of that happening in other jurisdictions? I mean, surely you talk to other attorneys like yourselves.

JOHN CHATELAIN: I don't-- like I say, I don't have any statistics on other jurisdictions.

MORFELD: OK. One of the concerns that I heard was the enforcement agency and the ability to enforce this. Say, for instance-- and I'm not advocating for this, but say, for instance, we take this out of-- I think it's the NEOC. Would you, would you be more in favor if there was a different enforcement mechanism or different enforcement agency?

JOHN CHATELAIN: No, I think it would be the same. I think they all go to the Nebraska Equal Opportunity Commission.

MORFELD: Yeah, but say that we create a different process because we can do that.

JOHN CHATELAIN: I think the end result would be the same. It would be burdensome on the landlord who has to defend against a claim in terms of record producing and also expense and hiring lawyers.

MORFELD: OK. Thank you.

LATHROP: Senator Wayne.

WAYNE: So to follow up with that, so even if we were to say just Section 8, Section 8 housing or vouchers, you would be opposed to that. You're, you're, you're opposed to expanding any, any definition of a, of a class.

JOHN CHATELAIN: Yes. Having said that, though, my wife and I have a number of rental properties and we participate in the Section 8 program, both with OHA and with Douglas County Housing.

WAYNE: So you don't find--

JOHN CHATELAIN: So I don't personally object to Section 8. We haven't had the negative experiences with OHA that some of my clients have had. And so I can understand why some of them do not wish to participate in the program. And that's a business decision. Maybe they've decided not to participate because they've had a negative experience. So they've chosen a certain business model. And what this bill appears to do is telling people what business they must be in--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

WAYNE: So if you're--

JOHN CHATELAIN: --when they've chosen not to be in that business.

WAYNE: Right. But for your company, you don't find it overly burdensome to participate. Right?

JOHN CHATELAIN: Well, we have very good properties. I mean, if I say so myself, we have very nice properties. We could live in any of them very comfortably. And so I think we perhaps have a little less issues than other people. But I have had clients where their entire Section 8 payment from OHA has been frozen because of an allegation of, of something wrong in one of their [INAUDIBLE].

WAYNE: So let's talk about that HAP, HAP contract. What's in it? I, I already know what's in it, but I was just seeing if you, if you-- since you're an attorney and you-- you've worked on it and you mentioned it, what are basic-- the basic principles of that, of that contract?

JOHN CHATELAIN: Well, one of the things is, what I think I've touched on is, that if OHA alleges that you violated any term of that agreement, they can freeze the payments.

WAYNE: And can't a court do that today, too, though? A court can do that on a regular lease. They could freeze your payments. You can get a court order saying that.

JOHN CHATELAIN: I don't know how that would come about.

WAYNE: Unlivable conditions. You can go into the court.

JOHN CHATELAIN: I don't know how-- and, and not on all the properties that the landlord has.

WAYNE: Maybe not at all, but you can get that even outside of that process, right?

JOHN CHATELAIN: Yeah, but, but you'd have, you'd have due process--

WAYNE: You don't have due process?

JOHN CHATELAIN: --in the case being filed.

WAYNE: You don't have due process?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

JOHN CHATELAIN: No, you don't have due process with OHA and under the HAP contract. They can freeze the payments.

WAYNE: Yeah, but you still have a process in which you can get those payments back. Correct? It's an investigation and you have due process.

JOHN CHATELAIN: I, I don't know about that because you've signed the HAP contract.

WAYNE: Right.

JOHN CHATELAIN: You agreed that they can freeze the payments.

WAYNE: We can argue semantics.

JOHN CHATELAIN: You've agreed to that contract. And it's, it's about ten pages long, fine print both sides. I mean, if you want to read it, you certainly could.

WAYNE: I've read it.

JOHN CHATELAIN: That's really what, what people are getting into when they decide to go with Section 8.

WAYNE: And again, my last question is, you had no problem personally for your company signing that and participating, right?

JOHN CHATELAIN: Well, I wouldn't say we've had no problem, but we have participated in the program successfully, yes.

WAYNE: Thank you.

LATHROP: Senator Pansing Brooks.

PANSING BROOKS: Thank you for coming, Mr. Chatelain. I was just-- you talked about how it worked economically for you. Is that because you have really nice apartments or why is it working for you, but not others?

JOHN CHATELAIN: We have all single-family homes, and I don't know why it's not working for others and I don't know why it's working for us, quite frankly. Maybe we have good karma. But we have good properties, and I think maybe that's part of it that, you know, exceptionally nice units. That could be part of it.

PANSING BROOKS: So--

JOHN CHATELAIN: A little bit more higher income.

PANSING BROOKS: But I think this bill just basically says you just can't have blanket denials. It doesn't say you have to choose that person that's applying. You just can't have blanket--

JOHN CHATELAIN: But the problem is if, if you-- the problem is if you don't accept that person, then they're a new class that can file a claim in a-- against you in fair housing. If you've denied them on some other basis, then this is a new class that can now take you to court.

PANSING BROOKS: If, if you're,--

JOHN CHATELAIN: More litigation.

PANSING BROOKS: --if you're proving that you are-- if there's some proof that you are denying because of the, the Section 8 classification.

JOHN CHATELAIN: Only the allegation is enough to file a claim which costs the landlord a lot of money and, and expense and time.

PANSING BROOKS: Thank you.

LATHROP: Senator Brandt.

BRANDT: Well, thank you, Chairman Lathrop. Thank you, Mr. Chatelain, for testifying today. In the state of Nebraska, do we incentivize some low-income housing by providing property tax breaks?

JOHN CHATELAIN: I'm not a good person to answer that question. Possibly, not that I know about that, but-- now there's been testimony about the shortage of Section 8 housing. I would say that there's a shortage of housing generally in Nebraska, and it's due to the tax structure, I believe, and the amount of regulations that we've already placed on the landlords. A lot of landlords have just chosen to not participate any longer in the, in the industry. They-- they've gotten older, their children want no part of the business, so they sell their properties.

BRANDT: All right. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

LATHROP: I think that's all the questions we have for you.

JOHN CHATELAIN: OK.

LATHROP: Thank you for your testimony.

JOHN CHATELAIN: Thank you, Senator.

LATHROP: Next opponent. I will make this observation while you're getting settled in, we do have a representative from the NEOC who will be testifying shortly in a neutral capacity.

_____: [INAUDIBLE]

LATHROP: Yeah. OK.

KRISTY LAMB: Good afternoon. My name is Kristy Lamb, K-r-i-s-t-y L-a-m-b. I appreciate being here today. I represent NP Dodge Management Company as well as the Nebraska Chapter of the Institute of Real Estate Management. NP Dodge represents about just under 5,000 apartment rentals in the Omaha metro area, about 40 percent of which is currently dedicated to low income, affordable housing for our residents. I think my particular concern with the proposed bill isn't necessarily the lawful source of income. It is the additional provision in the bill that says or because of any requirement of any federal, state, and local public general assistance. And it's that provision that truly have the most concern with. Anytime a property participates or is voluntary and willing to participate presently in a Section 8 voucher program, they are required to-- and for many of those, at least for the Section 8 voucher program, they are required to sign that third party HAP contract. And there's no negotiation available associated with the terms of that contract. In addition to that, there are times where you have to go through a rent reasonableness test with that housing provider. And if they feel that the market rent for your apartment community, even if it's new construction, is higher than what they feel is necessary for that area, then they'll require you to lower the rent for that resident that's moving in. Once that resident moves in, each year they have the ability to determine if they're going to limit the amount of increase on a renewal basis or prohibit it altogether. So year after year, that particular apartment, it becomes further and further away, what should be the generally recognized market rent. And it affects that, that particular property significantly in those cases. We represent large clients, but we also have clients that have single-family homes and

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Judiciary Committee January 29, 2020

duplexes. On average, from the time we accept an application for someone that has a Section 8 voucher program, it is a minimum of two weeks before that inspection can take place. I am all for quality housing and safe housing for our residents, but I would argue their definition of the bare minimum standards when it comes to housing in some cases. We've had situations where something as small as a crack in a light switch will fail the inspection, and we don't have the opportunity to make that correction right then and there that would maybe take literally three minutes in order for us to do so. If that housing inspection fails, we have to request a reinspection that takes, again, at least a minimum of two to three weeks in cases. So the entire time we're kind of at the mercy of the housing authority and we work with three in Omaha, and obviously, and one here in Lincoln as well. But there's other programs out there, such as general assistance that doesn't have some of the regulatory requirements as some of the other housing providers. And so I feel that if we could kind of reduce some of those administrative financial burdens that are associated with the Section 8 voucher program, then we would have even more clients than we already do that are willing to open up their doors and specifically accept a Section 8 voucher program.

LATHROP: OK. Senator Wayne.

WAYNE: I kind of just want to cut to the chase. Is it the, is it the inspections-- are we, are we more concerned about the people that the image or the type of people that come with Section 8 housing?

KRISTY LAMB: It is not about the people at all. It is about the housing. It is about that-- the, the individuals or the entities, that are administrating the housing voucher programs. It is not about the residents. If we could streamline that process--

PANSING BROOKS: Could you speak a little bit louder? I'm sorry.

KRISTY LAMB: Sorry. It's 100 percent not about our residents. It is about the housing providers and administration of the housing voucher programs. If we could figure out a way to streamline the process in order to reduce the amount of time it would take them to come out and perform those inspections, standardize what those safety inspections look, look like. Because depending if you're working with Douglas County, Omaha Housing or Bellevue, they each look for some things different and, and some of them are what I would say reasonable. And sometimes they go above and beyond what I feel is reasonable in order to provide quality, safe housing for these individuals. If we could

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

have maybe an electronic basis, so when we are needing to send them copies of our lease contracts or us sending them, obviously, executed HAP contracts to them, if that can be done on electronic basis so not-- so that things aren't required to be done either hand delivery and/or through mail. That would also help expedite the process. Once that's all approved, and the resident moves in, it's easily an additional-- at least 30, generally 60 to 90 days before we get our first payment from them. And so by the time you get through the inspection process, they actually move in, and you get your first payment, you have the rent loss that you'll never be able to get back. But then you have an additional period of time before you can see that first rent payment. And there's just-- are certain properties that can't overcome that burden.

WAYNE: So in a perfect world, if we were to streamline that process, what would that look like? How many weeks are you talking?

KRISTY LAMB: If we could streamline it so it could be accomplished within like a two-week period of time, I, I think that would be more reasonable. Is it-- it's not, not the blanket source of income in this proposed bill that is the concern, but it's all those additional requirements in the third party contracts that you're forcing these business owners to participate in.

WAYNE: So a two-week period on the first inspection and then a reinspection in the following two weeks?

KRISTY LAMB: From start to finish, they would need to be able to apply, have the, have the home be inspected, and move in on any date of their choosing. Right now, generally, the housing authorities restrict moving dates to the 1st and the 15th of the month. So if you have that initial inspection, or even a repeat inspection, but it falls outside that range, then you may have to-- if it has-- it's on the 2nd then you're gonna have to wait to either the 15th or the end of the month before that resident's able to move in and have you cover the rent.

WAYNE: So let's go on the back end of this. How many of your clients lose rent for nonpayment?

KRISTY LAMB: For nonpayment, we-- it's rare. Well, for-- like in a conventional?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

WAYNE: Conventional.

KRISTY LAMB: Well, we're pretty strict on ensuring they pay their rent, so.

WAYNE: So how many default?

KRISTY LAMB: I say we generally budget for maybe one and a half percent.

WAYNE: So one and a half percent you think default?

KRISTY LAMB: Potentially on an annual basis, yes.

WAYNE: So then out of that one and a half percent, how many do you go to litigation with?

KRISTY LAMB: I wouldn't know off the top of my head.

WAYNE: Is it the full 1 percent?

KRISTY LAMB: No, some are voluntary surrender possession of the apartment without litigation.

WAYNE: But what about the back payment of rent?

KRISTY LAMB: Oh, 100 percent.

WAYNE: Hundred percent?

KRISTY LAMB: Um-hum.

WAYNE: So what did that litigation cost?

KRISTY LAMB: Hmm?

WAYNE: What did that litigation cost on your 1 percent?

KRISTY LAMB: Well, I take that back, not all of it goes to litigation, sometimes we'll just roll it to a collection company. And in that case, they may keep 30 to 40 percent of the proceeds of any collections that they receive.

WAYNE: So out of 1 percent of your people, you're, you're for sure gonna to lose 1 or 2 months of rent.

KRISTY LAMB: Oh.

WAYNE: If you figure, if you figure in the collection cost or you figure in litigation cost plus the rent you lost, plus the two weeks or three weeks it's gonna take for you to re-- re-up it why you sit there losing one to two months into it, right?

KRISTY LAMB: Potentially, those statistics also include participants in the-- with the voucher programs.

WAYNE: So then losing a month is probably a part of the business for at least 1 percent.

KRISTY LAMB: For any one resident?

WAYNE: For at least 1 percent. Right?

KRISTY LAMB: Oh, 1 percent, potentially.

WAYNE: Thank you.

KRISTY LAMB: Um-hum.

PANSING BROOKS: Guess I have a question.

LATHROP: You have a question?

PANSING BROOKS: Yeah.

LATHROP: Senator Pansing Brooks.

PANSING BROOKS: So I'm, I'm just still trying to understand-- you understand what Senator Vargas is trying to do?

KRISTY LAMB: Absolutely.

PANSING BROOKS: And so it seems like there should be some way to work and figure out-- I mean, is it also defined by the federal government that there's no way to find some way to get-- to help the realtors not necessarily lose, lose-- we don't, we don't-- no one intends that the whole process stopped because of a crack in a, in a light switch.

KRISTY LAMB: I agree.

PANSING BROOKS: So that seems like an absurd case that shouldn't just cause all realtors to say no way. And all, all people in poverty

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

should just run the risk of not being able to find housing and being homeless.

KRISTY LAMB: I mean, we, we just finished a new construction project dedicated to affordable housing, and we almost lost half the community on [INAUDIBLE] because the, the mesh over the new sod wasn't up to their standards.

PANSING BROOKS: The mesh over the what?

KRISTY LAMB: Over the new sod at the community-- at the new construction community wasn't up to their standards.

PANSING BROOKS: OK. So, so what needs to be done to help those problems so that we aren't precipitously causing people who don't have money to be able to not find the housing that they need?

KRISTY LAMB: We definitely need to, to standardize the expectation for those inspections and also streamline the qualification process and maybe implement some electronic processes for the management company or business owner to be able to communicate with those housing authorities.

PANSING BROOKS: OK. Because I--

KRISTY LAMB: You can increase the number of vouchers that are available because-- I mean, I, I welcome to, to take additional housing participants. I mean, we have availability in some of our communities. But I would be curious statistically when they say some individuals aren't able to find quality housing with their voucher within a certain period of time. And I would be curious to know statistically, is it because they didn't qualify at a community that accepted the housing voucher program because of other nondiscriminatory qualification standards?

PANSING BROOKS: OK. Well, I, I just-- what my concern is that-- Mr. Chatelain talked about the fact that he's worried about another class of discrimination. I think it's discriminatory flat out to say we won't take this one class of, of people. So in that regard, people should consider filing suit to, to be able to live in a, in a housing unit. And to-- I, I just-- I think this is all shocking. I think everybody had better start working together because this is not a good situation where people do not have the ability. And, and it seems to me that the realtors could come forward and work with Senator Vargas

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

on this bill to clarify whatever specifics you think need to be streamlined or however it can be done so that we do have an ability to help the people in our community to find housing and not just have blanket statements saying, nope, nobody's allowed to be in here. So--

KRISTY LAMB: I agree. I think there's a way--

PANSING BROOKS: It's very aggravating.

KRISTY LAMB: --we could hold the housing authorities accountable as much as they would like to try and hold the, the business owners accountable. I feel like there is a happy medium to be had there. We just-- because at the end of the day, we want to provide quality housing to anybody, regardless of, regardless of their income. But we have to find a way that we can do that without the administrative and financial burdens that it's creating for some of the properties.

PANSING BROOKS: OK. Well, I think it's a 14th Amendment issue out there awaiting similarly situated people not being allowed to get housing. So I do think you have a concern right now if you are blanketly denying access to housing to a certain group of people in, in our community. So I'm just letting you know if you're worried about some sort of discrimination standard if this bill passes, I think you already have it. So thank you.

WAYNE: I just have a quick question.

LATHROP: Senator Wayne has another question for you.

WAYNE: Yes. The project you mentioned, was that a LIHTC housing?

KRISTY LAMB: It was.

WAYNE: So there's a tax incentive and that's a business model somebody chose to go after.

KRISTY LAMB: Correct.

WAYNE: OK. And 4 percent or 9 percent tax credit to-- there's, there's a reason they chose that and they knew what they were getting into ahead of time. So I understand that. I guess my biggest concern is how is it that 17 other states can do this and we have a hard time figuring this out? And we have opposition testimony, but I haven't heard opposition saying it's failing in the, in the other 17 states.

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Judiciary Committee January 29, 2020

What I, what I hear is speculative cost, speculative-- but 17 other states are doing it.

KRISTY LAMB: I would need to know the structure of how the administration is for those housing assistance programs in those states. And if it differs from what we have here. And here, depending on which housing authority you're working with, they independently have different, you know, preferences on how that program's administered. So if that's streamlined and you--

WAYNE: It's not.

KRISTY LAMB: --can expedite--

WAYNE: It's not.

KRISTY LAMB: --if you can expedite this process in any way, then I think for the-- I mean, then I think it's a win- win for both sides. You're providing quality housing and you're not creating that additional burden for, for the business owner.

WAYNE: Thank you.

LATHROP: I think that's it. Thank you for your testimony.

KRISTY LAMB: Thank you.

LATHROP: We appreciate you being here, Miss Lamb. Next opponent. Good afternoon.

CASSANDRA McMULLIN: Good afternoon. My name is Cassandra McMullin, C-a-s-s-a-n-d-r-a M-c-M-u-l-l-i-n. I am representing The Lund Company. We manage 80 properties, a little over 80 properties between Omaha, Lincoln, and a few other small cities within Nebraska, and that equates to a little over 10,000 units. We are in opposition of this-- the recommended changes to the bill due to primarily the process of getting somebody approved, as was previously mentioned. Just to put some numbers to what we've talked about previously, we look at, and I say this confidently on an industry standard, of about 50 percent turnover within one year. So for example, if, if an owner owns 200 units, we would see about a 100 of those units turn over into-- and, and welcome a new resident. Now if we-- we generally have these units prepared for the next resident within five to ten business days and a market rents resident would be able to move in immediately after that where the Section 8 process for getting approval is going to be that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

three to six weeks. And on average, the daily rent is gonna average about \$25. And so if you put that to 100 units, that's going to equate to about 60,000 or more dollars per year in that waiting time frame. So that's just a burden that isn't going to, you know, is, is passed along to our clients, and it's something that they're, you know, potentially not going to be able to recover from. And I do understand there are tax breaks given. But just to, to see the, the entire budget put together and, and think about \$60,000 coming out of a 200-unit property, that is a, a, a burden that potentially our property owners aren't going to be able to absorb and, therefore, they're either going to have to increase their rents even higher or, or ultimately sell their properties.

LATHROP: OK. Senator Morfeld.

MORFELD: Maybe I missed it a little bit earlier, what-- so you said that was a 200-unit property?

CASSANDRA McMULLIN: For-- just for example.

MORFELD: Just for example?

CASSANDRA McMULLIN: Um-hum.

MORFELD: So what, what-- what's the level of tax break that you get for Section 8 housing?

CASSANDRA McMULLIN: I'm not 100 percent sure on that. I just work with all market rent housing. I did previously work with Section 8 housing in Iowa, but I'm not sure what it is here in Nebraska or what it currently is in, in Iowa either.

MORFELD: OK. It'd be useful to know that information if you could look that information up and then based on your same hypothetical provide, you know, per unit what kind of tax break. Because if that significantly offsets then, one, you could come out even, or, two, it could come out where it's small enough where it somewhat [INAUDIBLE]. Thank you.

LATHROP: I don't see any-- Oh, I'm sorry,

PANSING BROOKS: If, if you could send that to all of us that would be great.

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Judiciary Committee January 29, 2020

CASSANDRA McMULLIN: Sure. Yes.

PANSING BROOKS: We would appreciate it. Thank you.

LATHROP: That was Senator Pansing Brooks for the transcribers benefit.

PANSING BROOKS: Sorry.

LATHROP: That's OK. I think that's it. I don't see any other questions, but thanks for being here.

CASSANDRA McMULLIN: All right. Thank you.

LATHROP: Always make it a record.

PANSING BROOKS: Sorry.

LATHROP: Next opponent.

LINDSAY TROUT: Good afternoon. My name is,--

LATHROP: Good afternoon.

LINDSAY TROUT: --my name is Lindsay Trout, T-r-o-u-t. I'll be brief. [INAUDIBLE] to speak to what everyone else has been saying, it, it is not the residents that, that management companies have an issue with it, it's definitely-- oh, sorry, I'm on, I'm on the Apartment Association Board-- of Nebraska, as a board member. Also, I'm representing Reimer Properties. We have 917 units in Omaha.

LATHROP: Can you speak up just a little bit louder? The sound in this place is not good. So it's a little difficult.

LINDSAY TROUT: So yeah, not an issue with the residents. I believe it is an issue with the offices. And to just second, that it could be more streamlined and more, I guess, friendly to the office staff. It would definitely help and make it easier to accept it. Another item is, is requiring, requiring the owners to accept Section 8, I think would just force people to change their policies to make it more difficult for both voucher holders and nonvoucher holders to find housing, therefore, making the problem worse. So I think on average, the credit requirement in our market is between 600 and 650. What's to say that the, you know, owners won't raise their requirement to 700 credit score, which I think is, is rare in these-- voucher program. So--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

LATHROP: That did not cause any questions, but thanks for being here.

LINDSAY TROUT: Yep.

LATHROP: Next opponent. Good afternoon.

DUSTIN ANTONELLO: Good afternoon, Chairman Lathrop and members of the Judiciary Committee. My name is Dustin Antonello, that's spelled D-u-s-t-i-n A-n-t-o-n-e-l-l-o. And I'm here today on behalf of the Lincoln Independent Business Association. LIBA is testifying today in opposition to LB1020. Although LIBA supports the idea of making it easier for low-income residents to utilize federal, state, or local public housing assistance benefits, we do not support the idea of mandating rental property owners to accept Section 8 housing vouchers because they often create new financial and regulatory burdens for property owners. For example, the Section 8 rental assistance program imposes strict inspection requirements on property owners. Landlords who rent, rent to Section 8 tenants are subjected to yearly inspections of their properties, even if the tenant does not move out in between inspections. The stringent inspections include 13 areas of inspection, and it's not uncommon for properties to fail their initial inspection over relatively minor issues. They are then subject-- subjected to another inspection to assure those minor issues have been resolved. The Section 8 program also creates financial uncertainty for property owners. Typically, landlords begin collecting rent and a security deposit prior to a tenant moving in. Under the Section 8 program, landlords do not receive payment until after a tenant has moved in and it sometimes could take months before the first payment is received. In addition, payment does not cover the costs of the security deposit, which property owners use as collateral in case of a, of a tenant causing damage to the property. LIBA supports the idea of creating more flexibility in how government benefits are used on housing for tenants and property owners alike. However, we do not believe mandating property owners to accept housing vouchers that impose new financial and regulatory burdens on landlords is the appropriate solution. Ultimately, this is a property rights issue. Property owners should have the right to determine whether they want to take on the additional financial and regulatory commitments associated with participating in the Section 8 housing program. Thank you. I'd be happy to answer any questions.

LATHROP: I don't see any questions, but thanks for being here.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

DUSTIN ANTONELLO: Thank you.

LATHROP: Good afternoon.

TODD WATSON: Good afternoon, I'm Todd Watson, T-o-d-d W-a-t-s-o-n. Been in the landlord business, around it my entire life. Currently, represent over 100 different owners of, of rental property. And just so you know, we don't have Section 8 property at, at our company. So if you want detailed experience on, on what these go through, I won't testify to that. However, I am quite familiar with how it's worked in other cities. I don't want to rehash old points that have already been brought up, but there's a lot of new points that I think aren't-- are not being considered. I do want to echo its property rights. As the United States of America, it's their property, they own it, they get to determine a lot of what they would like to do with their property. And that's important to remember. I don't like the tone of landlord versus tenant. The only reason our business is successful is because of our tenants and the loyalty of our tenants. We know we have to take care of our tenants to stay in business. And you can never forget one tenant doesn't speak for all tenants. A lot of those tenants pick places to live. They earned it. They worked hard. They chose that place. We have women that live where they do so they can watch their kids walk to school and they've taken two jobs and have earned it. They'll earn that right to say I can watch my kids go to school. And when someone gets that for free and the other person's working two jobs, that causes a lot of bitterness between tenants. So a lot of tenants pick where they live, where they want to live, what suits their, what suits their situation. And it's not fair to them as well. It seems like there's a lot of Omaha issues. I, I don't know why there's so many Omaha issues. Lincoln, we, we tend to run much better, but we can help. I don't understand these long-term times, too. So to educate you on the market, it takes about 7 percent, a 7 percent cap rate, 7 percent of 52 weeks is three and a half weeks. You do 5 percent vacancy, you're talking 5 weeks is the profit. There's no way in my business we make it with a four month-- four-week turn, we're done in five days and people are in it. We start advertising videos a month before they vacate to lower that turn time. But I want to challenge you with legal stuff. You've got some issues here. Are you gonna mandate doctors take Medicaid? Are landlords gonna be treated different than doctors? What about the cell phone providers? Some say, yeah, I don't want to do this, I don't want do the lifeline thing. What about them? Are you gonna force grocery stores to provide SNAPs? So do landlords have to play by different sets of rules than other

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Judiciary Committee January 29, 2020

professions? That's inequality under the law. That's wrong. That doesn't hold up. And, and, and I would definitely take a hard look at that and what you guys are talking about because you're opening up a can of worms. We don't get tax, tax incentive financing. Do we get those, do we get those, can we retroactively take those back? Do we get abatement of property taxes like these others, like these other developments that were built for that position? That's inequality. Do we get those back? They're-- you are opening up a can of worms. The owners that we represent made the purchase knowing the risks based on the ability to control the property.

LATHROP: Let's see if there's any questions, Mr. Watson.

TODD WATSON: Yes.

LATHROP: I don't see any. But we appreciate your testimony nonetheless.

TODD WATSON: Thank you.

LATHROP: Thanks for being here. Anybody else here in opposition?

KIM ZWIENER: Good afternoon, committee.

LATHROP: Good afternoon.

KIM ZWIENER: My name is Kim Zwiener, K-i-m Z-w-i-e-n-e-r, and I am representing the Nebraska Realtors Association and we strongly believe in housing for all and are very passionate about our fair housing laws. In fact, our association has-- currently takes the national protective classes one step further with our code of ethics and also includes sexual orientation and gender identity within our protected class for our association. So it may seem strange that I'm here today to oppose LB1020. Our organization is made up of commercial and residential practitioners who represent as well as own themselves commercial, residential, and both single-family and multi-family investment properties throughout the state. The proposed legislation, as written in this bill, will affect all Nebraskans who currently own or strive to own property in our state. The three issues with this bill are money, time, and overreach, which have been extensively talked about today. We have solved one piece of our opposition with Senator Vargas already in some verbal communications. Part of that was the FHA and VA financing, we have no control over who-- the person who can get an FHA or VA loan, it's the property that qualifies. So that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

would be a government-ran program that we wouldn't be able to not discriminate against because it's not about the income sources, it's about the property and the condition of the property to qualify. But we also have a member of our association who has an investment property. It was a duplex built before 1970. So there's quality control issues with the lead-based paint. She's owned it for about 20 years. She's putting in-- on a new roof, new HVAC system, new windows, and has many great interior updates to it. It's very desirable, clean, two bedroom, one bath with off street parking, but there's peeling paint on the exterior. So to bring this up to code to have it qualify for Section 8, she would have to-- the best way to do it would be to put siding on it because of the lead-based paint possibility. That would be about \$15,000. She currently rents one side of this for \$475 because the tenant has been with her for ten years and has been a really good tenant. If she did this and brought it up to market rents, they would be in upwards of \$750 a month. So there would be some displacement with renters potentially. So I think our biggest concern as association is just making it mandatory. Like the previous presenter said, property rights in our state, having the-- the investors have to utilize their property in a certain way. So thank you. And we-- to make this bill workable for the betterment of our society is to streamline like we talked about today. So--

LATHROP: OK.

PANSING BROOKS: What was the last thing?

KIM ZWIENER: To streamline.

PANSING BROOKS: OK.

LATHROP: Senator Pansing Brooks.

PANSING BROOKS: Thank you for coming.

KIM ZWIENER: Yes.

PANSING BROOKS: It's, it's, it's Zwiener?

KIM ZWIENER: Zwiener.

PANSING BROOKS: Zwiener.

KIM ZWIENER: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

PANSING BROOKS: Thank you. So thank you for coming, Miss Zwiener. I was just wondering, so it's, it's worked in-- they have it in 17 other states, so why is it working there and, and what-- what's the difference or what's the problem with why it wouldn't work here very well in Nebraska?

KIM ZWIENER: I can't really speak to that. I'm more on the residential side, so I don't have really good knowledge about the management side of it. I, I feel like it's maybe a program issue more than accepting the verbiage of a fair-- of the fair housing addition.

PANSING BROOKS: OK. And, and the-- just, just because somebody that Section 8 comes and applies doesn't mean that, that, that they have to accept them. So I guess I'm, I'm confused that-- I, I think the problem is with mandatory-- just blanket statements that they're not allowed to apply. Do you have a comment on that?

KIM ZWIENER: No comment.

PANSING BROOKS: OK. So it seems like there might be some sort of middle ground that, that there could be with this. So--

KIM ZWIENER: As I said, we've already been in contact with Senator Vargas. So you know, I think that there potentially could be.

PANSING BROOKS: OK. Thank you very much.

KIM ZWIENER: As written, we're opposed.

PANSING BROOKS: OK. Thank you very much. Thank you for coming.

LATHROP: OK. Thank you for being here. Anyone else to testify in opposition? Good afternoon. I have a feeling you're the one we've been waiting for.

SCOTT HOFFMAN: Oh, yeah. My name is Scott Hoffman, H-o-f-f-m-a-n. I testified last year on a bill, several bills that Matt Hansen brought. You had LB433 that you brought out of committee and involved returning deposits. And then on the last day of the Legislature, you guys decided to create a slip bill that forced our-- to us to eliminate our grace periods. You required it went from three days to seven days. Now a lot of landlords had to eliminate, including myself. I've been doing this longer than some of you have been up here for 35 years, except for Senator Chambers, of course, but we're now stuck with requiring rent due on the 1st and late on the 2nd. So if we're dealing with

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

indigent people who are unable to pay their rent, it's gonna fall into an eviction process coming after the seven days. I do have my lawyer who represents me, and I've asked him, I said, has anything changed? He said, no. He said the evictions are still there. So it's the law that you guys created that isn't doing any good. Secondly, to answer Senator Pansing Brooks, I was at a seminar here about a few weeks ago with hundreds of landlords. Most of these laws are in states with populations of tens of millions of people. One of them was Atlanta, Georgia, where actually the state funds damages. And that's one thing that Senator Vargas needs to know, which none of you were able to answer. The reason why I don't accept housing is because the federal program does not pay for damages after they move out. That is something I really look at. I look at funding, the ability of going after people. You talked earlier about garnishments. We're gonna be able to do-- unable to do that if you're funding their, funding their rent. I can tell you an average eviction, if somebody moves out, they don't pay the rent, it could be several thousand dollars. Most the money's in the floor coverings. So you know, we're gonna sit, after they move out, and go, who's gonna pay us for the damages? So but the other landlords that I talked to who do accept housing, I said, well, what do you do about the damages? They go, we eat it. You know, we have the 6th highest property tax base, base in the nation. All these other nations, they said they're 1.2, we're 2.0 and he about fell off his chair. I go, yeah, we're, we're 2.0. We got two million people in our state, we're not ready for this, Senator. We're not ready for the, the, the mandatory housing because that's-- I just want to get my damages if indeed they damaged the property after they move out. So but go ahead.

LATHROP: Do you know, Mr. Hoffman,--

SCOTT HOFFMAN: Yeah.

LATHROP: --if a person is a Section 8 housing person, does that prohibit you from getting a damage deposit upfront?

SCOTT HOFFMAN: We can get the damage, but, Senator, it's one month's rent. I mean, let's say the rent's \$800, I don't know-- you know, it doesn't even cover the damages, you know. And I know a lot of you up here are all lawyers, I don't know if you're practicing, but if you've ever been in eviction court, you're enabling the bad actors. I see some of the same faces down there house after house after-- no, that's not people who are on Section 8, but I'm just telling you that if, if, if the state wants to fund the damages to these people after they move

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

out, I don't have a problem with it. I'm telling you right here and now. But you're not gonna do that because that's gonna be hundreds of thousands if not millions of dollars in damages. And I'm telling you, that is exactly, exactly why I don't accept housing. To, to force us to take a federally-mandated program, and then you want to implicate it as a state that you've got to take that, then fund it like Georgia does. They're, they're paying the damages. I don't think we're prepared to do that. So--

LATHROP: You were very clear.

SCOTT HOFFMAN: Yeah, I am.

LATHROP: Senator DeBoer. Oh, I'm sorry.

DeBOER: I was pointing to--

MORFELD: Senator DeBoer can go first.

DeBOER: No, no, no I was pointing--

SCOTT HOFFMAN: I'm, I'm ready.

LATHROP: Senator Morfeld.

SCOTT HOFFMAN: So go ahead.

LATHROP: Senator Morfeld's got a question.

MORFELD: So if we, if we paid the damages like Georgia does, would you be in favor of this?

SCOTT HOFFMAN: What's that?

MORFELD: Would you be in favor of this proposal if we paid the damages like Georgia does?

SCOTT HOFFMAN: Probably would, but you're gonna be unable to do it. You guys can't even figure out the property tax. Two months-- two to three months rent, Senator, pays, pays for the taxes on my property.

MORFELD: Well, there's some people here that don't want to figure out the property tax so that's why.

SCOTT HOFFMAN: Yeah, I know, I know.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

MORFELD: So, so you said states that have tens of millions of people, but my understanding is North Dakota does this. I'll have to look into how they do it,--

SCOTT HOFFMAN: Right.

MORFELD: --they don't have tens of millions, Georgia has 10 million people, 10.5.

SCOTT HOFFMAN: Actually, 3.9.

MORFELD: Georgia?

SCOTT HOFFMAN: I've already checked.

MORFELD: OK, you're talking about Atlanta. Yeah, you're not talking about Georgia.

SCOTT HOFFMAN: I'm talking Georgia itself, yeah. It's 3.9.

MORFELD: OK. It's not, but thank you. So I guess my thing is, is I think we all want to, I think we all want to create a place where people have affordable housing and that people can use government benefits or whatever benefits they're receiving, whether it's from their paycheck, a combination of their paycheck, government paycheck. I, I guess my question then is, is how can we all work together? I hope that you'll work with Senator Vargas and some other folks like Senator Hansen and maybe find some ways that we can have adequate but also affordable housing because there is a problem in Lincoln, somebody here earlier said this seems like an Omaha problem. I can guarantee you, and a person that represents one of the lowest income districts in the state, it is not just an Omaha problem, it's a problem across the state, including in Lincoln. So there's got to be some constructive solutions here. And I'm not hearing a lot of constructive solutions from folks coming up in opposition. All I hear is, yeah, we're in, in favor of affordable housing and accessible housing, but--

SCOTT HOFFMAN: Well, I mean, it's just not the affordable housing. It's also the tenant landlord act, too. You folks brought out a bill out of committee on the last day of the Legislature and went around telling everybody that we supported it. Matt Hansen-- I actually talked to Matt Hansen personally at his home, shook his hand, and told me the only bill that was gonna come out of there was the returning of the deposits. We didn't have a problem with that. And then you guys

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

slipped that in at the last minute and told everybody that we supported it. Now I've talked to several people about it and that gets-- but I'm just telling you guys create bills, you want to sit there and make laws, but yet to sit there and tell people that we support it. We didn't. Now we're, now we're having problems trying to give the people that we normally gave grace periods, it's like we-- you, you think we're helpless and we can't give people their grace periods. We all gave grace periods, three to five days. Now we can't do that. Now you're talking about people, you're talking about people that are indigent, they're maybe not being able to pay their rent, but at the same time, if they got a bill of \$100 or \$200, and they don't have it on the 1st, then we're gonna have to start, start, start the eviction process.

MORFELD: Oh, OK, sir. And first off, I don't know, maybe,--

SCOTT HOFFMAN: I do.

MORFELD: --maybe, maybe Senator-- maybe Senator Hansen made that statement last year.

SCOTT HOFFMAN: I wish he was here.

MORFELD: With that being said, we're not talking about that bill and, and second,--

SCOTT HOFFMAN: Yeah, I know we're not talking about that.

MORFELD: --I, I never ran around saying that. So when you say you senators, I-- you know,--

SCOTT HOFFMAN: No, we just hear about it. You know, we've got ears.

MORFELD: --just like the, the \$10 million Georgia-- or 10 million person Georgia population. OK, thank you very much.

SCOTT HOFFMAN: Yeah. Any other questions?

LATHROP: I don't see any other questions for you, but thanks for being here.

SCOTT HOFFMAN: Sounds good. We only need 17 senators to say no.

LATHROP: Are there any other opponents? Is this the last testifier?
OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

DANA STEFFAN: Best for last, I hope. I'm Dana Steffan, S-t-e-f-f-a-n. I'm a fee-based property manager here in the city of Lincoln. And I believe it is an administrative issue and that the actual housing authorities and the way they're administered has some work to do before this bill can be successful. I know we took over a property at the first of the year and one of the tenants in that home was on Section 8. I don't deal with Section 8 very often, so we went into the process. I contacted the tenants two weeks before closing and said, hey, if this goes through, here's the process. I gave them an application, let them know where my office was. It was great. They reached out to me, set an appointment. I met them. They brought an interpreter. They filled out my application. They paid their portion on the 1st of the rent-- or 1st of the month for their portion of the rent. Absolutely wonderful tenants. And then I had to deal with the Section 8 portion of it. It's got their packet, 34 pages, went through it, started filling it out, emailed it back. Then they said, OK, I need a copy of your management agreement. Fine. Got that out, sent it to them. Well, now I need this notarized that you can be the property manager. Great. And ran out and got it notarized, sent it to them. Then they needed a copy of the warranty deed. So like I said, I think the system is broken. Of course, time is money. I spent an awful lot of time getting that on-line. Now I have to say it was 14 days and I got the payment from the Lincoln Housing Authority. But up to that point, I wasn't even sure how much it was going to be because they never disclosed that, because I couldn't receive the information, because the paperwork wasn't filled out yet. I understand the process. And also with Lincoln Housing Authority, they operate differently than most of the housing authorities, I understand, even in the nation, whereas they actually own property here in town and they administer the HUD program. They're in direct competition with me here in Lincoln. I'm just a little one-man show here. They have over 1,000 units. From what I understand, half of those, they rent at market rate. And that is one reason that we don't want to accept Section 8. And unfortunately, the lovely people that have those vouchers, it has absolutely nothing to do with them. So the program needs some fixing. The administration needs some fixing right down to how landlords are paid. Yes, they do a direct deposit into a checking account. Well, I have an on-line system, I have to go log onto their system, see if they paid the rent, take that, transpose it into my other system. Now I only have a handful, so it doesn't take all that long, but it's one extra step. Any questions?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

LATHROP: I think we're questioned out.

DANA STEFFAN: Great. Thank you for your time.

LATHROP: No, thank you for being here. We appreciate hearing both sides of the issue. Anyone here in a neutral capacity? Good afternoon.

MARNA MUNN: Good afternoon. Good afternoon, Chairman Lathrop and to all the senators on the committee. My name is Marna Munn, M-a-r-n-a M-u-n-n. I'm an attorney and the executive director of the Nebraska Equal Opportunity Commission. I'm here today to obviously to speak in a neutral capacity on LB1020 and to try to answer any questions I can with regard to the legislation. Very briefly, I'd note that my agency is capable of the work proposed under the bill and the Fair Housing Act, which we enforce. To ably do so, we will require some additional resources that would be state-funded resources, principally at a minimum, one additional investigator is reflected in our fiscal note. So I just wanted to address that up front. That's because based on all the testimony, I'm not gonna worry about my statistics here. Unlike some earlier bills and testimony, I think I can ably speak to the law. But I'm not sure about the statistics, so I'll reverse it on you guys a little bit. I had some difficulty trying to find and define the universe in which we'd be operating and hearing everybody else today, I think that I'm not the only one. What I was able to glean is that there are perhaps up to 28,000-plus individuals in the state on public assistance of some kind that's not limited to Section 8, but I thought it was relevant to rental income source in general. So that plus, you know, any-- all the rentals available, source of income would impact, impact all of-- anyone available to rent or buy in the state. Given all of that and to try to be fiscally responsible, I had to, I had to realistically turn in a fiscal note that it would indicate we'd need some help with the possible claims, particularly in the initial first two years. I tried to be as conservative as I could with it. We currently have four investigators dedicated to housing primarily. We would probably have to shift them to complete housing and then we'd have some additional need. Most of the cases that do come in, come in and are dual filed through our federal-- along with our federal contract with HUD. So we get reimbursed from HUD for doing the investigation under, you know, the two laws, the federal and state. So that's a huge part of our budget. This would be a state-based only claim, which isn't a problem. Other laws we enforce also have state-based only claims and-- but we wouldn't get reimbursed for our work from HUD on that. So that's really why we turned in the fiscal

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

note that we did. Mostly, we hope through outreach of our own and through the networks involving some of the individuals who testified today. We would do a lot of education upfront so we could reduce the enforcement on the other end. But I just wanted to come and assure everyone that we're capable of it. I have a few things I noted during some of the opponents' testimony I wanted to speak to. I think I would primarily say that with regard to-- I'd like to set the record straight, our-- you can file with our agency at no cost, with no requirement that you hire an attorney. It's, of course, your choice to do so. But with regard to costing a lot of money to work through our process, that's not part of the requirement at all and not necessary. It's a choice. And so I thought I needed to set that straight. And then with regard to administer-- the one other thing I think I really want to clarify is that it's been brought up at various times, if there is a legitimate business reason that someone gets denied, we absolutely deal with that in all of our discrimination claims right now. We're capable of discerning that response when it comes from a respondent and kind of try to-- that's our whole point, is to suss out the difference. But-- and so we understand how this law would work. We have no problem with trying to review a legitimate business decision. So I'll stop because I have the red light. But just answer, if I can, answer any other questions that you may have.

LATHROP: We'll see. Any questions? I'm kind of surprised after all that concern. You mentioned that if there is a legitimate business purpose, other than the fact that somebody's a Section 8 voucher, voucher holder then, if you can establish that, then, then there's no cause, you issue a no cause letter or your conclusion is that this-- there was some reason other than the fact that they are--

MARNA MUNN: Yes, generally speaking, yes. Just, as Senator Vargas said, rental history, criminal, you know, background, some of the other reasons that you can legitimately reject an applicant.

LATHROP: I guess you deal with the same issue in employment--

MARNA MUNN: Absolutely.

LATHROP: --when somebody says I was fired because of my race, maybe--

MARNA MUNN: Color, national origin, religion, disability. Yep.

LATHROP: Right.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

MARNA MUNN: All of it.

LATHROP: OK. Senator Pansing Brooks.

PANSING BROOKS: Thank you for coming today. You provide a valuable service to our state. So thank you. I, I guess I'm just interested if, if people are, if people are similarly situated and told that even though they have the ability through whatever funds available to pay for some housing, aren't they, aren't they being discriminated against right there? Isn't that something where they could come forward and say under the 14th Amendment, my due process and my, my rights to attempt to get housing are being violated in this regard? It's--

MARNA MUNN: I think that's a cognizable argument that could be brought. I don't off the top of my head know if that argument's been brought in other states. I would reiterate the statistics by the senior certified law student that we found 16-plus states who have some form of source of income protection, 41 additional jurisdictions in states that don't have statewide coverage, and I didn't double count, so that was 10 more states that have at least municipalities within their jurisdictions so there you're up to 27. Half the states at least have some place where they're providing this level of protection. I honestly and sincerely was quite surprised, I didn't see, I went looking, I didn't see very much litigation. And some of them have had that form for 20 years, have had this protection. I was, I was looking for what the opposition, what the stumbling blocks were, and there's definitely been litigation, as there is in every one of, you know, under every protected class, but I couldn't find what I thought, you know, the level I thought that I would find. But, but I didn't, I didn't have enough time to research it. But, yes, it sounds like a disparate impact kind of claim or an equal protection claim.

PANSING BROOKS: Yes, to have, to have one blanket statement about one class of people. So-- OK, thank you very much.

MARNA MUNN: Um-hum.

LATHROP: I don't see any other questions, but thanks for being here. We appreciate your patience.

MARNA MUNN: If you have any follow-up questions, I'm always open to questions and conversation.

PANSING BROOKS: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

LATHROP: Very good. Thank you. Senator Vargas, to close-- or is there anybody else here in a neutral capacity, I should ask? Seeing none, Senator Vargas to close. And as you approach, we do have letters of support from Tiffany Seibert Joekel, at Women's Fund; Rose Godinez, at ACLU of Nebraska; Molly Mayhew; Joey Adler, from Holland Children's Movement; Tessa Foreman, Nebraskans for Peace; and Maggie Ballard, at Heartland Family Service. There are no letters of opposition or in a neutral capacity.

VARGAS: Thank you all. Been a good discussion. Many of you know this, I chair the Planning Committee and it's our long-term strategic planning body. It's, it's one of the committees that I think is looking and trying to zoom out and see what are some of the biggest trends coming out of what are our biggest needs for the state of Nebraska? Housing came up in our long list of things that we wanted to do, and it felt to then be not only one thing specifically, it kind of spread across a lot of different subject matter. It's one of the reasons why I've been investing in legislation that's trying to support housing. I've allocated-- changed some of the different standards to make accessibility to affordable housing trust fund more accessible so that individuals, specifically developers and nonprofits and other agencies, can then access these funds. I have a middle income housing bill that's trying to incentivize more owner-occupied housing. So what I'm trying to say is I'm very supportive of trying to ensure that we are expanding the different options in housing. However, I also like looking when we have existing programs, we may not be able to fund entirely new programs in our state from the federal government, but when programs have existed for a long time. We're not saying every single program in federal government is perfect, but if it's not working, we typically tend to get rid of it or we don't fund it. In this instance, we have a program that has been working. Doesn't work necessarily for everybody, I think you've heard some people it works really well for some people doesn't work as well. If there's a question on whether or not it is financially sustainable, I think the answer is yes. It works in states, people use Section 8, private, you know, private individuals that are renting, that are landlords, it economically works for their business. The question I'm really posing to you is, can we remove a barrier that is making it harder for people to access affordable housing options, a very small number of individuals in our state, so that they can then have healthy, sustainable housing options? All the job, you know, career work force readiness we talk about won't matter unless we have some affordable housing options for people. We are number three in the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

country for the number of individuals working one or more jobs and are still living in poverty. This is just one step to make it easier for individuals to have housing under an existing program that we know is working, is not perfect, but is working. And 17 other states and many municipalities, 50-plus, have found an avenue to then ensure that people aren't being discriminated against for this reason. That's what I'm putting in front of you. That's what I'm hoping you'll support. We heard a lot of different answered-- questions answered in this last testimony around, you know, that we're seeing a lot of litigation? No. Are we seeing, you know, a significant, you know, backlash to change the legislation? We're not seeing a lot of these different legislation in states being overturned. In fact, it's expanding and we're seeing it in more states because we want a federal program to work. And that's what I really want here. So I thank everybody for hearing this testimony. I think everybody testified on both sides of the issue. And ultimately, I hope you'll support and move this bill forward. We will work on it with certain individuals. I think I've done that with my pass legislation. But the fundamental, what I'm putting in front of you is can we ensure that we're not discriminating against individuals for this reason so that they can have affordable housing and then have a better life for themselves and their families? Thank you.

LATHROP: Fair enough. Thank you, Senator Vargas. That will bring to a close our hearing on LB1020. We thank everybody who came down here today to testify. We'll give the room a chance to clear before we have Senator Hunt introduce LB873. You can turn the feed back on if you would. Thanks, Laurie. Our next bill up today and our last bill of the day is LB873. And that brings us to Senator Hunt. Senator Hunt, welcome.

HUNT: Thank you, Chairman Lathrop. And thank you, members of the Judiciary Committee. My name is Senator Megan Hunt, M-e-g-a-n H-u-n-t, and I represent District 8 in midtown Omaha. I'm here today to present LB873. This bill makes it easier for Nebraskans to amend their gender on official government documents. It provides for a gender neutral designation on driver's licenses and also provides for a procedure to amend the sex listed on a birth certificate. In order to live safe, full, and authentic lives, it is, it is essential that transgender people have access to identity documents such as photo identification and birth certificates that accurately reflect their name, gender identity, and gender expression. The ability to change one's documentation or status can have a significant impact on all other aspects of a person's life, including employment, marriage,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

inheritance rights, and just conducting the business of life. According to the 2015 U.S. Transgender Survey conducted by the National Center for Transgender Equality and other partners, only 11 percent of respondents reported that all of their IDs had their correct name and gender, while more than two-thirds, 68 percent reported that none of their IDs had their correct name and gender. Nearly one-third, 32 percent of respondents who showed an ID with a name or gender that did not match their gender presentation reported verbal harassment, reported that they were denied benefits, asked to leave, or assaulted. So for example, imagine if I had an ID that had a male name on it. Say, my ID said Steve. And when I present this to people, maybe that would cause some confusion or have them make a remark or in worst case scenario, make me a target for violence. So try to put yourself in that position, because for many transgender people, that's their reality all the time. And I can't imagine how much anxiety and fear that would put in me just going through my daily life and minding my business. Current law creates onerous and unnecessary barriers for people who wish to apply for a change in gender on their state- issued identity documents. One of the most significant of these barriers is the requirement for a physician-sworn statement certifying the extent of medical treatment received by an applicant during their gender transition. I'm talking about reassignment surgery. This requirement is really problematic because not all transgender people have access to transition-related healthcare for gender affirming treatments. Further, and what I think is important to say is that whatever steps someone takes in a gender transition has no bearing on their identity. I don't think any kind of gender affirming surgery that people have chosen to go through or not is any of the government's business. So we shouldn't be requiring a physician to say, yes, I performed surgery on somebody and now this is their sex or gender. But today, as statute stands in Nebraska, the government makes it their business. So the question I want this committee and the Legislature to consider isn't whether you accept transgender identities or that you understand it, but whether this is appropriate place for the government intrusion that we see today. Many other states already provide a nonbinary option on driver's licenses. A recent Pew Research survey found that over a third of Americans now in their teens and early 20s know someone who uses gender neutral pronouns. Sixty percent of the teens surveyed told Pew that forms asking about a person's gender should include options other than man and woman. I'd also like to address the fiscal note briefly. Currently, the DMV suggests using non as the marker on the driver's license and I have an amendment here-- I have an amendment that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

specifies that the DMV use an X for the nonbinary marker because this is the option that the majority of states are taking. So it will say M or F or X. That should remove the cost. And this was the original intent for the implementation of this bill. And I've also spoken to the DMV about this. It's been a priority of mine to focus on how we can invest in people in our communities to not only retain but invite talented and creative people to Nebraska. This bill, regardless of how you feel about it, both to those of you who are here and to those who may be watching on-line or in the audience, this bill will do nothing to affect the lives of people who oppose it. But this bill will matter a great deal to the people who it pertains to. Inclusive policies help guarantee that we are creating an environment in this state that makes this a place that people want to live. LB873 is just another important step that we can take as lawmakers to let everybody know that Nebraska is for everyone. That's all I got. Do you have any questions?

LATHROP: Very good. Well, let's see if there are. Any questions for Senator Hunt? Senator Slama.

SLAMA: Hi, Senator Hunt, and thank you very much for coming down to Judiciary Committee today. I just have a couple of questions. First off, would LB873 interfere or change how we approach high school sport eligibility in Nebraska?

HUNT: No.

SLAMA: No. OK. And then also referencing the latter part of LB873, Section 26, if your position on sex reassignment surgery and the state's business or lack thereof in having that be completed was an issue in the first part of the bill, why wasn't that carried over and that requirement removed for the latter part of LB873 in the change in the birth certificate?

HUNT: I think it should be. And I think that would be a good amendment for perhaps you to consider.

SLAMA: So what would you define as sex confirmation surgery as you amend in that part of the bill?

HUNT: Gender affirmation surgery, treatments, procedures are between a patient and a doctor. And for some people who are transitioning, they-- you know, it's very common to get a double mastectomy or to get different types of genital surgeries, but it's becoming more and more common for trans people to not change their bodies and not go through

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

surgery. Various reasons for that. It could be the cost, the access to doctors who are compassionate and caring about these sensitive issues. And it's also-- I-- from, from transgender and nonbinary people that I know I hear more today than I did maybe ten years ago, that they're just trying to be comfortable in their own bodies. And so that's why I think that any government opinion in statute about surgery is not appropriate today in 2020.

SLAMA: So in your mind, is there a difference between gender and sex? Because both of those issues are discussed. So in the first part, we're focused more on gender, latter half of LB873 more focused on sex. Is there a difference in that phraseology to you?

HUNT: I think there is. I think that there's gender expression, which can be very fluid. And I, I think that that's something that I support people deciding for themselves.

SLAMA: So both gender and sex deciding for themselves?

HUNT: Yeah, for me.

SLAMA: OK. Thank you.

HUNT: Thank you.

LATHROP: I see no other questions.

HUNT: Thank you.

LATHROP: I assume you're going to stick around to close?

HUNT: Um-hum. Thanks.

LATHROP: Good. We will take the first proponent. How many people intend to testify by a show of hands? OK, great. Thank you.

ABBI SWATSWORTH: Thank you.

LATHROP: And welcome.

ABBI SWATSWORTH: Thank you, Senator Lathrop and members of the committee. My name is Abbi Swatsworth, A-b-b-i S-w-a-t-s-w-o-r-t-h. I am the executive director of OutNebraska, a statewide nonprofit working to empower and celebrate lesbian, gay, bisexual, transgender, and queer/questioning Nebraskans. Gender identity is a term that describes how a person identifies their own gender. A person's gender

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

identity may be different than the stereotypes of the sex they were assigned at birth. There are a wide range of gender identities and expressions. The National Center for Transgender Equality defines nonbinary people as those who fall outside the designations of male or female, or who blend the two together. People who identify as nonbinary have existed as a natural variation of human experience forever. A growing number of people are using the term nonbinary to describe themselves and/or choosing to use gender neutral pronouns like they/them. As Senator Hunt mentioned in a 2018 study by the Pew Research Center, 35 percent of Gen Z say that they personally know someone who uses a gender neutral pronoun compared to 25 percent of millennials and 16 percent of Gen X. It is clear that the number of people who could benefit from gender neutral identification, such as a driver's license, is steadily increasing. Currently, 16 states have made provisions for a gender neutral option on a driver's license. Identification is a safety issue for nonbinary and transgender people. Also in the study mentioned by Senator Hunt, 32 percent of respondents do report being verbally harassed, denied benefits or services, asked to leave, or assaulted upon showing identification that doesn't match how they are presenting. In addition to being a safety issue, gender neutral driver's licenses are an issue of inclusion and a signal that Nebraska acknowledges the diversity of people who live, work, and play in our state. With Blueprint Nebraska making diversity inclusion, one of the key elements of attracting and retaining work force, LB873 is a small step in the right direction toward reaching that goal. OutNebraska fully supports the driver's license portion of this bill and acknowledges that the birth certificate portion of the bill could be improved, such as the amendment Senator Slama has mentioned. We would support an amendment to allow a new certificate to be obtained without proof of surgery because a nonbinary person may never choose sex reassignment surgery. I am welcome and open to any questions.

LATHROP: Very good. Senator Slama.

SLAMA: Hi.

ABBI SWATSWORTH: Hi.

SLAMA: Thank you very much for coming out and testifying today. Just to follow up on your comments about the birth certificate issue, what, what evidence do you think should be provided if we remove the requirements of sex reassignment surgery to evidence that change in sex?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

ABBI SWATSWORTH: I would tend to agree with Senator Hunt that that information is really very private between a person and their doctor. I don't know that the government needs to know what is between someone's legs in order to identify-- to give them an identification document.

SLAMA: So what I'm hearing is more of a recommendation that we remove sex from birth certificates altogether, then?

ABBI SWATSWORTH: No, not necessarily that we remove the requirement of surgery to amend or change a birth certificate.

SLAMA: But no other evidence should be provided in order to change the sex?

ABBI SWATSWORTH: I'm sure Senator Hunt would be willing to work with you on what sort of evidence might be appropriate, but I don't think that surgery is.

SLAMA: OK. Thank you.

ABBI SWATSWORTH: You're very welcome.

LATHROP: I do not see any other questions, but thanks for--

ABBI SWATSWORTH: Thank you.

LATHROP: --being here. Next proponent. Good afternoon.

ADAM DOWNS: Hello. My name is Adam Downs, D-o-w-n-s, and I am here representing myself as a citizen of the state. And I want to thank you all for the opportunity to testify. Several of the points I was going to mention have already been mentioned by others so I'm gonna gloss over those pieces. But I would like to say that we are behind the trend in providing a welcoming environment to the LGBT community. In 2010, the U.S. State Department changed the rule to change a gender marker on a birth certificate for your passport. They used to have a rule where you had to have surgery to change your marker on your birth certificate. In 2010, the U.S. State Department changed that. This was followed in subsequent years by the Veterans Health Administration and the Social Security Administration. Only 11 states require by a legislative mandate that an individual has surgery to change a birth certificate gender marker, and it is time for that to change. It costs approximately for a bottom surgery roughly \$25,000 and many insurance companies do not cover it. This is a huge barrier that is put on

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

someone to change their identity marker. In 2012, a federal court ruled that not being able to change a gender marker on a driver's license to match one's, and I quote, lived gender expression where identity infringes on a person's constitutional right to privacy because it threatens the disclosure of personal medical information. This is not only a threat, right, it was mentioned earlier to their medical information disclosure, it is a threat to the very safety as that survey percentage was provided. And I believe that we want to be a state where our citizens are not harassed or denied service or assaulted. We want to be a state that lives up to being a good place to live. On our tourism website, right, we have our, our slogan where it says, right, "Honestly, it's not for everyone." Underneath that though, it says that we are trying to attract "independent-thinking someones who dare to be different. Someone like you." And that's the part of that logan-- slogan that I think we need to live up to. We need to be a place for everyone-- and I agree as well, without the [INAUDIBLE] to some of the modifications to it. Yeah, I believe changing it to X is one I have listed on here as well. Currently, the legislation also requires a court order for a name change. Some individuals may not want to change their name, that should be put as if applicable. And then surgery is still listed in the beginning pieces you mentioned, which I believe that should be struck from it. An additional edit I would like to propose here for the legis-- for the committee to consider is in Section [SIC] 3(b) of the proposal where it says "The district court, upon being duly satisfied by proof in open court of the truth of the allegations set forth." I would recommend you strike the words "in open court" because it is not necessarily anybody else's business for the public or the media or anybody doing the records request to see that you went to court to change your gender marker. So I request that that also would be struck from the legislation. So--

LATHROP: OK.

ADAM DOWNS: Thank you.

LATHROP: Yeah, thank you, Mr. Downs. I do not see any questions for you. Thank you for being here though.

ADAM DOWNS: Thank you.

LATHROP: Next proponent.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

NILANI BUCHANAN: Good afternoon, Chairperson Lathrop and members of the Judiciary Committee. My name is Nilani Buchanan.

LATHROP: Can you talk up just a little bit?

NILANI BUCHANAN: Yes, I can try anyways.

LATHROP: All right. Yeah, please.

NILANI BUCHANAN: My name is Nilani Buchanan, that's N-i-l-a-n-i B-u-c-h-a-n-a-n. Today, I am testifying in support of LB873. I was born and raised in Omaha's midtown. Without knowing the words to describe it, I first realized I was transgender while attending Field Club Elementary. I earned a scholarship to attend Brownell Talbot and was off to a very promising start in life. Unfortunately, things didn't turn out according to plan. My youth was wasted in the depths of depression. I didn't finish school and was unable to hold a steady job. My family and friends were deeply concerned but didn't know how to help. I finally learned about the process of transitioning and realized that was what was missing from my development. It was a hard road, but I was motivated. After five long years, I am the happy, productive member of society I was meant to be. Life is good. Many of the hurdles I faced along the way are arbitrary. I've had to prove myself to people who don't possess the lived experience of being a transgender person in Nebraska. This gatekeeping of happiness was, and still can be, extremely daunting. At times, I thought I'd never make it. We should be encouraging transgender people on their journey instead of putting up roadblocks. That is why I support LB873. I want to encourage the well-being of Nebraskans who, like myself, seek to find themselves as happy, productive citizens. Thank you for your time.

LATHROP: Thanks for coming in. And for your patience and waiting as long as you did.

PANSING BROOKS: I have a question.

NILANI BUCHANAN: You're welcome.

LATHROP: Senator Pansing Brooks.

PANSING BROOKS: Thank you. Thank you for coming. Which pronouns do you use?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

NILANI BUCHANAN: She and her.

PANSING BROOKS: She and her. OK. Thank you. So I was just wondering, Ms. Buchanan, what-- do you agree with, with changing it from non to X?

NILANI BUCHANAN: Yes. I couldn't-- I am not nonbinary, so I wouldn't speak for people who are nonbinary. I wouldn't make that choice for them.

PANSING BROOKS: Yes.

NILANI BUCHANAN: But that does seem to be the preferred choice, X instead of non.

PANSING BROOKS: And the most comprehensive?

NILANI BUCHANAN: Yes.

PANSING BROOKS: OK. Well, we really appreciate you coming in and telling your story. Thank you very much.

NILANI BUCHANAN: Thank you.

PANSING BROOKS: Um-hum.

LATHROP: I think that's it. Thanks for being there.

NILANI BUCHANAN: Thank you so much.

LATHROP: Next proponent.

VICTORY KLAFTER: Good afternoon, almost evening, Judiciary Committee and Chairperson Lathrop. My name is Victory Klafter, that's V-i-c-t-o-r-y K-l-a-f-t-e-r. The previous testifiers in, in support have highlighted many important statistical and factual base evidence for why this bill is important and why it should be passed. I anticipate that some of the opponents in this room will base their arguments off personal religious experience. And so I am going to base my testimony for the most part off my personal experience that was impacted by-- severely by, by people who may have testified following me. I grew up in Norfolk, Nebraska, and for many years I wondered what was wrong with me. I cherish the moments when I was misgendered, quote unquote, as a boy, as moments when even someone like a stranger saw me for who I was. I did not know that at eight years old or ten years

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

old, that there were others that felt like me and had this discrepancy between who they were told they are and who they knew themselves to be. Sometimes I felt like Pluto, the identity I longed for, being held captive by clinical criteria, I did not satisfy. Around 16, I learned of this word transgender, which was not in my vocabulary. And-- but I knew that given my family's and my environment's hostility there in Norfolk, this felt completely out of reach to ever identify publicly as such. Finally, in March of 2017, with the incredible support and affirmation of friends and mentors, I decided to wear this identity publicly. The people I wanted to know me best, however, acted in opposition to validate the central piece of my own definition of who I am and that being my immediate family. To this day, they do not recognize me as a man. They use feminine identifiers in language to refer to me. This causes disorientation at best, and intense spiral in dysphoria when I'm with them on average. I have since decided for, for self-preservation to terminate contact with them and I grieve that very much so. But it put a little fuel in my fire to come in front of you today. And if my family won't respect me and identify me as who I am, I want my government to. They're-- someone said earlier that this will not impact anyone who is opposed to it. That is absolutely true. It will change the lives and hopefully keep more lives here, not just in attracting talent or people to Nebraska, but literally saving lives as they continue to live. People who were born and raised in Nebraska, as I was. So thank you for your time. I'm open to any questions.

LATHROP: I do not see any questions,--

VICTORY KLAFTER: Thank you.

LATHROP: --but we appreciate you coming here today, sharing your account.

SCOUT RICHTERS: Hello. My name--

LATHROP: Good evening.

SCOUT RICHTERS: Good Evening. My name is Scout Richters, S-c-o-u-t R-i-c-h-t-e-r-s, here on behalf of the ACLU of Nebraska in support of LB873. We want to thank Senator Hunt for bringing this bill because the ACLU's vision for Nebraska is a state where LGBTQ people can live open-- openly where identities are respected and fair treatment doesn't depend on who you are or who you love. It's estimated there are over 5,000 Nebraskans who identify as transgender or gender nonconforming. And these Nebraskans work, pay taxes, serve in the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

military, raise families, and contribute to our communities. The rationale behind LB873 is very simple, and that is that government issued ID should be accurate. So first, without a nonbinary option, some Nebraska licenses, licenses are simply not accurate. And also requiring proof of gender affirming surgery to change the gender listed on an ID create significant barriers for many transgender people who do not have transition-related surgery at all, leaving many trans Nebraskans with inaccurate IDs. Imagine all the times you're asked to show your ID, whether it's at a store or at an airport. And for some trans and gender nonconforming Nebraskans, each time they're asked to show ID, they are reminded that the state doesn't recognize their identity. A police stop can be stressful for anyone, but especially so for trans and gender nonconforming Nebraskans whose IDs may not reflect their identities. I did want to address the point about, about athletics, this bill wouldn't have any bearing on that. And that would be up to NSAA to make a policy. And really in closing, passing this legislation would signal that Nebraska respects and recognizes people of all gender identities and moves toward the goal of a more inclusive and equitable Nebraska. Thank you.

LATHROP: Very good.

SCOUT RICHTERS: Thank you.

LATHROP: Thanks, Scout. Any questions for this testifier? I see none.

SCOUT RICHTERS: Thank you.

LATHROP: Thanks for being here.

SCOUT RICHTERS: Yes.

LATHROP: Anyone else here to testify as a proponent? Seeing none, we'll move to opposition testimony. And if you are going to testify in opposition, if you don't mind coming to the front row where we can have you in our on-deck chair, if you wouldn't mind. Good evening.

JULIE MAASKE: Good, good evening. Good afternoon-- good evening, Chairman Lathrop and members of the Judiciary Committee. I am Julie Maaske, deputy director of the Department of Motor Vehicles, and I'm appearing before you today to offer testimony in opposition to LB873. The Department of Motor Vehicles has reviewed the green copy of LB873, which provides for the issuance of a gender neutral driver's license or state identification card. The bill, if enacted as written, will

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

place Nebraska out of compliance with the Real ID Act of 2005. The provisions of Section 6, subsection (3) states that gender is not a material matter for the issuance of the operator's license. The Real ID Act outlines minimum document requirements. It states a person's gender shall be indicated on each driver's license and identification issued by the state. Falling out of compliance with the Act will mean Nebraska documents will not be accepted for federal identification purposes, such as boarding a commercial aircraft, entering federal buildings, or entering military institutions. As introduced, Section 10, subsection (2) requires the department to create a gender designation of non. This designation is inconsistent with published driver license standards and the nomenclature used for the data dictionary to exchange information with other states. State and federal law prohibit the department from issuing a driver's license to anyone who is suspended or revoked in Nebraska or any other state. Eligibility is determined by checking records from other jurisdictions. The use of the non designation would not allow this check to be handled electronically due to the incompatibility of the designation with other state systems. The result would be a manual check with all other states prior to the issuance of a license. Additionally, the driver's license standard dictates sex be identified by a one character field. The use of a three character field as in the non would require significantly more programming from the outside contract vendor, which increases the cost to implement the provisions. Under the current language of the bill, it would become effective in July of this year. We're currently in the process of updating the card design with an implementation in late 2020 or early 2021. As written, it would require paying the vendor to make changes to the current card design for the July 2020 date and then also pay for a change or to the current project contract essentially paying twice for the same programming work. For these reasons, I'd respectfully urge the committee not to advance the bill. We thank you for your time today and I'm happy to answer any questions you may have.

LATHROP: Senator Morfeld.

MORFELD: Thank you for coming today.

JULIE MAASKE: Yes, sir.

MORFELD: So the, so the issue is it can't be three letters, it needs to be one letter?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

JULIE MAASKE: The card design standards restrict it to one alpha character.

MORFELD: OK. So if they said-- they put the letter in instead of the three letter word, would, would that be acceptable?

JULIE MAASKE: It requires a one alpha character to be an M, an F, or an X.

MORFELD: Or an X. So if it's X, then your guy's opposition would be--

JULIE MAASKE: That meets the card standard on, on that,--

MORFELD: OK.

JULIE MAASKE: --on that issue.

MORFELD: And, and that wouldn't require reprogramming or anything that's--

JULIE MAASKE: It would require some programming, but it would be less--

MORFELD: OK.

JULIE MAASKE: --for, for the, for the X off the card standard,--

MORFELD: OK.

JULIE MAASKE: --and then the Real ID.

MORFELD: OK. And then so would your opposition then go away if we--

JULIE MAASKE: There would continue-- there's also the, the comment in the first paragraph about, paragraph about the Real ID Act, and the, the bill says that it would be-- the gender would be-- would not be material. And that would put us out of compliance with the Real ID Act because the Real ID Act requires that the gender be identified on the card itself.

MORFELD: OK. So if they take out the language-- if they take out that language at the beginning that you're concerned about, they just have it be an X-- by they, I mean, Senator Hunt, does that take away your two major concerns other than the programming cost concern?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

JULIE MAASKE: Yeah, and then we'd have consideration for the date. And I, I did speak briefly with Senator Hunt, and we would be more than happy to work with her, more than happy to look at any language that she would have and then assess how that would work.

MORFELD: OK. Thank you very much.

JULIE MAASKE: Absolutely.

MORFELD: I appreciate it.

JULIE MAASKE: You bet.

LATHROP: Can I just follow that up? If there-- if, if the bill said X, put an X instead of non, would that take care of all the concerns you've expressed or do you still have a Real ID express-- or a concern?

JULIE MAASKE: There would still be a Real ID because that's--

LATHROP: And what's the Real ID concern? I'm not, I'm not tracking that.

JULIE MAASKE: The Real ID concern is associated with the language that says that gender is not material-- is not a material matter to the issuance of the license where the Real ID says we are required to put a gender on the document. So a gender would, would have to be identified.

LATHROP: So if we took that, it's not material out and just said the DMV shall put M, ,F or X, we're good?

JULIE MAASKE: That, that is the part, that is the part of the language, I think, I talked-- gave a section on it, where it says it's material, that is the part that relates to Real ID, yes.

LATHROP: OK, I'm, I'm still not clear. So do we solve the problem by using X instead of non, or do we still have a continuing problem?

JULIE MAASKE: There-- there's kind of the two separate, one is a Real ID, one is the card standard. The Real ID, we're required to put gender on the card of some type,--

LATHROP: So we put X.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

JULIE MAASKE: --so it needs to be material in some way because we have to put, according to the card standard, have to put M, F, or X.

LATHROP: OK, so maybe I'm missing something, if we use X instead of non and we put that on everyone-- everyone's driver's license, one of those three, are we in compliance with Real ID?

JULIE MAASKE: Yes, because Real ID requires that we put a gender on the card.

LATHROP: OK. OK, I--

JULIE MAASKE: Yeah, and then the card standard says it has to be one of those three.

LATHROP: OK, I think I got it.

JULIE MAASKE: OK.

PANSING BROOKS: Senator Chambers has a question.

LATHROP: Oh, I'm sorry, Senator Chambers.

JULIE MAASKE: Hi, Senator.

CHAMBERS: I've intentionally been quiet this--

JULIE MAASKE: I'm sorry.

CHAMBERS: I've intentionally been quiet this entire hearing that we've had. Do you have a copy of the bill in front of you?

JULIE MAASKE: I do.

CHAMBERS: If you would turn to page 15.

JULIE MAASKE: Yes.

CHAMBERS: Now, I'm going to look at something that this bill that we're considering does not even touch.

JULIE MAASKE: OK.

CHAMBERS: Would you look in line 4?

JULIE MAASKE: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

CHAMBERS: What does physical description include that would be required? If I had one arm, would my driver's license have to put that in as part of my physical description?

JULIE MAASKE: It would not.

CHAMBERS: That would be significant, though, wouldn't it? If I only have one arm,--

JULIE MAASKE: Um-hum.

CHAMBERS: --then that should be on the driver's license that we have. Well, what then does physical description mean?

JULIE MAASKE: According to the statute, it means-- a current statute, it means gender, height, weight, eye, and hair color. With, with Senator Hunt's proposal, it would strike gender from that.

CHAMBERS: So I'm clear, is everything that the term physical description comprises in lines 4 and 5, which would be height, weight, eye, and hair colors, that's all that's required in the physical description?

JULIE MAASKE: In, in her, her proposal?

CHAMBERS: And you don't-- you wouldn't have to put anything else on my driver's license as far as a physical description. If I had three fingers on my right hand, that would not have to be put in as a part of my physical description.

JULIE MAASKE: Correct.

CHAMBERS: If I had one leg shorter than the other, that would not be a part of it.

JULIE MAASKE: Correct.

CHAMBERS: But when it comes to gender, that is the crotch area. And it was a joke to the President. At least it causes him to have a lot of fun because he grabbed it, the female crotch. He liked to do that. And he made it clear. Well, if instead of being a crotch grabber, somebody is the nub grabber, if I only have half of my right arm and there's somebody who likes to grab that so it's of significance to that person. And I'm getting at something, because I think some of this language means nothing if all that has to be here in the term physical

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

description, weight, eye, and hair colors. If at the time I got my driver's license, I weighed 155 pounds-- and a driver's license is good for how long a period of time?

JULIE MAASKE: For five years.

CHAMBERS: OK, in the fourth year I had ballooned and gained 50 pounds, then I'd have, have to get a different driver's license, would I?

JULIE MAASKE: You would not. Not legally, no. You could if you chose to.

CHAMBERS: But I'm no longer-- the weight listed on my driver's license doesn't accord with the weight that I actually am. And if I went to one of these weight loss places and they say lose 15-- 50 pounds and 3 inches. Well, if I'm 5 feet 8 when I go to get my driver's license and I go to the weight loss and I lose 50 pounds and lose 3 inches, so now I'm no longer 5 feet 8, but 5 feet 5 because it doesn't say where the 3 inches would be lost from.

JULIE MAASKE: Right.

CHAMBERS: I don't look anything like what my driver's license says I look like. So why do we have that? It means nothing. And here's what I'm getting at-- not to put you on the spot, I want some things on the record because I think there's certain meddlesome people in this society who are-- they're, they're on crotch watch all the time. But for practical, meaningful purposes, when it comes to identifying a person, there are some things much more significant than that. But if the crotch is so important, why don't we just put that a person when he or she boards a plane has to drop his or her britches or drawers and undergo an examination. And if the crotch has been modified surgically, then give a certification of that since America is so-- I would say obsessed with the crotch. Why don't we just eliminate the term physical description and just say that we would have-- just eliminate physical description and say leave gender, for my purposes, gender, height, weight, eye, and hair color. Then when we could put the X, forget about saying a physical description because that means nothing or don't let the driver's license last for five years.

JULIE MAASKE: Yes. What, what I'm speaking to, Senator, is, is the gender, is the gender issue only as it relates to Senator Hunt's bill.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

And that's why I mentioned the Real ID requires the gender to be on there.

CHAMBERS: I understand that. And since you're the person from the Motor Vehicles Department and you are our only real expert and we're talking about the importance of description, I wanted to have it established for the record, the things that I mentioned. You do not have to describe-- physical description does not mean describe what a person actually looks like. These words that follow are what define the meaning of the words physical description. Only things needed to me-- take the law as it is now, the only thing needed would be gender, height, weight, eye, and hair color. Why do they-- why don't they put skin color? Or is that someplace else where it says race?

JULIE MAASKE: It is not, it is not listed here, no.

CHAMBERS: So they don't have to put that I'm black?

JULIE MAASKE: A person identi-- however they identify their race.

CHAMBERS: But that's not required in the law?

JULIE MAASKE: Right here it is not, no.

CHAMBERS: And you are the one who has to carry out the law. I understand that. But I wanted to put these questions to you so when some of these meddlesome busybody people come up here, if they do, I'm going to show that they're not really being consistent. Yours is strictly technical and it's trying to be done in a way that complies with other provisions of federal law so there is a harmony there. So I'm not attacking or criticizing you because you gave testimony that indicated what wiggle room is there based on what we're trying to do with the amendments. But what I'm looking at is how hypocritical even the federal government is, because what they demand in the way of physical description is not a physical description at all. If they really meant it, they'd say Arabs and Jews-- what some people don't know they're both Semitic people. So when people hate Muslims, they're anti-Semitic if they're hating the Muslim, not because of religion, but because he or she is an Arab. So there are many other things that we as lawmakers consider that could make it difficult for people in your position to carry out your duties. And the reason I didn't ask you for a lot of responses to some of the things I'm saying, I just wanted to get some parts in the record of what these words really mean and all that they mean to show that in the popular parlance, physical

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

description would mean one arm, one leg, a prosthetic-- prosthesis. We don't have any of that that's required for the driver's license and the term physical description right now.

JULIE MAASKE: Yes, I understand. Thank you.

CHAMBERS: And that's all I have and I appreciate you coming. By the way, I know you probably can't tell me this, but are the mountain lion conservation plates still selling well?

JULIE MAASKE: They sell very well. Yes, Senator.

CHAMBERS: Thank you.

LATHROP: Are they the top seller?

JULIE MAASKE: I believe, I believe they're the second seller behind the Husker plate.

LATHROP: Behind the Husker plates.

JULIE MAASKE: But they're-- I think, they're very close and I, I, I would not want to speak inappropriately, but they're one and two and which order I'm not quite sure.

LATHROP: OK. OK. Thanks for being here.

JULIE MAASKE: Absolutely.

LATHROP: I think that's all the questions we have for you tonight.

JULIE MAASKE: OK. Thank you.

LATHROP: You bet. Any other opponents wish to be heard? Good evening.

MARION MINER: Good evening, Senator Lathrop and members of the Judiciary Committee. My name is Marion Miner, M-a-r-i-o-n M-i-n-e-r, and I represent the Nebraska Catholic Conference, which advocates for the public policy interests of the Catholic Church and advances the Gospel of Life by engaging, educating, and empowering public officials, Catholic laity, and the general public. And I'm here today to express the Conference's opposition to LB873. I'm gonna significantly curtail my testimony compared to what's been handed out, because otherwise I'm gonna run out of time pretty quickly. But proponents of the bill would argue that the bill is motivated by a desire to affirm the equal dignity of and society's respect for

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

persons who feel a sense of incongruence between their biological sex and the gender with which they identify, which is often accompanied by feelings of anxiety and of being unaccepted. Love, compassion, and respect for such persons, who are our brothers and sisters, along with an affirmation of their equal dignity and worth, is due to them. With this affirmation, we fully agree. But if we are to treat these brothers and sisters of ours with the compassion and respect that is due to them, we owe them first of all the truth. Pope Francis has spoken out forcefully on this issue on several occasions, speaking on what he has called the ideology of gender. He reminds us that it is one thing to be understanding of human weakness in the complexities of life and another to accept ideologies that attempt to sunder what are inseparable aspects of reality. And he's quoted further in the handout. So we must begin by acknowledging the truth. I'm not gonna go into the ease by which a person's birth certificate could be amended, the sex on their birth certificates could be amended, that's been addressed previously, but I want to address the issue, moving on from that then, then to an issue that Senator Slama brought up, which is with regard to its impact potentially on high school female athletics. One of the handouts that's, that's been passed around, actually is the NSAA Gender Participation Policy. So the gender policy states that, and I think this is on page 2, a student's eligibility will be determined by the sex on the student's birth certificate. Only where there's a discrepancy between the student sex on the birth certificate and the sex under which he wants to compete, does the NSAA policy on transgender athletes become applicable. LB873 in providing male students in a much easier route to change the sex on their birth certificate would allow them to sidestep the NSAA policy, which have many, many, many months to work out that these young men take measures to reduce the significant physical advantages they have over female athletes. Girls deserve to compete on a level playing field. Forcing them to compete against biological males is unjust and deprives them of, of athletic opportunity. Science and common sense both demonstrate that males are stronger than females and that the difference between the two biological sexes manifest in size, strength, bone density, and even the heart and lungs. And I would mention also that there is litigation related to Title IX on this issue in Connecticut right now, where male athletes have swept all of the state track meets and have reset the record books in the state of Connecticut for female track. So for all the foregoing reasons, the Conference asks that you indefinitely postpone LB873.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

LATHROP: OK. Senator DeBoer.

DeBOER: So if we, if we can find a way to keep the school athletics piece out of this, does your opposition go away?

MARION MINER: No, it does not. That's an important part of that. But again, the-- there are, there are other objections that we have to it as, as I've outlined in the beginning. One of those is, is simply that the law is a teacher. And again, we're concerned with showing people-- we're, we're concerned with telling the people the truth, people the truth and telling the people the truth, the truth with charity and with respect and with understanding and compassion. But it doesn't serve their well-being to lie to them. And that would include not accepting the biological reality of their sex.

DeBOER: So, so are you here testifying today in your capacity as moral watchdog of Nebraska or is there some particular thing that your Conference has at stake with paying attention to this marker on the state ID badge?

MARION MINER: I, I want to refer back, back to the-- to, to what I just said, which is that the law teaches, the law teaches us something, it normalizes things, it sets a standard that people tend to base their expectations in the way that they think about things around. That's--

DeBOER: So, so you are here as then the moral watchdog. This is your opportunity to tell us what you think the morality of the state should be. I mean, that's-- you're saying the law should teach, teach the morality that you think is there. Is that, is that what--

MARION MINER: Well, it's not just that the law does teach-- or that the law should teach, but that it does. Whether or not it should, it does.

DeBOER: Sure, OK, sure.

MARION MINER: And we, and we are members of that society. All of us are members of that society. And, and the church has an interest, as everyone has an interest in making sure that that society is just and reflective of the truth.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

DeBOER: OK. So you're speaking here based on moral convictions about what you believe is the truth and just and that sort of thing and what we ought to have on our state ID markers in that capacity.

MARION MINER: Well, and, and not only, not only moral convictions, I mean, that's-- it's not inaccurate to say that that's certainly that's true. It's also true, though, that these things are not based on sort of philosophical or theological presuppositions, but on objectable-- objective empirical observable, objective physical material things.

DeBOER: So you're also making scientific comments here.

MARION MINER: You could, you could-- sure.

DeBOER: OK.

LATHROP: Senator Pansing Brooks.

PANSING BROOKS: Thank you for coming, Mr. Miner. So you just set objective empirical, so when somebody who is presenting as a different-- in, in a different binary fashion than what is on their birth certificate or their driver's license, the police are supposed to do what to trust that this is the same person? Are they supposed to all of a sudden get their hair cut because they're actually a guy and it says male on the driver's license and-- where's the empirical objective data when they present as somebody else?

MARION MINER: I'm, I'm not sure how to answer that-- I'm not sure exactly what you mean by the question.

PANSING BROOKS: I'm asking you-- you just said that we should, that we should use objective empirical data. Well, the objective empirical data, when a person who presents themselves as a different sex or different binary-- I don't know, binary element, I don't know what the word is, but anyway, why, why are we not able to allow the police or the grocery store person to be able to not all of a sudden raise an alarm because this person isn't presenting on their-- their ID says male, and they're actually presenting female?

MARION MINER: I mean-- again, I'm not exactly sure how to address your question except to say that how a person decides to present themselves in terms of their personal appearance is, is, is their business and--

PANSING BROOKS: Exactly.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

MARION MINER: But the question is, right, if we're going-- with, with regard to how we treat the law and what the law says and what the law treats a person as with regard to something that is objectively verifiable, it should tell the truth.

PANSING BROOKS: I agree. So how is it objectively verifiable if it says male and they're presented as female?

MARION MINER: The, the objective reality, the truth is based in a person's-- it's in their genes. It's in every cell of a person.

PANSING BROOKS: So a person should go and, and-- the grocery store person needs to go and ask them to show them what sex they are or how do we determine that?

MARION MINER: I don't understand where that would ever-- what--

PANSING BROOKS: Well, you're saying an objective presentation.

MARION MINER: What does a grocery store situa-- I'm, I'm--

PANSING BROOKS: They take an ID, they take an ID for a check or for some form of ID to make sure that, that this is the person before them. And if it says male and the person is presenting as male, how is that objective? That isn't a factual presentation. And, and who cares. What, what possible problem could it be if somebody presents as something different than what is on their, their license? Why can't they change it? Why is it our business and yours-- or the Catholic Conference?

MARION MINER: As I've said it's-- as, as I've said it doesn't matter to me or to the Conference how a person decides to present themselves. What matters is how the law is going to treat-- there's-- there is ostensibly a reason that the government records a person-- that, that a person-- that the government on a driver's license or in a birth certificate, for example, there's a reason, I presume, that they collect that data. Whether or not they should, you know, is, is not a question for me, it's a question for somebody else. But the fact that they do collect that data--

PANSING BROOKS: It's a question for legislators.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

MARION MINER: --but the-- oh, sure, that's, that's fair enough, but the fact that they do collect that data, again, that should be in line with the truth and not in line with something that is not true.

PANSING BROOKS: So--

MARION MINER: And that's true, that's true, not only on the face of things for its own sake, but also, again, because if we persevere in insisting to someone that they should accept something about themselves, that is not true, even if it's well-intentioned, it does not do them any good either.

PANSING BROOKS: OK, so number one, the law is not fluid. We have to just stay with the laws as they are because that's what's happened in the past and that's where we're gonna be in the future.

MARION MINER: I haven't made that representation.

PANSING BROOKS: That's one thing I'm hearing. Yes, that's what the law states so we have to comply with the law. That's one thing that you've said. The other thing that, that is coming out is that in my opinion right now, when-- without another form like X, then we are not telling the truth. We are not allowing people to exactly express who they are. And instead, they must be forced to lie. They must be forced to say, yes, I'm male, but I'm presenting as female and this is who I am. But I will lie and comply with, with what I'm being forced to do by the state.

MARION MINER: I understand, I understand your objections on that measure. I don't agree with them,--

PANSING BROOKS: OK.

MARION MINER: --but I understand that they're strongly held. And, and we may just have to disagree on that for the time being.

PANSING BROOKS: Thank you, Mr. Miner, for coming.

LATHROP: Senator Slama.

SLAMA: So I'll be brief. Thank you very much for coming down. Much as I think your testimony today revolves around changing an objective standard to a more subjective, subjective one, is that correct?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

MARION MINER: Sure. That would be one way to characterize it, yes.

SLAMA: And just referencing the physical descriptions that I know we've discussed ad nauseam already that are already on your driver's licenses. Would you say that height is something that's an objective standard?

MARION MINER: I, I would say so, yes.

SLAMA: Weight?

MARION MINER: Yes.

SLAMA: Eye color?

MARION MINER: Yes. That may-- that one may be a little bit more subjective, but generally, yes.

SLAMA: Sure. Hair color? Again,--

MARION MINER: Again, sure.

SLAMA: --guessing around the same thing. So you're saying that we're shifting this one marker from a subjective-- I mean, from an objective standard which has scientific backing. There is a scientific difference between a male and a female when it comes to sex and sex identification, correct?

MARION MINER: Correct.

SLAMA: So that's all the questions I have. I just wanted to put it on the record that there are sex-- there are recognized differences in the genders between male and female. It goes all the way down to the chromosomes. So thank you.

MARION MINER: Thank you.

LATHROP: Senator Morfeld.

MORFELD: So, so what happens when someone is born with both sexes?

MARION MINER: Um-hum. Sure. My understanding, and I'm, I'm not an expert on this issue by any means, but my understanding is that in the event of, of what's sometimes referred to as an intersex condition with the person, is that in those cases most of the time-- and again, these are-- this is a very, very small number of people, but it, it

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

does happen. And that most of the time, in fact, almost all the time, that is something that is due to, due to a, due to a lack of development or a deformation in development among the organs that-- the external organs that we're speaking of with regard to how they-- you physically identify the person. With regard to how that is on the chromosomal level, however, that-- that's a different issue. That's something that usually is, is rarely identifiable--identifiable, regardless of the characteristics, the sort of ambiguous characteristics of a person. Even-- and even to the extent that you do have a chromosomal issue where you have, I think there's like an X, X, Y condition and maybe some others and I don't remember what those are called, but those even-- my understanding, again, is that using-- you can use a number of other observations in order to find out exactly what that person's sex is on a biological level. I hope that answer makes sense.

MORFELD: I guess, I guess-- my concern is, is that you say it's not very common, but it's 1 in 1,500 births that this often happens. And that's what the study showed. So I think it's more common than we think. And what I'm trying to figure out is how do we make it so that, how do we make it so that we have a fairer system that allows people to be who they are and be respected? And I don't think adding one more gender marker on the ID somehow disrespects anybody's beliefs. I don't think that it leads to any moral decay or anything like that. And so I thank you very much. You answered my question.

MARION MINER: All right. Sure.

PANSING BROOKS: Senator Chambers.

LATHROP: Oh, Senator Chambers. I didn't see you.

CHAMBERS: Mr. Miner,--

MARION MINER: Yes.

CHAMBERS: --did you get a Catholic education?

MARION MINER: I got a mixed public and Catholic education.

CHAMBERS: Did, did you go to a Jesuit's university?

MARION MINER: I did not.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

CHAMBERS: OK, then you didn't study Thomism?

MARION MINER: I did a little bit. But I, I couldn't, I couldn't-- I wouldn't bank on my recall of being able to apply it.

CHAMBERS: OK. Well, I'm not a Catholic, but I read and I understand and I was going to take you through your paces on Thomism to see if a Catholic who studied Thomism knows as much about it as a non-Catholic who doesn't believe in any religion knows about it. Because I read Thomism like I read science, math or anything else, they're just words describing events or notions. And if you add a religious flavor, it doesn't change essentially what I'm reading, I'm still dealing with words. That's what I was going to get at. Let me ask you this, why did you bring this Nebraska School Activities Association participation policy? Is it because it identified it as the Gender Participation Policy?

MARION MINER: It's because I wanted to-- and, and I mentioned this really briefly in my testimony, I think it's on page 2 of that policy, it points out that, that eligibility for a student regarding whether they're gonna compete in male or female sports is determined by the sex on their birth certificate.

CHAMBERS: Now--

MARION MINER: So if you make it--

CHAMBERS: Go ahead.

MARION MINER: --oh, I'm sorry, so if, so if you make it a very easy path whereby a person can change ostensibly at will the sex on their birth certificate, you make it very easy for them to sidestep the process, which the NSAA has established with regard to how they address the situation of athletes who want to participate in-- male-- biologically male athletes who want to participate in female sports.

CHAMBERS: Now when they talk about participation in athletics, they want there to be a level playing field.

MARION MINER: Right.

CHAMBERS: Well, suppose a girl is six foot six, she can play basketball against other girls, can't she?

MARION MINER: Sure.

CHAMBERS: And that's not an even playing field, is it?

MARION MINER: Depends-- I suppose it depends on what you mean by a level playing field.

CHAMBERS: If she can play-- well, she's so much--

MARION MINER: She has an advantage over the girls who are not as tall.

CHAMBERS: She has all of the attributes of basketball players that makes her stand head and shoulders literally above all the other girls and they have no chance against her. So why don't they ban her from playing basketball against girls?

MARION MINER: Because the-- in part, because a girl who is six foot six, certainly while she has an advantage over other girls who are not of the same stature, has nowhere near the athletic advantage than a male who's even simply six feet tall, has over the rest of the girls on, on the basketball court.

CHAMBERS: That doesn't even-- that, that doesn't compute. It sounds good, but it makes no sense and you know it. When-- there can be-- when-- I've, I've always been small, but for some reason, I was always stronger than the guys who were a lot bigger than me. When I was bench pressing 325 pounds and weighed 160, I didn't think that was anything because for me it wasn't. But there were guys much bigger than me who couldn't bench press that much. So did I have an advantage over them because I was a lot smaller, but a lot stronger, so I should compete only against little guys like me?

MARION MINER: I think you're making the point that I'm making, which is that when you're compared to other biological males, their size does not necessarily give them an unfair advantage. But if you were competing against females and they had to compete against you, that would not be fair.

CHAMBERS: But not every male is better than every female and not every female is less competent than the male. What I'm saying is students, young people, they say this is BS because when they're out there competing, they know there are girls who are far and away better than all the other girls. So this stuff is based on psychological, sociological, and religious beliefs. Now when you go to the airport, you could be a woman for all I know, you could have a vagina. So they

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

ought to make you take your pants down and make sure that you're a man. Are you aware that there was a man who underwent surgery to become a woman and she then won contests, beauty contests that other persons born with vaginas entered and they knew that he/she had undergone surgery. Why when that person was born with the male organs was he allowed surgically to remove those organs and now he considered a full-fledged female? If it's all based on the crotch, then what I say is true. You all are engaged in a crotch watch. You want to know what's going on between people's legs. And it's not obscene for me to say it. That's the way it is.

MARION MINER: I don't object to you saying it. But, but again, the question, the question that you posed is why should this have been allowed to happen? I don't think it should have been allowed to happen. I think that's very sad. But I'm not sure what your question is I suppose.

CHAMBERS: When I was growing up, I always went to predominantly white schools. I was always made to feel that I wasn't as good as the white students, white children. I was made to feel that white people were better than I am and nobody cared. That's what the system said. They can sign me to a role of inferiority. But instead of crushing me, it made me show that I'm better than they are and it even shows in the Legislature. Compare me to anybody in the Legislature right now, anybody or anybody who's ever been in this Legislature, who came through what I came through. I am superior to white men by the standards that they use to class me as inferior. Everything they hung on me to make me inferior, I've overcome. And they're more like that than I am. So now I'm superior to them. I know how to stand alone. I know how to deal with adversity. I never quit. I'm relentless. I don't need company. I don't need coalitions. I'm not bullied by the Governor, by the Attorney General, by any mass of senators, but my white colleagues are. You all want to narrow this all down with tunnel vision and look at what's between somebody's legs and all you have to do to lift yourself out of that is have a doctor slice off your penis and put a slit. And now you're not a man anymore. It's all in the-- well, the way you're treated. Because if you show certification of that operation-- did you read this thing you gave me?

MARION MINER: So I-- yes, and I will point out that the Conference actually opposed that measure because it was not reflective of reality in the, in the exact same way that you're speaking of.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

CHAMBERS: Is what I'm saying true or false?

MARION MINER: It depends on what part you're talking about.

CHAMBERS: About giving the medical certification that you've been surgically altered.

MARION MINER: That is a step in the NSAA policy, which, again, we opposed that allows for a person's application to compete as a girl, despite the fact that they're a biological male in female sports.

CHAMBERS: But that, that will allow that former male to be a girl. Isn't that true?

MARION MINER: That's what the NSAA policy, which we disagree with, says.

CHAMBERS: But is that in their policy?

MARION MINER: It is.

CHAMBERS: So you pick and choose even from their policy.

MARION MINER: What I am doing is showing you what the effect of this law-- this bill will be if it becomes law as it interacts with the current, as it interacts with the current NSAA policy.

CHAMBERS: Are there Catholic children who go to public schools?

MARION MINER: There are. I was one of them.

CHAMBERS: Has, has the Catholic Church given an official formal objection to the public school systems about this surgical alteration? Have they done that?

MARION MINER: Through, through, through the Catholic Conference, which advocates for the Catholic schools along with the church as a whole, we fought this the entire way from the beginning to the end. And it took months and months and months and we lost and we are still against it. But that is the policy that the NSAA has.

CHAMBERS: So then you are saying that the Catholic position is that once a male always a male, once a female, always a female.

MARION MINER: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

CHAMBERS: And the external genitalia would be what determines whether you're male or female from the Catholic position.

MARION MINER: That's an indication, right, of the, of the reproductive system, which again-- not again, but--

CHAMBERS: It's an indication it has to be the determining factor.

MARION MINER: It's, it's, it's, it's an outward-- I mean, it's, it's an indication. It's not the determining factor. If it were the determining factor, then once a male, always a male, once a female, always a female, would, of course, be false. That's not what I'm saying.

CHAMBERS: Well, the Catholics they're on a sliding scale so they can have it both ways. They're master politicians. If you've studied Thomism, you would know what I'm talking about. But let me put it to you this way, and I'm not gonna put all these other people through this because they hear what I'm saying, there's no need for me to discuss it with them anyway. The only way that you and I and anybody else would have of determining whether a person is truly a male is if he's got a penis. That would make that individual a male. And that person who is a male can never be anything else. If we have a person with a vagina that is a female and surgery and nothing else can change it. But you are dealing with nuances and there might be more to being a male or female than the external genitalia.

MARION MINER: There is.

CHAMBERS: But then when we get to the hermaphrodite where we've got them both and these people were described in ancient literature. What is the classification of a hermaphrodite? Should the hermaphrodite when it comes to identification put he/she, she/he to show that I'm both. I'm not male. I'm not female. I'm not non, none. I am both. So should we allow that to be put on the license-- driver's license?

MARION MINER: As I was trying to explain to Senator Morfeld-- and again, I'm not an expert on these issues scientifically speaking, but--

CHAMBERS: But you're the one discussing this here.

MARION MINER: Sure. Sure. I just, I just, I just want to say-- I just want to put that caveat out there so that if I make an error with

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

regard to the science behind the thing, that you understand my limitations.

CHAMBERS: But I want some guidance from you because you're--

MARION MINER: So I'm-- I'll do the best that I can.

CHAMBERS: OK.

MARION MINER: But, but, but as I was trying to explain to Senator Morfeld, there is-- there are-- there-- in those cases, right, there's almost always-- almost always, it's because of a failure to develop a certain orien-- things did not develop properly or they, they developed improperly. And in those cases, by examining other factors, including the cell, the very cells that the person is made up of, not just the reproductive organs, you can almost always determine the biological sex of that child.

CHAMBERS: Well, dealing with Thomism, when you put almost always that knocks the whole thing out because it either is or it isn't. Now what, what we're talking about here is a description on a driver's license. For that description to be valid if I'm a hermaphrodite, do you think since there are people who are born that way, we should put on the driver's license for them an accurate physical description? And that's why I was talking about physical description, and Senator Morfeld-- you know how these youngsters don't respect old people, he stole my thunder. When we talk about the physical description and that's where I said the language is in the law right now, and that is a part of what is to be on the driver's license and the state identification card and for that federal Real ID, you want to get as precise a description of this person as possible. If I want to put into the law that the person-- that the Department of Motor Vehicles would include M/F or F/M for male and female, would the Catholic Conference object to that?

MARION MINER: The whole tenor of your question leverages on this mistaken assumption, which I did not agree with, but which you have insisted on perpetuating, that the only thing that determines whether a person is male or female is, is regarding their external genitalia, which is not the case.

CHAMBERS: That's evading the question. You are an intelligent man. You are an educated man. But you are constrained by what your doctrine is

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

and what you are restricted to say. And you weren't expected to come up against somebody, me, asking you questions like I'm asking you.

MARION MINER: Oh, I, I expected it. But when, when--

CHAMBERS: Then give me an answer that's consistent.

MARION MINER: That is consistent.

CHAMBERS: No, it's not--

MARION MINER: Yes, it is.

CHAMBERS: --because then I'll quit asking.

MARION MINER: A person is either male or female.

CHAMBERS: I'm going to ask it directly. And I want everybody to see how you're flip flopping. We're here a long time today, but it won't be this long every day. If you're tired, you can sleep late tomorrow. I can't, I got to come back down to this pest hole. Since we're talking about how a person desires to be perceived, you and other people don't want a person's self identification to be the determining factor if it goes contrary to what everybody else says is the way they ought to be identified, regardless of how they describe themselves gender wise. So here's what I'm-- I'm not saying that's what you-- you're saying.

MARION MINER: OK. OK.

CHAMBERS: That's why I'm laying out for you what we're contending with now between you and me, because I'll offer amendments to legislation. Now currently, it's male or female, and they'll allow an X perhaps. Well, it is act-- actually correct if a person is a hermaphrodite to put age-- I meant male/F for female. If they have both sets of organs, why cannot they-- because they're not ashamed of it. In fact, they feel better than everybody else because I've got what everybody's got. I'm not restricted and limited. Would you, when I offer my amendment on the floor of the Legislature, can I say I talked to Mr. Marion Miner, who speaks for the Catholic Conference, which comprises the bishops of Grand Island, Lincoln, and Omaha. I know a little bit about the Catholic Church. And Mr. Miner agrees with me that if a person wants to self-identify what he/she actually is-- but here's where grammar would have to come in, what he/she actually are, then we should have a designation on these identifi-- identification cards to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

let that person tell the world what he or she is. Now I'm going to ask you this question, if a person is a hermaphrodite and goes to get a driver's license and they want to put gender, and he/she says I'm neither male nor female, what-- there's no designation in the law that recognizes that person for what he/she actually are.

MARION MINER: He or she actually is a male or female, regardless of whether or not they have undeveloped or "maldeveloped" external genitalia. That's the answer.

CHAMBERS: It would be so much simpler if we would do what is being proposed by Senator Hunt.

MARION MINER: I, I disagree.

CHAMBERS: Get off crotch watch.

MARION MINER: I disagree. But, but--

CHAMBERS: I know you do.

MARION MINER: --I appreciate, I appreciate your concern and your questions.

CHAMBERS: Sure you disagree, but you can't bring yourself to be realistic and honest and straightforward because you're not prepared as a Catholic. And they didn't tell you what to say if somebody asked you these kind of questions. So you have to keep going back the same, I said what I said, and that's all that I'll say. But I'm through now because I have enough in the record to show the flip flopping. In fact, you really were like a fish out of water because that's what they do.

MARION MINER: Senator Chambers, it--

CHAMBERS: And they did not tell you how to prepare yourself to deal with somebody like me.

MARION MINER: If you could restate my position in a way that's accurate, perhaps I could answer your question with a simple yes or no. But because you insist on mischaracterizing it, I can't do that.

CHAMBERS: Then you state it for me, how should a hermaphrodite be identified on the driver's license?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

MARION MINER: It should be determined by that person's biological sex.

CHAMBERS: It should be what?

MARION MINER: It should be determined by that person's biological sex.

CHAMBERS: And the person has both of them.

MARION MINER: You are insisting that a person's biological sex is only manifested in their external genitalia. That is false. That's scientifically false.

CHAMBERS: Well, we're not talking about science here.

MARION MINER: Sure we are.

CHAMBERS: No, we're not. Because what a person-- do you believe the Bible?

MARION MINER: Yes, I do.

CHAMBERS: The Bible says "As a man thinketh in his heart, so is he." If a man thinketh in his heart he is a woman, is he a woman?

MARION MINER: No.

CHAMBERS: OK, Bible [INAUDIBLE]. I'm through. He made my biggest point. Thank you.

LATHROP: You might get in trouble for that one. Senator DeBoer.

DeBOER: I just want to-- so when Senator Slama asked you about height, hair color, it, it sort of sparked something in my mind. My driver's license says I'm blond. I present here as blond. I'm not actually blond. Does it offend-- offend your sense of truth that I have the wrong color listed on my driver's license because, in fact, I'm a brunette. I dye my hair. I present as a blond, although I'm not a blond. So is there something specific about gender or is it OK that I-- you know, am I offending your, your truth seeking function here?

MARION MINER: So I, I can't speak for the, for the department in terms of what the importance is for each of those, you know, identifiable markers is. But I would say that with regard to a person's hair color or their eye color, although that certainly says something about them, a, a person's biological sex is indicative of a much deeper reality

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

about that person than external, incidental, accidental attributes of that person, such as their hair or eye color.

DeBOER: So you say that my-- the color of my hair is an accident, it's not the essence?

MARION MINER: Right.

DeBOER: All right. Well, we can have this philosophical conversation another time.

MARION MINER: All right. Thank you.

CHAMBERS: May I ask one to make peace?

LATHROP: You got one more question.

CHAMBERS: OK, and he might have several qualified lawyers. Have you ever heard of a singer named Billy Joel?

MARION MINER: Yes.

CHAMBERS: Have you heard him sing a song about Virginia?

MARION MINER: I'm not sure.

CHAMBERS: Catholic girls start much too late.

MARION MINER: OK.

CHAMBERS: You hadn't heard that song?

MARION MINER: I don't think so.

CHAMBERS: Oh, well, if you get a chance, listen to Billy Joel and he'll tell her things like-- you know, when they were preparing for life when you, you didn't-- you weren't counting on me when you were counting on your rosary. In other words, there are people like me out here and you're gonna be with somebody. And ultimately, it's gonna boil down to a matter of faith, so I may as well be the one. And then he asks about her mother. She never cared for me, did she ever say a prayer for me? It's, it's kind of a thoughtful song. And you're thoughtful person. Listen to it. And the next time we talk, you're gonna say Brother Chambers, I'm on your side and Billy Joel's side. You couldn't persuade me, but music hath charm, not only to soothe the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

savage breast, but to straighten out the tangled, confused mind of an otherwise, otherwise intelligent young Catholic gentleman.

MARION MINER: Thank you, Senator Chambers.

CHAMBERS: You're welcome.

LATHROP: Don't go anywhere.

MARION MINER: Sure.

LATHROP: Senator Pansing Brooks has a question.

MARION MINER: All right.

PANSING BROOKS: Just, just to clarify for the record, there are people with XYY and XXY chromosomes.

MARION MINER: Right, right.

PANSING BROOKS: So that is biological, that's science, as Senator Slama said, and so what would you do in that case?

MARION MINER: Yeah, that's what I was somewhat awkwardly trying to stumble through when I was answering Senator Morfeld's question. I cannot recall right now exactly what all the other factors are. A person on the chromosomal level is, is the primary indicator by which you can reliably usually determine a person's sex, male or female. But in those cases where there's an ambiguous situation, even at a chromosomal level, there are other factors that are observable that medical professionals do observe in order to make more reliable determinations. If you want, I can look that up and send it to you. I just can't recall it right off the top of my head.

PANSING BROOKS: I can look it up as well, thank you. I just think that it'd be a lot easier for police and others to see how you present rather than trying to do a scientific test, blood test, or whatever to determine the correct chromosomes of whomever is before that person. But anyway, thank you.

MARION MINER: Thank you for the question.

PANSING BROOKS: Thank you for coming today.

LATHROP: All right. I think you're done.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

MARION MINER: All right. Thank you.

LATHROP: Thanks for coming.

JOHN DOCKERY: Good evening.

LATHROP: Good evening.

JOHN DOCKERY: My name's John Dockery, J-o-h-n D-o-c-k-e-r-y, and I live in Omaha, Nebraska. I'm retired and I'm married with 5 children and 12 grandchildren. I am opposed to LB873 providing for gender neutral designation on driver's license and birth certificates. A big part of the problem is referring to sex and gender as interchangeable. Sex is a biological fact and documented on a birth certificate. Gender is not biological, but how one perceives themselves. There are only two sexes but many genders. Today's written law is biologically accurate and should not be rewritten to accommodate the ever changing gender categories. Currently, with the proper medical documentation, Nebraskans can change their sex on their birth certificate. If LB873 becomes law, no documents-- documentation of gender shall be required for a driver's license. How will this be abused? Also, adding the category "nons" to male and female is absurd, confusing, and could be potentially dangerous. I believe our police, fire, security, and other first responders need access to clear, accurate, and factual information. Please vote no on the advancement of LB873.

LATHROP: Thank you, Mr. Dockery. Any questions for this testifier? Seeing none, thank you for--

JOHN DOCKERY: Thank you.

LATHROP: --coming down and being here today. Good evening.

DALLAS ASHER: My name is Dallas Asher, D-a-l-l-a-s A-s-h-e-r. I live at 7926 Miami Street, Omaha, Nebraska, and Megan Hunt is my state senator. I'm a retired carpenter who was self-employed for 30 years. I did residential remodeling. I'm opposed to LB873 because birth certificates have been around for centuries and they represent the medical accurate inspection of body organs to determine whether the baby is a boy or girl. Biology is a fact-- is fact based. It has proven true with my three kids. Also, my experience in remodeling has been that every time I've started a major project, there are unexpected costs that occur while-- because of things that cannot be seen. I believe that the implementation of the LB873, there will be a

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Judiciary Committee January 29, 2020

multitude of unexpected costs that will impact every segment of the state government. There will be probably many different regulations that this will affect, causing multiple problems. I remember when Ben Sasse pushed a two-wheel cart into a meeting that I attended. The cart was stacked with almost six feet high with paper that he could hardly push through the door. The paper was result of bills that were passed by the Unicameral that year. Whether good or bad, how many thousands of taxpayer dollars taken from working families did this stack of bills represent? I am approaching this as a practical matter. Changes cost. As a retired taxpayer, the changes will impact my fixed income and I will-- I am also looking out for my kids, and I am opposed to adding unnecessary tax burdens to the citizens of the state of Nebraska. I would like to ask the author of this bill if the cost estimate has been to see how much this pros-- proposed changes would cost. All Nebraskans will be affected by the increase of the administrative costs to implement new regulations.

LATHROP: OK. Mr. Asher, I don't think there's any questions for you tonight. Thanks for your testimony. Good evening.

MARILYN ASHER: Good evening. My name is Marilyn Asher, M-a-r-i-l-y-n A-s-h-e-r. I live at 7926 Miami Street in Omaha, Nebraska, and Megan Hunt is my state senator. I am a retired employee of the state of Nebraska and served with the Department of Correctional Services for 15 years. I'm opposed to LB873. My concern with LB873 is the way in which it would impact law enforcement officers and correctional facilities, whether they'd be jails or prisons. The bill would cause a large ripple of problems for detention and incarceration personnel. What would be the proper protocol for housing individuals under arrest in protective custody, whether it be for alcohol, drug impairment, or mental health? How would it affect protective custody in a correctional setting? Would individuals be housed based on their personal preference that is their gender identity? To what facility would they be assigned should they be convicted of a crime and sentenced? Would they go to the men's or women's facilities? Does this create situations in which individuals might claim another gender to access certain housing populations such as convicted or potential sex offenders claiming a female gender identity to be housed with females? After working in the prison system for 15 years, I have an even greater concern for an individual with male or female genitalia who would be-- who would change their driver's license and perhaps their birth certificates and then by some circumstance commit a felony upon which they would be convicted and sentenced to a facility where the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 29, 2020

incarcerated individuals would have the opposite genitalia. How would that person avoid sexual harassment at the very least, or sexual aggression and/or molestation on the part of the other incarcerated inmates? Even in protective custody, it would be a great challenge to the administration and staff to ensure the safety of this individual. I can see such situations also affecting any other facilities, state or private, that would house groups of individuals in a custodial setting. Many incarcerated individuals are not going to care what your driver's license, state identification card, or birth certificate say. If a person is fresh meat, which is a prison term, or shows a vulnerability that could satisfy their perceived needs, that person could easily become a victim. This is a crude comparison, but you might as well throw a cow into a bull pen and see what happens. In saying that, I am not reflecting poorly on the excellent job that our Department of Correctional Services is doing. So in essence, LB873 is a bad bill for women. It ties the hands of the state in protecting them and it presents an administrative dilemma for all segments of state and private society. That administrative dilemma quickly leads to a financial cost for the state and also impacts us as taxpayers. Vote no on LB873.

LATHROP: I do not see any questions, but thank you for your testimony and your patience today.

MARILYN ASHER: Thank you.

LATHROP: I know you've been there a long time as we have. Anyone else here to testify in opposition to bill, LB873? Anyone here in a neutral capacity? Seeing none, Senator Hunt, you may close. And as you approach, I will note for the record that we have 5 letters in support and 27 letters in opposition. Senator Hunt.

HUNT: Thank you, Senator Lathrop. Thank you, colleagues, for staying here tonight. I don't care what gender or sex someone says they are. I don't care. I don't think we need to be policing that. And when it comes to gender identity, it's really none of the government's business. I think Senator Chambers made a great point that we can't just be looking between people's legs and policing that. And that's also what government's moving away from. It's just not our job to do that. We don't make policy based on the religious beliefs of a specific group of people. That's for your private life. And I think that we should keep it that way. The state has no right to demand a proof of surgery to make a correction on a government document that has real-world implications. Nilani, who is the trans woman who was

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Judiciary Committee January 29, 2020

here to testify, the woman here, she reached out to my office early this year to talk about a problem she was having with her job because her government ID is not compatible with her gender. It doesn't show that correctly. And so it was actually having some real-world implications for her ability to do her job. And we know that people face this. We know that there are people who have chromosomes that are XXY or XYY. This is 1 in 1,500 births. It's actually much more common than we realize. And for that reason, I would urge your adoption of this bill. I hope you vote it out of committee. And thanks again for the long night and the questions.

LATHROP: Fair enough. Senator Chambers.

CHAMBERS: While we're still in the context of the hearing, Senator Hunt is smart as sometimes I think I am. All I could remember about that song was the name of the star, which was Virginia, but the name of the song is Only the Good Die Young. So if somebody wants to look it up and I'm sure my good friend, Brother Miner will and I hope he saw-- put the emphasis on brother because for me, everything born of a man and a woman, if it's a female, my sister, a male, my brother and I would not have asked God the question, am I my brother's keeper? I would have answered that question had I been there and said, yes, every man is my brother, every woman is my sister. And to the extent that I have the power to do so, I will be the keeper of both of them. And when I make an error or am, or am incomplete in what I say, I'm as willing to acknowledge that as I will to defend a position. And I was mistaken when I indicated or suggested that the song was about Virginia, it was, but the title of the song is Only the Good Die Young. And he said something that I think we all agree with, even the righteous people, sinners have much more, yes, only the good die young. Thank you. That's all that I have.

LATHROP: OK. That'll, that'll end our hearing on LB873. And we are adjourned.